

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
Peachtree Hotel Group, LLC c/o Mahaffey NAME: <u>Pickens Tucker, LLP</u> ADDRESS: <u>1550 N Brown Rd, Ste 125</u> CITY: <u>Lawrenceville</u> STATE: <u>Georgia</u> ZIP: <u>30043</u> PHONE: <u>770.232.0000</u>	NAME: <u>Mary Virginia Mimms</u> ADDRESS: <u>215 Savanna Estates Ct</u> CITY: <u>Canton</u> STATE: <u>Georgia</u> ZIP: <u>30115</u> PHONE: <u>770.232.0000</u>
CONTACT PERSON: <u>Shane Lanham</u> PHONE: <u>770.232.0000</u> CONTACT'S E-MAIL: <u>slanham@mptlawfirm.com</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): R-100 REQUESTED ZONING DISTRICT: C-2
 LAND DISTRICT(S): 7 LAND LOT(S): 114 ACREAGE: +/- 4.43
 ADDRESS OF PROPERTY: 1700 Block North Brown Road, Lawrenceville
 PROPOSED DEVELOPMENT: Hotel

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units _____	No. of Buildings/Lots: <u>1/1</u>
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. <u>+/-76,299</u>
Gross Density: _____	Density: <u>+/-17,223.25</u>
Net Density: _____	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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PROPERTY DESCRIPTION

Being all that tract or parcel of land lying and being in Land Lot 114, 7th District, Gwinnett County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at a point on the Southeasterly Right-of-Way Line of the Interstate 85 North Access Ramp (having a variable width right-of-way); thence, leaving said point and running with the property now or formerly owned by Huntcrest Commerce Center, LLC per deed recorded among the Land Records of Gwinnett County, Georgia in Deed Book 54333, Page 250, South 43° 21' 00" East, 110.59 feet; thence, South 48° 52' 44" West, 53.15 feet; thence, South 47° 51' 30" West, 56.85 feet to a rebar with cap "BDG" found; thence, South 04° 31' 16" West, 122.95 feet to a rebar with cap "BDG" found on the Land Lot Line common to the Eastern Line of Land Lot 115 and the Western Line of Land Lot 114; thence, running with the said Land Lot Line, South 29° 39' 07" East, 11.46 feet; thence, South 28° 53' 05" East, 121.82 feet to a 1/2" rebar found, being the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Land Lot Line and the said Point of Beginning and continuing along the Huntcrest Commerce Center, LLC property

1. North 59° 50' 59" East, 573.44 feet to a rebar with cap "BDG" found on the Westerly Right-of-Way Line of North Brown Road (having an apparent 120 feet wide right-of-way); thence, leaving the aforesaid property of Huntcrest Commerce Center, LLC and running with the said line of North Brown Road
2. 81.12 feet along the arc of a curve deflecting to the left, having a radius of 1,432.40 feet and a chord bearing and distance of South 09° 00' 36" West, 81.11 feet; thence,
3. South 07° 02' 05" West, 550.00 feet; thence,
4. South 07° 38' 04" West, 78.66 feet to a 1/2" rebar with cap "LSF000810" set; thence, leaving the aforesaid line of North Brown Road and running with the property now or formerly owned by Gwinnett County (no recording information found)
5. North 82° 08' 43" West, 179.51 feet to a 1/2" rebar found on the aforesaid Land Lot Line; thence, continuing along the Gwinnett County property and running with the aforesaid Land Lot Line
6. North 30° 10' 16" West, 452.71 feet to the Point of Beginning, containing 192,848 square feet or 4.4272 acres of land, more or less.

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PHILLIPS
architects + engineers

7/20/14/15



FRONT ELEVATION
SCALE: 1/8" = 1'-0"



SIDE ELEVATION
SCALE: 1/8" = 1'-0"

DATE: 12/15/15
DESCRIPTION:

THE PROJECT IS THE PROPERTY OF THE CLIENT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PHILLIPS ARCHITECTS + ENGINEERS.



PROPOSAL VERSION 02 MAY 2014

4 STORY 150,000 SQ FT
CENTER ENTRY
W/ EXTERIOR PUDO

N BROWN ROAD
LAWRENCEVILLE,
GEORGIA

PEACHTREE HOTEL
GROUP

2700 PERIMETER PLAZA
800 OLIVERBROOK DRIVE, SUITE 400
ATLANTA, GA 30328

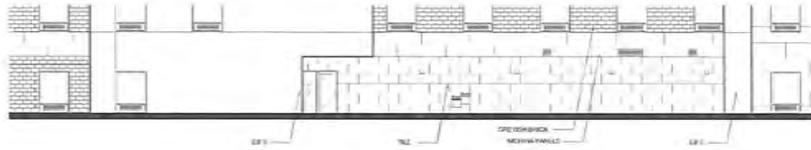
DATE: 12/15/15	1523480
REV: 04/15	1208018
REV: 07/20/15	1208018
REV: 08/11/15	1208018
REV: 12/15/15	1208018

EXTERIOR ELEVATIONS

A-4.1

THE PHILLIPS ARCHITECTS + ENGINEERS
1000 PHILLIPS DRIVE, SUITE 1000
ATLANTA, GEORGIA 30308

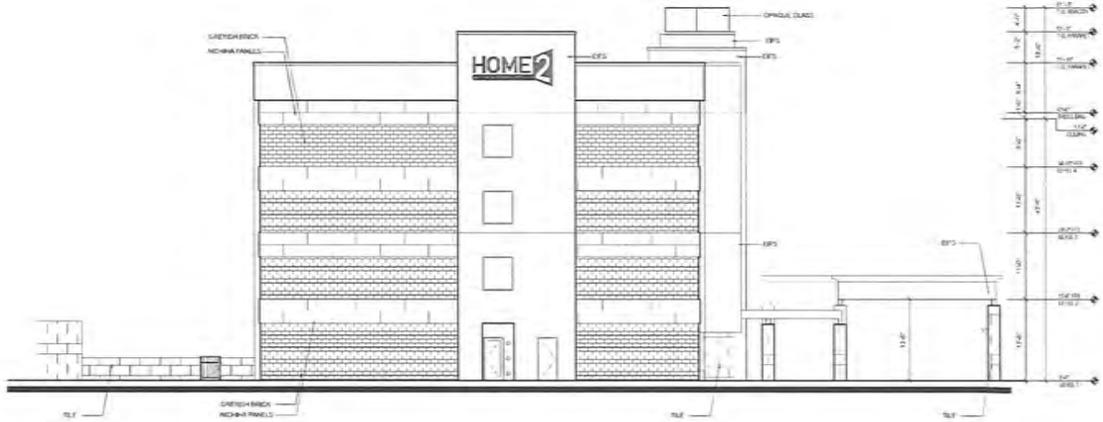
12/15/15
Received December 2, 2015
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REAR ELEVATION @ POOL
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE: 1/4" = 1'-0"



SIDE ELEVATION
SCALE: 1/4" = 1'-0"



PHILLIPS
architects + engineers

770.241.1414

PROJECT NO. _____

DATE _____

DESCRIPTION _____



PROTOTYPE VERSION 22 MAY 2014

4 STORY, 130 UNITS
CENTER ENTRY
W/ EXTERIOR POOL

N BROWN ROAD
LAWRENCEVILLE,
GEORGIA

PEACHTREE HOTEL
GROUP

TWO PERIMETER PLAZA
5601 CLEMENS DRIVE, SUITE 401
ATLANTA, GA 30327

PHILLIPS ARCHITECTS + ENGINEERS
1000 P.O. BOX 11111
ATLANTA, GA 30308
PH: 770.241.1414

EXTERIOR
ELEVATIONS

SHEET NO. 404

A-4.2

THE PHILLIPS
1100 PHILLIPS DRIVE, SUITE 100
ATLANTA, GA 30308

22C2117-0006
Revised December 2, 2014
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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

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) Applicant submits that the property does have not 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 commercial/retail nature of the area provides additional support of this Application.

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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 PEACHTREE HOTEL GROUP, LLC**

The Applicant, Peachtree Hotel Group, LLC, submits this Rezoning Application for the purpose of rezoning to the C-2 zoning classification an approximately 4.43 acre tract (the "Property") located on North Brown Road near its intersection with Sugarloaf Parkway. The Property is currently zoned R-100.

The use and development of the Property as R-100 is not economically feasible and is not the highest and best use of the Property. It would be impossible to develop and market the Property for use consistent with the R-100 zoning in light of its location immediately adjacent to an expanding commercial corridor at a major intersection. The development of the Property as a C-2 development under the guidelines of Gwinnett County is appropriate for the subject tract and is consistent with the surrounding property. The Applicant intends to develop the Property as a limited service, all-suite hotel within the Hilton family of hotels.

Applicant also requests a buffer reduction to zero feet along the along the common property lines (southerly and westerly boundaries) with property owned by Gwinnett County (parcel number 7115 008A) and submits herewith a site plan reflecting the areas which are the subject of this buffer reduction request.

The development of the Property in accordance with a C-2 designation provides the appropriate type of zoning within the Sugarloaf Parkway and North Brown Road commercial corridors. The proposed use is consistent with the intent of the zoning ordinance for C-2 use.

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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The requested rezoning will have no adverse impact on the current or contemplated uses of nearby or surrounding properties.

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,

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

11/28/16

Date

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title



Signature of Notary Public

11/28/16

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.

FOR THE ESTATE OF MARY VIRGINIA MIMMS

Paul V Mimms EXECUTOR

Dec 30, 2016

Signature of Property Owner

Date

PAUL V MIMMS EXECUTOR

Type or Print Name and Title

[Handwritten Signature]

Signature of Notary Public

11/30/2016

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.

 11/28/16 Shane Lanham, Attorney for Applicant
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

 11/28/16 Shane M. Lanham, Attorney for Applicant
 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

 11/28/16
 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 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

<u>NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL</u>	<u>CONTRIBUTIONS</u>	<u>DATE</u>
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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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.

FOR THE ESTATE OF MARY VIRGINIA MIMMS

x Paul V Mimms EXECUTOR Nov. 30, 2016 PAUL V MIMMS EXECUTOR
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE
Property Owner

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

[Signature] 11/30/2016
 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 Paul Mimms, Executor for Estate of Mary Virginia Mimms
 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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JUSTIFICATION FOR REZONING

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 C-2 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

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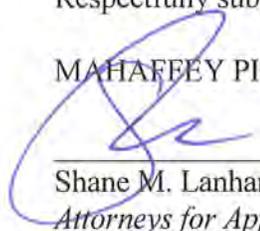
Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the C-2 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 C-2 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.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Lanham

Attorneys for Applicant

1550 North Brown Road
Suite 125
Lawrenceville, Georgia 30043
(770) 232-0000

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