

REZONING APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>Ensite Civil Consulting, LLC</u>	NAME: <u>Shirley Investment Partners, LLC</u>
ADDRESS: <u>131 Prominence Court, Suite 230</u>	ADDRESS: <u>3840 Windermere Pkwy, Suite 402</u>
CITY: <u>Dawsonville</u>	CITY: <u>Cumming</u>
STATE: <u>Georgia</u> ZIP: <u>30534</u>	STATE: <u>Georgia</u> ZIP: <u>30041</u>
PHONE: <u>(706) 265-9812</u>	PHONE: <u>(706) 265-9812</u>
CONTACT PERSON: <u>Jim King</u> PHONE: <u>(678) 316-3572</u>	
CONTACT'S E-MAIL: <u>jim@kingconsulting.info</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): R-100 REQUESTED ZONING DISTRICT: R-60

PARCEL NUMBER(S): R5268-039 & R5268-035 ACREAGE: 6.625

ADDRESS OF PROPERTY: 788 & 798 Campbell Road, Lawrenceville, GA

PROPOSED DEVELOPMENT: Single Family Residential Neighborhood

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>20</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. _____
Gross Density: <u>3.0 Homes/Ac</u>	Density: _____
Net Density: <u>3.0 Homes/Ac</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Exhibit "A"

TRACT 2 – 788 CAMPBELL ROAD

All that tract or parcel of land lying in Land Lot 268 of the 5th District of Gwinnett County, Georgia containing 2.1395 acres show as Tract 2 on the survey for Gwinnett County prepared by McNally & Patrick, Inc. bearing the seal of Lloyd C. McNally, Jr. Georgia Registered Land Surveyor No. 2040, dated June 11 2017, being more particularly described as follows:

To find the True Point of Beginning commence at a 1.5" open top pipe found at the land lot corner common to Land Lots 268, 267, 246 and 245 of the 5th district of Gwinnett County, Georgia, thence proceed N60°16'08"E for a distance of 290.58' along the land lot Line common to Land lots 268 and 267 also being the northwest line Wolf Creek, Unit 5 to an iron pin set at the True Point of Beginning ; thence leaving aid land lot line N40°24'29"W for 661.64' along a common line with Tract 1 of aforementioned survey to an iron pin set; thence N39°08'47"W for distance of 236.26 along a common line with Tract 1 to an iron pin set on a proposed cul-de-sac right of way at Campbell Road; thence following a curve to the left northwesterly along said proposed cul -de sac right of way an arc distance of 113.22' (said arc having a radius of 62.50' and being subtended by a chord of N10°53'57"W for 98.36') to an iron pin set on the southeasterly 80' R/W of Campbell Road; thence proceeding northeasterly along said right of way N26°10'48"E for a distance of 48.59' to a point on said right of way; thence leaving said right of way S40°24'35"E for a distance of 1021.28' along the common line of property now or formerly owned by 27 Campbell Road LLC to an iron pin set on land lot line common to Land Lots 268 and 267 also being the northwestern line of Wolf Creek, Unit 5; thence along said land lot line and the northwestern line said development S60°16'08"W for 100.00' to the iron pin set at the True Point of Beginning.

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Exhibit "B"

TRACT 1 – 798 CAMPBELL ROAD

All that tract or parcel of land lying in Land Lot 268 of the 5th District of Gwinnett County, Georgia containing 4.4860 acres show as Tract 1 on the survey for Gwinnett County prepared by McNally & Patrick, Inc. bearing the seal of Lloyd C. McNally, Jr. Georgia Registered Land Surveyor No. 2040, dated June 11 2017, being more particularly described as follows:

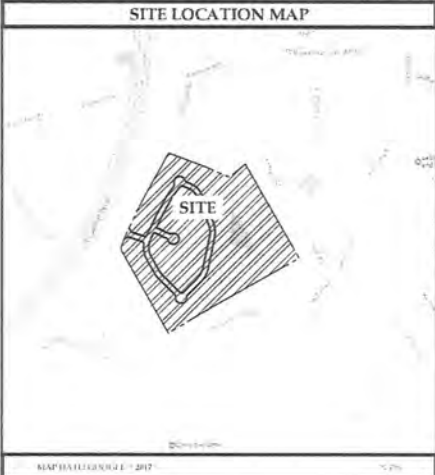
Beginning at a 1.5" open top pipe found at the land lot corner common to land lots 268, 267, 246 and 245 of the 5th district of Gwinnett County, Georgia, thence proceed N29°40'42"W for a distance of 850.34' along the land lot Line common to Land lots 268 and 245, also being the northeast line of property now or formerly owned by Elsie Mae King Freeman to an iron pin set on the southeasterly 80' R/W of Campbell Road; thence leaving said land lot line proceeding northeasterly along said right of way following a curve to the right an arc distance of 79.32' (said arc having a radius of 1105.92, and being subtended by a chord of N18°56'38"E for 79.30') to an iron pin set; thence following curve to the left an arc distance of 76.37' along the proposed right of way of a cul-de-sac (said arc having a radius of 62.50' and being subtended by a chord of N76°00'01"E for 71.70') to an iron pin set; thence leaving said proposed right of way S39°08'47"E for 236.26' along a common line with Tract 2 of aforementioned plat of survey to an iron pin set; thence S40°24'29"E for a distance of 661.64' along a common line with Tract 2 to an iron pin set on land lot line common to Land Lots 268 and 267 also being the northwestern line of Wolf Creek, Unit 5; thence along said land lot line and the northwestern line said development S60°16'08"W for 290.59' to the 1.5" open top pipe found at the Point of Beginning.

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SITE DATA

USABLE MESSAGES:
 - THERE ARE FIVE PARCELS NOW WITHIN THE SITE. 3 OF THESE 5 WERE ZONED UNCOR-0001.
 2 OF THESE PARCELS WERE REZONE TO R-60 & NEED TO BE REZONED FROM R-60 TO R-60.
 THE PARCELS ALWAYS NEEDING REZONING ARE 5-200-032 & 5-200-033.

GENERAL SITE AREA: 13.36 AC
 - EXISTING PAVED ROAD AREA: 27.31 AC
 - PROPOSED PAVED SITE AREA: 11.03 AC

TOTAL LOTS: 24
 - EXISTING PAVED LOTS: 49
 - PROPOSED PAVED LOTS: 20 (LOTS 04-37 AND LOTS 63-80)

DEVELOPER:
 - CONTACT: RON MCCARTHY
 - PHONE: 404-769-5476
 - EMAIL: rmc@mcclainproperties.com

OWNER/DEVELOPER:
 US LAND INVESTMENTS, LLC
 3840 WINDERMERE PKWY
 SUITE 402
 CUMMING, GA 30041
 PHONE: (404) 769-5476
 EMAIL: rmc@mcclainproperties.com

24-HOUR CONTACT:
 RON MCCARTHY
 (404) 769-5476
 EMAIL: rmc@mcclainproperties.com

PROJECT:
 CAMPBELL MANOR SUBDIVISION (SDP2017-00035)

LOCATED IN:
 LAND LOT 268
 5th DISTRICT, 1st SECTION,
 GWINNETT COUNTY,
 GEORGIA
 PARCELS: 5-200-015,
 5-200-032, & 5-200-033
 C.P.L. # 2017-00003

SHEET TITLE:
 REZONING EXHIBIT

NOTIFY GWINNETT COUNTY INSPECTOR AT (678) 519-6000 24 HOURS BEFORE BEGINNING OF EVERY PHASE OF CONSTRUCTION.

GEORGIA 811
 Utility Protection Center
 1-800-202-7411
 www.811.org
 Call before you dig.

STAMP:

DRAWING DATE: 2018-06-07

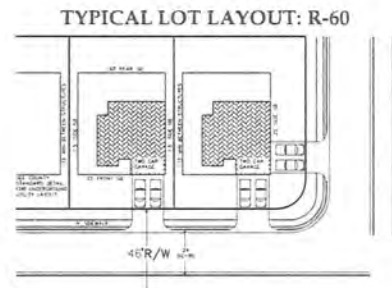
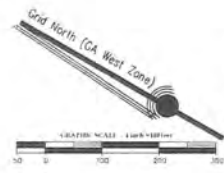
SHEET REVISIONS

NO.	DESCRIPTION	DATE
1	REVISION 1	06/07/18

SHEET:
 C0.01

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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:

The proposed use is both similar and suitable to the adjacent and nearby property

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

The proposed Rezoning will not adversely affect the use or usability of adjacent and nearby property

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

The property does not have a reasonable economic use as currently zoned

- (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:

the Proposed Rezoning will not result in a use which will cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

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

the Proposed Rezoning is in conformity with the policy and intent of the Land Use Plan

- (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:

This parcel will be developed simultaneously with the adjacent parcel (which is already zoned and approved for construction) to create a single, unified, and cohesive neighborhood.

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

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**RE: Letter of Intent in Support of Rezoning for the property located at 788
& 798 Campbell Road Lawrenceville GA, and known as the Campbell
Manor Subdivision (the "Subject Property")**

Dear Ms. Holland and Planning Department:

On behalf of the Applicant and Property Owner, Ensite Civil Consulting, LLC, hereby submits this Letter of Intent accompanying an Application for Rezoning. The Applicant hereby submits this application for rezoning, to rezone the Subject Property from R-100 to R-60, to allow for 20 quality homes.

I. Background

The Applicant seeks to create quality, residential development consistent with the existing residential communities in the area. The Subject Property is currently zoned R-100 and was recently purchased from Gwinnett County. The County's appraisal, used in the advertisement for bid process, identified this tract as "very desirable for the owner of the CSO tract, because this would increase the overall density of the subdivision by adding usable land area." This obviously was very appealing and we pursued the surplus land purchase and ultimately were awarded the winning bid. We now wish to add these additional parcels to the existing Permitted CSO parcel adjacent to them to create a cohesive neighborhood. Our proposed R-60 development is the closest zoning category to the CSO and will allow us to mirror what is already permitted for construction.

II. Rezoning

The proposed development will include 20 homes, which when added to the existing CSO parcel, will create a neighborhood of 69 homes. Homes are expected to be 50 ft. wide, with a minimum of 1,800 sq. ft. All homes will have a two-car garage, and will be built with quality materials with alternating architectural elevations to create individual homes and facades. A master association and covenants will be formed to govern and enforce covenants, and to maintain all common areas and landscaping. The proposed zoning and site plan is entirely consistent with similarly, developed, residential communities in the area. Quality homes will help raise property values and support the economic growth of the area.

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.

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.

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.

IV. Conclusion

The Applicant proposes a quality and high-end residential community to create a much more viable development. 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 this 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 6th day of July, 2018.

Ensite Civil Consulting, LLC


Jim King, 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.



06 July 2018

Signature of Applicant

Date

Jim King for Ensite Civil Consulting, LLC (Owner)

Type or Print Name and Title



7/6/18

Signature of Notary Public

Date



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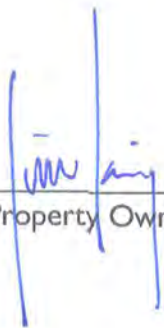
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REZONING PROPERTY OWNER'S CERTIFICATION

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.



06 July 2018

Signature of Property Owner

Date

Jim King for Shirley Investment Partners, LLC (Owner)

Type or Print Name and Title



7-6-18

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.

Jim King 06 July 2018 Jim King for Ensite Civil Consulting, LLC
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

Lisa W Hester 7-16-18
 SIGNATURE OF NOTARY PUBLIC DATE



NOTARY SEAL

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 Jim King for Shirley Investment Partners, LLC
 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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