

## CHANGE IN CONDITIONS APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>Burel, LLC</u> <u>c/o Alliance Engineering and Planning</u>	NAME: <u>Peoples Bank and Trust</u>
ADDRESS: <u>4480 Commerce Dr., Suite A</u>	ADDRESS: <u>1899 Buford Hwy.</u>
CITY: <u>Buford</u>	CITY: <u>Buford</u>
STATE: <u>GA</u> ZIP: <u>30518</u>	STATE: <u>GA</u> ZIP: <u>30518</u>
PHONE: <u>770-614-6511</u>	PHONE: _____
CONTACT PERSON: <u>MITCH PEEVY</u> PHONE: <u>(770) 614-6511</u>	
APPLICANT'S E-MAIL: <u>mitchpeevy@gmail.com</u>	

\*Include any person having a property interest and any person having a financial interest in any business entity having property interest (use additional sheets if necessary).

APPLICANT IS THE:		
<input type="checkbox"/> OWNERS AGENT	<input type="checkbox"/> PROPERTY OWNER	<input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICT (S): <u>C-2</u>	PRIOR ZONING CASE: <u>RZC-07-008</u>	
LAND DISTRICT (S): <u>3</u>	LAND LOT (S): <u>001</u>	ACREAGE: <u>1.023</u>
ADDRESS OF PROPERTY: <u>1858 Auburn Road</u>		
PROPOSED DEVELOPMENT: <u>Dairy Queen Restaurant with Drive Thru</u>		
<b>RESIDENTIAL DEVELOPMENT:</b> NO. OF LOTS/DWELLING UNITS: _____ DWELLING UNIT SIZE (SQ. FT.): _____ GROSS DENSITY: _____ NET DENSITY: _____	<b>NON-RESIDENTIAL DEVELOPMENT:</b> NO. OF BUILDINGS/UNITS: <u>1</u> TOTAL GROSS SQUARE FEET: <u>3400</u> DENSITY: <u>3323.56 SF/AC</u>	

LETTER OF INTENT

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**Tract 3  
The Veranda at Fort Daniel**

All that tract or parcel of land lying and being in General Militia District 1749, Gwinnett County, Georgia and being particularly described as follows:

To find the point of beginning, commence at the intersection of the southeasterly right of way of Hog Mountain Church Road (60' right of way) and the northeasterly right of way of Old Auburn Road (right of way varies); THENCE from said point, traveling on the northeasterly right of way of Old Auburn Road South 42 Degrees 24 Minutes 50 Seconds East for a distance of 93.53 feet to a point; THENCE traveling South 54 Degrees 01 Minutes 01 Seconds West for a distance of 39.71 feet to a point in the centerline of Old Auburn Road; THENCE traveling on said centerline (said centerline adjoins Gwinnett County) along a curve to the right having a radius of 1199.77 feet and an arc length of 99.49 feet being subtended by a chord bearing of South 38 Degrees 04 Minutes 37 Seconds East and a chord distance of 99.46 feet to a point; THENCE traveling on a line common to Gwinnett County South 47 Degrees 08 Minutes 32 Seconds West for a distance of 40.33 feet to a point, said point being the northeasterly right of way of Re-aligned Auburn Road (right of way varies); THENCE traveling on said right of way along a curve to the right having a radius of 1159.77 feet and an arc length of 8.96 feet being subtended by a chord bearing of South 35 Degrees 13 Minutes 55 Seconds East and a chord distance of 8.96 feet to a point; THENCE continuing on said right of way South 35 Degrees 00 Minutes 38 Seconds East for a distance of 366.70 feet to a point marked by a ½ inch rebar pin set, said point being the common corner of Tracts 1 and 3 and the TRUE POINT OF BEGINNING.

THENCE from said point as thus established, leaving said right of way and traveling on the property line common to Tracts 1 and 3, North 53 Degrees 43 Minutes 34 Seconds East for a distance of 283.59 feet to a point, said point marked by a ½ inch rebar pin set; THENCE traveling on the property line common to Tracts 2 and 3 South 36 Degrees 16 Minutes 26 Seconds East for a distance of 180.08 feet to a point, said point marked by a ½ inch rebar pin set; THENCE continuing on said property line common to Tracts 2 and 3 South 53 Degrees 43 Minutes 34 Seconds West for a distance of 226.78 feet to a point on the northeasterly right of way of Re-aligned Auburn Road (right of way varies), said point marked by a ½ inch rebar pin set; THENCE traveling on said right of way the following four (4) courses and distances:

along a curve to the left having a radius of 954.69 feet and an arc length of 36.71 feet being subtended by a chord bearing of North 45 Degrees 46 Minutes 15 Seconds West and a chord distance of 36.71 feet to a point; THENCE North 30 Degrees 59 Minutes 37 Seconds West for a distance of 83.44 feet to a point; THENCE South 54 Degrees 59 Minutes 22 Seconds West for a distance of 59.75 feet to a point; THENCE North 35 Degrees 00 Minutes 38 Seconds West for a distance of 59.49 feet to a point, said point being THE TRUE POINT OF BEGINNING.

Said property being Tract 3 and containing 1.023 Acres as shown on Final Plat for The Veranda at Fort Daniel recorded in Plat Book 142, page 75-76, Gwinnett County Records.

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PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

PURSUANT TO SECTION 1702 OF THE 1985 ZONING RESOLUTION, 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 APPLICANT BELIEVES THE PROPOSED USE IS SUITABLE.

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

THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE USE OF THE SURROUNDING PROPERTIES.

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

THE APPLICANT BELIEVES THAT THE SUBJECT PROPERTY DOES NOT HAVE A REASONABLE ECONOMIC USE WITHOUT THE CHANGE IN CONDITIONS.

(D) WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREET, TRANSPORTATION FACILITIES, UTILITIES OR SCHOOLS:

THE PROPOSED USE WILL NOT PRODUCE AN ADVERSE AFFECT ON THE EXISTING INFRASTRUCTURE.

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

YES, THE SUBJECT PROPERTY IS DESIGNATED AS A NEIGHBORHOOD NODE.

(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:

SEE LETTER OF INTENT.

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Based upon the above reasons, the applicant feels that this is a reasonable request and that action contradictory to the zoning request will constitute a taking of 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, and Article 1, Section 1, Paragraph 1, and Article 1, Section 3, Paragraph 1 of the Constitution of Georgia, denying the owner viable use of its land.

.....  
PLANNING DIVISION USE ONLY

CASE NUMBER \_\_\_\_\_

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## REZONING APPLICANT'S LETTER OF INTENT

The Applicant, Burel, LLC, requests a Change in Conditions to case number RZC-07-008. The rezoning at that time was approved as C-2 and Condition 1.A. among other restrictions did not allow a Drive In Restaurant with the exception of a Coffee and Deli Shop. The retail center has struggled to maintain tenants and was foreclosed on by the Peoples Bank. The existing buildings are really nice looking, and it is hoped that the realignment of Hog Mountain Church Road intersection with Auburn Road will also help the center to become profitable. The outparcel proposed for the Dairy Queen has never been built on and has remained vacant since the main center was constructed. There have been several announcements recently about the retail apocalypse going on in the country with almost 6,000 store closings already being planned. That is more than what occurred in all of last year. The applicant and the owner believe that a Dairy Queen at this location will benefit all the tenants in the center by attracting more customers for the food and the ice cream offered by the restaurant. It is then hoped that while those folks are there, they might utilize the services of some of the other tenants. At the very least they might notice one of the other businesses and come back and try them out. All the other conditions of the current rezoning are agreeable, and the applicant looks forward to meeting with anyone that has any questions or concerns about the proposed restaurant.

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**CHANGE IN CONDITIONS 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.

MAY 1, 2019

Signature of Applicant

Date

C.F.O; SECRETARY, BUREL, LLC

Type or Print Name and Title

*Linda M Murray* 5/1/19

Signature of Notary Public

Date



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**CHANGE IN CONDITIONS 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.

Luanne M. Rosser, ALP 5-1-19  
Signature of Property Owner Date

Luanne M. Rosser, Assistant Vice President  
Type or Print Name and Title

Marilyn O. Ledbetter May 01-19  
Signature of Notary Public Date Notary Seal



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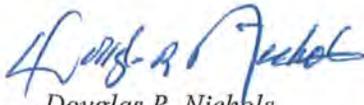
July 29, 2015

To Whom It May Concern:

Please accept this as my authorization that Ted A. Williams, EVP and Luanne M. Rosser, AVP, of Peoples Bank & Trust, has the authority to negotiate and sign any and all sales contracts and related documents on behalf of Peoples Bank & Trust.

Please let me know if you need any additional information, or if I can be of any further assistance.

Sincerely,

  
Douglas R. Nichols  
President/CEO



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