

SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: Lucky Premium Treats, LLC c/o Andersen, Tate & Carr, P.C. ADDRESS: 1960 Satellite Blvd., Suite 4000 CITY: Duluth STATE: GA ZIP: 30097 PHONE: 770-822-0900	NAME: Barton & Poolos Properties, Inc. ADDRESS: 4691 Highland Cir CITY: Gainesville STATE: GA ZIP: 30506 PHONE:
CONTACT PERSON: Melody A. Glouton, Esq. PHONE: 770-822-0900 CONTACT'S E-MAIL: mglouton@atclawfirm.com	

*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 checked="" type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input type="checkbox"/> CONTRACT PURCHASER
EXISTING/PROPOSED ZONING: M1	BUILDING/LEASED SQUARE FEET: 22,628
PARCEL NUMBER(S): R6197 126	ACREAGE: 3.627
ADDRESS OF PROPERTY: 1266 Oakbrook Dr., Norcross, GA 30093	
SPECIAL USE REQUESTED: Poultry/meat processing plant	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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EXHIBIT A

LAND

All that tract or parcel of land lying and being in Land Lot 197 of the 6th District of Gwinnett County, Georgia, and being more particularly described as follows:

To find the Point of Beginning, begin at a point formed by the intersection of the easterly margin of the right-of-way of Pirkle Road (80-foot right-of-way), with the southerly margin of the right-of-way of Oakbrook Drive (60-foot right-of-way), if said margins were extended to form an angle instead of a curve; thence running North 85 degrees 57 minutes 28 seconds East, a distance of 25.00 feet to a point located on the southerly margin of the right-of-way of Oakbrook Drive; thence continuing along said margin North 85 degrees 57 minutes 28 seconds East, a distance of 1,400.33 feet to a point, which point is the Point of Beginning; from the Point of Beginning, as thus established, continue along the southerly margin of the right-of-way of Oakbrook Drive North 85 degrees 57 minutes 30 seconds East, a distance of 17.00 feet to a point; thence continuing along said margin, along the arc of a curve to the right (said arc being subtended by a chord bearing South 65 degrees 43 minutes 15 seconds East, a distance of 23.72 feet), a distance of 24.71 feet to a point; thence running along the southerly and easterly margins of the cul-de-sac of Oakbrook Drive, along the arc of a curve to the left (said arc being subtended by a chord bearing North 71 degrees 55 minutes 33 seconds East, a distance of 141.08 feet), a distance of 185.14 feet to a point; thence leaving said easterly margin and running North 81 degrees 51 minutes 42 seconds East, a distance of 104.71 feet to a point; thence running South 29 degrees 05 minutes 17 seconds East, a distance of 368.31 feet to a point; thence running South 60 degrees 38 minutes 30 seconds West, a distance of 416.34 feet to a point; thence running North 13 degrees 32 minutes 16 seconds West, a distance of 356.17 feet to a point; thence running North 04 degrees 02 minutes 32 seconds East, a distance of 130.00 feet to a point located on the southerly margin of the right-of-way of Oakbrook Drive, which point is the Point of Beginning, said property containing 3.627 acres, being known as Building 14, as shown on that certain Survey for Oakbrook-Principal Mutual Life Insurance Company, dated March 4, 1988, last revised August 5, 1988, prepared by Tri-County Land Surveying, Boggus & Associates Engineers, and bearing the seal of A.A. Katterhenry, GRLS No. 1692.

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EXHIBIT A - APPLICANT'S RESPONSE
SPECIAL USE PERMIT FOR POULTRY/MEAT PROCESSING PLANT
1266 OAKBROOK RD., NORCROSS, GA 30093

- A) WHETHER A PROPOSED SPECIAL USE PERMIT WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes. The proposed Poultry and Meat Processing Plant is consistent with the nearby commercial and industrial uses in the area. There will be little to no impact on adjacent and nearby residential property uses.

- B) WHETHER A PROPOSED SPECIAL USE PERMIT WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. The proposed use of a Poultry and Meat Processing Plant would be completely contained within the existing property with appropriate buffers. There would be little to no impact on adjacent and nearby properties and the use would not adversely affect these properties.

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

The subject property is currently zoned M1 and is surrounded by similarly-zoned property, and accordingly, the special use request is compatible with the existing uses and usability of the adjacent and nearby property.

- D) WHETHER THE PROPOSED SPECIAL USE PERMIT WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. Whether standing alone, or compared to neighboring commercial and industrial uses, the proposed use will not cause any additional or excessive use of existing streets, transportation facilities or utilities. There will be no impact on the schools. This property is located in an area with public water and sewer availability, and access to major thoroughfares, highways and interstate.

- E) **RECEIVED BY** WHETHER THE PROPOSED SPECIAL USE PERMIT IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

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Yes.

- 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 PROPOSED SPECIAL USE PERMIT:

Yes. The proposed use is entirely appropriate in light of emerging needs for Gwinnett citizens and land uses in the surrounding area. The requested Special Use Permit is necessary to enable the Applicant to operate at this location. The Property Owner also supports this application for Special Use Permit.

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ANDERSEN | TATE | CARR

Melody A. Glouton
Direct Phone: (770) 339-0435
Direct Fax: (770) 236-9719

Email: mglouton@atclawfirm.com

November 1, 2019

VIA HAND-DELIVERY

Gwinnett County
Attn: Kathy Holland, Director of Planning and Development
446 West Crogan Street
Lawrenceville, Ga 30046

**Re: Letter of Intent for Special Use Permit for Lucky Premium Treats, LLC
(1266 Oakbrook Drive, Norcross, Ga)**

Dear Chairman, Commissioners, and Planning and Development Staff:

Andersen, Tate & Carr, P.C. submits this Letter of Intent and attached Special Use Permit Application ("Application") on behalf of the Applicant, Lucky Premium Treats, LLC (the "Applicant") to allow for the use of approximately 23,000 sq. ft. of a multi-tenant building located to the east of Pirkle Road on Oakbrook Drive in Norcross (the "Subject Property"). The Parcel ID for the Subject Property is R6197 126.

The Subject Property includes an approximately 30,000 sq. ft. multi-tenant building with 75 total parking spaces (including 5 handicapped spaces). The Applicant does not intend to modify, remove, or alter the exterior of the building. The Applicant is requesting a Special Use Permit ("SUP") for a poultry/meat processing plant to allow use as Lucky Premium Treats, which specializes in crafting premium all-natural dog treats. Lucky Premium Treats supports local farmers with American sourced ingredients and production in Georgia.

With regard to the site, the existing building is a one-story, multi-tenant, brick building with an existing tenant that produces visual and acoustic signaling devices occupying twenty-five percent (25%) of the building. The remaining portion of the building, proposed to be occupied by the Applicant, was previously used as a plastic fabrication shop and has been vacant for the past year. Lucky Premium Treats will provide a long term, quality tenant, to maintain and occupy the portion of the building that has otherwise been vacant. The Subject Property is located on a dead-end street in an industrial business park with similar commercial and business uses. Additionally, the Subject Property is surrounded by an extensive natural buffer and mature vegetation.

The proposed use is consistent with the surrounding properties in the industrial park which are zoned M-1 (Light Manufacturing District). While there is a residential subdivision located behind the Subject Property, they are separated by an approximately 8-acre undeveloped parcel that acts as a natural buffer between the industrial park and the nearest residential

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property. The Subject Property sits within an established industrial park with predominately M-1 uses. While food processing plants are a permitted use within the M-1 zoning classification, a SUP is required here because the Applicant uses poultry and meat in the production of their premium all-natural dog treats. As such, approval of this request would be entirely consistent with the industrial uses in the area, and the Subject Property serves as the appropriate location for the proposed use while providing a premium product to the citizens, and canines, of Gwinnett County.

The Application is appropriate to the development of surrounding and nearby properties and would have no impact whatsoever on any surrounding properties. The Applicant and its representatives welcome the opportunity to meet with the Commissioners and staff to answer any questions or to address any concerns. The Applicant respectfully requests your approval of this Application.

Very truly yours,

ANDERSEN, TATE & CARR, P.C.



Melody A. Glouton

cc: Lucky Premium Treats, LLC

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Melody A. Glouton

Email: mglouton@atclawfirm.com

Telephone: 770.822.0900

Direct Dial: 770.339.0475

Direct Fax: 770.236.9719

November 1, 2019

VIA HAND DELIVERY

Gwinnett County

Attn: Kathy Holland, Director of Planning and Development

446 West Crogan Street

Lawrenceville, Ga 30046

RE: JUSTIFICATION FOR SPECIAL USE PERMIT FOR LUCKY PREMIUM TREATS, LLC (1266 OAKBROOK DRIVE, NORCROSS, GEORGIA)

Dear Chairman and Commissioners:

This letter is written on behalf of Lucky Premium Treats, LLC (the "Applicant"), in connection with the special use permit ("SUP") application for property located at 1266 Oakbrook Drive, Norcross, Georgia, (the "Subject Property").

Constitutional Objections

The portions of the Gwinnett County Unified Development Ordinance, as amended, (the "UDO") which classify or may classify the Subject Property which is the subject of the SUP application into any more or less intensive zoning classification, development and/or conditions other than as requested by the Applicant are, and 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, 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 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 any economically viable use of the Subject Property while not substantially advancing legitimate state interests. Under *Lathrop v. Deal*, the application of the UDO in a way that constitutes a taking shall be deemed a waiver of sovereign immunity.¹

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¹ *Lathrop v. Deal*, 301 Ga 408, 880-881 S.E. 2d 867 (2017)

The Subject Property is presently suitable for use under the M-1 classification as requested by the Applicant and is not economically suitable for the limited permitted uses available under the current M-1 zoning classification of Gwinnett County. A denial of the requested SUP 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 issue the SUP for a Poultry/Meat Processing Plant for the Subject Property, 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.

Any SUP for the Subject Property, subject to conditions which are different from the requested 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 utilization of the Subject Property, would also constitute an arbitrary, capricious and discriminatory act in permitting the Subject Property with unconstitutional use restrictions and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

Accordingly, the Applicant respectfully requests that the SUP application submitted by the Applicant relative to the Subject Property be granted and that the Subject Property be issued a special use permit for the use as requested on the respective application.

Respectfully,

ANDERSEN, TATE & CARR, P.C.



Melody A. Glouton

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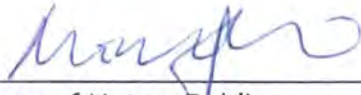
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SPECIAL USE PERMIT APPLICANT'S CERTIFICATION

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.

 10/31/2019
Signature of Applicant Date

ALEXANDER H. LOSTOCCO MANAGING MEMBER
Type or Print Name and Title

 10/31/19
Signature of Notary Public Date



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SPECIAL USE PERMIT 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.

Rose P. Barton

Signature of Property Owner

10-29-19

Date

ROSE P Barton

Type or Print Name and Title

Managing Partner

[Signature]

Signature of Notary Public

10/29/19

Date



Notary Seal

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CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

The undersigned below, making application for a Special Use Permit, 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.

Alexander H. Lostocco 10/31/19 ALEXANDER H. Lostocco
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE
MANAGING MEMBER

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

[Signature] 10/31/19
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 ALEXANDER LOSTOCCO
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)

Attach additional sheets if necessary to disclose or describe all contributions.

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CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

The undersigned below, making application for a Special Use Permit, 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

Melody A. Glouton 11/1/19

Melody A. Glouton, Esq.

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

Angela Gratz 11-1-19

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

Andersen, Tate & Carr, P.C.

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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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR SPECIAL USE PERMIT

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 SPECIAL USE PERMIT REQUEST.**

PARCEL I.D. NUMBER: R6 - 197 - 126
(Map Reference Number) District Land Lot Parcel

Alexander H. Lostocco 10/31/19
Signature of Applicant Date

ALEXANDER H. LOSTOCCO
Type or Print Name and Title

*****PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.*****

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)

Rickie Schoby TSA II
NAME TITLE
11/1/19
DATE

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