

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
Barefoot Brothers, LLC c/o Mahaffey Pickens NAME: <u>Tucker, LLP</u> ADDRESS: <u>1550 North Brown Road, Suite 125</u> CITY: <u>Lawrenceville</u> STATE: <u>Georgia</u> ZIP: <u>30043</u> PHONE: <u>770.232.0000</u>	NAME: <u>Stephen D. Pennington</u> ADDRESS: <u>977 Mill Creek Run</u> CITY: <u>Suwanee</u> STATE: <u>Georgia</u> ZIP: <u>30024</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): RA-200 REQUESTED ZONING DISTRICT: C-2 w/ SUP
 LAND DISTRICT(S): 3 LAND LOT(S): 003 ACREAGE: +/- 5.37
 ADDRESS OF PROPERTY: 4604 Braselton Hwy
 PROPOSED DEVELOPMENT: Self-Storage facility

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: <u>NA</u>	No. of Buildings/Lots: <u>3/1</u>
Dwelling Unit Size (Sq. Ft.): <u>NA</u>	Total Building Sq. Ft. <u>+/-82,800</u>
Gross Density: <u>NA</u>	Density: <u>+/-15,420 square feet per acre</u>
Net Density: <u>NA</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION

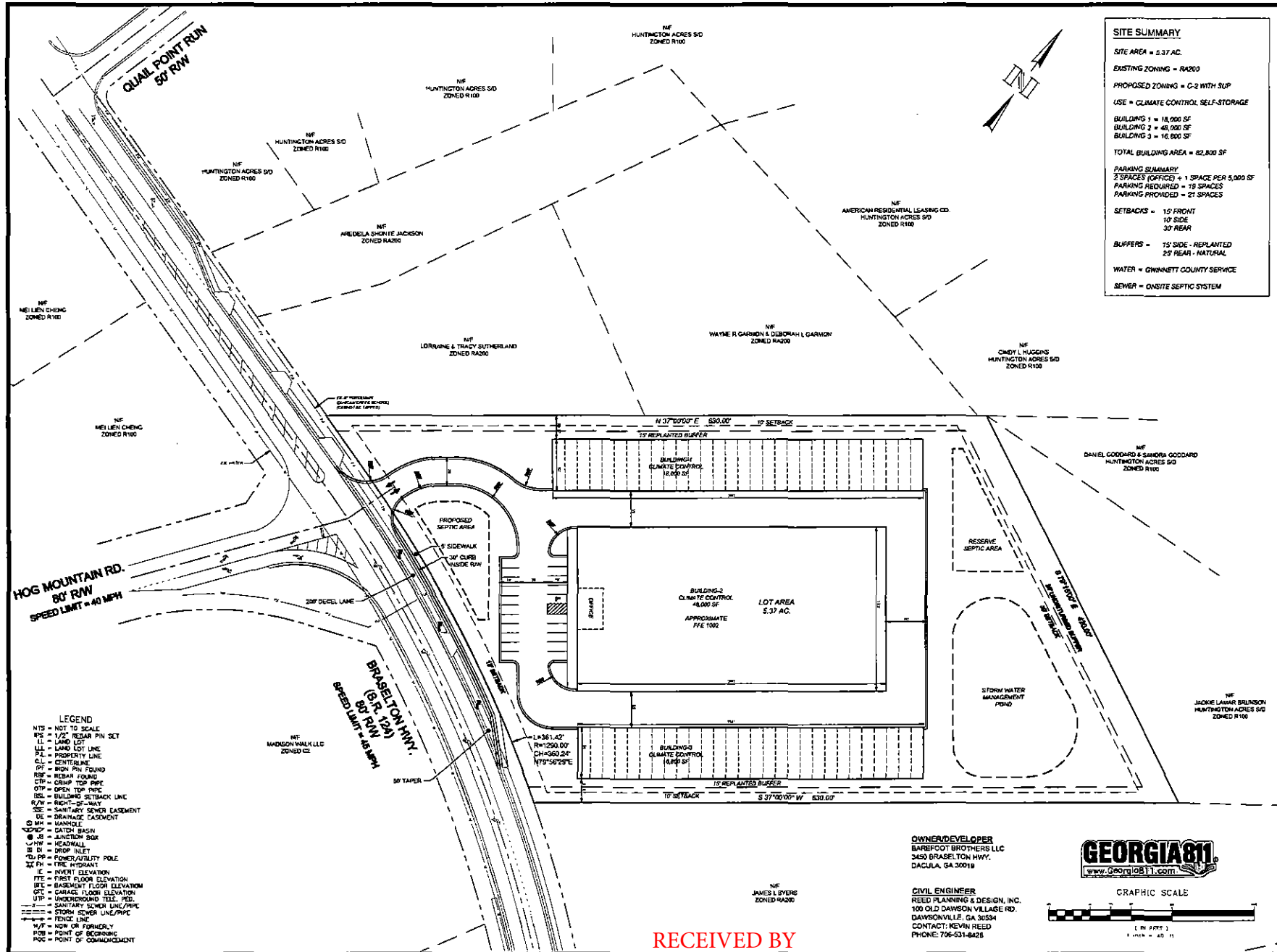
(4604 Braselton Highway)

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 3 of the 3rd District, Gwinnett County, Georgia, and being more particularly shown on a Plat prepared by H.L. Dunahoo, Georgia Registered Surveyor No. 277, dated June 17, 1953, and being of record in Plat Book "L," Page 181, in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia, and being more particularly described as follows:

Beginning at an iron pin located on the Northerly side of State Highway No. 124 at the point where lands now or formerly of Henry Woods intersects said road, and run thence from said iron pin, being the point of beginning, along the Northern right-of-way of State Highway No. 124 along a curve to the left having a radius of 1,290.00 feet and arc length of 361.42 feet being subtended by a chord of North 79 degrees 56 minutes 29 seconds East for a distance of 360.24 feet to a Point; thence leaving said right-of-way run North 37 degrees 00 seconds 00 minutes East for a distance of 630.00 feet to a Point; thence run South 79 degrees 15 minutes 00 seconds East a distance of 420.00 feet to a Point; thence run South 37 degrees 00 minutes 00 seconds West a distance of 630.00 feet to a Point located on the northerly right-of-way of State Highway No. 124, which said Point is the POINT OF BEGINNING.

Said tract being identified as Gwinnett County Tax Parcel No. R3003 013, and commonly known as 4604 Braselton Highway according to the current system of numbering.

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SITE SUMMARY

SITE AREA = 5.37 AC.

EXISTING ZONING = RA200

PROPOSED ZONING = C-2 WITH SUP

USE = CLIMATE CONTROL SELF-STORAGE

BUILDING 1 = 18,000 SF
 BUILDING 2 = 48,000 SF
 BUILDING 3 = 16,000 SF

TOTAL BUILDING AREA = 82,000 SF

PARKING SUMMARY
 2 SPACES (OFFICE) + 1 SPACE PER 5,000 SF
 PARKING REQUIRED = 19 SPACES
 PARKING PROVIDED = 21 SPACES

SETBACKS = 15' FRONT
 10' SIDE
 30' REAR

BUFFERS = 15' SIDE - REPLANTED
 25' REAR - NATURAL

WATER = GWINNETT COUNTY SERVICE

SEWER = ONSITE SEPTIC SYSTEM

REED
 PLANNING & DESIGN

100 Old Dawson Village Rd
 Suite 110
 Dawsonville, GA 30534
 Phone: 706-531-8428

CE-2020
 REED PLANNING & DESIGN, INC.
 100 OLD DAWSON VILLAGE RD
 SUITE 110
 DAWSONVILLE, GA 30534
 PHONE: 706-531-8428

STAMP

GSWCC LEVEL 1
 CERTIFIED DESIGN
 PROFESSIONAL

CERTIFICATION NO. 1534
 EXPIRES 10/25/2023

BAREFOOT BROTHERS LLC
 CLIMATE CONTROL STORAGE
 4604 BRASELTON HWY

PARCEL	3003-013
LAND LOT	003
DISTRICT	3
CITY	
COUNTY	GWINNETT
STATE	GEORGIA

CONCEPT
 PLAN

JOB NUMBER	DATE
20100-BB	8-26-2020

DATE	NO	REVISION

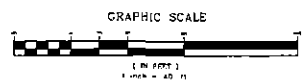
C-1

- LEGEND**
- NTS = NOT TO SCALE
 - RS = 1/2" REBAR PIN SET
 - LL = LAND LOT
 - LL = LAND LOT LINE
 - P.L. = PROPERTY LINE
 - C.L. = CENTERLINE
 - IP = IRON PIN FOUND
 - RIP = REBAR FOUND
 - CTP = CRIMP TOP PIPE
 - OTF = OPEN TOP PIPE
 - BSL = BUILDING SETBACK LINE
 - R/W = RIGHT-OF-WAY
 - SSC = SANITARY SEWER BASEMENT
 - DE = DRAINAGE CASSEMENT
 - MB = MANHOLE
 - CBQZ = CATCH BASIN
 - JB = JUNCTION BOX
 - HW = HEADWALL
 - DI = DROP INLET
 - TO SP = POWER/UTILITY POLE
 - FI = FIRE HYDRANT
 - IE = INVERT ELEVATION
 - FTE = FIRST FLOOR ELEVATION
 - BFL = BASEMENT FLOOR ELEVATION
 - GFL = GARAGE FLOOR ELEVATION
 - ULP = UNDERGROUND TELE. PEG
 - SSC = SANITARY SEWER LINE/PIPE
 - STW = STORM SEWER LINE/PIPE
 - FL = FENCE LINE
 - N/F = NEAR OR FORMERLY
 - POB = POINT OF BEGINNING
 - POC = POINT OF COMMENCEMENT

OWNER/DEVELOPER
 BAREFOOT BROTHERS LLC
 3450 BRASELTON HWY.
 Dacula, GA 30019



CIVIL ENGINEER
 REED PLANNING & DESIGN, INC.
 100 OLD DAWSON VILLAGE RD.
 DAWSONVILLE, GA 30534
 CONTACT: KEVIN REED
 PHONE: 706-531-8428



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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 & SPECIAL USE PERMIT APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- (A) Yes, approval of the Applications will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed low-intensity commercial development will complement existing land uses and development patterns.
- (B) No, approval of the Applications will not adversely affect the existing use or usability of any of the nearby properties. The proposed use is compatible with surrounding land uses and the policies of the Gwinnett County 2040 Unified Plan. The proposed use will complement nearby residential development.
- (C) Due to the size, location, layout and dimensions of the subject property, the Applicant submits that the property does not have reasonable economic use as currently zoned.
- (D) No, approval of the proposed rezoning will not result in an excessive or burdensome use of the infrastructure systems. The Property is conveniently-located near multiple major thoroughfares with access to utilities. Additionally, the proposed use is a relatively low-intensity commercial use which does not generate as many vehicle trips as traditional commercial or retail uses.
- (E) Yes, approval of the proposed rezoning would be in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The subject property is located at a "node" as defined in the 2040 Plan. Nodes are the areas surrounding the intersection of two roads classified as "Collectors" or higher. Land use policies for nodes encourage some commercial development and the low-intensity, neighborhood serving proposed storage use fits squarely within that policy.
- (F) The Applicant submits that the mix of surrounding land uses, the fact that the node at which the Property is located is likely to undergo new development in the short term, and the Property's proximity to large residential areas provide additional supporting grounds for approval of this Application.

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Matthew P. Benson
Gerald Davidson, Jr.*
Brian T. Easley
Kelly O. Faber
Christopher D. Holbrook
W. Brady Hughes

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

*Of Counsel

**COMBINED LETTER OF INTENT FOR
SPECIAL USE PERMIT AND REZONING APPLICATIONS**

Mahaffey Pickens Tucker, LLP submits the attached Rezoning and Special Use Permit applications (the “Applications”) on behalf of the property owner, Barefoot Brothers, LLC (the “Applicant”) relative to an approximately 5.37-acre tract (the “Property”) located off Braselton Highway (State Route 124) at its intersection with Hog Mountain Road. The Applicant is requesting (i) to rezone the Property to the C-2 zoning classification and (ii) a special use permit in order to develop the Property for use as a Self-Storage/Mini-Warehouse Facility. The Property is currently zoned RA-200 and is designated as within the “Emerging Suburban” character area on the Gwinnett County 2040 Unified Plan (the “2040 Plan”) Future Development Map.

The Applicant is proposing to develop the Property to include three storage buildings with approximately 82,800 total square feet of interior, conditioned storage space, and an office to manage on-site operations. The proposed buildings would each be one story and would include attractive architectural design elements. The storage business would have direct access to Braselton Highway via a single driveway. The Applicant is also proposing buffer reductions along the Property’s perimeter in order to provide 15-foot landscaped buffers along the westerly and easterly (side) boundary lines and a 25-foot undisturbed buffer along the northerly (rear) boundary line.

The Hog Mountain Road/Braselton Highway intersection has already experienced successful commercial rezoning efforts and approximately six acres across Braselton Highway is currently zoned C-2. Moreover, as set forth on the Gwinnett County Long Range Road Classification Map, Hog Mountain Road is classified as a Major Collector and Braselton

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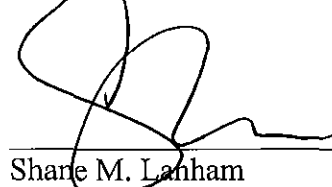
Highway is classified as a Minor Arterial. Accordingly, the subject Property is located at a “node” as defined by the 2040 Plan. The 2040 Plan encourages more intense development at nodes, including neighborhood-serving commercial uses such as the proposed development. Additionally, the subject property would provide an appropriate transition of land uses from more intense commercial and retail zoning classifications at the heart of the node towards less intense single-family detached homes to the north. The proposed development would serve existing residents in the area as well as residents of new residential development that has recently occurred in the area. In this sense, the proposed development would serve as a community amenity for nearby homeowners who need additional secure space to store their belongings.

The Applicant welcomes the opportunity to meet with staff of the Gwinnett County Planning & Development Department to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Applications filed herewith. The Applicant respectfully requests your approval of the Applications.

Respectfully submitted this 4th day of September, 2020.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



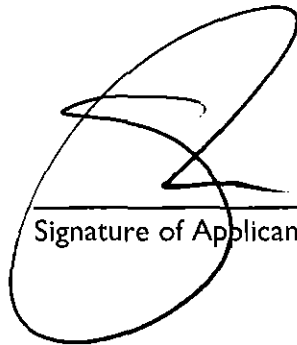
Shane M. Lanham

Attorneys for the 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

9/4/20
Date

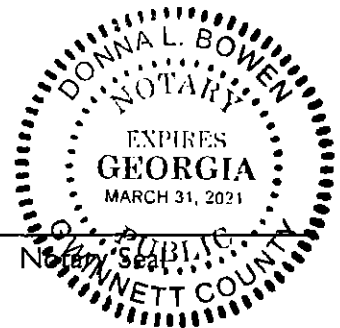
Shane Lanham, Attorney for the Applicant

Type or Print Name and Title



Signature of Notary Public

9/4/20
Date



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Paul Dyer

Signature of Applicant

8/26/20

Date

Paul Dyer

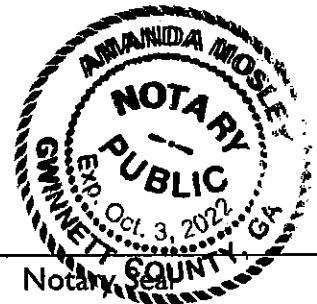
Type or Print Name and Title

Amanda Mosley

Signature of Notary Public

8/26/20

Date



Notary Seal

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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.

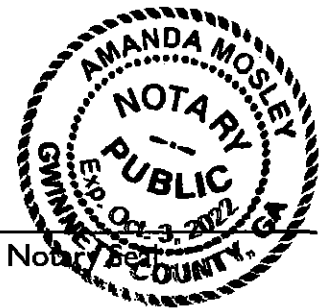
Paul Dalrymple
Signature of Property Owner

8/26/20
Date

Paul Dalrymple
Type or Print Name and Title

Amanda Mosley
Signature of Notary Public

8/26/20
Date





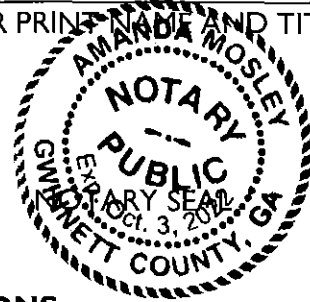
Notary

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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
	8/26/2020	Shane M. Lanham, Attorney for Applicant
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	8/26/20	
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 OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)
NA		

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

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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.

Paul Delp 8/26/20 Paul Delp, Manager
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

Amanda Mosley 8/26/20
 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 Barefoot Brothers 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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Bras. Hwy e2

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: 3 - 003 - 013
(Map Reference Number) District Land Lot Parcel

Signature of Applicant

8/26/2020
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)

Julie Smith

TSA II

NAME

TITLE

8-19-2020

DATE

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**JUSTIFICATION FOR REZONING
AND FOR SPECIAL USE PERMIT**

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 with the Special Use Permit (“SUP”) as requested by the Applicant, and is not economically suitable for development under the present RA-200 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

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Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the C-2 classification with the requested SUP 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 with the requested SUP, 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.

Opponents to the request set forth in the Application, or in any amendments to the Application, have waived their rights to appeal any decision of the Gwinnett County Board of Commissioners because they lack standing, have failed to exhaust administrative remedies, and/or because they failed to assert any legal or constitutional objections.

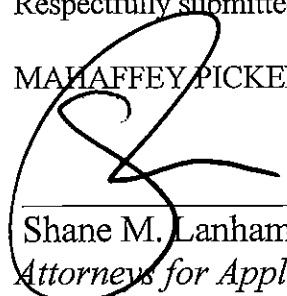
Accordingly, the Applicant respectfully requests that the rezoning application and the SUP application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application and that the SUP requested be issued.

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This 4th day of September, 2020.

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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