

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Mahaffey Pickens Tucker, LLP	NAME: Timothy S. Landers
ADDRESS: 1550 North Brown Road, Suite 125	ADDRESS: 1550 North Brown Road, Suite 125
CITY: Lawrenceville	CITY: Lawrenceville
STATE: Georgia ZIP: 30043	STATE: Georgia ZIP: 30043
PHONE: 770.232.0000	PHONE: 770.232.0000
CONTACT PERSON: Shane Lanham PHONE: 770.232.0000	
CONTACT'S E-MAIL: slanham@mptlawfirm.com	

APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICT(S): C-1 REQUESTED ZONING DISTRICT: RM-24	
LAND DISTRICT(S): 5 LAND LOT(S): 138 ACREAGE: +/- 13.231	
ADDRESS OF PROPERTY: Webb Gin House Road @ Grayson Highway (SR 20)	
PROPOSED DEVELOPMENT: Mixed-use development	

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: 300	No. of Buildings/Lots: NA
Dwelling Unit Size (Sq. Ft.): varies per UDO	Total Building Sq. Ft. NA
Gross Density: +/- 22.68 units per acre	Density: NA
Net Density: +/- 23.96 units per acre	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Land Description

Proposed tract 1

All that tract or parcel of land lying and being part of Land Lot 138 of the 5th Land District of Gwinnett County, Georgia, and being more particularly described as follows:

BEGINNING at a concrete monument found at the northern most end of a mitered intersection located on the southerly right of way of Web Gin House Road (Right of Way Varies) and the westerly right of way of Georgia Highway 20 aka Grayson Highway (Right of Way varies) said point being the POINT OF BEGINNING:

Thence along the Right of Way of Web Gin House Road, South 68 degrees 49 minutes 21 seconds West for a distance of 196.24 feet to a point; Thence South 23 degrees 07 minutes 19 seconds East for a distance of 18.66 feet to a concrete monument found, said point being the **TRUE POINT OF BEGINNING**:

Thence leaving said right of way South 23 degrees 07 minutes 19 seconds East for a distance of 774.65 feet to an iron pin set; Thence South 60 degrees 08 minutes 05 seconds West for a distance of 930.03 feet to an iron pin set; Thence North 27 degrees 14 minutes 14 seconds West for a distance of 178.36 feet to a point; Thence North 63 degrees 12 minutes 45 seconds East for a distance of 226.17 feet to a point; Thence North 26 degrees 47 minutes 15 seconds West for a distance of 621.82 feet to a point; Thence following a curve turning to the right having a radius of 130.00 feet, an arc length of 11.10 feet and being subtended by a chord have a bearing of North 24 degrees 20 minutes 32 seconds West for a distance of 11.09 feet to a point; Thence North 21 degrees 53 minutes 49 seconds West for a distance of 105.68 feet to a point on the Right of Way of Web Gin House Road; Thence along said Right of Way North 68 degrees 59 minutes 14 seconds East for a distance of 69.01 feet to a point; Thence leaving said right of way, South 21 degrees 53 minutes 49 seconds East for a distance of 104.61 feet to a point; Thence following a curve turning to the left having a radius of 62.22 feet, an arc length of 5.21 feet and being subtended by a chord have a bearing of South 24 degrees 20 minutes 20 seconds East for a distance of 5.21 feet to a point; Thence South 26 degrees 47 minutes 15 seconds East for a distance of 67.06 to a point; Thence North 69 degrees 22 minutes 47 seconds East for a distance of 428.62 feet to a point; Thence North 20 degrees 37 minutes 13 seconds West for a distance of 179.46 feet to an iron pin set on the said Right of Way of Web Gin House Road; Thence along the said Right of Way North 68 degrees 59 minutes 14 seconds East for a distance of 43.63 feet to a concrete monument found; Thence South 20 degrees 17 minutes 09 seconds East for a distance of 18.67 feet to a concrete monument found; Thence North 68 degrees 51 minutes 28 seconds East for a distance of 198.70 feet to a concrete monument found, said point being the **TRUE POINT OF BEGINNING**.

Said described tract contains 13.231 acres.

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THE PURPOSE OF THIS DRAWING IS TO DEPICT THREE PROPOSED AREAS TO BE REZONED. THIS IS NOT A SURVEY AND SHOULD NOT BE USED TO TRANSFER REAL PROPERTY.

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SHEET:
1 OF 1

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

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REZONING APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- (A) Yes, approval of the proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed mixed-use development will complement existing land uses and development patterns.
- (B) No, approval of the proposed rezoning 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.
- (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 major thoroughfares with access to utilities.
- (E) Yes, approval of the proposed rezoning would be in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The Property is within the Community Mixed-Use Character Area which encourages mixed-use developments including townhomes and multifamily residences.
- (F) The Applicant submits that the mix of surrounding land uses and the Property's proximity to the limited access portions of Sugarloaf Parkway provide additional supporting grounds for approval of this Application.

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Memorandum

Date: December 6, 2019

From: Marc R. Acampora, PE

Subject: Trip Generation for Proposed Mixed-Use Development, Webb Gin House Road at Grayson Highway
Gwinnett County, Georgia

The trip generation was calculated for a proposed mixed-use development in Gwinnett County, Georgia. The site is located in the southwest corner of Webb Gin House Road at Grayson Highway (Georgia State Route 20) as shown in Figure 1. The proposed site plan is presented in Figure 2.

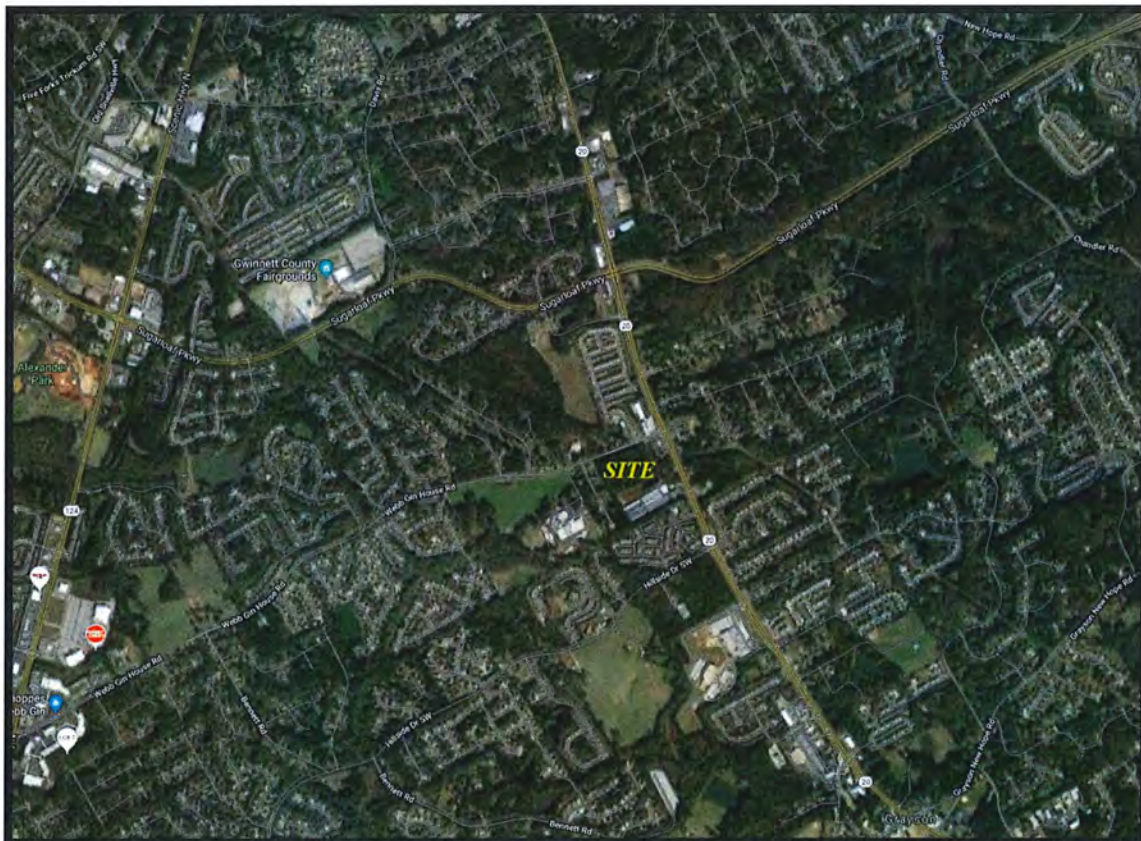


Figure 1 – Site Location Map

858 Myrtle Street, NE
Atlanta, Georgia 30308

phone (678) 637 -1763

e-mail acamporatraffic@comcast.net
www.acamporatraffic.com

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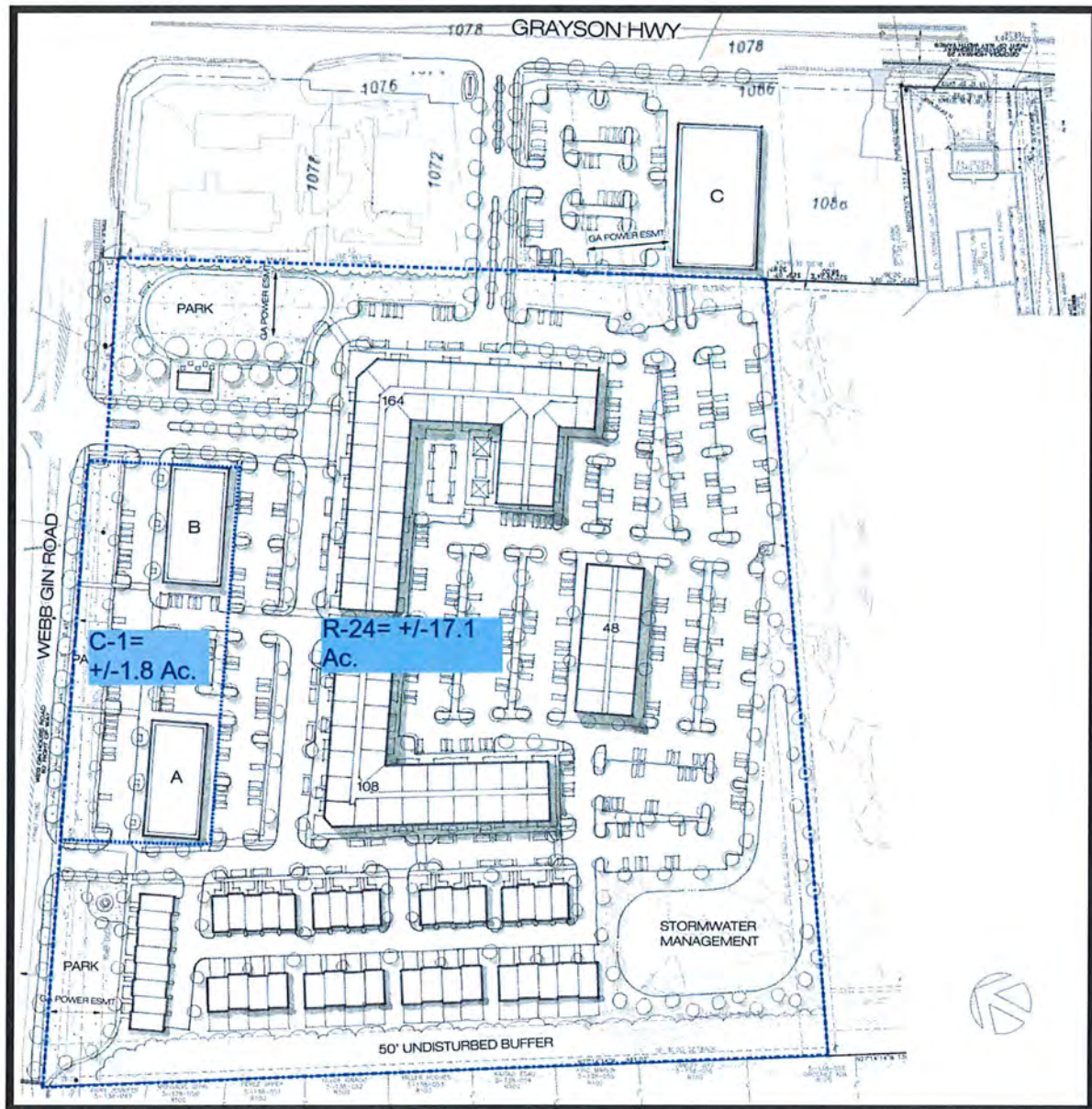


Figure 2 – Site Plan

The site will be developed with two commercial/retail buildings totaling 19,600 square feet and 352 multi-family units. Two full-movement vehicular accesses will be provided on the south side of Webb Gin House Road and one right-in/right-out access will be provided on the west side of Grayson Highway.

The volume of traffic that will be generated by the proposed mixed-use development was calculated using the equations in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition (the current edition). ITE Land Use 820 – Shopping Center was chosen as representative of the two commercial/retail buildings and ITE Land Use 221 – Multi-Family Housing (Mid-Rise) was chosen for the multi-family units.

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MARC R. ACAMPORA, PE, LLC
TRAFFIC ENGINEERING

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Two adjustments are typically applied to the raw trip generation. The first would be a mixed-use adjustment based on the methodology proscribed in the *ITE Trip Generation Handbook, 3rd Edition*, which reflects the methodology set forth in *NCHRP Report 684*. This methodology is used to calculate how many trips will occur between compatible land uses within the same development. However, the calculations revealed minimal mixed-use adjustments for this project (in the very low single digits). Since they were almost zero, these adjustments were omitted from the final calculations.

An adjustment was made to the commercial/retail trips to account for the effect of pass-by trips. Pass-by trips are trips that are already driving by the property but will be intercepted by the retail in this project. These trips are new to the project driveways, but do not represent new trips to the adjacent roadways, since they are currently occurring and are, therefore, included in existing traffic flows on the adjacent streets. The *ITE Trip Generation Handbook* provides data and average rates for the pass-by percentages for Land Use 820 – Shopping Center, which has an average p.m. peak hour pass-by percentage of 34%. Therefore, a 34% pass-by trip adjustment was applied to the raw p.m. peak hour trips, while a 24% adjustment was applied to the a.m. and 24-hour numbers.

The trip generation for the proposed Webb Gin House Road mixed-use development is summarized in Table 1.

Table 1 – Webb Gin House Road Mixed-Use Development Trip Generation

Land Use	ITE Code	Size	A.M. Peak Hour			P.M. Peak Hour			24-Hour
			In	Out	Total	In	Out	Total	2-Way
Retail/Commercial	820	19,600 ft ²	100	62	162	78	85	163	1,986
-pass-by adjustment		24%/34%/24%	-24	-15	-39	-27	-29	-56	-476
Retail/Commercial New Trips			76	47	123	51	56	107	1,510
Multi-Family	221	352 units	30	87	117	90	58	148	1,918
Total Project New Trips			106	134	240	141	114	255	3,428

The proposed mixed-use development will generate 240 new trips in the morning peak hour, 255 new trips in the evening peak hour, and 3,428 new daily trips.

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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

11/27/19

Date

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title



Signature of Notary Public

11/27/19

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.

Timothy S. Landers
Signature of Property Owner

12-3-19
Date

Timothy S. Landers
Type or Print Name and Title

owner

Matthew Fulkes
Signature of Notary Public

12/3/19
Date



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CONFLICT OF INTEREST CERTIFICATION FOR REZONING

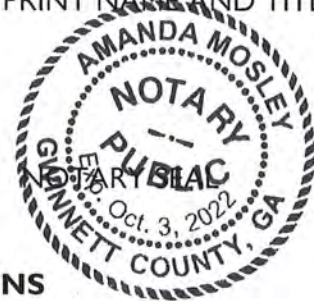
The undersigned below, making application for a Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

 11/27/19 Shane M. Lanham, Attorney for Applicant

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

 11/27/19 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 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)
Please 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

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
None		

JEFF MAHAFFEY

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
Clint Dixon	\$1500	06/26/2019

LEE TUCKER

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
Clint Dixon	\$1000	06/26/2019

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06/06/2019

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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: 5 - 138 - 014
(Map Reference Number) District Land Lot Parcel



Signature of Applicant

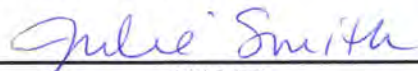
12/2/19
Date

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)


NAME

TSA II
TITLE

12-2-19
DATE

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JUSTIFICATION FOR REZONING APPLICATIONS

The portions of the Gwinnett County Unified Development Ordinance (the "UDO") which classify or may classify the property (the "Property") which is the subject of the attached rezoning application (the "Application") 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 RM-24 zoning classification as requested by the Applicant, and is not economically suitable for development under the present C-1 zoning classification of Gwinnett County. A denial of the 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 Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the RM-24 zoning classification as set forth in the application 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 RM-24 zoning 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

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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 it relative to the Property be granted and that the Property be rezoned to the zoning classifications as shown on the application.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



Shane M. Danham
Attorneys for Applicant

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