REZONING APPLICATION

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

PROPERTY OWNER INFORMATION*
NAME: REO Funding Solutions V, LLC
ADDRESS: 1170 Peachtree Street NE, Suite 1150
CITY: Atlanta
STATE: GA ZIP: 30309
PHONE: (404) 477-6189
ttorney PHONE: (770) 822-0900
awfirm.com
NT IS THE: VNER CONTRACT PURCHASER
D & R062-154 ACREAGE: 26.74
Mountain Highway
complement existing commercial uses)
NON-RESIDENTIAL DEVELOPMENT No. of Buildings/Lots: Total Building Sq. Ft Density:

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Hwy 78 and Lowes Tract - Survey Description

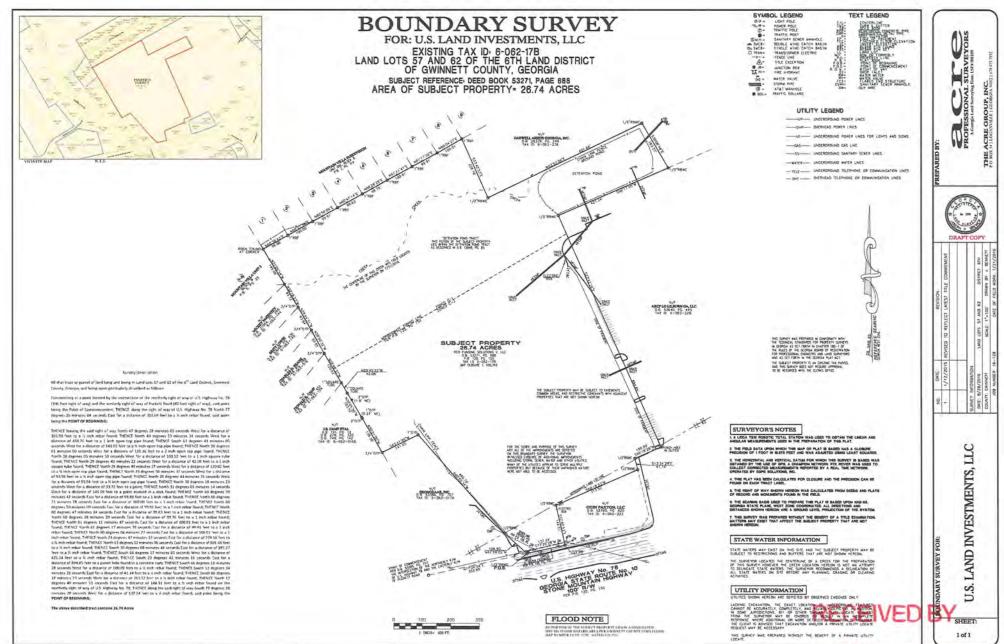
All that tract or parcel of land lying and being in Land Lots 57 and 62 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

Commencing at a point formed by the intersection of the northerly right of way of U.S. Highway No. 78 (100 foot right of way) and the westerly right of way of Puckett Road (80 foot right of way), said point being the Point of Commencement; THENCE along the right of way of U.S. Highway No. 78 North 77 degrees 26 minutes 04 seconds East for a distance of 353.69 feet to a ½ inch rebar found, said point being the POINT OF BEGINNING;

THENCE leaving the said right of way North 47 degrees 28 minutes 05 seconds West for a distance of 106.90 feet to a 1/2 inch rebar found; THENCE North 40 degrees 59 minutes 34 seconds West for a distance of 460.76 feet to a 1 inch open top pipe found; THENCE South 63 degrees 41 minutes 05 seconds West for a distance of 141.05 feet to a \% inch open top pipe found; THENCE North 30 degrees 01 minutes 00 seconds West for a distance of 139.36 feet to a 2 inch open top pipe found; THENCE North 30 degrees 05 minutes 50 seconds West for a distance of 103.52 feet to a 1 inch square tube found; THENCE North 29 degrees 40 minutes 22 seconds West for a distance of 42.08 feet to a 1 inch square tube found; THENCE North 29 degrees 48 minutes 37 seconds West for a distance of 120.02 feet to a % inch open top pipe found; THENCE North 28 degrees 50 minutes 32 seconds West for a distance of 93.95 feet to a 1/4 inch open top pipe found; THENCE North 29 degrees 44 minutes 31 seconds West for a distance of 93.94 feet to a 1/4 inch open top pipe found; THENCE North 30 degrees 18 minutes 23 seconds West for a distance of 93.72 feet to a point; THENCE North 31 degrees 05 minutes 14 seconds West for a distance of 145.09 feet to a point marked in a rock found; THENCE North 60 degrees 39 minutes 42 seconds East for a distance of 99.88 feet to a 1 inch rebar found; THENCE North 60 degrees 21 minutes 28 seconds East for a distance of 100.00 feet to a 1 inch rebar found; THENCE North 60 degrees 50 minutes 09 seconds East for a distance of 99.91 feet to a 1 inch rebar found; THENCE North 60 degrees 47 minutes 14 seconds East for a distance of 99.63 feet to a 1 inch rebar found; THENCE North 60 degrees 28 minutes 29 seconds East for a distance of 99.76 feet to a 1 inch rebar found; THENCE North 61 degrees 11 minutes 47 seconds East for a distance of 100.01 feet to a 1 inch rebar found; THENCE North 61 degrees 17 minutes 39 seconds East for a distance of 99.91 feet to a 1 inch rebar found; THENCE North 60 degrees 04 minutes 27 seconds East for a distance of 100.01 feet to a 1 inch rebar found; THENCE South 23 degrees 42 minutes 53 seconds East for a distance of 228.16 feet to a ½ inch rebar found; THENCE North 63 degrees 52 minutes 06 seconds East for a distance of 601.66 feet to a ½ inch rebar found; THENCE South 30 degrees 08 minutes 48 seconds East for a distance of 183.27 feet to a ½ inch rebar found; THENCE South 66 degrees 17 minutes 05 seconds West for a distance of 421.24 feet to a ½ inch rebar found; THENCE South 23 degrees 42 minutes 16 seconds East for a distance of 894.85 feet to a punch hole found in a concrete curb; THENCE South 66 degrees 18 minutes 28 seconds West for a distance of 100.09 feet to a 1/2 inch rebar found; THENCE South 13 degrees 34 minutes 28 seconds East for a distance of 41.14 feet to a 1/2 inch rebar found; THENCE South 66 degrees 18 minutes 23 seconds West for a distance of 313.52 feet to a ½ inch rebar found; THENCE South 12 degrees 40 minutes 53 seconds East for a distance of 144.51 feet to a ½ inch rebar found on the northerly right of way of U.S. Highway No. 78; THENCE along the said right of way South 77 degrees 20 minutes 28 seconds West for a distance of 137.24 feet to a 1/2 inch rebar found; said point being the POINT OF BEGINNING.

The above described tract contains 26.74 Acres.

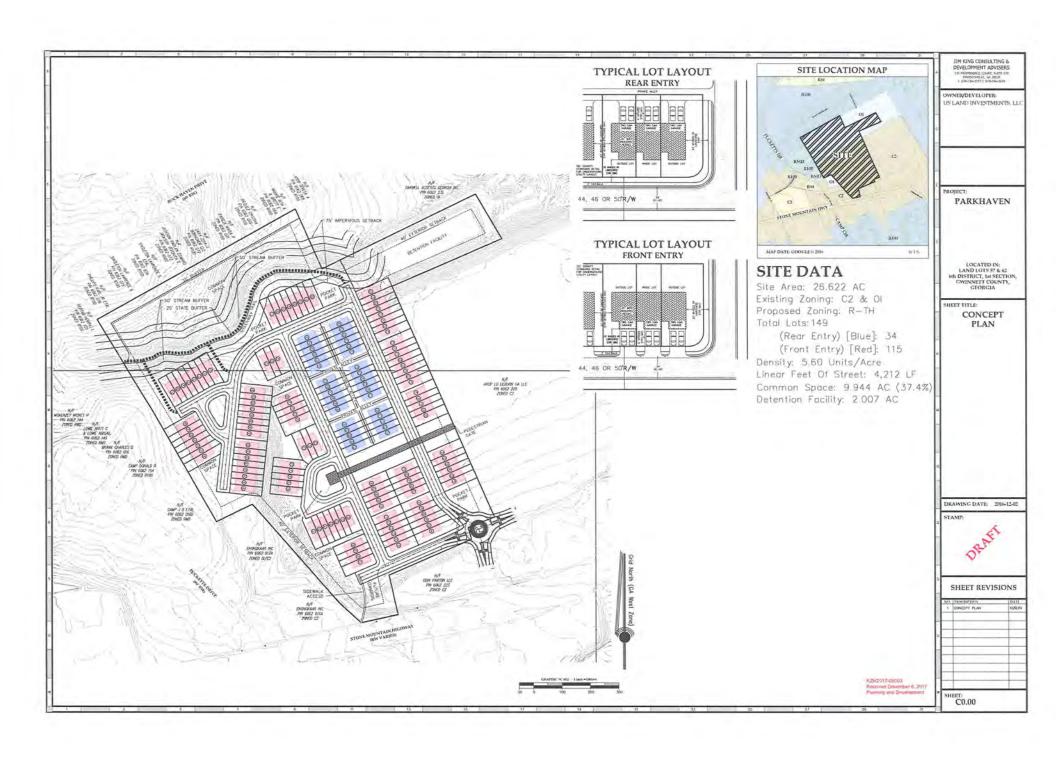
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REZONING APPLICANT'S RESPONSE STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

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:

	OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:
	See Exhibits
	WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY: See Exhibits
ij	WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED: See Exhibits
1	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: See Exhibits
	WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN: See Exhibits
	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 Exhibits

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EXHIBIT "B"

APPLICANT'S RESPONSES IN SUPPORT OF REZONING

A) WHETHER THE REQUESTED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes. The proposed residential development completes this property by providing for a mixed use development consistent with the nearby uses, with easy access to Highway 78. The proposed residential development and rooftops will support the nearby businesses, retail and commercial uses, and are consistent with the 2030 Unified Plan, which identifies this property as being in a *Mixed-Use Corridor*.

B) WHETHER THE REQUESTED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. Much of the residential development in the area similarly supports and creates a mixed-use development and similarly support neighboring businesses. Those nearby uses are consistent with the requested use, and these zoning requests are compatible with the existing uses and usability of the adjacent and nearby property.

C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the influx and oversaturation of commercial and retail uses in the area, the existing zoning, conditions and restrictions, the subject property does not have reasonable economic use as currently zoned, and has remained vacant and undeveloped.

D) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. This property is located in an area with public water and sewer availability, and direct access to major thoroughfares. The development is consistent with the Unified Plan and prior precedent, which supports similar uses on this mixed commercial and residential corridor. The proposed community will not cause excessive use of existing streets, transportation facilities or utilities.

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E) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. 2030 Unified Plan identifies the subject property as an appropriate location for Emerging/Existing and similar residential and commercial uses, along the Hwy. 78 corridor, and the proposed development will confirm with the existing and nearby residential uses, many of which are more intense than the proposed development.

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 REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS.

Yes. Like the residential developments along Highway 78, the requested rezoning is absolutely necessary to enable the Applicant to develop the property so as to allow for a feasible economic use based on the property's location to the existing Lowes, restaurants, and Highway 78. The requested use is also appropriate given the needs in the area and Evermore CID district, to balance the existing commercial uses with residential uses and patrons, and to support the viability of that area and existing businesses.

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FACSIMILE (770) 822-9680
www.atclawfirm.com

Marian C. Adeimy Direct Phone: (678) 518-6855 Direct Fax: (770) 236-9702 Email: madeimy@atclawfirm.com

December 2, 2016

VIA HAND DELIVERY AND E-MAIL

Gwinnett County
Department of Planning and Development
446 West Crogan Street
Lawrenceville, GA 30046-2440

RE: Letter of Intent in Support of Rezoning for the property located near the Lowes, on Highway 78, and known as Parcel Id No. R6-062-17B

(the "Subject Property")

Dear Ms. Holland and Planning Department:

On behalf of the Applicant and Property Owner, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., hereby submit this Letter in Support of the related Applications for Rezoning. The Applicant hereby submits this application for rezoning, to rezone the Subject Property, being approximately 26.6 acres, from C-2/O&I to R-TH, to allow for 149 quality townhomes.

I. Background

The Applicant seeks to create quality, residential development consistent with the existing residential communities in the area, while supporting the commercial development surrounding this long vacant property, all of which is located in the Evermore CID. The Subject Property was zoned C-2 as part of a larger planned development that never came to fruition due to the economic downturn, and due to the influx of less desirable commercial development along the Highway 78 corridor.

The property shares an entrance with the Lowes home improvement store, two existing restaurants, and future retail outparcels. This residential community will complete the development by creating a quality mixture of uses and rooftops to support the existing commercial and retail uses. The property will transition from a vacant, infill site to a walkable community.

It is clear that the residential real estate market is not only strong, but particularly near Stone Mountain and the Yellow River Game Ranch, where the County and Evermore CID has supported quality, residential development in order to support the saturated retail and commercial market in that area. The County recently furthered that goal by approving the purchase of the Stone Mountain Tennis Center for redevelopment.

Letter of Intent (U.S. Land Investments, LLC) December 2, 2016 2 of 3 | P a g e

II. Rezoning

In conjunction with all of the positive redevelopment opportunities in that area, the subject property has caught the attention of national builder, who seeks to build approximately 149 high-end townhomes, to provide a quality mixture of uses to help support the existing restaurant outparcels and Lowes shopping center.

The proposed zoning and site plan is entirely consistent with similarly, developed, residential communities along Highway 78, selling in the \$300's. Similar townhomes in the Metro-Atlanta area range between the \$300's to over \$600,000, serving the higher-end market.

In total, there are over 10 acres of open space, or one-third of the total development. The proposed development will include a community "main street", pocket parks, nature trails, and extensive pedestrian connectivity. The townhomes will be a mixture of front and rear entry, to provide for a "main street" at the community's entrance. Homes will be a minimum of 22 ft. wide and a minimum of 1,800 sq. ft., and will be built with quality materials of craftsman and traditional design, with alternating architectural elevations to create individual homes and facades. A master association and covenants will be formed to govern and maintain all common areas and landscaping.

As outlined in the 2030 Unified Plan and Future Development Map, the Subject Property and surrounding areas are designated as a Corridor Mixed-Use, consistently found to be appropriate for similar mixed retail, townhome and residential communities. Quality homes will help raise property values and support the over-saturation of commercial and retail uses.

The proposed use is much less intense than the uses currently zoned, and will have less of an impact on utilities, stormwater and traffic than a commercial development. The timing and approval of the requested development is supported by the goals of the Evermore CID, seeking to balance the existing commercial uses with residential uses, to create a sense of community, to improve the customer base, to connect existing properties, and to support the viability of the existing businesses.

This property has no economic use as currently zoned and remains a long-undeveloped, infill site from the original, failed commercial development. Like the similar residential developments along Highway 78, the requested rezoning is absolutely necessary to enable the Applicant to develop the property so as to allow for a feasible economic use, based on the property's location to the existing Lowes, restaurants, and Highway 78.

III. Constitutional Objections

In order to preserve their constitutional objections, the Applicant and Owner BY outline those potential objections herein. The portions of the Gwinnett County Unified

Letter of Intent (U.S. Land Investments, LLC) December 2, 2016 3 of 3 | P a g e

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 Equal Protection and 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 Due Process and Equal Protection Clause of the Fourteenth Amendment to the Constitution. A denial of the requested rezoning will deny the Applicant and Property Owner an economically viable use of the Property while not substantially advancing legitimate state and County interests.

IV. Conclusion

The Applicant proposes a quality and high-end residential community to complete what was once an infill site, creating a walkable mixed-use 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,

ANDERSEN, TATE & CARR, P.C.

cc: Jim Brooks, Evermore CID

Marian C. Adeimy Attorney for Applicant

Enclosures:

Letter and Request for Time Waiver, Rezoning Application and exhibits

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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

Date

Date

Type or Print Name and Title

EXPIRES
GEORGIA
OCT. 14 2017

Date

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Signature of Notary Public

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.

May	12/2/16
Signature of Property Owner	Date
Marian Adeimy,	attorney
Type or Print Name and Title	·
Signature of Notary Public	Date NOTAN REXPIRES OCT. 14, 2017 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-I, et. seq, <u>Conflict of Interest in Zoning Actions</u>, and has submitted or attached the required information on the forms provided.

May	12/2/16	Manan Adeimy
SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
Non Jo	12/2/16	Manan Adeim -
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTAT	DATE	TYPE OR PRINT NAME AND TITU
Burbeh	12/2/16	NOTAR, TO
SIGNATURE OF NOTARY PUB	LIC DATE	GEOMOTARY SEAL
Have you, within the two years i contributions aggregating \$250.0 member of the Gwinnett County	0 or more to a member of Planning Commission?	e filing of this application, made campaign of the Board of Commissioners or a
YES NO See	YOU YOU	JR NAME
If the answer is yes, please comp	lete the following section	
NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTION (List all which aggre to \$250 or More	egate WAS MADE

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

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EXHIBIT AND DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY ANDERSEN, TATE & CARR, P.C.

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE CONTRIBUTION WAS MADE
Charlotte Nash Commission Chairwoman	\$1,000	March 2016
Jace Brooks, District 1 Commissioner	\$80.69 \$750 \$500	April 2, 2015 May 2015 March 2016
John Heard, District 4 Commissioner	\$1,000 \$150 \$200	January 9, 2014 May 5, 2014 March 26, 2014
Lynette Howard, District 2 Commissioner	\$1,000	March 19, 2014
Tommy Hunter, District 3 Commissioner	\$750 \$500	March 5, 2015 January 27, 2016

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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: (Map Reference Number) District Land Lot Parcel Signature of Applicant Date Marian C. Adeimy, Attorney 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) NAME TITLE DATE

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PARCEL I.D. NUMBER:	6	. 062	. 154
(Map Reference Number)	District	Land Lot	Parcel
Max			12/2/16
Signature of Applicant	. 7.73		Date
Marian C. Adeimy	v. Attornev		
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PARCEL I.D. NUMBER:	6	062	016 D
(Map Reference Number)	District	Land Lot	Parcel
Morey			12/2/16
Signature of Applicant	1 70 -1		Date
Marian C. Adeimy	v. Attornev		
***PLEASE TAKE THIS FOR GWINNETT JUSTICE AND THEIR APPROVAL BELOW	ADMINISTRAT		
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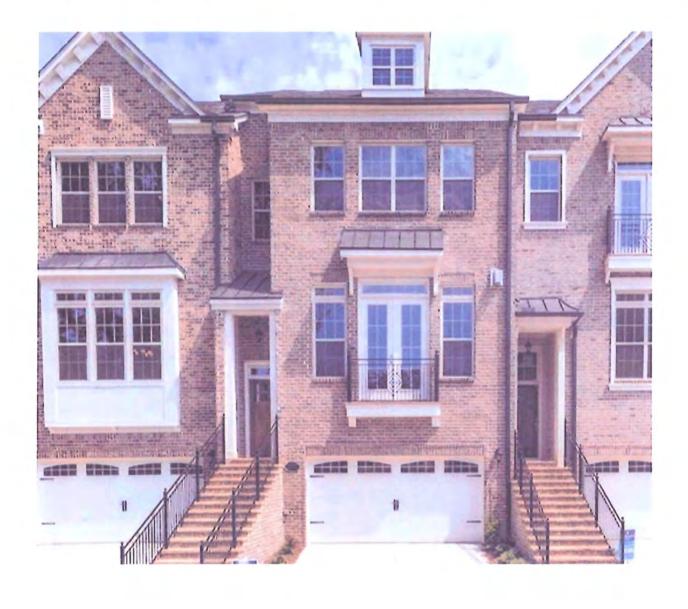


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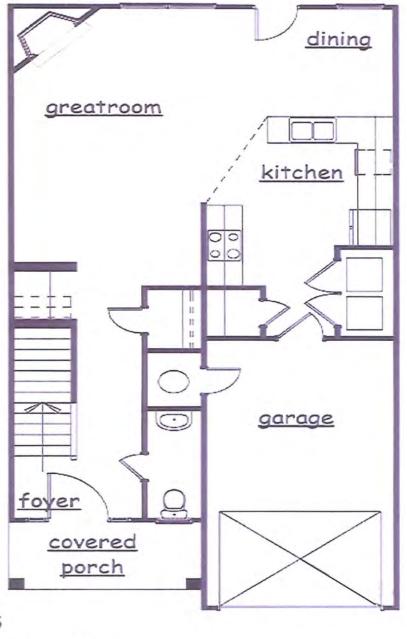


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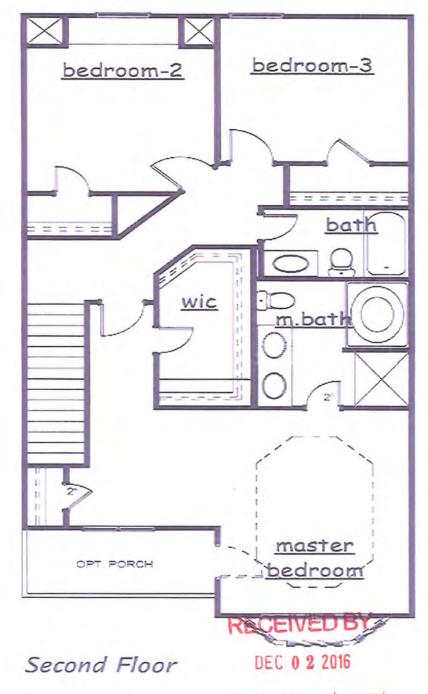
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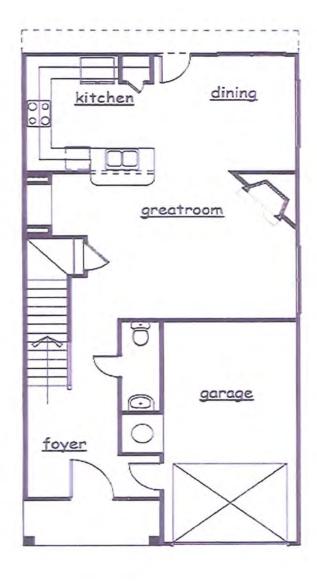


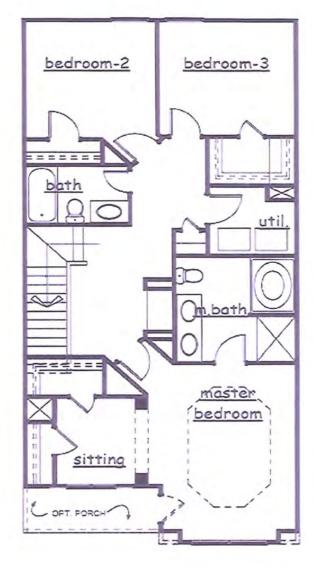
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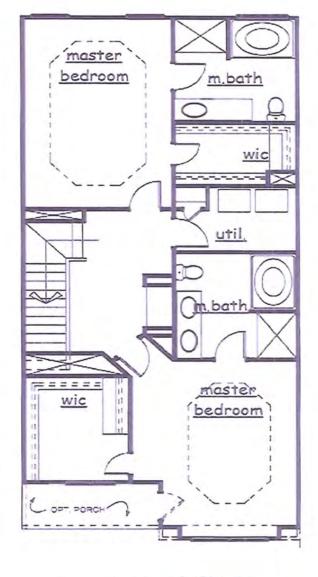
First Floor



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First Floor

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Second Floor 3 Bedroom Option

Second Floor

DRAGON Stell Option

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