



Rezoning Request Application Checklist

Applicant Information

Name *TR 17 Hill Road, LLC

Phone (704) 706-7858; *(770) 429-1499

Mailing Address 26 Milton Avenue; Alpharetta, GA 30009

Email matt@trilogyic.com; john@trilogyic.com; *jkm@mijis.com

Application Checklist

The following information will be required:

1. Application
 2. Notice of Intent
 3. Applicant's Written Analysis
 4. Campaign Contribution Disclosure
 5. Owner's Authorization, if applicable.
 6. Legal Description and Survey Plat of the property
 7. Application Fee (summary of fees attached)
 8. Copy of the Deed that reflects the current owners name
 9. Vicinity Map outlining the parcel/s in relation to the surrounding area
 10. Site plan, plat or survey prepared by an architect, engineer. The following information **must** be included:
Specific use or uses proposed for the site. Acreage, bearing and distances, other dimensions, and location of the tract(s). Locations, sizes and setbacks of proposed structures, including the number of stories and total floor area, height, for residential number of units, Square footage of heated floor area. Detention/retention areas, and utility easements. Location of dumpsters. Public or private street(s) - right of way and roadway widths, approximate grades Location and size of parking area with proposed ingress and egress. Specific types and dimensions of protective measures, such as buffers. Landscaping. Wetlands, stream buffers, and 100 year floodplain.
 11. Sketch Plan/ Architectural Rendering, if applicable
 12. Traffic Study required for development with 500,000 sf of nonresidential floor area or 350 dwelling units or more.
- List additional attachments: City and County 2021 Paid Tax Receipts

Note Carefully

If your application qualifies as a "Development of Regional Impact" (see Article 13) then you must follow additional procedures BEFORE your application can be considered. The Community Development Department will assist you with the DRI process, which is mandated by State and GRTA requirements.

Indicate the current zoning district of the property, and the zoning district you are requesting. File a separate application for each Rezoning request naming a different zoning district. A Special Use request, Variance request can be filed concurrently with a Rezoning request on the same property by separate application.

*See Exhibit "A" for Applicant's and Property Owners' Representative Information



**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name *TR 17 Hill Road, LLC	Phone (704) 706-7858; *(770) 429-1499
Mailing Address 26 Milton Avenue; Alpharetta, GA 30009	Email matt@trilogyc.com; john@trilogyc.com; *jkm@mijs.com

Rezoning Request Property Information

Address 4975 & 5001 Hill Road, S.W.	Parcel ID / Lot# 19095300060 Acreage 16.526+/-
Present Zoning R-20 (Cobb); NRC (City)	Proposed Zoning MXU (City)
Source of Water Supply Cobb	Source of Sewage Disposal Cobb
Proposed Use Peak Hour Trips Generated	Source


Additional Information, If Applicable

Elementary School and School's Capacity Powder Springs Elementary School - 110 under capacity	Middle School and School's Capacity Cooper Middle School - 115 under capacity
High School and School's Capacity McEachern High School - 93 under capacity	

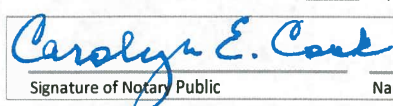
Notary Attestation

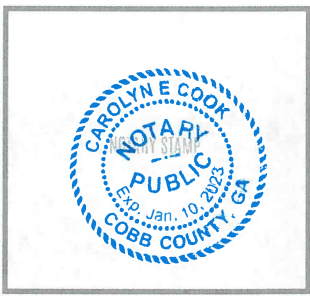
Executed in Marietta (City), GA (State).

MOORE INGRAM JOHNSON & STEELE, LLP

BY: 	<u>J. Kevin Moore</u>	<u>March 22, 2022</u>
Signature of Applicant	Printed Name	Date

Subscribed and sworn before me this 22nd day of March 2022

	<u>Carolyn E. Cook</u>	<u>January 10, 2023</u>
Signature of Notary Public	Name of Notary Public	My Commission Expires



For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
Withdrawal Date	Reason for Withdrawal

***See Exhibit "A" for Applicant's and Property Owners' Representative Information**



city of
powder springs

Rezoning Request

Notice of Intent

Applicant Information

Name	*TR 17 Hill Road, LLC	Phone	(704) 706-7858; *(770) 429-1499
Mailing Address	26 Milton Avenue; Alpharetta, GA 30009	Email	matt@trilogyc.com; john@trilogyc.com; *jkm@mij.com

Notice of Intent

PART I. Please indicate the purpose of this application :

The purpose of this Application for Rezoning is to assemble two separate parcels into one tract and develop the Property into a quality mixed-use community.

PART II. Please list all requested variances:

Variance to allow residential unit square footage less than 2,000 square feet.

Part III. Existing use of subject property:


One parcel, consisting of approximately 11.981 acres, is undeveloped. The second parcel, consisting of approximately 4.645 acres has one single-family residence, with the remainder of the parcel being undeveloped.

Part IV. Proposed use of subject property:

Mixed-Use community, consisting of townhomes, sports club, and related offices.

Part V. Other Pertinent Information (List or attach additional information if needed):

Applicant Signature

BY: 	*TR 17 Hill Road, LLC/J. Kevin Moore	March 22, 2022
Signature of Applicant	Printed Name	Date

Attorneys for Applicant and Property Owners



Rezoning Request

Applicant's Written Analysis

Applicant Information

Name	*TR 17 Hill Road, LLC	Phone	(704) 706-7858; *(770) 429-1499	
Mailing Address	26 Milton Avenue; Alpharetta, GA 30009		Email	matt@trilogyic.com; john@trilogyic.com; *jkm@mijis.com

Written Analysis In details please address these Rezoning Criteria:

a. Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city's comprehensive plan shall be used in decision making relative to amendments to the official zoning map.

The proposed Mixed-Use zoning district is compatible with the purposes and intent of the City's Comprehensive Plan as the proposed development housing; as well as, allow commercial development along a major traffic corridor.

b. Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.

The proposed Mixed-Use zoning district provides suitable uses for the Subject Property in view of the uses of surrounding properties. The proposed commercial component would be situated at the intersection of two major roadways, while the proposed quality residential component would be situated adjacent to and consistent with surrounding neighborhoods.

c. Whether the existing use or usability of adjacent or nearby property will be adversely affected by one or more uses permitted in the requested zoning district.

No adjacent or nearby properties will be adversely or negatively impacted by rezoning the Subject Property to the proposed Mixed-Use zoning classification and development of a quality mixed-use development.

d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned;

Development of the Subject Property as currently zoned would allow for more intense commercial development and uses than the proposed mixed-use development.

e. Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.

There is adequate public facilities and infrastructure in place to sufficiently service the proposed mixed-use development.

f. Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.

The existing zoning classifications do not reflect changing conditions of the surrounding area. If the Property were developed as currently rezoned, the surrounding communities would be adversely impacted.

g. Whether the proposed zoning district and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.

The proposed Mixed-Use zoning classification is a more reasonable use of the Property, and provides a better overall promotion of public health, safety, morality, and general welfare of area residents and neighborhoods than uses allowed under the existing zoning classification.

Applicant Signature

BY:	*TR 17 Hill Road, LLC/	March 22, 2022
Signature of Applicant	Printed Name J. Kevin Moore	Date
Attorneys for Applicant and Property Owners		

Form Version: 06152020

***See Exhibit "A" for Applicant's and Property Owners' Representative Information**



city of powder springs

Rezoning Request

Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name *TR 17 Hill Road, LLC

Applicant's Address 26 Milton Avenue; Alpharetta, GA 30009

Applicant's Attorney *J. Kevin Moore; Moore Ingram Johnson & Steele, LLP

Attorney's Address Emerson Overlook, Suite 100, 326 Roswell Street, Mari

Campaign Contribution Disclosure

The following information is provided in accordance with the Georgia Conflict of Interest in Zoning Actions Act, O.C.G.A. 36-67A-1 et seq.

The property that is the subject of the attached application is owned by:

- Individual(s)
- ~~Corporation~~ **Limited Liability Company**
- Partnership
- Limited Partnership
- Joint Venture

All persons, corporations, partners, limited partners, or joint ventures party to ownership of the property that is the subject of the attached application are listed below:

Pat Braddy _____

Ad-duha, LLC _____

APPLICANT: Within the two years preceding the date of the attached application, the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift
None		

ATTORNEY: Within the two years preceding the date of the attached application, the attorney representing the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift
None		

***See Exhibit "A" for Applicant's and Property Owners' Representative Information**



Rezoning Request

Owner's Authorization Form

Owner's Authorization

Applicant Name *TR 17 Hill Road, LLC **Applicant's Address** 26 Milton Avenue; Alpharetta, GA 30009

Property Address 4975 Hill Road, S.W. Powder Springs, GA **Property PIN** 19095300070

This is to certify that I am or We are or I am the Authorized Representative of a Limited Liability Company ~~Corporation~~ that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

Signature of Property Owner(s)

Ad-duha, LLC
 BY: _____ Signature of Owner _____ Printed Name _____ March _____, 2022 Date

TITLE: _____
 State of GA, County of _____
 This instrument was acknowledged before me this _____ day of _____ month, 20 22, by _____ name of signer. Identification Presented: _____
 _____ Signature of Notary Public _____ Name of Notary Public _____ My Commission Expires _____

 Signature of Owner _____ Printed Name _____ Date _____

State of _____, County of _____
 This instrument was acknowledged before me this _____ day of _____ month, 20 _____, by _____ name of signer. Identification Presented: _____
 _____ Signature of Notary Public _____ Name of Notary Public _____ My Commission Expires _____



**city of
powder springs**
Rezoning Request
Owner's Authorization Form

Owner's Authorization

Applicant Name *TR 17 Hill Road, LLC	Applicant's Address 26 Milton Avenue; Alpharetta, GA 30009
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Property Address 5001 Hill Road, S.W. Powder Springs, GA	Property PIN 19095300060
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This is to certify that I am ~~not~~ the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

Signature of Property Owner(s)

_____	<u>Pat Braddy</u>	<u>March</u> , 20 <u>22</u>
Signature of Owner	Printed Name	Date

State of GA, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 22, by _____ name of signer. Identification Presented: _____.

_____	_____	_____
Signature of Notary Public	Name of Notary Public	My Commission Expires

_____	_____	_____
Signature of Owner	Printed Name	Date

State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 _____, by _____ name of signer. Identification Presented: _____.

_____	_____	_____
Signature of Notary Public	Name of Notary Public	My Commission Expires

EXHIBIT "A" – ATTACHMENT TO APPLICATION FOR REZONING
(Application for Rezoning)

Application No.: _____
Planning Commission Hearing: April 25, 2022
Mayor and City Council Hearing: May 2, 2022

Applicant: TR 17 Hill Road, LLC
Titleholders: Ad-duha, LLC and Pat Braddy

Applicant's and Property Owners' Representative:

J. Kevin Moore, Esq.
Moore Ingram Johnson & Steele, LLP
Attorneys at Law
Emerson Overlook, Suite 100
326 Roswell Street
Marietta, Georgia 30060
(770) 429-1499 (Office)
(770) 429-8631 (Telefax)
E-mail: jkm@mij.com



Hill Road



752.3

0

376.17

752.3 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
 © Cobb County Georgia

This map is a user generated static output from an internet site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 4,514



Map Notes:



Printed: 3/15/2022

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
AD DUHA

AD DUHA LLC

Payment Date: 9/9/2021

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2021	19095300070	10/15/2021	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$17,582.48	\$0.00	



Scan this code with your mobile phone to view this bill!



Parcel Id:	19-095300070	Tax Account Id:	5510
Property Location:	4975 HILL RD SW	Zoning Code:	
Owner Name/Address:	AD DUHA LLC	Land Value:	0
	2145 DULUTH HWY STE A	Improvement Value:	510,000
	DULUTH GA 30097	Exempt Value:	0.00
		Total Assessed Value:	510,000.00
		Deductions:	None

Taxes

Make a Payment		View Current Bill					
Year	Due Date	Type	Billed	Balance	Interest	Total Due	Status
2021	11/17/2021	Tax	4,845.00	-658.58	0.00	-658.58	PAID
2020	11/15/2020	Tax	4,457.89	0.00	0.00	0.00	PAID
2019	11/29/2019	Tax	4,457.89	0.00	0.00	0.00	PAID
Last Payment: 10/11/21							

[Return to Home](#)

After Recording Return to:
Ad-Duha, LLC
2145 Duluth Highway, Ste. A
Duluth, GA 30097

Filer Id: 8635314203
Parcel #: 19095300070

Deed Book 15842 Page 5367
Filed and Recorded 12/22/2020 4:38:00 PM
2020-0169215
Real Estate Transfer Tax \$225.00
Rebecca Keaton
Clerk of Superior Court
Cobb County, GA
Participant IDs: 8635314203

LIMITED WARRANTY DEED

STATE OF GEORGIA
GWINNETT COUNTY

THIS INDENTURE, made the 21st day of December, in the year two thousand twenty, between **BURUJ, LLC**, a Georgia limited liability company, as party or parties of the first part, hereinafter called Grantor, and **AD-DUHA, LLC**, a limited liability company, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH That: the said parties of the first part, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other goods and valuable considerations in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said party of the second part, its successors and or assigns, being approximately 11.981 ± acres located at 4975 Hill Road, SW, Tax Parcel No.: 19095300070 - Tax District: 5 - City of Powder Springs to wit more particularly described as:

All that tract or parcel of land lying and being in Land Lots 952, 953, and 973, 19th District, 2nd Section, City of Powder Springs, Georgia and being more particularly described as follows: COMMENCING at a rock found at the common corner of Land Lots 952, 953, 972 and 973, said point being the TRUE POINT OF BEGINNING; THENCE South 89 degrees 36 minutes 00 seconds West for a distance of 459.90 feet along the south line of Land Lot 953 to an iron pin found (1" open top pipe); THENCE North 02 degrees 57 minutes 55 seconds West for a distance of 723.50 feet to an iron pin set (1/2" rebar) on the southeasterly right of way margin of Hill Road (R/W Varies); THENCE North 69 degrees 20 minutes 26 seconds East for a distance of 91.29 feet along the southeasterly right of way margin of Hill Road to a concrete monument found; THENCE South 19 degrees 35 minutes 33 seconds East for a distance of 27.88 feet along the southeasterly right of way margin of Hill Road to a point; THENCE along a curve to the left having a radius of 5066.47 feet and an arc length of 231.80 feet, being subtended by a chord of North 69 degrees 04 minutes 14 seconds East for a distance of 231.78 feet along the southeasterly right of way margin of Hill Road to a point; THENCE South 22 degrees 14 minutes 23 seconds East for a distance of 16.40 feet along the southeasterly right of way margin of Hill Road to a concrete monument found; THENCE along a curve to the left having a radius of 5082.86 feet and an arc length of 29.33 feet, being subtended by a chord of North 67 degrees 35 minutes 42 seconds East for a distance of 29.33 feet along the southeasterly right of way margin of Hill Road to an iron pin set (1/2" rebar);

THENCE North 67 degrees 25 minutes 47 seconds East for a distance 114.86 feet along the southeasterly right of way margin of Hill Road to point; THENCE South 71 degrees 20 minutes 48 seconds East for a distance of 9.14 feet along the southeasterly right of way margin of Hill Road to a concrete monument found on the southwesterly right of way margin of U.S. Highway 278 (R/W Varies); THENCE along a curve to the left having a radius of 1909.86 feet and an arc length of 757.12 feet, being subtended by a chord of South 11 degrees 41 minutes 41 seconds East for a distance of 752.17 feet along the southwesterly right of way margin of U.S. Highway 278 to a point in the center of a creek; THENCE departing the southwesterly right of way margin of U.S. Highway 278, South 25 degrees 47 minutes 00 seconds West for a distance of 59.57 feet along the center of the creek; THENCE South 20 degrees 01 minute 09 seconds West for a distance of 31.93 feet along the center of the creek; THENCE South 45 degrees 41 minutes 54 seconds West for a distance of 40.05 feet along the center of a creek to a point on the north line of Land Lot 973; THENCE South 86 degrees 33 minutes 17 seconds East for a distance of 121.21 feet along the North line of Land Lot 973 to a point on the southwesterly right of way margin of U.S. Highway 278; THENCE along a curve to the left having a radius of 1909.86 feet and an arc length of 649.54 feet, being subtended by a chord of South 36 degrees 43 minutes 54 seconds East for a distance of 646.41 feet along the southwesterly right of way margin of U.S. Highway 278 to a concrete monument found; THENCE departing the southwesterly right of way margin of U.S. Highway 278, North 53 degrees 22 minutes 08 seconds West for a distance of 53.49 feet to an iron pin set (1/2" rebar); THENCE North 76 degrees 02 minutes 21 seconds West for a distance of 524.00 feet to an iron pin set on the west line of Land Lot 973; THENCE North 00 degrees 47 minutes 21 seconds West for a distance of 370.00 feet along the west line of Land Lot 973 to a rock found at the common corner of Land Lots 953, 954, 972 and 973 and the TRUE POINT OF BEGINNING. Said property contains 11.981 acres more or less.

This is the same property which is shown on that certain ALTA/ASCM Land Title Survey prepared for David Register and Lawyers Title Insurance Corporation by Dean Olson Land Surveying, P.C., dated November 15, 2004, last revised March 2, 2005, and signed on March 2, 2005 by Dean C. Olson, Registered Land Surveyor No. 2806.

Together with all appurtenant easements rights and all gap and gores between the Property and any and all adjacent rights of way including (but not limited to) Hill Road and U.S. Highway 278.

Any declarant rights and obligations, created or reserved in Grantor, shall be transferred to Grantee.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said party of the second part, its heirs and assigns, forever, in FEE SIMPLE.

AND THE SAID parties of the first part, for her heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the said party of the second

part, its heirs and assigns, against claims of all persons owning, holding or claiming by, through or under the said parties of the first part.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

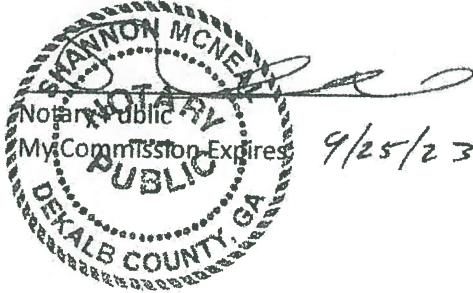
Signed, sealed and delivered in the presence of:

GRANTOR:

BURUJ, LLC

By: Aziz Dhanani
Printed Name: Aziz Dhanani
Title: Manager

Mahli F. Layan
Unofficial Witness





Printed: 3/15/2022

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
 SPECIALIZED LOAN SERVICING AQ TEMP

BRADY PAT

Payment Date: 10/7/2021

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2021	19095300060	10/15/2021	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$788.12	\$0.00



Scan this code with your mobile phone to view this bill!

10

Return Recorded Document to:
SHAFRITZ & DEAN, LLC
5825 GLENRIDGE DRIVE,
BLDG 2, STE 102
ATLANTA, GA 30328
(404) 255-8183
FILE NO. 17-0988

Deed Book 15467 Pg 5231
Filed and Recorded Aug-11-2017 02:39pm
2017-0090955
Real Estate Transfer Tax \$222.50
0332017019557

Rebecca Keaton
Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

STATE OF GEORGIA

COUNTY OF DOUGLAS

WARRANTY DEED

This Indenture made this 4th day of August, 2017 between ZOYA ALESKEROVA and YASHAR ALESKEROV, as party or parties of the first part, hereinafter called Grantor, and PAT BRADDY, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT NO. 953, OF THE 19TH DISTRICT, 2ND SECTION, OF COBB COUNTY, GEORGIA, BEING 4.645 ACRES, AS PER PLAT OF SURVEY MADE BY ROBERT G. VANSANT, GRLS, DATED APRIL 13, 1973, MORE OR LESS, SAID PROPERTY BEING IMPROVED PROPERTY NOW OR FORMERLY KNOWN AS 5001 HILL ROAD, ACCORDING TO THE PRESENT SYSTEM OF NUMBERING IN COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN LOCATED ON THE SOUTH LAND LOT LINE OF LAND LOT NO. 953, SAID DISTRICT, SECTION, AND COUNTY, WHICH IRON PIN IS LOCATED 582.44 FEET EAST OF THE SOUTHWESTERN CORNER OF SAID LAND LOT 953 AS MEASURED ALONG THE SOUTH LAND LOT LINE OF SAID LAND LOT 953; RUNNING THENCE NORTH 0 DEGREE 05 MINUTES 09 SECONDS EAST A DISTANCE OF 650.03 FEET TO AN IRON PIN LOCATED ON THE SOUTHEASTERLY SIDE OF THE RIGHT-OF-WAY OF HILL ROAD; RUNNING THENCE NORTH 75 DEGREES 47 MINTUES 42 SECONDS EAST ALONG THE SOUTHEASTERLY SIDE OF THE RIGHT-OF-WAY OF HILL ROAD A DISTANCE OF 296.12 FEET TO A METAL POST; RUNNING THENCE SOUTH 1 DEGREE 10 MINUTES 54 SECONDS EAST A DISTANCE OF 719.6 FEET TO AN IRON PIN ON THE SOUTH LAND LOT LINE OF SAID LAND LOT NO. 953; WHICH IRON PIN ON THE SOUTH LAND LOT LINE OF SAID LAND LOT NO. 953 IS LOCATED 460.4 FEET WEST OF THE SOUTHEAST CORNER OF LAND LOT 953 AS MEASURED ALONG THE SOUTH LINE OF SAID LAND LOT NO. 953; RUNNING THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS WEST ALONG THE SOUTH LAND LOT LINE OF SAID LAND LOT NO. 953 A DISTANCE OF 303.09 FEET TO AN IRON PIN LOCATED AT THE POINT OF BEGINNING.

BEING TAX PARCEL ID #19-0953-0-006-0.

BEING THE SAME PROPERTY AS THAT CONVEYED BY DEED OF ASSENT DATED MARCH 28, 1988, FROM CHARLIE EDGAR MCMICHEN, AS EXECUTOR, OF THE LAST WILL AND TESTAMENT OF LENNIS G. MCMICHEN, DECEASED, TO CHARLIE EDGAR MCMICHEN, AS RECORDED MARCH 31, 1988, AT DEED BOOK 4863, PAGE 244, COBB COUNTY, GEORGIA RECORDS.

This Deed is given subject to all easements and restrictions of record, if any.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

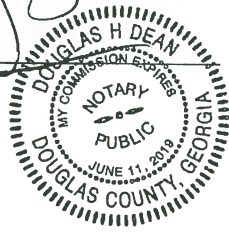
Y.A. 3A

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]
Witness
[Signature]
Notary Public



Zoya Aleskerova (Seal)
ZOYA ALESKEROVA

Yashar Aleskerov (Seal)
YASHAR ALESKEROV

ATTACHMENT TO APPLICATION FOR REZONING

Application No.: _____
Planning Commission Hearing: **April 25, 2022**
Mayor and City Council Hearing: **May 2, 2022**

**BEFORE THE PLANNING AND ZONING COMMISSION
AND THE MAYOR AND CITY COUNCIL
FOR THE CITY OF POWDER SPRINGS, GEORGIA**

**CONSTITUTIONAL CHALLENGE
ATTACHMENT TO APPLICATION FOR REZONING**

COME NOW, Applicant, TR 17 HILL ROAD, LLC (hereinafter referred to as “Applicant”), and Property Owners, PAT BRADDY and AD DUHA, LLC (hereinafter collectively referred to as “Owners” or “Property Owners”), and assert the following:

1.

By Application for Rezoning dated and filed March 22, 2022, Applicant and Property Owners applied for rezoning of certain real property, being a total of 16.526 acres, more or less, one parcel being located within the City of Powder Springs, Georgia, and one parcel (as set forth in the Applications for Annexation and Rezoning) being located within unincorporated Cobb County, Georgia, a more particular description and delineation of the subject property being set forth in said Application (hereinafter collectively referred to as the “Property” or “Subject Property”).

2.

The Application for Rezoning seeks rezoning of the Subject Property from the existing zoning categories of R-20 (Cobb County) and Neighborhood Retail Commercial (“NRC”) (City of Powder Springs) to the proposed zoning classification of Mixed-Use (“MXU”), as established by the governing authority of the City of Powder Springs, Georgia, under and

pursuant to the Unified Development Code of Powder Springs Georgia, as amended, being hereinafter referred to as the “Unified Development Code of the City of Powder Springs.”

3.

With respect to the existing NRC zoning classification located within incorporated City of Powder Springs, Applicant and Property Owners do contend the Unified Development Code of the City of Powder Springs, Georgia, is unconstitutional as applied to the Property in that said Ordinance does not permit the Applicant and Property Owners to utilize the Property to the use set forth within the Application for Rezoning without the necessity of rezoning. However, Applicant and Property Owners do not contend the current zoning category of NRC is unconstitutional, *per se*, only as applied. Thus, the Ordinance deprives Applicant and Property Owners of their Property under and pursuant to Art. I, § I, ¶¶ I and II of the Georgia Constitution of 1983, and the Equal Protection and Due Process Clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America. This deprivation of Property without due process violates the constitutional prohibition against the taking of private property without just compensation. The existing zoning category of NRC, together with any intervening zoning categories between the existing NRC category and the requested MXU category, violate the Applicant’s and Property Owners’ rights to unfettered use of their Property, as stated above, in that said zoning classifications do not bear a substantial relation to the public health, safety, morality, or general welfare and are therefore confiscatory and void. Further, said Ordinance is unconstitutional in that it is arbitrary and unreasonable resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss on the Applicant and Property Owners.

4.

With respect to the portion of the Subject Property currently zoned to the R-20 zoning classification and located within unincorporated Cobb County, Georgia, the Zoning and Planning Ordinance of Cobb County and the Unified Development Code of the City of Powder Springs, Georgia (collectively the “Ordinances”), are unconstitutional as applied to the Property in that said Ordinances deprive Applicant and Property Owners of their Property under and pursuant to Art. I, § I, ¶¶ I and II of the Georgia Constitution of 1983, and the Equal Protection and Due Process Clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America. This deprivation of Property without due process violates the constitutional prohibition against the taking of private property without just compensation. The R-20 zoning category, as it presently exists, together with any intervening zoning categories between the existing R-20 zoning category (Cobb County) and the requested MXU zoning category (City of Powder Springs), violates the Applicant’s and Property Owners’ right to unfettered use of their Property in that said zoning classifications do not bear a substantial relation to the public health, safety, morality, or general welfare and are therefore confiscatory and void. Further, said Ordinances are unconstitutional in that they are arbitrary and unreasonable resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss on the Applicant and Property Owners.

5.

To the extent the Unified Development Code of the City of Powder Springs, Georgia, allows or permits the Mayor and City Council to rezone the Subject Property to any category other than as requested, said Ordinance is further unconstitutional in that same violates Applicant’s and Property Owners’ constitutionally guaranteed rights to due process, both

substantive and procedural. Furthermore, any such action by the Mayor and City Council, or as allowed by the Unified Development Code of the City of Powder Springs, is an unconstitutional use of the zoning power and would constitute an abuse of discretion with no justification or benefit flowing to the public welfare. Accordingly, said Ordinance or action would likewise represent a taking of private property rights without the payment of just and adequate compensation in violation of the Constitutions of the State of Georgia and the United States of America.

6.

The Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with the Zoning Application also violate Art. I, § I, ¶¶ I, II, and XII of the Georgia Constitution of 1983 in that said procedures impose unreasonable time restraints, contain the absence of rebuttal, contain the inability to confront witnesses, contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issue at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law. These procedures fail to comport with the due process requirements of the Constitution of the State of Georgia 1983 and the due process requirements of the Constitution of the United States of America.

Respectfully submitted, this 22nd day of March, 2022.

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