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Community Development
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Tucker, GA 30084
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PRZ-19-0007
PCV-19-0012
PCV-19-0013

Amended Land Use Petition Application

REVISION

Type of Application: Rezoning Comprehensive Plan Amendment Special Land Use Permit Concurrent Variance

APPLICANT INFORMATION

Applicant is the: <input type="checkbox"/> Property Owner <input checked="" type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser		
Name: ROCKHAVEN HOMES C/O DENNIS J. WEBB, JR.		
Address: 1230 PEACHTREE STREET NE, STE. 3100		
City: ATLANTA	State: GA	Zip: 30309
Contact Name: DENNIS J. WEBB, JR.		
Phone: (404) 815-3620	Email: djwebb@sgrlaw.com	

OWNER INFORMATION

Name: ASHBROOKE HOMES BUILDERS, INC.		
Address: 4062 PEACHTREE ROAD NE, STE. A #277		
City: ATLANTA	State: GA	Zip: 30319
Contact Name: BRAD HUGHES		
Phone: (770) 519-1668	Email: bhughes@rockhavenga.com	

PROPERTY INFORMATION

Property Address: 1409 ASHBROOKE TRACE		
Present Zoning District(s): MR-1	Requested Zoning District(s): MR-1	
Present Land Use Category: SUB	Requested Land Use Category: SUB	
Land District: 18	Land Lot(s): 140	Acreage: +/- 3.649
Proposed Development: 13 TOWNHOMES		
Concurrent Variance(s): § 46-1336(b) (sidewalks); § 46-335 (lot width)		

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units: 13	Dwelling Unit Size (Sq. Ft.): +/- 2000 SF	Density: 3.56 U/A
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NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots:	Total Building Sq. Ft.:	Density:
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FIRST AMENDED STATEMENT OF INTENT

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Major Modification Application (w/Concurrent Variances)

of

ROCKHAVEN HOMES, LLC

for

±3.649 Acres of Land
located in
Land Lot 140, 18th District, DeKalb County

Address:
1409 Ashbrooke Trace

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
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I. PROPERTY ANALYSIS

This Application (a) seeks to modify one (1) zoning condition related to ± 3.649 acres of land located in Land Lot 140, 18th District of DeKalb County (the "Subject Property"); and (b) requests variances to (1) § 46-1336(b) (sidewalks) and (2) § 46-335 (lot width) of the City of Tucker Zoning Ordinance. The Subject Property is located in the northwest quadrant of the intersection of Ashbrooke Trace and Roadhaven Drive at 1409 Ashbrooke Trace (Parcel ID No.: 18-140-01-226). The Subject Property is zoned MR-1 (Medium Density Residential).

The Subject Property is undeveloped with a stream in the northwest corner. There is extensive tree cover on the northern and eastern sides. With limited disturbance to the forested areas, the Applicant hopes to develop the Subject Property for thirteen (13) townhomes and appurtenant site improvements (the "Proposed Development") at a density of ± 3.56 units per acre. The City of Tucker's Comprehensive Land Use Plan designates the Subject Property as Suburban (SUB) which allows residential densities from 4 to 6 units per acre. The development proposed falls squarely within the standards for the Suburban designation.

The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and a written justification for the Application as required by the City of Tucker Zoning Ordinance, §§ 46-1559 and 46-1663. A Site Plan has been filed with the original Application, along with the other required materials.

II. ZONING HISTORY

The Applicant has only a partial picture of the zoning history on the Subject Property but has been able to determine the following. The Subject Property was part of a larger ± 44.70 acre tract (the "Master Development Tract") that was rezoned by DeKalb County from M (Light Industrial) to RM-100 (Multifamily Residential) in January of 2001 (CZ-00101). That rezoning

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authorized 490 apartments and was subject to seven (7) zoning conditions, the first of which is relevant to this case. Condition No. 1 reads as follows:

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The Subject Property shall be rezoned RM-100 and developed for 490 multifamily apartment units substantially in accordance with the Site Plan...dated 11/21/00 and on file with the Planning Department. No more than 848 parking spaces shall be developed to serve the tenants of the complex. No more than 10% of these units shall contain three bedrooms. The community to be developed shall be gated.

In or around May 2003, DeKalb County modified Condition No. 1 administratively to allow for 250 apartments and 161 townhomes instead of the 490 apartments originally approved. Only 39 townhome units were built, however, and development of the Master Development Tract stalled. Over time, the Master Development Tract was divided and sold to different parties.

After its incorporation, the City of Tucker changed the zoning designation on the Master Development Tract from RM-100 to MR-1 (Medium Density Residential). Then, in June 2018, the City of Tucker modified administratively Condition No. 1 as it related to a part of the Master Development Tract, namely Parcel ID No. 18-140-01-220 (M-18-001). The modification reads as follows:

Condition number one, which previously allowed for the construction of 157 townhomes, has been modified to allow for the construction of 39 townhomes (existing and on a separate lot of record) and 84 urban single family detached homes (underline original).

The modification did not address the Subject Property, however, which is a separate lot of record and designated as Parcel ID No. 18-140-01-226.

The Applicant has begun development of urban single-family detached units on the portion of the Master Development Tract that bears Parcel ID 18-140-01-220. It sought

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administrative approval to also build urban single-family detached units on the Subject Property (Parcel ID No. 18-140-01-226) but was informed that the City of Tucker revised its Zoning Ordinance and that housing type is no longer allowed in the MR-1 zoning district. Hence, the Applicant is requesting to amend Condition No. 1 to allow for thirteen (13) townhomes on the Subject Property.

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III. IMPACT ANALYSIS

A. MAJOR MODIFICATION

1. WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN.

In April 2018 the Mayor and City Council adopted the Tucker Tomorrow Comprehensive Plan (the “Comprehensive Plan”), Tucker’s first Comprehensive Plan to specifically address the future development of the City.¹ The Comprehensive Plan consists of a text and series of maps and is accompanied by a procedure to link changes in zoning with corresponding changes in the Comprehensive Plan, to avoid repeating the situation in which a static land use plan and an evolving zoning map become increasingly out of step with each other. The Subject Property falls entirely within the Suburban land use designation, meeting every criteria and advancing several goals, including:

- Ensuring that Tucker continues to provide a range of quality housing choices at a variety of price points.
- Supporting life cycle housing by increasing housing choices for “empty nesters”.
- Featuring a more traditional suburban development patterns at less than 4 units per acre.

¹ The City of Tucker previously adopted the DeKalb County 2025 Comprehensive Plan and its associated land use designations pending the development and adoption of its own Comprehensive Plan.

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- Incorporating transitions from more intense densities and uses to existing residential uses.

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The proposed use, therefore, is suitable vis-a-vis the policies of the Comprehensive Plan.

2. WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY OR PROPERTIES.

Yes. The Subject Property is within a larger development that consists of townhomes and urban single family detached homes. It also is adjacent to and due east of a residential area. Industrial exists to the north, but is separated from the proposed townhomes by a significant buffer.

3. WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED.

No. Without the requested amendment, no development would be allowed on the Subject Property and this ± 3.649 acres would be denied of any value.

4. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY OR PROPERTIES.

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and

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orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Many of these devices have been or will be utilized in this application. Further, the proposed development will pay careful attention to scale, buffering, setbacks, and landscaping so that it will blend and complement the adjacent developments.

5. 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 ZONING PROPOSAL.

The Subject Property is within a stalled development that was entitled, programmed and partially developed under the regulations of DeKalb County, some dating back 20 years. That fact necessitates special consideration. Further, the development is providing new housing at a price point affordable to middle class residents, a new construction opportunity that is scarce in the City of Tucker. For these and other reasons, the request conforms to the ideals and spirit of the City of Tucker's Zoning Ordinance and complements the existing uses in the area, while developing a practical, useful and marketable development that will redevelop an underutilized property into an asset for the immediate area and the City as a whole.

6. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested.

7. WHETHER THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS.

No. The proposed development will not overly burden existing streets or transportation

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facilities. According to the ITE Trip Generation Manual, the thirteen (13) residential townhomes (ITE category 230) will generate 76 total trip ends on a weekday, 6 trips during the A.M. peak hour, and 7 trips during the P.M. peak hour. The Subject Property is located on Ashbrooke Trace, classified as a local street, and a short distance from Roadhaven Drive, which is also classified as a local street. Both are adequate to accommodate the minor number of additional trips the proposed development will generate.

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As for utilities, the Subject Property has access to water and sewer. Finally, the proposed development will not create an excessive or burdensome use of the community's schools. The Subject Property is served by Stone Mill Elementary School, Stone Mountain Middle School, and Stone Mountain High School. All three are under capacity according to the DeKalb County School Districts' own data (<https://www.dekalbschoolsga.org/operationalplanning>). The thirteen (13) proposed townhomes are not anticipated to have a significant impact on local schools.

8. WHETHER THE ZONING PROPOSAL ADVERSELY IMPACTS THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.

The Applicant will comply with all federal, state, and City regulations relating to environmental protection to ensure that the proposed development will not adversely affect the environment.

B. VARIANCES

1. § 46-1336(b) (SIDEWALKS)

As stated above, the Subject Property is heavily wooded on its northern and eastern sides. The Applicant would prefer to keep as many trees on the Subject Property as possible, for both environmental and aesthetic reasons. The design layout proposed was created to achieve that goal. The code requires, however, a 12-foot streetscape along Roadhaven Drive (§ 46-1336(b)). Sufficient land area exists to provide the streetscape, but constructing the streetscape would

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require grading and the removal of significant tree canopy with little to no ensuing benefit; there is minimal pedestrian activity in the area now and will likely be little in the future. A roughly 5-foot wide sidewalk exists on the parcel to the north, beginning on the west side of Roadhaven Drive at the back-of-curb. In an effort to protect the existing tree canopy, Applicant proposes extending this sidewalk across the frontage of the Subject Property as reflected on the site plan submitted with this application. It requests a variance to the requirements of § 46-1336(b) to achieve this objective.

This variance request is necessitated by an existing condition on the Subject Property which was not created by the Applicant, namely the location of a forested area worth preserving. The requested variance seeks only the minimum necessary to afford relief, and does not constitute a grant of special privilege. The grant of the variance will not be materially detrimental to the public welfare or injurious to the properties or improvements in the zoning district; to the contrary, the code-required streetscape in this instance would inflict environmental harm with virtually no resultant public benefit. Finally, the literal interpretation and strict application of § 46-1336(b) to the Subject Property would cause undue and unnecessary hardship and be inconsistent with the spirit and purpose of the Tucker Zoning Ordinance and Comprehensive Plan text.

2. § 46-335 (LOT WIDTH)

The Code requires a minimum 25-foot lot width which, in the case of an attached townhome, means that the townhome unit must also be 25 feet wide. Townhomes are an industry standard constructed in even-numbered widths, however; Townhomes are designed in 2-foot increments because dimensional lumber is sold in 2' increments. Hence, a 25-foot wide townhome is not consistent with industry standards and constructing it would unnecessarily

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cause waste, drive up the cost of construction and impact the quality of the development as a whole. Hence, the Applicant seeks to vary the lot width requirement from 25-feet to 24-feet.

The requested variance seeks only the minimum necessary to afford relief, and does not constitute a grant of special privilege; to the contrary, the City recently approved a similar variance on similar grounds (VC-18-003-01). The grant of the variance will not be materially detrimental to the public welfare or injurious to the properties or improvements in the zoning district, a point the City considered and conceded when it granted the variance referenced above. Finally, the literal interpretation and strict application of § 46-1336(b) to the Subject Property would cause undue and unnecessary hardship and be inconsistent with the spirit and purpose of the Tucker Zoning Ordinance and Comprehensive Plan text.

IV. NOTICE OF CONSTITUTIONAL CHALLENGES AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The zoning on the Subject Property (and any intervening zoning district other than that requested) and the dimensional and other requirements are unconstitutional. Further, the Zoning Ordinance of the City of Tucker, Georgia lacks adequate standards for the Mayor and City Council to exercise their power to zone, rezone and vary zoning requirements. In essence, the standards are not sufficient to contain the discretion of the Mayor and City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of State of Georgia, 1983.

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The Board of County Commissioners is granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of the City of Tucker, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

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The Zoning Ordinance presently in effect is contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance presently in effect is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to rezone the subject property as requested or approve the requested variance, would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of

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Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the application for rezoning or to zone the property to any other classification including other intervening classifications or failure to approve the requested variance, would be contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a Violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Mayor and City Council who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The Zoning Ordinance of the City of Tucker is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq.

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The Applicant raises the issues of standing, waiver, and failure to exhaust administrative remedies. It also asserts that a denial of this request would violate The Fair Housing Act.

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V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Tucker so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 26th day of September, 2019.

Respectfully submitted,



Dennis J. Webb, Jr.
Kathryn M. Zickert
J. Alexander Brock
Attorneys for Applicant

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Environmental Site Analysis Report

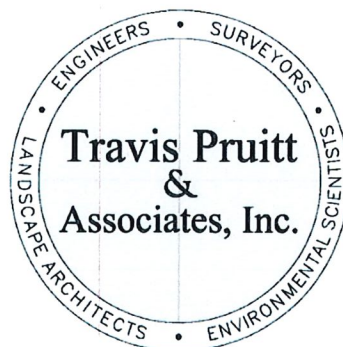
For

Ashbrooke Phase III Residential Development

*Prepared for:
Rockhaven Homes*

September 20, 2019

TPA Job Number: 1-19-0251



Planning ♦ Engineering ♦ Environmental ♦ Surveying ♦ Landscape Architecture

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1. CONFORMANCE WITH THE COMPREHENSIVE PLAN

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The site consists of approximately 3.649 acres, and is located along the north side of Ashbrooke Trace connected to Roadhaven Drive in City of Tucker, DeKalb County, Georgia. Based on information obtained from the DeKalb County GIS maps, records, and visual observations, the current zoning of the site is MR-1, parcel #18 140 01 226. The parcel north of the site is zoned M. The property west and southwest of the site consists of tracts of single family lots. Roadhaven Drive is on the east of the site.

The Future Land Use Map for the City of Tucker designates this site as part of the Suburban (SUB) Character Area. This character area is specifically designated for residential uses. The current City's comprehensive plan designates the Suburban Character Area as Low to Medium Density Residential (<4 dwelling units per acre). The proposed development is a low to medium residential townhome development (3.56 u/a). It is similar in nature to the adjacent residential property located immediately southwest of the site and conforms to the appropriate uses and scales established in the Future Land Use Plan.

2. ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT

a. WETLANDS

Upon review of the National Wetland Inventory Map, wetlands do not exist on-site. However, field reconnaissance revealed that stream bed and designated stream buffer areas exist on the site, located within the northern portion of the site. These areas were delineated on-site and analyzed to determine the impacts in conjunction with the proposed development. The development will consist of one stormwater management pond beside the outfall of existing 30" RCP culvert crossing under Roadhaven Drive. The pond will discharge into the spring head of the creek, and measures of energy dissipation for the concentrated discharge from the pond will be needed.

b. FLOODPLAIN

According to the FEMA's Flood Insurance Rate Map of DeKalb County, Georgia community panel number 13089C0079L, effective date



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8/15/2019, it was determined that this property does not lie within a 100-year flood hazard zone (Zone A or Zone AE). Therefore the proposed development is not expected to negatively impact the flood plain or adjacent properties.

c. STREAMS/ STREAM BUFFERS

The DeKalb County GIS database was used to determine that there is a “blue line” stream that exists on the site. As mentioned in the section of Wetlands, field reconnaissance revealed the presence of perennial streams located along the northern portion of the property. A 25’ City Impervious Setback, a 50’ City Stream Buffer and a 25’ State Stream Buffer have been delineated along the water course. All buffered areas will remain undisturbed with the exception of any proposed stormwater drainage structure / outfall along with related energy dissipation. These structures are exempt construction activities from the State of Georgia Environmental Protection Division stream buffer variance requirements.

d. TOPOGRAPHY

The site is currently undeveloped and consists mainly of woodlands. A large majority of the site contains mild to steep slopes, especially around the stream buffers areas. The area on the southern portion of the site, along Ashbrooke Trace, where the proposed home buildings will be built, has milder slopes (< 25%). Therefore, no negative impact is expected as all the proposed development will adhere to all applicable grading standards.

e. VEGETATION

The site is currently undeveloped and consists mainly of woodlands. Existing vegetation on the majority of the site consists of a natural mix of mature hardwoods and pine trees. There is one specimen tree located on the site, a 30 inch diameter Oak, which is located within protected buffer zones. The proposed development will not impact this specimen tree, but the trees along Ashbrooke Trace where the proposed homes will be built will be effected. However, the project will be required to comply with the City of Tucker’s Tree Preservation Ordinance, which provides mitigation for loss of tree canopy.



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f. WILDLIFE SPECIES

Based on Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) database, several endangered and threatened species in different categories were identified to exist in DeKalb County. These species are:

Federal Endangered and Threatened Species:

- Animals - Gray bat (E,SE), Bald eagle (T,SE), Red-cockaded woodpecker (E,SE)
- Plants - Little amphianthus (T,ST), Black-spored quillwort (E,SE)

Species of Management Concern:

- Animals - Bachman's sparrow (SR), Appalachian Bewick's wren (SR), Bluestripe shiner (ST)
- Plants - Flatrock onion (ST), Alexander rock aster, Small-headed pipewort

State of Georgia Endangered and Threatened Species:

- Plants - Indian olive (ST), Bay star-vine (ST), Granite rock stonecrop (ST), Piedmont barren strawberry (ST)

Based on field reconnaissance, there is no evidence of any protected and/or endangered species, as listed above, located on this parcel of land.

g. ARCHEOLOGICAL/ HISTORICAL SITES

Based on information obtained from the DeKalb County Department of Environment and Community Development, the site is not listed on the DeKalb County Historic Resources Survey Map as having historical significance. No buildings on this site appear on the National Register of Historic Places.

3. PROJECT IMPLEMENTATION MEASURES

a. ENVIRONMENTALLY SENSITIVE AREAS

Most of the environmentally sensitive areas on this site lie within protected stream buffers and will not be impacted. No portion of this site lies within



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any 100-year Zone A or Zone AE floodplain as defined by FEMA Flood Insurance Rate Map. The proposed development is not expected to negatively impact the adjacent properties. The only potential impacts to environmentally sensitive areas on the site are the outfall of concentrated flow from the proposed stormwater pond. However, energy dissipation measures will be provided to minimize the impact of the flow. Therefore, no negative impact is expected. All applicable grading standards will be adhered to in these areas.

b. WATER QUALITY

The design considerations used for the stormwater control on the proposed site, as approved by the EPD, will treat the runoff from the site. Water quality will be addressed through the construction of one water quality and stormwater detention facility on the east side of the site, as required by the DeKalb County. This project will be required to comply with the Georgia Stormwater Management Manual, which regulates water quality, TSS removal, channel protection, and stormwater detention for developments of this nature.

c. EXISTING INFRASTRUCTURE

The existing site consists mainly of woodlands. The land of disturbance of the project will be minimized and some of the existing trees will be removed by this development. No other infrastructure exists on the site.

d. ARCHAEOLOGICAL/ HISTORICAL AREAS

This site does not contain any historically/ archaeologically sensitive areas. No sensitive areas are located within the area of potential impact.

e. ENVIRONMENTALLY STRESSED COMMUNITIES

The subject site is not located within an environmentally stressed community.

f. GREEN SPACE AND OPEN SPACE

All buffered areas on the site will remain undisturbed with the exception of any proposed stormwater drainage structure / energy dissipation measures.



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g. NOISE AND LIGHTING

The potential for noise and lighting impact resulting from the proposed development is minor. The proposed development is a quiet, residential community. No sensitive areas are located within the area of potential impact.

h. PROTECTION OF PARKS AND RECREATION/GREEN SPACE

No parks or recreational areas will be impacted by the proposed development.

i. WILDLIFE HABITATS

The most significant habitats for wildlife on this site exist in and around the onsite stream and its buffer areas. The stream will be protected by undisturbed buffers. No sensitive areas are located within the area of potential impact.

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ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 140 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE FOUND 1/2" REBAR AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF ROADHAVEN DRIVE (VARYING IN WIDTH) AND THE SOUTHERLY RIGHT-OF-WAY LINE OF GEORGIA RAIL ROAD SPUR #158-20 (50 FEET WIDE);

THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF ROADHAVEN DRIVE, SOUTH 00014'44" WEST 459.86 FEET TO A FOUND 1/2" REBAR AT THE SOUTHEASTERLY CORNER OF THAT CERTAIN DEED TO THE HOUSE OF CHEATHAM, INC., A GEORGIA CORPORATION RECORDED IN DEED BOOK 7209, PAGES 481 THROUGH 484 INCLUSIVE, RECORDS OF THE CLERK OF SUPERIOR COURT DEKALB COUNTY, GEORGIA;

THENCE, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE AND ALONG SAID SOUTHERLY LINE, NORTH 89010'43" WEST 4.86 FEET TO A POINT IN THE WESTERLY RIGHT-OF-WAY LINE OF ROADHAVEN DRIVE, SAID POINT ALSO BEING THE **POINT OF BEGINNING**;

THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF ROADHAVEN DRIVE, SOUTH 00028'38" WEST 283.97 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 20.00 FEET, THE CHORD BEARING AND DISTANCE AT SAID BEGINNING OF CURVE BEARS SOUTH 43041'39" WEST 27.39 FEET; **THENCE** SOUTHWESTERLY ALONG SAID CURVE, THROUGH AN ARC LENGTH OF 30.17 FEET TO A POINT IN THE NORTHERLY RIGHT-OF-WAY LINE ASHBROOKE TRACE (55 FEET WIDE), SAID POINT ALSO BEING THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 122.50 FEET, THE CHORD BEARING AND DISTANCE AT SAID BEGINNING OF CURVE BEARS NORTH 82014'21" WEST 46.12 FEET;

THENCE, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF ASHBROOKE TRACE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTHWESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 46.39 FEET;
- 2) TANGENT TO SAID CURVE, NORTH 71023'23" WEST 68.39 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 177.50 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS SOUTH 89021'12" WEST 117.08 FEET;
- 3) WESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 119.32 FEET;
- 4) TANGENT TO SAID CURVE, SOUTH 70005'46" WEST 50.35 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 122.50 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS SOUTH 89007'34" WEST 79.89 FEET;
- 5) WESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 81.37 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 13.50 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS NORTH 35027'27" WEST 16.02 FEET;
- 6) NORTHWESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 17.15 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 101.50 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS NORTH 54050'46" WEST 167.85 FEET;
- 7) NORTHWESTERLY AND WESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 197.61 FEET;

THENCE, ALONG THE SOUTHEASTERLY AND EASTERLY BOUNDARY OF THAT CERTAIN DEED UNDER POWER OF SALE GRANTED TO RES-GA TRAVERS CREEK, LLC, A GEORGIA LIMITED LIABILITY COMPANY, RECORDED DECEMBER 15, 2010 IN DEED BOOK 22275, PAGES 219 THROUGH 224 INCLUSIVE, RECORDS OF SAID CLERK OF SUPERIOR COURT DEKALB COUNTY, GEORGIA, THE FOLLOWING EIGHT (8) COURSES:

- 1) NORTH 40008'32" WEST 13.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 65.00 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS NORTH 48052'42" WEST 19.75 FEET;
- 2) NORTHWESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 19.82 FEET;

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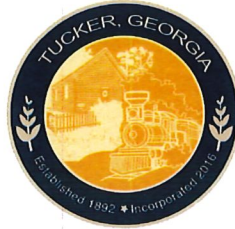
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- 3) TANGENT TO SAID CURVE, NORTH 57036'52" WEST 71.75 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 73.00 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS OF NORTH 40028'11" WEST 43.04 FEET;
- 4) NORTHWESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 43.69 FEET;
- 5) TANGENT TO SAID CURVE, NORTH 23019'31" WEST 23.96 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 127.00 FEET, THE CHORD BEARING AND DISTANCE TO SAID BEGINNING OF CURVE BEARS NORTH 40038'51" WEST 75.63 FEET;
- 6) NORTHWESTERLY ALONG SAID CURVE, AN ARC LENGTH OF 76.79 FEET;
- 7) TANGENT TO SAID CURVE, NORTH 57058'11" WEST 14.11 FEET;
- 8) NORTH 00013'48" EAST 14.85 FEET TO THE SOUTHWESTERLY CORNER OF SAID DEED TO THE HOUSE OF CHEATHAM, INC.;

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THENCE, ALONG SAID SOUTHERLY LINE OF DEED TO THE HOUSE OF CHEATHAM, INC., SOUTH 89010'43" EAST 705.12 FEET TO THE **POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 3.649 ACRES (158,959 SQUARE FEET), MORE OR LESS.



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PRE-APPLICATION FORM

REZONING, COMPREHENSIVE PLAN AMENDMENT, SPECIAL LAND USE PERMIT, AND CONCURRENT VARIANCE

Purpose & Process

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es)/procedure(s) and fees required to process and review the application(s). Please contact Courtney Smith at csmith@tuckerga.gov to schedule an appointment. This form will be completed during the pre-application meeting. After completing the pre-application meeting, the applicant may file the Land Use Petition.

Applicant:

Den Webb on behalf of Brad Hughes

Site Address: 1409 Ashbrooke Trace

Parcel Size: Ashbrooke, Phase II: 20.04 ac.; 1409 Ashbrooke Trace: 3.649 ac.

Proposal Description:

Proposed site plan shows 13 fee-simple townhome units at 24 ft. width.
Zoned MR-1 for property located at 1409 Ashbrooke Trace (PID # 18 140 01 226).
Zoning Modification to CZ-00101.

Existing Zoning Designation and Case Number: MR-1; CZ-00101

Proposed Zoning Designation: MR-1; Zoning Modification to CZ-00101.

CV: MR-1 zoning district requires a 25 ft. width lot width and requires a Concurrent Variance to dimensional standards to vary townhome width.

Comprehensive Land Use Map Designation: Suburban

Overlay District: N/A

Staff: John Mc Henry, Tim Lampkin

Date: 08/21/2019

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PROPERTY OWNER'S CERTIFICATION

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Department

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I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

I, ASHBROOKE HOMEBUILDERS, INC., authorize, ROCKHAVEN HOMES C/O DENNIS J. WEBB, JR.
(Property Owner) (Applicant)

to file for RZ / CV, at 1409 ASHBROOKE TRACE, TUCKER, GA 30083
(RZ, CA, SLUP, CV) (Address)

on this date Sept, 23rd, 2019
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Ashbrooke Home Builders, Inc.

9/23/19

Signature of Property Owner

Date

Christopher Harris President

Type or Print Name and Title

Ashley Mansour

9/23/19

Signature of Notary Public

Date

Notary Seal

Ashley Mansour
NOTARY PUBLIC
Douglas County, GEORGIA
My Commission Expires 04/23/2023


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APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.



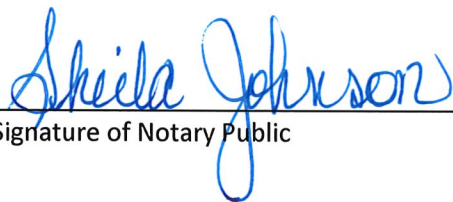
Signature of Applicant

9/16/19

Date

DENNIS J. WEBB, JR. / SMITH, GAMBRELL & RUSSELL, LLP

Type or Print Name and Title



Signature of Notary Public

9/16/19

Date



Notary Public

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (if party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (if in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

- | | |
|----------------------------------|----|
| 1. ASHBROOKE HOME BUILDERS, INC. | 5. |
| 2. ROCKHAVEN HOMES, LLC | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) ASHBROOKE HOME BUILDERS, INC. / ROCKHAVEN HOMES

Signature:

Date: 9/19/19

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

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- | | |
|----------|----------|
| 1. _____ | 5. _____ |
| 2. _____ | 6. _____ |
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| 4. _____ | 8. _____ |

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Name (print) J. Alexander Brock

Signature:  Date: 8/21/2019

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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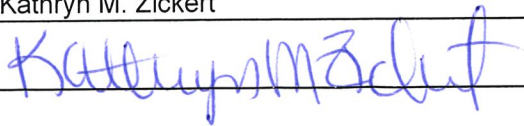
1. _____	5. _____
2. _____	6. _____
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Name (print) Kathryn M. Zickert

Signature:  Date: _____

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SEP 23 2019

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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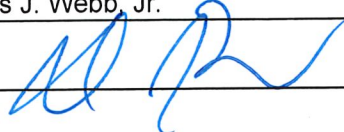
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4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Dennis J. Webb, Jr.

Signature:  Date: 8/21/19

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