

#### GWINNETT COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

446 West Crogan Street, Suite 300 | Lawrenceville, GA 30046-2440 678.518.6000 GwinnettCounty.com

#### PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

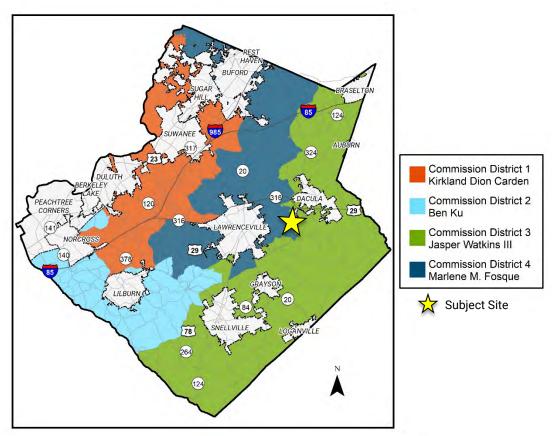
Case Number:	RZR2021-00030
Current Zoning:	R1400CSO (City of Dacula)
Request:	Rezoning to <b>OSC</b> (Open Space Conservation District)
Address:	1400 Block of Alcovy Road
Map Numbers:	R5236 001 portion
Site Area:	13.61 acres
Units:	24
Proposed Development:	Single-Family Conservation Subdivision
Commission District:	District 3– Commissioner Watkins
Character Area:	N/A (City of Dacula)

Staff Recommendation:

**APPROVAL WITH CONDITIONS** 

Planning Commission Recommendation:

#### **APPROVAL WITH CONDITIONS**



Location Map

Planning Commission Advertised Public Hearing Date: 8/2/2021 Board of Commissioners Advertised Public Hearing Date: 8/24/2021

Applicant:	: Taylor Morrison of GA, LLC c/o <b>Owner:</b> Mahaffey Pickens Tucker, LLP 1550 North Brown Road, Ste. 125 Lawrenceville, GA 30043		The Labri Group, LP & Randall Keith Powell 11 Lumpkin Street Lawrenceville, GA 30046
Contact:	Shane Lanham	Contact Phone:	770.232.0000

#### Zoning History

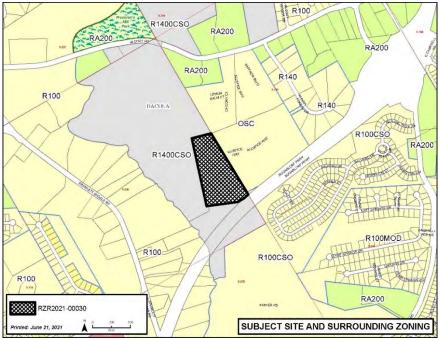
The subject property is zoned R1400CSO (City of Dacula) and is in the process of being deannexed into unincorporated Gwinnett County. In July 2005, the parcel was rezoned from RA-200 to R-100 CSO, pursuant to RZR2005-00025 for a single-family conservation subdivision. This parcel was proposed to be annexed into the City of Dacula in 2006 pursuant to ANX2006-0000,1 but was withdrawn. Later in 2006, the parcel was annexed into the City of Dacula and rezoned from R-100SCO to R-1400CSO.

#### **Existing Site Condition**

The subject site is a 13.61-acre portion of a 87.06 acre-parcel stretching from Alcovy Road to Sugarloaf Parkway near Bramlett Shoals Road. On the northern side of Alcovy Road is Freeman's Mill Park and the Alcovy River. The river proceeds to run south into the parcel. The property is undeveloped and currently located in incorporated Dacula. The site plan indicates a small portion of the property lies within a floodplain. The parcel is located south of the Alcova Baptist Church (and cemetery), one of the oldest churches in Gwinnett County built in 1868. The site is heavily wooded and is encumbered by steep slopes and stream buffers.

#### Surrounding Use and Zoning

The surrounding area is developed as single-family detached residential. This proposed OSC development will tie in to an adjacent OSC community Alcovy Forest, which was approved in 2019 to OSC pursuant to RZR2019-00014. Many of the properties along Alcovy Road have been developed as low-density subdivisions and the area features residential development on large tracts. The following is a summary of surrounding uses and zoning:



Surrounding Zoning

Location	Land Use	Zoning	Density	
Proposed	Single-Family Residential	OSC	1.76 units per acre	
North	Vacant	R1400CSO (Dacula)	N/A	
East	Single-Family Residential	OSC	2.43 units per acre	
South	Vacant	R1400CSO (Dacula)	N/A	
West	Vacant	R1400CSO (Dacula)	N/A	

#### Project Summary

The applicant requests rezoning of a 13.61-acre site from R1400OSC (Dacula) to OSC (Open Space Conservation District). The proposed development is related to a current deannexation (ANX2021-00009) from the City of Dacula. According to the applicant, the property was deannexed from the City of Dacula since it is only accessible from unincorporated Gwinnett County. The rezoning request is to construct a single-family detached subdivision development, including:

- A total of 24 lots with an overall density of 1.76 units per acre.
- A minimum heated floor area of 1,400 square feet.
- This proposed development will be an extension of the adjacent OSC development of Alcovy Forest which was approved for a rezoning to OSC in 2019.
- Double-car garages.

#### Zoning and Development Standards

The applicant is requesting rezoning to the OSC, Open Space Conservation District. The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Proposed	Meets Standard?
Building Height	Maximum 35'	35'	Yes
Front Yard Setback	Minimum 25'	25'	Yes
Side Yard Setback	Minimum 7.5'	7.5'	Yes
Rear Yard Setback	Minimum 30'	30'	Yes
Off-Street Parking	Minimum: 48 spaces Maximum: 144 spaces	48 spaces	Yes
Heated Floor Area	Minimum 1,400 square feet	1,400 square feet	Yes
Common Area	Minimum 20%	25%	Yes
Minimum Parcel Area	10 acres	13.61 acres	Yes
Minimum Conservation Space	Minimum: 3.4 acres	3.4 acres	Yes
Primary Conservation Space	Minimum: 0.51 acres	4.11 acres	Yes

#### **Internal and External Agency Review**

In addition to these Development Standards, the applicant must meet all other UDO requirements related to infrastructure improvements. Internal and External agency review comments are attached (Exhibit E). Standard site and infrastructure improvements will also be required related to transportation, stormwater, water, and sewer utilities. Recommended improvements not already required by the UDO have been added as staff recommended conditions.

#### **Staff Analysis**

**Rezoning Request Analysis:** According to the UDO, if a proposed amendment is for the rezoning of property and involves a change in zoning classification the Department shall evaluate the request and make a recommendation with respect to the standards governing exercise of zoning power as defined in Section 270-20.5. After this evaluation, staff makes the following findings based on the standards from the UDO:

#### A. Whether a proposed zoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The site is surrounded by residentially zoned single-family detached developments. The development will connect to a similar OSC development approved in 2019. The proposed request, to allow for 24 single-family detached homes to join the adjacent OSC development, would be suitable.

#### B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.

The existing use and usability of adjacent or nearby properties would not be adversely impacted by the zoning change. With the recommended conditions placed on the property, nearby and adjacent properties would be minimally impacted.

#### C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.

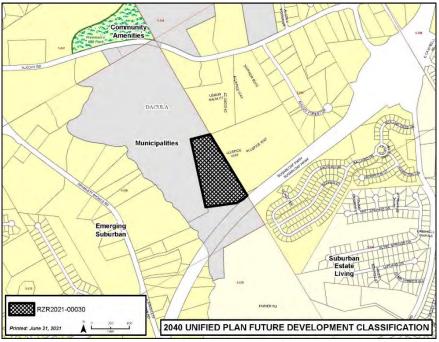
The property has a reasonable economic use. Many of the properties in the vicinity have a similar zoning designation and/or development pattern.

#### D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

An increase in impacts on public facilities would be anticipated in the form of traffic, utility demand, stormwater runoff, and school enrollment. However, with appropriate conditions and site development requirements utility impacts would be mitigated. Agency review comments related to any potential improvements, related to this request, are attached (Exhibit E).

#### E. Whether the proposed rezoning is in conformity with the policy and intent of the Unified Plan and Future Development Map; and

The 2040 Unified Plan Future Development Map indicates the subject property is surrounded by the Emerging Suburban Character Area. If included in this character area, the proposed single-family detached development, containing 24 homes, would be appropriate.



Surrounding Future Land Use

### F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning.

The surrounding area is developed with single-family detached lots within subdivisions and homes on large lots. The proposed development would be consistent with the existing zoning pattern and adjacent OSC development.

#### Staff Recommendation

Based on the staff's evaluation of the request and the standards governing exercise of zoning power, the Department of Planning and Development recommends **APPROVAL WITH CONDTIONS** of the rezoning request.

#### Planning Commission Recommendation

Based on the staff's evaluation of the rezoning application, information presented during the public hearing, and the Planning Commission's consideration of the standards governing the exercise of zoning power related to this application, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of the rezoning request.

#### Planning Commission Recommended Conditions (includes Staff Recommended Conditions, as Amended)

Approval as OSC (Open Space Conservation District), subject to the following conditions:

- 1. The property shall be limited to single-family detached dwellings and accessory uses and structures, not to exceed 24 lots.
- 2. The site shall be developed in general accordance with the Exhibit B: Site Plan received by Planning and Development on June 3, 2021.
- 3. Homes shall be constructed with front and side façades primarily of brick and/or stacked stone. The balance of the home may be the same or of cedar or fiber-cement siding or shake with a minimum two-foot-high brick or stacked stone water table.
- 4. All dwellings shall have at least a double-car garage.
- 5. Common area shall be provided in general accordance with the submitted rezoning exhibit. Design and location shall be subject to the review and approval by the Director of Planning and Development.
- 6. Natural vegetation shall remain on the property until the issuance of a subdivision development permit.
- 7. The minimum heated floor area per dwelling unit shall be 2,000 square feet.

#### Exhibits:

- A. Site Visit Photos
- B. Site Plan
- C. Building Elevations
- D. Letter of Intent and Applicant's Response to StandardsE. Internal and External Agency Review CommentsF. Maps

#### Exhibit A: Site Visit Photos

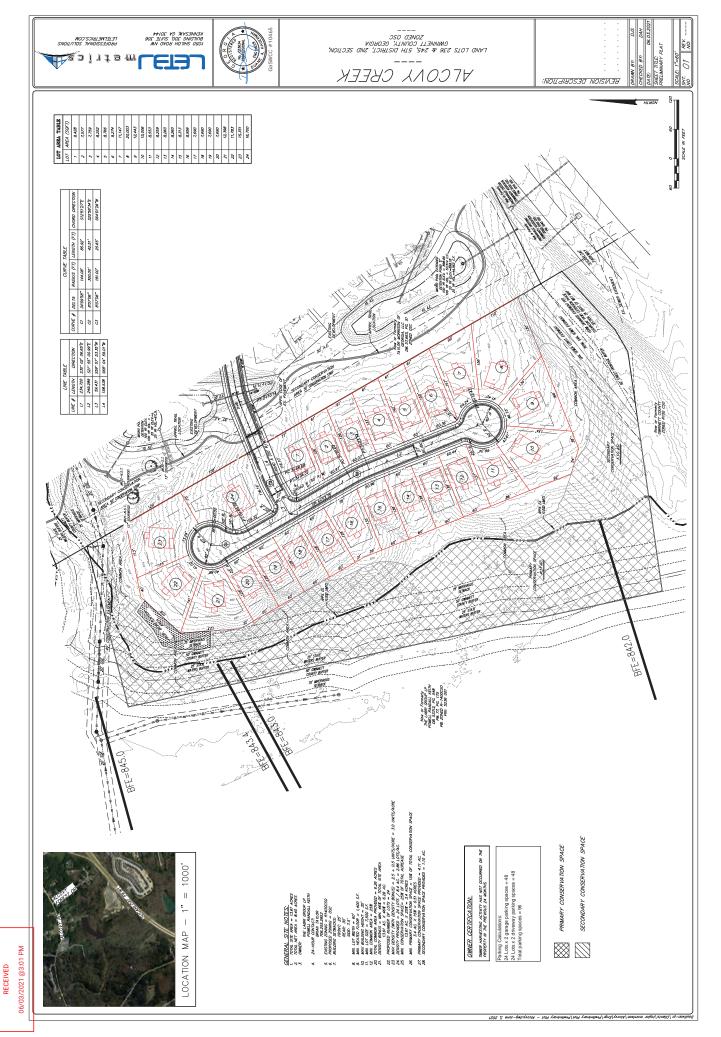


Proposed Site from Sugarloaf Parkway



Proposed Site Along Sugarloaf Parkway

Exhibit B: Site Plan [attached]



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Exhibit C: Building Elevations

[attached]

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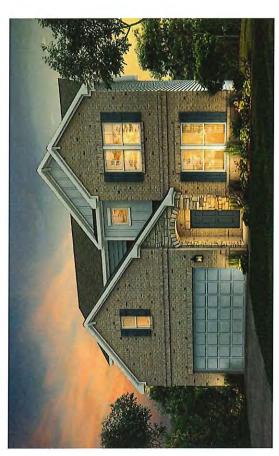


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**ELEVATION E** 

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**ELEVATION E** 

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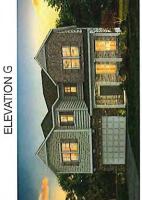
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**GWINNETT COUNTY** 

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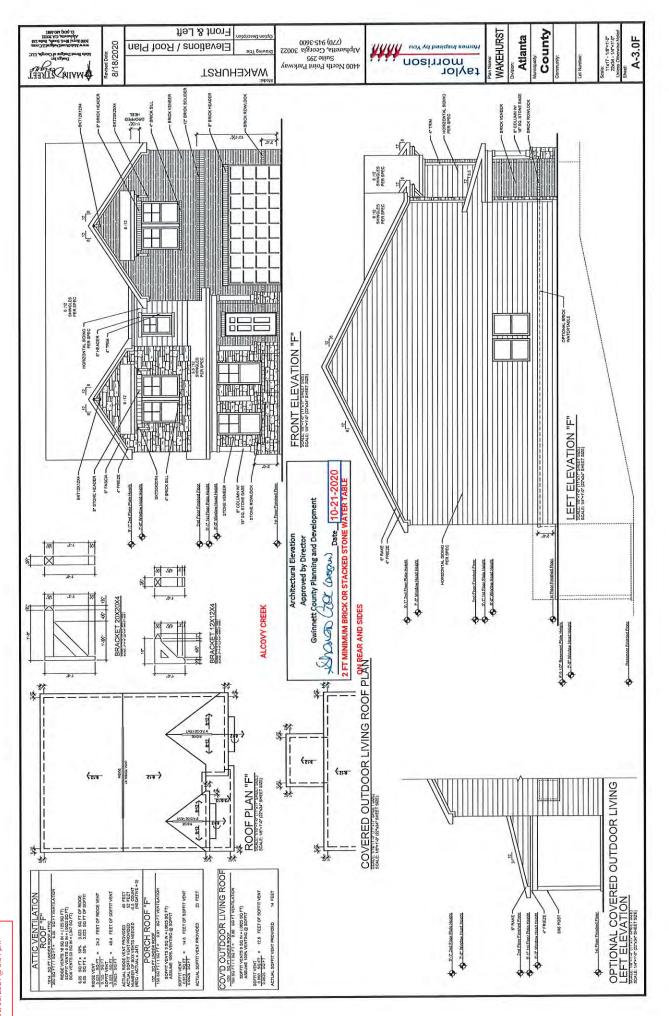
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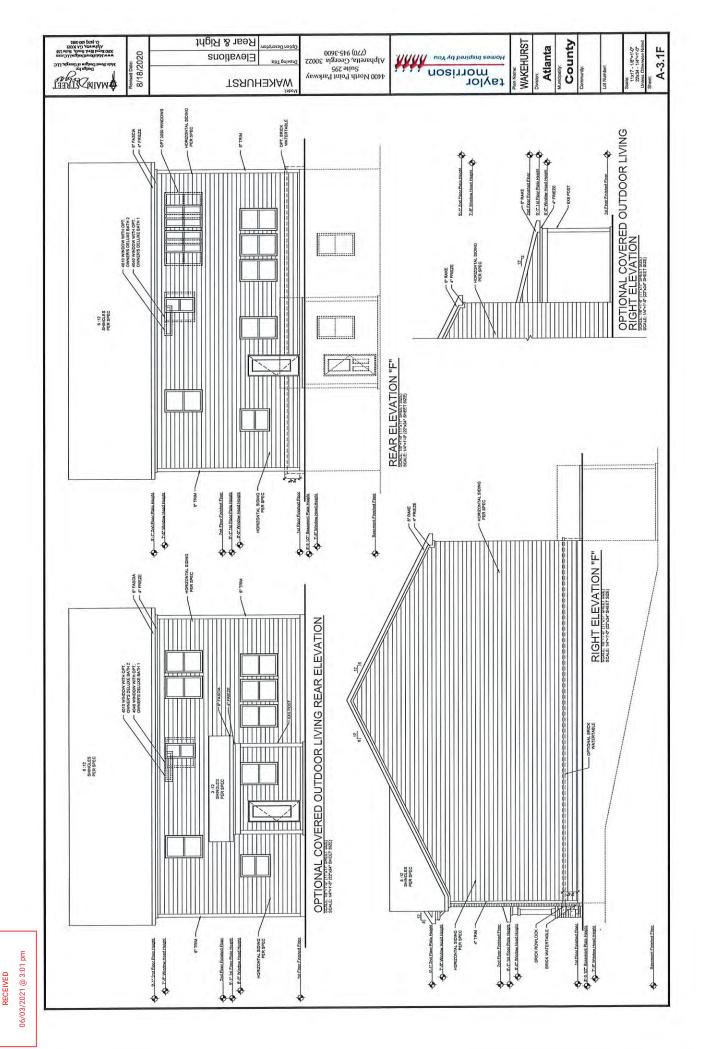


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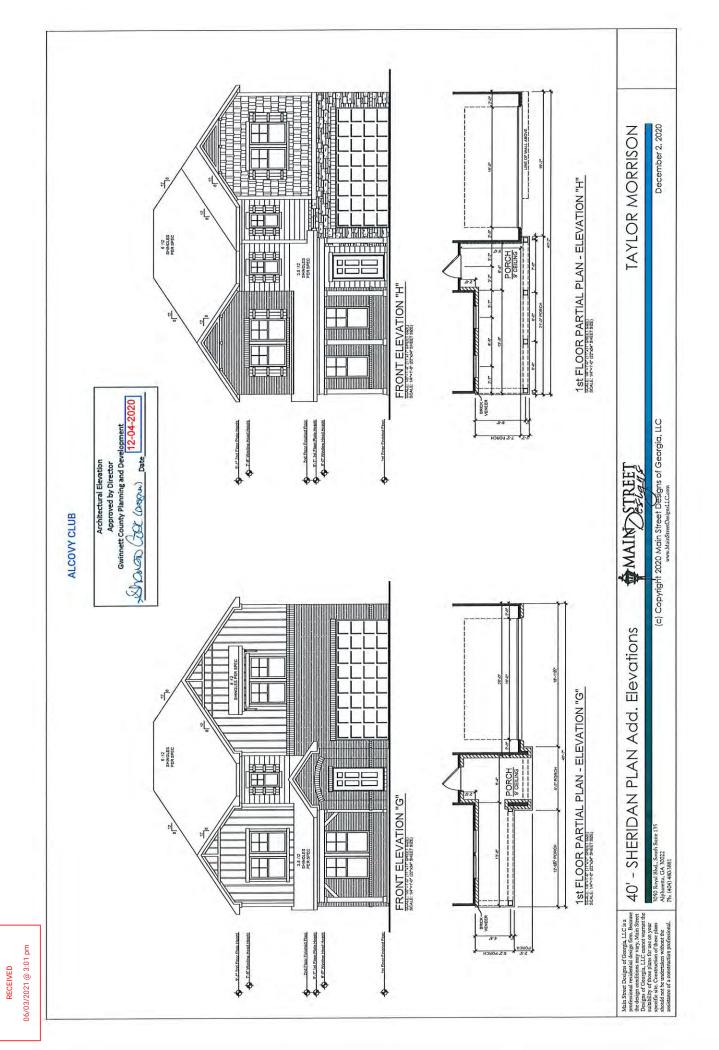
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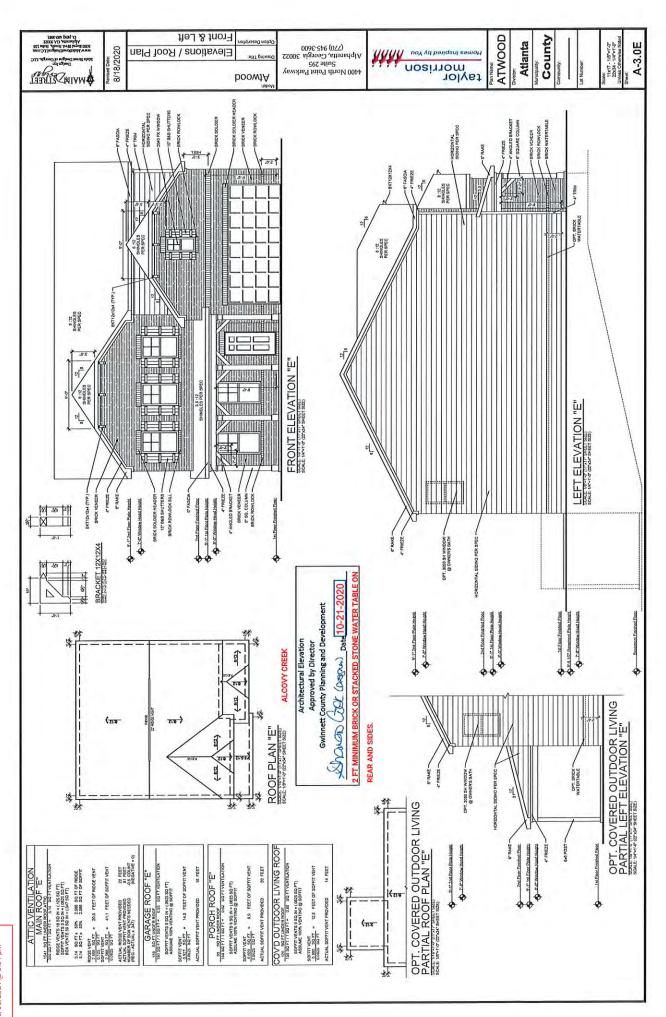
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**GWINNETT COUNTY** 

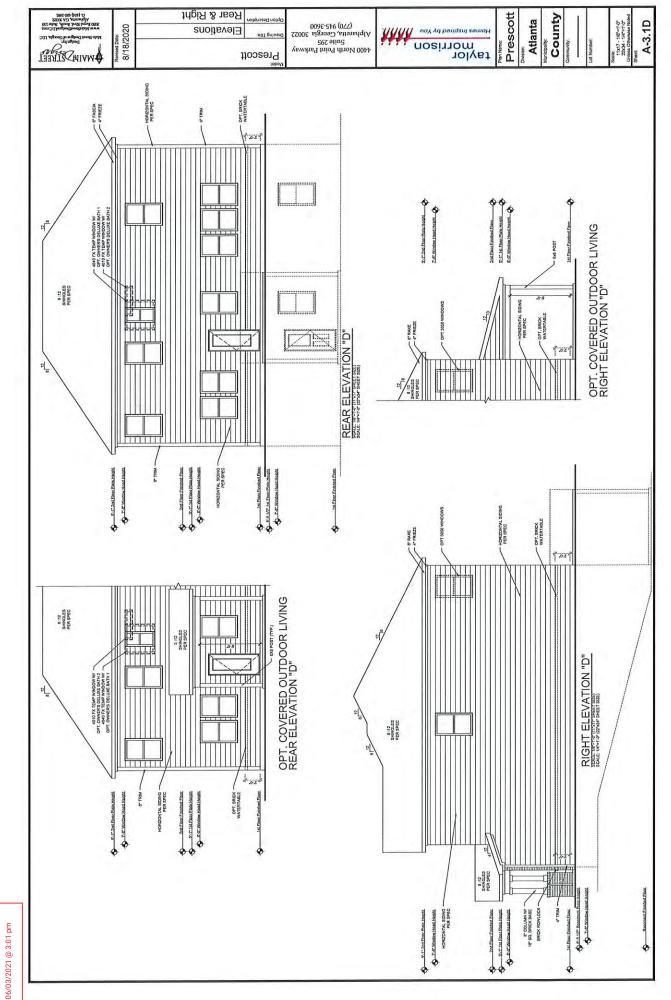
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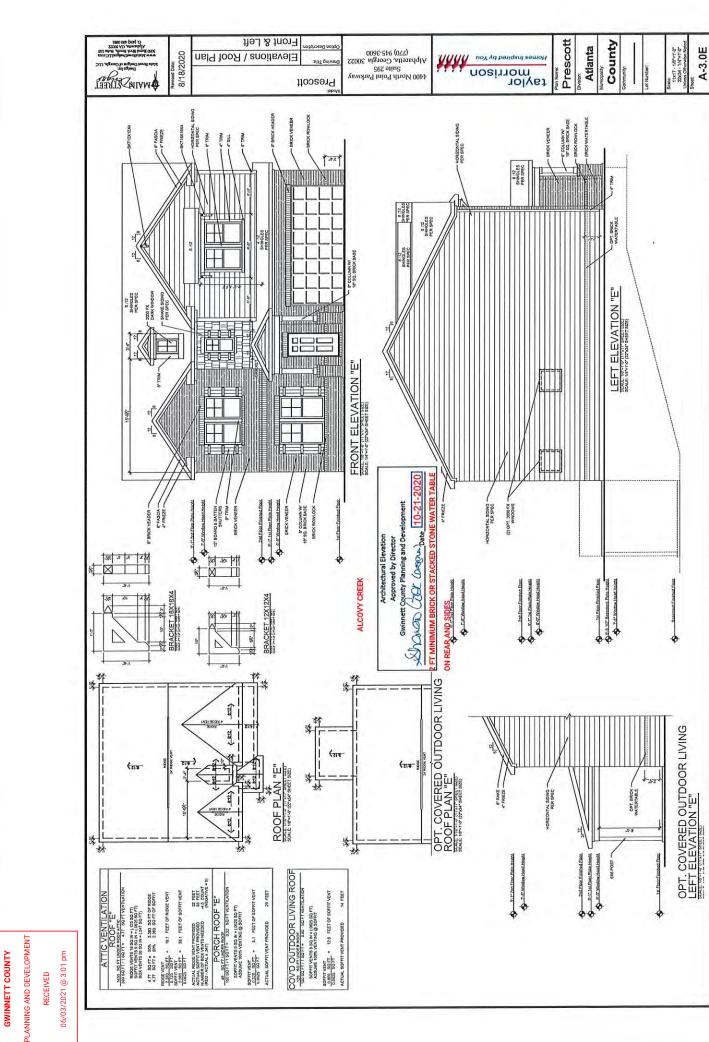
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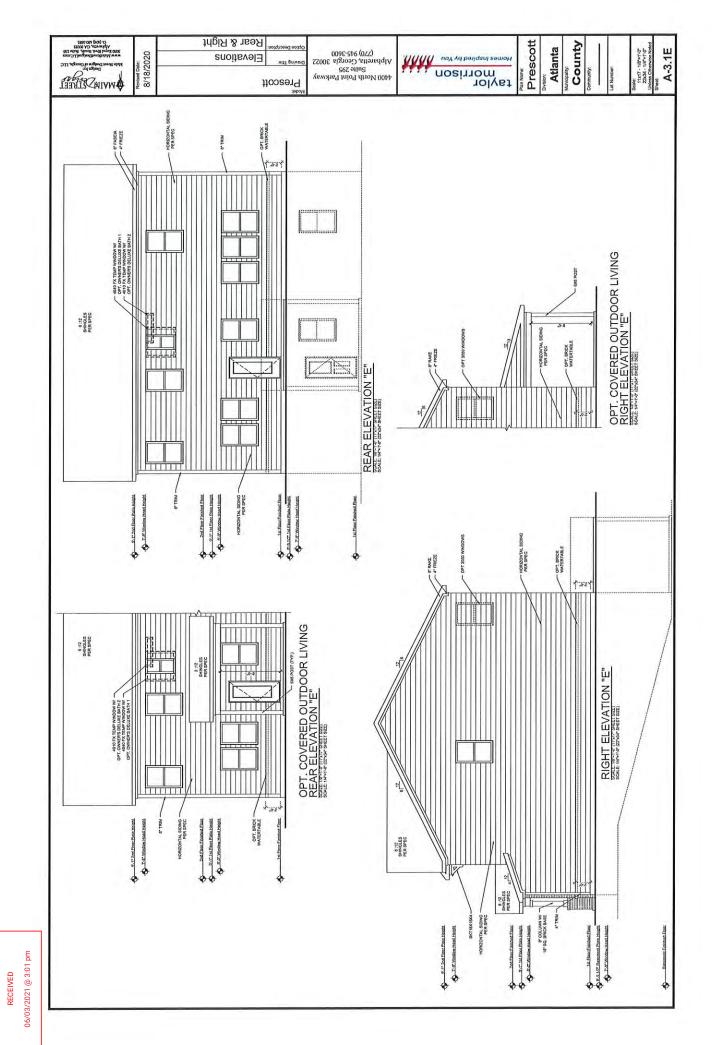


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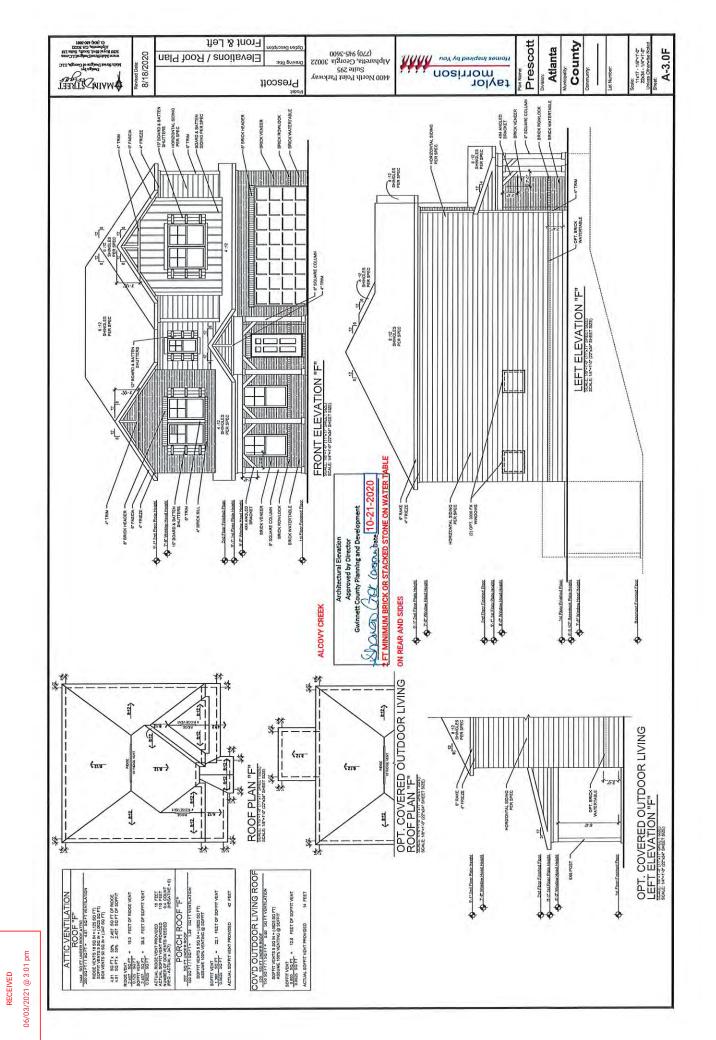
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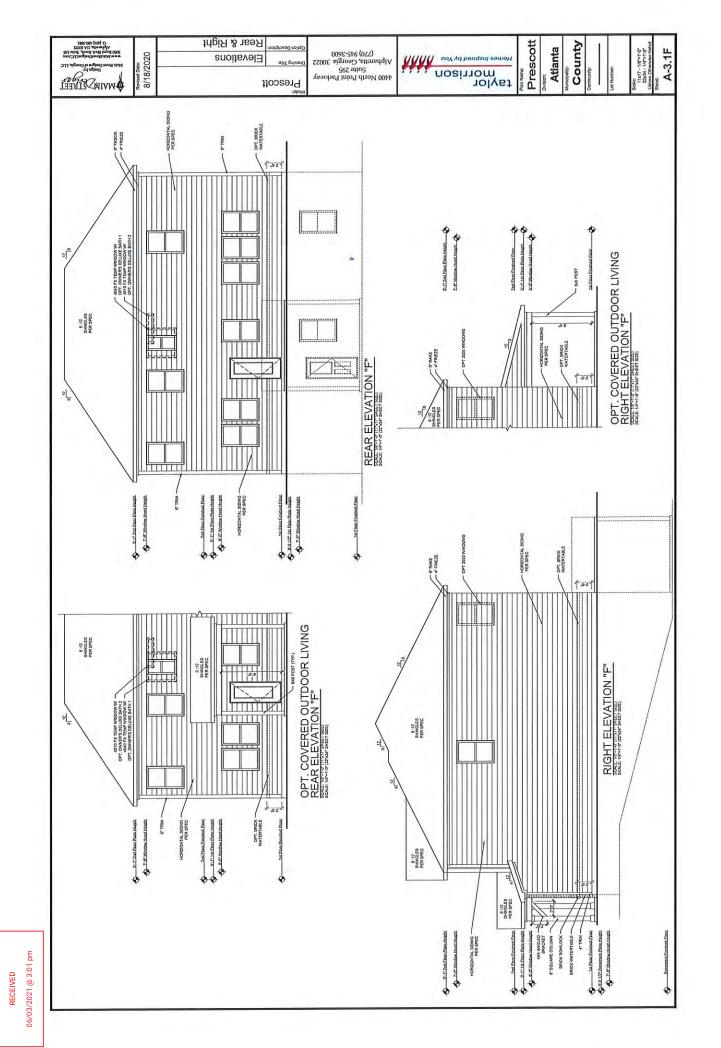




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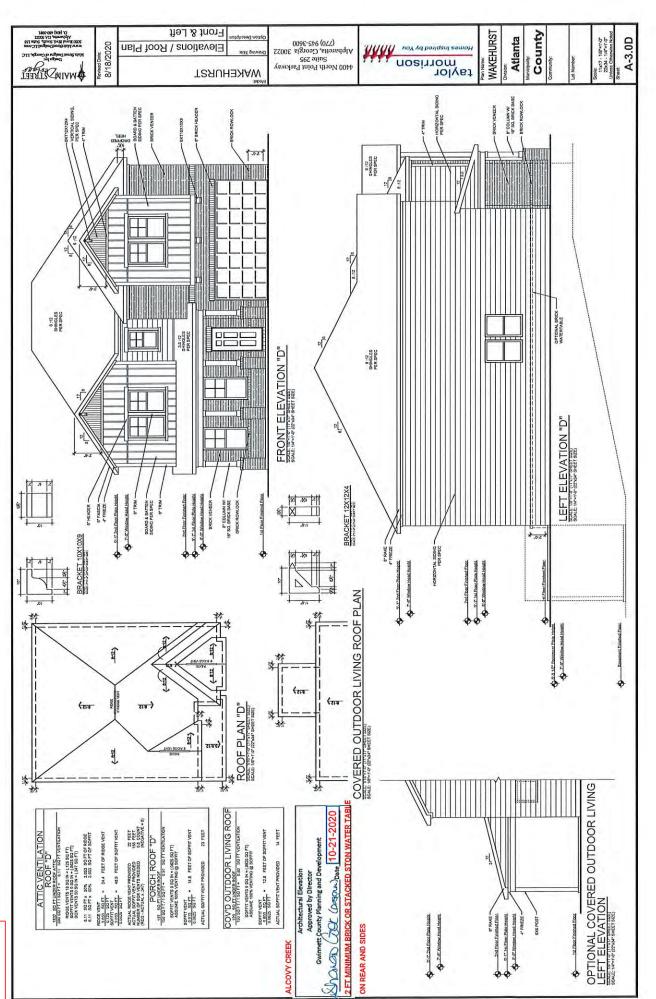
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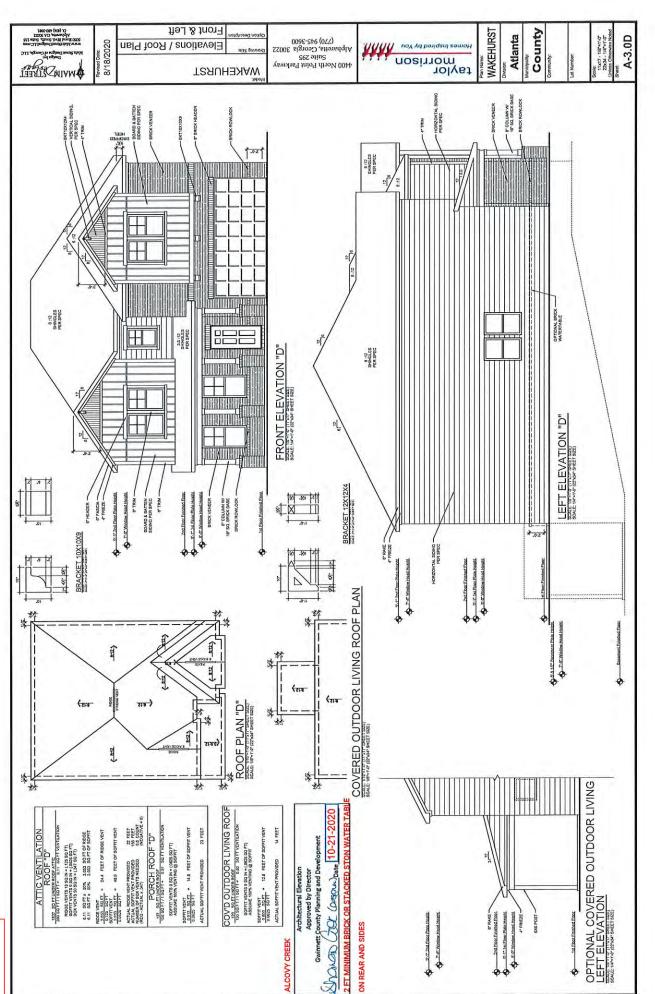


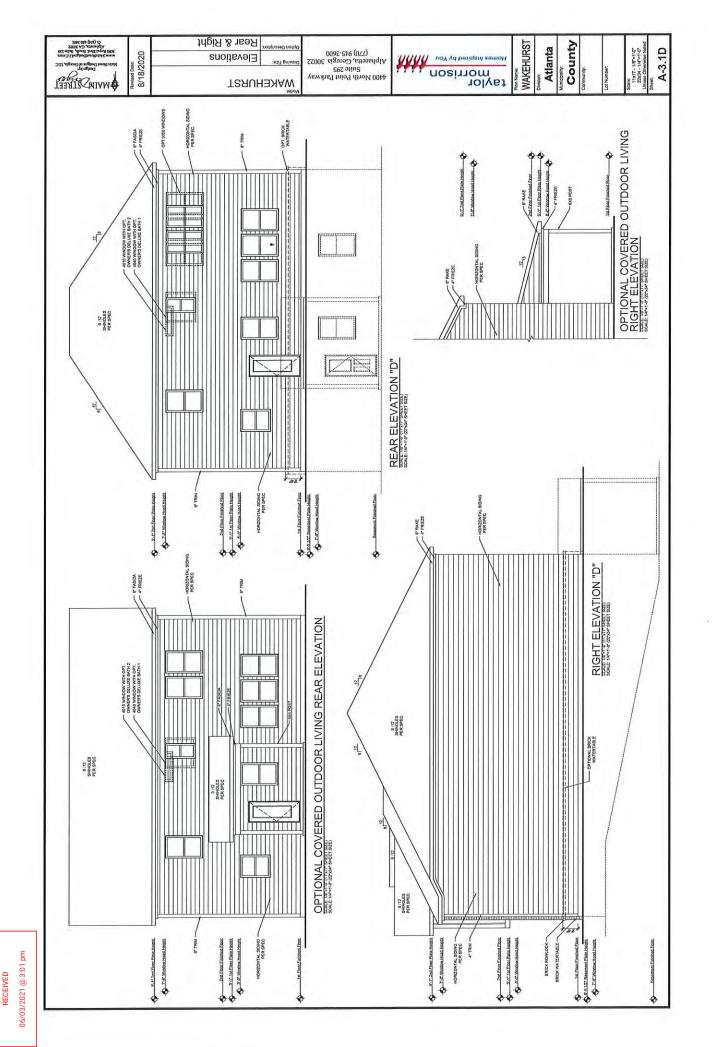
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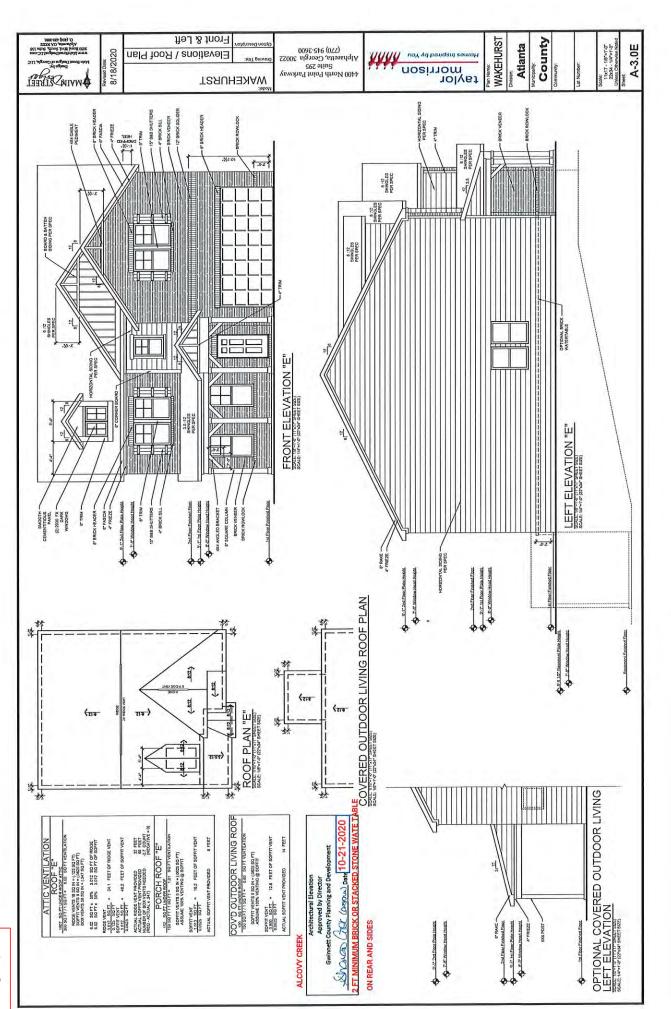


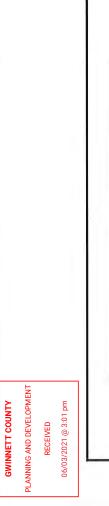
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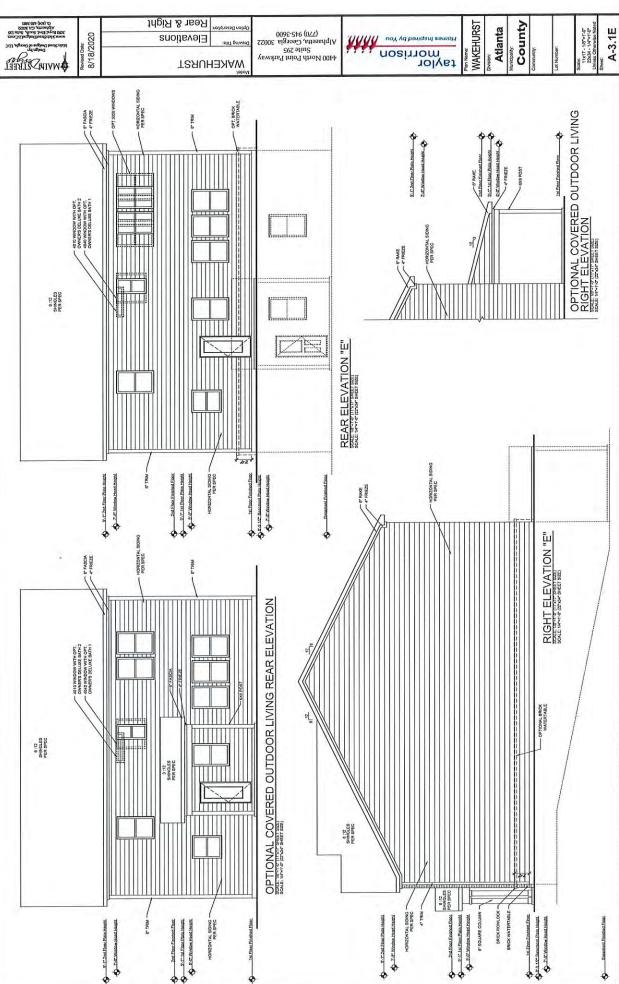
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Matthew P. Benson Gerald Davidson, Jr.\* Rebecca B. Gober Brian T. Easley Christopher D. Holbrook Charlotte L. Luu W. Brady Hughes



Samuel C. Kennon Shane M. Lanham Jeffrey R. Mahaffey Steven A. Pickens Andrew D. Stancil R. Lee Tucker, Jr.

\*Of Counsel

#### LETTER OF INTENT FOR REZONING APPLICATION OF TAYLOR MORRISON OF GEORGIA, LLC

Mahaffey Pickens Tucker, LLP submits this Letter of Intent and attached Rezoning Application (the "Application") on behalf of Taylor Morrison of Georgia, LLC (the "Applicant") for the purpose of requesting the rezoning of approximately 13.61 acres (the "Property") located between Alcovy Road and Sugarloaf Parkway. The subject Property is a component of tax parcel R5236 001 and was recently de-annexed by the City of Dacula since it is effectively cutoff from the balance of that parent parcel due to creeks, floodplain, and steep topography. The proposed development would serve as an extension of the adjacent OSC development which lies within unincorporated Gwinnett County and was recently approved by the Board of Commissioners in May 2019 (Case Number RZR2019-00014).

Accordingly, the Applicant is requesting a rezoning of the Property to OSC in line with the adjacent OSC community. The proposed development is compatible with surrounding land uses and would serve as a natural extension of a previously approved development. Proposed homes would include two-car garages as well as attractive architectural elements. Building materials for the proposed homes would include brick, stone, and/or cementitious shake, siding, and/or board and batten. The proposed community would also include large areas of common/open space for the use and enjoyment of residents. The proposed development is also compatible with the policy and intent of the Gwinnett County 2040 Unified Plan which designates the Property as adjacent to

> Sugarloaf Office || 1550 North Brown Road, Suite 125, Lawrenceville, Georgia 30043 NorthPoint Office || 11175 Cicero Drive, Suite 100, Alpharetta, Georgia 30022 TELEPHONE 770 232 0000 FACBAGE 33705486880

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land located within the Emerging Suburban Character Area (since the Property was recently deannexed by the City of Dacula, the Property is not specifically designated as within any character area). Policies for the Emerging Suburban Character Area specifically encourage "Open Space Conservation subdivisions" and "Single-family residential" as "potential development types."

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

Respectfully submitted this 6th day of May, 2021.

MAHAEPEY PICKENS TUCKER, LLP Shane M. Lanham

Attorneys for Applicant

Gwinnett County Planning Division Rezoning Application Last Updated 12/2020

#### **REZONING APPLICANT'S RESPONSE**

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

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

Please see attached

- (B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY: <u>Please see attached</u>
- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED: <u>Please see attached</u>
- (D) WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS: <u>Please see attached</u>
- (E) WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN: Please see attached
- (F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING: Please see attached

#### STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- A. Approval of the proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property. The subject Property is adjacent to additional land zoned for residential uses including land that is already zoned OSC. The proposed development would serve as an extension of a previously-approved OSC development on adjacent property.
- B. Approval of the proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property. Rather the proposed development would complement surrounding residential land uses by providing additional housing options for current and future residents of Gwinnett County.
- C. The Applicant submits that due to its size, location, physical characteristics, and layout, the subject property does not have a reasonable economic use as currently zoned.
- D. Approval of the proposed rezoning will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The property has convenient access to Alcovy Road via the previously approved OSC development.
- E. The proposed rezoning is in conformity with the policy and intent of the 2040 Plan. The subject Property is adjacent to land designated as within the Emerging Suburban Character Area on the 2040 Plan Future Development Map. Encouraged land uses for this character area specifically include conservations subdivisions and single-family residential development.
- F. The planned Sugarloaf Parkway extension and the subject Property's proximity to Freemans's Mill Park provide additional supporting grounds for approval of the Application.

## Exhibit E: Internal and External Agency Review Comments

[attached]



	TRC Meeting Date:	July 14, 2021			
	Department/Agency Name:	Development Plan Review			
	Reviewer Name:	Terri Drabek			
	Reviewer Title: Planner III				
	Reviewer Email Address:	terri.drabek@gwinnettcounty.com			
	Case Number:	RZR2021-00030			
		Alcovy Road			
	Comments:	YES NO			
1	The bioretention area does not ha	ve road frontage for the stormwater BMP.			
2	The 50 foot conservation strip is re	equired adjacent to R-100 CSO property.			
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	Recommended Zoning C	onditions: 🛛 YES 🗖 NO			
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		Resid	Residential Rezoning Impact on Local Schools	ng Impact on	Local Schoo	ls					
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											Proposed Zoning
			2021-22			2022-23			2023-24		Approximate Student Projections
	School	Forecast	Capacity	+/- Cap.	Forecast	Capacity	+/- Cap.	Forecast	Capacity	+/- Cap.	from Proposed Developments
	Parkview HS	3,234	2,900	334	3,299	2,900	399	3,365	2,900	465	42
RZM2021-00029 Trickum MS	Trickum MS	2,250	1,775	475	2,257	1,775	482	2,302	1,775	527	36
	Arcado ES	905	750	155	923	750	173	942	750	192	64
	Grayson HS	3,150	3,000	150	3,245	3,000	245	3,342	3,000	342	29
RZM2021-00030 Couch MS	Couch MS	1,113	1,150	-37	1,135	1,150	-15	1,158	1,150	8	25
	Starling ES	1,066	1,200	-134	1,098	1,200	-102	1,131	1,200	69-	44
	Peachtree Ridge HS	3,348	3,050	298	3,398	3,050	348	3,449	3,050	399	26
RZM2021-00031 Hull MS	Hull MS	1,342	1,750	-408	1,355	1,750	-395	1,383	1,750	-367	21
	Mason ES	976	1,150	-174	1,005	1,150	-145	1,025	1,150	-125	38
	Parkview HS	3,234	2,900	334	3,299	2,900	399	3,365	2,900	465	5
RZR2021-00027 Trickum MS	Trickum MS	2,250	1,775	475	2,257	1,775	482	2,302	1,775	527	5
	Arcado ES	905	750	155	923	750	173	942	750	192	8
	Dacula HS	2,479	2,550	-71	2,553	2,550	3	2,630	2,550	80	7
RZR2021-00030 Dacula MS	Dacula MS	1,786	1,900	-114	1,822	1,900	-78	1,858	1,900	-42	9
	Alcova ES	1,419	1,150	269	1,447	1,150	297	1,491	1,150	341	11
	Peachtree Ridge HS	3,348	3,050	298	3,398	3,050	348	3,449	3,050	399	2
RZM2021-00032 Hull MS	Hull MS	1,342	1,750	-408	1,355	1,750	-395	1,383	1,750	-367	2
	Parsons ES	805	200	105	829	700	129	854	200	154	4

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	TRC Meeting Date:	7-9-2021	
	Department/Agency Name:	Transportation	
		Michael Johnson	
	Reviewer Title:	Construction Manager 1	
	Reviewer Email Address:	michael.johnson2@gwinnettcounty.com	
	Case Number:		
	Case Address:	Alcovy Rd	
	Comments:	YES NO	
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	Recommended Zoning C	onditions: 🔄 YES 🔳 NO	
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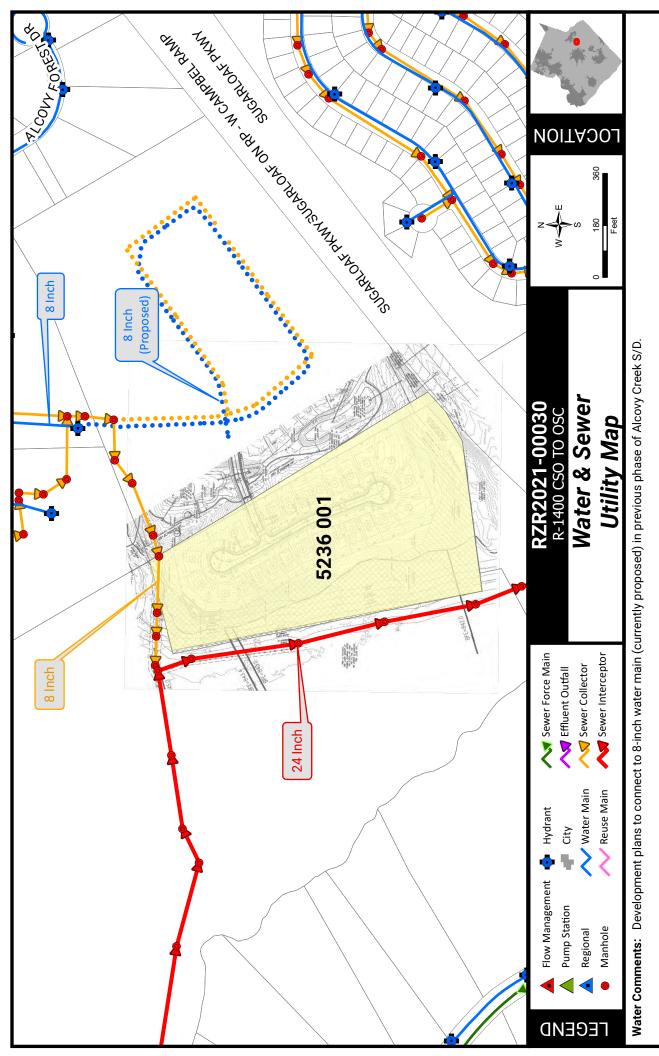
	TRC Meeting Date:	07/14/21			
	Department/Agency Name:	Gwinnett Fire Plan Review			
	Reviewer Name:	Jennifer Folden-Nissen			
	Reviewer Title: Fire Planner III				
	Reviewer Email Address:	jennifer.folden-nissen@gwinnettcounty.com			
	Case Number:	RZR2021-00030			
	Case Address:	Alcovy Rd.			
	Comments:	YES NO			
1	All site work is to be submitted for review by Gw Protection Ordinance Sect. 42-36)	innett Fire Plan Review. (2012 Gwinnett Fire Prevention and			
2	Fire department access roads shall	be a minimum of 20 feet in width. (2018 IFC 503)			
3	Fire hydrants shall be placed no more than 450 Ordinance Sect. 42-29)	feet apart. (2012 Gwinnett Fire Prevention and Protection			
4	Fire department access roads over 150 feet in length shall have an approved fire apparatus turn-around. (2018 IFC 503)				
5					
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	Recommended Zoning C	onditions: YES 🗖 NO			
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L	I	dditional pages if peeded			



	TRC Meeting Date:	7/14/2021
	Department/Agency Name:	DOCS
	Reviewer Name:	Glenn Boorman
	Reviewer Title:	Deputy Division Director- Project Admin -Parks & Recreation
Reviewer Email Address:		glenn.boorman@gwinnettcounty.com
	Case Number:	RZR2021-00030
	Case Address:	between Alcovy Road and Sugarloaf Parkway
	Comments:	YES NO
1	Accommodations shall be provided necessary easeme to the UDO as indicated on the Gwinnett Trails Master	nts and/or Right of ways and to construct the future greenway trail according Plan through this parcel with a future connection to Freeman's Mill Park.
2		
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	Recommended Zoning C	onditions: YES NO
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	TRC Meeting Date:	July 14, 2021			
	Department/Agency Name:	DWR			
	Reviewer Name:	Mike Pappas			
	Reviewer Title:	GIS Planning Manager			
	Reviewer Email Address:	michael.pappas@gwinnettcounty.com			
	Case Number:	RZR2021-00030			
	Case Address:	ALCOVY ROAD			
	Comments:	YES NO			
1	WATER - Development plans to connect to 8-ind Creek S/D.	ch water main (currently proposed) in previous phase of Alcovy			
2	SEWER - Existing 24-inch sanitary sewer locate	od on parcel 5236 001.			
3	SEWER - Sewer Capacity Certification C2021-06-170 approved for 104.2 peak GPM.				
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	Recommended Zoning C	onditions: 🛛 YES 🗖 NO			
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Sewer Comments: Existing 24-inch sanitary sewer located on parcel 5236 001. Sewer Capacity Certification C2021-06-170 approved for 104.2 peak GPM

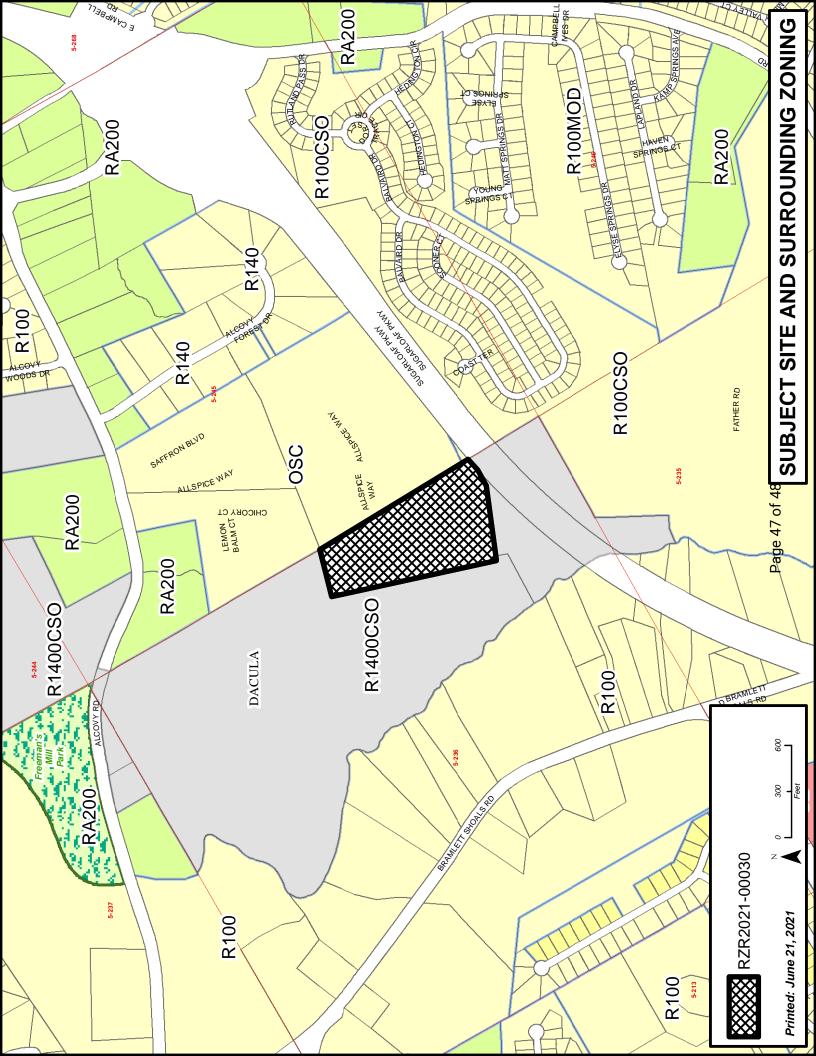
Water Availability: Water demands imposed by the proposed development may require upsizing or extensions of existing water mains in order to meet Gwinnett County Standards and fire flow demands. Any cost associated with such required improvements will be the responsibility of the development. Current Gwinnett County Standards require a minimum of 12" pipe size for commercial developments and a minimum of 8" pipe size for residential developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial and residential developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial and residential developments.

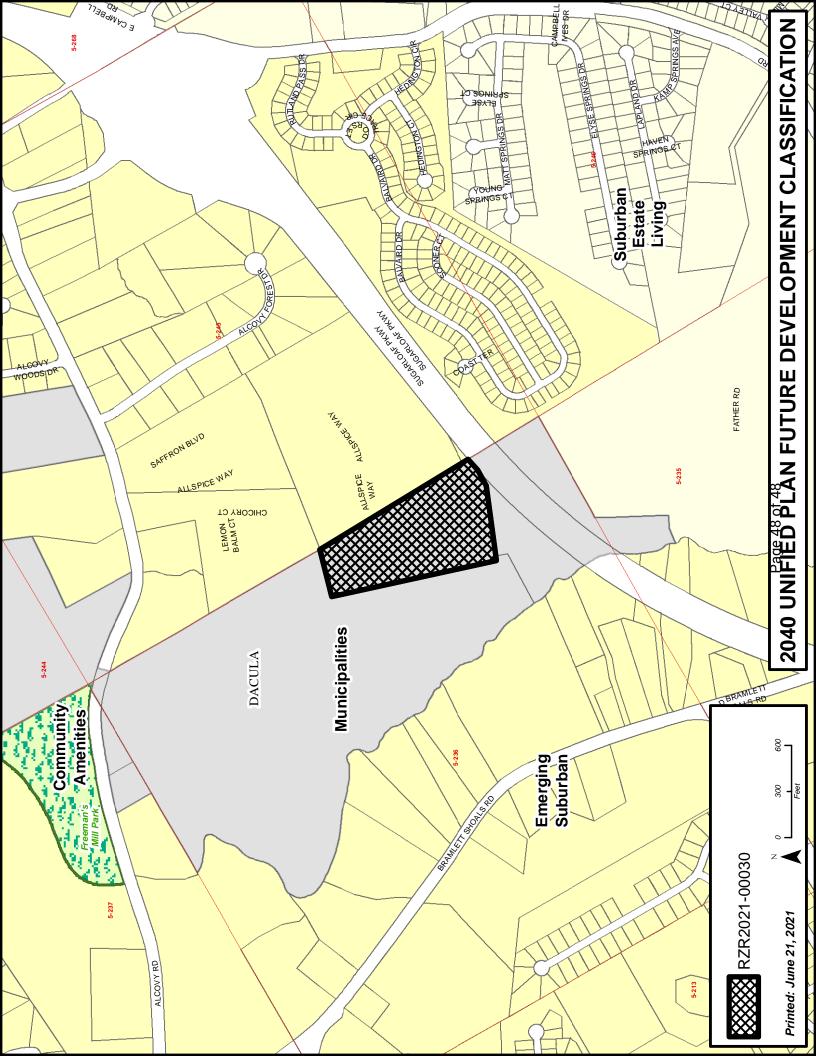
Sewer Availability: A Sewer Capacity Certification must be obtained from Gwinett County to confirm the existing system can serve the development. Sewer demands imposed by the proposed development may require upsizing and/or extensions of existing sewer mains, and/or extensions of existing sewer mains, and/or extensions of existing sewer mains, and/or extensions of existing sever mains, and/or extensions and/or extensions of existing sever mains, and/o

Water and Sever Design and Construction Requirements: Extensions of the water and/or sanitary sewer systems within the subject development integration to this department's policies, Gwinnett County's ordinances, and the Water Main and Sanitary Sewer Design and Construction, inspection, and final acceptable of the required utilities, service would then become available under the applicable utility permit rate schedules. Private Road Developments: Any development with private roads must comply with the Standard Policy Requirement for the Installation of Water and Sanitary Sewer Mains within Private Developments. This policy stipulates minimum easement requirements and location of public mains and appurtemances, among other requirements. Exhibit F: Maps

[attached]







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#### **REZONING APPLICATION**

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*			
Taylor Morrison of Georgia, LLC c/o NAME: <u>Mahaffey Pickens Tucker, LLP</u>	NAME: The Labri Group, LP & Randall Keith Powell			
ADDRESS: 1550 North Brown Road, Suite 125	ADDRESS: 11 Lumpkin Street			
CITY: Lawrenceville	CITY: Lawrenceville			
STATE: <u>Georgia</u> ZIP: <u>30043</u>	STATE: <u>Georgia</u> ZIP: <u>30046</u>			
PHONE: 770 232 0000	PHONE: 770 232 0000			
CONTACT PERSON: <u>Shane Lanham</u>	PHONE: 770 232 0000			
CONTACT'S E-MAIL: slanham@mptlawfirm.com				
APPLICAN	IT IS THE: IER CONTRACT PURCHASER			
PRESENT ZONING DISTRICTS(S): R-1400 CSO REQUESTED ZONING DISTRICT: OSC				
PARCEL NUMBER(S): <u>5236 001 (portion)</u> ACREAGE: <u>+/- 13.61</u>				
ADDRESS OF PROPERTY: Alcovy Road				
PROPOSED DEVELOPMENT: Single-family Cons	ervation Subdivision			
RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT			
No. of Lots/Dwelling Units 24	No. of Buildings/Lots: <u>NA</u>			
Dwelling Unit Size (Sq. Ft.): <u>1,400+ sf</u>	Total Building Sq. Ft. <u>NA</u>			
Gross Density: +/- 1.76 units per acre	Density: <u>NA</u>			
Net Density: _+/-2.85 units per acre				

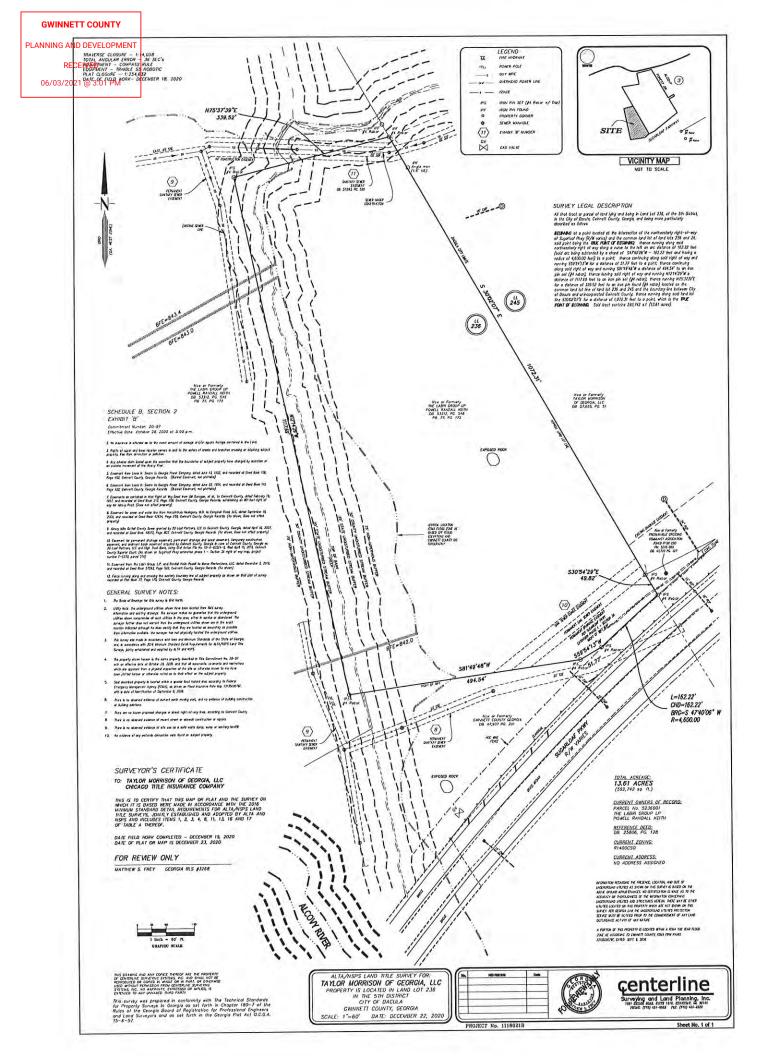
PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

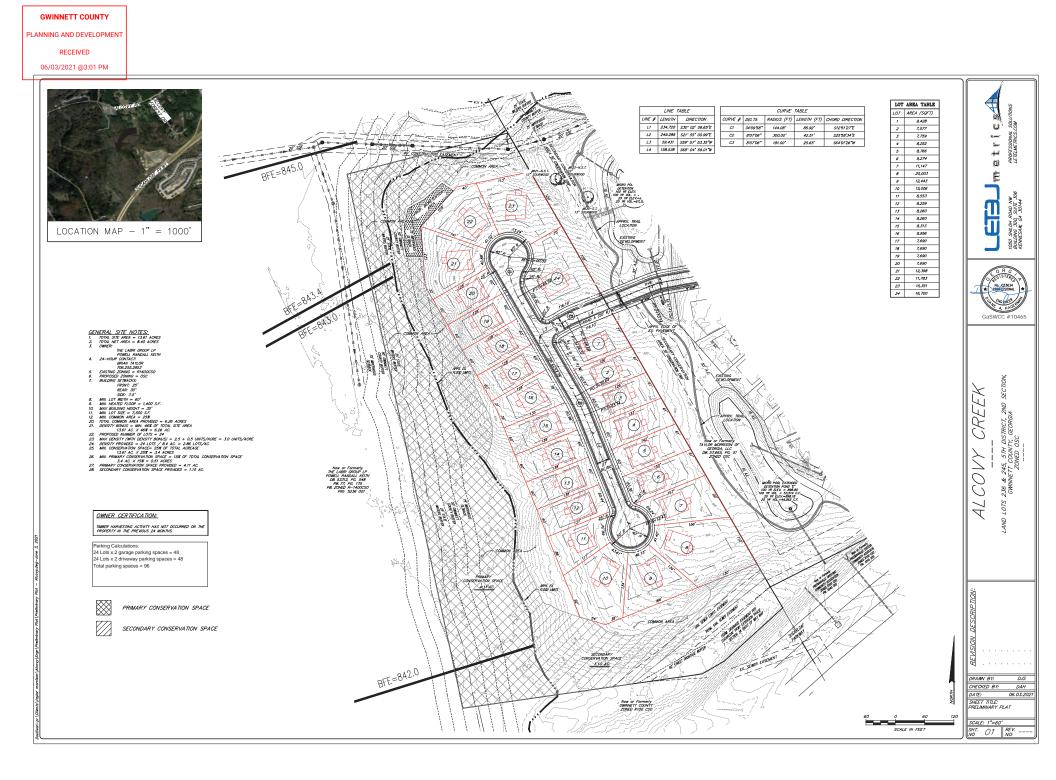
#### **LEGAL DESCRIPTION**

### SURVEY LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lat 236, of the 5th District, in the City of Dacula, Gwinnett County, Georgia, and being more particularly described as fallows:

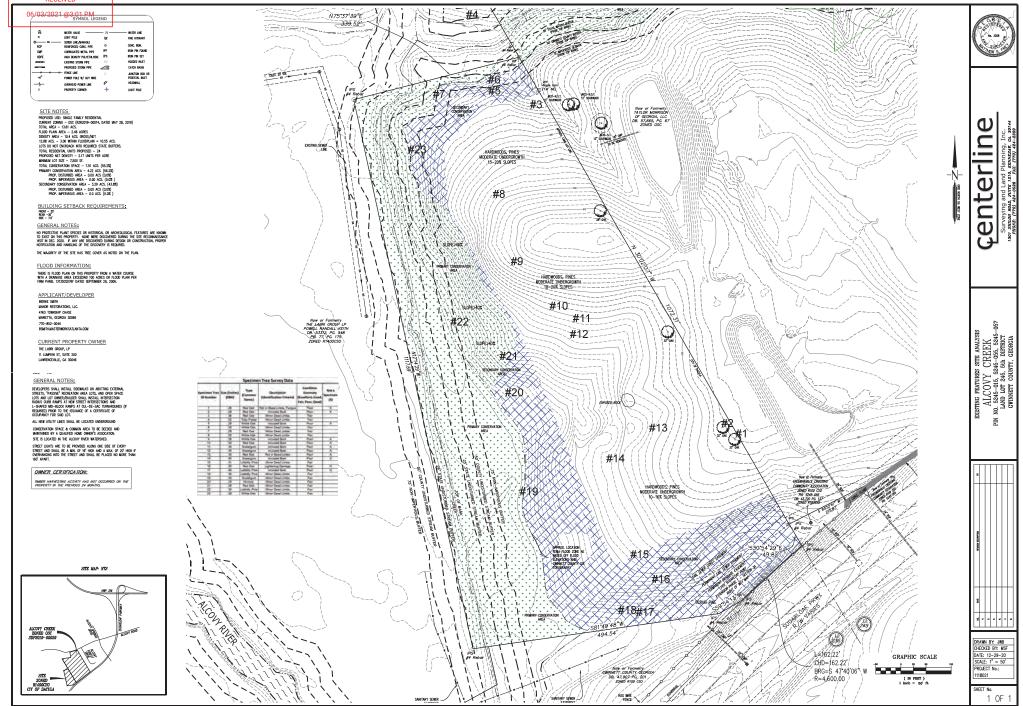
BEGINNING at a point located at the intersection of the northwesterly right-of-way of Sugarloof Pkwy (R/W varies) and the common land lot of land lots 236 and 24, said point being the TRUE POINT OF BEGINNING; thence running along said northwesterly right of way along a curve to the left an arc distance of 162,22 feet (said arc being subtended by a chord of S47'40'06"W - 182.22 feet and having a radius of 4,600.00 feet) to a point; thence continuing along said right of way and running S59'54'13"W for a distance of 51.77 feet to a point; thence continuing along said right of way and running S81'49'48"W a distance of 494.54' to an iron pin set (#4 rebar); thence leaving said right of way and running N12'14'29"W a distance of 1117.69 feet to an iron pin set (#4 rebar); thence running N75'3739"E for a distance of 339.52 feet to an iron pin found (#4 rebar) located on the common land lot line of land lot 236 and 245 and the boundary line between City of Dacula and unincorporated Gwinnett County; thence running along said land lot line S30'02'07'E for a distance of 1,072.31 feet to a point, which is the TRUE POINT OF BEGINNING. Said tract contains 592,742 s.f. (13.61 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:

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

Please see attached

- (B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY: <u>Please see attached</u>
- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED: <u>Please see attached</u>
- (D) WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS: <u>Please see attached</u>
- (E) WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN: Please see attached
- (F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING: Please see attached

#### STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- A. Approval of the proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property. The subject Property is adjacent to additional land zoned for residential uses including land that is already zoned OSC. The proposed development would serve as an extension of a previously-approved OSC development on adjacent property.
- B. Approval of the proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property. Rather the proposed development would complement surrounding residential land uses by providing additional housing options for current and future residents of Gwinnett County.
- C. The Applicant submits that due to its size, location, physical characteristics, and layout, the subject property does not have a reasonable economic use as currently zoned.
- D. Approval of the proposed rezoning will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The property has convenient access to Alcovy Road via the previously approved OSC development.
- E. The proposed rezoning is in conformity with the policy and intent of the 2040 Plan. The subject Property is adjacent to land designated as within the Emerging Suburban Character Area on the 2040 Plan Future Development Map. Encouraged land uses for this character area specifically include conservations subdivisions and single-family residential development.
- F. The planned Sugarloaf Parkway extension and the subject Property's proximity to Freemans's Mill Park provide additional supporting grounds for approval of the Application.



Matthew P. Benson Gerald Davidson, Jr.\* Rebecca B. Gober Brian T. Easley Christopher D. Holbrook Charlotte L. Luu W. Brady Hughes



Mahaffey Pickens Tucker, LLP

Samuel C. Kennon Shane M. Lanham Jeffrey R. Mahaffey Steven A. Pickens Andrew D. Stancil R. Lee Tucker, Jr.

\*Of Counsel

#### LETTER OF INTENT FOR REZONING APPLICATION OF TAYLOR MORRISON OF GEORGIA, LLC

Mahaffey Pickens Tucker, LLP submits this Letter of Intent and attached Rezoning Application (the "Application") on behalf of Taylor Morrison of Georgia, LLC (the "Applicant") for the purpose of requesting the rezoning of approximately 13.61 acres (the "Property") located between Alcovy Road and Sugarloaf Parkway. The subject Property is a component of tax parcel R5236 001 and was recently de-annexed by the City of Dacula since it is effectively cutoff from the balance of that parent parcel due to creeks, floodplain, and steep topography. The proposed development would serve as an extension of the adjacent OSC development which lies within unincorporated Gwinnett County and was recently approved by the Board of Commissioners in May 2019 (Case Number RZR2019-00014).

Accordingly, the Applicant is requesting a rezoning of the Property to OSC in line with the adjacent OSC community. The proposed development is compatible with surrounding land uses and would serve as a natural extension of a previously approved development. Proposed homes would include two-car garages as well as attractive architectural elements. Building materials for the proposed homes would include brick, stone, and/or cementitious shake, siding, and/or board and batten. The proposed community would also include large areas of common/open space for the use and enjoyment of residents. The proposed development is also compatible with the policy and intent of the Gwinnett County 2040 Unified Plan which designates the Property as adjacent to

Sugarloaf Office || 1550 North Brown Road, Suite 125, Lawrenceville, Georgia 30043 NorthPoint Office || 11175 Cicero Drive, Suite 100, Alpharetta, Georgia 30022 TELEPHONE 770 232 0000 FACSIMILE 678 518 6880 www.mptlawfirm.com land located within the Emerging Suburban Character Area (since the Property was recently deannexed by the City of Dacula, the Property is not specifically designated as within any character area). Policies for the Emerging Suburban Character Area specifically encourage "Open Space Conservation subdivisions" and "Single-family residential" as "potential development types."

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

Respectfully submitted this 6th day of May, 2021.

MAHAEPEY PICKENS TUCKER, LLP

Shane M. Lanham Attorneys for Applicant

#### JUSTIFICATION FOR REZONING APPLICATION

The portions of the Gwinnett County Unified Development Ordinance (the "UDO") which classify or may classify the property which is the subject of this Application (the "Property") into any less intensive zoning classification other than as requested by the Applicant, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the UDO as applied to the subject Property, which restricts its use to the present zoning classification is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the OSC classification as requested by the Applicant, and is not economically suitable for development under the present zoning classification of Gwinnett County. A denial of this Application would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the OSC classification with such conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any

rezoning of the subject Property to the OSC classification, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

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

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

This 6th day of May, 2021

Respectfully submitted, MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham Attorneys for Applicant

### **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

Shane M. Lanham, attorney for the Applicant Type or Print Name and Title

Signature of Notary Public



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## REZONING PROPERTY OWNER'S CERTIFICATION

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

Signature of Property Owner

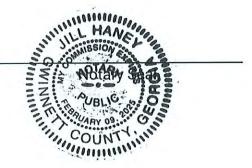
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Signature of Notary Public

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Date



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## **REZONING PROPERTY OWNER'S CERTIFICATION**

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

Signature of Property Owner

5/6/2021

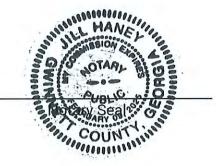
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POWELL DY H.

Type or Print Name and Title

Signature of Notary Public

51(010 Date



#### CONFLICT OF INTEREST CERTIFICATION FOR REZONING

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

SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
1 45	2 Shane M. La	nham, attorney for the Applicant
SIGNATURE OF APPLICANT'S	DATE	TYPE OR PRINT NAME AND TITLE
ATTORNEY OR REPRESENTATIV	E	BRADY HUGLIN
SIGNATURE OF NOTARY PUBLIC	5/5/21	NOPARY SEA

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YFS MO Mahaffey Pickens Tucker, LLP

YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)
NA		

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

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.

IM

\*<u>Note</u>: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.

PARCEL I.D. NUMBER:	5	- 236	_ 001	
(Map Reference Number)	District	Land Lot	Parcel	
K			5/5/21	
Signature of Applicant			Date	
Shane M. Lanham, attorney for	the Applicant			

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)

V Schoby	TSAIL
NAME	TITLE
5 5 2021	
DATE	

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# inspired by you"

The Atwood 4 Bedrooms | 2.5 Bathrooms | Flex | 2-Car Garage | 2,696 - 2,732 Sq. Ft.



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ELEVATION E



ELEVATION F

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The Prescott 4 Bedrooms | 2.5 Bathrooms | Flex | 2-Car Garage | 2,486 - 2,500 Sq. Ft.



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The Sheridan 5 Bedrooms | 4 Bathrooms | Loft | 2-Car Garage | 3,236 - 3,265 Sq. Ft.



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# inspired by you<sup>\*</sup>

The Wakehurst 4 Bedrooms | 2.5 Bathrooms | Flex | 2-Car Garage | 3,057 - 3,173 Sq. Ft.



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ELEVATION E



ELEVATION F

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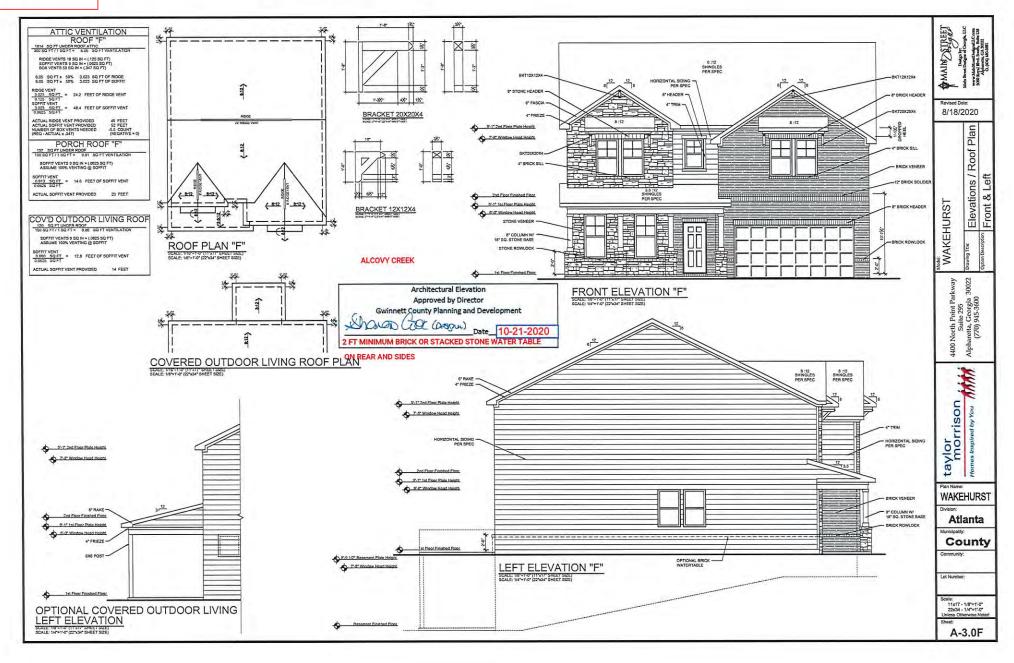




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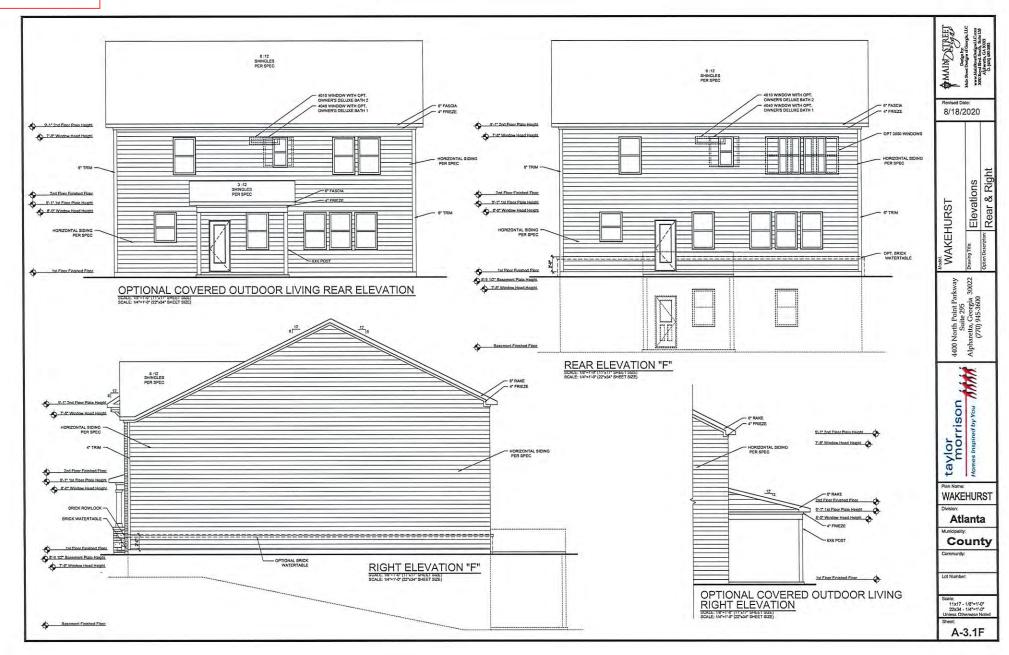
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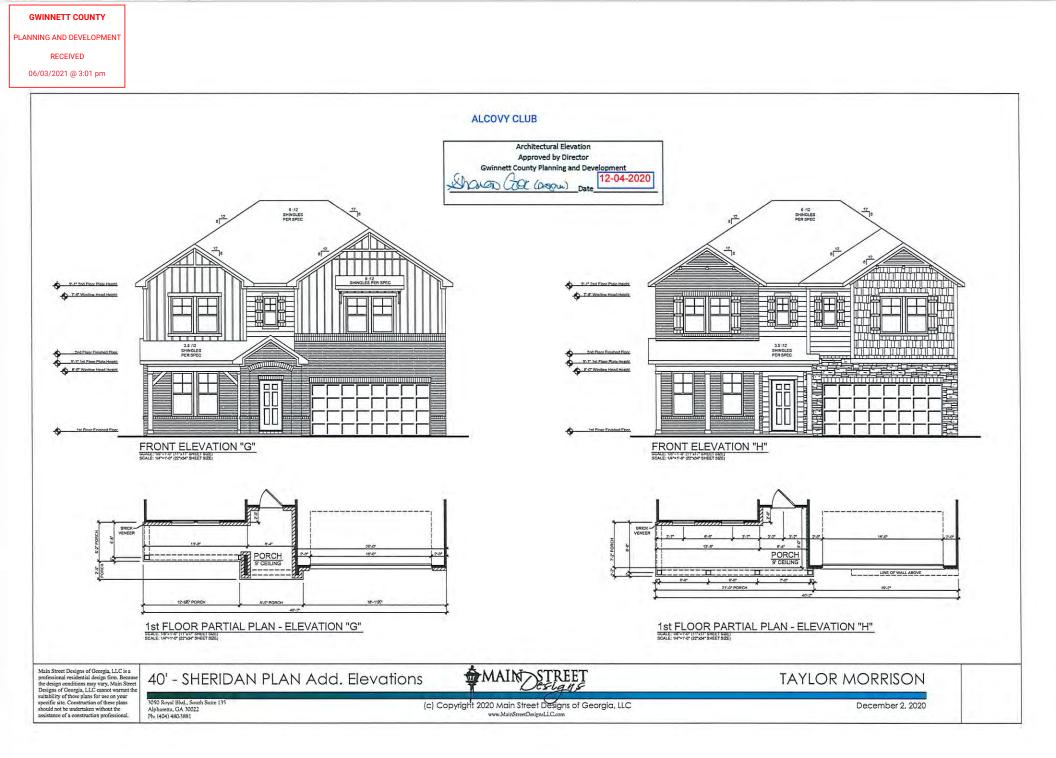
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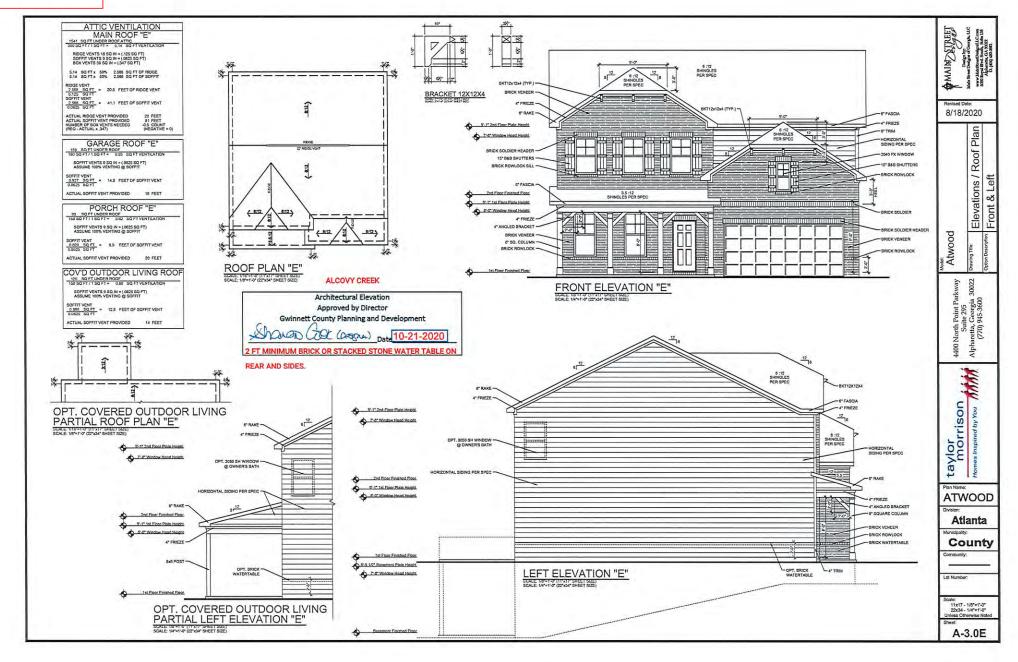
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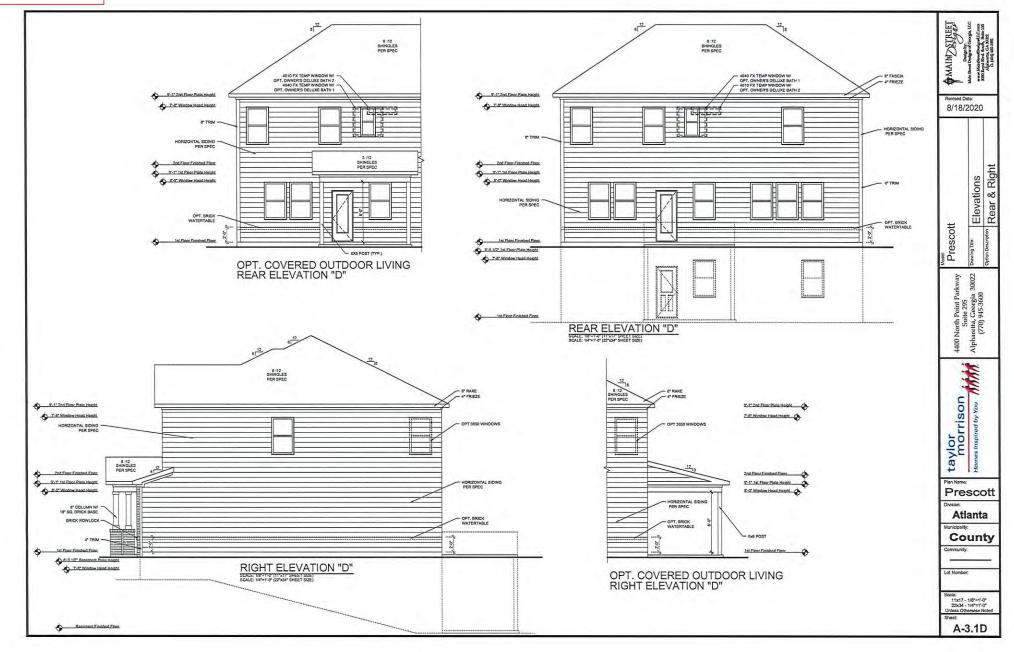


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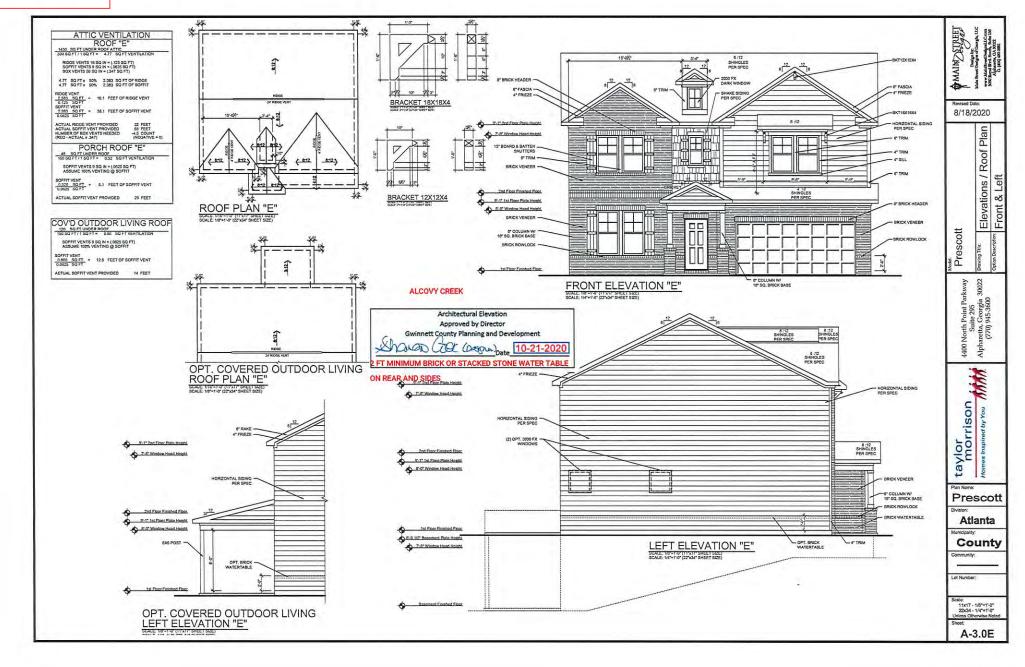




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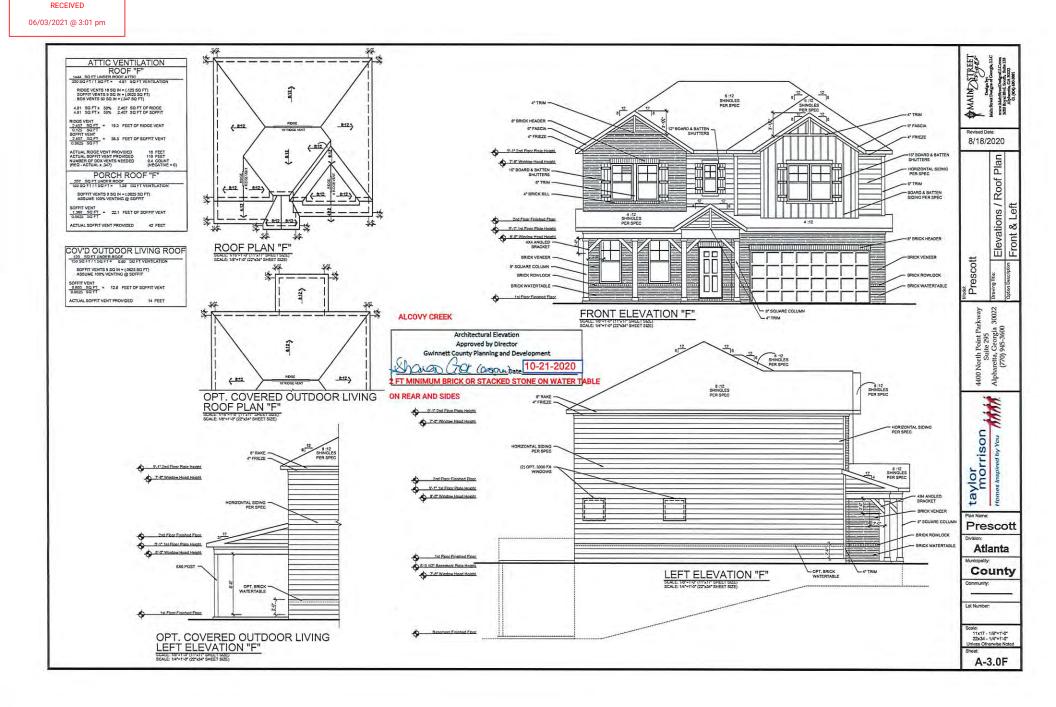




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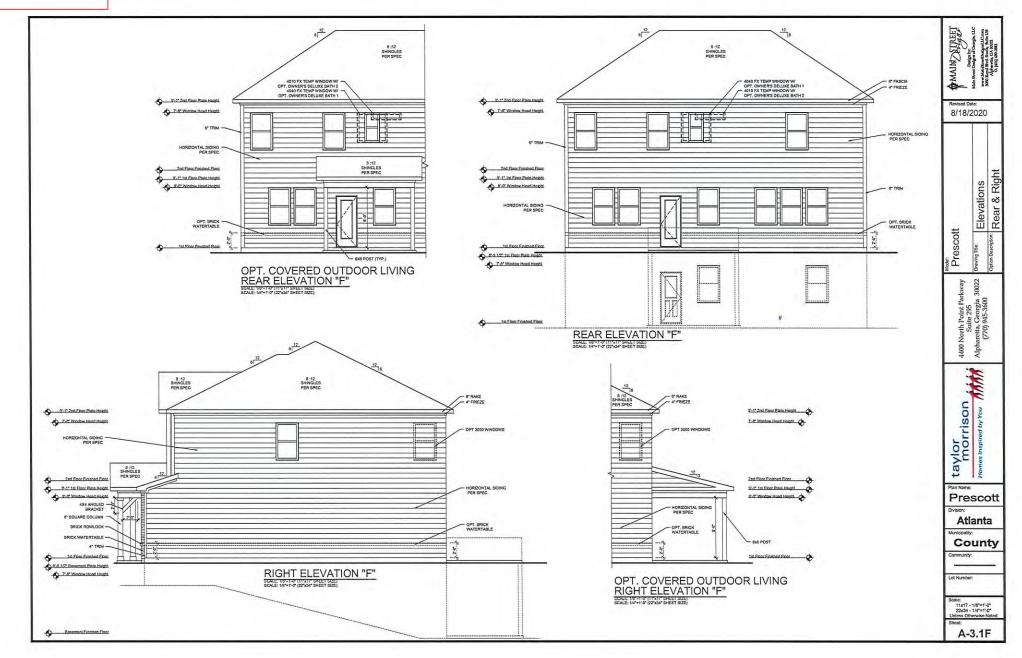






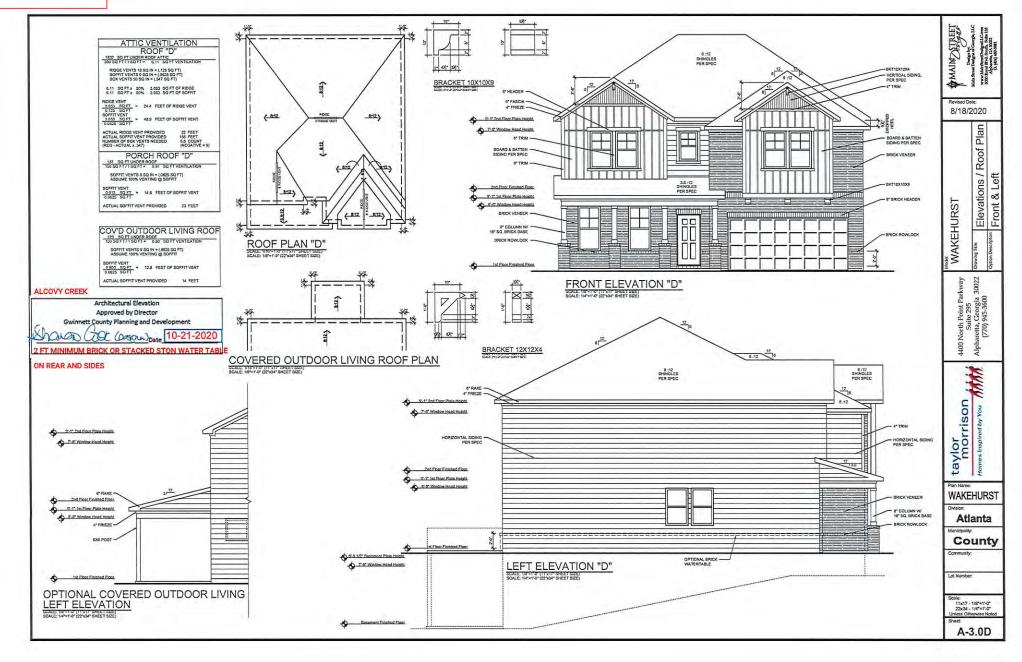
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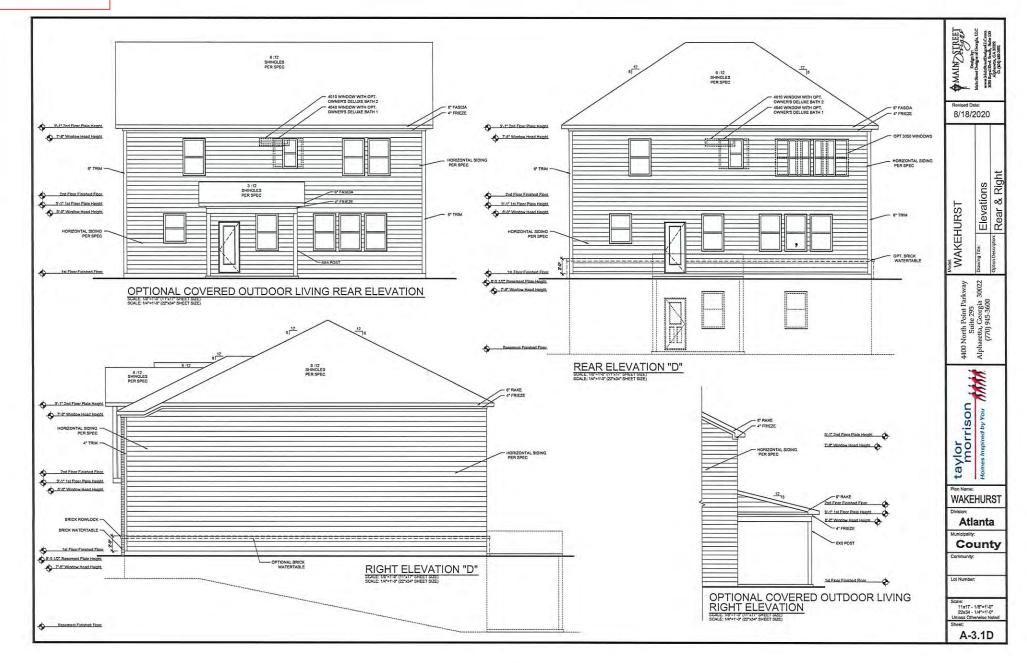
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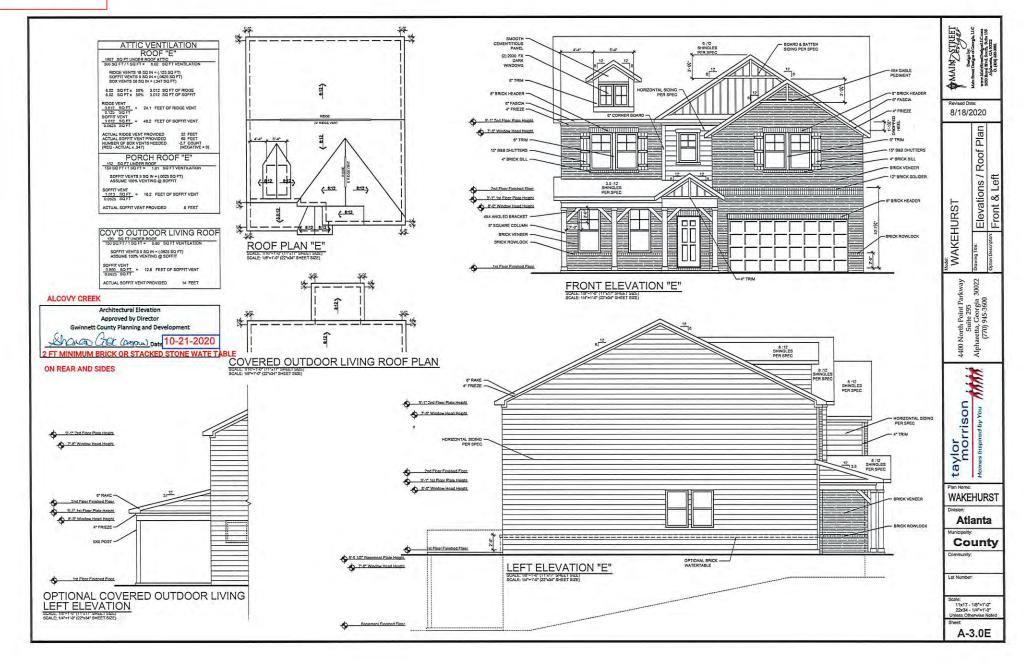
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PLANNING AND DEVELOPMENT

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GWINNETT COUNTY PLANNING AND DEVELOPMENT RECEIVED 06/03/2021 @ 3:01 PM

# ROBERT JACKSON WILSON, PC

ATTORNEY AT LAW

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ROBERT JACKSON WILSON

jwilson@rjwpclaw.com

April 16, 2021 .

Department of Community Affairs 60 Executive Park South, NE Atlanta, GA 30329

> RE: City of Dacula, Georgia Deannexation Report A Portion of Tax Parcel R5236-001 (13.61 Acres)

Dear Sir or Madam:

This law firm represents the City of Dacula, Georgia. The purpose of this letter is to provide the written deannexation report for the City pursuant to O.C.G.A. § 36-36-38 and 36-36-3.

The City of Dacula has deannexed the property described herein and shown on the maps enclosed with this letter. The City annexed the property by vote of the Mayor and Council on April 1, 2021, after the public hearing. The City provided written notice to Gwinnett County as required by law. The County did not object to the deannexation.

The City intends to remove the deannexed area from maps provided by the U. S. Bureau of the Census during their next regularly scheduled boundary and annexation survey of the City, and the survey and map will be completed as instructed and returned to the U. S. Bureau of Census in accordance with the terms of the statute. Should you have any questions or need any additional information, please do not hesitate to contact me.

With best regards, I am

Sincerely yours.

Robert Jackson Wilson

RJW/bka Enc. cc: City of Dacula, Georgia Gwinnett County Tax Assessors Office Shane Lanham, Mahaffey Pickens Tucker, LLP

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Case Number: 2021-CD-DEAX-01

# AN ORDINANCE

AN ORDINANCE TO DEANNEX PROPERTY FROM THE CITY OF DACULA, GEORGIA, PURSUANT TO CHAPTER 36 OF TITLE 36 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the governing authority of the City of Dacula:

# SECTION 1.

The following area contiguous to the City of Dacula as described in Appendix A, which is attached to and incorporated as part of this Ordinance, said tract also designated as a portion of Tax Parcel R5236-001 is hereby deannexed from the City of Dacula and is made part of unincorporated Gwinnett County.

# **SECTION 2.**

This ordinance shall become effective on the  $1^{st}$  day of <u>April, 2021</u> for Ad Valorem tax purposes and for all other purposes shall be effective on the first day of the month following the date of this Ordinance.

# **SECTION 3.**

The City Administrator of the City of Dacula is instructed to send certified copes of this ordinance, together with a map and complete survey by a competent surveyor of the area annexed to the Secretary of State of Georgia, to the Director of the Elections Division of the Secretary of State of Georgia, and to the governing authority of Gwinnett County within thirty (30) days after the effective date of the annexation as set forth above in Section 2.

## **SECTION 4**.

This Ordinance will be effective immediately upon its passage and approval.

# SECTION 5.

All ordinances and parts of ordinances in conflict within this ordinance are repealed.

AND BE IT SO ORDAINED by the governing authority of the City of Dacula, this  $1^{st}$  day of <u>April, 2021</u>.

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AYES: <u>3</u>

NAYES: 0

APPROVED X or VETO

Hugh D. King, IIÌ, Mayor

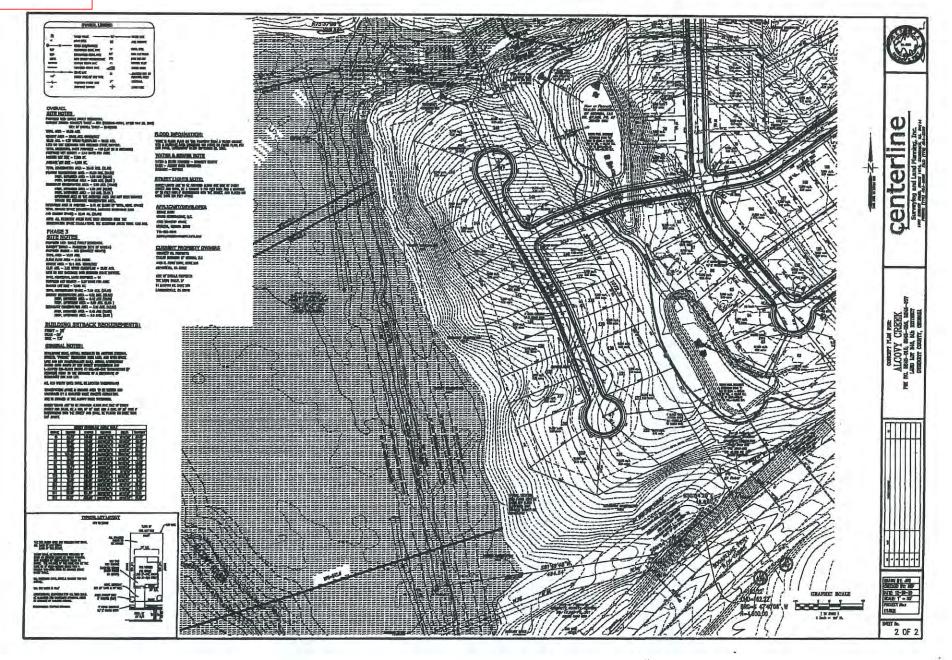
ATTEST:

Murphy, City Administrator Joe

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## SURVEY LEGAL DESCRIPTION

## ALCOVY

All that tract or parcel of land lying and being in Land Lot 236, of the 5th District, in the City of Dacula, Gwinnett County, Georgia, and being more particularly described as follows:

**BEGINNING** at a point located at the intersection of the northwesterly right-of-way of Sugarloaf Pkwy (R/W varies) and the common land lot of land lots 236 and 24, said point being the **TRUE POINT OF BEGINNING**; thence running along said northwesterly right of way along a curve to the left an arc distance of 162.22 feet (said arc being subtended by a chord of S47\*40'06"W – 162.22 feet and having a radius of 4,600.00 feet) to a point; thence continuing along said right of way and running S59\*54'13"W for a distance of 51.77 feet to a point; thence continuing along said right of way and running S81\*49'48"W a distance of 494.54' to an iron pin set (#4 rebar); thence leaving said right of way and running N12\*14'29"W a distance of 1117.69 feet to an iron pin set (#4 rebar); thence running N75\*3739"E for a distance of 339.52 feet to an iron pin found (#4 rebar) located on the common land lot line of land lot 236 and 245 and the boundary line between City of Dacula and unincorporated Gwinnett County; thence running along said land lot line S30\*02'07"E for a distance of 1,072.31 feet to a point; thence running S30\*54'29"E for a distance of 49.82 feet to a point, which is the **TRUE POINT OF BEGINNING**. Said tract contains 592,742 s.f. (13.61 acres).