REZONING(S): RZ-2021-001

CITY OF SUWANEE REZONING

CASE NUMBERS: RZ-2021-001

REQUESTS: C-2A (SPECIAL COMMERCIAL DISTRICT) TO

M-1 (LIGHT INDUSTRY DISTRICT)

LOCATIONS: SAWMILL DRIVE EAST OF LAWRENCEVILLE-

SUWANEE ROAD

TAX ID NUMBERS: 7-170-004

ACREAGE: APPROXIMATELY 26.44 ACRES

PROPOSED DEVELOPMENT: 332,500 SQUARE FOOT DISTRIBUTION

FACILITY

APPLICANT: SAWMILL INDUSTRIAL PARTNERS, LLC c/o

ANDERSON, TATE, & CARR, P.C.

1960 SATELLITE BOULEVARD, SUITE 400

DULUTH, GA 30097

OWNERS: ADAM FREEMAN

91 WEST WIEUCA ROAD, BUILDING A, SUITE 2000 ATLANTA, GA 30342

CONTACT: MELODY A. GLOUTON

CONTACT PHONE: 770-822-0900

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

PROJECT DATA:

The applicant requests a rezoning of approximately 26.5 acres located on Sawmill Drive near Lawrenceville-Suwanee Road from C-2A (Special Commercial District) to M-1 (Light Industry District) in order to allow for a 325,000 square foot distribution facility. The applicant is proposing a single-story industrial building. Approximately 80 car spaces are proposed along the east side of the property, 120 tractor trailer parking spaces would be divided between truck courts located along the north and south sides of the building, and along the west side of the building would be a driveway connecting the 2 truck courts and a stormwater detention facility. Access is proposed via a single driveway onto Sawmill Drive.

ZONING HISTORY:

The subject property was annexed into the City and rezoned to C-2A in 2000 per RZ-2000-021. It was also part of a more recent request to rezone to RM-8 (Multi-family District) per RZ-2014-008. This request was denied by the City, and the applicant subsequently filed a lawsuit against the City. The City ultimately prevailed and as a result the property is still zoned C-2A.

DEVELOPMENT COMMENTS:

The following comments are provided to make the owner/developer aware of certain issues that may need to be addressed if the requested zoning is approved. If approved, the City will formally review the project during the normal development process.

The subject property contains a couple of streams that would be considered state waters. These streams are subject to buffer requirements found in the Soil Erosion and Sedimentation Control Ordinance and the Stream Buffer Protection Ordinance. In order to develop the property as currently shown, both the state and the City would need to approve variances to the state and local stream buffer requirements. Portions of the property would be considered wetlands. The U.S. Army Corp of Engineers regulates intrusions into the wetlands and the mechanisms for mitigating impacts on the wetlands. It is likely that the applicant will need to obtain an individual permit from the U.S Army Corp of Engineers in order to develop the property as shown. The applicant is aware of these regulations.

The City of Suwanee landscape ordinance requires an over-story tree to be planted within a 200 square foot island every 7 spaces. The parking lot on the concept plan does not reflect this requirement. The landscape ordinance also has certain tree preservation and replacement requirements. One of these requirements is that any tree removed that is larger than 24" DBH requires compensation at twice the amount of the assigned tree density units. As the site is heavily wooded with mature trees the applicant should be aware of these requirements and prepared to comply.

The City has adopted architectural standards that apply to property zoned to the M-1 zoning district. This ordinance regulates the types of materials that may be used on buildings in the district, among other requirements. The applicant states in their application that they are aware of these requirements and are prepared to comply with them.

ANALYSIS:

The subject property totals approximately 27 acres and is zoned for C-2A uses. The property is densely vegetated and contains steep topography and 2 streams. Although encumbered by difficult terrain and streams the subject property does contain adequate acreage to accommodate the proposed development. As currently shown, the development will require approvals from various state and federal environmental agencies, as well as approval of variances from local regulations. The property will not be able to accommodate a single story 325,000 square foot building without these variances.

The subject property is located in the highly commercialized Suwanee Gateway character area. To the west of the subject property is a Wal-Mart and an associated shopping center both zoned C-2A. To the south of the subject property is a shopping center formerly anchored by a business supply store zoned C-2A. There are also hotels (one zoned C-2A and the other C-3), undeveloped land, and a liquor store, zoned C-2, C-2A, and C-3, located to the south of the property. To the north of the subject property is M-1 zoned property developed with an office warehouse (similar to what is proposed on the subject property) that accesses Satellite Boulevard. Across Sawmill Drive, to the east, are undeveloped commercially zoned tracts, an M-1 zoned tract developed with a self-storage facility, and I-85.

The subject property is located in the Suwanee Gateway character area. The future land use plan calls for high density office in this location. The 2040 Comprehensive Plan states, in regard to the Suwanee Gateway area, "future land use should be dominated by office and commercial mixed-use, with retail and hospitality capitalizing on the improvements." It also states in reference to the subject property, "West of the interstate, the undeveloped parcel behind the existing Office Depot shopping center could form the core of a new office park development that extends to the I-85 frontage." The subject property is challenged by difficult topography and streams. It is partially because of these challenges that the comprehensive plan calls for high intensity office. Multistory office buildings with smaller footprints would be more easily accommodated on the property than a large foot print single story building. When the plan was under consideration it was not considered likely that a user would pursue the steps necessary to develop a large foot print single story building. The proposed plan is not consistent with the high density office designation. However, the proposed use is not entirely inconsistent either. Uses consistent with the proposal are common along the length of nearby Satellite Boulevard. Office jobs are often a part of this type of development.

The nearest intersection from the subject property is at Lawrenceville-Suwanee Road. Sawmill's access onto Highway 317 is via right-in/right-out only. While this works fine for smaller vehicles, this could be problematic for larger trucks that would need to do a u-turn at Satellite Boulevard in order to get onto I-85. As such, if approved, a condition should be included that requires traffic leaving the property to turn left out of the property. This would take traffic to Satellite Boulevard and from there it would be much less disruptive for larger trucks to access I-85.

In conclusion, the site is located within the Suwanee Gateway area. The proposed use is not entirely consistent with the comprehensive plan. The possibility of an office/warehouse type use at this location was not considered to be a likely use at this location because of the environmental constraints and the challenges involved in overcoming them. However, it is consistent with the office/warehouse and distribution uses nearby and located along much of Satellite Boulevard. The applicant will be responsible for pursuing relief from environmental related constraints. Staff recommends **APPROVAL WITH CONDITIONS** of RZ-2021-001.

Planning Department Recommended Conditions: **RZ-2021-001**

The Planning Department recommends approval of the request for a rezoning from C-2A to M-1 in order to allow for a distribution facility subject to the following condition(s):

1. Access onto Sawmill Drive from the property shall be limited to left turns only. The design of the driveway shall reflect this limitation.

Standards Governing Exercise of Zoning Power

Pursuant to Section 2006 of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the unrestricted use of property and shall govern the exercise of the zoning power therewith.

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

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

B. Whether the zoning proposal will adversely affect the existing uses or usability of adjacent or nearby property;

The rezoning would not adversely affect the existing uses or usability of adjacent or nearby properties.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The property has a reasonable economic use as currently zoned.

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

The proposal likely will not result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools, however, trucks in particular should be limited to a left turn coming out of the subject property. This would reduce potential negative impacts of trucks attempting to gain access onto I-85 from the subject property.

E. Whether the zoning proposal is in conformity with the policy and intent of the Land Use Plan;

The 2040 Future Land Use Map shows this property as high density office. The request is not consistent with the Future Land Use Map.

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 zoning proposal;

While the proposed use is generally not consistent with the future land use plan, the applicant's willingness to pursue time consuming regulatory processes is not something that the comprehensive plan anticipated. The low vacancy rate for industrial facilities combined with increased demand for distribution type facilities makes pursuing these alternatives more acceptable to the market.

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF CITY OF SUWANEE, GEORGIA

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APPLICANT INFORMATION*	OWNER INFORMATI	ION*	
NAME: Sawmill Industrial Partners, LLC c/o	NAME: Adam Freeman		
ADDRESS: Andersen, Tate & Carr, P.C.	ADDRESS: 91 W. Wieuca Rd. NE		
1960 Satellite Blvd., Suite 4000	Building A, Suite 2000		
Duluth, GA 30097	Atlanta, GA 30342		
PHONE: 770-822-0900	PHONE: 404-314-2398		
CONTACT PERSON: Melody A. Glouton CO	NTACT PHONE: 770-822-0900		
EMAIL ADDRESS: mglouton@atclawfirm.com FA	AX NUMBER: 770-822-9680		
PROPERTY INFORMATION			
PRESENT ZONING DISTRICT(S): C-2A REQUESTED ZONING DISTRICT M-1			
PROPOSED DEVELOPMENT: Distribution facility			
TAX PARCELNUMBER(S): R7170 004			
ADDRESS OFPROPERTY: 0 Sawmill Dr., Suwanee 30024			
TOTAL ACREAGE: 26.4482 PUBLIC ROADWAY ACCESS: Sawmill Drive			
FOR RESIDENTIAL DEVELOPMENT:	FOR NON-RESIDENTIAL DEVE	LOPMENT:	
NO. OF LOTS/DWELLING UNITS:	NO. OF BUILDINGS/UNITS: 1		
DWELLING UNIT SIZE (SQ. FT.):	TOTAL GROSS SQUARE FEET:	332,500 SF	
CERTIF I hereby certify that the above and attached information is a 2004 no reapplication on the same land which has been demonths from the date of last action unless said time period acted upon in less than 6 months from the date of last action 2003 of the Zoning Ordinance any and all conditions which property and all subsequent owners.	nied by the City Council shall be acted up is waived by the Council. In no case sha on by the Council. I am also aware that p	pon within 12 all a reapplication be ursuant to Section	
Melader A. May bar 1/28/21	See additional page		
Signature of Applicant ME W. 80 Date 1/28/21	Signature of Owner*	Date	
Print Name* Date	Print Name*	Date	
Signature of Notary My Comm. Exp. Date	Signature of Notary	Date	
* If Additional Applicant or Owner Information is Needed Please C	Complete Additional Application Form(s)		
**************************************	**************************************	*****	

Date Received: 129 2 Case No.: PZ-2021-00 Accepted By: AD

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF CITY OF SUWANEE, GEORGIA

APPLICANT INFORMATION*	OWNER INFORMATION*	
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FOR RESIDENTIAL DEVELOPMENT:	FOR NON-RESIDENTIAL DEVELOPMENT:	
NO. OF LOTS/DWELLING UNITS:	NO. OF BUILDINGS/UNITS: 1	
DWELLING UNIT SIZE (SQ. FT.): TOTAL GROSS SQUARE FEET: 332,500 SF		
CERTIFICATIONS		
I hereby certify that the above and attached information is true and correct. I am also aware that pursuant to Section 2004 no reapplication on the same land which has been denied by the City Council shall be acted upon within 12 months from the date of last action unless said time period is waived by the Council. In no case shall a reapplication be acted upon in less than 6 months from the date of last action by the Council. I am also aware that pursuant to Section 2003 of the Zoning Ordinance any and all conditions which may be attached to the property shall be binding on the property and all subsequent owners.		
	al 28 21	
Signature of Applicant* Date	Signature of Owner Pate Date	
Print Name* Date	Trint Name Date Date	
Signature of Notary Date	Signature of Notary	
* If Additional Applicant or Owner Information is Needed Please Complete Additional Application Form(s)		
CITY OF SUWANEE USE ONLY		
Date Received: 1/29/21 Case No.: RZ-2021-001 Accepted By: A 2011-00		
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	" Seemman with	

LETTER OF INTENT AND RESPONSE TO STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

and other materials required by the Code of Ordinances, City of Suwanee, Georgia for the Rezoning Application

of

SAWMILL INDUSTRIAL PARTNERS, LLC

for

±26.4482 Acres of Land Located at 0 Sawmill Drive, Suwanee, Georgia 30024 Land Lots 169 and 170, 7th District, City of Suwanee, Gwinnett County, Georgia

From C-2A to M-1

Submitted for Applicant by:

Melody A. Glouton, Esq.
Andersen Tate & Carr, P.C.
One Sugarloaf Centre
1960 Satellite Blvd.
Suite 4000
Duluth, Georgia 30097
770.822.0900
mglouton@atclawfirm..com

I. INTRODUCTION

This Application for Rezoning is submitted for a 26.4482 parcel of land located in Land Lots 169 and 170 of the 7th District of Gwinnett County, City of Suwanee, and known as 0 Sawmill Drive (hereinafter the "Property"). The Property is shown on the survey prepared by Hayes James dated January 15, 2021 and filed with this Application.

The Property is currently zoned C-2A (Special Commercial District – Alcoholic Beverage Sales). The Applicant, Sawmill Industrial Partners, LLC ("Sawmill") now seeks approval to rezone the entire Property to M-1 (Light Industrial District) to permit development of a Distribution Facility, totaling approximately 332,500 square feet.

This document is submitted as the Letter of Intent, Response to Standard Governing the Exercise of Zoning Power, and other materials required by the Zoning Ordinance of the City of Suwanee, Georgia.

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is a rectangular tract fronting Sawmill Drive and Interstate I-85. It is bounded on the Northeast by five large warehouse / distribution facilities, which maintain access via Satellite Blvd. To the Southwest of the Property is Office Depot, Red Roof Inn, Super 8 Motel, Suwanee Package Store, Ulta Car Wash, Chevron, Suwanee Smoke Shop, and Burger King, all which have access to Lawrenceville-Suwanee Road. The Property is undeveloped and heavily wooded. The adjacent parcels are zoned M-1, C-2A, and C-2 and improved with service businesses, convenience stores, gas stations, motels, fast food restaurants, and distribution facilities.

The Property lies within "Suwanee Gateway Character Area," which includes the four quadrants of the I-85 interchange. The major goal of the redevelopment in this Character Area is economic development that increases and diversifies employment opportunities over time. Proximity of the I-85 interchange and other major roadways make this node a regional activity center that can accommodate uses that have both a local and regional draw. As indicated, the Property is undeveloped and surrounded by mostly developed warehouse and light industrial uses. These existing warehouse properties contribute to the industrial base of the City's economy. The Property is located in an area where Light Industrial zoning has proven to be successful and higher intensity commercial uses are appropriate land uses.

III. PROJECT SUMMARY

As shown on the conceptual site plan prepared by Atlas Technical Consultants, LLC dated December 30, 2020 and filed with this Application (hereinafter the "Site Plan"), Sawmill proposes to develop the Property with one, single-story, 332,500 square foot industrial warehouse / distribution facility, including approximately 120 trailer parking spots and 80 surface parking spots. One entrance is proposed onto Sawmill Drive. Storm water

management facilities will be designed and installed in accordance with the City of Suwanee Soil Erosion and Sedimentation Control Ordinance, as well as the City of Suwanee Development Regulations related to Stormwater Detention. The building façade will be in compliance with the City of Suwanee Architectural and Design Standards for buildings within M-1 zoning districts and more particularly described in Table II (Allowed Building Materials). The Property is located immediately adjacent to large-scale industrial uses and the proposed warehouse distribution facility is an appropriate in-fill development which is compatible with surrounding land uses. As a result, the proposed development will be compatible with the surrounding uses and will blend harmoniously into the area.

IV. RESPONSE TO STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

The Applicant provides the following information in response to the required analysis:

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

Yes, the proposed development will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed development will be an approximately 332,500 square foot distribution facility, which is the same type of structure as the five buildings on parcels directly adjacent to the northeast. Most of the surrounding property is zoned M-1 and use of the Property for Light Industrial is appropriate for this area considering its proximity to the I-85 interchange. The recent denial of the City Council to rezone the Property to multifamily reflects a policy determination to support commercial uses and development at a larger scale.

(B) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

No, approval of the proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby properties from an environmental, noise, easement, accessibility, traffic, or any other standpoint. The Proposed Development will have a final grade that is lower than adjacent properties, which will accommodate runoff and reduce noise. Site access will be via Sawmill Drive that does not conflict with existing ingress and egress of adjacent parcels. Moreover, the immediate area already has several industrial uses and the additional of the proposed development would be complementary to what is already in the vicinity.

(C) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The Applicant submits that due to the size, location, layout, topography, market conditions, and natural features of the Subject Property, it does not have reasonable economic use as currently zoned. The current property, as zoned C-2A, does not have left-turn access back to Lawrenceville-Suwanee Road, and has been undeveloped since purchased by the

current owner. The property does not have reasonable economic use as a commercial property given current lack of access and because it is hidden from view from any major roadways. Consequently, the Property is likely to remain undeveloped under the current zoning.

(D) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

No, the proposed development will not result in an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. We have received utility availability letters from local jurisdictions and do not foresee any burdens on existing utilities. More importantly, industrial facilities, especially distribution centers, use minimal water and sewer capacity.

(E) Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Yes, the proposed rezoning substantially conforms to the policy and intent of the land use plan. The City of Suwanee 2040 Comprehensive Plan identifies this specific parcel as potential commercial/retail/office within the Suwanee Gateway Character Area, but the positioning of the site does not support this as a commercial development. While the parcels along Lawrenceville-Suwanee and Satellite Blvd. have appropriate access and view from major roadways, this infill parcel is the only one on the land use map that is truly isolated. In addition, the Property is adjacent to existing industrial uses.

(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 zoning proposal.

Given the position of the Property and its proximity to existing industrial, as well as the I-85 Interchange, the proposed development is an appropriate use for this site. The warehouse / distribution facility will allow the Property to be developed and generate tax revenue for both the City and Gwinnett County.

V. <u>JUSTIFICATION FOR REZONING</u>

The Applicant respectfully submits that "The 1998 Zoning Ordinance of the City of Suwanee, Georgia" (the "Ordinance"), as amended from time to time, to the extent that it classifies the Property in any zoning district that would preclude development of a warehouse / distribution facility, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the Mayor

and Council of the City of Suwanee to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current zoning classification and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute and arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested rezoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Mayor and Council of the City of Suwanee cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking o the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably with the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See Guhl v. Holcomb Bridge Road Corp., 238 Ga. 322 (1977).

VI. <u>CONCLUSION</u>

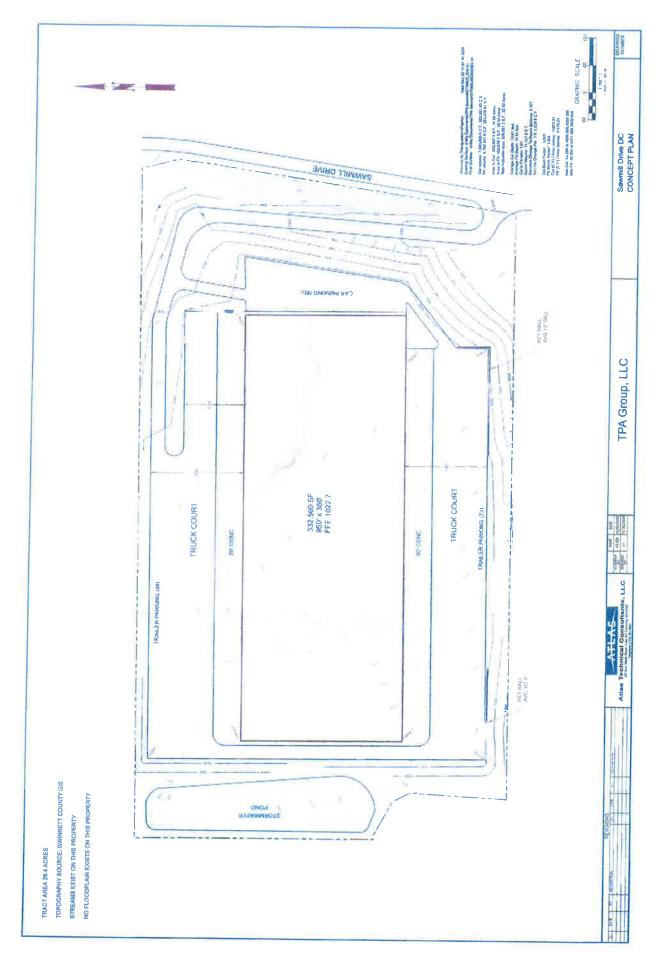
For the foregoing reasons, the Applicant respectfully requests that this Application to Rezone from C-2A to M-1 be approved. The Applicant welcomes the opportunity to meet with the City of Suwanee's Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 28.00 day of January, 2021.

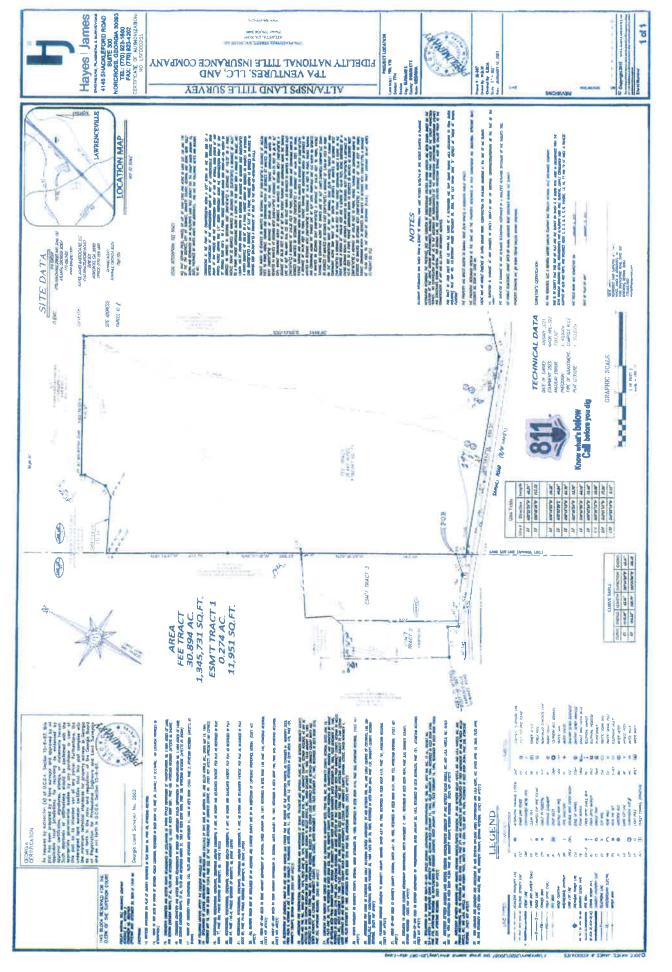
ANDERSEN, TATE & CARR, P.C.

Melody A. Glouton, Esq.

Enclosures MAG/ag



RZ-2021-001





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Location Map

Legend



RZ-2021-001

