

PLANNING AND DEVELOPMENT DEPARTMENT
2875 BROWNS BRIDGE ROAD, GAINESVILLE, GA, 30504
MAILING ADDRESS: PO BOX 1435, GAINESVILLE, GA 30503
t: 770-531-6809 | f: 770-531-3902



ZONING APPLICATION

Applicant (Name & Mailing Address)

Forestar (USA) Real Estate Group Inc.

3330 Cumberland Blvd., Suite 275

Atlanta, GA 30339

Phone 770-781-4100

Email Address eunderwood@mhtlegal.com / tfisher@mhtlegal.com

Proposed Use Single Family Residential

Property Owner (Name & Mailing Address)

Pacific Crest Management, LLC

3118 Willowstone Drive

Duluth, GA 30096

Phone 770-530-2132

Email Address newfieldchp@gmail.com

Contact Person (Name & Mailing Address)

Miles Hansford & Tallant, LLC - J. Ethan Underwood

202 Tribble Gap Road, Suite 200

Cumming, GA 30040

Phone 770-781-4100

Email Address eunderwood@mhtlegal.com / tfisher@mhtlegal.com

Tax Parcel Number 15016000030A

Location Address 2955 Gillsville Highway, Gainesville, GA 30507

Status of Applicant

☐ Owner

☒ Option to Purchase

☐ Area Resident

☐ Other

Requested Action

Existing Zoning: R-1

Rezone to: PRD

Fee: \$

Receipt #:

Check #:

Acreage 346.66

I hereby certify that the above information and all attached information are true and correct.

Sign Ethan Underwood Date: 10/19/21

Applicant must complete all information above. Failure to complete this section will result in the refusal of the application. The Planning Department has 15 days to review all applications and will set the dates for each application. If the application is found insufficient, an agenda date will not be set until the required information is submitted. Please note that the Planning Commission and County Commission dates are tentative.

Application Withdrawal: I hereby **withdraw** the application.

Sign _____ Date: _____

Staff Use Only

Application Date: _____ Taken by: _____

Tentative Planning Commission Date: _____ Tentative County Commission Date: _____

County Commission District: _____

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CAMPAIGN CONTRIBUTIONS DISCLOSURE FORM

This form must be completed by the applicant and property owner, or person representing the property owner, for all zoning actions.

OCGA § 36-67A-3[C] Disclosure of campaign contributions:

- (b) When any applicant for zoning action has made, within two years immediately preceding the filing of the applicant's application for the zoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
- (3) The name and official position of the local government official to whom the campaign contribution was made; and
- (4) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- (b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the zoning action is first filed. (Code 1981, Section OCGA § 36-67A-3[C], enacted by GA L. 1986, page 1269, Section 1, GA L. 1991, page 1365, Section 1).

I hereby certify that I have read the above and that:

I have** _____ I have not X

within the two years immediately preceding this date, made any contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

****If you have made such contributions, you must provide the data required below within ten (10) days of filing this application.**

Name of Official(s): _____

Office: _____

Dollar Amount: _____

Date of Contribution: _____

Applicant's/Owner's Signature: Eric Masaschi
DocuSigned by: ESE1507917A64A9...

Date: 10/25/2021

Applicant's/Owner's Name (Printed): Eric Masaschi, Forestar (USA) Real Estate Group Inc.

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AUTHORIZATION OF PROPERTY OWNERS

Note: If the applicant is the property owner, please disregard this form.

Name of owner(s) Pacific Crest Management, LLC

Address 3118 Willowstone Drive
Duluth, GA 30096

Phone Number 770-530-2132

Name of applicant(s) Forestar (USA) Real Estate Group Inc.

Address 3330 Cumberland Blvd., Suite 275
Atlanta, GA 30339

Phone Number 770-781-4100

I swear that I am the owner of the property which is the subject matter of the attached applications as shown in the records of Hall County, Georgia.

I authorize the person named above to act as applicant in the pursuit of a rezoning, permissive use, or variance of this property.

Signature of Owner(s)

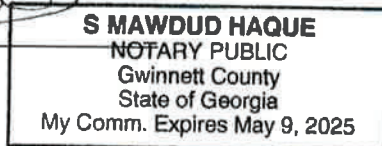
[Handwritten Signature]

Personally appeared before me

CHANG-HO PARK

who swears that the information contained in this authorization is true and correct to the best of his/her knowledge and belief.

Notary Public



10/25/2021

Date

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I hereby certify that I have read the above and that:

I have** _____ I have not X

within the two years immediately preceding this date, made any contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

**If you have made such contributions, you must provide the data required below within ten (10) days of filing this application.

Name of Official(s): _____

Office: _____

Dollar Amount: _____

Date of Contribution: _____

Applicant's/Owner's Signature: _____

Date: 10/25/2021

Applicant's/Owner's Name (Printed): Chang Ho Park, Pacific Crest Management, LLC



202 Tribble Gap Road | Suite 200 | Cumming, Georgia 30040

178 S Main Street | Suite 310 | Alpharetta, Georgia 30009

770-781-4100 | www.mhtlegal.com

J. Ethan Underwood
eunderwood@mhtlegal.com

November 1, 2021

CAMPAIGN DISCLOSURE

Applicant:	Forestar (USA) Real Estate Group Inc.
Subject Property:	Approximately 346.66 Acres Designated as Hall County Tax Parcel(s): 15016000030A
Current Zoning:	R-1 – Residential-I
Proposed Zoning:	PRD – Planned Development
Proposed Use:	399 Dwellings, Single-Family Detached & Townhomes
ROW Access:	Gillsville Highway
Application:	Rezoning
Governing Jurisdiction:	Hall County

Pursuant to O.C.G.A § 36-67A-1, *et seq.*, please be advised that Miles, Hansford & Tallant, LLC, has not given campaign contributions to any Hall County government officials.

This letter constitutes the disclosure of campaign contributions with respect to the above-referenced application and is forms a part of such application.

Sincerely,

Ethan Underwood
Attorney for Applicant

J. Ethan Underwood
eunderwood@mhtlegal.com

RESERVATION OF CONSTITUTIONAL AND OTHER LEGAL RIGHTS

Applicant:	Forestar (USA) Real Estate Group Inc.
Subject Property:	Approximately 346.66 Acres Designated as Hall County Tax Parcel(s): 15016000030A
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ROW Access:	Gillsville Highway
Application:	Rezoning
Governing Jurisdiction:	Hall County

This Reservation of Constitutional and Other Legal Rights (“the Reservation”) is intended to supplement and form a part of the land use application (including any request for zoning, conditional use permit, site plan approval, and variances) (collectively, the “Application”) of the Applicant and the owners of the Subject Property and to put the Governing Jurisdiction on notice of the Applicant’s assertion of its constitutional and legal rights.

The Applicant has filed a timely application, has provided all required information and has submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

The Applicant objects to the standing of any opponents who are not owners of land adjoining the Subject Property and to the consideration by the Governing Jurisdiction of testimony or evidence presented by any party without standing in making its decision regarding the Application. The Applicant also objects to the consideration of testimony or evidence that is hearsay, violates any applicable rules of procedure or evidence, or that is presented by any party who fails to comply with notice and campaign disclosure requirements.

The Current Zoning (and/or zoning conditions) of the Subject Property is unconstitutional and deprives the Subject Property and all viable economic use thereof. The Proposed Use is the only viable economic use of the Subject Property, and the Governing Jurisdiction has deemed this Application necessary to allow the Proposed Use. As such, the Applicant and owners file this Application for the purpose of changing the Current Zoning (and/or zoning conditions) to facilitate the Proposed Use, and to exhaust administrative remedies in the event the Application is denied. The Applicant and owners reserve the right to challenge the Current Zoning and any zoning conditions and other restrictions affecting the Subject Property.

Denial of the Application or approval of the Application in any form that is different than as requested by the Applicant will impose a disproportionate hardship on the Applicant and Owners of the Subject Property without benefiting any surrounding property owners. There is no reasonable use of the Subject Property other than as proposed by the Application and no resulting benefit to the public from denial of or modification to the Application.

Any provisions in the applicable land use, subdivision, and /or zoning ordinances (collectively the "Zoning Ordinance") that classify, or may classify, the Subject Property into any of the non-requested zoning or use classifications, including the Proposed Zoning District and Proposed Use at a density or intensity less than that requested by the Applicant, are unconstitutional in that they constitute a taking of the Applicant's and Owner's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Subject Property is suitable for development as proposed in the Application and it is not suitable for development under any other zoning classification, use, or at a density or intensity less than that requested by the Applicant. Failure to approve the Application as requested by the Applicant would be an unreasonable application of local land use authority, which bears no relationship to the public health, safety, morality or general welfare of the public and would constitute an arbitrary and capricious abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the Governing Jurisdiction to approve the Application as requested by the Applicant will prohibit the only viable economic use of the Subject Property, will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Owner and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Furthermore, the Board of Commissioners cannot lawfully impose more restrictive standards on the Subject Property's development than are presently set forth in the Zoning Ordinance. To do so not only will constitute a taking of the Subject Property as set forth above, but it will also amount to an unlawful delegation of the Board's authority in response to neighborhood opposition, in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, as amended. Any conditions or other restrictions imposed on the Subject Property without the consent of the Applicant and Owner that do not serve to reasonably ameliorate the negative impacts of the development are invalid and void. As such, the Applicant and Owner reserve the right to challenge any such conditions or restrictions.

Finally, the Applicant and Owner assert that the Zoning Ordinance, Character Area Map, Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Applicant's request based upon provisions illegally adopted will deprive the Applicant and Owners of due process under the law.

This Reservation constitutes an Ante Litem Notice pursuant to O.C.G.A. § 36-11-1, which places the Governing Jurisdiction and all other agents of the Governing Jurisdiction, in their official and individual capacities, on notice of the Applicant's and owners' intent to seek monetary damages and attorney's fees against the Governing Jurisdiction for any rezoning action, zoning condition, illegal impact fee and any other unlawful restrictions and exactions that are imposed upon the Subject Property, the Applicant, or the owners.

By filing this Reservation, the Applicant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state, and local laws and ordinances, and in equity.

The Applicant and Owners respectfully request that the Application be approved as requested by the Applicant and in the manner shown on the Application, which is incorporated herein by reference. This Reservation forms an integral part of the Application, and we ask that this Reservation be included with the Applicant's other Application materials. The Applicant and owners reserve the right to amend and supplement this Reservation at any time.

Sincerely,



Ethan Underwood
Attorney for Applicant