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September 6, 2016

## ***VIA HAND DELIVERY AND E-MAIL***

City of Snellville  
c/o Mr. Jason Thompson  
Planning & Development Director  
Snellville City Hall, 2<sup>nd</sup> Floor  
2342 Oak Road  
Snellville, GA 30078

RE: Supplemental Letter in Support of the Variance Requests and pending Application for Rezoning and site plan changes, for the property located at Tree Land and Hampton Drive, Snellville, Georgia, for Applicants Senior Lifestyle Corporation and Griffin Fine Living

Dear Mr. Thompson and Mr. Dennis:

This letter serves to supplement the pending zoning applications by outlining the proposed and requested variances required in order to create a master-planned, senior development on the property left for development based on the prior zoning approvals.

Based on the proposed senior development, the new owner will agree to provide interparcel access and pedestrian easements to access the shared pond and future amenity area. Pedestrian circulation is proposed as part of that master plan. The site will also retain the current landscaped buffer and area between the two properties and the nearby residential development.

The property's location adjacent to the hospital and close proximity to the commercial/retail corridor along S.R. 124 make it ideal for the long-planned senior development, creating a transitional development where seniors and community members can "age in place". The development will include future interparcel access, outdoor amenities and open space, including bocce ball courts, parks, and walking trails, and will tie into the active detention pond to become a "lake-like" amenity and entrance feature.

The developer is proposing a master development at a much lower density than the current entitlements. The previous senior development was approved for the maximum density of 393 units, including 173 Senior Independent Living Apartments, 100 Assisted Living units, and 120 Skilled Nursing / Special Care, in addition to future senior residential units and a potential 51,000 square feet of medical office space.

As shown on the revised site plan submitted herewith, the developers seek to create a master senior community with a mixture of independent living and continuing care options that allow seniors and their families to age in place. However, in order to achieve that master plan, and because the City's Zoning Ordinances do not currently allow for the requested mixture of senior and residential uses, the Applicant is forced to request a number of variances in order to "fit" into the current RHOP-62 (CC) zoning district. Additionally, the Applicants have filed a zoning application to amend the zoning and land use plan for the adjacent strip of property currently zoned RS-150, and serving primarily as the buffer between the senior and neighboring residential uses. Those zoning and variance requests are all collectively shown in the master site plan dated September 1, 2016.

The approval of the requested variances, to allow for the proposed master plan, is consistent with and continues to meet all of the goals and intents of that zoning category, as well as the goals for the future land use and comprehensive plans for the property. Specifically, those plans continue to call for quality, senior housing options, especially on one of the last available tracts of land adjacent to Eastside Hospital.

The requested variances (the "Variances") under the R-HOP (62) CC (Continuous Care Campus) Zoning District, for the proposed senior development, future medical office, and CCRC dwellings (independent living, assisted living and/or memory care), include:

1. Density:
  - CCRC Independent Living Units 35 units/acres max
  - CCRC AL: .05 of IL Min, .30 of IL maxRequested Density:
  - CCRC Independent Living Units 35 units/acres Max.
  - CCRC AL: .05 of IL Min, 1.00 of IL max.
2. Minimum distance between buildings, Twenty-Five feet (25')
  - Requesting a 10 ft. min. distance between Independent Living Cottages.
3. Max Height: Requesting an increase and maximum of 65 ft.
4. Site & Landscape Design Standards:
  - 50' wide landscape strip along all exterior street frontages (Article XX)
5. Dwelling size, required:
  - a) Multi-story Dwelling: Min. 850 SF/1 BR, 1,000 SF/2 BR, 1200 SF/3+ BR  
The project requests the following unit sizes:
    - Independent Living Units: 450 SF/Studio, 650 SF/1 BR, 950 SF/2 BR
    - AL/MC units: 300 SF/Private Studio, 400 SF/Private 1 BR, 525 SF/2 BR
  - b) Single-Story Dwelling: Min. 1200 SF/home, Min. 1400 SF/3+ BR home.
    - The Project requests a universal 1,000 SF min.

6. Max. 75% of the property acreage coverage and development for a single use.
7. Requesting total site area reduction from 20 acres to approximately 15 acres as show on the Master Site Plan dated September 2, 2016.
8. Parking variances to allow 1 space/2 units for AL component of the project; and to allow for single car garage options for the IL cottages.
9. Requesting a reduction in the current architectural requirements, to permit a minimum of 30% of the proposed buildings to be brick or stone masonry.

The Applicants reserve the right to amend and update this list based on site plan revisions, input or recommendations from the City, staff and community.

Without the City's approval of this requested zoning and land use amendment, the literal interpretation of the Zoning Ordinance and previously approved senior uses and site plan would deprive the Applicants and property owner of the right commonly enjoyed by other properties in that same zoning district and by the overall single-family development to be rezoned on the adjacent and surrounding property. The requested rezoning and variances are necessary for any potential redevelopment of the Subject Property to be consistent with that rezoning and the variances previously approved for the Subject Property.

## **II. Constitutional Objections and Statutory Justifications:**

The portions of the Zoning Ordinance for the City of Snellville which classify or condition the Subject Property into any more or less intensive land use, zoning classification and/or zoning conditions other than as requested by the Applicants and property owner are and would be unconstitutional in that they would destroy the Applicants' and property owner'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 City of Snellville Zoning Ordinance, as applied to the Subject Property, which restricts its use to the present land use, zoning classification, regulations, requirements, and conditions is unconstitutional, illegal, null and void, constituting a taking of the Applicants' and the property 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, Paragraphs I and 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 Applicants and property owner any economically viable use of the Subject Property while not substantially advancing legitimate state interests.

The Subject Property is presently suitable for development, subject to the approval of the site plan, uses and variances requested by the Applicants, and is not economically suitable for development under its present zoning and development classification, conditions, regulations, and restrictions due to its location, existing design and structures, surrounding development, and other factors. A denial of any of the requested land use amendment, rezoning and variances would constitute an arbitrary and capricious act by the City of Snellville without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any zoning or variance action related to the Subject Property subject to conditions which are different from the zoning and variance requests by which the Applicants may amend their application, to the extent such different conditions would have the effect of further restricting the Applicants' and the property owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act by the Mayor and Council in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

The requested rezoning and land use amendment are consistent with the adjacent and existing senior uses and zoning designation. Approval of the requested rezoning, land use amendment and variances will allow the Applicants to continue to meet the intent for the Subject Property, to allow for a quality senior development.

The Applicants and their representatives welcome the opportunity to meet with the staff and City representatives to answer any questions or to address any concerns.

Sincerely,

**ANDERSEN, TATE & CARR, P.C.**



Marian C. Adeimy  
Attorney for Applicants/Property Owner

***Enclosures:***  
**Application Packets,**  
**Master Site Plan (dated 9/1/16), and exhibits**

cc: Butch Sanders, City Manager  
John Dennis, Zoning Administrator

## **APPLICANTS' RESPONSES IN SUPPORT OF VARIANCE REQUESTS**

- 1. Demonstrate that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.**

The R-HOP zoning district was created specifically for the subject property and former, proposed senior development. Accordingly, there is no other mixed-use development or senior development option which addresses this combination of uses peculiar to the subject property, and not applicable to any other property in the City.

- 2. Demonstrate that literal interpretation of the provisions of the Zoning Ordinance or Development Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance or Development Regulations.**

There is no other property currently zoned R-HOP, making the subject property is uniquely situated as a mixed-use development with senior independent living, assisted living, memory care, and medical uses; and as part of a larger mixed-use area which includes the hospital and single-family uses. There is currently no zoning category or ordinance which includes or defines mixed-uses, requiring the combination of multiple zoning definitions in order to achieve those development and smart land use goals. The variances are also supported by the need for quality senior housing, as called for by the City's future land use plan for this area.

- 3. Demonstrate that the special conditions and circumstances do not result from the actions of the applicant.**

The R-HOP zoning district was created specifically for the subject property and former, proposed senior development. Accordingly, there is no other mixed-use development or senior development option which addresses this combination of uses peculiar to the subject property, and not applicable to any other property in the City.

**[CONTINUED ON PAGE 2]**

4. **Demonstrate that granting the variances (or waiver) requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance or Development Regulations to other lands, structures, or buildings in the same zoning district.**

As the only property zoned R-HOP, the proposed zoning will not confer any special privilege on the property that is denied to other property in the same zoning district.

Instead, the proposed site plan change, variances, land use amendment, and related zoning applications all propose a quality, senior development, for which the property is already zoned, to accommodate a variety of senior living and medical needs. The property is identified as being appropriate for senior uses, and is located in a transitional area between low density residential properties in unincorporated Gwinnett County and commercial/retail and hospital uses along S.R. 124 within the City of Snellville. As such, the proposed use is suitable and provides an appropriate transition in view of adjacent and nearby properties.

Yes. The Land Use Plan contemplates senior residential and medical office uses for this site. As such, this zoning request is precisely the type of use recognized by the City as appropriate for the subject property.