

PUTNAM COUNTY BOARD OF COMMISSIONERS



117 Putnam Drive, Suite A ♦ Eatonton, GA 31024

Called Meeting

Agenda

Monday, October 30, 2023 ♦ 10:00 AM

Putnam County Administration Building – Room 203

Opening

1. Call to Order
2. Pledge of Allegiance (staff)

Called Meeting

3. Appeal of Short Term Vacation Rental License denial by Kerri Smith/Sundown Cottage (staff-CC)

Closing

4. Adjournment

The Board of Commissioners reserves the right to continue the meeting to another time and place in the event the number of people in attendance at the meeting, including the Board of Commissioners, staff, and members of the public exceeds the legal limits. The meeting cannot be closed to the public except by a majority vote of a quorum present for the meeting. The board can vote to go into an executive session on a legally exempt matter during a public meeting even if not advertised or listed on the agenda. Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities are required to contact the ADA Compliance Officer, at least three business days in advance of the meeting at 706-485-2776 to allow the County to make reasonable accommodations for those persons.

File Attachments for Item:

3. Appeal of Short Term Vacation Rental License denial by Kerri Smith/Sundown Cottage (staff-CC)

**Sundown Cottage – Kerri Smith (113 B River Bend Court)
Timeline of Events**

- 4/4/2023
 - Keeli Smith emailed County Clerk advising that two STR applications had been submitted in Trust Exchange online portal.

- 4/4/2023
 - STR Application for 113 B River Bend Court received along with \$30.00 payment.

- 4/4/2023
 - County Clerk emailed Keeli Smith regarding name and address clarification on the STR application.

- 4/6/2023
 - Keeli Smith emailed County Clerk with revised information for STR applications.

- 4/6/2023
 - County Clerk emailed Keeli Smith to confirm receipt of above email and information.

- 4/12/2023
 - County Clerk emailed Keeli Smith regarding name issue with STR application.

- 4/12/2023
 - Keeli Smith emailed County Clerk with new name information and corrected address information.

- 4/12/2023
 - County Clerk emailed Keeli Smith to let her know that name choice is ok.

- 4/12/2023
 - Keeli Smith emailed County Clerk to acknowledge above email.

- 5/10/2023
 - County Clerk emailed Kerri Smith to let her know that it had been reported that home is still under construction and that application cannot be accepted at this time.

- 5/10/2023
 - Kerri Smith emailed County Clerk to provide reasons why we need to accept application.

- 5/10/2023
 - County Clerk emailed Kerri Smith to let her know that her last email was forwarded to county attorney.

- 9/18/2023
 - County Clerk emailed Kerri Smith to let her know that her property was zoned R-1R and that I was unable to process her STR application. Offered to refund \$30 payment.

- 9/27/2023
 - County Clerk emailed Kerri Smith to confirm verbal conversation regarding how to file STR appeal.

- 10/3/2023
 - Joshua Williams, Attorney for Kerri Smith, emailed appeal to County Manager and County Clerk and County Attorney.

- 10/10/2023
 - County Clerk emailed Joshua Williams with date of appeal hearing, October 30, 2023 at 10 a.m.

PUTNAM COUNTY BOARD OF COMMISSIONERS



117 Putnam Drive, Suite A ♦ Eatonton, GA 31024
706-485-5826 ♦ 706-923-2345 fax ♦ www.putnamcountyga.us

APPLICATION FOR SHORT TERM VACATION RENTALS IN PUTNAM COUNTY, GEORGIA

(A separate rental certificate shall be required for each establishment)

- Date of Application:** 4/4/2023
- For Calendar Year:** 2023
- Type of Certificate – please check one:** New Renewal
- Application Fee per Establishment, \$30.00**
- Type of Lodging:**
 Bed & Breakfast Boarding House Private Home
- Owner on Record of Dwelling Unit for which a certificate is sought:**
Full Legal Name* Sunset Properties of Lake Oconee / Kerri Smith
Address 113 B River Bend Ct
City Eatonton State GA Zip Code 31024
Phone Number [REDACTED] Email Address: [REDACTED]
*(If owner is not a natural person, use separate sheet to identify all partners, officers and/or directors of any such entity, including personal contact information.)
- Business Name (if applicable):**
Business Name Sunset Properties of Lake Oconee
DBA Name (if applicable) Sundown Cottage
Address PO Box 4428
City Eatonton State GA Zip Code 31024
Phone Number [REDACTED] Email Address: [REDACTED]
Mailing Address (if different) [REDACTED]
City _____ State _____ Zip Code _____
- Unit to be used as a short term vacation rental:**
Address 113 B River Bend Court
City Eatonton State GA Zip Code 31024
Parcel Number _____

9. **Maximum occupancy** (this shall be the same number as advertised and marketed to potential renters by or on behalf of the owner: 16)
*Owner shall not allow overnight occupancy to exceed the maximum capacity

10. **Who to contact if there are questions regarding the application:**

Name Keeli Smith Phone 

Email 

11. **Agent:** (if other than owner) *Please provide 24 hour contact information

[This person shall:

- a. Be reasonably available to handle any problems arising from use of the rental unit;
- b. Appear on the premises within 24 hours following notification from the Planning and Development Director, or his/her designee, of issues related to the use or occupancy of the premises;
- c. Receive and accept service of any notice of violation related to the use or occupancy of the premises; and
- d. Monitor the rental unit for compliance with the Putnam County Code of Ordinances]

Full Name _____

Address _____

City _____ State _____ Zip Code _____

Phone Number _____ Email Address: _____

12. Owner agrees to use his or her best efforts to assure that use of the premises by short term vacation rental occupants will not disrupt the neighborhood and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties.

13. Applicant must attach the following:

A copy of the standard rental agreement form used between the owner and occupant(s). The agreement must contain the following language: "Occupant is obligated to abide by all of the requirements of the Putnam County ordinances, state and federal law, and such a violation of any of these rules may result in the immediate termination of the agreement and eviction from the premises, as well as potential liability for payment of fines levied."

Proof of the owner's current ownership of the short term vacation rental unit (i.e. deed, tax records, etc.)

Proof of homeowner's insurance (must list the owner's name, address of rental unit, and policy dates.)

14. Applicant agrees that the rental certificate applied for by him/her shall not, when granted, become a civil contract between the applicant and the governing authority of the County, but shall operate purely as a rental certificate to the applicant, and said rental certificate may be revoked by the Board of Commissioners of said County at any time.

15. Applicant hereby acknowledges his/her duty to collect a hotel/motel tax and remit same to the County Clerk monthly on or before the 20th day of the month following the month of collection unless you are renting only through an online platform (VRBO, Airbnb, etc.). Effective July 1, 2021, online platforms will remit your taxes for you.

16. Applicant herewith tenders the sum of \$30.00 as the rental certificate fee on the business proposed to be conducted by the applicant. Applicant asks that he/she be granted a rental certificate to operate the aforesaid business.

Sunset Properties of Lake Oconee Rental Agreement

This Lease Agreement (this "Lease") is dated September 1, 2022, by and between Sunset Properties of Lake Oconee ("Landlord"), and 1 ("Tenant"). The parties agree as follows:

PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant Cottage Cove (the "Premises") located at 113 B River Bend Court, Eatonton, Georgia 31024.

TERM. The Tenant will have full control and use of the Premises beginning on September 1, 2022 and will terminate at 11:59p.m. on TBD.

LEASE PAYMENTS. The total rental payment owed for this Lease is \$1050.00 payable in advance. A nonrefundable deposit of \$500 shall be paid on or before September 1, 2022, in order to reserve the Tenants reservation. Said deposit will be applied to the total rental payment. The balance of \$500.00 is due and must be delivered to the Landlord on March 1, 2022. Lease payments shall be made to Landlord at PO Box 4428, Eatonton, Georgia, 31024 which may be changed from time to time by Landlord.

SECURITY DEPOSIT. At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$500.00 to be held and disbursed for Tenant damages to the Premises or other defaults under this Agreement (if any) as provided by law. Security deposit will protect owner against damage or theft to the property and timely return of the door key. Deposit will be returned after Renter vacates property if the Property is not damaged, no theft has occurred, and key has been returned. Deposit may be applied by Landlord to satisfy damage repairs caused by Renter or to replace stolen items and such act shall not prevent Landlord from claiming damages in excess of the deposit. The Tenant is held financially responsible for damages to the Rental Property, whether made by themselves, their family, and another guest in their group or invitee.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

MINIMUM STAY. This property requires a 2 night minimum stay. Longer minimum stays may be required during holiday periods.

USE OF PREMISES/ABSENCES. Tenant shall occupy and use the Premises as a dwelling unit. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence. Tenant will maintain the premises in good order and appearance including keeping the premises free of trash and garbage. Reasonable wear and tear are the only exceptions to damage to the premises.

OCCUPANTS. No more than 16 person(s) may occupy the Premises at any one time unless the prior written consent of the Landlord is obtained. All guests over the age of 8 are counted towards the maximum. Any party falsely representing the number of people, or exceeding the maximum may be subject to immediate eviction without refund.

FURNISHINGS. The following furnishings will be provided by Landlord: _ Tenant shall return all such items at the end of the lease term in a condition as good as existed at the beginning of the lease term, normal wear and tear excepted.

PETS. No pets shall be allowed on the Premises.

KEYS. Tenant will be given one door code to the Premises.

LOCKOUT. If Tenant becomes locked out of the Premises, Tenant will be charged \$0.00 to regain entry.

PARKING. The maximum number of cars allowed at the Property at any one time is 6. Parking exceeding this limit may result in immediate eviction and forfeiture of all amounts paid.

PROPERTY INSURANCE. Landlord and Tenant shall each be responsible to maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property. It is recommended that travel or vacation insurance is obtained by the Tenant.

NON-SUFFICIENT FUNDS. Tenant shall be charged \$50.00 for each check that is returned to Landlord for lack of sufficient funds.

NON-DISTURBANCE CLAUSE. Tenant and their guests shall not disturb, annoy, endanger (fireworks) or inconvenience neighbors nor use the premises for any unlawful purposes.

CANCELLATIONS. (a) If the Property becomes unavailable to the Tenant prior to occupancy, for any reason, Landlord agrees to refund the full amount paid to the date of cancellation, and Tenant agrees to release any claims against Landlord. (b) If, for any reason, the Tenant cancels this Agreement more than 30 days from the Arrival Date, Tenant will receive a 50% refund of amounts paid, less a \$150.00 cancellation fee. For Tenant cancellations made 7 days or less, all monies are forfeited unless Landlord is able to re-rent the Property under the same (or better) terms and conditions of this Agreement, for the full Term reserved. (c) There are no cancellations permitted within 14 days of Tenant Arrival Date. All amounts paid (Reservation Deposit and Final Payment) will be forfeited. Failure to pay the Final Payment in a timely manner will be considered a cancellation under this subparagraph and will result in forfeiture of the Reservation deposit.

SMOKING. Smoking is strictly forbidden inside the cottage or on porches of the cottage. Evidence of smoking inside the Property will result in immediate eviction and forfeiture of all amounts paid and will result in additional Cleaning Fee charges to Tenant as Excess Damage Cost and will be charged against the credit card on file or Tenant's security deposit at Landlord's election.

COOKING. Tenant may cook only in the specific areas set aside by Landlord for cooking. No open fires are allowed other than in the grill, outdoor fireplace, or in the stone fire pit. The grill must remain in open area, away from trees, house, etc. All fires must be thoroughly extinguished before leaving unattended .

CLEANING. The property will be inspected and cleaned after departure. The rental fee includes laundry service for the towels and linens. Tenant is required to leave the property in the same general condition that it was received in by making sure that the dishes are washed and put away, and the house is generally picked up and ready to be vacuumed, dusted and laundered.

OTHER RECREATION. The following may be available from time to time on the property and grounds: all boating activities (sailing, kayaking, canoeing and the like), fishing, biking, hiking and various lawn games. Any other recreational activities that occur on the premises will be permitted according to the discretion of the Landlord.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

ACCESS BY LANDLORD TO PREMISES. Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises while under the possession and of Tenant. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

INDEMNITY REGARDING USE OF PREMISES. To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other

authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature. Occupant is obligated to abide by all of the requirements of the Putnam County ordinances, state and federal law, and such a violation of any of these rules may result in the immediate termination of the agreement and eviction from the premises, as well as potential liability for payment of fines levied.

ASSIGNABILITY/SUBLETTING. Tenant may not assign or sublease any interest in the Premises, nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

CASUALTY OR DESTRUCTION. (a) Should the Property be destroyed or rendered uninhabitable by an Act of God (including, but not limited to, hurricanes, storms, floods or fires), or by environmental disaster, or loss of utilities prior to occupancy by Tenant, this Agreement shall become null and void, and all payments made hereunder shall be refunded to Tenant. (b) Should the Property be destroyed or rendered uninhabitable as above during occupancy, reimbursement on a pro-rated basis will be negotiated between Tenant and Landlord based on the following: No refund is due (or will be made) for inclement weather.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed to the party at the appropriate address set forth below. Such addresses may be changed from time to time by either party by providing notice as set forth below. Notices mailed in accordance with these provisions shall be deemed received on the third day after posting.

LANDLORD:

Kerri Smith, PO Box 4428, Eatonton, Georgia 31024

TENANT:

Such addresses may be changed from time to time by either party by providing notice as set forth above.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of Georgia.

ENTIRE AGREEMENT/AMENDMENT. This Lease contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision it

would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

CAUSE FOR EVICTION. The Tenant and all parties with the Tenant will be subject to immediate eviction from the Property if the Tenant or parties of the Tenant violate any terms of this Agreement, including but not limited to, violation of the occupancy limits, pet provision, smoking, noise ordinance or parking. In the event of eviction from the Property, the Tenant shall forfeit all amounts paid and there will be no refund of money.

ATTORNEY'S FEES AND COSTS. If Landlord employs the services of an attorney to enforce any conditions of this Agreement, to collect any amounts due, the eviction of the Tenant, or because Tenant takes any action to recover deposits not due, Tenant shall be liable to Landlord for reasonable attorney's fees and costs incurred by Landlord.

ACKNOWLEDGMENT. The Parties hereby understand and accept the terms and conditions on all pages of this Agreement.

By Booking 113 B River Bend Court, Tenant agrees to this Agreement.

Tenant

After Recording Return to:
Dell Law Firm, P.C.
1040 Founders Row, Ste B
Greensboro, Georgia 30642
C/M#: 3925-0020

LIMITED WARRANTY DEED

**STATE OF GEORGIA
COUNTY OF GREENE**

THIS INDENTURE, made this **26th** day of **January 2023**, between **Jay Robert Christman**, as party or parties of the first part (hereinafter called "Grantor") and **Sunset Properties of Lake Oconee, LLC**, as party or parties of the second part (hereinafter called "Grantee").

WITNESSETH:

That the said Grantor, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said Grantee, their heirs and assigns, all the following described property, to-wit:

All that tract or parcel of land lying and being in Land Lots 430, 2nd Land District, 308th G. M. D., Putnam County, Georgia, being described as Lot 3, containing 0.88 acres, more or less, River Bend Estates Subdivision, as shown on plat of survey prepared by T. Larry Rachels, Registered Land Surveyor, No. 1730, dated August 8, 1983, recorded at Palt Book 12, Page 173, Putnam County, Georgia records, which said plat and the record thereof are hereby incorporated herein and made a part hereof by reference. This being the same property as conveyed at Deed Book 5-Y, Page 165, and Deed Book 376, Page 508, Putnam County, Georgia records.

TO HAVE AND TO HOLD, the said bargained premises, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee, their heirs and assigns, forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning, holding or claiming by, through or under the said Grantor, subject to all encumbrances, easements and restrictions of record.

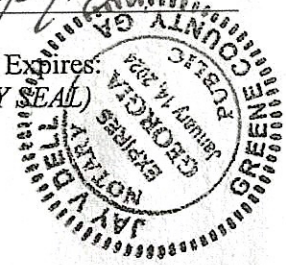
IN WITNESS WHEREOF, the said Grantor has hereunto set its hand(s) and affixed its seal(s) the day and year first above written.

Signed, sealed and delivered
in the presence of:

Shelame Lease
Unofficial Witness

Jay Robert Christman (SEAL)
Jay Robert Christman

[Signature]
Notary Public
My Commission Expires: January 14, 2024
(AFFIX NOTARY SEAL)





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) **15**
04/04/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McGarity Insurance 60 Jonesboro St ; P.O. Box 130 McDonough, GA 30253	CONTACT NAME: Angie Boyd PHONE (A/C, No, Ext): (770)957-2926 E-MAIL ADDRESS: aboyd@mcgarityinsurance.com FAX (A/C, No): (770)954-0716
	INSURER(S) AFFORDING COVERAGE
INSURED SMITHBUILT HOMES LLC STE 110, PMB 176 6350 LAKE OCONEE PKWY GREENSBORO, G 30642	INSURER A : BUILDERS INSURANCE NAIC # 11240
	INSURER B :
	INSURER C :
	INSURER D :
	INSURER E :
	INSURER F :

COVERAGES **CERTIFICATE NUMBER: 00008627-173846** **REVISION NUMBER: 3**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			GLP 0148866-09	06/15/2022	06/15/2023	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	WCV 0264873 04	06/15/2022	06/15/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Lot 113B Riverbend Court

CERTIFICATE HOLDER SmithBuilt HOMes LLC 6350 Lake Oconee Pkwy Ste 110, PMB 176 Greensboro, GA 30642	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE (ASB)

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LETTER OF INTENT FOR SHORT TERM VACATION RENTALS

I/We, the undersigned owner(s) of real property located in Putnam County, Georgia, do hereby state our intent is to rent our home to individuals or groups for the purpose of short term vacations (less than 30 days).

Address of rental home:

113 B River Bend Court
Eatonton, Ga 31024

This 4th day of April, 2023.

Property owner(s):

Signature: *Kerri Smith*

Printed Name: Kerri Smith

Phone: [REDACTED]

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LETTER OF AGENCY FOR SHORT TERM VACATION RENTALS

I/We, the undersigned owner(s) of real property located in Putnam County, Georgia, hereby appoint
Kerri Smith to be my/our Agent for the purpose
of applying for a Short Term Vacation Rental Certificate for the following address:

113 B River Bend Cr
Eatonton, Ga 31024

Attached hereto is proof of current ownership of the property to which this Letter of Agency applies.

The above named Agent hereby is authorized to complete and sign the application for a Short Term Vacation Rental Certificate on our behalf. We understand that this Letter of Agency will be attached to and made part of the application and will be relied upon by Putnam County. For and in consideration of Putnam County accepting this Letter of Agency, we hereby indemnify and hold harmless Putnam County and its agents and/or employees in the event that the above named agent should misuse this Letter of Agency and we suffer damages as a result.

This 4th day of April, 2023.

Property owner(s):

Signature: [Handwritten Signature]

Name: Kerri Smith

Address: PO Box 4428 Eatonton, Ga 31024

Phone: [Redacted]

Sworn to and subscribed before me

this 4th day of April, 2023.

Alicia G Bailey
Notary Public (SEAL)



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SAVE Affidavit

(U.S. Citizens are only required to provide this affidavit one time)

By executing this affidavit under oath, as an applicant for a Putnam County Short Term Vacation Rental Certificate as referenced in O.C.G.A. § 50-36-1, from the Putnam County Board of Commissioners, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

Please check one box only

- 1) I am a United States citizen
- 2) I am a legal permanent resident of the United States
- 3) I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency

My alien number issued by the Department of Homeland Security or other federal immigration agency is:

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1, with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in Eatonton (city), Ga (state).

Signature of Applicant: [Handwritten Signature]

Printed Name: Kerri Smith

Date 4/1/23

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE 4th DAY OF April, 2023

Notary Public Signature: Alicia Bailey

My Commission Expires: 9-8-23



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www.putnamcountyga.us

E-Verify Exemption Affidavit (For Businesses that have 10 or less employees) (Required with initial application only)

By executing this affidavit, the undersigned private employer verifies that it is exempt from compliance with O.C.G.A. § 36-60-6, stating affirmatively that the individual, firm or corporation employs fewer than eleven employees and therefore, is not required to register with and/or utilize the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-90.

Name of Business or Individual: Sunset Properties of Lake Oconee

Address: PO Box 4428

City, State, Zip Code: Eatonton, Ga 31024

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on the 4th day of April, 20 23 in Eatonton (city), Ga (state).

Signature of Owner, Authorized Officer or Agent: [Handwritten Signature]

Printed Name and Title of Owner, Authorized Officer or Agent: Kern Smith, owner

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE 4th DAY OF April, 20 23

Alicia G Bailey
Notary Public Signature

My Commission Expires: 9-8-23



USA
Georgia
Department of Transportation

DRIVER'S LICENSE

DI NO. [REDACTED] DOB [REDACTED] 1960
 CLASS C EXP [REDACTED] 2026

KERRI LYN SMITH

110 WATERS EDGE LN
 EATONTON, GA 31024-5687
 PUTNAM

Restrictions B End NONE
 Iss 11/13/2018

Sex F Eyes BLU
 Hgt 5'-07" Wgt 155 lb

DD: 362747503410040739

Kerr Smith

DONOR

Rev 07/15/2016

www.dts.ga.gov
 (878) 415-6400

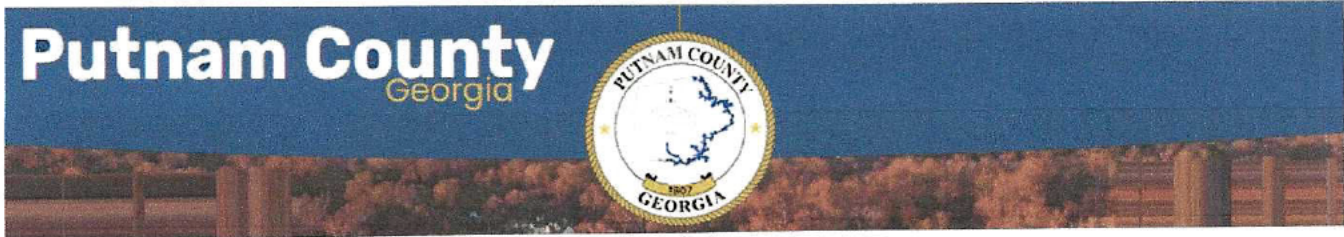
REAL ID
 IDENTIFICATION STATE

CLASS: C-S 24,000 lbs. GVWR and Trailer 2 10,000 lbs. ADJUSTED WEIGHT

ENDORSEMENTS: None

RESTRICTIONS: B-Corrective lenses required

10/22/1990



Step 1: Select Payments Step 2: Review and Submit **Step 3: Confirmation and Receipt**

Step 3: Confirmation and Receipt

Result: Payment Authorized
Confirmation Number: 132983382

Your payment has been authorized successfully and payment will be processed.

Putnam County thanks you for your payment. For questions about your account, please call 706-485-5826 Thank you for using our bill payment services.

Please save or print a copy of this receipt for record keeping purposes.

My Bills

Description	Amount
Short Term Rental Certificate payment of \$30.00 on Account Number/Name Sunset Properties of Lake Oconee - 113 B River Bend	\$30.00
Subtotal:	\$30.00
Convenience Fee:	\$2.00
Total Payment:	\$32.00

Customer Information

First Name: Kerri
 Last Name: Smith
 Address Line 1: 110 Waters Edge Lane
 Address Line 2:
 City: Eatonton
 State: Georgia
 Zip Code: 31024
 Phone Number: [REDACTED]
 Email Address: [REDACTED]

Payment Information

Payment Date: 04/04/2023
 Card Type: MasterCard
 Card Number: *****2779

Print

Lynn Butterworth

From: Keeli Smith [REDACTED]
Sent: Tuesday, April 4, 2023 3:23 PM
To: Lynn Butterworth
Subject: STR

Hi Lynn,

Just submitted two applications within Trust Exchange - please let me know if you have any questions, etc.
- 113 B River Bend Court, Eatonton, Ga 31024
- 145 Collis Marina Road, Eatonton, GA 3104 (Cottage 5)

Thank you so much!

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Keeli Smith
Sunset Properties of Lake Oconee
[REDACTED]

Lynn Butterworth

From: Lynn Butterworth
Sent: Tuesday, April 4, 2023 4:44 PM
To: Keeli Smith
Subject: RE: STR

Yes I do.

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Keeli Smith
Sunset Properties of Lake Oconee
[REDACTED]

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From: Keeli Smith [REDACTED]
Sent: Thursday, April 6, 2023 10:46 AM
To: Lynn Butterworth
Subject: Re: STR
Attachments: CAAA7FD8-3BEF-4E44-BFE5-D66E34CBF9B6.jpeg; DA4815A7-5D2A-4811-805D-C118264E6AFA.jpeg; Cottage #5.pdf

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Keeli Smith

Sunset Properties of Lake Oconee

[REDACTED]

--

Keeli Smith
Sunset Properties of Lake Oconee

[REDACTED]

Lynn Butterworth

From: Lynn Butterworth
Sent: Thursday, April 6, 2023 12:06 PM
To: Keeli Smith
Subject: RE: STR

Got them, thanks!

Lynn

From: Keeli Smith [REDACTED]
Sent: Thursday, April 6, 2023 10:46 AM
To: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Subject: Re: STR

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Sunset Properties of Lake Oconee

[REDACTED]

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Sunset Properties of Lake Oconee

[REDACTED]

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From: Lynn Butterworth
Sent: Wednesday, April 12, 2023 1:13 PM
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From: Keeli Smith [REDACTED]
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To: Lynn Butterworth
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Get [Outlook for iOS](#)

From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Wednesday, April 12, 2023 1:12:48 PM
To: Keeli Smith [REDACTED]
Subject: RE: STR

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[REDACTED]

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Sunset Properties of Lake Oconee
[REDACTED]

Lynn Butterworth

From: Keeli Smith [REDACTED]
Sent: Wednesday, April 12, 2023 3:58 PM
To: Lynn Butterworth
Subject: Re: STR

Great, thank you!

Get [Outlook for iOS](#)

From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Wednesday, April 12, 2023 3:43:48 PM
To: Keeli Smith [REDACTED]
Subject: RE: STR

That one is good. Thanks!

Lynn

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To: Lynn Butterworth <lbutterworth@putnamcountyga.us>
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From: Keeli Smith <sunsetpropertiesoflakeoconee@gmail.com>

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To: Lynn Butterworth <lbutterworth@putnamcountyga.us>

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Thank you so much!

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Keeli Smith

--

Keeli Smith

Sunset Properties of Lake Oconee

Lynn Butterworth

From: Lynn Butterworth
Sent: Wednesday, May 10, 2023 9:23 AM
To: Kerri S
Subject: Sundown Cottage-113 B River Bend Court

Good morning Kerri and Keeli,
I'm contacting you about the STR application for Sundown Cottage at 113 B River Bend Court. It has been reported to me that the home is not even built at this location – that it is currently under construction. I was not aware this was the case. We can only accept applications for ready to rent properties. As you know, part of the approval process is an inspection by the Fire Marshal. All applicants must be ready for inspection at the time they apply. As there is not a bona fide home at this location, I cannot accept this application and you will need to reapply once the home is ready.

Thank you for your understanding.

Lynn Butterworth, MCC
County Clerk/Open Records Officer
lbutterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

Lynn Butterworth

From: [REDACTED]
Sent: Wednesday, May 10, 2023 11:43 AM
To: Lynn Butterworth
Cc: [REDACTED]; Mark Smith
Subject: RE: Sundown Cottage-113 B River Bend Court

Importance: High

Good Morning Lynn!

I have received your email and would like to further communicate regarding the issue of accepting the application for 113-B River Bend Court.

This property was purchased as an investment, with the intention of building a Vacation Rental home on it. Since this was our intention, we went ahead and completed the application for this home, including every requirement of Putnam County.

Upon purchase of the property, we submitted our application including:

1. Completed STR application (all 3 pages signed and notarized)
2. Letter of Intent (signed)
3. Rental Agreement Example (with required language)
4. Proof of Ownership
5. Proof of Homeowner’s Insurance
6. Letter of Agency (if applicable)
7. SAVE Affidavit (signed and notarized)
8. E-Verify Affidavit or E-Verify Affidavit Exemption (signed and notarized)
9. Copy of Valid Driver’s License
10. Application Fee of \$30 for STR Certificate

Per the instructions, “the application will not be accepted without all of the above documents”, all of the above documents were submitted, therefore, there is no reason this application should not be accepted. It is understood that the home will be inspected by the Fire Marshall upon completion, however, no where in the county application process is it stated that the home must be ready for this inspection at the time of application.

As you know the building process takes time! It begins with applying for permits which have done and have moved forward in complete compliance. We have submitted the required application, we are in the process of building this home, once the home is ready, we will have the Fire Marshall come out to inspect it for safety and the Trust Exchange process will be complete.

Considering the recent developments regarding STR’s, and a moratorium being put on applications, clearly our application was submitted in a timely manner and should be accepted as such so that we may move ahead with our business of building this home for this purpose. Unfortunately, we have neighbors and board members that are “against” a new STR being built, and looking for excuses to stop the permitting of our application and if this is the issue, we have a legal argument stating that there is no cause not to accept this application at this time.

Please consider this a request to accept this application and we will have the fire safety step completed as soon as possible.

Thank you for all that you do and have done.

Blessings,
Kerri Smith

From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Wednesday, May 10, 2023 9:23 AM
To: Kerri S [REDACTED]
Subject: Sundown Cottage-113 B River Bend Court

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706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

Lynn Butterworth

From: Lynn Butterworth
Sent: Wednesday, May 10, 2023 3:35 PM
To: [REDACTED]
Cc: [REDACTED]; Mark Smith
Subject: RE: Sundown Cottage-113 B River Bend Court

Hi Kerri (and Keeli and Mark),
I received your email and wanted to let you know that I have forwarded this matter to the county attorney for guidance. I will let you know what I hear back from him.
Thank you!

Lynn

From: sunsetpropertiesoflakeoconee@gmail.com <sunsetpropertiesoflakeoconee@gmail.com>
Sent: Wednesday, May 10, 2023 11:43 AM
To: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Cc: [REDACTED]; Mark Smith [REDACTED]
Subject: RE: Sundown Cottage-113 B River Bend Court
Importance: High

Good Morning Lynn!
I have received your email and would like to further communicate regarding the issue of accepting the application for 113-B River Bend Court.

This property was purchased as an investment, with the intention of building a Vacation Rental home on it. Since this was our intention, we went ahead and completed the application for this home, including every requirement of Putnam County.

Upon purchase of the property, we submitted our application including:

1. Completed STR application (all 3 pages signed and notarized)
2. Letter of Intent (signed)
3. Rental Agreement Example (with required language)
4. Proof of Ownership
5. Proof of Homeowner’s Insurance
6. Letter of Agency (if applicable)
7. SAVE Affidavit (signed and notarized)
8. E-Verify Affidavit or E-Verify Affidavit Exemption (signed and notarized)
9. Copy of Valid Driver’s License
10. Application Fee of \$30 for STR Certificate

Per the instructions, “the application will not be accepted without all of the above documents”, all of the above documents were submitted, therefore, there is no reason this application should not be accepted. It is understood that the home will be inspected by the Fire Marshall upon completion, however, no where in the county application process is it stated that the home must be ready for this inspection at the time of application.

As you know the building process takes time! It begins with applying for permits which have done and have moved forward in complete compliance. We have submitted the required application, we are in the process of building this

home, once the home is ready, we will have the Fire Marshall come out to inspect it for safety and the Trust Exchange process will be complete.

Considering the recent developments regarding STR's, and a moratorium being put on applications, clearly our application was submitted in a timely manner and should be accepted as such so that we may move ahead with our business of building this home for this purpose. Unfortunately, we have neighbors and board members that are "against" a new STR being built, and looking for excuses to stop the permitting of our application and if this is the issue, we have a legal argument stating that there is no cause not to accept this application at this time.

Please consider this a request to accept this application and we will have the fire safety step completed as soon as possible.

Thank you for all that you do and have done.

Blessings,
Kerri Smith



From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Wednesday, May 10, 2023 9:23 AM
To: Kerri S [Redacted]
Subject: Sundown Cottage-113 B River Bend Court

Good morning Kerri and Keeli,
I'm contacting you about the STR application for Sundown Cottage at 113 B River Bend Court. It has been reported to me that the home is not even built at this location – that it is currently under construction. I was not aware this was the case. We can only accept applications for ready to rent properties. As you know, part of the approval process is an inspection by the Fire Marshal. All applicants must be ready for inspection at the time they apply. As there is not a bona fide home at this location, I cannot accept this application and you will need to reapply once the home is ready.

Thank you for your understanding.

Lynn Butterworth, MCC
County Clerk/Open Records Officer
lbutterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

Lynn Butterworth

From: Lynn Butterworth
Sent: Monday, September 18, 2023 3:11 PM
To: Kerri S
Subject: STR Application-113B River Bend Court

Good afternoon Kerri,

I received your application for a short term vacation rental license at 113 B River Bend Court. At the time of submission the home was still under construction and therefore was unable to be inspected by the Fire Marshal. As you know, the Board of Commissioners adopted new STR ordinances on Friday, September 1, 2023. These new ordinances prohibit issuing STR licenses for parcels that are designated R-1R zoning. Since your home was not completed and able to be inspected before the new ordinances went into effect, it must fall under the new rules. Unfortunately, your property is zoned R-1R, so we will not be able to accept or process your application. I will be glad to refund the \$30.00 fee you paid.

Per the new ordinances, you have the right to appeal this decision to the Board of Commissioners. Here is what the ordinance says:

Section 22-126 – Appeal

- (a) A person aggrieved by the County’s denial of a short term vacation rental license may appeal the decision to the Board of Commissioners. The appeal must be filed with the County Manager's office in writing, within 15 calendar days after the adverse action and it shall contain a concise statement of the reasons for the appeal.
- (b) The Board of Commissioners shall consider the appeal within 30 days after receipt by the County Manager of a request unless otherwise agreed in writing by the County and aggrieved party. All interested parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The Board of Commissioners shall render a determination, which will constitute a final ruling on the application.

If you would like to file an appeal, please follow the above instructions.

If you have any questions, please let me know.

Lynn Butterworth, MCC
County Clerk/Open Records Officer
lbutterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

Lynn Butterworth

From: Lynn Butterworth
Sent: Wednesday, September 27, 2023 4:00 PM
To: Kerri S
Subject: Appeal Info

Hi Kerri,
Per our conversation the STR Appeal needs to be filed with the County Manager’s office, in writing. You can send it via email to:
Paul Van Haute
Putnam County Manager
pvanhaute@putnamcountyga.us

Please “cc” me on the email as well.
Thanks!

Lynn Butterworth, MCC
County Clerk/Open Records Officer
lbutterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

Lynn Butterworth

From: Joshua Williams <jwilliams@taylorenghish.com>
Sent: Tuesday, October 3, 2023 12:09 PM
To: Paul Van Haute; anelson@flemingnelson.com; Lynn Butterworth
Cc: Steven Jones; Kerri Smith
Subject: Appeal of STR Application -113B River Bend Court Denial
Attachments: 2023.10.03 - Putnam County STR Application Denial Appeal Letter.pdf

Mr. Haute,

Please see attached Appeal of the STR Application -113B River Bend Court Denial.

Please also accept this letter as an open records request pursuant to the Georgia Open Records Act (O.C.G.A. 50-18-70; 50-18-71 and 50-18-72) for all documents and other records of, evidencing, or consisting of written, verbal, and nonverbal communications of former Putnam County Commissioner Alan Foster, at anytime within the past five (5) years, and regarding (1) the Property; (2) the Applicant; (4) Mr. David M. Smith; (5) Mrs. Kerri L. Smith; (6) Smith Built Homes; and/or (7) Smith Built Communities.

Cordially,

JW



Joshua Williams
Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.426.4657 | jwilliams@taylorenghish.com
[Website](#)

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Click [here](#) to learn more about our TED Tenets.

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Steven L. Jones | Partner
Direct Dial: 678.336.7282
Cell Phone: 404.218.2756
E-mail: sjones@taylorenglish.com

October 3, 2023

VIA ELECTRONIC MAIL: pvanhaute@putnamcountyga.us; anelson@flemingnelson.com
AND HAND DELIVERY TO MR. HAUTE'S OFFICE

Putnam County, Georgia
Attn: Paul Van Haute
County Manager
117 Putnam Drive, Suite A
Eatonton, GA 31024
pvanhaute@putnamcountyga.us

F. Adam Nelson, County Attorney
Fleming & Nelson LLP
631 Ronald Reagan Drive
Suite 201
PO Box 2208
Evans, GA 30809
anelson@flemingnelson.com

Re: Appeal of Denial of the Putnam County Short Term Rental Certificate Application, dated April 4, 2023 (the "Application"), for real property located at 113 B River Bend Court, Eatonton, Georgia 31024 and identified as Putnam County Tax Assessor Parcel Number 119C075 (the "Property");

Dear Mr. Haute,

Our firm represents Sunset Properties Of Lake Oconee, LLC, a Georgia limited liability company (the "Applicant"), in connection with the above referenced Application and Property. We are submitting this appeal (the "Appeal") in connection with the denial (the "Denial") of the Application received via email from Putnam County, Georgia (the "County") County Clerk/Open Records Officer Lynn Butterworth, on September 18, 2023. See Exhibit "A". This Appeal respectfully requests that the Board of Commissioners of the County (the "BOC") reverse the denial of, and approve, the Application and issue a Short Term Rental Certificate (a "Certificate") to the Applicant.

The Applicant Purchased the Property on or about January 26, 2023, as an investment property with the intention of using the Property for a short term rental property. The Property is zoned in the R-1R Single Family Restricted Zoning District ("R-1R") under the Zoning Ordinance, as defined below. The Applicant submitted the Application through the County's Trust Exchange online submission tool ("Trust Exchange"), and the Application was marked as complete on

April 4, 2023. At the time of submission of the Application, the Application was submitted in compliance with the then current Putnam County Code of Ordinances, Georgia, as amended (the “**Code of Ordinances**”), the then current Putnam County Zoning Ordinance of 2020, codified at Chapter 66 of the Code of Ordinances (the “**Zoning Ordinance**”), and the then current Putnam County Short Term Vacation Rental Ordinance, codified at Appendix D of the Code of Ordinances (the “**Applicable STR Ordinance**”).

Subsequent to the submission of the Application, on April 18 2023, the BOC adopted a moratorium entitled “RESOLUTION TO ENACT A MORATORIUM ON NEW SHORT TERM VACATION RENTAL APPLICATION” (the “**Moratorium**”), which stated that “no new Short Term Vacation Rental applications will be accepted pursuant to Section 4 of Appendix D.” Initially, the Moratorium was set to expire on July 18, 2023. The BOC, on July 18, 2023, extended the Moratorium through September 1, 2023.

Then, on September 1, 2023, the BOC adopted “AN ORDINANCE TO AMEND CHAPTERS 22, 66, & APPENDIX D OF THE CODE OF PUTNAM COUNTY, GEORGIA” (the “**New STR Ordinance**”), thereby enacting a new regulatory scheme regarding the licensing and regulation of short-term rentals.

Because the Application was submitted under the Applicable STR Ordinance, the Applicant has a vested right to have its Application and the Appeal considered under the Applicable STR Ordinance. E.g., Southern States-Bartow County, Inv. v. Riverwood Farm Homeowners Association, 300 Ga. 609, 797 S.E.2d 468 (2017) (“Our constitution prohibits a legislative exercise of the police power that results in the passage of retrospective laws which injuriously affect the ‘vested rights’ of citizens This prohibition against restorative impairment of vested rights extends to the enactment of zoning regulations, which is an exercise of police powers.”); WMM Properties, Inc. v. Cobb County, 255 Ga. 436, 339 S.E.2d 252 (1986) (A property owner has a vested right to have an application considered under the law/ordinances in effect at the time the application was submitted.).

The Application should have been granted because the Application satisfied all the requirements for issuance of a Certificate. Specifically, Section 4 of the Applicable STR Ordinance provided the only requirements to be satisfied for a Certificate to be issued. The Application satisfied all the requirements of Section 4 of the Applicable STR Ordinance.

And, the Applicable STR Ordinance, provides that if the Application meets the requirements under Section 4 of the Applicable STR Ordinance, the planning and development director shall grant the application. Applicable STR Ordinance § 5. To that end, under the Applicable STR Ordinance, an Application can only be denied if “the [A]pplicant fails to meet the conditions and requirements of th[e] [Applicable STR Ordinance] or otherwise fails to demonstrate the ability to comply with local, state, or federal laws.”

In contradiction of Section 5 of the Applicable STR Ordinance, the Denial stated the Application was denied because “[s]ince your home was not completed and able to be inspected before the new ordinances went into effect, it must fall under the new rules. Unfortunately, your

property is zoned R-1R, so we will not be able to accept or process your application.” As shown above, the New STR Ordinance is wholly inapplicable to the Property and the Application because the Applicant has vested rights to have its Application considered pursuant to the Applicable STR Ordinance, which was the ordinance in effect at the time the Application was submitted. In other words, the Denial was arbitrary, capricious, an abuse of discretion, unconstitutional, unlawful, illegal, unsupported by law or fact, and void. Therefore, the BOC should reverse the denial and issue to the Applicant a Certificate for the Property.

The Applicant and/or its affiliates own and operate numerous other short term rental properties in the County. All of the Applicant's and/or its affiliate's other properties have been issued a short term rental certificate by the County under the Applicable STR Ordinance. Each of the Applicant's short term rental properties, including the Application, went through the same Certificate submission and approval process (the “**STR Process**”), which the County has adopted as its de facto pattern, practice, and policy. The STR Process is as follows:

1. The Applicant and/or its related companies purchases undeveloped or underdeveloped land.
2. The Applicant applies for all applicable building permits under the Code of Ordinances to begin the construction phase of the short term rental unit located on the property, including the submittals required to be submitted for approval by the County fire marshal under, for example, Section 32-21 of the Code of Ordinances.
3. The Applicant and/or its related companies submits a notarized and completed short term rental certificate application (the “**STR Application**”) to the County's Planning and Development Department through Trust Exchange during the home construction phase and pays the application fee.
4. The County reviews the new STR Application and marks such application as “All Documents for a New STR Application have been Received” in Trust Exchange.
5. The County completes a Tax Payment Review upon receipt of the occupation tax certificate and marks such review as Complete in Trust Exchange.
6. In compliance with Code of Ordinances, the County and the County fire marshal inspects the property throughout the construction stage.
7. Upon completion of the home, the County completes a final inspection of the home and issues a Certificate of Occupancy. The County marks in Trust Exchange that the Certificate of Occupancy has been received.
8. The Fire Marshall inspects the property and issues an approval. The County then marks in Trust Exchange the fire marshal's approval.
9. The County issues the applicant a short term vacation rental certificate and marks “STR Certificate has been Issued & Is Current” in Trust Exchange.

The Application was submitted in accordance with the established pattern, practice, and policy that is the de facto STR Process and the Applicable STR Ordinance. The County accepted and marked the Application “All Documents for a New STR Application have been Received” in Trust Exchange on April 4, 2023. The Application was ready for step 6 of the STR Process when the Denial of the Application was issued, in direct contradiction of the STR Process, the Applicable STR Ordinance, and the Applicant's vested rights in the Property and the Application.

On May 10, 2023, Ms. Butterworth emailed the Applicant stating that the Application could not be accepted, stating “[i]t has been reported to me that the home is not even built at this location – that it is currently under construction. I was not aware this was the case. We can only accept applications for ready to rent properties. As you know, part of the approval process is an inspection by the Fire Marshal. All applicants must be ready for inspection at the time they apply. As there is not a bona fide home at this location, I cannot accept this application and you will need to reapply once the home is ready.” On May 10, 2023, the Applicant replied to Ms. Butterworth’s email stating that the application met all the requirements in the STR Ordinance and that there is no requirement that the home must be ready for inspection at the time of the application. On May 10, 2023, Ms. Butterworth replied to the Applicant, stating “I received your email and wanted to let you know that I have forwarded this matter to the county attorney for guidance. I will let you know what I hear back from him.” This was the last communication the Applicant received from the County until the Denial. **Exhibit “B”** (containing the above correspondence).

On September 1, 2023, the BOC adopted the New STR Ordinance. In addition to imposing more strict requirements for short term vacation rental certificates, the New STR Ordinance prohibited the use of short term vacation rentals in the R-1R Zoning District, of which the Property is located. Despite purporting to be a zoning ordinance, upon information and belief, the New STR Ordinance was not adopted under or in accordance the Zoning Ordinance or in accordance with the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

On September 18, 2023, Ms. Butterworth emailed the Applicant the Denial of the Application, stating the following reason:

*I received your application for a short term vacation rental license at 113 B River Bend Court. **At the time of submission the home was still under construction** and therefore was unable to be inspected by the Fire Marshal. As you know, the Board of Commissioners adopted **new STR ordinances** on Friday, September 1, 2023. These new ordinances **prohibit issuing STR licenses for parcels that are designated R-1R zoning**. **Since your home was not completed and able to be inspected before the new ordinances went into effect, it must fall under the new rules**. Unfortunately, your property is zoned R-1R, so we will not be able to accept or process your application. I will be glad to refund the \$30.00 fee you paid.*

(emphasis added).

The Denial explicitly infringes upon the vested rights of the Applicant to have the Application considered pursuant to the law (*i.e.*, the Applicable STR Ordinance) in effect at the time the Application was submitted. In fact, the Denial references only the New STR Ordinance. Additionally, the Denial was contrary to the STR Process, which the County has followed as a pattern, practice, and policy with respect to the Applicable STR Ordinance, as evidenced by the numerous other Certificates the County has issued based on applications that were submitted while the subject dwelling was still under construction.

This Appeal follows the Denial of the Application under the Applicable STR Ordinance¹, and sets forth the below reasons for why the Denial should be reversed and why Application should be approved under the Applicable STR Ordinance.

I. The Applicant has a Vested Right for the Application to be considered for use as a short term vacation rental under the Applicable STR Ordinance.

The Georgia Courts have consistently and long held that a property owner has vested rights to consideration of its application under the ordinances in existence at the time its application is submitted, and the subsequent enactment of a contrary zoning ordinance have no effect. *Banks County. v. Chambers of Ga.*, 264 Ga. 421, 421, 444 S.E.2d 783, 785 (1994) (Holding that an applicant had a vested right to have its request considered under the zoning ordinance in effect at the time the request was filed and a zoning ordinance enacted after the applicant submitted its request had no effect.). For instance, once a building permit is issued, the landowner has a vested right to use of the property at the time of its issuance and is not affected by a subsequent change in the ordinance. *Clark v. International Horizons, Inc.*, 243 Ga. 63, 63, 252 S.E.2d 488, 488 (1979) (A building permit vested a right to use of a property in accordance with the zoning ordinance in effect at the time the permit was issued, and that vested right was not affected by a subsequent change in the zoning ordinance). A landowner also has a vested right, enforceable by mandamus, to be issued a permit in accordance with an ordinance as such regulation exist at the time a proper application is submitted to the proper authority and where the landowner has incurred expenses in reliance upon such regulations. *E.g., City of Atlanta v. Westinghouse Electric Corp.*, 241 Ga. 560, 246 S.E.2d 678 (1978); *Gifford-Hill & Co., Inc. v. Harrison*, 229 Ga. 260, 191 S.E.2d 85 (1972); *Howard Simpson Realty Co. v. City of Marietta*, 220 Ga. 727, 141 S.E.2d 460 (1965); *City of Decatur v. Fountain*, 214 Ga. 225, 104 S.E.2d 117 (1958). Additionally, when a landowner makes expenditures in reliance on an existing ordinance and there are assurances from the county that such use is permitted, county officials may not impose a moratorium on the issuance of such permits for use. *Cannon v. Clayton County*, 255 Ga. 63, 335 S.E.2d 294 (1985).

The Applicant has a vested right for the Application to be considered for a Certificate, so that it may be used as a short term vacation rental, under the Applicable STR Ordinance because (1) the Applicant submitted the completed Application to the County, in accordance with the Code of Ordinance and the Applicable STR Ordinance prior to the Moratorium and the New STR Ordinance; (2) the County, in approving the Applicant's previous STR applications, established a pattern, practice, and policy for approval (i.e., the STR Process) that the Applicant could and did reasonably rely on; and (3) the Applicant expended large sums of money and substantial time developing the property for short term rental use.

¹ The New STR Ordinance § 22-126 provides that an appeal must be provided within 15 days after the adverse action; however, the Applicant has a vested right in the provision under the Prior STR Ordinance which provides a 30 day appeal period. Nonetheless, out of prudence, this Appeal is being filed within 15 days of the Denial.

II. The Applicable STR Ordinance does not establish or require that a home must be completed prior to an Application being accepted for review by the County.

In the Denial, Ms. Butterworth contends that the Application was not submitted correctly because construction of the home had not been completed. However, the County marked the application as completed on April 4, 2023, and accepted payment for the Application. Additionally, in at least five (5) other instances, the County accepted and subsequently issued a Certificate for a dwelling that was under construction at the time an application for a Certificate was submitted. It was only after the Mortarium went into effect that the County decided to divine, without legislation, this new standard of requiring the completion of a home prior to an Application being submitted. Additionally, neither the Applicable STR Ordinance nor the New STR Ordinance require that a home be completed prior to an Application for a Certificate being filed.

In prior applications, the STR Process allowed the application to remain open until the Certificate of Occupancy is issued and the fire marshal inspection is completed; the County has established this procedure where applicants could submit STR applications during the construction phase of their project, prior to fire marshal approval, which is evidenced by the Applicant using this established procedure at least five (5) times prior to the Application being filed.

As neither the Applicable STR Ordinance nor the New STR Ordinance conditions a home being built prior to the submission of an STR application, and the County's established STR Process allows applications to be submitted during construction, the Denial of the Application is unwarranted, arbitrary, capricious, an abuse of discretion, unlawful, and unconstitutional. As established above, the Application must be considered in accordance with the Applicable STR Ordinance and the STR Process because the Applicant has a vested right to have the Application be considered under the Applicable STR Ordinance and the STR Process. Therefore, the Application, which meets all the requirements under the Applicable STR Ordinance for a Certificate, approved and a Certificate must be issued.

III. The Denial of the Application was unduly influenced.

Upon information and belief, the Denial of the Application was unduly influenced by former Putnam County Commissioner Alan Foster. **Please accept this letter as an open records request** for all documents and other records of, evidencing, or consisting of written, verbal, and nonverbal communications of Mr. Foster, at anytime within the past five (5) years, and regarding (1) the Property; (2) the Applicant; (4) Mr. David M. Smith; (5) Mrs. Kerri L. Smith; (6) Smith Built Homes; and/or (7) Smith Built Communities.

IV. The Denial of the Application is unconstitutional.

Attached hereto as **Exhibit "C"** and **Exhibit "D"**, for consideration by the BOC prior to the BOC's official action on the above styled Appeal of the Denial of the Application for the Property, are the enclosed Constitutional Objection and York Objection of the Applicant regarding the Application and Appeal. Decisions of Georgia's appellate courts require the Applicant to

submit to the BOC the enclosed objections prior to the BOC's decision and/or official action on the Application.

V. Ante Litem Notice.

Under the New STR Ordinance, there is a certain number of Certificates which the County may issue. In the event that cap is found to be applicable to the Property and the Property and Applicant are found to be entitled to a Certificate but for the cap being exceeded, then in such case the County's negligent and intentional actions with respect to the Application will cause the Applicant substantial monetary damages. Therefore, pursuant to O.C.G.A. § 36-11-1, this letter constitutes an ante litem notice serving to notify the County that failure to issue a Certificate for the Property will cause the Applicant substantial monetary damages. Accordingly, this letter serves as an offer to settle this matter for a payment of \$5,687,806.88, which represents the net present value of the income stream to be derived from the Property as a short term rental over its life cycle. This claim is being presented to the County Attorney for presentment to the BOC. Of course, the Applicant would prefer that the County approve the Appeal and issue the Certificate.

Sincerely,



Steven L. Jones

Enclosures

cc: Sunset Properties of Lake Oconee, LLC (via email);
Joshua Williams, Taylor English Duma LLP (via email).

EXHIBIT "A"

From: [Kerri S](#)
To: [Joshua Williams](#)
Subject: Fwd: STR Application-113B River Bend Court
Date: Thursday, September 28, 2023 10:20:06 AM
Attachments: [external.png](#)
[finance_warning.png](#)

 External email >

 Contains topics of a financial nature >

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: September 26, 2023 at 10:34:00 AM EDT
To: sjones@taylorenghish.com
Subject: FW: STR Application-113B River Bend Court

From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Monday, September 18, 2023 3:11 PM
To: Kerri S [REDACTED]
Subject: STR Application-113B River Bend Court

Good afternoon Kerri,

I received your application for a short term vacation rental license at 113 B River Bend Court. At the time of submission the home was still under construction and therefore was unable to be inspected by the Fire Marshal. As you know, the Board of Commissioners adopted new STR ordinances on Friday, September 1, 2023. These new ordinances prohibit issuing STR licenses for parcels that are designated R-1R zoning. Since your home was not completed and able to be inspected before the new ordinances went into effect, it must fall under the new rules. Unfortunately, your property is zoned R-1R, so we will not be able to accept or process your application. I will be glad to refund the \$30.00 fee you paid.

Per the new ordinances, you have the right to appeal this decision to the Board of Commissioners. Here is what the ordinance says:

Section 22-126 – Appeal

- a. A person aggrieved by the County’s denial of a short term vacation rental license may appeal the decision to the Board of Commissioners. The appeal must be filed with the County Manager's office in writing, within 15 calendar days after the adverse action and it shall contain a concise statement of the reasons for the appeal.

- b. The Board of Commissioners shall consider the appeal within 30 days after receipt by the County Manager of a request unless otherwise agreed in writing by the County and aggrieved party. All interested parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The Board of Commissioners shall render a determination, which will constitute a final ruling on the application.

If you would like to file an appeal, please follow the above instructions.

If you have any questions, please let me know.

Lynn Butterworth, MCC
County Clerk/Open Records Officer
butterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

EXHIBIT "B"

From: [Kerri S](#)
To: [Joshua Williams](#)
Subject: Fwd: Sundown Cottage-113 B River Bend Court
Date: Thursday, September 28, 2023 10:29:36 AM
Attachments: [external.png](#)

 External email >

From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Date: May 10, 2023 at 3:35:28 PM EDT
To: [Redacted]
Cc: [Redacted]; Mark Smith [Redacted]
Subject: RE: Sundown Cottage-113 B River Bend Court

Hi Kerri (and Keeli and Mark),
I received your email and wanted to let you know that I have forwarded this matter to the county attorney for guidance. I will let you know what I hear back from him.
Thank you!

Lynn

From: [Redacted]
[Redacted]
Sent: Wednesday, May 10, 2023 11:43 AM
To: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Cc: [Redacted]; Mark Smith [Redacted]
Subject: RE: Sundown Cottage-113 B River Bend Court
Importance: High

Good Morning Lynn!
I have received your email and would like to further communicate regarding the issue of accepting the application for 113-B River Bend Court.

This property was purchased as an investment, with the intention of building a Vacation Rental home on it. Since this was our intention, we went ahead and completed the application for this home, including every requirement of Putnam County. Upon purchase of the property, we submitted our application including:

- 1. Completed STR application (all 3 pages signed and notarized)

2. Letter of Intent (signed)
3. Rental Agreement Example (with required language)
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9. Copy of Valid Driver's License
10. Application Fee of \$30 for STR Certificate

Per the instructions, "the application will not be accepted without all of the above documents", all of the above documents were submitted, therefore, there is no reason this application should not be accepted. It is understood that the home will be inspected by the Fire Marshall upon completion, however, no where in the county application process is it stated that the home must be ready for this inspection at the time of application.

As you know the building process takes time! It begins with applying for permits which have done and have moved forward in complete compliance. We have submitted the required application, we are in the process of building this home, once the home is ready, we will have the Fire Marshall come out to inspect it for safety and the Trust Exchange process will be complete.

Considering the recent developments regarding STR's, and a moratorium being put on applications, clearly our application was submitted in a timely manner and should be accepted as such so that we may move ahead with our business of building this home for this purpose. Unfortunately, we have neighbors and board members that are "against" a new STR being built, and looking for excuses to stop the permitting of our application and if this is the issue, we have a legal argument stating that there is no cause not to accept this application at this time.

Please consider this a request to accept this application and we will have the fire safety step completed as soon as possible.

Thank you for all that you do and have done.

Blessings,
Kerri Smith



From: Lynn Butterworth <lbutterworth@putnamcountyga.us>
Sent: Wednesday, May 10, 2023 9:23 AM
To: Kerri S [REDACTED]
Subject: Sundown Cottage-113 B River Bend Court

Good morning Kerri and Keeli,
I'm contacting you about the STR application for Sundown Cottage at 113 B River Bend Court. It has been reported to me that the home is not even built at this location – that it is currently under construction. I was not aware this was the case. We can only accept applications for ready to rent properties. As you know, part of the approval process is an inspection by the Fire Marshal. All applicants must be ready for inspection at the time they apply. As there is not a bona fide home at this location, I cannot accept this application and you will need to reapply once the home is ready.

Thank you for your understanding.

Lynn Butterworth, MCC
County Clerk/Open Records Officer
lbutterworth@putnamcountyga.us
www.putnamcountyga.us
Putnam County Board of Commissioners
117 Putnam Drive, Suite A
Eatonton, GA 31024
706-485-5826 (Office)
706-485-1877 (Direct Line)
706-923-2345 (Fax)

EXHIBIT “C”

CONSTITUTIONAL OBJECTION

As applied to the real property of Sunset Properties Of Lake Oconee, LLC, a Georgia limited liability company, (the “Applicant”) which is identified as Putnam County Tax Assessor Parcel Nos. (“TPN”): 119C075 (the “Property”) and is the subject of the previously filed Short Term Rental Vacation Certificate (a “Certificate”) Application (the “Application”), filed on April 4, 2023, which was subsequently denied (the “Denial”) on September 18, 2023 and is the subject of an appeal filed by the Applicant (the “Appeal”), if the Application and Appeal are not approved and a Certificate for the Property is not issued, without conditions or modifications, the Putnam County Code of Ordinances, Georgia, (the “Code of Ordinances”), including, but not limited to, Section 22-121 through Section 22-126 of Chapter 22 of the Code of Ordinances and Section 29-1(m), (t) of the Code of Ordinances (collectively, the “New STR Ordinance”), the Putnam County Zoning Ordinance of 2020, codified at Chapter 66 of the Code of Ordinances (the “Zoning Ordinance”), and the prior Putnam County Short Term Vacation Rental Ordinance, previously codified at Appendix D of the Code of Ordinances (the “Applicable STR Ordinance” and, collectively with the Code of Ordinances, the New STR Ordinance, and the Zoning Ordinance, the “Ordinance”), will be unconstitutional in that the Applicant’s property rights in and to the Property will be destroyed without first receiving fair, adequate, and just compensation for such property rights. As applied to the Property, in such case, such action on the Application and the Appeal, and the Ordinance, will deprive the Applicant of constitutionally protected rights in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the

United States of America.

If the Application and Appeal are not approved and a Certificate for the Property is not issued, without conditions or modifications, such action on the Application and Appeal, and application of the Ordinance to the Property, will be unconstitutional, illegal, arbitrary, capricious, null, and void, constitute a taking of the Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States of America thereby denying the Applicant (and the Owner) an economically viable use of the Property while not substantially advancing legitimate state interests.

Inasmuch as it is impossible for the Applicant to use the Property and simultaneously comply with the Ordinance, and if the Application and Appeal are not approved and a Certificate for the Property is not issued, without conditions or modifications, so to permit the Applicant to unequivocally utilize the Property for a short term vacation rental, such action on the Application and Appeal and application of the Ordinance to the Property will constitute arbitrary, capricious, and unreasonable acts by Putnam County, Georgia (the “County”), by and through the Putnam County Board of Commissioners (the “BOC”) or the County manager (the “County Manager”), without any rational basis therefor and constitute abuses of discretion in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United

States of America.

If the Application and Appeal are not approved and a Certificate for the Property is not issued, without conditions or modifications, such action and application of the Ordinance to the Property will be unconstitutional and discriminate against the Applicant in an arbitrary, capricious, and unreasonable manner between the Applicant and others similarly situated 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 of America.

Additionally, application of the New STR Ordinance to the Application, the Appeal, and/or the Property is an unconstitutional ex post fact law, in violation of Article 1, Section 10 of the Constitution of the United States of America and Article I, Section I, Paragraph X of the Constitution of the State of Georgia of 1983.

WHEREFORE, the Applicant requests that the County, BOC, and/or the County Manager approve the Application and Appeal, overturn the Denial, and issue a Certificate for the Property, as specified and designated in the Application, with only additional condition(s) consented to by the Applicant, and take all other action(s) necessary to permit the Applicant to utilize the Property as a short term rental.

[SIGNATURE ON NEXT PAGE]

Respectfully submitted this 3rd day of October 2023.

TAYLOR ENGLISH DUMA LLP
Counsel for Applicant

/s/ Steven L. Jones
Steven L. Jones
Georgia State Bar No.: 639038

1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7282
sjones@taylorenghish.com

EXHIBIT “D”

**OBJECTION TO AND FOR HEARINGS BASED ON
YORK V. ATHENS COLLEGE OF MINISTRY, INC.**

As applied to the real property of Sunset Properties Of Lake Oconee, LLC, a Georgia limited liability company, (the “Applicant”) which is identified as Putnam County Tax Assessor Parcel Nos. (“TPN”): 119C075 (the “Property”) and is the subject of the previously filed Short Term Rental Vacation Certificate (a “Certificate”) Application (the “Application”), filed on April 4, 2023, which was subsequently denied (the “Denial”) on September 18, 2023 and is the subject of an appeal filed by the Applicant (the “Appeal”), the public and/or other hearing(s) regarding, and any action of Putnam County, Georgia (the “County”), by and through the Board of Commissioners of the County (the “BOC”) and/or the County manager (the “County Manager”), on the Application and/or Appeal are objected to by the Applicant based on, but not limited to, the reasons set forth herein (collectively, the “York Objection” and each an “Objection”), in accordance with *York v. Athens College of Ministry, Inc.*, 348 Ga. App. 58, 821 S.E.2d 120 (Ga. Ct. App. 2018):

Contemporaneous with the filing of this *York* Objection, the Applicant is filing a Constitutional Objection to the Ordinances (as defined below) and any action by the County, BOC, and/or the County Manager that does not approve the Application and the Appeal and issue a Certificate for the Property, without condition or modification, and all Objections set forth therein are incorporated herein by reference as if fully restated.

The Applicant objects to any and every hearing before the BOC and/or the County Manager on the Application and/or Appeal because the time limitation, if any, imposed on the presentation of evidence and testimony in support of the Application and the Appeal deprives the Applicant a meaningful opportunity to be heard and preserve issues, in violation of the Due Process Clause of

the Fourteenth Amendment to the Constitution of the United States and Article I, Section I, Paragraphs I, II, XI, and XII of the Constitution of Georgia of 1983. Likewise, the Applicant objects to any and all members of the public (and/or other persons) who appear (or otherwise give testimony or opinion) at the hearing on the Appeal and/or the Application, if any, to the extent that (but not limited to) said individuals (a) do not satisfy the substantial interest-aggrieved citizen test; (b) are not under oath; (c) are not subject to cross-examination; (d) present evidence on and/or make statements that qualify as (or must or should be assessed with the aid of) expert opinion without any or all individuals being qualified as expert witnesses; (e) present evidence on and/or make statements that are not germane to the purview of the BOC and/or the County Manager, as applicable, with respect to the Application and Appeal as set out in the Putnam County Code of Ordinances, Georgia, (the “Code of Ordinances”), including, but not limited to, Section 22-121 through Section 22-126 of Chapter 22 of Code of Ordinances (the “New STR Ordinance”), to the extent the same is constitutionally applicable to the Application and/or the Appeal, the Putnam County Zoning Ordinance of 2020, codified at Chapter 66 of the Code of Ordinances (the “Zoning Ordinance”), and the prior Putnam County Short Term Vacation Rental Ordinance, previously codified at Appendix D of the Code of Ordinances (the “Applicable STR Ordinance” and, collectively with the Code of Ordinances, the New STR Ordinance, and the Zoning Ordinance, the “Ordinance”); and/or (f) present evidence and/or make statements that are founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence.

Additionally, the Applicant objects to any BOC and/or County Manager action that does not approve the Application and the Appeal and issue a Certificate for the Property, without condition or modification, to the extent that (but not limited to) such action is: (a) in violation of

Section 50-13-19(h) of the Official Code of Georgia Annotated or otherwise: (1) in violation of any constitutional, statutory, and/or ordinance provisions; (2) in excess of the constitutional, statutory, and/or ordinance authority of the BOC and/or the County Manager; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (b) founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence; (c) contrary to or outside of the purview of the BOC and/or the County manager, and/or procedure, for the Application and/or the Appeal set out in the Ordinance; (d) based, in whole or part, on evidence or other information received outside of the hearing(s) on the Application and/or Appeal and/or in any manner which does not afford the Applicant an opportunity to review or respond to the same; and/or (e) not made pursuant and in conformance with the Ordinance; the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, and/or any other law of the state of Georgia or the United States of America.

By and through this *York* Objection, the Applicant hereby preserves all the above and incorporated Objections, and any and all evidence, arguments, and objections made and/or tendered by the Applicant at or prior to the BOC and/or County Manager hearing on the Application’s Appeal, and asserts them on and within the record before, and for consideration and resolution (prior to any formal decision) by, the BOC and/or County Manager, as applicable.

WHEREFORE, the Applicant requests that the County, BOC, and/or the County Manager approve the Application and Appeal, overturn the Denial, and issue a Certificate for the Property, as specified and designated in the Application, with only additional condition(s) consented to by the Applicant, and take all other action(s) necessary to permit the Applicant to utilize the Property

as a short term rental.

Respectfully submitted this 3rd day of October 2023.

TAYLOR ENGLISH DUMA LLP
Counsel for Applicant

/s/ Steven L. Jones
Steven L. Jones
Georgia State Bar No.: 639038

1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7282
sjones@taylorenghish.com

Lynn Butterworth

From: Lynn Butterworth
Sent: Tuesday, October 10, 2023 11:21 AM
To: 'Joshua Williams'; Paul Van Haute; anelson@flemingnelson.com
Cc: Steven Jones; Kerri Smith
Subject: RE: Appeal of STR Application -113B River Bend Court Denial

Good morning,
The Putnam County Board of Commissioners has scheduled your appeal hearing for Monday, October 30, 2023 at 10 a.m.
If you have any questions, please let me know.

Lynn

From: Joshua Williams <jwilliams@taylorenghish.com>
Sent: Tuesday, October 3, 2023 12:09 PM
To: Paul Van Haute <pvanhaute@putnamcountyga.us>; anelson@flemingnelson.com; Lynn Butterworth <lbutterworth@putnamcountyga.us>
Cc: Steven Jones <sjones@taylorenghish.com>; Kerri Smith [REDACTED]
Subject: Appeal of STR Application -113B River Bend Court Denial

Mr. Haute,

Please see attached Appeal of the STR Application -113B River Bend Court Denial.

Please also accept this letter as an open records request pursuant to the Georgia Open Records Act (O.C.G.A. 50-18-70; 50-18-71 and 50-18-72) for all documents and other records of, evidencing, or consisting of written, verbal, and nonverbal communications of former Putnam County Commissioner Alan Foster, at anytime within the past five (5) years, and regarding (1) the Property; (2) the Applicant; (4) Mr. David M. Smith; (5) Mrs. Kerri L. Smith; (6) Smith Built Homes; and/or (7) Smith Built Communities.

Cordially,

JW



Joshua Williams
Taylor English Duma LLP | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.426.4657 | jwilliams@taylorenghish.com
[Website](#)

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