

K&L|GATES

K&L Gates LLP  
Hearst Tower, 47th Floor  
214 North Tryon Street  
Charlotte, NC 28202  
T 704.331.7400 www.klgates.com

May 16, 2011

John H. Carmichael  
D 704.331.7509  
F 704.353.3209  
john.carmichael@klgates.com

**VIA EMAIL**

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Rezoning Petition filed by Brookechase Properties, LLC to rezone an approximately 3.16 acre site located on South Trade Street from the R-20 zoning district to the R-VS Innovative zoning district (Rezoning Petition No. 2010-558)

Dear Kathi and Bill:

I hope this letter finds you both well. Pursuant to Section 153.267(A) of the Matthews Zoning Code, the Petitioner, Brookechase Properties, LLC, hereby respectfully requests the withdrawal of Rezoning Petition No. 2010-558.

Garry Smith of the Petitioner and I will attend the Town Council's May 23, 2011 meeting to answer any questions the Mayor or the Members of the Town Council may have regarding this withdrawal request.

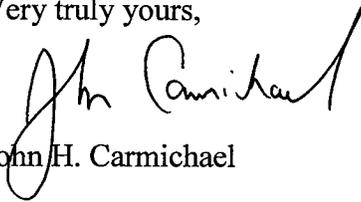
Garry, Chip Cannon and I appreciate all of the time and attention that the Mayor and the Town Council Members, the Planning Board Members and you, Kathi, Jay and Ralph devoted to this Rezoning Petition.

Please let me know if you have any questions.

Thank you.

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
May 16, 2011  
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "John Carmichael". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

John H. Carmichael

JHC/laf

cc: Ms. Jill Pleimann, Town Clerk (via email)  
Mr. Garry Smith (via email)  
Mr. Chip Cannon (via email)  
Ms. Peggy Bates (via email)

K&L|GATES

K&L Gates LLP  
Hearst Tower, 47th Floor  
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Charlotte, NC 28202  
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April 18, 2011

John H. Carmichael  
D 704.331.7509  
F 704.353.3209  
john.carmichael@klgates.com

VIA EMAIL

Ms. Kathy Ingrish  
Mr. Bill Sherrill  
Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Rezoning Petition filed by Brookechase Properties, LLC to rezone an approximately 3.16 acre site located on South Trade Street from the R-20 zoning district to the R-VS Innovative zoning district (Rezoning Petition No. 2010-558)

Dear Kathi and Bill:

As you are aware, the Matthews Town Council (the "Council") is currently scheduled to render a decision on Rezoning Petition No. 2010-558 at its Monday, April 25, 2011 meeting. As you are also aware, a final decision on a rezoning application for a site that is required to meet the Matthews Post Construction Ordinance shall generally not be made until the Storm Water Administrator has issued a Notice of Approval for a post construction concept plan for the site.

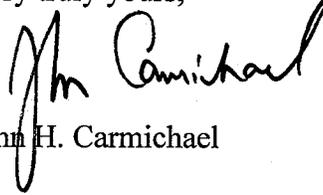
Unfortunately, the Storm Water Administrator will not have issued a Notice of Approval of the post construction concept plan for the site subject to Rezoning Petition No. 2010-558 by April 25, 2011, and it appears that the Notice of Approval will not be issued until May 2011.

Therefore, on behalf of the Petitioner, I respectfully request that the Council's decision on Rezoning Petition No. 2010-558 be deferred from the Council's April 25, 2011 agenda to the Council's May 23, 2011 agenda in order to provide additional time to have the post construction concept plan approved. We appreciate the Council's consideration of this request.

Garry Smith of the Petitioner and I will attend the Council's April 25, 2011 meeting to answer any questions you may have with respect to this matter. Thank you for your assistance.

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
April 18, 2011  
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "John Carmichael". The signature is written in a cursive style with a large, stylized initial "J".

John H. Carmichael

JHC/laf

cc: Mr. Garry Smith (via email)  
Mr. Chip Cannon (via email)

K&L|GATES

K&L Gates LLP  
Hearst Tower, 47th Floor  
214 North Tryon Street  
Charlotte, NC 28202

T 704.331.7400 www.klgates.com

March 8, 2011

John H. Carmichael  
D 704.331.7509  
F 704.353.3209  
john.carmichael@klgates.com

**VIA EMAIL**

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Rezoning Petition filed by Brookechase Properties, LLC to rezone an approximately 3.16 acre site located on South Trade Street from the R-20 zoning district to the R-VS Innovative zoning district (Rezoning Petition No. 2010-558)

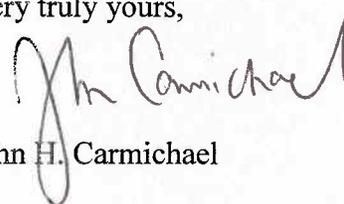
Dear Kathi and Bill:

I hope this letter finds you well. As you are aware, the Matthews Town Council (the "Council") is currently scheduled to render a decision on Rezoning Petition No. 2010-558 at its Monday, March 14, 2011 meeting. However, as you are also aware, the Petitioner, Brookechase Properties, LLC, has made numerous revisions to the Conditional Rezoning Plan recently, and additional revisions could be made to the Conditional Rezoning Plan as a result of feedback from Council members. Because of the somewhat fluid nature of the Conditional Rezoning Plan at this time, the Conditional Rezoning Plan has not been formally submitted to your office as of the date of this letter.

As a result of the foregoing, the Petitioner is respectfully requesting that the Council's decision on Rezoning Petition No. 2010-558 be deferred from the Council's March 14, 2011 meeting to the Council's April 11, 2011 meeting. We appreciate the Council's consideration of this request.

Garry Smith of the Petitioner and I will attend the Council's March 14, 2011 meeting to answer any questions regarding Rezoning Petition No. 2010-558 or this deferral request. Thank you for your assistance.

Very truly yours,



John H. Carmichael

JHC/laf  
cc: Mr. Garry Smith (via email)

K&L Gates LLP  
Hearst Tower, 47th Floor  
214 North Tryon Street  
Charlotte, NC 28202

T 704.331.7400      www.klgates.com

December 8, 2010

John H. Carmichael  
D 704.331.7509  
F 704.353.3209  
john.carmichael@klgates.com

VIA EMAIL

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Rezoning Petition filed by Brookechase Properties, LLC to rezone an approximately 3.16 acre site located on South Trade Street (the "Site") from the R-20 zoning district to the R-VS Innovative zoning district (Rezoning Petition No. 2010-558)

Dear Kathi and Bill:

I hope this letter finds you well. As you are aware, the Public Hearing on Rezoning Petition No. 2010-558 is scheduled for Monday, December 13, 2010 at 7:00 P.M. at the Matthews Town Hall. As you are also aware, the North Carolina Department of Transportation is currently indicating that it will require the Petitioner to install a southbound left turn lane on South Trade Street at an access point into the Site.

The installation of a southbound left turn lane on South Trade Street at an access point into the Site could have an adverse impact on trees that the Petitioner desires to save in connection with the development of the Site, it could require the Petitioner to acquire additional right-of-way to accommodate the left turn lane and it could impact adjoining property owners. Moreover, the requirement to install a left turn lane could render the Petitioner's proposed project infeasible to develop. In short, a left turn lane raises several complex issues to be resolved by the Petitioner.

In view of the issues raised by the potential southbound left turn lane on South Trade Street into the Site and the Petitioner's desire to resolve these issues prior to the Public Hearing on this Rezoning Petition, the Petitioner is respectfully requesting a one month deferral of the Public Hearing on Rezoning Petition No. 2010-558 from Monday, December 13, 2010 until Town Council's Monday, January 10, 2011 agenda. We appreciate the Town Council's consideration of this request.

I will notify the adjoining property owners and those individuals who attended the Community Meeting that the Petitioner is requesting this deferral of the Public Hearing.

K&L | GATES

Ms. Kathi Ingrish  
Mr. Bill Sherrill  
December 8, 2010  
Page 2

Thank you for your assistance, and please do not hesitate to give me a call should you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "John H. Carmichael". The signature is written in a cursive style with a large, stylized "J" and "C".

John H. Carmichael

JHC/laf

cc: Mr. Garry Smith  
Mr. Chip Cannon



DATE FILED Revised 10/1/2010  
APPLICATION NUMBER 2010-558  
*For office use only*

**AMENDED**  
**APPLICATION FOR CHANGE IN ZONING CLASSIFICATION**  
**OR CHANGE IN CONDITIONS**  
(SEE FILING INSTRUCTIONS)

TO: Town of Matthews Board of Commissioners  
Town of Matthews Planning Board  
232 Matthews Station Street  
Matthews, North Carolina 28105-6713

Ladies and Gentlemen:

Your consideration of this petition is requested for:

- A change in zoning classification of the property hereinafter described; or
- A change in conditions to an existing conditional zoning plan.

Tax parcel number(s) 227-211-04, 227-211-05 and 227-211-06

Address of property 259 and 269 South Trade Street, Matthews, NC 28105

Location of property

The property is located on the east side of South Trade Street at its intersection with Main Street

Title to the property was acquired on See Exhibit A

and was recorded in the name of See Exhibit A

whose mailing address is See Exhibit A

The deed is recorded in Book See Exh. A and Page See Exh. A in the office of the Register of Deeds for Mecklenburg County

Present zoning classification R-20 Requested zoning classification R-VS Innovative

Exhibit A to Rezoning Petition No. 2010-558

**Parcel No. 227-211-04**

Betty Suzanne Burton  
P.O. Box 278  
Matthews, NC 28106-0278

Property Address: 259 South Trade Street, Matthews, NC

Title to Property Acquired on June 8, 2010

Deed is recorded in Book 25705 at Page 535 of the Mecklenburg County Public Registry

**Parcel Nos. 227-211-05 and 227-211-06**

William Burnette and Sharon Burnette  
1910 Crest Ridge Drive  
Papillion, NE 68133

Property Address: 269 South Trade Street, Matthews, NC

Title to Property Acquired on September 29, 1982 and October 17, 1995

Deed is recorded in Book 04583 at Page 314 of the Mecklenburg County Public Registry

List reason(s) why zoning should be changed (use separate sheet if necessary):

To accommodate the development of a residential community containing a maximum of 27 dwelling units that will be comprised of single family detached dwelling units and single family attached dwelling units. A maximum of 9 of the dwelling units may be single family attached dwelling units.

Signature on File

Signature of property owner (must be original)

William Burnette

Print name of property owner

1910 Crest Ridge Drive

Property owner's mailing address

Papillion, NE 68133

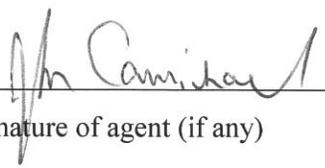
Property owner's mailing address, continued

\_\_\_\_\_

Property owner's mailing address, continued

402-502-3771/bill.sharon.burnette@cox.net

Property owner's phone number/email address



Signature of agent (if any)

John Carmichael, K & L Gates

Print name of agent

214 N. Tryon Street, 47<sup>th</sup> Floor

Agent's mailing address

Charlotte, NC 28202

Agent's mailing address, continued

\_\_\_\_\_

Agent's mailing address, continued

704-331-7509/john.carmichael@klgates.com

Agent's phone number/email address

Signature on File

Signature of property owner (must be original)

Sharon Burnette

Print name of property owner

1910 Crest Ridge Drive

Property owner's mailing address

Papillion, NE 68133

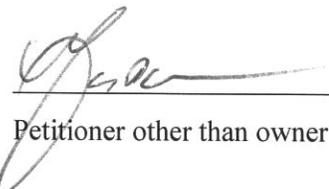
Property owner's mailing address, continued

\_\_\_\_\_

Property owner's mailing address, continued

402-502-3771/bill.sharon.burnette@cox.net

Property owner's phone number/email address



Petitioner other than owner (if any)

Brookechase Properties, LLC/Garry Smith

Print name of petitioner

P.O. Box 578

Petitioner's mailing address

Matthews, NC 28106

Petitioner's mailing address, continued

\_\_\_\_\_

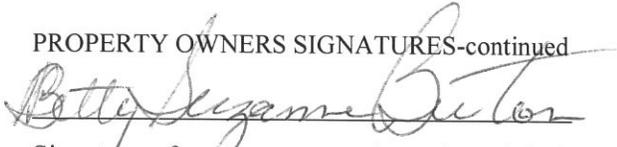
Petitioner's mailing address, continued

704-321-0371/gsmith@brookechaseproperties.com

Petitioner's phone number/email address

Application number  
2010-558  
10/1/2010  
For office use only

PROPERTY OWNERS SIGNATURES-continued



Signature of property owner (must be original)

Betty Suzanne Burton

Print name of property owner

P.O. Box 278

Property owner's mailing address

Matthews, NC 28106-0278

Property owner's mailing address, continued

Property owner's mailing address, continued

Property owner's phone number/email address

**EXHIBIT B**

**ADJOINING PROPERTY OWNERS**

Parcel No. 227-024-11

Matthews Morning Star Volunteer Fire Department, Inc.  
130 East Charles Street  
Matthews, NC 28105

Parcel No. 227-024-10

Donald McGee Honeycutt and Nancy N. Honeycutt  
268 South Trade Street  
Matthews, NC 28105

Parcel No. 227-022-02

William Henry Clayton  
300 South Trade Street  
Matthews, NC 28105

Parcel No. 227-022-01

Anna Lisa Johnson Trust  
Anna Lisa Johnson, Trustee  
733 Plantation Estates Drive #B411  
Matthews, NC 28105-5871

Parcel No. 227-151-25

ACTS Retirement-Life Communities, Inc.  
375 Morris Road  
West Point, PA 19486

Parcel No. 227-218-05

Brian R. Swanson and Lisa C. Swanson  
606 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-06

Jai Namkoong and Kyoung Hye Namkoong  
602 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-07

William Dennis Bailey and Hazel Penni Bailey  
603 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-16

James M. Cunningham and Rebecca L. Cunningham  
604 Edenwood Court  
Matthews, NC 28105-0340

Parcel No. 227-218-17

Bradley W. Neblett and Shelly R. Neblett  
600 Edenwood Court  
Matthews, NC 28105

Parcel No. 227-218-18

Paul Scott Baxter and Angie Baxter  
605 Edenwood Court  
Matthews, NC 28105

Parcel No. 227-211-02

Charlotte-Mecklenburg Board of Education  
701 East 2<sup>nd</sup> Street  
Charlotte, NC 28204

Parcel No. 227-211-03

Southern Rentals, LLC  
1182 County Home Road  
Taylorsville, NC 28681

Parcel No. 227-218-08

Chad A. Coltrane and Tamera H. Coltrane  
607 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-09

Robert D. Kinniburgh III and Marsha J. Kinniburgh  
611 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-212-75

Town of Matthews  
232 Matthews Station Drive  
Matthews, NC 28105

Parcel No. 227-212-25

Matthews United Methodist Church (Trustees)  
P.O. Box 518  
Matthews, NC 28106

Parcel No. 227-024-13

Matthews Morning Star Volunteer Fire Department, Inc.  
234 South Trade Street  
Matthews, NC 28105

Parcel No. 227-024-14

Joseph P. Edwards, Jr. and Linda Lane  
224 South Trade Street  
Matthews, NC 28105

Parcel No. 227-024-15

Matthews Women's Club  
208 South Trade Street  
Matthews, NC 28106

Parcel No. 227-218-19

Brian Keith McCaw and Sheree Williams  
609 Edenwood Court  
Matthews, NC 28105-0341

## SUMMARY OF THE REZONING PROCESS

**PETITIONER:** Fill in dates of each action below before filing application. Refer to the current Planning Department rezoning schedule for correct dates.

**PROPERTY OWNERS:** These dates are assumed to be correct at the time of zoning application submittal but are subject to revision. Contact the Planning Department (704-847-4411, extension 224) for verification.

Application submitted to and accepted by the Town of Matthews October 1, 2010

Town Board of Commissioners formally accepts application and sets Public Hearing date October 11, 2010

Notices sent via mail to affected/adjacent property owners on or before November 29, 2010

Protest petition filed with Planning Department by 5:00 pm on December 8, 2010

Public hearing: petitioner may give explanation of why s/he wishes to have property rezoned and neighboring owners may ask questions and voice opinions on the proposed zoning December 13, 2010

Town Planning Board reviews petition, information, and comments from the public hearing, then makes a recommendation to the Board of Commissioners on whether to approve or deny the request

December 28, 2010

Town Board of Commissioners approves or denies application January 10, 2011

### **GENERAL STATUTE 160A-385: CHANGES.**

- (a) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel in the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendments which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.
- (b) Amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to GS 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to GS 160A-418 and unrevoked pursuant to GS 160A-422 or (ii) a vested right has been established pursuant to GS 160A-385.1 and such vested right remains valid and unexpired pursuant to GS 160A-385.1.



DATE FILED 7/30/2010  
 APPLICATION NUMBER 2010-558  
*For office use only*

**APPLICATION FOR CHANGE IN ZONING CLASSIFICATION  
 OR CHANGE IN CONDITIONS**  
 (SEE FILING INSTRUCTIONS)

TO: Town of Matthews Board of Commissioners  
 Town of Matthews Planning Board  
 232 Matthews Station Street  
 Matthews, North Carolina 28105-6713

Ladies and Gentlemen:

Your consideration of this petition is requested for:

- A change in zoning classification of the property hereinafter described; or
- A change in conditions to an existing conditional zoning plan.

Tax parcel number(s) 227-211-05 and 227-211-06

Address of property 269 South Trade Street, Matthews, NC 28105

Location of property

The property is located on the east side of South Trade Street at its intersection with Main Street

Title to the property was acquired on September 29, 1982 and October 17, 1995

and was recorded in the name of William Burnette and Sharon Burnette

whose mailing address is 1910 Crest Ridge Drive, Papillion, NE 68133

The deed is recorded in Book 04583 and Page 314 in the office of the Register of Deeds for Mecklenburg County

Present zoning classification R-20 Requested zoning classification R-VS Innov.

Application number  
2010-558  
7/30/2010  
For office use only

List reason(s) why zoning should be changed (use separate sheet if necessary):

To accommodate the development of an age restricted residential community containing a maximum of 21 dwelling units that will be comprised of 13 single family detached dwelling units and 8 single family attached dwelling units.

Signature of property owner (must be original)

William Burnette

Print name of property owner

1910 Crest Ridge Drive

Property owner's mailing address

Papillion, NE 68133

Property owner's mailing address, continued

Property owner's mailing address, continued

402-502-3771 bill.sharon.burnette@cox.net →

Property owner's phone number/email address

Signature of property owner (must be original)

Sharon Burnette

Print name of property owner

1910 Crest Ridge Drive

Property owner's mailing address

Papillion, NE 68133

Property owner's mailing address, continued

Property owner's mailing address, continued

Property owner's phone number/email address

Signature of agent (if any)

John Carmichael, K & L Gates

Print name of agent

214 N. Tryon Street, 47<sup>th</sup> Floor

Agent's mailing address

Charlotte, NC 28202

Agent's mailing address, continued

Agent's mailing address, continued

704-331-7509/john.carmichael@klgates.com

Agent's phone number/email address

Petitioner other than owner (if any)

Brookechase Properties, LLC (Garry Smith)

Print name of petitioner

P.O. Box 578

Petitioner's mailing address

Matthews, NC 28106

Petitioner's mailing address, continued

Petitioner's mailing address, continued

321-0371/gsmith@brookechaseproperties.com

Petitioner's phone number/email address



**EXHIBIT A**

**ADJOINING PROPERTY OWNERS**

Parcel No. 227-024-11

Matthews Morning Star Volunteer Fire Department, Inc.  
130 East Charles Street  
Matthews, NC 28105

Parcel No. 227-024-10

Donald McGee Honeycutt and Nancy N. Honeycutt  
268 South Trade Street  
Matthews, NC 28105

Parcel No. 227-022-02

William Henry Clayton  
300 South Trade Street  
Matthews, NC 28105

Parcel No. 227-022-01

Anna Lisa Johnson Trust  
Anna Lisa Johnson, Trustee  
733 Plantation Estates Drive #B411  
Matthews, NC 28105-5871

Parcel No. 227-151-25

ACTS Retirement-Life Communities, Inc.  
375 Morris Road  
West Point, PA 19486

Parcel No. 227-218-05

Brian R. Swanson and Lisa C. Swanson  
606 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-06

Jai Namkoong and Kyoung Hye Namkoong  
602 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-07

William Dennis Bailey and Hazel Penni Bailey  
603 Meadow Lake Drive  
Matthews, NC 28105

Parcel No. 227-218-16

James M. Cunningham and Rebecca L. Cunningham  
604 Edenwood Court  
Matthews, NC 28105-0340

Parcel No. 227-218-17

Bradley W. Neblett and Shelly R. Neblett  
600 Edenwood Court  
Matthews, NC 28105

Parcel No. 227-218-18

Paul Scott Baxter and Angie Baxter  
605 Edenwood Court  
Matthews, NC 28105

Parcel No. 227-211-02

Charlotte-Mecklenburg Board of Education  
701 East 2<sup>nd</sup> Street  
Charlotte, NC 28204

Parcel No. 227-211-03

Southern Rentals, LLC  
1182 County Home Road  
Taylorsville, NC 28681

Parcel No. 227-211-04

Betty G. Burton  
P.O. Box 278  
Matthews, NC 28106-0278

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Matthews, NC 28105

Parcel No. 227-218-09

Robert D. Kinniburgh III and Marsha J. Kinniburgh  
611 Meadow Lake Drive  
Matthews, NC 28105

## SUMMARY OF THE REZONING PROCESS

**PETITIONER:** Fill in dates of each action below before filing application. Refer to the current Planning Department rezoning schedule for correct dates.

**PROPERTY OWNERS:** These dates are assumed to be correct at the time of zoning application submittal but are subject to revision. Contact the Planning Department (704-847-4411, extension 224) for verification.

Application submitted to and accepted by the Town of Matthews July 30, 2010

Town Board of Commissioners formally accepts application and sets Public Hearing date August 9, 2010

Notices sent via mail to affected/adjacent property owners on or before September 27, 2010

Protest petition filed with Planning Department by 5:00 pm on October 6, 2010

Public hearing: petitioner may give explanation of why s/he wishes to have property rezoned and neighboring owners may ask questions and voice opinions on the proposed zoning October 11, 2010

Town Planning Board reviews petition, information, and comments from the public hearing, then makes a recommendation to the Board of Commissioners on whether to approve or deny the request

Oct. 26, 2010

Town Board of Commissioners approves or denies application November 8, 2010

### **GENERAL STATUTE 160a-385: CHANGES.**

- (a) Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the council" for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right of way shall not be considered in computing the 100-foot buffer area as long as that street right of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel in the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas. The foregoing provisions concerning protests shall not be applicable to any amendments which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.
- (b) Amendments in zoning ordinances shall not be applicable or enforceable without consent of the owner with regard to buildings and uses for which either (i) building permits have been issued pursuant to GS 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to GS 160A-418 and unrevoked pursuant to GS 160A-422 or (ii) a vested right has been established pursuant to GS 160A-385.1 and such vested right remains valid and unexpired pursuant to GS 160A-385.1.

K&L|GATES

K&L Gates LLP  
Hearst Tower, 47th Floor  
214 North Tryon Street  
Charlotte, NC 28202  
T 704.331.7400 www.klgates.com

July 30, 2010

John H. Carmichael  
D 704.331.7509  
F 704.353.3209  
john.carmichael@klgates.com

VIA EMAIL

Ms. Kathi Ingrish  
Planning Director  
Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105-6713

Re: Rezoning Petition filed by Brookechase Properties, LLC to rezone an approximately 2.49 acre parcel of land located on South Trade Street (the "Site") from the R-20 zoning district to the R-VS Innovative zoning district

Dear Kathi:

This letter is being submitted with the above-captioned Rezoning Petition pursuant to the requirements of Paragraph 13 of the Instructions for Filing a Petition for a Change in a Zoning Classification (the "Instructions") and Section 153.207(E)(1) of the Town of Matthews Zoning Ordinance (the "Ordinance"). As you are aware, Paragraph 13 of the Instructions requires the Petitioner to submit documentation regarding the land use recommendations for the Site as set out in adopted land use plans and a statement as to how this rezoning proposal complies with such recommendations. Section 153.207(E)(1) of the Ordinance requires the Petitioner to submit a written statement that outlines the purpose and objective of the proposed innovative development, particular development standards being modified and the design features and amenities of the proposed development to make the proposal worthy of approval.

With respect to the land use recommendations, the Matthews Land Use Plan (the "Plan") does not provide any specific land use recommendation for the Site. However, the Site is currently zoned for residential purposes, and the Plan sets out the general goals, objectives and recommendations for each land use category.

A stated goal and objective of the Plan is to "foster a balanced land use pattern which provides opportunities for a mix of commercial, employment, residential and open space uses." To meet the housing needs of area residents, the Plan provides that "a maximum range of choice in type, density and location of housing" should be provided "while preventing the adverse impacts to the environment and quality of life." In terms of appropriate locations for medium to high density residential developments, the Plan provides that such developments "should be located in areas fronting or near major or

minor thoroughfares and located in areas where services and utilities are available or projected to be within five years.”

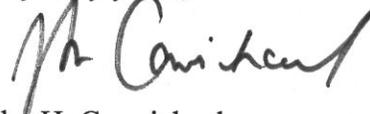
Another objective of the Plan is to provide for senior citizen housing as the demographics of the community indicate a need. Moreover, the Planning, Aging and Matthews Report provides that the elderly population in Matthews will be 5,017 in 2010 and 9,546 in 2020. Clearly then, there will be an increasing need for senior housing in Matthews in the next decade.

The proposed project would be a unique, age restricted residential community located in close proximity to downtown Matthews. The proposed homes would provide a housing type that is not readily available in Matthews, thereby increasing the diversity of the housing stock, and this residential community would not have an adverse impact on the surrounding environment. Residents of this proposed community could walk to the retail, commercial and restaurant destinations located in downtown Matthews, as well as to the local greenway. Higher density residential development is appropriate in locations in close proximity to such uses. For the reasons set out above, the Petitioner believes that this proposed residential community satisfies several of the general land use objectives of the Plan.

With respect to the specific development standards sought to be modified by the Petitioner, the Petitioner seeks to reduce the side yard to 5 feet and the rear yard to 17 feet as set out on the Rezoning Site Plan. The intent of this proposed development is to bring a unique aged restricted residential community to Matthews that would contain both single family detached and single family attached dwelling units surrounding a courtyard with a common amenity. The Petitioner believes this residential community would provide an exciting housing opportunity for senior citizens in Matthews. The reduced side and rear yards provide the Petitioner with the flexibility to accomplish the design elements of the proposed project.

The Petitioner and I look forward to working with you and the Town of Matthews on this rezoning proposal.

Very truly yours,



John H. Carmichael