

**APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

*Type or Print Clearly*

(To be completed by City)

Ward: 6

Application No: 27-012

Hearing Date: 7/17/17

**APPLICANT:** John Wieland Homes and Neighborhoods

Name: James A. Balli, Attorney for Applicant

(Representative's name, printed)

Address: 376 Powder Springs Street, Suite 100

Business Phone: 770.422.7016 Cell Phone: \_\_\_\_\_ Fax Number: 770.426.6583

E-Mail Address: jballi@slhb-law.com

Signature of Representative: 

**TITLEHOLDER**

Name: See attached Exhibit "A"

(Titleholder's name, printed)

Address: See representative.

Business Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

E-mail Address: See representative.

Signature of Titleholder: See attached Exhibit "A"

(Attach additional signatures, if needed)

(To be completed by City)

Received: 5/12/17

Heard by P&Z Board: 6/12/17

P&Z Recommendation: \_\_\_\_\_

Advertised: \_\_\_\_\_

Posted: 5/22/17

Approved/Denied: \_\_\_\_\_

**ZONING REQUEST**

From     R-15 & LC     to     TD      
Present Zoning Proposed Zoning

**LAND USE**

From Suburban Residential/Medium Density Residential to Urban Residential  
Present Land Use Proposed Land Use

For the Purpose of Residential

Size of Tract 5.487

Location 3030 Atlanta Road, 3040 Atlanta Road and 3050 Atlanta Road  
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 558 District 17th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X ~~historic~~ such assets, If any, they are as follows: to the best of my knowledge, information and belief.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(To be completed by City)

Recommendation of Planning Commission:  
\_\_\_\_\_  
\_\_\_\_\_

Council's Decision:  
\_\_\_\_\_  
\_\_\_\_\_

**CONTIGUOUS ZONING**

**North:** RAD

**East:** R-15

**South:** R-15, R-20

**West:** R-15 and LC

**CONTIGUOUS LAND USE**

**North:** Urban Residential

**East:** Medium Density Residential and Suburban Residential

**South:** Suburban Residential

**West:** Medium Density Residential and Suburban Residential

**INFRASTRUCTURE**

**WATER AND SEWER**

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

See attached letter from Scott Stokes, Director of Public Works.  
\_\_\_\_\_  
\_\_\_\_\_

**TRANSPORTATION**

Access to Property? \_\_\_\_\_

There will only be one access located solely on Atlanta Road with the option to have a gated community.  
\_\_\_\_\_  
\_\_\_\_\_

Improvements proposed by developer? \_\_\_\_\_

Private road as shown on the attached Site Plan.  
\_\_\_\_\_  
\_\_\_\_\_

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ZONING DISCLOSURE REPORT**

Has the applicant\* made, within two years immediately preceding the filing of this application for rezoning, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council or Planning and Zoning Board who will consider this application?

Yes

If so, the applicant\* and the attorney representing the applicant\* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

**Please supply the following information, which will be considered as the required disclosure:**

The name of the Mayor or member of the City Council or Planning and Zoning Board to whom the campaign contribution or gift was made:

Max Bacon; Ron Fennel; and Doug Stoner\*\*

The dollar amount of each campaign contribution made by the applicant\* to the Mayor or any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application, and the date of each such contribution:

Max Bacon - \$2,500.00 on 7/23/15; Doug Stoner - \$1,000.00 on 7/24/15 and \$1,500.00 on 10/23/15; and, Ron Fennel - \$2,500.00 on 8/27/15.\*\*

An enumeration and description of each gift having a value of \$250 or more by the applicant\* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application:

N/A

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

No.

If so, describe the natural and extent of such interest: N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*Attorney for Applicant

**ZONING DISCLOSURE REPORT (CONTINUED)**

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

No

If so, describe the nature and extent of such interest:

N/A

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

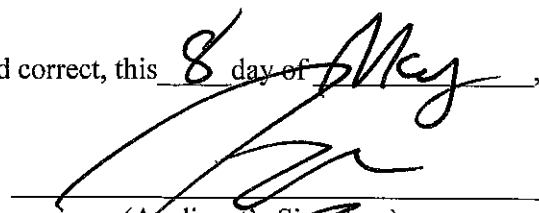
No

If so, describe the relationship and the nature and extent of such interest:

N/A

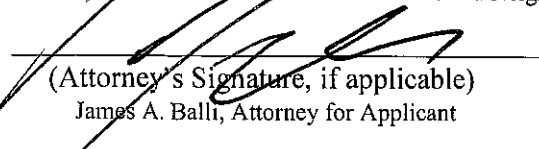
If the answer to any of the above is "Yes", then the Mayor or the member of the City Council or Planning and Zoning Board must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application\*\*. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 8 day of May, 2017.



(Applicant's Signature)

James A. Balli, On Behalf of John Wieland Homes and Neighborhoods



(Attorney's Signature, if applicable)

James A. Balli, Attorney for Applicant

Notes

\* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

\*\* Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

**REZONING ANALYSIS**

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the rezoning request.**

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

See attached Exhibit "B".

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2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

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

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**REZONING ANALYSIS (CONTINUED)**

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

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

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6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

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**REZONING ANALYSIS (CONTINUED)**

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

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8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

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9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

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## EXHIBIT "B"

### REZONING ANALYSIS JOHN WIELAND HOMES AND NEIGHBORHOODS

1. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property?* Yes.

The Proposal will allow for single-family homes with price points in the high 400Ks to the 500Ks, minimum square footage of 2,400 sq. ft. to 3,500 sq. ft. and up, two car garages and upscale architecture (see attached elevations). This residential community will serve as a step-down and sound buffer from the commercial corridor for neighbors to the rear of the Property. The Proposal will also protect the Property for decades against any commercial attempting to be developed adjacent to the Raymond Reed house.

2. *Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property?* No.

The Property is located on a major commercial road (Atlanta Rd) and directly across from property designated as Urban Residential. The Property is adjoined on the west by Community Bank of the South and on the east Raymond Reed house. A large portion of the Property is zoned commercial and would allow development for such commercial uses as (a) employment agencies; (b) telephone answering services; (c) banks; (d) chiropractors and related uses; (e) parking garages and (f) animal hospitals. The Proposal will protect the neighbors located in the residential property to the rear of the Property from commercial development of such uses (or others) and allow the single-family neighborhood to provide a better sense of place with possible landscaping or other co-ordination with the Raymond Reed house.

3. *Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned?* No.

The Property has been considered for various commercial or other uses and has not presented a viable option without being rezoned and developed as a combined parcel (commercial or residential).

4. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?* No.

The only entrance will be located on Atlanta Road which has sufficient capacity to absorb the limited traffic produced by the number of single-family homes set forth in the Proposal. The City of Smyrna Public Works has already confirmed utilities are available sufficient to serve the Proposal. Finally, the Property is being marketed to young professionals who do not have children and the Cobb County School System will have sufficient facilities for any children living within the development.

5. *Whether the zoning proposal is in conformity with the policy and intent of the land use plan?* Yes.

While technically located at the very edge of Medium Density Residential, the Property is directly across from Urban Residential development and a large portion is currently commercial. Changing the designation to single-family residential will be in conformity with the intent of the land use plan.

6. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?* Yes.

As stated previously, this Proposal will act as a buffer (for both sound and commercial development) for the residential located to the rear of the Property. Additionally, due to the recent opening of SunTrust Park and the Battery, and the fact the only entrance is on Atlanta Road, the area is changing such that the Property would be a better fit at Urban Residential designation. Also, by removing a commercial zoning designation, the Proposal will be beneficial to the continued utilization of the Raymond Reed house and to stop any further commercial development toward the suburban residential property located adjacent to the rear of the Property.

7. *Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area?*

The Proposal will be an enhancement to the area with upscale architecture, home prices in the high 400Ks to the 500Ks and other factors which can benefit the general neighborhood as a whole. In addition, landscaping options and other features can enhance and compliment the public use of the Raymond Reed house.

8. *Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area?* No.

As stated above, the Proposal will increase the property values of any adjacent residential and decrease the noise nuisance from Atlanta Road.

9. *Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively?*

The Proposal will positively affect the adjoining properties and general neighborhood in a positive manner. The single family homes will have price points which will increase home values, remove uncertainty that comes with unknown future commercial development and provide a sense of place to the area.

**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** **John Wieland Homes and Neighborhoods**  
**Titleholder:** **3050 South Atlanta Road Partners**  
**PIN:** **17055800110**

3050 South Atlanta Road Partners

By: Farrell H. Bruzel

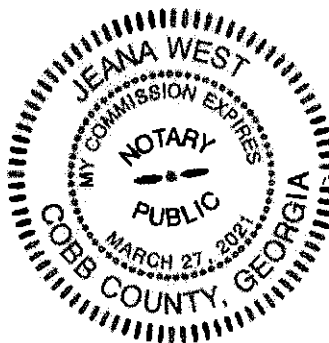
Title: Partner

Printed Name: Farrell H. Bruzel

Date Executed: 5/4/17

Signed, sealed, and delivered in the presence of:

Jeana West, 5.4.2017  
Notary Public Jeana West  
Commission Expires: March 27, 2021



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

Application No.: \_\_\_\_\_  
Hearing Dates: June 12, 2017  
July 17, 2017

Applicant: **John Wieland Homes and Neighborhoods**  
Titleholder: **3050 South Atlanta Road Partners**  
PIN: **17055800110**

3050 South Atlanta Road Partners

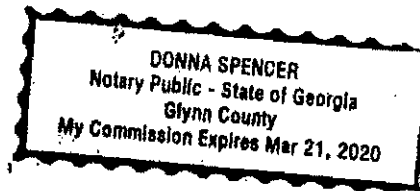
By: *John B Lochridge*  
Title: partner

Printed Name: JOHN B LOCHRIDGE

Date Executed: 5/5/17

Signed, sealed, and delivered in the presence of:

*Donna Spencer*  
Notary Public  
Commission Expires: 3.21.2020



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** John Wieland Homes and Neighborhoods  
**Titleholder:** OS Properties of Georgia, LLC  
**PIN:** 17055800130

OS Properties of Georgia, LLC

By: Anna K. Johnson

Title: President

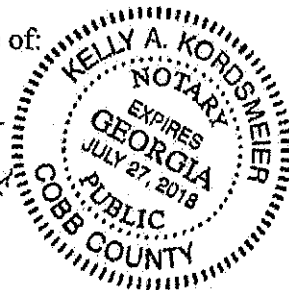
Printed Name: Anna K. Johnson

Date Executed: May 5, 2017

Signed, sealed, and delivered in the presence of:

Kelly A. Kordsmeier  
Notary Public

Commission Expires: July 27, 2018



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** **John Wieland Homes and Neighborhoods**  
**Titleholder:** **OS Properties of Georgia, LLC**  
**PIN:** **17055800130**

OS Properties of Georgia, LLC

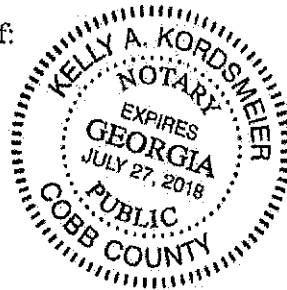
By: *James M. Johnson Jr*  
Title: Sec-Treas

Printed Name: JAMES M JOHNSON JR

Date Executed: 5/5/17

Signed, sealed, and delivered in the presence of:

*Kelly A Kordsmeier*  
Notary Public  
Commission Expires: July 27, 2018



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

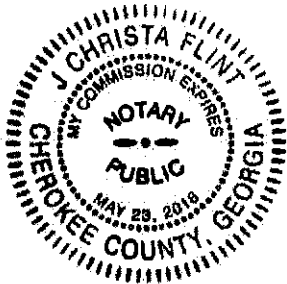
**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** John Wieland Homes and Neighborhoods  
**Titleholder:** Milton Scott Brinkley  
**PIN:** 17055800120

Milton Scott Brinkley  
Milton Scott Brinkley  
By Claudia Mitchell + Keegan his attorney <sup>in fact</sup>  
Address: 109 WD COURT  
Ellijay, GA 30536  
Date Executed: May 4, 2017

Signed, sealed, and delivered in the presence of:

J. Chrora DMH  
Notary Public  
Commission Expires: 5/23/18





**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

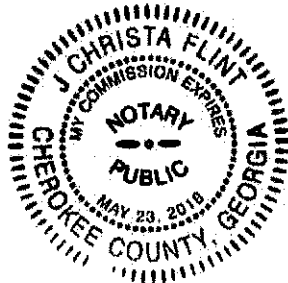
**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** John Wieland Homes and Neighborhoods  
**Titleholder:** Patricia Ann Simms  
**PIN:** 17055800120

Patricia Ann Simms  
Patricia Ann Simms  
*By Claudia Mitchell & Assoc, her attorney in fact*  
Address: 1232 Kent Drive  
Sparks, NV 89434  
Date Executed: May 4, 2015

Signed, sealed, and delivered in the presence of:

J. Christa Flint  
Notary Public  
Commission Expires: 5/23/18



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** **John Wieland Homes and Neighborhoods**  
**Titleholder:** **Claudia Mitchell Owens**  
**n/k/a Claudia M. Harper**  
**PIN:** **17055800120**

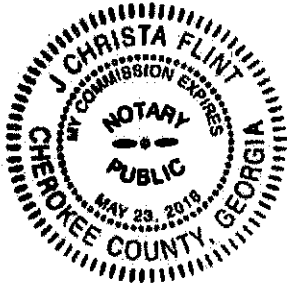
Claudia Mitchell Owens  
Claudia Mitchell Owens  
n/k/a Claudia M. Harper

Address: 4405 White Surrey Dr.  
Kennesaw, GA. 30144

Date Executed: May 4, 2017

Signed, sealed, and delivered in the presence of:

J. Christa Flint  
Notary Public  
Commission Expires: 5/23/18



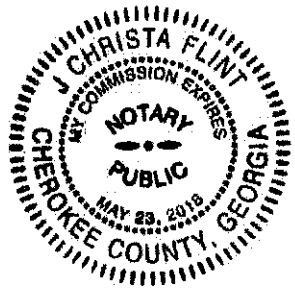
**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

Application No.: \_\_\_\_\_  
Hearing Dates: June 12, 2017  
July 17, 2017

Applicant: **John Wieland Homes and Neighborhoods**  
Titleholder: **Benjamin White Mitchell, Sr.**  
PIN: **17055800120**

Benjamin White Mitchell, Sr.  
Benjamin White Mitchell, Sr.  
By Christa Mitchell Harris, his attorney in fact  
Address: P.O. Box 1016  
Triana, GA. 30753  
Date Executed: May 4, 2017

Signed, sealed, and delivered in the presence of:  
J. Christa Flint  
Notary Public  
Commission Expires: 5/23/18



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** **John Wieland Homes and Neighborhoods**  
**Titleholder:** **Lucy Lockhart Evans**  
**PIN:** **17055800120**

Robert Hankins, Executor  
for Lucy Lockhart Evans.  
✓ Robert Hankins

\_\_\_\_\_  
Lucy Lockhart Evans

Address: 203 Windermere Estates Ct  
Canton, Georgia 30114

Date Executed: May 4, 2017

Signed, sealed, and delivered in the presence of:

E. R. Godfrey  
Notary Public  
Commission Expires: 11-18-18



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR REZONING  
TO THE CITY OF SMYRNA**

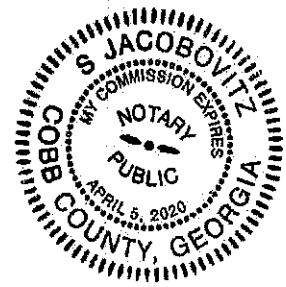
**Application No.:** \_\_\_\_\_  
**Hearing Dates:** June 12, 2017  
July 17, 2017

**Applicant:** **John Wieland Homes and Neighborhoods**  
**Titleholder:** **William C. Mitchell, Jr.**  
**PIN:** **17055800120**

William C. Mitchell, Jr.  
William C. Mitchell, Jr.  
Address: 3040 ATLANTA RD.  
SMYRNA, GA. 30080  
Date Executed: 5/5/17

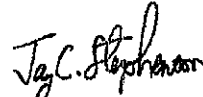
Signed, sealed, and delivered in the presence of:

[Signature]  
Notary Public  
Commission Expires: 4/5/20



Joseph H. Fowler, Esquire  
Hartley, Rowe & Fowler, P.C.  
P.O. Box 489  
Douglasville, GA 30133

Deed B. 14440 Pg 1  
Filed and Recorded Jan-16-2007 12:01pm  
2007-008526  
Real Estate Transfer Tax \$0.00



Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

FOR AFF SEE  
DE Book 14667 Page 5414 hmg

STATE OF GEORGIA  
COUNTY OF COBB

DEED OF ASSENT

WHEREAS, MILDRED BELL SISK f/k/a MILDRED V. MITCHELL f/k/a MILDRED VALENTINE MITCHELL died a resident of Cobb County, Georgia, on December 24, 2004, leaving a Will which has been probated in Solemn Form in said county on February 22, 2005, and

WHEREAS, under the terms of the said Will the following described property was devised to MILTON SCOTT BRINKLEY, PATRICIA ANN SIMMS, CLAUDIA MITCHELL OWENS, BENJAMIN WHITE MITCHELL, SR., LUCY LOCKHART EVANS, and WILLIAM C. MITCHELL, JR. pursuant to the Last Will and Testament of the said MILDRED

BELL SISK f/k/a MILDRED V. MITCHELL f/k/a MILDRED VALENTINE MITCHELL:

ALL THAT TRACT or parcel of land lying and being in the town of Smyrna, Cobb County, Georgia, and being more particularly described as Lot No. 7 of the subdivision of Laura Moore Pollock and Mattie Moore Quarles and the Jake C. Moore estate in Land Lot 558 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, described as follows:

Beginning at a point on the southwestern side of Atlanta Avenue at the southeastern line of Lot No. 6, said point being 583 feet southeasterly, from Concord Avenue; running thence southeastwardly 126.5 feet to Lot No. 8 of said plat; thence southwesterly along said lot 420 feet to a 20 foot street; thence northwesterly along said street 167 $\frac{1}{4}$  feet to Lot No. 6; thence northeasterly along said lot 371 $\frac{1}{2}$  feet to point of beginning.

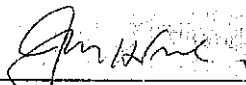
LESS AND EXCEPT that portion of said property fronting on Atlanta Road (formerly Atlanta Avenue) taken by the Department of Transportation of State of Georgia to widen said road on November 7, 1986.

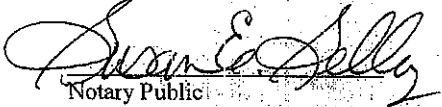
WHEREAS, the undersigned has duly qualified as Executor of the Estate of **MILDRED BELL SISK f/k/a MILDRED V. MITCHELL f/k/a MILDRED VALENTINE MITCHELL**, and he is administering the Estate under the terms of the said Will, and it has been determined that all the debts and claims against the Estate have been fully paid.

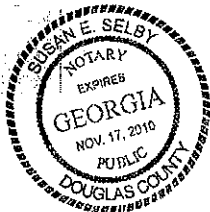
NOW, THEREFORE, the undersigned, as Executor of the Last Will and Testament of the said **MILDRED BELL SISK f/k/a MILDRED V. MITCHELL f/k/a MILDRED VALENTINE MITCHELL**, hereby assents to the devise of the said property under the terms of the said Will, so that full, fee simple title thereto is vested in the said **MILTON SCOTT BRINKLEY, PATRICIA ANN SIMMS, CLAUDIA MITCHELL OWENS, BENJAMIN WHITE MITCHELL, SR., LUCY LOCKHART EVANS, and WILLIAM C. MITCHELL, JR.** as provided in said Will.

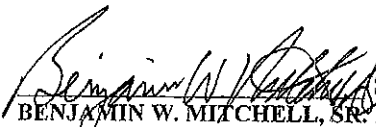
WITNESS my hand and seal this 21st day of December, 2006.

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Notary Public  
My Commission Expires:  
[SEAL]



  
\_\_\_\_\_  
(SEAL)  
**BENJAMIN W. MITCHELL, SR.**  
Executor under the Last Will and Testament of  
**Mildred Bell Sisk f/k/a Mildred V. Mitchell  
f/k/a Mildred Valentine Mitchell**

# Warranty Deed

500

J.S. Stephenson  
Cobb Superior Court Clerk  
86 FEB-3 P2 \$68  
FILED AND RECORDED

STATE OF GEORGIA

COUNTY OF COBB

THIS INDENTURE, Made the 26th day of NOVEMBER, in the year one thousand nine hundred Eighty-Six, between LOUIS S. BELINFANTE

of the County of Cobb, and State of Georgia, as party or parties of the first part, hereinafter called Grantor, and 3050 South Atlanta Road Partners, A Georgia General Partnership, composed of John B. Lochridge and Farrell H. Braziel

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of --TEN DOLLARS & OTHER VALUABLE CONSIDERATIONS ----- (\$10.00--- ) DOLLARS in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 558 of the 17th District, Second Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the southwesterly right of way of South Atlanta Road (formerly known as Old U.S. Highway No. 41), said iron pin being 677.40 feet northwesterly as measured along the southwesterly right of way of South Atlanta Road from the point formed by the intersection of the southwesterly right of way of South Atlanta Road with the northwesterly side of Collier Drive; thence North 57 degrees 02 minutes 20 seconds West along the southwesterly right of way of South Atlanta Road a distance of 130.30 feet to an iron pin found and corner; thence South 32 degrees 54 minutes 21 seconds West a distance of 415.11 feet to an iron pin found; thence South 31 degrees 45 minutes 15 seconds West a distance of 493.57 feet to an iron pin found and corner; thence South 86 degrees 01 minutes 21 seconds East a distance of 190.81 feet to an iron pin found and corner; thence North 29 degrees 38 minutes 10 seconds East a distance of 817.49 feet to an iron pin found on the southwesterly right of way of South Atlanta Road and the point of beginning, being a tract of land consisting of 3.015 acres, as per plat of survey for 3050 South Atlanta Road Partners & Trust Company Bank, dated 11/15/86, by A&A Survey Co., Alton G. Wiggers, Registered Surveyor No. 1659.

This being the same property conveyed to Louis S. Belinfante by William M. Sparks by Warranty Deed, dated September 21, 1978 and recorded in Deed Book 1936, Page 586, Records of Cobb County, Georgia.

Paid 319.00  
Date 12-3-86  
Jay C. Stephenson  
Cobb County, Georgia  
Real Estate Transfer Tax

319.00

TO HAVE AND TO HOLD the said tract or parcel of land, 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 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 whomsoever.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

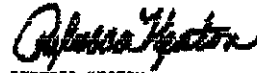
Signed, sealed and delivered in presence of:

Witness: [Signature] (Seal)  
Louis S. Belinfante (Seal)  
Notary Public: [Signature] (Seal)



Notary Public, Georgia State at Large  
My Commission Expires Aug. 1, 1989  
BOOK 4234 PAGE 99





REBECCA KEATON  
CLERK OF SUPERIOR COURT Cobb Cty. GA.

**WHEN RECORDED, RETURN TO:**

*EW*

Cushing, Morris, Armbruster & Montgomery, LLP  
191 Peachtree Street, N.E. - Suite 4500  
Atlanta, Georgia 30303  
Attn: J. Parker Gilbert, Esq.

STATE OF GEORGIA

COUNTY OF FULTON

**LIMITED WARRANTY DEED**

THIS INDENTURE is made as of the 17<sup>th</sup> day of May, 2013, by and between ANN K. JOHNSON and JAMES M. JOHNSON, JR., both individual residents of Cobb County, Georgia, hereinafter collectively called "Grantor", and OS PROPERTIES OF GEORGIA, LLC, a Georgia limited liability company, hereinafter called "Grantee". The words "Grantor" and "Grantee" include the neuter, masculine and feminine genders, and the singular and the plural.

**WITNESSETH:**

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) in hand paid to Grantor by Grantee at and before the execution, sealing and delivery hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee, and the successors, legal representatives and assigns of Grantee, all those tracts or parcels of land lying and being in Cobb County, Georgia, being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference, together with all improvements located thereon (the "Property").

TO HAVE AND TO HOLD the Property, together with any and all of the rights, members and appurtenances thereof to the same being, belonging or in anywise appertaining to the only proper use, benefit and behoof of Grantee forever, in fee simple; and

GRANTOR SHALL WARRANT and forever defend the right and title to the Property unto Grantee, and the successors, legal representatives and assigns of Grantee, against the claims of all persons claiming by, through or under Grantor, but not otherwise; provided, however, that the warranties of title made by Grantor herein shall not extend to any claims arising under any matter set forth on Exhibit "B", attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, Grantor has signed and sealed this instrument the day and year first above written.

Signed, sealed and delivered in the presence of:

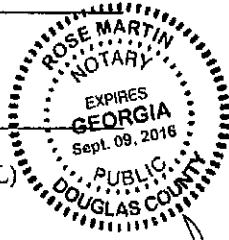
[Signature]  
Unofficial Witness

[Signature]  
Notary Public

My Commission expires:

\_\_\_\_\_

(NOTARIAL SEAL)



**GRANTOR:**

[Signature] (SEAL)  
ANN K. JOHNSON

Signed, sealed and delivered in the presence of:

[Signature]  
Unofficial Witness

[Signature]  
Notary Public

My Commission expires:

\_\_\_\_\_

(NOTARIAL SEAL)



[Signature] (SEAL)  
JAMES M. JOHNSON, JR.

**EXHIBIT "A"****TRACT ONE**

All that tract or parcel of land lying and being in Original Land Lot Number 558, of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, City of Smyrna, Cobb County, Georgia, and being all of subdivided Lot No. 6, of the Subdivision of the property of Laura Moore Pollock and Mattie Moore Quarles and Jake C. Moore Estate, the description of said tract being as per copy of the plat thereof recorded in the office of the Ordinary of Cobb County, Georgia, in connection with the partition proceedings for said estate, which is more particularly described hereinbelow as follows;

BEGINNING at a point on the southwest side of Atlanta Avenue at the southeast line of Lot No. 5, which point is 456.5 feet southeasterly from Concord Avenue, and running thence southeasterly along Atlanta Avenue 126.5 feet to Lot No. 7; thence southwesterly along said lot line a distance of 371.5 feet to a twenty foot street; thence northwesterly along said street 167.25 feet to Lot No. 5; thence northeasterly along said Lot 330.5 feet to beginning point. This being the same property conveyed to J. H. Carmichael by Mrs. Laura Moore Pollock, by deed dated April 23, 1929, and also the same property as conveyed by James V. Carmichael as Executor of the Estate of J. H. Carmichael by deed dated April, 1943, and recorded in Deed Book 152, Page 315, Cobb County, Georgia Records. This also being the same property conveyed to Grantor by Warranty Deed from Nancy R. Konigsmark, dated April 19, 2012, recorded in Deed Book 14937, Page 3679, aforesaid records.

**TRACT TWO**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 560, 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, being Lot 3 of the Mrs. Emalene Collier property as per survey by J. P. Phillips, dated September 5, 1946, and being more particularly described as follows:

BEGINNING at a point on the northeast side of Mimosa Circle [formerly Neilson Dr.] 285 feet north and northwesterly from the northeast corner of the eastern intersection of Mimosa Circle and Spring Street; running thence northwest along the northeast side of Mimosa Circle 65 feet; thence northeast 150 feet; thence southeast 65 feet; thence southwest 150 feet to the northeast side of Mimosa Circle and the POINT OF BEGINNING. Being improved property and having located thereon a dwelling known as 1455 Mimosa Circle. Being the same property described at Deed Book 3650, Page 152, Cobb County, Georgia Records. This also being the same property conveyed to Grantor by Warranty Deed from Nancy R. Konigsmark, dated April 19, 2012, recorded in Deed Book 14937, Page 3683, aforesaid records.

**EXHIBIT "B"**

1. All taxes for the year 2013 and subsequent years, not yet due and payable.
2. All easements, covenants, restrictions and similar matters of record.

**Tax Map Parcel # 17-0558-0-013-0 (3030 Atlanta Road)**

All that tract or parcel of land lying and being in Original Land Lot Number 558, of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, City of Smyrna, Cobb County, Georgia, and being all of subdivided Lot No. 6 of the Subdivision of the property of Laura Moore Pollock and Mattie Moore Quarles and Jake C. Moore Estate, the description of said tract being as per copy of the plat thereof recorded in the office of the Ordinary of Cobb County, Georgia, in connection with the partition proceeding for said estate, which is more particularly described hereinbelow as follows;

BEGINNING at a point on the southwest side of Atlanta Avenue at the southeast line of Lot No. 5, which point is 456.5 feet southeasterly from Concord Avenue, and running thence southeasterly along Atlanta Avenue 126.5 feet to Lot No. 7; thence southwesterly along said lot line a distance of 371.5 feet to a twenty foot street; thence northwesterly along said street 167.25 feet to Lot No. 5; thence northeasterly along said Lot 330.5 feet to beginning point. This being the same property conveyed to J. H. Carmichael by Mrs. Laura Moore Pollock, by deed dated April 23, 1929, and also the same property as conveyed by James V. Carmichael as Executor of the Estate of J. H. Carmichael by deed dated April, 1942, and recorded in Deed Book 152, Page 315, Cobb County, Georgia Records. This also being the same property conveyed to Grantor by Warranty Deed from Nancy R. Konigsmark, dated April 19, 2012, recorded in Deed Book 14937, Page 3679, aforesaid records.

**Tax Map Parcel # 17-0558-0-012-0 (3040 Atlanta Road)**

ALL THAT TRACT or parcel of land lying and being in the town of Smyrna, Cobb County, Georgia, and being more particularly described as Lot No. 7 of the subdivision of Laura Moore Pollock and Mattie Moore Quarles and the Jake C. Moore estate in Land Lot 558 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, described as follows:

Beginning at a point on the southwestern side of Atlanta Avenue at the southeastern line of Lot No. 6, said point being 583 feet southeasterly, from Concord Avenue; running thence southeastwardly 126.5 feet to Lot No. 8 of said plat; thence southwesterly along said lot 420 feet to a 20 foot street; thence northwesterly along said street 167 ¼ feet to Lot No. 6; thence northeasterly along said lot 371 ½ feet to point of beginning.

LESS AND EXCEPT that portion of said property fronting on Atlanta Road (formerly Atlanta Avenue) taken by the Department of Transportation of State of Georgia to widen said road on November 7, 1986.

**Tax Map Parcel # 17-0559-0-011-0 (3050 Atlanta Road)**

All that tract or parcel of land lying and being in Land Lot 558 of the 17<sup>th</sup> District, Second Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the southwesterly right of way of South Atlanta Road (formerly known as Old U.S. Highway No. 41), said iron pin being 677.40 feet northwesterly as measured along the southwesterly right of way of South Atlanta Road from the point formed by the intersection of the southwesterly right of way of South Atlanta Road with the northwesterly side of Collier Drive; thence North 57 degrees 02 minutes 20 seconds West along the southwesterly right of way of Atlanta Road a distance of 130.30 feet to an iron pin found and corner; thence South 32 degrees 54 minutes 21 seconds West a distance of 415.11 feet to an iron pin found; thence South 31 degrees 45 minutes 15 seconds West a distance of 493.57 feet to an iron pin found and corner; thence South 86 degrees 01 minutes 21 seconds

East a distance of 190.81 feet to an iron pin found and corner; thence North 29 degrees 38 minutes 10 seconds East a distance of 817.49 feet to an iron pin found on the southwesterly right of way of South Atlanta Road and the point of beginning, being attract of land consisting of 3.015 acres, as per plat of survey for 3050 South Atlanta Road Partners & Trust Company Bank, dated 11/15/86, by A&A Survey Co., Alton G. Wiggers, Registered Surveyor No. 1659.

## LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 558 of the 17<sup>th</sup> District, City of Smyrna, Cobb County, Georgia and being more particularly described as follows:

Beginning at a #4 rebar found located along the southwesterly right-of way (R/W) line of Atlanta Road (R/W varies public) and having State Plane Coordinates of N.1411289.53-E.2191832.32 (1002 Georgia west), said point being the TRUE POINT OF BEGINNING; thence continue along said southwesterly R/W of Atlanta Road (R/W varies public) S.53°31'46"E., a distance of 11.92 feet to a #4 rebar found; thence N.36°20'24"E., a distance of 9.97 feet to a #4 rebar found; thence S.53°38'18"E., a distance of 50.15 feet to a #4 rebar found; thence S.72°46'01"E., a distance of 21.23 feet to a #4 rebar found; thence S.51°24'25"E., a distance of 46.54 feet to a #4 rebar found; thence S.53°19'26"E., a distance of 126.58 feet to a 1" open top iron pin found; thence S.56°20'56"E., a distance of 130.60 feet to a #4 rebar found; thence leaving said southwesterly R/W of Atlanta Road (R/W varies public) S.28°25'16"W., a distance of 582.79 feet to a point; thence S.28°11'00"W., a distance of 97.27 feet to a #3 rebar found; thence S.28°37'46"W., a distance of 132.68 feet to a #4 rebar found; thence N.88°28'46"W., a distance of 199.12 feet to a ½" open top iron pin found; thence N.30°25'01"E., a distance of 119.98 feet to a point; thence N.30°42'37"E., a distance of 128.71 feet to a #4 rebar found; thence N.31°29'35"E., a distance of 84.02 feet to a 1" open top iron pin found; thence N.31°30'01"E., a distance of 84.93 feet to a #4 rebar found; thence N.31°30'43"E., a distance of 79.94 feet to a #4 rebar found; thence N.36°35'19"W., a distance of 166.51 feet to a #4 rebar found; thence N.36°35'28"W., a distance of 166.69 feet to a 1-½" open top iron pin found ; thence N.42°02'19"E., a distance of 306.56 feet to a #4 rebar found located at the southwesterly R/W of Atlanta Road (R/W varies public) and the TRUE POINT OF BEGINNING.

Said tract containing 5.488 acres. (239,069 square feet), more or less.







Printed: 5/8/2017

### Cobb County Online Tax Receipt

Thank you for your payment!

**CARLA JACKSON** TAX COMMISSIONER  
**CHELLY MCDUFFIE** CHIEF DEPUTY  
Phone: 770-528-8600  
Fax: 770-528-8679

Payer:  
WILLIAM C MITCHELL

**BRINKLEY MILTON SCOTT ET AL**

**Payment Date: 9/26/2016**

| Tax Year | Parcel ID   | Due Date   | Appeal Amount |     |    | Taxes Due |
|----------|-------------|------------|---------------|-----|----|-----------|
| 2016     | 17055800120 | 10/17/2016 | Pay:          | N/A | or | \$0.00    |

| Interest | Penalty | Fees   | Total Due | Amount Paid | Balance |
|----------|---------|--------|-----------|-------------|---------|
| \$0.00   | \$0.00  | \$0.00 | \$0.00    | \$475.17    | \$0.00  |



Scan this code with your mobile phone to view this bill!



Printed: 5/8/2017

### Cobb County Online Tax Receipt

Thank you for your payment!

**CARLA JACKSON** TAX COMMISSIONER  
**CHELLY MCDUFFIE** CHIEF DEPUTY  
 Phone: 770-528-8600  
 Fax: 770-528-8679

Payer:  
 SOUTH ATLANTA ROAD PARTNERS

3050 SOUTH ATLANTA RD PARTNERS  
 ETAL

**Payment Date: 10/7/2016**

| Tax Year | Parcel ID   | Due Date   | Appeal Amount |             |         | Taxes Due |
|----------|-------------|------------|---------------|-------------|---------|-----------|
| 2016     | 17055800110 | 10/17/2016 | Pay:          | N/A         | or      | \$0.00    |
| Interest | Penalty     | Fees       | Total Due     | Amount Paid | Balance |           |
| \$0.00   | \$0.00      | \$0.00     | \$0.00        | \$7,613.93  | \$0.00  |           |



Scan this code with your  
 mobile phone to view this  
 bill!



Printed: 5/8/2017

### Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER  
 CHELLY MCDUFFIE CHIEF DEPUTY  
 Phone: 770-528-8600  
 Fax: 770-528-8679

Payer:  
 OS PROPERTIES OF GEORGIA LLC

OS PROPERTIES OF GEORGIA LLC

**Payment Date: 10/3/2016**

| Tax Year | Parcel ID   | Due Date   | Appeal Amount | Taxes Due |
|----------|-------------|------------|---------------|-----------|
| 2016     | 17055800130 | 10/17/2016 | Pay: N/A or   | \$0.00    |

| Interest | Penalty | Fees   | Total Due | Amount Paid | Balance |
|----------|---------|--------|-----------|-------------|---------|
| \$0.00   | \$0.00  | \$0.00 | \$0.00    | \$1,950.44  | \$0.00  |



Scan this code with your mobile phone to view this bill!

# Real Estate

[View Bill](#)

[View bill image](#)

|                  |                             |
|------------------|-----------------------------|
| <b>As of</b>     | 5/8/2017                    |
| <b>Bill Year</b> | 2016                        |
| <b>Bill</b>      | 1825                        |
| <b>Owner</b>     | BRINKLEY MILTON SCOTT ET AL |
| <b>Parcel ID</b> | 17055800120                 |

[View payments/adjustments](#)

| Installment  | Pay By     | Amount   | Payments/Credits | Balance | Interest | Due    |
|--------------|------------|----------|------------------|---------|----------|--------|
| 1            | 11/15/2016 | \$615.64 | \$615.64         | \$0.00  | \$0.00   | \$0.00 |
| <b>TOTAL</b> |            | \$615.64 | \$615.64         | \$0.00  | \$0.00   | \$0.00 |

## Real Estate

[View Bill](#)

[View bill image](#)

|           |                                     |
|-----------|-------------------------------------|
| As of     | 5/8/2017                            |
| Bill Year | 2016                                |
| Bill      | 52                                  |
| Owner     | 3050 SOUTH ATLANTA RD PARTNERS ETAL |
| Parcel ID | 17055800110                         |

[View payments/adjustments](#)

| Installment  | Pay By     | Amount     | Payments/Credits | Balance | Interest | Due    |
|--------------|------------|------------|------------------|---------|----------|--------|
| 1            | 11/15/2016 | \$2,654.10 | \$2,654.10       | \$0.00  | \$0.00   | \$0.00 |
| <b>TOTAL</b> |            | \$2,654.10 | \$2,654.10       | \$0.00  | \$0.00   | \$0.00 |

## Real Estate

[View Bill](#)

[View bill image](#)

|                  |                              |
|------------------|------------------------------|
| <b>As of</b>     | 5/8/2017                     |
| <b>Bill Year</b> | 2016                         |
| <b>Bill</b>      | 11924                        |
| <b>Owner</b>     | OS PROPERTIES OF GEORGIA LLC |
| <b>Parcel ID</b> | 17055800130                  |

[View payments/adjustments](#)

| Installment  | Pay By     | Amount   | Payments/Credits | Balance | Interest | Due    |
|--------------|------------|----------|------------------|---------|----------|--------|
| 1            | 11/15/2016 | \$297.01 | \$297.01         | \$0.00  | \$0.00   | \$0.00 |
| <b>TOTAL</b> |            | \$297.01 | \$297.01         | \$0.00  | \$0.00   | \$0.00 |



# CITY OF SMYRNA

2800 King Street / P.O. Box 1226, Smyrna, Georgia 30081  
(770) 434-6600 / www.smyrnacity.com

## CITY OF SMYRNA


### Water and Sewer Availability

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Sanitary sewer is available to an outfall line located to the rear of the property. Water is available to the development and located within the right-of-way of Atlanta Road

Each house will be required to be individually metered within the right-of-way and each house will require a separate sewer tap within the right of way. Elevations are the responsibility of the developer.

If the houses are required to have fire sprinklers and irrigation systems, meters and taps will be required for this also.

This information is based upon a conceptual site plan titled 3050 Atlanta Road by Planners and Engineers Collaborative with no date shown.

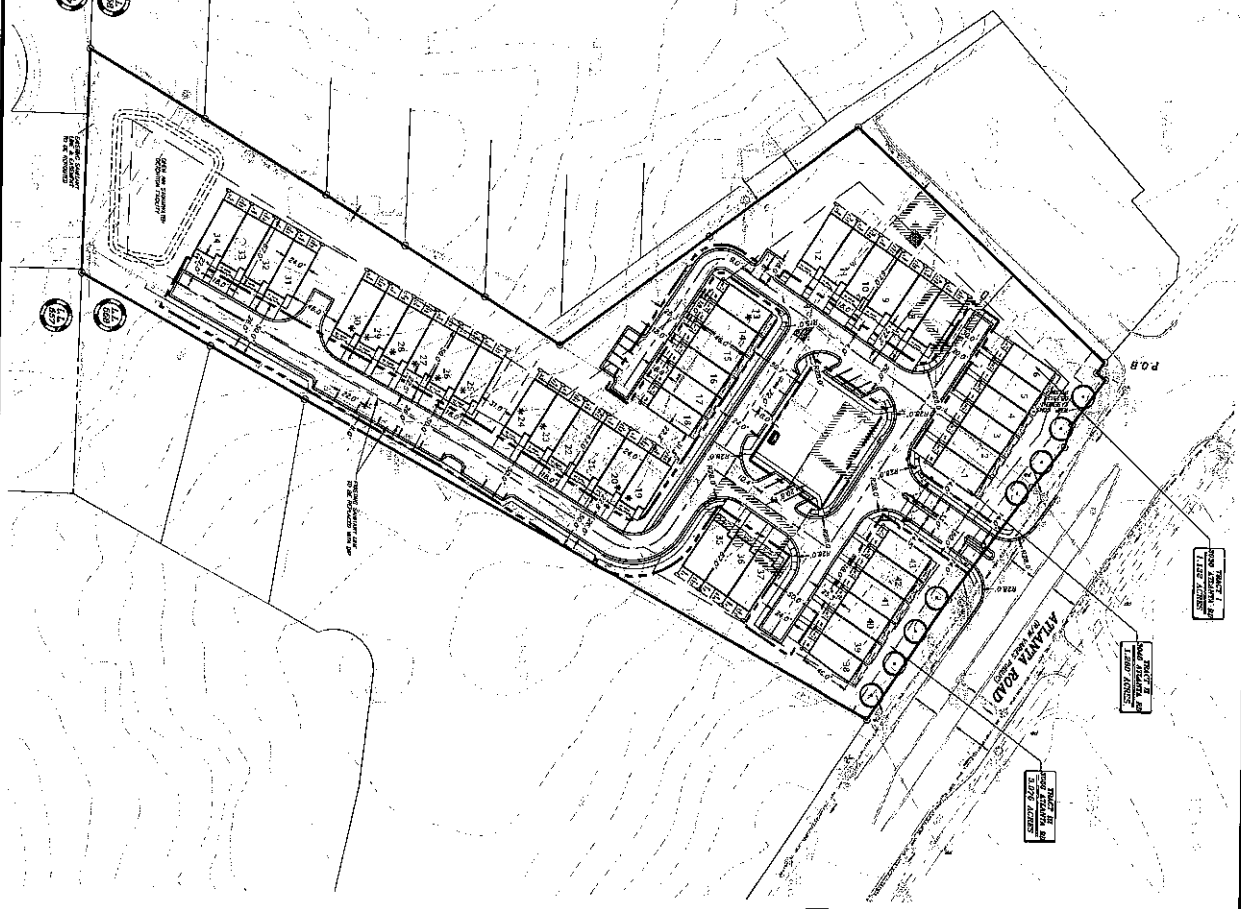
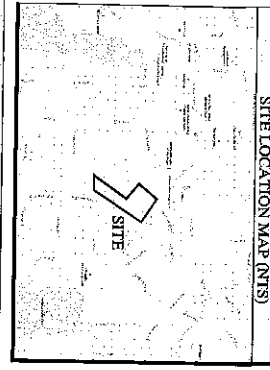
  
Scott Stokes  
Director Public Works

|              |  |                           |                            |                                   |   |                       |                      |
|--------------|--|---------------------------|----------------------------|-----------------------------------|---|-----------------------|----------------------|
|              |  |                           | MAYOR<br>A. MAX BACON      |                                   |   |                       |                      |
| CITY COUNCIL | WARD 1<br>DEREK NORTON                       | WARD 2<br>ANDREA BLUSTEIN | WARD 3<br>TERI ANULEWICZ   | WARD 4<br>CHARLES A. WELCH        | WARD 5<br>SUSAN WILKINSON                     | WARD 6<br>DOUG STONER | WARD 7<br>RON FENNEL |
|              | CITY ADMINISTRATOR<br>MICHAEL L. JONES, P.E. |                           | CITY CLERK<br>TERRI GRAHAM | CITY ATTORNEY<br>SCOTT A. COCHRAN | MUNICIPAL COURT JUDGE<br>E. ALTON CURTIS, JR. |                       |                      |





SITE LOCATION MAP (NTS)



**SITE DATA:**

|                                       |                              |
|---------------------------------------|------------------------------|
| TOTAL SITE AREA                       | 4.387 ACRES                  |
| ZONING                                | CITY OF ATLANTA              |
| EXISTING ZONING                       | R-12                         |
| PROPOSED ZONING                       | TD-MH-TWO-FAMILY-RESIDENTIAL |
| DATA SUMMARY                          |                              |
| 27 PARCELS/LOTS REAR LAND (132,589)   | 11 UNITS                     |
| 27 PARCELS/LOTS FRONT LAND (1,775,89) | 23 UNITS                     |
| TOTAL PARCELS/LOTS                    | 54 UNITS                     |
| TOTAL AREA (AC)                       | 5.162 AC                     |
| SETBACK SUMMARY                       |                              |
| MIN. REAR SETBACK                     | 15 FEET (VA)                 |
| MAX. REAR SETBACK                     | 45 FEET (VA)                 |
| AVERAGE FRONT YARD SETBACK            | 45 FEET (VA)                 |
| MIN. FRONT SETBACK                    | 15 FEET (VA)                 |
| MAX. FRONT SETBACK                    | 45 FEET (VA)                 |
| <b>PARKING SUMMARY</b>                |                              |
| MIN. 2 SPACES PER SPINNING UNIT       | 86 SPACES                    |
| MIN. 2 SPACES PER PARKING UNIT        | 172 SPACES                   |
| MIN. 2 SPACES PER CARPORT UNIT        | 172 SPACES                   |
| MIN. 2 SPACES PER TOTAL UNIT          | 344 SPACES                   |
| OTHER PARKING                         | 20 SPACES                    |
| TOTAL PARKING                         | 364 SPACES                   |

**PROJECT VARIANCES:**  
 REDUCTION TO FRONT SETBACK ONE OF ATLANTA ROAD FROM 50 FEET TO 22 FEET  
 REDUCTION IN SIDE YARD SETBACK FROM 33 FEET TO 20 FEET, AS SHOWN ON PLAN  
 INCREASE THE MAXIMUM BUILDING SETBACK FROM 19 FEET TO 33 FEET  
 REDUCTION IN DISTANCE BETWEEN BUILDINGS, SIDE-TO-SIDE, FROM 30 FEET TO 20 FEET  
 ALLOW ENCROACHMENT OF STRUCTURAL OPTION ON END OF TOWNHOME UP TO 10 FEET INTO REQUIRED SETBACK

**REVISIONS:**

| NO. | DATE | BY | DESCRIPTION |
|-----|------|----|-------------|
|     |      |    |             |
|     |      |    |             |
|     |      |    |             |

**3050 ATLANTA ROAD**  
 A SINGLE FAMILY RESIDENTIAL TOWNHOME COMMUNITY  
 FOR PULTE HOMES  
 265 NORTH POINTS PARKWAY  
 SUITE 400  
 ALPHARETTA, GEORGIA 30009  
 PHONE: 770-913-7174

DATE: 01.11.17  
 1701 2020 CT  
 0015 40 48

"WE PROVIDE SOLUTIONS"  
**PLANNERS AND ENGINEERS COLLABORATIVE**  
 SITE PLANNING ■ LANDSCAPE ARCHITECTURE ■ CIVIL ENGINEERING ■ LAND SURVEYING  
 350 RESEARCH COURT ■ NORCROSS, GEORGIA 30092 ■ 770-451-2741 ■ FAX: 770-451-3315 ■ WWW.PECCAT.COM

SCALE: 1" = 50'

DATE: MAY 14, 2017

PROJECT: 15816005

PREPARED BY: J. ROSS

CHECKED BY: M. J. ROSS

DESIGNED BY: M. J. ROSS

PROJECT NO. 15816005

**REZONING SITE PLAN**

SHEET TITLE

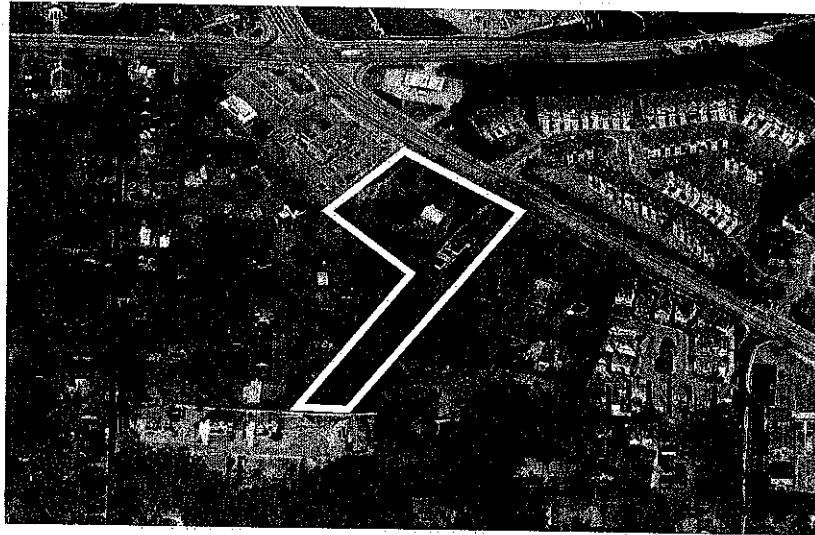
SHEET NO. **Z1**

SHEET



# SPECIMEN TREE REPORT

SMYRNA

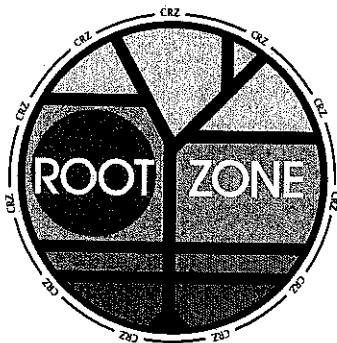


Tree Report for:  
Pulte Homes  
2475 Northwinds Parkway  
Suite 600  
Alpharetta, GA 30009

Property Address:  
3050 Atlanta Road  
Smyrna  
Cobb County

Project 15018.00B

Survey Date 5/2/2017



**TREE CONSULTANTS**  
350 RESEARCH CT. PEACHTREE CORNERS, GA 30092  
PHONE: 770-451-3915  
A PEC DIVISION

Consulting Arborist  
Alex Phillips, ASLA  
ISA Certified Arborist #MA-4868A  
Tree Risk Assessment Qualified

# Atlanta Rd

## Specimen Tree Inventory

Some trees on a site warrant special consideration and encouragement for preservation. The intent of these specifications is to provide the necessary information to facilitate project design, plan review and enforcement processes. The City of Smyrna Specimen tree specifications are organized by size:

Deciduous Hardwood (Oak and Beech) trees over 24" DBH

Deciduous Hardwood (Maple, Hickory, Ash, Blackgum, Pecan, spruce and Cedar) trees over 30" DBH

Conifer and Softwoods (Pine, Poplars and Sweetgums) over 36" DBH

Under Story (Dogwoods, Redbuds, Sourwoods) trees over 10" DBH

Any tree that does not meet the following requirements as set forth by the International Society of Arboriculture shall be deemed poor in condition, a danger to human life and property and removed from the site.

Life expectancy less than 15 years

A trunk with visible decay

More than two major and several minor dead limbs (hardwoods)

Major insect or pathological problems

No more than 70% of branches on one side.

## Site Location

The site is located in a developed area of the city of Smyrna. It is an assemblage of three existing single family homes with one home converted into medical offices. The site is surrounded by single family homes and retail.

Very large mature trees make up the canopy surrounding the homes. Towards the rear of the property which is undisturbed the canopy changes to mid sized Pines and a few large Water Oaks. Due to the sites urban nature the understory is mostly cleared with turf and small ornamental shrubs.

## Definitions

**Tree Number:** Trees are tagged with an aluminum disk that shows a unique number to identify the tree.

**Species:** Trees are listed by a regional common name and botanical name.

**Diameter at Breast Height (DBH):** The diameter of a trunk at 4.5' above ground level.



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Measured in inches.

## Condition:

**Good:** A specimen tree with healthy productive tip growth. A sound trunk with no visible damage or decay. No major limb loss and healthy branch unions. No visible insect or disease infestations. Life expectancy of more than 15 years.

**Fair:** A specimen tree with healthy but not vigorous tip growth. Less than 30% of crown is dead. No major dead limbs and no major trunk cavities or damage. Branch unions show some signs of stress. Tree is expected to live longer than 10 years.

**Poor:** More than 30% of the crown is dead or has significant tip die back. More than one major limb is dead and are large trunk cavities with visible decay. Severe insect or disease damage leading to immediate death. Roots are visible and show signs of decay and rot. Life expectancy is less than 5 years.

**Dead:** Tree has no bud or leaf production. All limbs are barren and rot is visible.

**Invasive:** Tree species whose native range is not within the Piedmont classification.

**Hazardous:** Severe or uncorrectable damage that will lead to a loss of property or life if there is tree failure.



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## Specimen Tree Report

| Tree # | Species                             | DBH | Condition | Comments  |
|--------|-------------------------------------|-----|-----------|---|
| 801    | <i>Quercus nigra</i><br>Water Oak   | 46" | Poor      | NST #1: Major trunk wound with included bark. Pic #1          |
| 802    | <i>Quercus nigra</i><br>Water Oak   | 39" | Good      | Tree is in good health.                                       |
| 803    | <i>Quercus nigra</i><br>Water Oak   | 31" | Poor      | NST #2: Major trunk wound. Pic #2                             |
| 804    | <i>Quercus nigra</i><br>Water Oak   | 27" | Good      | Tree is in good health.                                       |
| 805    | <i>Quercus nigra</i><br>Water Oak   | 26" | Good      | Tree is in good health.                                       |
| 806    | <i>Quercus nigra</i><br>Water Oak   | 29" | Good      | Tree is in good health.                                       |
| 807    | <i>Quercus nigra</i><br>Water Oak   | 43" | Good      | Tree is in good health.                                       |
| 808    | <i>Quercus nigra</i><br>Water Oak   | 31" | Poor      | NST #3: Lean with severe butt rot. Pic #3                     |
| 809    | <i>Quercus nigra</i><br>Water Oak   | 54" | Poor      | NST #4: Multi-leader with major dead limbs. Pic #4            |
| 810    | <i>Quercus falcata</i><br>S Red Oak | 41" | Good      | Tree is in good health.                                       |
| 811    | <i>Quercus nigra</i><br>Water Oak   | 36" | Good      | Tree is in good health.                                       |
| 812    | <i>Quercus nigra</i><br>Water Oak   | 36" | Poor      | NST #5: 100% Wysteria coverage. Trunk fruiting bodies. Pic #5 |
| 813    | <i>Quercus nigra</i><br>Water Oak   | 27" | Good      | Tree is in good health.                                       |
| 814    | <i>Quercus nigra</i><br>Water Oak   | 47" | Poor      | NST #6: Split with included bark and dead leader. Pic #6      |
| 815    | <i>Quercus falcata</i><br>S Red Oak | 26" | Good      | Tree is in good health.                                       |
| 816    | <i>Quercus nigra</i><br>Water Oak   | 30" | Good      | Tree is in good health.                                       |

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| Tree # | Species                             | DBH | Condition | Comments  |
|--------|-------------------------------------|-----|-----------|---|
| 817    | <i>Quercus nigra</i><br>Water Oak   | 43" | Poor      | NST #7: Split with included bark.<br>Pic #7                     |
| 818    | <i>Carya glabra</i><br>Hickory      | 33" | Poor      | NST #8: Split with included bark.<br>Pic #8                     |
| 819    | <i>Quercus nigra</i><br>Water Oak   | 24" | Poor      | NST #9: Decline with fruiting bodies<br>on trunk. Pic #9        |
| 820    | <i>Quercus nigra</i><br>Water Oak   | 43" | Good      | Tree is in good health.   |
| 821    | <i>Quercus nigra</i><br>Water Oak   | 24" | Good      | Tree is in good health.   |
| 822    | <i>Quercus nigra</i><br>Water Oak   | 25" | Good      | Tree is in good health.   |
| 823    | <i>Carya illionis</i><br>Pecan      | 50" | Poor      | NST #10: Split with included bark.<br>Pic #10                   |
| 824    | <i>Quercus falcata</i><br>S Red Oak | 34" | Good      | Tree is in good health.   |
| 825    | <i>Quercus falcata</i><br>S Red Oak | 36" | Poor      | NST #11: Severe lightning strike wound<br>with weeping. Pic #11 |
| 826    | <i>Quercus alba</i><br>White Oak    | 38" | Good      | Tree is in good health.   |
| 827    | <i>Quercus nigra</i><br>Water Oak   | 28" | Poor      | NST #12: Tip dieback and decline<br>Pic #12                     |
| 828    | <i>Quercus nigra</i><br>Water Oak   | 32" | Good      | Tree is in good health.   |
| 829    | <i>Quercus nigra</i><br>Water Oak   | 30" | Good      | Tree is in good health.   |
| 830    | <i>Cornus florida</i><br>Dogwood    | 11" | Good      | Tree is in good health.   |
| 831    | <i>Cornus florida</i><br>Dogwood    | 11" | Poor      | NST #13: Split with dead leader.<br>Pic #13                     |
| 832    | <i>Quercus nigra</i><br>Water Oak   | 24" | Good      | Tree is in good health.   |

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| Tree # | Species                              | DBH | Condition | Comments   |
|--------|--------------------------------------|-----|-----------|--|
| 833    | <i>Quercus nigra</i><br>Water Oak    | 29" | Good      | Tree is in good health.  |
| 834    | <i>Quercus nigra</i><br>Water Oak    | 27" | Good      | Tree is in good health.  |
| 835    | <i>Quercus phellos</i><br>Willow Oak | 31" | Good      | Tree is in good health.  |
| 836    | <i>Quercus nigra</i><br>Water Oak    | 58" | Poor      | NST #14: Split with included bark and major trunk wound. Pic #14 |
| 837    | <i>Quercus phellos</i><br>Willow Oak | 43" | Good      | Tree is in good health.  |
| 838    | <i>Quercus nigra</i><br>Water Oak    | 36" | Good      | Tree is in good health.  |
| 839    | <i>Quercus nigra</i><br>Water Oak    | 31" | Good      | Tree is in good health.  |

Specimen Tree Summary: Most of the specimen sized trees on site meet the City of Smyrna standard for good condition specimen trees.

Total Specimen Sized Trees: 39

Specimen Condition: 25

Non-Specimen Condition: 14





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Pic # 1: Major split with included bark.  
NST #1



Pic # 2: Major trunk wound.  
NST #2



Pic # 3: Lean and severe butt rot. NST #3



Pic # 4: Multi leader with major dead limbs.  
NST #4

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Pic # 5: 100% Wysteria coverage. Trunk fruiting bodies.  
NST #5



Pic # 6: Split with included bark and dead leader.  
NST #6



Pic # 7: Split with included bark. NST #7



Pic # 8: Split with included bark. NST #8

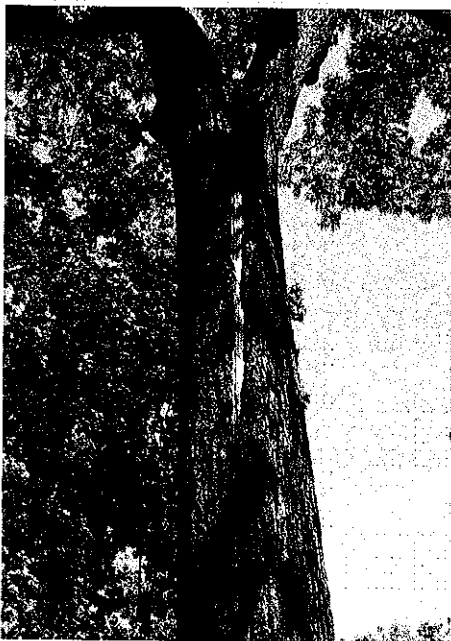
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Pic # 9: Decline with fruiting bodies on trunk.  
NST #9



Pic # 10: Split with included bark.  
NST #10



Pic # 11: Severe lightning strike wound  
weeping. NST #11



Pic # 12: Tip dieback and decline.  
NST #12



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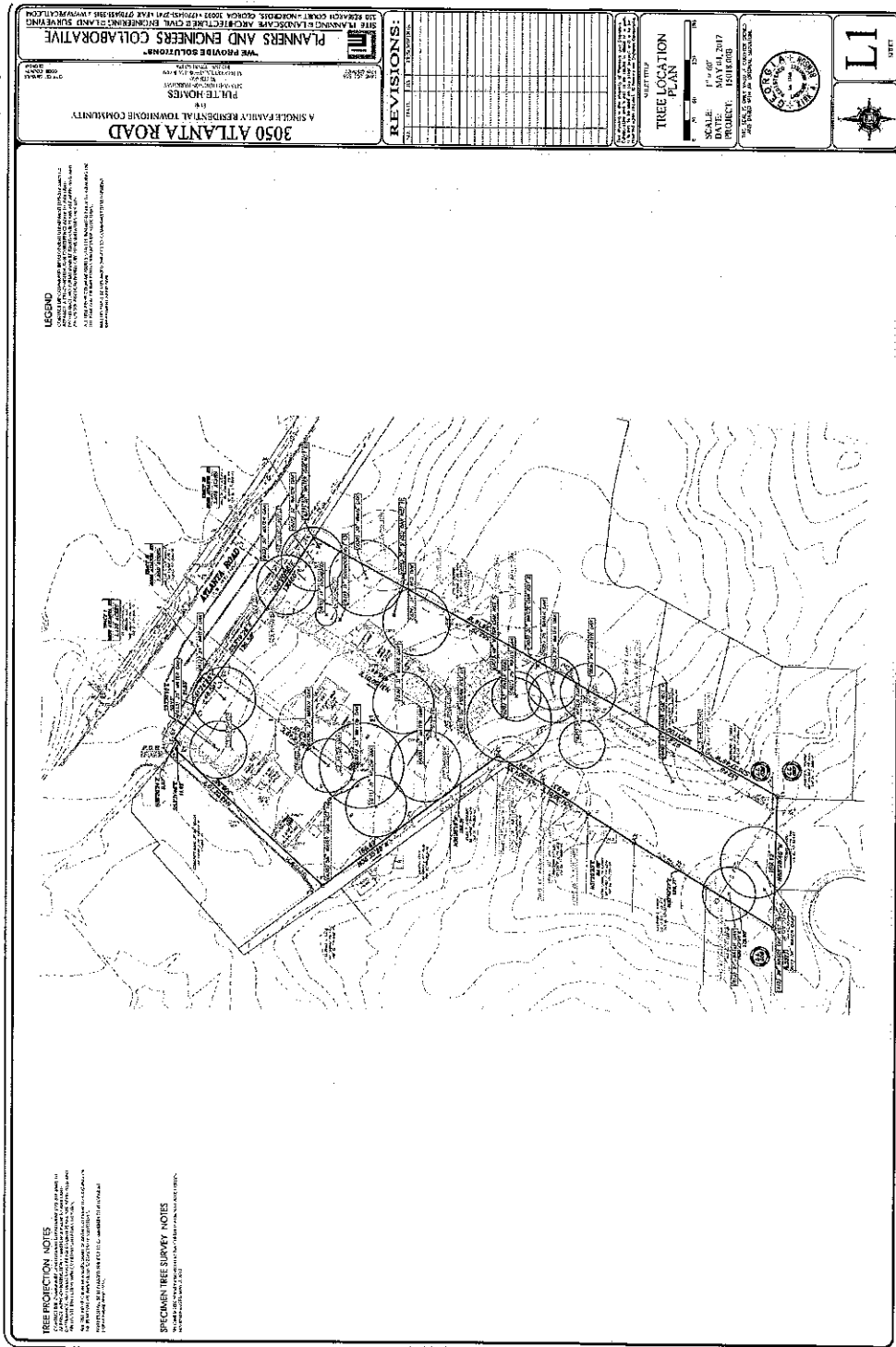
Pic # 13: Split with dead leader.  
NST #13



Pic # 14: Split with included bark and major  
trunk wound. NST #14



Atlanta Rd



TO THE CITY OF SMYRNA MAYOR AND COUNCIL  
CITY OF SMYRNA, GEORGIA

**PRESERVATION OF RIGHT TO APPEAL  
AND NOTICE OF CONSTITUTIONAL CHALLENGE TO ZONING**

COMES NOW, JOHN WIELAND HOMES AND NEIGHBORHOODS (and/or a parent entity), hereinafter collectively referred to as the "Applicant" and for itself and/or acting on behalf of the Owner(s), asserts the following, to wit:

1.

By filing the Application to which this exhibit relates, Applicant has applied for a rezoning of certain real property lying and being in the City of Smyrna, Georgia, a more particular description and delineation of the subject property, hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for Rezoning of the property seeks a rezoning from the existing category of R-15 and LC, as established by the governing authority of the City of Smyrna, Georgia to the zoning category of TD Conditional, Site Plan Specific with the requested density. (hereinafter "Requested Zoning").

3.

The current R-15 and LC zoning classifications of the Property and all intervening classifications between same and the Requested Zoning are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The zoning classification of R-15 & LC and all intervening classifications between same and the Requested Zoning as they presently exist violate the Applicant's right to the unfettered use of the Property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Smyrna Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

6.

Pursuant to O.C.G.A. §§ 36-33-5 and other applicable law, please consider this your notice that as of today's date the Owner/Applicant is contending that the City of Smyrna's unconstitutional zoning classifications of the Property has caused damages to the Owner/Applicant. As a direct and proximate result of the unconstitutional zoning classifications, the Owner/Applicant has suffered and will continue to suffer monetary damages in the nature of attorneys' fees and costs, interest and other expenses on pending loans on the property, loss of income from the property and other related damages. This amount cannot be calculated to an exact certainty but to comply with Georgia law a figure of \$250,000 is identified; however, the Owner/Applicant will assist the City by providing whatever additional




information, if any, the City feels is necessary to adequately investigate this claim. If the Owner/Applicant does not receive a timely request for additional information, it will be presumed that the City does not require any additional information and can make a determination within the allowed statutory period.

Respectfully submitted, this the 8 day of May, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: \_\_\_\_\_

  
JAMES A. BALLI  
Attorney for Applicant  
Ga. Bar No. 035828