

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

JAMES A. BALLI

SUITE 100

376 POWDER SPRINGS STREET

MARIETTA, GEORGIA 30064-3448

770•422•7016

TELEPHONE

770•426•6583

FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

May 11, 2018

COPY

VIA HAND DELIVERY

Mr. Ken Suddreth, Director
Community Development Department
City of Smyrna
3180 Atlanta Road
Smyrna, GA 30080

Re: Applications of Quintus Development L.P. to Annex and Rezone an approximate 8.64 Acre Tract from R-20 and NS (Cobb County) to RM-12 (City of Smyrna); Land Lot 634 & 663; 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia.

Dear Ken:

This firm has been engaged by and represents the Applicant, Quintus Development, L.P., concerning the above-captioned Annexation and Rezoning Applications. In that regard and in accordance with our recent meeting with you and staff, enclosed please find the Applications for Rezoning and Annexation and the requisite number of copies of same, including the following:

1. Vesting Deeds reflecting the current record Titleholder.
2. A legal description concerning the Subject Property, as contained within the Vesting Deeds. Also provided is an overall legal description (printout included herein and also provided in Word format).
3. A copy of the 2017 Cobb County paid tax receipts concerning the Subject Property.
4. The requisite number of full-sized and 11" x 17" sized copies of the current proposed Site Plan prepared by Gaskins Engineering and an 8½" x 11" copy of the site plan.
5. The requisite number of full-sized and 11" x 17" sized copies of the Tree Protection/Replacement Plan prepared by Gaskins Engineering and an 8½" x 11" copy of same.

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VIA HAND DELIVERY

Mr. Kenneth Suddreth, Director
Community Development Department
May 11, 2018
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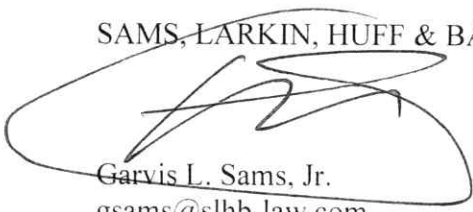
6. A Water/Sewer Availability report from Mr. Scott Stokes will be provided under separate cover.
7. Renderings/elevations depicting the architectural style and composition of the proposed Townhomes and Floor Plan.
8. A Trip Generation Memorandum will be submitted under separate cover.
9. A Constitutional Challenge.
10. A flash drive containing a pdf copy of this submittal and the legal description in Word format.
11. A check made payable to the City of Smyrna in the sum of \$2,200.00 representing the Application fee, the Tree Protection/Replacement Review fee and the Land Use Change Fee.

Assuming that these Applications are deemed complete, it is my understanding that the Applications will be scheduled to be heard and considered by the Planning & Zoning Board on June 11, 2018 and thereafter heard by the Mayor and City Council on July 16, 2018.

I will, of course, be contacting you and Senior Planner Rusty Martin to establish a dialogue regarding the Annexation and Rezoning requests and to address any concerns which you may have regarding the Applications. In the interim, please do not hesitate to contact me should you have any questions whatsoever regarding these matters. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Enclosures/Attachments

cc: Listed on next page

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. Kenneth Suddreth, Director
Community Development Department
May 11, 2018
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cc: Honorable Mayor A. Max Bacon, Mayor (via email w/attachments)
Members, City of Smyrna City Council (via email w/attachments)
Members, City of Smyrna Planning & Zoning Board (via email w/attachments)
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)
Scott A. Cochran, Esq. (via email w/attachments)
Mr. Eric Randall, P.E., City Engineer (via email w/attachments)
Mr. Scott Stokes, Public Works Director (via email w/attachments)
Mr. Timothy Grubaugh, Fire Marshall (via email w/attachments)
Ms. Terri Graham, City Clerk (via email w/attachments)
Mr. Russell G. Martin, AICP, Senior City Planner (via email w/attachments)
Mr. Jeff Carter, Quintus Development L.P. (via email w/attachments)
Mr. Brandon Wilt, David Weekley Homes (via email w/attachments)
Mr. Kelly Davis, P.E., Gaskins Engineering (via email w/attachments)

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

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

APPLICANT: Quintus Development, L.P.

Name: Garvis L. Sams, Jr., Attorney for Applicant (Sams, Larkin, Huff & Balli, LLP)
(Representative's name, printed)

Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30064

Business Phone: 770-422-7016 Cell Phone: 404-975-7772 Fax Number: 770-426-6583

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

Signature of Representative: 

TITLEHOLDER

Name: See Attached
(Titleholder's name, printed)

Address: _____

Business Phone: _____ Cell Phone: _____ Home Phone: _____

E-mail Address: _____

Signature of Titleholder: _____
(Attach additional signatures, if needed)

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

ZONING REQUEST

From R-20 & NS (Cobb County) to RM-12 (City of Smyrna)
Present Zoning Proposed Zoning

LAND USE

From Medium Density Residential to Medium - High Density Residential
Present Land Use Proposed Land Use

For the Purpose of Townhome Community

Size of Tract 8.644 acres

Location On the northwesterly side of Roswell Street, east of Post Village Drive.
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 634 & 663 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 there are such assets. If any, they are as follows:

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: HI (Cobb County)

East: RM-12 (Cobb County)

South: RM-12 & FC (City of Smyrna)

West: GC (City of Smyrna)

CONTIGUOUS LAND USE

North: Public Institutional (Cobb County)

East: Public Institutional (Cobb County)

South: Industrial Mixed Use & High Density Residential (City of Smyrna)

West: Industrial Mixed Use & Medium Density Residential (City of Smyrna)

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:

An availability letter was requested from Mr. Scott Stokes, after consultation with Tim Davidson with the Cobb County Water System. The response from Mr. Stokes will be forwarded upon receipt.

TRANSPORTATION

Access to Property? Roswell Street

Improvements proposed by developer? A high-end Townhome Community with price points ranging from the mid \$300s to low \$400s. The style and composition of the Townhomes will consist of a mix of brick, stone, shake, board and batten, and cementious lap siding, with square footages between 1,700 and 2,400.

Comments:

The subject property is located within an area which will support higher-intensity housing and is directly adjacent to multi-family apartments and commercial uses. Additionally, the subject property is designated as being located within a "Key Annexation Area" as defined in the City of Smyrna's 2040 Comprehensive Plan, Figure 2.1 Policy Map.

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

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

APPLICANT: Quintus Development L.P.

Name: Jeff Carter

(Representative's name, printed)

Address: 1827 Powers Ferry Rd Bldg 2-200 Atlanta, GA 30339

Business Phone: 770 951.2278 Cell Phone: 704 280 0770 Fax Number: _____

E-Mail Address: JCarter@Quintuscorp.net

Signature of Representative: 

TITLEHOLDER

Name: Mary Ellen Ireland

(Titleholder's name, printed)

Address: 1837 Roswell Street Smyrna, Georgia 30080

Business Phone: _____ Cell Phone: 678-6145121 Home Phone: 770-801-0181
770-985-1469

E-mail Address: Irelanddowda@aol.com

Signature of Titleholder: 
(Attach additional signatures, if needed)

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

City of Smyrna
Application for Annexation

We, the undersigned, who constitute one hundred percent (100%) of the owners of the land by acreage, as described below, which is unincorporated and contiguous to the City of Smyrna, hereby apply to have said area annexed into the City of Smyrna under the provisions of laws of the State of Georgia, said property being annexed being described as follows:

WHEREFORE, THE UNDERSIGNED HEREBY APPLY FOR SUCH ANNEXATION.

Mary Ellen Ireland
Owner's Printed Name
1837 Roswell Street
Smyrna, Georgia 30080
Address
678-614-5121 Telephone#

Owner's Printed Name

Address Telephone#

Witness the hands and seals of 100% of the record title holders of the land described above:

Mary Ellen Ireland
Owner's Legal Signature/Date 5/11/18

Owner's Legal Signature/Date

APPLICATION FOR REZONING TO THE CITY OF SMYRNA

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

APPLICANT: Quintus Development L.P.

Name: Jeff Carter
(Representative's name, printed)

Address: 1827 Powers Ferry Rd Bldg 2-200 Atlanta, GA 30339

Business Phone: 770.951.2278 Cell Phone: 704.280.0770 Fax Number: _____

E-Mail Address: Jeff@Quintuscorp.net

Signature of Representative: *Jeff Carter*

TITLEHOLDER

Name: Mary Ellen Ireland
(Titleholder's name, printed)

Address: _____

Business Phone: _____ Cell Phone: _____ Home Phone: _____

E-mail Address: _____

Signature of Titleholder: _____
(Attach additional signatures, if needed)

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

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?

No

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:

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:

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:

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 nature and extent of such interest: _____

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:

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:

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 11 day of MAY, 2018.



(Applicant's Signature)

(Attorney's Signature, if applicable)

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.

CAMPAIGN DISCLOSURE REPORT¹
BY ATTORNEY FOR APPLICANT²

Has the Applicant made, within two (2) years immediately preceding the filing of this Application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Smyrna City Council or Planning Commission who will consider the Application?

Yes _____

If so, the Applicant and the attorney representing the Application must file a disclosure report with the Smyrna City Council within ten (10) days after this Application is first filed.

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

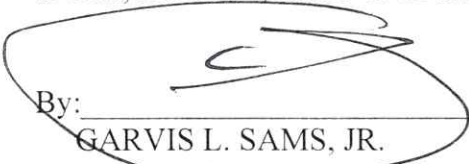
The name of the member(s) of the Smyrna City Council or Planning Commission to whom the campaign contribution or gift was made: Derek A. Norton

The dollar amount of each campaign contribution made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application and the date of each such contribution: On 2/21/18, a check in the sum of \$2,000.00 to the Committee to Elect Derek Norton, Mayor.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application: N/A

I certify that the foregoing information is true and correct, this the 11 day of May, 2018.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
GARVIS L. SAMS, JR.
Attorney for Applicant

¹If the answer to any of the above is "Yes", then the member of the Smyrna City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing to the Smyrna City Council. A copy should be filed with this Application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

DISCLOSURE

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", YOU MAY BE REQUIRED UNDER O.C.G.A. §36-67A-3 TO PROVIDE FURTHER INFORMATION:

- A) ARE YOU, OR ANYONE ELSE WITH A PROPERTY INTEREST IN THE SUBJECT PROPERTY, A MEMBER OF THE CITY OF SMYRNA PLANNING COMMISSION OR CITY OF SMYRNA MAYOR AND COUNCIL? **NO**

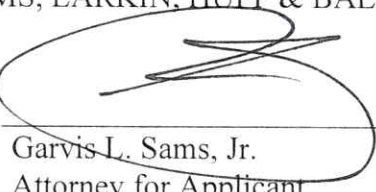
- B) DOES AN OFFICIAL OF SUCH PUBLIC BODIES HAVE ANY FINANCIAL INTEREST IN ANY BUSINESS ENTITY WHICH HAS A PROPERTY INTEREST IN THE SUBJECT PROPERTY? **NO**

- C) DOES A MEMBER OF THE FAMILY OF SUCH OFFICIALS HAVE AN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN (A) AND (B)? **NO**

- D) WITHIN TWO (2) YEARS IMMEDIATELY PRECEDING THIS APPLICATION, HAVE YOU MADE CAMPAIGN CONTRIBUTION(S) OR GIVEN GIFTS TO SUCH PUBLIC OFFICIALS AGGREGATING \$250.00 OR MORE? **YES**

SAMS, LARKIN, HUFF & BALLI, LLP

By: _____


Garvis L. Sams, Jr.
Attorney for Applicant

5-11-18

DATE

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.

The proposed rezoning and annexation consists of the development of an eighty (81) unit Townhome subdivision on property currently zoned R-20 & NS (Cobb County). The adjoining properties to the south and west (City of Smyrna) are zoned RM-12, FC and GC. Properties adjoining to the north and east (Cobb County) are zoned HI and RM-12. The proposed use will provide an appropriate transition and is suitable in view of the use and development of adjacent and nearby properties.

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

The market-driven and high price points and new home construction in this area will benefit both commercial and residential property owners. Additionally, the proposal will promote incentives for economic development and revitalization of the nearby commercial area located at the intersection of Matthews Street and Roswell Road.

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

The subject parcels have no reasonable economic use as currently zoned and utilized.

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.

The proposed new owner-occupied homes will not cause an excessive or burdensome use of existing streets, utilities or the schools. The proposed Townhome community represents a compact, low-maintenance neighborhood with a high quality of life and sense of place.

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

The City's Future Development Map designations in the area are Industrial Mixed Use, High Density Residential and Medium Density Residential. The proposed land use change is to Medium - High Density Residential at 9.38 units per acre. The proposed neighborhood provides a good transition between the nearby commercial and institutional uses.

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.

The architectural size and standards of the proposed neighborhood will lead to more redevelopment in this area and will be compatible with the surrounding and evolving uses. The subject property is located within a "Key Annexation Area" and is suitable for higher density housing developments.

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.

The proposed development will employ architectural features and materials which will enhance the existing nearby neighborhood's aesthetics and will replace older structures with Townhomes creating a unique feel and character in this area.

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

The proposed use will not create a nuisance to the existing uses in the area due to the fact that the surrounding area is comprised of higher density homes, multi-family units, commercial/industrial and public/governmental institutional uses.

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 new homes and demographics addressed in relation to new homeowners will be a positive addition to the community.

2017 SUBMISSION UNDER SECTION 5
OF THE VOTING RIGHTS ACT
FOR THE CITY OF SMYRNA, GEORGIA

Map Designation# _____ LL/Parcel# _____

City Ward# _____ Census Tract# _____

Copies of annexation ordinance (council meeting minutes) are attached, marked:
Exhibit _____

Responsible body: Mayor and Council of the City of Smyrna
P.O. Box 1226
Smyrna, GA 30081
Telephone (770) 434-6600

THIS SECTION TO BE COMPLETED BY APPLICANT. PLEASE BE SURE THIS INFORMATION IS ACCURATE – IT WILL BE USED TO ESTABLISH EMERGENCY SERVICE THROUGH OUR 911 SYSTEM.

1. Is the property to be annexed vacant? Yes No []
2. If NO, name of resident(s): _____
3. Complete street address: _____
4. Telephone Number _____
5. Number of registered voters before annexation: N/A
Number and type of minorities or minority language groups: N/A
6. Number of registered voters after annexation: Unknown
Number and type of minorities or minority language groups: Unknown
7. Use of property before annexation (i.e., vacant, business, residential): Undeveloped Tract & Vacant House
8. Zoning classification before annexation: R-20 & NS (Cobb County)
9. Use of property after annexation (i.e., vacant, business, residential). If residential, please state proposed number of dwelling units: 81 Townhomes
10. Zoning classification being requested (if any): RM-12 (Conditional)
11. Effect of change on members of racial or minority groups: Unknown
12. Total number of acres being annexed: 6.44

EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 634 and 663 of the 17th District and 2nd Section of Cobb County, Georgia, being shown as a 9.152 acre parcel on a plat showing boundary survey for Monterey Albertine Lloyd and Frederick W. Dowda made by Benny L. Bruner, Registered Land Surveyor, said plat being dated March 30, 1978, and being more particularly described as follows: COMMENCING at a point marked by an iron pin set on the northwestern side of Smyrna-Roswell Road (New Roswell Road), said beginning point being 200 feet measuring northeasterly along the northwesterly side of said road from an iron pin found on the northwesterly side of said road; said beginning point is also 30.02 feet from the centerline of the pavement of said road and said point in the centerline of said road is 940.70 feet measuring south 57 degrees 18 minutes 00 seconds west to the intersection of the centerline of said pavement with the center line of Hawthorne Avenue; running thence from said beginning point north 9 degrees 46 minutes 20 seconds west 446.66 feet to a corner post; thence north 89 degrees 40 minutes 10 seconds west 102.62 feet to the easterly side of the right-of-way of a 20 foot drive; thence north 01 degree 58 minutes 40 seconds west along the easterly side of said drive 364.42 feet to the boundary of the United States government property, said boundary marked by a fence and said point marked by an iron pin set; thence north 89 degrees 08 minutes 30 seconds east along the said boundary of the U. S. Government property 654.80 feet to a concrete marker found, which marker marks the corner point of Land Lots 635, 662, 634 and 663; thence south 35 degrees 21 minutes 40 seconds east 288.79 feet to a concrete marker found on the northwesterly right-of-way of Smyrna-Roswell Road (New Roswell Road); thence south 45 degrees 13 minutes 10 seconds west along said right-of-way 229.90 feet; thence continuing along said right-of-way south 47 degrees 35 minutes 00 seconds west 287.19 feet; thence continuing along said right-of-way south 48 degrees 49 minutes 20 seconds west 339.65 feet to the BEGINNING point.

LESS AND EXCEPT that portion of the above described property conveyed to Cobb County by right-of-way deed from P. W. Dowda dated June 3, 1981, recorded in Deed Book 2367, Pages 341-343, Cobb County Records.



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

QUIT-CLAIM DEED

State of Georgia
County of Cobb

2/12

Cross Reference: Deed Book _____
Page _____, Cobb County Records

emo Return to: Mark A. Smith, III, P.C.
P.O. Box 191526
Atlanta, GA 31119-1526
(404) 237-7200

THIS INDENTURE, made this 31 day of December in the year of our Lord Two Thousand Three, between Frederick W. Dowda of Cobb County, State of Georgia of the first part and Mary Ellen Ireland of Cobb County, Georgia of the second part.

WITNESSETH: That the said party of the first part for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release, and forever quit-claim to the said party of the second part, its heirs and assigns, all the right, title, interest, claim or demand which the said party of the first part has or may have in and to

All that tract or parcel of land lying and being in Land Lot 634 of the 17th District 2nd Section Cobb County, Georgia, more particularly described as follows:

Beginning at a point formed by the intersection of the East line of said Land Lot with the Northern side of the Smyrna-Roswell Road running through said Land lot at the Southeastern corner of the property herein conveyed, and running North along the Eastern line of said Land Lot a distance of 434 feet to other property of Mrs. Florence Dowda; thence West along said Dowda property 338 feet to a corner; thence South 1 degree ten minutes East along said Dowda property for a distance of 695 feet to the Northern side of Smyrna-Roswell Road; thence running a Northeasterly direction along the Northern side of said road North 38 degrees 50 minutes East for a distance of 418 feet to the point of beginning. The above property is a part of the property conveyed to J.H. Hamby by Littleton P. Wood by deed dated October 9, 1931 and filed for record in the Clerk's Office of the Cobb Superior Court.

ALSO: All that tract or parcel of land lying and being in the 17th District 2nd Section of Cobb County, Georgia, being the West half of Land Lot No. 706; Seventeen acres, more or less, off of the North side of Land Lot No. 663, being all of said Land Lot except what was heretofore Sold off to Rev. A. C. Cantrell; also 2 acres, more or less, off the South side of land lot No. 662, being all of the South half of said lot except what has been heretofore sold off to N. Alexander. Said tract bounded on the North by lands of or formerly belonging to Alexander and Ivy; East by Ivy; South by Nash; and West by land formerly belonging to J.H. Hills and T. F. Story, the property hereby conveyed being the same property deeded to

E. G. Megarity by Gordon B. Gann, as Receiver of B. B. Jones estate, and property herein described.

With all the rights, members and appurtenances to the said described premises in anyway appertaining or belonging thereto.

TO HAVE AND TO HOLD the said described premises unto the said party of the second part, its heirs and assigns, so the neither the said party of the first part nor its successors, nor any other person claiming under it shall at any time, claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year above written.

Signed, sealed and delivered in the presence of:

Deborah A. Raleigh
Witness

Frederick W. Dowda (SEAL)
Frederick W. Dowda

Mauri E. Whitchess
Notary Public
[NOTARY SEAL]



My Commission expires: Notary Public, Clayton County, Georgia
My Commission Expires September 7, 2007
Date Notarized: 12/31/03

Description

1755-1837 Roswell Street

All that tract or parcel of land lying and being in Land Lots 634 and 663 of the 17th District 2nd Section of Cobb County, Georgia and being shown on a Plat of Topographic Map for Jeff Carter by McClung Surveying Services, Inc. dated 3-7-18 and being more fully described as follows;

Start at a rebar found located at the Northeasterly corner of Land Lot 634 (said rebar also being the Common Division Corner of Land Lots 662, 663, 634 and 635 and the Point of Beginning). Thence from the Point of Beginning and running S35°21'40"E a distance of 267.49 feet to a rebar set located along the Northwesterly Right-of-Way of Roswell Street (100' R/W). Thence following the arc of a curve to the right and along said Right-of-Way an arc distance of 837.94 feet (said arc having a radius of 9,052.01 feet, a chord bearing of S47°44'02"W and a chord distance of 837.64 feet to a rebar set. Thence leaving said Right-of-Way and running N09°46'20"W a distance of 412.97 feet to a rebar set. Thence running N89°40'10"W a distance of 102.62 feet to a rebar set located along the Northeasterly line of a 20 Foot Alley. Thence running N01°58'40"W along said Alley a distance of 364.42 feet to a rebar set located along the Common Division Line of Land Lots 634 and 635. Thence leaving said Alley and running N89°08'30"E along said Division Line a distance of 650.44 feet to said rebar found located at the Northeasterly Corner of Land Lot 634 and the Point of Beginning.

Said tract or parcel of land containing 8.644± acres or 376,527± square feet.

Printed: 2/19/2018



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:
 WHITLOW FARM INVESTMENTS LLLP

IRELAND MARY ELLEN

Payment Date: 10/16/2017

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2017	17066300020	10/15/2017	Pay: N/A or	\$0.00	
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$5,313.23	\$0.00



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



Printed: 3/9/2018

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:
 WHITLOW FARM INVESTMENTS LLLP

DOWDA FREDERICK W

Payment Date: 10/16/2017

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2017	17063400010	10/15/2017	Pay:	N/A	or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$7,115.75	\$0.00



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

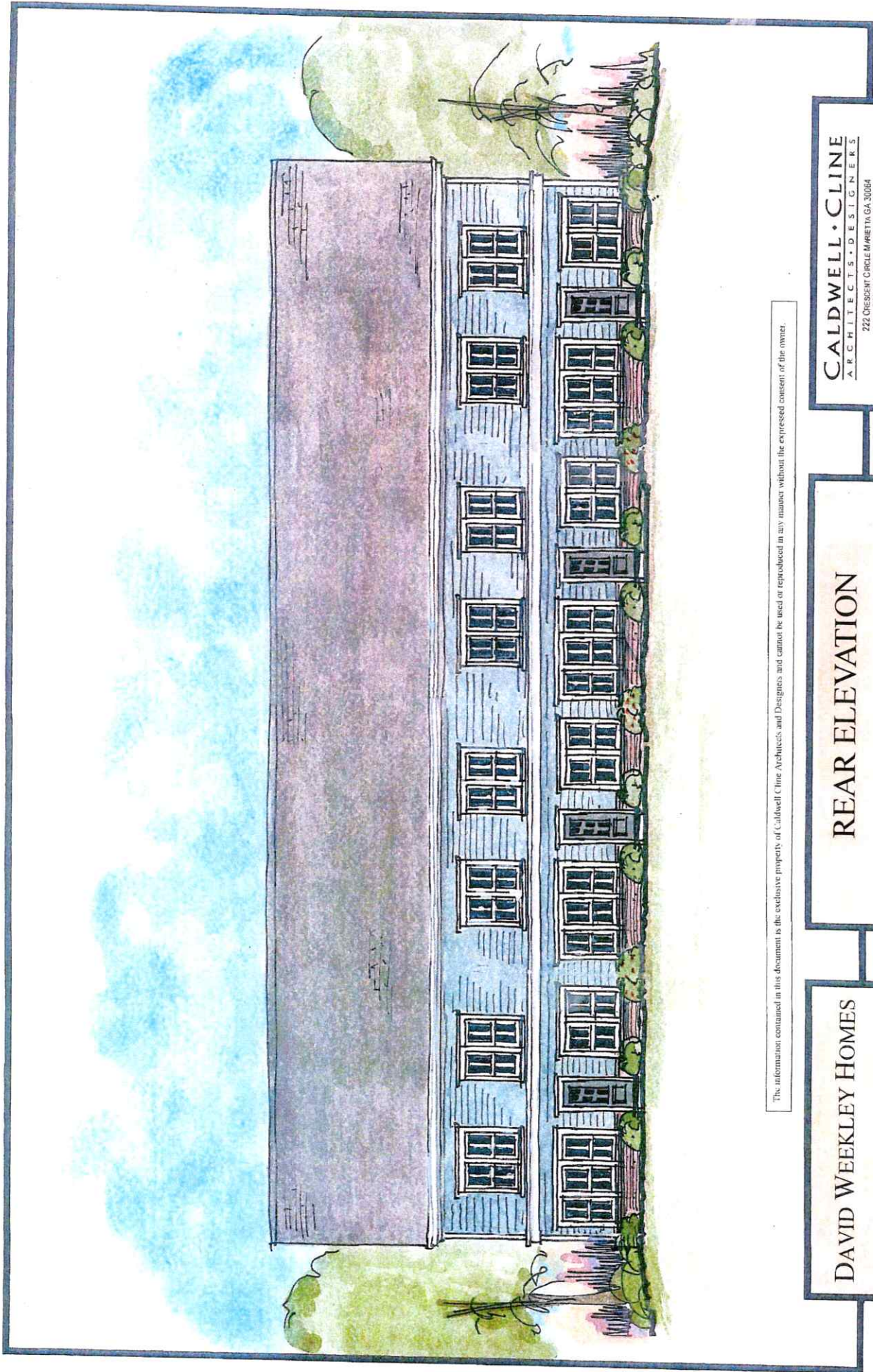


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DAVID WEEKLEY HOMES

FRONT ELEVATION

CALDWELL • CLINE
ARCHITECTS • DESIGNERS
222 CHESSAY CIRCLE MARIST, CA 94584
PHONE 770-724-3882 678-668-8131 FAX

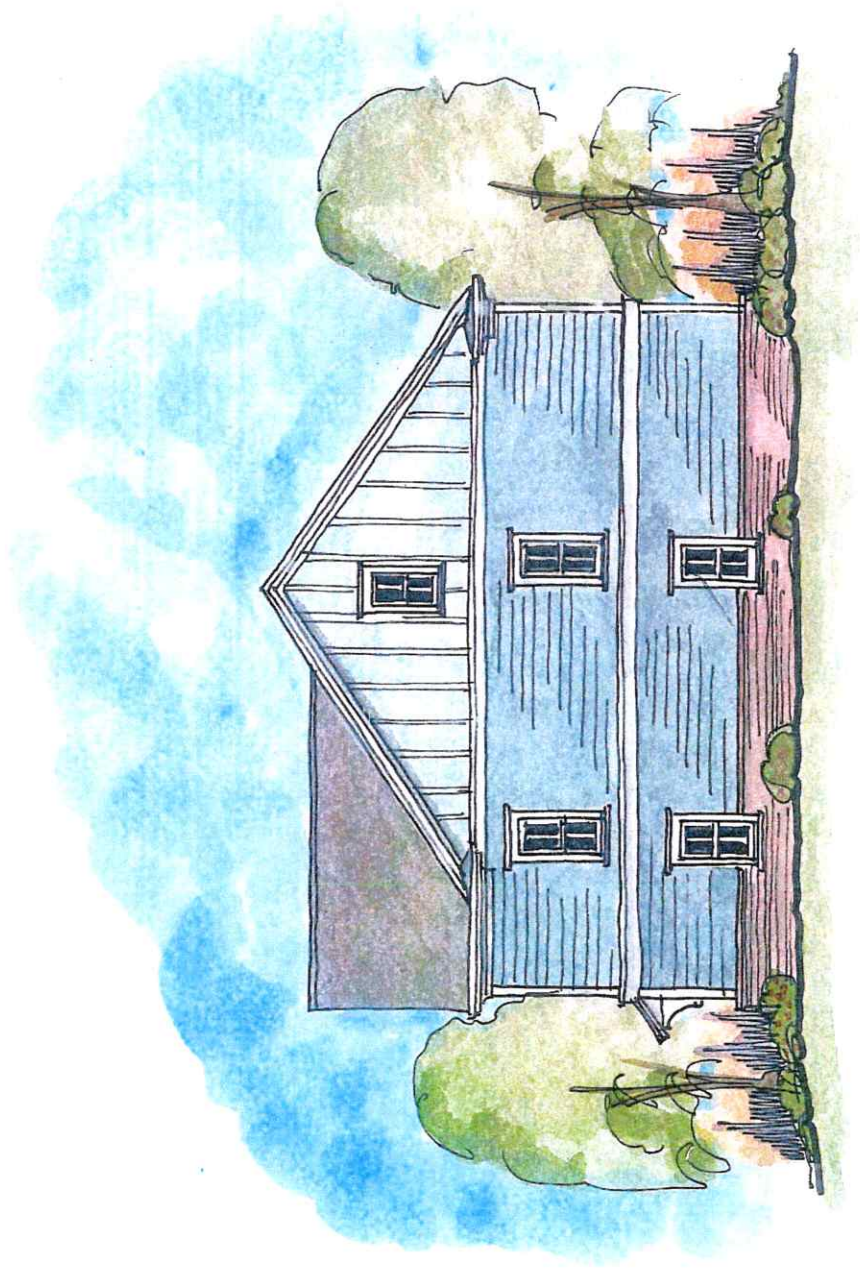


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DAVID WEEKLEY HOMES

REAR ELEVATION

CALDWELL • CLINE
ARCHITECTS • DESIGNERS
222 CRENSHAW CIRCLE, MARIETTA, GA 30064
PHONE 770-424-3882 076-668-0930 FAX

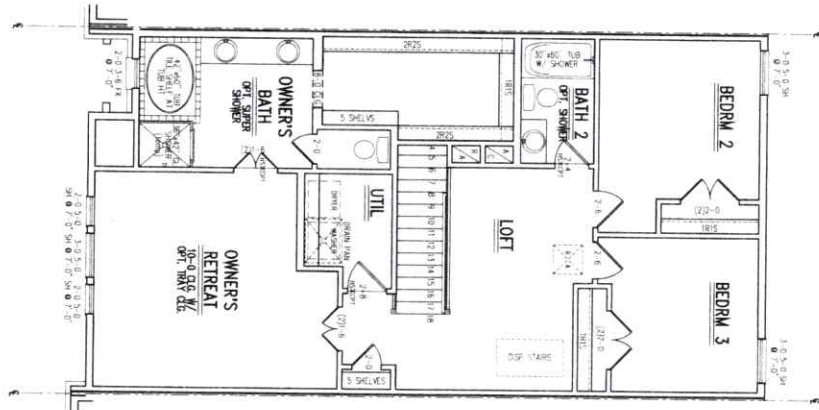


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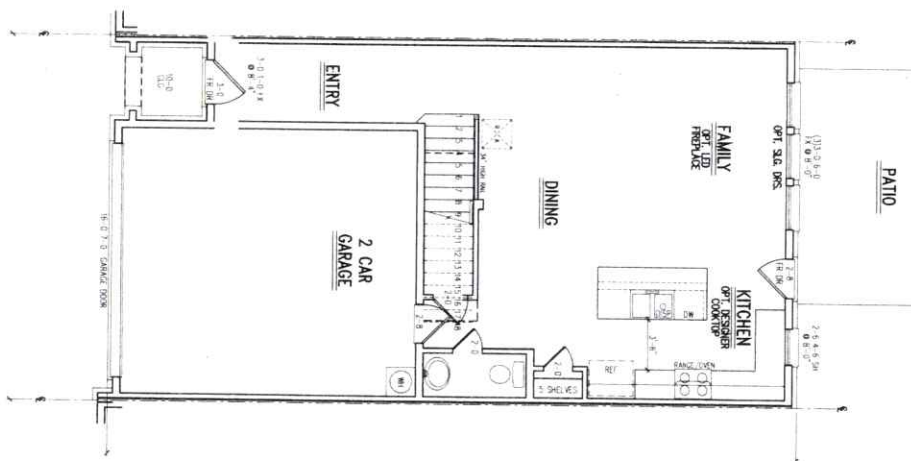
DAVID WEEKLEY HOMES

SIDE ELEVATION

CALDWELL • CLINE
ARCHITECTS • DESIGNERS
222 CRESCENT CIRCLE MARIETTA, GA 30064
PHONE: 770-424-3382 578-668-8330 FAX



SECOND FLOOR PLAN INT UNIT
1096 SF



FIRST FLOOR PLAN INT UNIT
732 SF

REQUIREMENTS/ NOTES	
SQ. FT. CAP	N/A
SQ.FT. TARGET	1800

R.A.D. REVIEW CONCEPTUAL REVIEW @ CHANG? YES NO ATLANTA	PLN-1	SMYRNA - 24' TH CONCEPTUAL REDLINES	Proj No. _____ Lot _____ Job No. _____ Blk _____ Sect _____	David Weekley Homes BR/JCA Date _____	Scale: 1/8" = 1'-0" Rev _____	© Weekley Homes L.P. 2018 The measurements, dimensions and other specifications shown on this document are guidelines for construction use only. The actual specifications of the finished structure may vary. This document may not be relied on as a representation of what the completed structure will look like.
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TO THE MAYOR AND CITY COUNCIL
CITY OF SMYRNA, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, QUINTUS DEVELOPMENT L.P., hereinafter referred to as the "Applicant" for Rezoning and Annexation and asserts the following, to wit:

1.

By application to which this exhibit relates, the Applicant has applied for a rezoning of certain real property lying and being in Cobb County, 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 Zoning of the property seeks a rezoning from the existing category of R-20 & NS (Cobb County), as established by the governing authority of the Cobb County, Georgia to the zoning category of RM-12 (Conditional) within the City of Smyrna for a Townhome Community.

3.

The current R-20 & NS zoning classifications of the property and all intervening classifications between same and RM-12 (Conditional) 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 classifications of R-20 & NS and all intervening classifications between same and RM-12 (Conditional) as they presently exist violate the Applicant's rights 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 classification is unconstitutional in that it is 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 in many instances controlled by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 11 day of May, 2018.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant

Ga. Bar No. 623950

