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April 7, 2017

BY HAND DELIVERY

Community Development Office
City of Smyrna
3180 Atlanta Road
Smyrna, Georgia 30080

Re: Application for Rezoning to the City of Smyrna ("**Application**") by Weekley Homes, LLC, with respect to that approximately 4.19 acre parcel of now vacant property located at the southwest corner of the intersection of the East-West Connector and Fontaine Road, being tax parcel ID 17033201330, unincorporated Cobb County, Georgia (the "**Property**")

City of Smyrna Application for Annexation (100% Method) ("**Annexation Application**"; together with the Rezoning Application, collectively, the "**Applications**") by Cooper Lake Limited Partnership ("**Owner**") with respect to the Property

LETTER OF INTENT

Ladies and Gentlemen:

This law firm has the pleasure of representing Weekley Homes, LLC (also known as David Weekley Homes or, in this letter, "**Applicant**"), with respect to the Rezoning Application. Applicant respectfully submits for your consideration the Applications, the approval of which will allow Applicant to develop the Property into a 15-unit single family subdivision.

The Property

The Property is an approximately 4.183-acre unimproved tract bounded on the north by the East-West Connector and on the east by Fontaine Road. It is entirely surrounded by properties that within City of Smyrna city limits, but currently is an unincorporated island, zoned R-20 under Cobb County's zoning ordinance. All of the tracts surrounding this Property are residentially developed. The Property is surrounded on the west and to the south by properties identified as "moderate density residential" on the Future Land Use Map.

Proposed Rezoning and Annexation

Applicant proposes to develop the Property with 15 single family detached homes, as more particularly shown on the site plan enclosed, and to annex the Property into the City. The merits of this project are more particularly described on the Rezoning Analysis submitted herewith.¹ As part of the Application, Applicant is submitting elevations showing the mix of exterior design features it proposes for the Property. Additionally, the annexation of the Property will resolve an existing unincorporated island and ensure congruity throughout this corridor of the East-West Connector.

The proposed density of the project is 3.64 units to the acre – a density consistent with adjacent and surrounding area neighborhoods. To effect this density, together with the rezoning, Applicant seeks a change from the County’s LDR (low density residential) category to MDR (moderate density residential). This change is consistent with the residential projects to the south and west and also is within the middle of the range of allowable densities (and under the 6 units per acre density otherwise allowed within the RAD zoning). This change is also consistent with the proposed five dwelling units per acre as contemplated in the City’s Intergovernmental

¹ Applicant hereby notifies the City of its constitutional concerns with respect to the Applications. Specifically, if the Council denies the Applications in whole or in part, then the Property does not have a reasonable economic use under the Smyrna Zoning Code, as the same is amended from time to time (the “*Zoning Code*”). Moreover, the Applications meet the test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government’s police power. *See Guhl vs. Holcomb Bridge Road*, 238 Ga. 322 (1977). If the Council denies the Applications (or either of them) in whole or in part, such an action will deprive Applicant and Owner of the ability to use the Property in accordance with its highest and best use. Similarly, if the Council amends the zoning of the Property to some classification other than the RAD zoning district without Applicant’s consent, or if the Council limits its approval by attaching conditions to such approval affecting the Property or the use thereof without Applicant’s consent, then such approval would deprive Applicant of any reasonable use and development of the Property. Any such action is unconstitutional and will result in a taking of property rights in violation of the just compensation clause of the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 3, para. 1(a)*), and the just compensation clause of the Fifth Amendment to the United States Constitution (*see U.S. Const. Amend. 5*). To the extent that the Zoning Code allows such an action by the Council, the Zoning Code is unconstitutional. Any such denial or conditional approval would discriminate between Applicant and the owner of the Property and owners of similarly situated property in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of Article I, Section I, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Finally, a failure to grant both Applications or a conditional approval of the either Application (with conditions not expressly approved by Applicant) would constitute a gross abuse of discretion and would constitute an unconstitutional violation Applicant’s rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 1, para. 1*) and the Fifth and Fourteenth Amendments of the Constitution of the United States (*see U.S. Const. Amend. 5 and 14*). Applicant further challenges the constitutionality and enforceability of the Zoning Code (together with all applicable land use and zoning maps, comprehensive plans, zoning regulations, conditions and site plans), in whole and in relevant part, for lack of objective standards, guidelines or criteria limiting the City’s discretion in considering or deciding applications for zoning amendments. Nevertheless, Applicant remains optimistic that the City’s consideration of the Applications will be conducted in a constitutional manner.

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Agreement with Cobb County dated July 9, 2014 and meets the criteria set forth in that Intergovernmental Agreement for the fulfillment of the HB 489 Service Delivery Strategy.

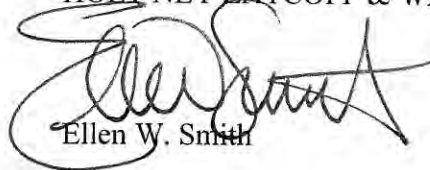
Application Requirements

The Zoning Code sets forth the various requirements applicable to requests for zoning changes. In support of the Applications, Applicant submits the following documents (together with 5 copies thereof and a CD containing electronic copies):

- (1) Application for Rezoning to the City of Smyrna;
- (2) this Letter of Intent;
- (3) Vesting Deeds (there are 3);
- (4) Metes and bounds legal description of the Property;
- (5) Paid Tax Receipt;
- (6) Utilities Availability Letter;
- (7) Elevations;
- (8) ALTA Survey;
- (9) Site Plan;
- (10) Tree Protection Plan; and
- (11) Checks in the amount of (i) \$500 (rezoning) and (ii) \$500 (land use change fee).

This Letter of Intent and the above referenced documents support the Applications. Applicant and Owner respectfully request that the Department recommend approval of the Applications. We are happy to answer any questions or provide any additional information that the Department may have with regard to these Applications.

Sincerely,
HOLT NEY ZATCOFF & WASSERMAN, LLP



Ellen W. Smith

EWS/ews
Enclosures
cc: Ms. Beth Kidd