



**REZONING APPLICATION  
AND FILING PROCEDURES**

**City of Smyrna  
Community Development Office  
3180 Atlanta Road  
Smyrna, GA 30080  
(770) 319-5387**

## SUBMITTAL AND PUBLIC HEARING INFORMATION

Rezoning applications are due Friday by 4:00 pm, 30 days prior to the Planning and Zoning Board meeting. A copy of the rezoning package can be downloaded from the Community Development Section of the City of Smyrna Website ([www.smyrnacity.com](http://www.smyrnacity.com)). Appointments are **required** to submit an application to the Community Development Office located at 3180 Atlanta Road. Please call Rusty Martin at (678) 631-5354 to schedule an appointment.

The City of Smyrna Planning and Zoning Board meets the second Monday of each month beginning at 6:00 pm. The Mayor and Council meet on the third Monday of each month beginning at 7:00 pm. Both groups meet in the Council Chambers in City Hall at 2800 King Street. Please call (678) 631-5354 to confirm dates. The following are currently scheduled dates and deadlines.

Deadline	Planning & Zoning Board	Mayor and Council
Dec. 14, 2018	Jan. 14, 2019	Feb. 18, 2019
Jan. 11, 2019	Feb. 11, 2019	Mar. 18, 2019
Feb. 8, 2019	Mar. 11, 2019	Apr. 15, 2019
Mar. 8, 2019	Apr. 8, 2019	May 20, 2019
Apr. 12, 2019	May 13, 2019	June 17, 2019
May 10, 2019	June 10, 2019	July 15, 2019
June 14, 2019	July 8, 2019	Aug. 19, 2019
July 12, 2019	Aug. 12, 2019	Sept. 16, 2019
Aug. 9, 2019	Sept. 9, 2019	Oct. 21, 2019
Sept. 13, 2019	Oct. 14, 2019	Nov. 18, 2019
Oct. 11, 2019	Nov. 11, 2019	Dec. 16, 2019
Nov. 8, 2019	Dec. 9, 2019	Jan. 21, 2020

\*\*\* Dates are subject to change due to holidays.

### Visual Presentations

Equipment is available for Power Point presentations.

**Handouts are not permitted during the meeting or large renderings and plats that require use of an easel.**

Any questions regarding presentations can contact: Terri Graham, City Clerk at 770-319-5303

# INSTRUCTIONS AND REQUIRED DOCUMENTS

## INSTRUCTIONS

1. The Community Development office will accept no application unless **completely filled out and submitted with all required documents.**
2. Please call (678)631-5355 for current Zoning and Land Use information before completing the application.
3. Appointments are **required** to submit an application to the Community Development Office. Please call Rusty Martin at (678)631-5354 regarding application questions and to schedule an appointment for submittal.
4. Revisions to the application must be received no later than seven (7) calendar days prior to the Planning Zoning Board hearing or the Mayor and Council hearing.
5. The City will provide and post signs on or near the right-of-way of the nearest public street, seven (7) days before the Planning and Zoning Board meeting. **It is the responsibility of the applicant for the signs to remain posted throughout the advertising period.**
6. Applicant or agent for applicant must attend the Planning and Zoning Board meeting and the Mayor and Council hearing, or the case will not be heard. If the applicant wishes to table or withdraw a rezoning request, notification must be presented in writing to the Community Development Office **and** the City Clerk's Office no later than five (5) business days prior to the Planning and Zoning Board meeting or the Mayor and Council meeting.
7. The Mayor and City Council will table rezoning proposals that undergo a major plan change after leaving the Planning and Zoning Board. The rezoning will be sent back to the Planning and Zoning Board to start the rezoning process over again with another \$500.00 re-filing fee assessed.

## APPLICATION FEES:

<b>Rezoning Fees:</b>			
<b>Property Size</b>	<b>Single-Family (&lt;4.5 units/acre)</b>	<b>Medium/High Density Residential (&gt;4.5 units/acre)</b>	<b>Commercial</b>
<b>0 - 5 Acres</b>	\$500.00	\$700.00	\$900.00
<b>5 - 10 Acres</b>	\$700.00	\$1,200.00	\$1,500.00
<b>10 - 20 Acres</b>	\$1,000.00	\$1,500.00	\$1,800.00
<b>20 - 100 Acres</b>	\$1,500.00	\$2,000.00	\$2,000.00
<b>Tree Protection Plan Review Fee:</b>		\$500.00	
<b>Land Use Change Fee:</b>		\$500.00	

## **REQUIRED DOCUMENTS**

1. One (1) completed original application with **all** required supplemental documentation (items #5 - #15 below). The signatures of all **titleholders and applicant** are required on original rezoning application.
2. **Five (5) copies of the original application and all supplemental documentation.**
3. Submit **one (1) flash drive** containing all documents in either PDF or Word format (as appropriate). **Each digital document shall be provided individually as opposed to summing all documents as one file (i.e. There shall be separate digital files for the zoning application, legal description, warranty deed, etc...).**
4. Completed rezoning application with the signatures of all titleholders and applicants.
5. A copy of the deed that reflects the current owner(s) of the property. If the application consists of several tracts, a deed of each tract is required.
6. A current legal description of the subject property. **If the application consists of several tracts, a legal description of each tract is required along with an overall description of the combined tracts.** No legal description should include more property than what is being requested for rezoning. **The legal description must be submitted digitally in Word Format.**
7. A copy of the paid tax receipts (**City and County**) for the subject property or a statement signed by an official in the Tax Commissioner's Office. If the application consists of several tracts, a copy of the paid tax receipts of each tract is required.
8. Provide a letter from Smyrna's Public Works verifying water and sewer availability and capacity. Contact Frank Martin, Public Works Director, at 678-631-5431.
9. If the property is or will be on a septic tank, contact the Cobb County Health Department. Approval must be obtained prior to the filing of the application for rezoning.
10. Provide a set of building elevations and floor plans **for each proposed building**, along with a description of exterior wall coverings and finishes to be used. These shall be either 8 ½" x 11" or 11" x 17".
11. Provide both a full-sized scaled survey of the existing property **and** a 11"x17" copy of the survey by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws. **Plans must be stamped and folded (full sized scaled plans shall be engineer folded).**

12. Provide both a full-size scaled conceptual site plan **and** a 11" x 17" copy of that plan by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws. **Plans must be stamped and folded (full sized scaled plans shall be engineer folded).**

\*\*\*\*The conceptual site plans must show property & lot dimensions, adjoining streets with right-of-way (present and proposed), paving widths, curb radii, the exact size and location of all buildings along with the intended use, buffer areas, parking areas and spaces, stormwater management facilities, lakes, streams, utility easements, limits of 100-year flood plain, retaining walls, adjoining property owners, zoning of adjoining property, street address, location of all curb cuts inside & outside the development (including curb cuts on all adjacent and adjoining properties) and distance to the nearest street intersection. **Plans which are rolled (instead of individually folded) will not be accepted.**

13. Sub-division plats must have a legend showing lot density for the total acreage, minimum building setbacks, minimum lot size, average lot size and maximum lot size. In addition, provide a table listing the square footage of each proposed lot.
14. A preliminary hydrology study for the proposed tract(s).
15. Provide both a full-size scaled Tree Protection Plan and a 11" x 17" copy of the Tree Protection Plan. **A registered landscape architect must prepare the Tree Protection Plan.** The Tree Protection Plan shall meet the City's requirements under Section 106-36 of the City's Code of Ordinances (Chapter 106 – Tree Conservation Ordinance). **Plans must be stamped and folded (full sized scaled plans shall be engineer folded).** **Plans which are rolled (instead of individually folded) will not be accepted.**
16. A development that exceeds 100,000 net square feet or 75 dwelling units will be required to submit a traffic, water, sewer, and school impact statement with the rezoning application. A development that is less than 100,000 net square feet or 75 dwelling units may be required to submit one or all of the above statements upon request of the City Engineer or the Department of Community Development. A final decision, by the Mayor and City Council, may not be made until these statements are received with the rezoning application. For impact information about traffic, contact City Engineer's office at 678-631-5381. For School System information, contact the Cobb County Board of Education.
17. Any large development that exceeds the minimum thresholds for a Development of Regional Impact (DRI) review must complete that review prior to moving forward with the zoning request. The minimum development thresholds for DRI review can be found at (<https://atlantaregional.org/community-development/comprehensive-planning/developments-of-regional-impact/>). Once a completed rezoning package is received by Smyrna's Community Development Office, an Initial DRI Information form will be prepared by the office and

submitted to the Atlanta Regional Commission, Georgia Regional Transportation Authority, and Georgia Department of Community Affairs to determine whether or not the proposed development should be processed as a DRI. If the proposed development is determined to be a DRI, then a DRI Review Initiation Request form shall be prepared by Smyrna's Community Development Office and submitted along with any requested information. No rezoning action can be taken by the City until all state agencies have completed their review and comments.

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

*Type or Print Clearly*

(To be completed by City)

Ward: \_\_\_\_\_

Application No: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

**APPLICANT:** Prestwick Land Holdings, LLC

Name: Chuck Young

(Representative's name, printed)

Address: 3715 Northside Pkwy, NW, Bldng 200, Suite 175 Atlanta, GA 30327

Business Phone: 404-949-3892 Cell Phone: 404-285-0664 Fax Number: 404-989-3880

E-Mail Address: Chuck@prestwickcompanies.com

Signature of Representative: \_\_\_\_\_

**TITLEHOLDER**

Name: William A. Wills

(Titleholder's name, printed)

Address: 613 Club Lane, Marietta, GA 30067

Business Phone: 678-873-1860 Cell Phone: 678-873-1860 Home Phone: \_\_\_\_\_

E-mail Address: alanwills@circlewconstruction.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: \_\_\_\_\_

**ZONING REQUEST**

From LI Light Industrial to RHR Residential High Rise  
Present Zoning Proposed Zoning

**LAND USE**

From Community Activity Center (CAC) to High Density Residential (HDR)  
Present Land Use Proposed Land Use

For the Purpose of developing housing for older persons

Size of Tract 2.62 acres

Location Between Sherwood Road and South Cobb Drive on the North side of Smyrna Hill Drive  
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 381 District 17

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:

N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(To be completed by City)

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

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



**CONTIGUOUS ZONING**

**North:** NS Neighborhood Shopping \_\_\_\_\_

**East:** LI Light Industrial \_\_\_\_\_

**South:** GC General Commercial \_\_\_\_\_

**West:** NS Neighborhood Shopping \_\_\_\_\_

**CONTIGUOUS LAND USE**

**North:** Community Activity Center (CAC) \_\_\_\_\_

**East:** Community Activity Center (CAC) \_\_\_\_\_

**South:** Community Activity Center (CAC) \_\_\_\_\_

**West:** Community Activity Center (CAC) \_\_\_\_\_

**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:

Water and Sewer letters are provided  
\_\_\_\_\_  
\_\_\_\_\_

**TRANSPORTATION**

Access to Property? Access is on Smyrna Hill Drive  
\_\_\_\_\_  
\_\_\_\_\_

Improvements proposed by developer? N/A  
\_\_\_\_\_  
\_\_\_\_\_

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

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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:

Mayor Max Bacon, Councilmember Derek Norton, and Councilmember Maryline Blackburn

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:

\$500 for Bacon Campaign, \$500 for Norton Campaign, \$100 for Blackburn Campaign

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: \_\_\_\_\_

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

**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

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

N/A

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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

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

N/A

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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 5<sup>th</sup> day of August, 2019.

  
\_\_\_\_\_  
(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.

**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.

Yes, the neighboring uses are Neighborhood Commercial. Dense residential development will add value by providing a large supply of buyers.

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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.

No, the increased density and the residential use will positively impact the adjacent and nearby parcels.

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

No, the highest and best use for the parcel would be residential. It has very limited use as an industrial space. Industrial users require much greater acreage in order to develop new construction.

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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.

No, the use will not cause an excessive impact. The development will have little to no impact on schools, since it will be housing for older persons.

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

It is in line with the 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.

New construction on the parcel as industrial has limited use. The prospect of high density residential is the parcel's highest and best use, considering the lack of major thoroughfare frontage on the property.

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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.

It will enhance the immediate surrounding area's architectural appeal and aesthetics. The open space created will conform to and enhance the neighborhood feel.

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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.

It will not create a nuisance. The proposed developers are long term investors and will hold the property for 30+ years. In order to continue to receive financing, the proposed owner must maintain the property at a high level.

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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.

The property will be an asset to the adjoining property and general neighborhood. It will bring supply for existing retail and will enhance property values.

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**ADDITIONAL TITLEHOLDER**

Name: CAROLYN HOWELL WILLS and WILLIAM A. WILLS, AS CO-TRUSTEES OF THE WILL OF WILLIAM L. WILLS

Address: 613 Club Lane, Marietta, GA 30067

Business Phone: 678-873-1860

Email: Lwills2@aol.com

Signature of Titleholder: Carolyn Howell Wills

Carolyn Howell Wills, Co-Trustee

Signature of Titleholder: W. A. Wills

William A. Wills, Co-Trustee



**ADDITIONAL TITLEHOLDER**

Name: CAROLYN HOWELL WILLS and WILLIAM A. WILLS, AS CO-TRUSTEES OF THE WILL OF WILLIAM L. WILLS

Address: 613 Club Lane, Marietta, GA 30067

Business Phone: 678-873-1860

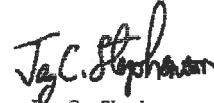
Email: Lwills2@aol.com

Signature of Titleholder: Carolyn Howell Wills

Carolyn Howell Wills, Co-Trustee

Signature of Titleholder: William A. Wills

William A. Wills, Co-Trustee



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

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After recording return to:  
Danny G. Schulman  
Cutler & Schulman, P.C.  
1600 South Cobb Drive, Suite 100  
Marietta, Ga. 30060  
File No. 080220-2

**PLEASE CROSS REFERENCE  
TO DEED BOOK 14550 PAGE 3848**

**TRUSTEE'S CERTIFICATE**

Before me, this 20th day of May, 2008, the undersigned attesting authority in and for said State and County came the undersigned **CAROLYN HOWELL WILLS & WILLIAM ALAN WILLS**, and for their affidavit say and depose as follows:

1. On August 10, 2005, Letters Testamentary were issued to Carolyn Howell Wills by the Probate Court of Fulton County, Georgia (Estate No. 200265), Last Will and Testament of William Larry Wills, deceased.
2. Under Item IV of the Last Will and Testament of William Larry Wills, Carolyn Howell Wills & Herman M. Howell were appointed as Co-Trustees of the residuary estate.
3. On October 10, 2007, Carolyn Howell Wills, as Executor of the Last Will and Testament of William Larry Wills (a/k/a William L. Wills) conveyed, by Executor's Deed, the property described on Exhibit "A" attached hereto and incorporated herein by reference, to Carolyn Howell Wills and Herman M. Howell, as Co-Trustees.
4. On April 8, 2008, the Probate Court of Fulton County, Georgia entered an Order accepting the resignation of Herman M. Howell, as Co-Trustee, and appointing William Alan Wills as successor Co-Trustee under Item IV of the Last Will and Testament of William Larry Wills. (A copy of such order is attached hereto and incorporated herein by reference)
5. The Co-Trustees certify that they are authorized and fully empowered to execute

conveyances of title to the property held by the said Co-Trustees under Item IV of the Last Will and Testament of William Larry Wills.

6. Carolyn Howell Wills and William Alan Wills hereby certify that they are presently serving as Co-Trustees under said Last Will and Testament under and pursuant to the authority of the Probate Court of Fulton County, Georgia, and that as of the date hereof they remain the sole Trustees under said Last Will and Testament.

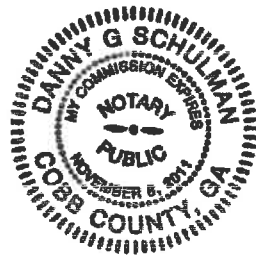
7. This certificate is made to clarify the status of title to the above described property and Carolyn Howell Wills and William Alan Wills make this certificate knowing that it will be relied upon by transferees, title examiners, attorneys and title insurance companies.

Carolyn Howell Wills (LS)  
Carolyn Howell Wills

Stacey Dunlap  
Witness

William Alan Wills (LS)  
William Alan Wills

[Signature]  
Notary Public



IN THE PROBATE COURT OF FULTON COUNTY

STATE OF GEORGIA

IN THE MATTER OF

WILLIAM LARRY WILLS,  
DECEASED

:  
:  
:  
:

ESTATE NO. 200265

RE: PETITION TO RESIGN  
AND APPOINT A SUCCESSOR

ORDER

Carolyn Howell Wills ("Petitioner") has petitioned the Court to allow the resignation of Herman M. Howell as co-trustee of the trust created under Item IV of the Last Will and Testament of William Larry Wills, Deceased. Petitioner is serving as co-trustee along with Herman M. Howell. The resignation of Herman M. Howell is attached to the Petition. Petitioner requests the appointment of William Alan Wills as successor co-trustee. The consent to serve by William Alan Wills is attached to the Petition. Decedent named Citizens and Southern National Bank of Atlanta, now known as Bank of America, as successor trustee. The declination of Bank of America is attached to the Petition.

The Court has read and considered the Petition and the Will of the Decedent. All of the beneficiaries are sui juris and have consented to the Petition.

This Court has jurisdiction of this matter pursuant to O.C.G.A. §53-12-170 and §53-12-175, and finds that Fulton County is the proper venue for this action, this being the county where the Trust property is located.

Wherefore, it is ordered that the Petition is granted, AND:

- (1) Herman M. Howell is allowed to resign as co-trustee and pursuant to O.C.G.A. §53-12-175 shall be discharged from any further duties, responsibilities and liabilities in regard to the trust, immediately upon delivery to the successor co-trustees of all trust assets in his possession; and
- (2) William Alan Wills is appointed successor co-trustee of the trust, being relieved of posting bond, from making any returns or reports or securing or filing any inventories or appraisals with the Court, and having all the authority and subject

to all of the pains and penalties of the original co-trustees, and shall be authorized to exercise any and all of the powers, privileges and exemptions conferred upon the original co-trustees.

This 8<sup>th</sup> day of April, 2008.



Julie Caplan

Exercising the jurisdiction of the Probate Court pursuant to the order of Judge Toomer Dated 3-1-02 as provided by O.C.G.A. § 15-9-13(a) and UPCR 3

cc: Donald DeLoach, Esquire