

# APPLICATION FOR REZONING TO THE CITY OF SMYRNA

*Type or Print Clearly*

(To be completed by City)

Ward: 6

Application No: 217-005

Hearing Date: 4/17/17

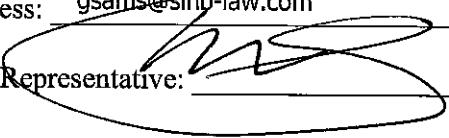
**APPLICANT:** Joshua W. Hall

Name: Garvis L. Sams, Jr., Attorney for Applicant  
(Representative's name, printed)

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

Business Phone: 770-422-7016 Cell Phone: \_\_\_\_\_ 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: See Attached  
(Attach additional signatures, if needed)

(To be completed by City)

Received: 2/10/17

Heard by P&Z Board: 3/13/17

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

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

Posted: 2/21/17

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

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

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

**Application No.:** \_\_\_\_\_

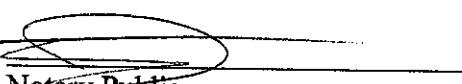
**Hearing Date:** \_\_\_\_\_

Applicant: Joshua W. Hall

Titleholder: Martha A. Hayes

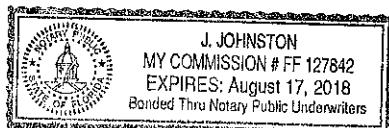
Signature: Martha A. Hayes  
MARHTA A. HAYES  
Address: 1258 Hayes Dr. S.E.  
Smyrna GA 30080  
Telephone No.: 404-353-7818

Signed, sealed and delivered  
in the presence of:

  
Notary Public

Commission Expires: 8/17/2018

(Notary Seal)



**ZONING REQUEST**

From R-15 to RAD - Conditional  
Present Zoning Proposed Zoning

**LAND USE**

From Suburban Residential to Suburban Residential  
Present Land Use Proposed Land Use

For the Purpose of Single-family Detached Residential Community

Size of Tract 2.22 acres

Location On the south side of Hayes Drive and the east side of King Springs Road

(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 527 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: \_\_\_\_\_ R-15

East: \_\_\_\_\_ R-15

South: \_\_\_\_\_ RAD - Conditional

West: \_\_\_\_\_ RAD - Conditional

**CONTIGUOUS LAND USE**

North: \_\_\_\_\_ Suburban Residential

East: \_\_\_\_\_ Suburban Residential

South: \_\_\_\_\_ Suburban Residential

West: \_\_\_\_\_ Moderate Density 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:

Attached is a letter from Public Works Director Scott Stokes stating that water and sewer are available to the site.

### **TRANSPORTATION**

Access to Property? King Springs Road and Hayes Drive

Improvements proposed by developer? A Single-Family Detached Residential Community

Comments:

The subject property is located in an area on the City's Future Land Use Map designated for Suburban Residential Development. In that regard, as is the property to the south of the subject property, the proposed rezoning is appropriate from a Land Use Planning perspective.

## **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.

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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:

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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:

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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:

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N/A

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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

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

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### **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:

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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.

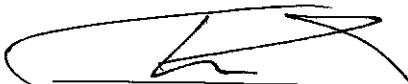
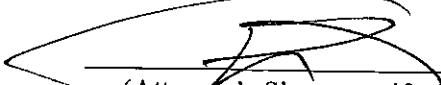
If so, describe the relationship and the nature and extent of such interest:

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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 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

  
\_\_\_\_\_  
Attorney for (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 REPORT<sup>1</sup>** **BY ATTORNEY FOR APPLICANT<sup>2</sup>**

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.

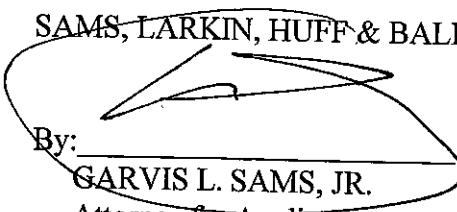
Please supply the following information which will be considered as the required disclosure:

The name of the member(s) of the Smyrna City Council or Planning Commission to whom the campaign contribution or gift was made: Max Bacon; Ron Fennel; and, Doug Stoner

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: 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 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 10<sup>th</sup> day of February, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP  
  
By:  
GARVIS L. SAMS, JR.  
Attorney for Applicant

<sup>1</sup>If 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.

<sup>2</sup>Applicant 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**

2/10/17  
DATE

SAMS, LARKIN, HUFF & BALLI, LLP  
By:   
Garvis L. Sams, Jr.  
Attorney for Applicant

## 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 will permit a use that is suitable in view of the use and development of adjacent and nearby properties and is consistent with the policy and intent of the Mayor and City Council based upon policy considerations and recommendations regarding adjacent and contiguous rezonings to the RAD-Conditional classification.

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

The proposed rezoning will not adversely impact the use or usability of adjacent or nearby properties and will, in fact, constitute an appropriate rezoning which will advance a high-end utilization of the subject property which is compatible with the development desires of the City of Smyrna, its professional consultants and staff. All of the homes will be five (5) bedroom, four (4) bath homes with ten foot (10') high ceilings and a minimum square footage of 3,000 sq. ft., with a full unfinished basement.

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

The subject property, as currently zoned (R-15) cannot compete favorably with other similarly zoned and situated properties with equivalent utility in view of development trends along the King Springs Road Corridor.

### **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 rezoning will not result in a use which will have an adverse impact upon the existing City infrastructure and is a proposal which comports with the anticipated trends of development within this sub-area of the City of Smyrna.

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

The proposed rezoning conforms to the Future Land Use Map which reflects that the subject property is located within an area denominated as Suburban Residential. The proposed rezoning is consistent with the established policies of the Mayor and City Council based upon previous recommendations and rezonings along the King Springs Road Corridor.

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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.

There are existing and changing conditions affecting the use and development of the subject property which give supporting grounds for approval in that the subject property is in an area denominated for utilization under the RAD-Conditional zoning classification and is contiguous and adjacent to other properties which have been zoned and developed as RAD-Conditional.

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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.

The zoning proposal will enhance the architectural standards and aesthetics within this sub-area of the City and will also constitute an event upon redevelopment which will precipitate higher residential values (\$600,000.00 and greater) within the confines of the proposed community.

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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.

The proposed rezoning of the subject property will not create a nuisance and is compatible with the existing uses within this subarea of the City of Smyrna.

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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 proposed rezoning will positively affect the trend of development within this sub-area of the City of Smyrna and will precipitate additional Upscale, High-End Single-Family Detached Residential Development.

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Above space reserved for recording

Please return to:

R. Hunt Dunlap, Jr., Esq.  
The Dunlap Law Firm, LLC  
2964 Peachtree Road  
Buckhead Centre - Suite 300  
Atlanta, Georgia 30305

STATE OF GEORGIA

COUNTY OF COBB

**LIMITED WARRANTY DEED**

THIS INDENTURE, made this 28<sup>th</sup> day of February, 2017, by and between MARTHA ANN HAYES ("GRANTOR") and WILD BOAR PROPERTIES, LLC, a Georgia limited liability company ("GRANTEE") (the words "GRANTOR" and "GRANTEE" to include their respective successors, successors-in-title, heirs, executors, administrators, legal representatives, and assigns where the context requires or permits);

**WITNESSETH:**

GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and for other good and valuable consideration in hand paid by GRANTEE to GRANTOR at and before the sealing and delivery hereof, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto GRANTEE all that tract or parcel of land lying and being in Land Lot 527 of the 17th District, 2<sup>nd</sup> Section, Cobb County, Georgia, and being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, TOGETHER WITH all buildings and other improvements situated thereon or attached thereto and all tenements, hereditaments, improvements, appurtenances, rights, easements, licenses, benefits and rights-of-way appurtenant thereto (hereinafter the "Property").

TO HAVE AND TO HOLD the Property, together with all and singular the rights, easements, 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 covenants and warrants unto GRANTEE that GRANTOR will warrant and forever defend the right and title to the Property unto GRANTEE against the claims of all persons whomsoever, claiming by through or under GRANTOR, but not otherwise.

IN WITNESS WHEREOF, GRANTOR has signed, sealed and delivered this Limited Warranty Deed the day and year first above written.

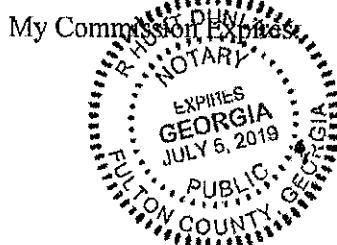
**GRANTOR:**

*Martha Ann Hayes* (SEAL)  
Martha Ann Hayes

Signed, sealed and delivered  
in the presence of:

*Deborah H. H.*  
Witness  
*R. Kurt Dugay*  
Notary Public

[NOTARIAL SEAL]



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

1258 Hayes Drive

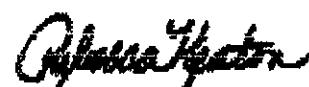
**ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 527, 17TH DISTRICT, 2<sup>ND</sup> SECTION, CITY OF SMYRNA, COBB COUNTY, GEORGIA, CONTAINING 2.22 ACRES (96,838 SQUARE FEET) AS SHOWN ON SURVEY OF 1258 HAYES DRIVE PREPARED FOR WILD BOAR PROPERTIES, LLC AND CHICAGO TITLE INSURANCE COMPANY BY RFM CONSULTING, LLC, DATED JUNE 14, 2016, LAST REVISED DECEMBER 30, 2016, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT A ONE-HALF INCH (1/2") OPEN TOP PIPE FOUND ON THE NORTHERN RIGHT-OF-WAY LINE OF HAYES DRIVE (50 FOOT RIGHT-OF-WAY), SAID PIPE BEING LOCATED 182.02 FEET EAST, AS MEASURED ALONG THE NORTHERN RIGHT-OF-WAY LINE OF HAYES DRIVE, FROM THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF KING SPRINGS ROAD (50 FOOT RIGHT-OF-WAY) AND THE NORTHERN RIGHT-OF-WAY LINE OF HAYES DRIVE; THENCE RUNNING ALONG THE NORTHERN RIGHT-OF-WAY LINE OF HAYES DRIVE NORTH 87 DEGREES 49 MINUTES 43 SECONDS EAST A DISTANCE OF 242.67 FEET TO A PK NAIL IN A ONE-HALF INCH (1/2") OPEN TOP PIPE FOUND; THENCE LEAVING THE NORTHERN RIGHT-OF-WAY LINE OF HAYES DRIVE AND RUNNING SOUTH 01 DEGREE 54 MINUTES 56 SECONDS EAST A DISTANCE OF 184.75 FEET TO A THREE-FOURTHS INCH (3/4") CRIMPED TOP PIPE FOUND WITH THREE-FOURTHS INCH (3/4") PIPE GUARD; THENCE RUNNING SOUTH 15 DEGREES 29 MINUTES 46 SECONDS EAST A DISTANCE OF 195.38 FEET TO A ONE-HALF INCH (1/2") REBAR FOUND; THENCE RUNNING SOUTH 88 DEGREES 37 MINUTES 29 SECONDS WEST ALONG A WIRE FENCE A DISTANCE OF 187.35 FEET TO A ONE-HALF INCH (1/2") REBAR FOUND; THENCE RUNNING NORTH 14 DEGREES 30 MINUTES 39 SECONDS WEST A DISTANCE OF 124.97 FEET TO A ONE-HALF INCH (1/2") REBAR FOUND; THENCE RUNNING SOUTH 83 DEGREES 55 MINUTES 28 SECONDS WEST A DISTANCE OF 183.71 FEET TO A ONE-HALF INCH (1/2") OPEN TOP PIPE FOUND ON THE EASTERN RIGHT-OF-WAY LINE OF KING SPRINGS ROAD; THENCE RUNNING ALONG THE EASTERN RIGHT-OF-WAY LINE OF KING SPRINGS ROAD NORTH 17 DEGREES 44 MINUTES 23 SECONDS WEST A DISTANCE OF 109.15 FEET TO A ONE-HALF INCH (1/2") REBAR FOUND; THENCE LEAVING THE EASTERN RIGHT-OF-WAY LINE OF KING SPRINGS ROAD AND RUNNING NORTH 83 DEGREES 17 MINUTES 44 SECONDS EAST A DISTANCE OF 151.74 FEET TO A TALL ONE-HALF INCH (1/2") OPEN TOP PIPE FOUND; THENCE RUNNING NORTH 06 DEGREES 41 MINUTES 46 SECONDS WEST A DISTANCE OF 146.00 FEET TO A ONE-HALF INCH (1/2") OPEN TOP PIPE FOUND, SAID OPEN TOP PIPE BEING THE POINT OF BEGINNING.**

## LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 527 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, being designated as Lot "B" with 20,361.22 square feet, as drawn on a plat prepared by David W. Lynah, Georgia Land Surveyor, #1845, for H.G. Hayes, dated November 11, 1988, revised December 15, 1988 and further revised September 8, 1989, and further revised November 21, 1989, said plat being incorporated herein by reference and being more particularly described as follows:

Beginning at an iron pin where the southerly right-of-way of Hayes Drive (said right-of-way being 50 feet in width) meets the easterly right-of-way of King Springs Road (said right-of-way being 50 feet in width); thence running North 88 Degrees, 08 Minutes, 59 Seconds East along the South side of the Hayes Drive 50 foot right-of-way a distance of 180.02 feet to a point; thence South 06 Degrees, 37 Minutes, 38 Seconds East a distance of 146.53 feet to a point and THE TRUE POINT OF BEGINNING; thence North 89 Degrees, 13 Minutes, 35 Seconds East a distance of 39.04 feet to a point; thence South 13 Degrees, 07 Minutes, 07 Seconds East a distance of 108.22 feet to a point; thence South 84 Degrees, 30 Minutes, 06 Seconds West a distance of 182.31 feet to a point located on the East side of the King Springs Road 50 foot right-of-way; thence North 17 Degrees, 31 Minutes, 13 Seconds West along the northeasterly side of said right-of-way a distance of 110.25 feet to a point; thence North 83 Degrees, 30 Minutes, 24 Seconds East a distance of 152.04 feet to a point and THE TRUE POINT OF BEGINNING.



REBECCA KEATON  
CLERK OF SUPERIOR COURT Cobb Cty. GA.

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[SPACE ABOVE RESERVED FOR CLERK'S USE]  
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*Mail*  
AFTER RECORDING, PLEASE RETURN TO:  
Jones Day  
Pershing Park Plaza  
1420 Peachtree Street, N.E., Suite 800  
Atlanta, Georgia 30309-3053  
Attn: Donna Hayes  
Telephone: (404) 521-3939

QUITCLAIM DEED

THIS INDENTURE, made this 18th day of May, 2015, between Hugh G. Hayes ("Grantor"), and Mary H. Hayes ("Grantee"); the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits) as joint tenants with right of survivorship.

WITNESSETH that Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby grant, bargain, sell, remise, convey and forever quitclaim unto said Grantee the following described property, to wit:

All that tract or parcel of land lying and being in Cobb County, Georgia, and more fully described on Exhibit "A" attached hereto and by this reference made a part hereof.

TO HAVE AND TO HOLD the said described property unto the said Grantee, so that neither Grantor nor its successors or its assigns nor any other person or persons claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right, title or interest to said premises or appurtenances, or any rights thereof.

THIS INDENTURE is made for the purpose of conveying all of Grantor's interest in the said described property to Grantee.

All that tract or parcel of land lying and being in Land Lot 527 of the 17th District and 2nd Section of Cobb County, Georgia, and being shown on plat of the Property of H. G. Hayes by W. T. Poston, Surveyor, dated August 7, 1958, and recorded in Plat Book 18, page 5, in the office of the Clerk of the Superior Court of Cobb County, Georgia, said property being described by metes and bounds as follows:

BEGINNING at an iron pin on the south side of Hayes Drive located 223 feet east of the east side of King Springs Road, as measured along the south side of said Hayes Drive; from said point of beginning running thence S6°E a distance of 150 feet to an iron pin; thence N89°E a distance of 150 feet to an iron pin; thence N6°W a distance of 150 feet to an iron pin on the south side of Hayes Drive; thence west, along the south side of Hayes Drive, a distance of 150 feet to the iron pin at the point of beginning. Said property being the same property as that conveyed by A. B. Hayes and Pearl Hayes to Hugh G. Hayes by deed dated October, 1958, and recorded in Deed Book 464, page 516, in the office of the Clerk of the Superior Court of Cobb County, Georgia.

(Georgia S. D.—A.H.O.)

001394

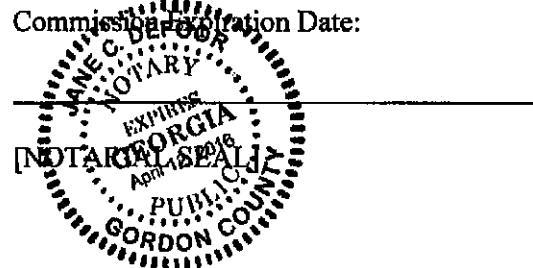
IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Denard J. Hayes  
Unofficial Witness

Jane G. DeGrazz  
Notary Public

Commission/Expiry Date:



**GRANTOR:**

Hugh G. Hayes  
Name: Hugh G. Hayes, an  
individual resident of the State of Georgia

7.00

P89-378-8

# Warranty Deed

STATE OF GEORGIA COUNTY OF COBB

THIS INDENTURE, Made the 12th day of December , in the year  
one thousand nine hundred eighty nine , between

HUGH G. HAYES AND MARJORIE E. DRUMMOND

of the County of Cobb , and State of Georgia, as party or parties of the  
first part, hereinafter called Grantor, and

HUGH G. HAYES

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,

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION.

Cobb County Georgia  
Real Estate Transfer Tax  
Paid None  
Date 2-9-90  
Fay C. Stephenson  
Clerk of Superior Court

FILED AND RECORDED  
1990 FEB -9 PM 4:01  
COBB SUPERIOR COURT CLERK  
J.C. Stephenson

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

Karen Morris Hugh G. Hayes (Seal)  
WITNESS N.P. HUGH G. HAYES  
Randy Lewis Marjorie E. Drummond (Seal)  
NOTARY PUBLIC  
Notary Public, Cobb County, Georgia  
My Commission Expires Nov. 8, 1991

SK 5633 PG 0441

EXHIBIT A

All that tract or parcel of land lying and being in Land Lot 527 of the 17th District, 2nd Section, Cobb County, Georgia, being designated as Lot "B" with 20,361.22 square feet, as drawn on a plat prepared by David W. Lynah, Georgia Land Surveyor, #1845, for H.G. Hayes, dated November 11, 1988, revised December 15, 1988, and further revised September 8, 1989, and further revised November 21, 1989, said plat being incorporated herein by reference and being more particularly described as follows:

Beginning at an iron pin where the southerly right-of-way of Hayes Drive (said right-of-way being 50 feet in width) meets the easterly right-of-way of King Springs Road (said right-of-way being 50 feet in width); thence running North 88 Degrees, 08 Minutes, 59 Seconds East along the South side of the Hayes Drive 50 foot right-of-way a distance of 180.02 feet to a point; thence South 06 Degrees, 37 Minutes, 38 Seconds East a distance of 146.53 feet to a point and THE TRUE POINT OF BEGINNING; thence North 89 Degrees, 13 Minutes, 35 Seconds East a distance of 39.04 feet to a point; thence South 13 Degrees, 07 Minutes, 07 Seconds East a distance of 108.22 feet to a point; thence South 84 Degrees, 30 Minutes, 06 Seconds West a distance of 182.31 feet to a point located on the East side of the King Springs Road 50 foot right-of-way; thence North 17 Degrees, 31 Minutes, 13 Seconds West along the northeasterly side of said right-of-way a distance of 110.25 feet to a point; thence North 83 Degrees, 30 Minutes, 24 Seconds East a distance of 152.04 feet to a point and THE TRUE POINT OF BEGINNING.

H. H. H.  
M. G. D.

8K5633PG0442

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## Real Estate

[View Bill](#)[View bill image](#)**As of** 2/3/2017**Bill Year** 2016**Bill** 6855**Owner** HAYES MARTHA A & HUGH G**Parcel ID** 17052700020[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2016	\$465.21	\$465.21	\$0.00	\$0.00	\$0.00
<b>TOTAL</b>		<b>\$465.21</b>	<b>\$465.21</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

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Printed: 2/3/2017

## 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:  
**HUGH G & MARTHA ANN HAYES**

**HAYES MARTHA A & HUGH G**

**Payment Date: 8/25/2016**

Tax Year	Parcel ID	Due Date	Pay:	Appeal Amount	Taxes Due
2016	17052700020	10/17/2016		N/A	or \$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$284.14	\$0.00



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











# CITY OF SMYRNA

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

## CITY OF SMYRNA

### WATER AND SEWER AVAILABILITY

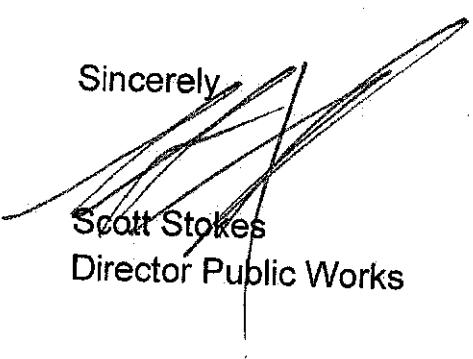
The City of Smyrna has determined that water is available to the proposed development.

Water is located on both King Springs Road and Hayes Drive. The developer will be required to bore both roadways to tap existing water mains to install water services to each lot. All existing water services will be used where possible or abandoned and capped at the water main.

Sanitary sewer is available on Hayes Drive to the 4 proposed lots, a sewer main extension from Hayes Drive at King Springs Road or from King Springs Court at King Springs Road will be necessary by the developer to service the lots on King Springs Road. Existing sewer taps will be used where possible, if abandoned, taps will be capped at the back of curb.

Elevations are the responsibility of the developer. This information is based upon a zoning plan titled Hayes Drive by Ridge Planning and Engineering.

Sincerely,



Scott Stokes

Director Public Works

MAYOR  
A. MAX BACON

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

TO THE MAYOR & CITY COUNCIL  
SMYRNA, GEORGIA

**CONSTITUTIONAL CHALLENGE**

COMES NOW, Joshua W. Hall, hereinafter referred to as the "Applicant", and asserts the following, to wit:

1.

By application to which this exhibit relates, Applicant has applied for a rezoning of certain real property lying and being in 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 Zoning of the property seeks a rezoning from the existing category of R-15, as established by the governing authority of Smyrna, Georgia to the zoning category of RAD - Conditional as proposed with related Variances.

3.

The current R-15 zoning classification of the property and all intervening classifications between same and RAD - Conditional as proposed with related Variances 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.

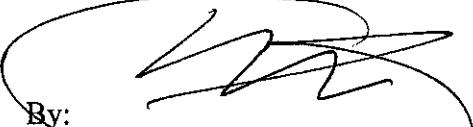
The zoning classification of R-15 and all intervening classifications between same and RAD - Conditional as proposed with related Variances as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing zoning classification does not bear a substantial 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 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.

Respectfully submitted, this the 10<sup>th</sup> day of February, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant  
Ga. Bar No. 623950

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