

APPLICATION FOR REZONING TO THE CITY OF SMYRNA

Type or Print Clearly

(To be completed by City)
Ward: 1

Application No: 219-019

Hearing Date: 12/9/19 P+Z
1/21/20 mrc

APPLICANT: InLine Communities, LLC - Bryan C. Musolf, Manager

Representative

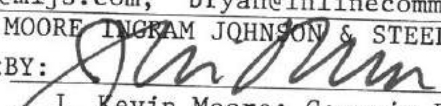
Name: Moore Ingram Johnson & Steele, LLP - J. Kevin Moore
(Representative's name, printed)

Representative

Address: Emerson Overlook, Suite 100, 326 Roswell Street, Marietta, GA 30060

Business Phone: (770) 429-1499 Cell Phone: (678) 516-1609 Fax Number: (770) 429-8631

E-Mail Address: jkm@mij.com; bryan@inlinecommunities.com
MOORE INGRAM JOHNSON & STEELE, LLP

Signature of Representative: BY: 
J. Kevin Moore; Georgia Bar No. 519728
Attorneys for Applicant and Property Owner

TITLEHOLDER

Name: Argyle Realty Company
(Titleholder's name, printed)

Address: 334 Campbell Road, Smyrna, GA 30080

Business Phone: _____ Cell Phone: _____ Home Phone: (770) 434-8984

E-mail Address: _____

Signature of Titleholder: BY: 
(Attach additional signatures, if needed)
Jane A. MacKenna, President

(To be completed by City)

Received: 11/9/19

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

ATTACHMENT TO APPLICATION FOR REZONING

Application No.:

Hearing Dates:

December 9, 2019

January 21, 2020

Applicant:

InLine Communities, LLC

Titleholder:

Argyle Realty Company

Applicant:

InLine Communities, LLC

Bryan C. Musolf, Manager

48 Atlanta Street

Marietta, Georgia 30060

(404) 895-0913

E-mail: bryan@inlinecommunities.com

Applicant's Representative:

J. Kevin Moore, Esq.

Moore Ingram Johnson & Steele, LLP

Attorneys at Law

Emerson Overlook, Suite 100

326 Roswell Street

Marietta, Georgia 30060

(770) 429-1499 (Office)

(770) 429-8631 (Telefax)

(678) 516-1609 (Mobile)

E-mail: jkm@mijs.com

ZONING REQUEST

From NRC, OI (Cobb County) to MU-C (City of Smyrna)
Present Zoning Proposed Zoning

LAND USE

From CAC (Cobb County) to HDR (City of Smyrna)
Present Land Use Proposed Land Use

For the Purpose of Residential

Size of Tract 23.954± acres

Location Southeasterly of intersection of Spring Road and Campbell Road;
Northerly of CSX Railroad (2320 Campbell Road)
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 775, 810, 811 District 17th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no ~~xxxxxxx~~ such assets. If any, they are as follows: Not Applicable. to the best of our knowledge, information, and belief.

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: R-15, OI, LC (City of Smyrna)

East: R-15, RTD, RM-12 (City of Smyrna)

South: RM-8 (Cobb County)

West: R-15, GC (City of Smyrna)

CONTIGUOUS LAND USE

North: RAC, NAC, PI (City of Smyrna)

East: RAC, PI (City of Smyrna)

South: HDR (Cobb County)

West: LDR, RAC, NAC (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:

TRANSPORTATION

Access to Property? Spring Road; Campbell Road

Improvements proposed by developer? New, re-configured intersection on Campbell Road, and dedication and installation of segment for proposed Spring Road Reliever.

Comments:

ZONING DISCLOSURE REPORT

(Applicant)

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:

Not Applicable.

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:

Not Applicable.

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:

Not Applicable.

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, to the best of our knowledge, information, and belief.

If so, describe the natural and extent of such interest: Not Applicable.

ZONING DISCLOSURE REPORT (CONTINUED)
(Applicant)

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, to the best of our knowledge, information, and belief.

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

Not Applicable.

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, to the best of our knowledge, information, and belief.

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

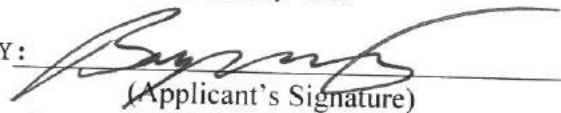
Not Applicable.

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 8th day of November, 2019.

INLINE COMMUNITIES, LLC

BY:



(Applicant's Signature)

Bryan C. Musolf, Manager

~~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.

ZONING DISCLOSURE REPORT
(Applicant's and Titleholder's Representative)

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

Yes.

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

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

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

Derek Norton

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:

\$500.00

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:

Political Contribution

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, to the best of our knowledge, information, and belief.

If so, describe the natural and extent of such interest: Not Applicable.

ZONING DISCLOSURE REPORT (CONTINUED)
(Applicant's and Titleholder's Representative)

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, to the best of our knowledge, information, and belief.

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

Not Applicable.

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, to the best of our knowledge, information, and belief.

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

Not Applicable.

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 8th day of November, 2019.

MOORE INGRAM JOHNSON & STEELE, LLP

~~Applicant's Signature~~

BY: *J. Moore*

(Attorney's Signature, if applicable)
J. Kevin Moore; Georgia Bar No. 519728
Attorneys for Applicant and Titleholder

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.

The proposal presents needed senior living to an area that is significantly underserved; and townhomes which are consistent with nearby neighborhoods.

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

The proposal will not adversely affect nearby property. Senior living and townhomes are consistent with nearby single-family, condominiums, apartments, and townhomes.

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

The property does not have a reasonable, economic use as zoned.

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 proposal will not have an excessive or burdensome use of existing facilities due to the road improvements proposed by Applicant.

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

The proposal is in conformity with the policy and intent of the Land Use Plan.

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

Existing and changing conditions support the development due to the planning and land use studies adopted by the City; and, in addition, given the traffic improvements and planned traffic improvements.

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.

Architectural standards in the community will be enhanced by the proposal due to the high quality.

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

The proposal for senior living and townhomes is neither a nuisance nor incompatible considering the nature of surrounding 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 proposal would positively affect the area and surrounding properties due to the high quality being proposed.

13.00

AFTER RECORDING PLEASE RETURN TO: PLEASE CROSS REFERENCE TO:

John C. Stathas, Esq.
Jones, Day, Reavis & Fogue
2600 Marquis One Tower
245 Peachtree Center Avenue
Atlanta, Georgia 30303

Deed Book 2467, Page 1,
Records of Cobb County,
Georgia

Deed Book 2467, Page 3,
Records of Cobb County,
Georgia

Deed Book 5451, Page 61,
Records of Cobb County,
Georgia

FILED AND RECORDED

1990 JAN 23 PM 4:31

John C. Stathas
COBB SUPERIOR COURT CLERK

CORRECTIVE QUITCLAIM DEED

THIS INDENTURE, made and entered into as of this 23rd day of January, 1990, by and between WILLIAM J. MACKENNA, party of the first part (hereinafter referred to as "Grantor"), and ARGYLE REALTY COMPANY, a Georgia corporation, party of the second part (hereinafter, together with its successors and assigns, referred to as "Grantee");

W I T N E S S E T H :

That Grantor for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid at and before the sealing and delivery of these presents, and of other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has bargained, sold, remised, conveyed and quitclaimed, and by these presents does hereby bargain, sell, remise, convey and forever QUITCLAIM unto Grantee, its successors, legal representatives and assigns, all of Grantor's rights, title and interest in and to those certain tracts or parcels of real property lying and being in Cobb County, Georgia, as more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference, with any and all rights, members and appurtenances to the said described real property in any way appertaining or belonging (said tracts or parcels, together with all such rights, members and appurtenances, being hereinafter referred to as the "Property").

TO HAVE AND TO HOLD the said described Property, so that neither Grantor nor any 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 the Property or its appurtenances.

THIS CORRECTIVE QUITCLAIM DEED IS MADE FOR THE PURPOSE OF correcting the legal description of Tract 2 set forth on that certain Corrective Quitclaim Deed from Grantor to Grantee dated August 10, 1989, and recorded in Deed Book 5451, page 61, Records of Cobb County, Georgia.

IN WITNESS WHEREOF, Grantor has caused these presents to be executed and its seal affixed hereto on the day, month and year first above written.

GRANTOR:

Signed, sealed and delivered
in the presence of:

C. Lee Quincy
Unofficial Witness

William J. MacKenna (SEAL)
William J. MacKenna

John C. Hatten
Notary Public

Commission Expiration Date:

[NOTARIAL SEAL] Notary Public, DeKalb County, Georgia
My Commission Expires Nov. 12, 1991



EXHIBIT "A"

TRACT 1:

All that tract or parcel of land lying and being in Land Lots 775 and 810 of the 17th District, 2nd Section, Cobb County, Georgia, and more particularly described as follows:

BEGINNING at the point where the west line of Land Lot 775 intersects with the southeast side of Campbell Road, and running thence northeasterly along the southeast side of Campbell Road 1395 feet to the south side of Spring Road; thence running easterly along the south side of said Spring Road 50 feet, more or less, to the west line of property conveyed by Mrs. Max Don Howell (also known as Isoline Campbell Howell) to Cobb County Board of Education by deed dated August 6, 1958, recorded in Deed Book 454, Page 154, in the office of the Clerk of the Superior Court of Cobb County, Georgia; thence running southerly along the west line of said property so conveyed to Cobb County Board of Education 700 feet to the southwest corner thereof; running thence easterly along the south line of said property so conveyed to Cobb County Board of Education 500 feet to the east line of property in Land Lot 810 which was acquired by Mrs. Max Don Howell by deed from Lewis J. Dempsey, et al. recorded in Deed Book 231, page 278, in the office of the Clerk of the Superior Court of Cobb County, Georgia; thence running southerly along the east line of said property in Land Lot 810 so acquired by Mrs. Max Don Howell 500 feet, more or less, to the south line of Land Lot 810; running thence westerly along the south lines of Land Lots 810 and 775, 1604.6 feet to the southeast corner of Land Lot 775; and running thence northerly along the west line of Land Lot 775, 350 feet, more or less, to the southeast side of Campbell Road at the point of beginning;

LESS AND EXCEPT the following property in Land Lot 775:

BEGINNING at an iron pin on the southeast side of Campbell Road 609.6 feet southwest, as measured along the southeast side of Campbell Road, from the line of property conveyed to Cobb County Board of Education by the aforementioned Deed to Cobb County Board of Education recorded in Deed Book 454, Page 154; running thence southwest along the southeast side of Campbell Road 150 feet to an iron pin; thence southeast at right angles to the southeast side of Campbell Road 250 feet to an iron pin; thence northeast 150 feet to an iron pin; thence northwest 250 feet to the point of beginning; said excepted property being the same property conveyed to Argyle Realty Company by deed recorded in Deed Book 1105, Page 615, in the aforesaid Clerk's office.

BK 5617 PG 0127

The description of the above-described property does not reflect the widening of Spring Road to a 100-foot right-of-way, and there is excepted from said property such portions of the property described as lie within the right-of-way of Spring Road as so widened.

The above-described Tract 1 being the same property as that described as "Tract Two" in that certain Deed between John L. Westmoreland, Sr., E. S. Jackson and William Jay MacKenna, as Executors under the Last Will and Testament of Isoline Campbell Howell, Deceased, late of Fulton County, Georgia, parties of the first part, and William Jay MacKenna, party of the second part, filed for record January 27, 1982 and recorded at Deed Book 2467, page 3, Records of Cobb County, Georgia.

TRACT 2:

All that tract or parcel of land lying in Land Lots 738, 739, 774 and 811 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the corner common to Land Lots 738, 739, 774 and 775; run thence in an easterly direction along the land lot line common to Land Lots 774 and 775 a distance of 1,362.00 feet, more or less, to the corner common to Land Lots 774, 775, 810 and 811; run thence along the land lot line common to Land Lots 810 and 811 continuing in an easterly direction a distance of 625.00 feet, more or less, to a point; thence leaving said land lot line common to Land Lots 810 and 811, run in a southerly direction 675.00 feet, more or less, to a point located on the northerly right-of-way line of the Louisville & Nashville Railroad (a 66-foot right-of-way); run thence along said railroad right-of-way in a southwesterly direction a distance of 2,100.00 feet, more or less, to a point located on the land lot line common to Land Lots 739 and 774; leaving the northerly railroad line, run thence along the land lot line common to Land Lots 739 and 774 in a northerly direction a distance of 27.6 feet to an iron pin; leaving said land lot line, run thence North 89 degrees 36 minutes 52 seconds West a distance of 851.42 feet to an iron pin; run thence in a northwesterly direction along the eastern line of property now or formerly owned by Mrs. M. D. Howell a distance of 605.00 feet to a point located on the southeasterly right-of-way line of Campbell Road; run thence along said southeasterly right-of-way line of Campbell Road in a northeasterly direction a distance of 1,020.00 feet, more or less, to a point located at the intersection of the southeasterly right-of-way line of Campbell Road and the land lot line common to Land Lots 738 and 775; leaving said southeasterly right-of-way line of Campbell Road, run thence in a southerly direction along the land lot line

common to Land Lot 738 and 775 a distance of 363.00 feet, more or less, to a point common to Land Lots 738, 739, 774 and 775 and the POINT OF BEGINNING; being property shown on that certain compiled plat of property located in Land lots 702, 703, 738, 739, 740, 774, 775, 810 & 811, 17th District, 2nd Section, Cobb County, Georgia, prepared by Watts & Browning, Engineers, dated August 13, 1980.

The above described Tract 2 being a portion of the property described in that certain Quitclaim Deed between John L. Westmoreland, Sr., E. S. Jackson and William Jay MacKenna, as Executors under the Last Will and Testament of Isoline Campbell Howell, deceased, late of Fulton County, Georgia, and Thomas J. Northcutt, Jr., Christopha N. Sanders and Wimberly N. Bennett, parties of the first part, and William Jay MacKenna, party of the second part, filed for record January 27, 1982, and recorded at Deed Book 2467, page 1, Records of Cobb County, Georgia.

MO9ARCO2
JCS-PRO

A-3

BK5617 PG0129

2467 5.00 pd

QUITCLAIM DEED

STATE OF Georgia

COUNTY OF FULTON

THIS INDENTURE, made the one thousand nine hundred and eighty-two day of Januar in the year JOHN L. WESTMORELAND, SR., E. S. JACKSON and WILLIAM JAY MACKENNA, AS EXECUTORS UNDER THE LAST WILL AND TESTAMENT OF ISOLINE CAMPBELL HOWELL, DECEASED, late of Fulton County, Georgia, and THOMAS J. NORTHCUTT, JR., CHRISTOPHA N. SANDERS and WIMBERLY N. BENNETT of the County of and State of as party or parties of the first part, hereinafter called Grantor, and

WILLIAM JAY MACKENNA

of the County of Cobb and State of Georgia as party or parties of the second part, hereinafter called Grantee (the word "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 one dollar (\$1.00) 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 remise, convey and forever QUITCLAIM unto the said grantee

All that tract or parcel of land lying and being in Land Lots 702, 738, 739, 740, 774, 775, 810 and 811 of the 17th District and 2nd Section of Cobb County, Georgia, which is described in Exhibit A attached hereto and by reference made a part hereof.

The execution of this deed by Thomas J. Northcutt, Jr., Christoph N. Sanders and Wimberly N. Bennett shall not affect in any way or have any application to any interest of Argyle Realty Company and its successors in title in any of the property described in Exhibit A.

Cobb County, Georgia Seal Being Transfer Tax Paid \$ 1.00 Date 82 JAN 27 1984

CLERK OF SUPERIOR COURT

82 JAN 27 P3 25

Official Record

2467-1
conclusive QCD see DBIL 5451 p. 61
att. claim of see DBIL 5451 p. 54
conclusive QCD see DBIL 5451 p. 52
conclusive QCD see DBIL 5451 p. 52
conclusive QCD see DBIL 5451 p. 52

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

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:

John L. Westmoreland, Sr. (Seal)
E. S. Jackson (Seal)

(Unofficial witness)

(Notary Public)

PATRICIA SPEIGNER
Notary Public, Georgia, State at Large
Commission Expires Oct. 15, 1984

William Jay Mackenna (Seal)
As Executors Under the Last Will and Testament of Isoline Campbell Howell, Deceased
Thomas J. Northcutt, Jr. (Seal)
Christopha N. Sanders (Seal)
Wimberly N. Bennett (Seal)

2467-1

All that tract or parcel of land lying and being in Land Lots 702, 738, 739, 740, 774, 775, 810 and 811 of the 17th District and 2nd Section of Cobb County, Georgia, and more particularly described as follows:

BEGINNING in Land Lot 702 at the point of intersection of the southeast side of Campbell Road with the northeast side of the Louisville & Nashville Railroad, and running thence northeasterly along the southeast side of Campbell Road 3,400 feet, more or less, to the south side of Spring Road before the same was widened to a 100-foot right-of-way; thence running east along the south side of Spring Road 50 feet, more or less, to the west line of property conveyed to Cobb County Board of Education by deed from Mrs. Max Don Howell (also known as Isoline Campbell Howell) dated August 6, 1958, recorded in Deed Book 454, page 154, in the office of the Clerk of the Superior Court of Cobb County, Georgia; running thence southerly along the west line of said property so conveyed to Cobb County Board of Education 700 feet to the southwest corner thereof; running thence easterly along the south line of said property so conveyed to Cobb County Board of Education 500 feet to the east line of property in Land Lot 810 which was acquired by Mrs. Max Don Howell by deed from Lewis J. Dempsey, et al., recorded in Deed Book 231, page 278, in the said Clerk's office; thence running southerly along the east line of said property in Land Lot 810 so acquired by Mrs. Max Don Howell 500 feet, more or less, to the south line of Land Lot 810; thence running easterly along the line dividing Land Lots 810 and 811, 375 feet, more or less, to the northeast corner of property in Land Lot 811 conveyed to Argyle Realty Company by Isoline Campbell Howell individually and as Trustee for Richard Orme Campbell by deed dated December 1, 1948, and recorded in Deed Book 208, page 196, in the said Clerk's office; thence running southerly along the east line of the property so conveyed to Argyle Realty Company 665 feet, more or less, to the north side of the right-of-way of the Louisville & Nashville Railroad, and running thence westerly, southwesterly, westerly and northwesterly along the northerly, northwesterly, northerly and northeasterly side of said Railroad right-of-way 3,500 feet, more or less, to the southeast side of Campbell Road at the point of beginning.

The property hereinabove described is shown on compiled plat of property located in Land Lots 702, 703, 738, 739, 740, 774, 775, 810 and 811 of the 17th District and 2nd Section of Cobb County, Georgia, prepared by Watts & Browning, Engineers, under date of August 13, 1980.

2467
1.00P.

RECORDED
INDEXED
JAN 27 1982
C. J. [Signature]
OPEN SUPERVISOR STAFF 4

DEED

GEORGIA, FULTON COUNTY

THIS INDENTURE, made this _____ day of January, 1982, between JOHN L. WESTMORELAND, SR., E. S. JACKSON and WILLIAM JAY MacKENNA, AS EXECUTORS UNDER THE LAST WILL AND TESTAMENT OF ISOLINE CAMPBELL HOWELL, DECEASED, late of Fulton County, Georgia, parties of the first part, and WILLIAM JAY MacKENNA, party of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the purpose hereinafter set forth, have transferred and conveyed to party of the second part, his heirs and assigns, the property located in Land Lots 702, 739, 740, 775 and 810 of the 17th District, 2nd Section, Cobb County, Georgia, which is described in Exhibit A attached hereto and by reference made a part hereof.

This deed and a deed conveying other property which parties of the first part are simultaneously executing in favor of Thomas J. Northcutt, Jr., Christopha N. Sanders and Wimberly N. Bennett are executed for the purpose of effecting final distribution in kind under the will of Isoline Campbell Howell of all lands in Cobb County, Georgia (excluding lands of Argyle Realty Company, a Georgia corporation, all of the shares of which were owned by Isoline Campbell Howell at the time of her death on January 11, 1978) now constituting a part of the estate of the said Isoline Campbell Howell, and they are executed to give effect to an agreement between Thomas J. Northcutt, Jr., Christopha N. Sanders and Wimberly N. Bennett and second party for such distribution.

William Jay MacKenna is the son of the said Isoline Campbell Howell, and Thomas J. Northcutt, Jr., Christopha N. Sanders and Wimberly N. Bennett are all of the children of Harriet MacKenna Northcutt, daughter of Isoline Campbell

corrective deed
1 affidavit
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Cobb County, Georgia
Deed to be Recorded
1-28-82
[Signature]
Deed of [Signature]

2467-3

Howell, who survived her but who died on July 16, 1980, leaving surviving her no descendant of any deceased child. The trust in favor of Harriet MacKenna Northcutt not having been funded prior to her death, Thomas J. Northcutt, Jr., Christoph N. Sanders and Wimberly N. Bennett are all of the persons who under the will of Isoline Campbell Howell are entitled to succeed to the rights and interests of the trustees of said trust.

TO HAVE AND TO HOLD the property herein conveyed 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 party of the second part, his heirs and assigns, forever, in Fee Simple.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year above written.

John L. Westmoreland, Sr. (SEAL)
John L. Westmoreland, Sr.

E. S. Jackson (SEAL)
E. S. Jackson

William Jay MacKenna (SEAL)
William Jay MacKenna

As Executors Under the Last Will and Testament of Isoline Campbell Howell, Deceased

Signed, sealed and delivered in the presence of:

Patricia Speigner
Notary Public

PATRICIA SPEIGNER
Notary Public - Georgia - State at Large
Commission Expires Oct. 15, 1984



TRACT ONE:

All that tract or parcel of land lying and being in Land Lots 702, 739 and 740 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the point of intersection of the southeast side of Campbell Road and the northerly side of the N. C. & St. L. Railroad, and running thence in a northeasterly direction along the southeastern side of Campbell Road and following the curvature thereof 1050 feet to an iron pin in Land Lot 739; running thence southerly 965 feet to the northerly side of the N. C. & St. L. Railroad right-of-way in Land Lot 740; thence running in a westerly and northwesterly direction along said northerly side of the N. C. & St. L. Railroad right-of-way and following the curvature thereof 790 feet to the southeast side of Campbell Road and the point of beginning, and being all of the 9.14-acre tract marked "Reserved" on plat recorded in Deed Book 367 at Page 17 in the office of the Clerk of the Superior Court of Cobb County, Georgia, except the portion thereof conveyed by Isoline Campbell Howell to party of the second part by deed dated on or about July 18, 1973.

TRACT TWO:

All that tract or parcel of land lying and being in Land Lots 775 and 810 of the 17th District, 2nd Section, Cobb County, Georgia, and more particularly described as follows:

BEGINNING at the point where the west line of Land Lot 775 intersects with the southeast side of Campbell Road, and running thence northeasterly along the southeast side of Campbell Road 1395 feet to the south side of Spring Road; thence running easterly along the south side of said Spring Road 50 feet, more or less, to the west line of property conveyed by Mrs. Max Don Howell (also known as Isoline Campbell Howell) to Cobb County Board of Education by deed dated August 6, 1958, recorded in Deed Book 454, Page 154, in the office of the Clerk of the Superior Court of Cobb County, Georgia; thence running southerly along the west line of said property so conveyed to Cobb County Board of Education 700 feet to the southwest corner thereof; running thence easterly along the south line of said property so conveyed to Cobb County Board of Education 500 feet to the east line of property in Land Lot 810 which was acquired by Mrs. Max Don Howell by deed from Lewis J. Dempsey, et al. recorded in Deed Book 231, page 278, in the office of the Clerk of the Superior Court of Cobb County, Georgia; thence running southerly along the east line of said property in Land Lot 810 so acquired by Mrs. Max Don Howell 500 feet, more or less, to the south line of Land Lot 810; running thence westerly along the south lines of Land Lots 810 and 775, 1604.6 feet to the southeast corner of Land Lot 775; and running thence northerly along the west line of Land Lot 775, 350 feet, more or less, to the southeast side of Campbell Road at the point of beginning; LESS AND EXCEPT the following property in Land Lot 775:

BEGINNING at an iron pin on the southeast side of Campbell Road 609.6 feet southwest, as measured along the southeast side of Campbell Road, from the line of property conveyed to Cobb County Board of Education by the aforementioned deed to Cobb County Board of Education recorded in

Deed Book 454, Page 154; running thence southwest along the southeast side of Campbell Road 150 feet to an iron pin; thence southeast at right angles to the southeast side of Campbell Road 250 feet to an iron pin; thence northeast 150 feet to an iron pin; thence northwest 250 feet to the point of beginning; said excepted property being the same property conveyed to Argyle Realty Company by deed recorded in Deed Book 1105, Page 615, in the aforesaid Clerk's office.

The description of Tract Two herein contained does not reflect the widening of Spring Road to a 100-foot right-of-way, and there is excepted from Tract Two such portions of the property described as lie within the right-of-way of Spring Road as so widened.

Tracts One and Two herein described constitute all of the property in said Land Lots 702, 739, 740, 775 and 810 lying south and east of Campbell Road which was owned by Isoline Campbell Howell at the time of her death on January 11, 1978.

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 774, 775, 810 & 811 of the 17th, District, Cobb County, Georgia and being more particularly described as follows:

Beginning at an iron pin set, pk nail, on the Southeasterly Right of Way Line of the relocated right of way of Campbell Road (Public, Variable R/W), said pk nail having Georgia State Plain Coordinates (NAD83, West Zone) of Northing-1412447.24 and Easting-2199629.32 and being the TRUE POINT OF BEGINNING.

Thence leaving said Southeasterly Right of Way Line of the relocated right of way of Campbell Road North 54 degrees 50 minutes 54 seconds East, a distance of 207.32 feet to an iron pin set, #4 rebar; thence North 55 degrees 37 minutes 43 seconds East, a distance of 112.71 feet to an iron pin set, #4 rebar; thence North 00 degrees 08 minutes 43 seconds West, a distance of 62.10 feet to an iron pin set, #4 rebar on the Southerly Right of Way Line of Spring Road (Public, Variable R/W); thence following along the Southerly Right of Way Line of Spring Road the following courses and distances: North 89 degrees 48 minutes 27 seconds East, a distance of 227.50 feet to a point; thence South 74 degrees 39 minutes 21 seconds West, a distance of 32.10 feet to a right of way monument found; thence South 89 degrees 42 minutes 23 seconds East, a distance of 86.88 feet to a right of way monument found; thence South 25 degrees 45 minutes 07 seconds East, a distance of 6.17 feet to a right of way monument; thence leaving said Southerly Right of Way Line of Spring Road South 02 degrees 45 minutes 53 seconds West, a distance of 751.38 feet to an iron pin found, nail in concrete monument; thence South 89 degrees 56 minutes 56 seconds East, a distance of 500.00 feet to an iron pin set, #4 rebar; thence South 02 degrees 32 minutes 45 seconds West, a distance of 416.06 feet to an iron pin set, #4 rebar; thence South 89 degrees 19 minutes 41 seconds East, a distance of 392.34 feet to an iron pin set, #4 rebar; thence South 01 degrees 08 minutes 48 seconds West, a distance of 656.89 feet to an iron pin found, nail in concrete monument on the Northerly Right of Way Line of CSX Transportation (F/K/A Louisville & Nashville Railroad, Private, 66' r/w); thence following along said Northerly Right of Way Line of CSX Transportation the following courses and distances: South 77 degrees 45 minutes 50 seconds West, a distance of 84.76 feet to a point; thence South 79 degrees 46 minutes 40 seconds West, a distance of 106.50 feet to a point; thence South 82 degrees 56 minutes 40 seconds West, a distance of 107.00 feet to a point; thence South 86 degrees 37 minutes 55 seconds West, a distance of 132.40 feet to a point; thence North 89 degrees 31 minutes 49 seconds West, a distance of 123.92 feet to a point; thence North 85 degrees 37 minutes 27 seconds West, a distance of 59.87 feet to an iron pin set, #4 rebar set; thence leaving said Northerly Right of Way Line of CSX Transportation North 01 degrees 18 minutes 16 seconds East, a distance of 304.42 feet to an iron pin set, #4 rebar; along a curve turning to the left with an arc length of 473.03 feet, having a radius of 586.62 feet, being subtended by a chord bearing of North 21 degrees 47 minutes 54 seconds West, and a chord length of 460.32 feet to an iron pin set, #4 rebar; thence North 44 degrees 49 minutes 39 seconds West, a distance of 667.16 feet to an iron pin set, #4 rebar; along a curve turning to the right with an arc length of 397.71 feet, having a radius of 686.62 feet, being subtended by a chord bearing of North 28 degrees 14 minutes 01 seconds West, and a chord length of 392.18 feet to an iron pin set, #4 rebar on said Southeasterly Right of Way Line of the relocated right of way of Campbell Road; thence following along said Southeasterly Right of Way line of the relocated right of way of Campbell Road with a reverse curve turning to the left with an arc length of 71.50 feet, having a radius of 200.00 feet, being subtended by a chord bearing of North 36 degrees 08 minutes 10 seconds East, and a chord length of 71.12 feet an iron pin found, pk nail which is the TRUE POINT OF BEGINNING.

Said tract having an area of 1,043,413 square feet, 23.954 acres.



Printed: 11/8/2019

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8800
Fax: 770-528-8679

Payer:
MORGAN STANLEY

ARGYLE REALTY CO

Payment Date: 9/16/2019

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2019	17077500030	10/15/2019	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$13,855.63	\$0.00	



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



COBB COUNTY WATER SYSTEM

Customer Services Facility
660 South Cobb Drive
Marietta, Georgia 30060-3105
770-419-6200
www.cobbwater.org

Stephen D. McCullers, P.E.
Director

Divisions
Business Services
Customer Services
Engineering & Records
Stormwater Management
System Maintenance
Water Protection

July 18, 2019

Dianne Pathammavong
Planners & Engineers Collaborative, Inc.
350 Research Ct, Suite 200
Peachtree Corners, GA 30092

Re: Proposed 96-townhome development
2320 Campbell Rd, +/- 23.8 acres
Land Lot 775, 17th District,
Rottenwood Creek Basin, R.L. Sutton WRF

To Whom It May Concern:

Current Cobb County policy is to provide wastewater treatment capacity for approved zonings. Therefore, we will be able to provide capacity for your approved zoning classification with the following stipulations as set forth by the Cobb County Board of Commissioners:

→The developer has 150 days from this date to present plans for review and approval. Water and sewer fees must be paid and construction started within 90 days after plan approval.

→Should you fail to meet this stipulation, this letter of allocation is invalid and you must reapply to this department for capacity. No preference will be given and your request will be placed at the bottom of the request list.

→This letter is only valid for the project referenced. It is non-renewable, non-transferable, non-extendible and does not guarantee that sewer lines are at the site. Upgrades to existing water distribution and wastewater collection facilities may be required of the Developer if the demands of this proposal exceed the capacity limits of our existing or proposed facilities.

Contact the City of Smyrna for water service location and availability. A passing fire flow test is a requirement of approval of construction plans by this department.

Sincerely,

COBB COUNTY WATER SYSTEM


Christopher Duggan
Engineering & Records Division

Equal Opportunity Employer

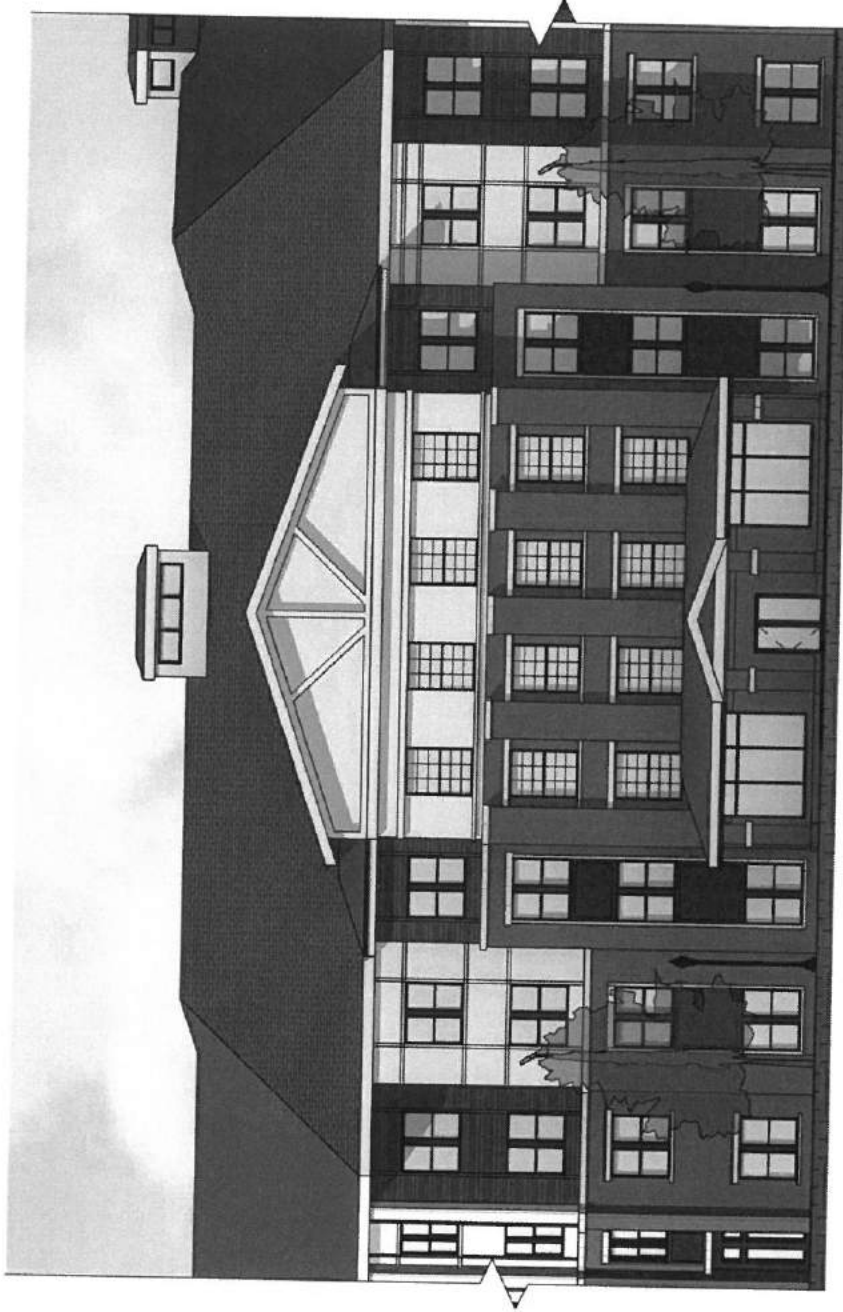
Cobb County...Expect the Best!
www.cobbcounty.org

CONCEPTUAL ELEVATION

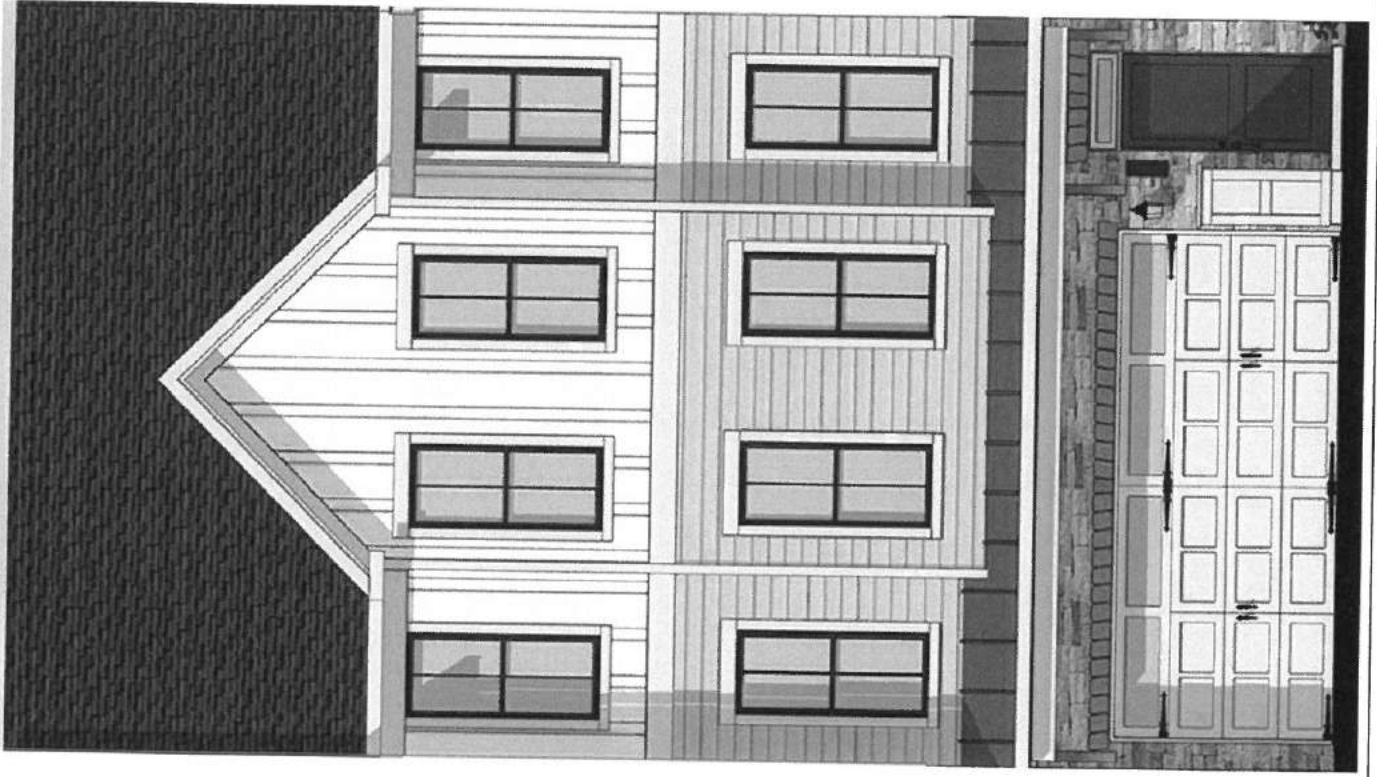


PERSPECTIVE VIEW OF ELEVATION

CONCEPTUAL ELEVATION



CORNER ELEVATION



FELLS POINT FAIRVIEW
FLPT_FRV_NE_2FE_0

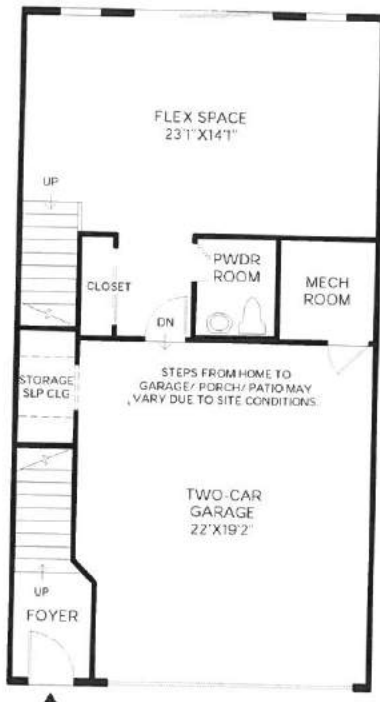
THE FELLS POINT

MANOR EXTERIOR DESIGN

3 Bedrooms | 2 full, 2 half Baths | 2-Car Garage



Third Floor
8' CEILING HEIGHT



First Floor
9' CEILING HEIGHT



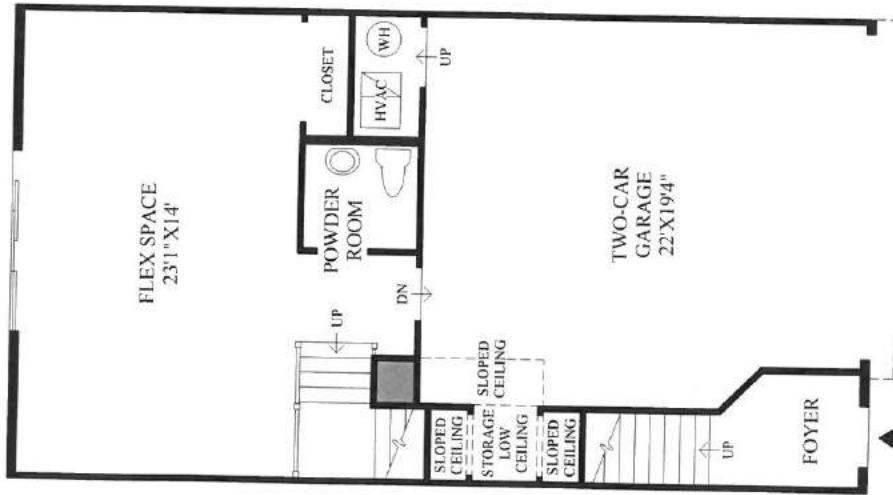
Second Floor
9' CEILING HEIGHT

DRAFT

Photographs, renderings, and floor plans are for representational purposes only and may not reflect the exact features or dimensions of your home. All dimensions are subject to field variations. Some design features and options shown may not be offered in your community and may vary by elevation selected. All options to be included in your home must be specified in an Exhibit B to the Agreement of Sale. All Toll Brothers floor plans and designs are copyrighted. All rights reserved and strictly enforced. This is not an offering where prohibited by law. Please consult our sales representative for details.

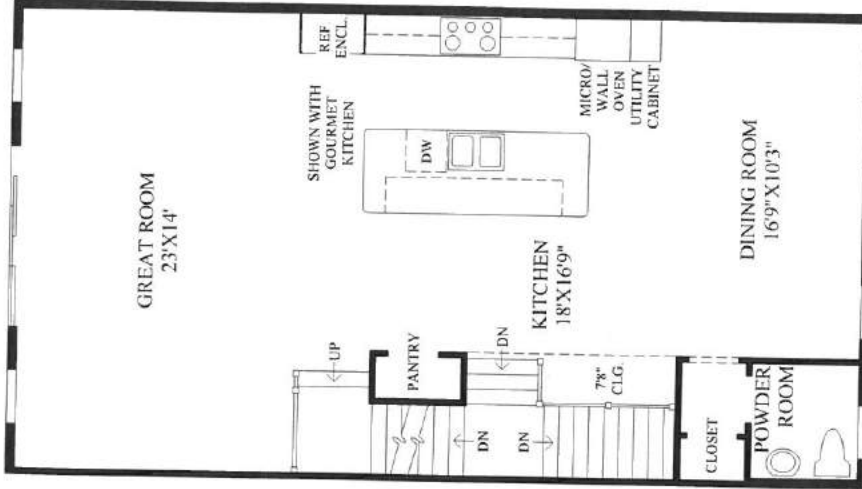


BELLE VIEW BRANDYWINE
BLVW_BRA_NE_2FE_0



Lower Level

CLASSIC, COUNTRY MANOR, AND FEDERAL EXTERIOR DESIGNS INCLUDE A LARGER GARAGE



Living Level

CLASSIC, COUNTRY MANOR, AND FEDERAL EXTERIOR DESIGNS INCLUDE A LARGER DINING ROOM.



Bedroom Level

CLASSIC, COUNTRY MANOR, AND FEDERAL EXTERIOR DESIGNS INCLUDE A LARGER BEDROOM #2 AND BEDROOM #3.

THE BELLE VIEW HIGHLIGHTS

- The foyer leads to the open-plan living level.
- The living level features a large, open kitchen and spacious dining and great rooms.
- The master bedroom includes two walk-in closets and a private bath with a dual-sink vanity, a shower with a seat, and a private toilet area.
- The bedroom level also includes two additional bedrooms, a hall bath, and a convenient laundry.
- Other features of this home include a powder room on the living and lower levels and a flex space on the lower level.
- This home features nine-foot ceilings throughout the lower level, living level, and the bedroom level.

DRAFT

DRAFT

ATTACHMENT TO APPLICATION FOR REZONING

Application No.:

Hearing Dates:

December 9, 2019

January 21, 2020

**BEFORE THE PLANNING AND ZONING BOARD
AND THE MAYOR AND CITY COUNCIL
FOR THE CITY OF SMYRNA, GEORGIA**

**CONSTITUTIONAL CHALLENGE
ATTACHMENT TO APPLICATION FOR REZONING**

COME NOW, Applicant, INLINE COMMUNITIES, LLC (hereinafter referred to as “Applicant”), and Titleholder, ARGYLE REALTY COMPANY (hereinafter referred to as “Owner” or “Property Owner”), and assert the following:

1.

By Application for Rezoning dated and filed November 8, 2019, Applicant and Property Owner applied for annexation and rezoning of approximately 23.954 acres, more or less, of real property lying and being in Cobb County, Georgia, a more particular description and delineation of the subject property being set forth in said Applications (hereinafter referred to as the “Property” or the “Subject Property”).

2.

The Application for Rezoning of the Property seeks rezoning from the existing zoning categories of Neighborhood Retail Commercial (“NRC”) and Office and Institutional (“OI”), as established by the governing authority of Cobb County, Georgia, under and pursuant to Ga. Laws 1956, p. 2006 (hereinafter the “Zoning and Planning Ordinance of Cobb County”), as amended, to the proposed zoning category of MU-C, as established by the governing authority of the City of Smyrna, Cobb County, Georgia, under and pursuant to the

Zoning and Planning Ordinance of the City of Smyrna, Georgia (hereinafter the "Zoning and Planning Ordinance of the City of Smyrna").

3.

With respect to the current NRC and OI zoning classifications (Cobb County) for the Subject Property, Applicant and Property Owner do contend the Zoning and Planning Ordinance of Cobb County and the Zoning and Planning Ordinance of the City of Smyrna (hereinafter collectively "Zoning Ordinances") are unconstitutional as applied to the Subject Property in that said Ordinances do not permit the Applicant and Property Owner to utilize the Property to the use set forth within the Application for Rezoning without the necessity of rezoning. However, Applicant and Property Owner do not contend the current zoning categories of NRC and OI (Cobb County) are unconstitutional, per se, only as applied. Thus, the Ordinances deprive Applicant and Property Owner of their Property under and pursuant to Art. I, § I, ¶¶ 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 of America. This deprivation of Property without due process violates the constitutional prohibition against the taking of private property without just compensation. Also violated are the Applicant's and Property Owner's rights to unfettered use of their Property, as stated above, in that said zoning classifications do not bear a substantial relation to the public health, safety, morality, or general welfare and are, therefore, confiscatory and void. Further, said Ordinances 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 on the Applicant and Property Owner.

4.

To the extent the Zoning and Planning Ordinance of the City of Smyrna allows or permits the Mayor and City Council to rezone the Property to any category other than as requested, said Ordinance is further unconstitutional in that same violates Applicant's and Property Owner's constitutionally guaranteed rights to due process, both substantive and procedural. Furthermore, any such action by the Mayor and City Council, or as allowed by the Zoning and Planning Ordinance of the City of Smyrna, is an unconstitutional use of the zoning power and would constitute an abuse of discretion with no justification or benefit flowing to the public welfare. Accordingly, said Ordinance or action would likewise represent a taking of private property rights without the payment of just and adequate compensation in violation of the Constitutions of the State of Georgia and the United States of America.

5.

The Zoning and Planning Ordinance of the City of Smyrna is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with the Application for Rezoning also violate Art. I, § I, ¶¶ I, II, and XII of the Georgia Constitution of 1983 in that said procedures impose unreasonable time restraints, contain the absence of rebuttal, contain the inability to confront witnesses, contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issue at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law. These procedures fail to comport with the due process requirements of the Constitution of the State of Georgia 1983 and the due process requirements of the Constitution of the United States of America.

Respectfully submitted, this 8th day of November, 2019.

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