

**APPLICATION FOR ZONING AMENDMENT
TO THE CITY OF SMYRNA**

Please Type or Print Clearly

(To be completed by City)

Ward: ~~2~~ **3**

Application No: 217-011

Hearing Date: 6/19/17

APPLICANT: David Weekley Homes

Representative

Name: Moore Ingram Johnson & Steele, LLP - J. Kevin Moore

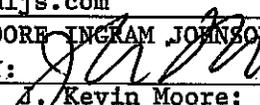
(Representative's name, printed)

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.s.com

MOORE INGRAM JOHNSON & STEELE, LLP

Signature of Representative BY: 

J. Kevin Moore; Georgia Bar No. 519782

Attorneys for Applicant and Property Owner

TITLEHOLDER:

Name: Halpern Enterprises, Inc.

(Titleholder's name, printed)

Address: 5200 Roswell Road, N.E., Atlanta, GA 30342

(770)

Business Phone: 451-0318 Cell Phone: (404) 822-3853 Home Phone: Not Applicable

E-mail Address: swest@halpernent.com

HALPERN ENTERPRISES, INC.

Signature of Titleholder: BY: 

(Attach additional signatures, if needed)

Steve A. West

Vice President, Development

(To be completed by City)

Received: 5/12/17

Heard by P&Z Board: 6/12/17

P&Z Recommendation: _____

Advertised: _____

Posted: 5/24/17

Approved/Denied: _____

ATTACHMENT TO APPLICATION FOR ZONING AMENDMENT

Application No.: _____
Hearing Date: **June 19, 2017**

Applicant: **David Weekley Homes**
Titleholder: **Halpern Enterprises, Inc.**

Applicant: David Weekley Homes
Beth Kidd, Land Acquisition Manager
Building 6, Suite 200
750 Hammond Drive
Atlanta, Georgia 30328
(404) 481-3856 (Office)
E-mail: bkidd@dwhomes.com

Applicant's Representative: J. Kevin Moore, Esq.
Moore Ingram Johnson & Steele, LLP
Attorneys at Law
Emerson Overlook
326 Roswell Street
Marietta, Georgia 30060
(770) 429-1499 (Office)
(770) 429-8631 (Telefax)
E-mail: jkm@mijs.com

ZONING:

Mixed-Use (MU)
Present Zoning

LAND USE:

Mixed-Use (MU)
Present Land Use

For the Purpose of Single-Family Detached Residential

Size of Tract 3.3± acres

Location Intersection of the northwesterly side of Belmont Boulevard and the northeasterly side of Belmont Place
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 490 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 ~~NO~~ such assets. If any, they are as follows: to the best of our knowledge, information, and belief.

Not Applicable.

DESCRIPTION OF PROPOSED ZONING AMENDMENT:

Applicant proposes to construct a single-family, detached community; as opposed to, senior apartments as provided in the current site plan. The design of Applicant's community delivers innovative land use and detached homes, thereby expanding the highly successful single-family product to the overall mixed-use development.

CONTIGUOUS ZONING

North: Mixed-Use

East: Mixed-Use

South: Mixed-Use

West: Mixed-Use

CONTIGUOUS LAND USE

North: Mixed-Use

East: Mixed-Use

South: Mixed-Use

West: Mixed-Use

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:

See Attached Letter from Scott Stokes.

TRANSPORTATION

Access to Property? Via Atlanta Road, Belmont Boulevard, Belmont Place, and
future street within Belmont development.

Improvements proposed by developer? _____

Comments:

ZONING DISCLOSURE REPORT
(on behalf of Titleholder)

Has the ~~applicant~~^{titleholder} made, within two years immediately preceding the filing of this application for zoning amendment, 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 who will consider this application?

Yes.

If so, the ~~applicant~~^{titleholder} and the attorney representing the applicant^{and titleholder} 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 to whom the campaign contribution or gift was made:

See Attached.

The dollar amount of each campaign contribution made by the ~~applicant~~^{titleholder} to the Mayor or any member of the City Council during the two years immediately preceding the filing of this application, and the date of each such contribution:

An enumeration and description of each gift having a value of \$250 or more by the ~~applicant~~^{titleholder} to the Mayor and any member of the City Council during the two years immediately preceding the filing of this application:

Does the Mayor or any member of the City Council 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)
(on behalf of Titleholder)

Does the Mayor or any member of the City Council 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 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 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 10th day of May, 20 17.

HALPERN ENTERPRISES, INC.

BY: _____


(Applicant's Signature)

Steve A. West

Vice President, Development

(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 zoning 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.

HALPERN ENTERPRISES, INC. POLITICAL CAMPAIGN CONTRIBUTIONS

9.16.15	Friends of Teri Anulewicz	\$500.00
9.16.15	Friends to Elect Doug Stoner	\$1000.00
9.16.16	Charles Welch	\$500.00
9.16.15	Committee to Re-elect Max Bacon	\$2000.00
9.30.15	Rob Fennel Campaign	\$500.00

ZONING DISCLOSURE REPORT

(Applicant)

Has the applicant* made, within two years immediately preceding the filing of this application for zoning amendment, 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 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 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 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 during the two years immediately preceding the filing of this application:

Not Applicable.

Does the Mayor or any member of the City Council 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 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 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 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 12th day of May, 2017.

DAVID WEEKLEY HOMES

BY: *Eric Price*

(Applicant's Signature)

TITLE: ATLANTA DIVISION PRESIDENT

Printed Name: ERIC PRICE

(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 zoning 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 zoning amendment, 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 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 to whom the campaign contribution or gift was made:

Mayor Max Bacon; Council Member Doug Stoner

The dollar amount of each campaign contribution made by the applicant* to the Mayor or any member of the City Council during the two years immediately preceding the filing of this application, and the date of each such contribution:

\$1,000 (total) to Mayor Max Bacon (August 2015)

\$500 to Council Member Doug Stoner (August 2015)

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 during the two years immediately preceding the filing of this application:

Political Contributions

Does the Mayor or any member of the City Council 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 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 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.

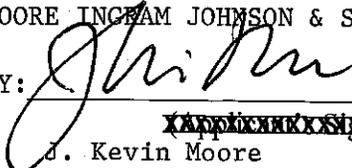
If so, describe the relationship and the nature and extent of such interest:

Not Applicable.

If the answer to any of the above is "Yes", then the Mayor or the member of the City Council 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 12th day of May, 2017.

MOORE INGHAM JOHNSON & STEELE, LLP

BY: 

~~XXXXXXXXXXXXXXXXXXXX~~

J. Kevin Moore
Georgia Bar No. 519728

~~XXXXXXXXXXXXXXXXXXXX~~

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 zoning 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 AMENDMENT ANALYSIS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Mayor and Council when considering a zoning amendment 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 zoning amendment 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 site plan amendment permits a single-family, detached community
through innovative land use and product design suitable in view of
adjacent uses and development.

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

The site plan amendment will enhance the existing use of adjacent property
by expanding single-family, detached homes to the overall Belmont Hills
mixed-use development.

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

The property which is the subject of this site plan amendment does have
reasonable, economic use as zoned; however, this proposal will deliver
much desired and further single-family, detached homes to this mixed-use
development.

ZONING AMENDMENT 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 site plan amendment will not cause an excessive use of
existing infrastructure or schools as the overall density currently
approved will not increase; but, in fact, will be reduced.

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

The proposed site plan amendment is consistent 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 approval of the proposed site
plan amendment as this market area is in further need of quality
detached housing which can support the mixture of nearby uses.

ZONING AMENDMENT 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 proposal enhances the overall Belmont Hills mixed-use development
by expanding an innovative and high-quality detached residential housing
option.

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 is compatible with existing uses in the area as existing
zoning currently allows attached and detached residential 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 affects surrounding properties positively by expanding
single-family, detached housing on parcels which are currently approved
for detached apartment uses.

VESTING DEED(S)

WARRANTY DEED

STATE OF GEORGIA

COBB

County.

This Indenture, Made this 31st day of October In the year of our Lord One Thousand, Nine Hundred and seventy-two between BERNARD HALPERN

with the County of Atlanta and State of Georgia, party, of the first part, and HALPERN ENTERPRISES, INCORPORATED, a Georgia corporation

Witnesseth, That the said party of the first part, for and in consideration of the sum of TEN AND NO/100 (\$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, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said party of the second part, its heirs and assigns, all that

The property described in the Exhibit attached hereto and made a part hereof.

The property conveyed hereby is transferred subject to all easements, rights of way and encumbrances of record and all outstanding leases on the date of execution hereof. The party of the second part shall pay all obligations incident to the property transferred hereby.

nsf

1363/91

To HAVE AND TO HOLD the said bargained premises, together 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 Halpern Enterprises, Inc. the said party Y of the second part, its heirs and assigns, forever, in fee simple.

And the said party Y of the first part, for his heirs, executors, and administrators, will warrant and forever defend the right and title of the above described property unto the said party of the second part, its heirs and assigns, against the claims of all persons whomsoever.

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

Signed, sealed, and delivered in the presence of

Notary Public
Nathan M. Cristel
Elinor A. Metzger
11/10/72

Bernard Halpern (Seal)

GEORGIA, Cobb County, Clerk's Office (Seal)
Filed for Record 1 day of Nov 1972
at 11 o'clock A.M. Recorded Nov 2 1972

onds west along said right-of-way line of Fleming Street a distance of 149.96 feet to an iron pin; running thence south 66 degrees 48 minutes 30 seconds west along the said right-of-way line of said Fleming Street, a distance of 434.85 to an iron pipe corner; running thence north 45 degrees, 55 minutes 20 seconds west a distance of 168.31 feet to an iron pin; running thence south 70 degrees, 55 minutes 20 seconds west a distance of 110.70 feet to an iron pin; running thence south 70 degrees 55 minutes 20 seconds west a distance of 108.42 feet to a point; running thence north 43 degrees 41 minutes 30 seconds west a distance of 277.19 feet to a point; running thence north 34 degrees, 19 minutes, 40 seconds east along the southeasterly line of a building and its extension a distance of 91.42 feet to a point; running thence north 34 degrees, 19 minutes 40 seconds east along said southeasterly line of said building a distance of 427.56 feet to a point at the eastern-most corner of said building; running thence north 38 degrees, 8 minutes 20 seconds east a distance of 121.02 feet to an iron pin at the western-most corner of the property of Humble Oil Company; running thence south 33 degrees, 19 minutes 00 seconds east along said Humble Oil Company property a distance of 127.20 feet to an iron pin at the southern-most corner of said Humble property; running thence north 48 degrees, 8 minutes 40 seconds east along said Humble property a distance of 149.91 feet to the southwesterly right-of-way line of Atlanta street; thence southeasterly along said right-of-way line of Atlanta Street and following the curvature thereof a distance of 264.64 feet to a point on the original northwesterly line of Lot 1, plat of Mrs. Laura Walker property, recorded in Plat Book 1, page 45, Cobb County Records, said line being the northwesterly line of property of Hood Oil Company, running thence south 57 degrees, 34 minutes 30 seconds west along the northwesterly line of said Hood property and said Lot 1 a distance of 245.47 feet to an iron pin at the western-most corner of said Hood property in the center of the abandoned alley dividing Lots 1 and 7 of Mrs. Laura Walker's property; running thence south 47 degrees, 15 minutes 30 seconds east along said Hood property and along the center of said abandoned alley a distance of 151.21 feet to an iron pin at the southern-most corner of said Hood property; running thence north 61 degrees, 28 minutes 20 seconds east along said Hood property a distance of 248.95 feet to an iron pin on the southwesterly right-of-way line of said Atlanta Street; running thence south 45 degrees, 33 minutes, 50 seconds east along said right-of-way line of Atlanta Street a distance of 141.15 feet to an iron pin; running thence south 45 degrees, 35 minutes 00 seconds east a distance of 161.28 feet to an iron pin at the point of beginning.

BELMONT SHOPPING CENTER (Portion Only)

Tract One

All that tract or parcel of land lying and being in Land Lot 447 and Land Lot 490 of the 17th District, 2nd Section, Cobb County, Georgia, being property formerly of Belmont Hills Company, and more particularly described as follows:

BEGINNING at the southwest corner of Cherokee Road and Atlanta-Marietta Road, (Old U. S. Highway #41); running thence southeasterly along the southwest side of Atlanta-Marietta Road seven hundred (700) feet to a point; thence running south thirty-eight (38) degrees eight (8) minutes and twenty (20) seconds west a distance of two hundred eighty-one and eight-tenths (281.8) feet; thence running south thirty-four (34) degrees, nineteen (19) minutes forty (40) seconds west a distance of two hundred fifteen (215.0) feet to a point; thence running north fifty-five (55) degrees, forty (40) minutes, twenty (20) seconds west a distance of one hundred seventy-two and fifty one-hundredths (172.50) feet to a point; thence running north sixty-eight (68) degrees, thirty-two (32) minutes, twenty (20) seconds west a distance of six hundred thirty-eight and forty-one one-hundredths (638.41) feet to a point; thence running north thirty-two (32) degrees, forty-eight (48) minutes forty (40) seconds west a distance of four hundred seventy-two and ninety-two hundredths (472.92) feet to a point; thence running north 00° forty-five (45) minutes, forty (40) seconds west a distance of two hundred eighty-seven and eight-tenths (287.8) feet to a point on the south side of Cherokee Road; thence running east along the south side of Cherokee Road a distance of nine hundred ninety (990) feet to the southwest corner of Cherokee Road and Atlanta-Marietta Road to the corner described above and the point of beginning, all according to a plat of said property prepared by Roger L. Cordes & Associates, dated June 15, 1972, revised July 26, 1972, a copy of which plat is on file in the Cobb County Real Estate Recording Office.

Tract Two

All that tract or parcel of land lying and being in Land Lots 489 and 490 of the 17th District, 2nd Section of Cobb County, Georgia, shown and described as Parcels A, B, C and D on a Plat of Property of Bernard Halpern, et al, prepared by Roger L. Cordes & Associates and dated June 15, 1972, revised July 26, 1972, a copy of said plat being on file in the Cobb County Real Estate Recording Office and being more particularly described as follows:

BEGINNING at an iron pin at the intersection of the southwesterly right-of-way line of Atlanta Street (100 ft. right-of-way) with the northwesterly right-of-way of Fleming Street (75 ft. right-of-way) and running thence south 67 degrees 48 minutes 50 sec-

Handwritten signature or initials

Dollars \$6,000.00 Cash

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in Cobb County Georgia

Be it remembered that

Record Book

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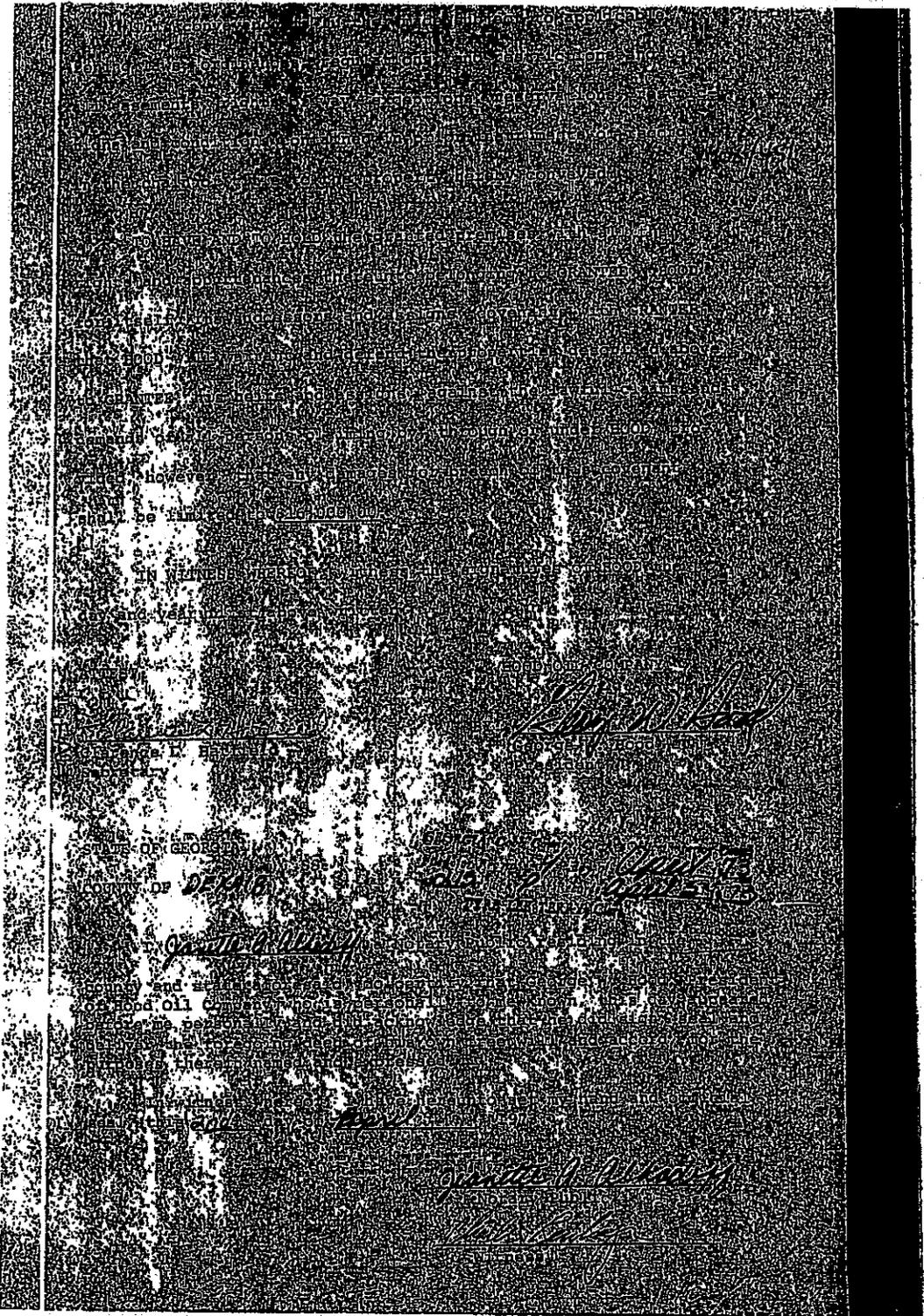
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STATE OF GEORGIA

DEPT. OF...

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EXHIBIT

1223/152



PHOENIX OIL COMPANY

W.S. HOY & ASSOCIATES

ENGINEERS & PLANNERS

DATE

SCALE

1544/158

DEED

THIS DEED made as of this 31st day of May, 1974, between ASHLAND OIL, INC., a Kentucky corporation, having an office at 1409 Winchester Avenue, Ashland, Kentucky, 41101, (hereinafter referred to as "GRANTOR"), and HALPERN ENTERPRISES, INC., a Georgia corporation, with a mailing address of P. O. Box 49227, Atlanta, Georgia, 30340, (hereinafter referred to as "GRANTEE").

WITNESSETH:

That for and in consideration of the sum of Ninety-Two Thousand and 00/100 Dollars (\$92,000.00), the receipt and adequacy of which is hereby acknowledged, GRANTOR does hereby grant and convey unto GRANTEE, his heirs, successors and assigns forever, all that certain tract or parcel of land located in the City of Atlanta, in Cobb County, Georgia, which tract or parcel of land is more particularly described as follows:

All that tract or parcel of land lying and being in Land Lot 490 of the 17th District, 2nd Section, Cobb County, Georgia, and being part of Lots 1 and 2 of Mrs. Laura Walkers' property, more particularly described as follows:

BEGINNING at an iron pin located on the southwesterly right of way of Atlanta Street (SR3) as the same is now located with a 60 ft. right of way, 30 ft. from center line of said highway 1120 feet southeasterly from the intersection of the southwesterly side of Atlanta Street with the southerly side of Cherokee Street, and running thence south 46 degrees 36 minutes east along the southwesterly side of Atlanta Street for a distance of 173.12 feet to an iron pin found and corner located on the northwesterly side of property of the American Oil Corp.; thence running south 60 degrees 11 minutes west along said American Oil Corp. property for a distance of 258.8 feet to an iron pin and corner located on the northeasterly side of an alley; thence running north 48 degrees 59 minutes west along the northeasterly side of said alley for a distance of 154.6 feet to an iron pin and corner; thence running north 55 degrees 50 minutes east for a distance of 260.3 feet to the point of beginning, LESS AND EXCEPT, that certain tract or parcel of land sold to GRANTEE by Hess Oil Company by deed dated April 2, 1973, and recorded in Book 1408 at page 450, records of the Clerk of the Superior Court, Cobb County, Georgia.

Ch. Sec. County, Georgia
Paid / 83.00
2-1-74
Clerk of Superior Court

WARRANTY DEED

STATE OF TENNESSEE
COUNTY OF HAMILTON

RECORDED
1988 APR 11 PM 2:15
NOTARY PUBLIC

THIS INDENTURE, made this 4th day of April in the year One Thousand Nine Hundred Eighty-Eight between Kayo Oil Company, a Delaware corporation, as party of the first part, hereinafter called Grantor, and Halpern Enterprises, Inc., a Georgia corporation, as party 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 (\$10) in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are 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, all that tract or parcel of land lying in Cobb County, Georgia and being more particularly described on Exhibit "A" attached hereto and made a part hereof.

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 FE SIMPLE subject only to the matters set forth on Exhibit "B" attached hereto and made a part hereof.

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 the presence of:
KAYO OIL COMPANY
By: J. S. Hill
Title: VICE PRESIDENT
Unofficial Witness: [Signature]
Notary Public: [Signature]
My Commission Expires: 1-28-91
Attest: [Signature]
Title: Notary Public



[NOTARIAL SEAL] Cobb County, Georgia [CORPORATE SEAL]

Pay 600.00 and Estate Transfer Tax
Date 4-11-88

Jeff C. Stephenson
Clerk of Superior Court
BOOK 487; PAGE 345

17-490-14

600

EXHIBIT "A"
COBB COUNTY PROPERTY

All that tract or parcel of land lying and being in Land Lot 490 of the 17th District, 2nd Section of Cobb County, City of Smyrna, Georgia and being more particularly described as follows:

BEGINNING at a right-of-way monument found at the intersection of the southerly right-of-way line of Cherokee Road (having a variable right-of-way) and the westerly right-of-way line of Atlanta Road (having a variable right-of-way); thence running along the westerly right-of-way line of Atlanta Road in a southeasterly direction south 23 degrees 36 minutes 23 seconds east a distance of 158.70 feet to an iron pin set; thence leaving said right-of-way line in a southwesterly direction south 88 degrees 44 minutes 30 seconds west a distance of 149.95 feet to a nail set; thence north 24 degrees 01 minutes 39 seconds west a distance of 150 feet to an iron pin set on the southerly right-of-way line of Cherokee Road; thence running along the southerly right-of-way line of Cherokee Road in a northeasterly direction north 96 degrees 10 minutes 32 seconds east a distance of 148.64 feet to a right-of-way monument, said right-of-way monument also being the POINT OF BEGINNING. Said tract containing 21,327 square feet (.496 acres) as depicted on the survey for Halpern Enterprises, Inc. as prepared by N. E. Harper, Georgia Registered Land Surveyor Number 1321 and dated January 6, 1988, last revised March 29, 1988.

KAYO. LSA

parcel 17-490-14

EXHIBIT "B"

1. General or special taxes and assessments required to be paid in the year 1988 and subsequent years.
2. Easements in favor of Georgia Power Company as follows:
 - (a) dated August 27, 1963, recorded in Deed Book 726, page 347;
 - (b) dated August 7, 1967, recorded in Deed Book 1003, page 132;
 - (c) dated June 3, 1959, recorded in Deed Book 499, page 323;
 - (d) dated November 29, 1955, recorded in Deed Book 339, page 95;
 - (e) dated February 11, 1954, recorded in Deed Book 277, page 204;
 - (f) dated October 15, 1954, recorded in Deed Book 293, page 338;
 - (g) dated December 12, 1935, recorded in Deed Book 120, page 293.
3. Restrictive covenants contained in leases between Halpern Enterprises, Inc. and the following tenants of Belmont Hills Shopping Center:
 - Burger King Corporation-- covenant precluding the use of captioned property as the location of a fast food operation similar to Burger King;
 - The Great Atlantic & Pacific Tea Company-- covenant precluding the use of captioned property for a supermarket or self-service grocery store, a grocery store or department, a meat market or department, and/or a produce market or department.
 - K.H. Draney Drugs-- covenant precluding the use of captioned property for a drugstore or shop for the compounding and sale of drugs or medicine.
4. Easement from Kayo Oil Company to Georgia Power Company, undated, filed 4/29/81, recorded in Deed Book 2802, page 139, aforesaid records.
5. Cross Easement Agreement between Halpern Enterprises, Inc. and Kayo Oil Company, dated 3/4/81, recorded in Deed Book 2428, page 121, aforesaid records. (Upon execution, delivery and recording of the Warranty Deed set forth in Paragraph 1. 2. (a) of Schedule B-1, this exception will be deleted).

Book 4877 Page 346A

Deed Book 14722 Pg 2471
Filed and Recorded Sep-03-2009 04:03pm
2009-0117357
Real Estate Transfer Tax 1485.00

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

AFTER RECORDING RETURN TO:
John A. White, Jr. - Hughes and White
Shadowood Office Park, Suite 440
2110 Powers Ferry Road
Atlanta, Georgia 30339-5056

15201



RR
20.

PLEASE CROSS REFERENCE TO:
DEED BOOK 1579 PAGE 273
DEED BOOK 1654 PAGE 559
DEED BOOK 1632 PAGE 478
DEED BOOK 3024 PAGE 44
DEED BOOK 4503 PAGE 48

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED is made this 3rd day of September, 2009, between PEBBLE HILL ASSOCIATES, a New York general partnership ("Grantor"), whose address is 317 Mill Hill Road, Mill Neck, New York 11765, and HALPERN ENTERPRISES, INC., a Georgia corporation ("Grantee"), whose address is 5269 Buford Highway, Atlanta, Georgia 30340 (the word "Grantor" and "Grantee" to include their respective successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for Ten Dollars (\$10.00) and other valuable consideration, 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, its successors and assigns that certain real property legally described on the attached Exhibit A (the "Property"), SUBJECT TO all taxes, assessments, liens, easements, encumbrances and restrictions of record and all matters which an accurate survey or physical inspection of the Property would disclose (the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together 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 behalf of Grantee, its successors and assigns forever, in fee simple.

Grantor hereby binds itself, its successors and assigns, to warrant and forever defend all and singular the Property unto Grantee, its successors and assigns, against any person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise, and subject to the Permitted Exceptions.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed this 3rd day of September, 2009.

Signed, sealed and delivered this 5 day of September, 2009 in the presence of:

[Signature]
Unofficial Witness

PEBBLE HILL ASSOCIATES,
A New York General Partnership

By: CUSHMAN FAMILY TRUST C
MANAGING GENERAL PARTNER

[Signature]
Notary Public

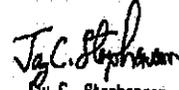
By [Signature]
H. BARRY SWICKLE, TRUSTEE

My Commission Expires: April 21, 2013

[NOTARIAL SEAL]



Deed Book 14722 Pg 2477
Filed and Recorded Sep-03-2009 04:03pm
2009-0117358
Real Estate Transfer Tax \$0.00



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

AFTER RECORDING RETURN TO:
John A. White, Jr. - Hughes and White
Shadowood Office Park, Suite 440
2110 Powers Ferry Road
Atlanta, Georgia 30339-3098

110921

STATE OF GEORGIA
COUNTY OF COBB

CR
14.

QUITCLAIM DEED

THIS INDENTURE, made this 3rd day of September, 2009, between PEBBLE HILL ASSOCIATES, a New York general partnership ("Grantor"), whose address is 317 Mill Hill Road, Mill Neck, New York 11765, and HALPERN ENTERPRISES, INC., a Georgia corporation ("Grantee"), whose address is 5269 Buford Highway, Atlanta, Georgia 30340 (the word "Grantor" and "Grantee" to include their respective successors and assigns where the context requires or permits).

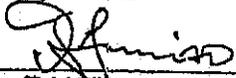
WITNESSETH that: Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto the said Grantee, all that tract or parcel of land lying and being in Land Lot 490 of the 17th District, 2nd Section of Cobb County, Georgia as more particularly described on Exhibit A attached hereto and hereby made a part hereof.

This Quitclaim Deed is given without consideration to clear title to the above referenced property and is filed simultaneously with that certain Limited Warranty Deed from Pebble Hill Associates to Halpern Enterprises, Inc. herein upon which transfer tax has been paid.

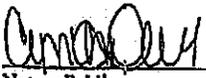
TO HAVE AND TO HOLD the said described property, so that neither Grantor nor any person or persons claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said property or appurtenances, or any rights thereof.

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

Signed, sealed and delivered this
21 day of September, 2009
in the presence of:



Unofficial Witness



Notary Public

My Commission Expires: April 21, 2013

[NOTARIAL SEAL]

PEBBLE HILL ASSOCIATES,
A New York General Partnership

By: CUSHMAN FAMILY TRUST C
MANAGING GENERAL PARTNER

By 

H. BARRY SWICKLE, TRUSTEE

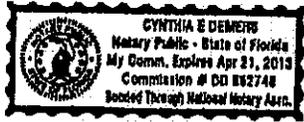


Exhibit A

All that tract or parcel of land lying and being in Land Lot 490 of the 17th District, 2nd Section, of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at a ¼ inch rerod corner on the southwesterly right-of-way line of Atlanta Street 302.43 feet northwesterly, as measured along said line of Atlanta Street from the intersection with the northerly right-of-way line of Fleming Street and running thence south 61 degrees 28 minutes 20 seconds west along said Halpern lands 120 feet to a point; thence north 47 degrees 34 minutes 30 seconds west along said Halpern lands 100 feet to a point; thence north 61 degrees 15 minutes 30 seconds east along lands now or formerly owned by Hood Oil Company 121.35 feet to the southwesterly right-of-way line of Atlanta Street; thence south 46 degrees 45 minutes 30 seconds east along said line of Atlanta Street 100 feet to the POINT OF BEGINNING.

Also conveyed herewith is a Easement for ingress and egress as to the above described property to and from the common parking areas of Belmont Hills Shopping Center and the non-exclusive use of said common parking areas for customer parking purposes.

EXHIBIT A

Smayna, Cobb County,
Georgia
2542 Atlanta Road

All that tract or parcel of land lying and being in Land Lot 430 of the 17th District, 2nd Section of Cobb County, Georgia, being the southwesterly 100 feet of the parcel shown as "Out" adjoining the Western Auto building on plat of survey of property for Halpern Enterprises by Roger L. Cordes and Associates, dated September 11, 1973, and last revised December 18, 1973, and being more particularly described:

BEGINNING at a 1/2 Inch iron corner on the southwesterly right-of-way line of Atlanta Street 302.43 feet northwesterly, as measured along said line of Atlanta Street from the intersection with the northerly right-of-way line of Fleming Street and

running thence south $41^{\circ} 29' 30''$ west along said Halpern lands 120 feet to a point;

thence north $47^{\circ} 34' 30''$ west along said Halpern lands 100 feet to a point;

thence north $41^{\circ} 15' 30''$ east along lands now or formerly owned by Hood Oil Company 121.35 feet to the southwesterly right-of-way line of Atlanta Street;

thence south $45^{\circ} 45' 30''$ east along said line of Atlanta Street 100 feet to the POINT OF BEGINNING.

Said property is more fully shown on plat of survey dated May 29, 1973, recorded in Plat Book 63, Page 170, Cobb County Records.

410251

Deed Book 14722 Pg 2474

MAUREEN O'CONNELL
NASSAU COUNTY
CLERK



OFFICE OF THE COUNTY CLERK
240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-
4249
TELEPHONE: 516 571-2660

August 11, 2009

Darlene Lacy for John A. White
Hughes and White
2110 Powers Ferry Road, Suite 440
Atlanta, Georgia 30339-5058

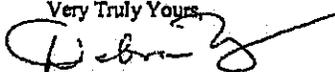
Re: Pebble Hill Associates

Dear Ms. Lucy,

Please allow this to serve as acknowledgement of your inquiry regarding the above referenced companies. In response, a search of Nassau County Business records was conducted. We have enclosed the certificate for Pebble Hill Associates dated 12/11/1986 and recorded in this office on 10/08/1998. To date, this is the only certificate we have on record for this entity.

I trust this information will be of assistance to you.

Very Truly Yours,


The Office of the County Clerk
By Debra Marzigliano

N 74—Certificate of Conducting Business as Partners.
Individual—Corporation.

PREPARED BY JULIUS ROSENBERG, INC., LAW OFFICE PUBLISHERS

Business Certificate for Partners

The undersigned do hereby certify that they are conducting or transacting business as members of a partnership under the name or designation of **PEBBLE HILL ASSOCIATES**

3813

at Mill Hill Road, Mill Neck 11765
in the County of Nassau, State of New York, and do further certify that the full names of all the persons conducting or transacting such partnership including the full names of all the partners with the residence address of each such person, and the age of any who may be infants, are as follows:

NAME Specify which are infants and state ages.	RESIDENCE
Cushman Family Trust A	Mill Hill Road, Mill Neck 11765
Cushman Family Trust B	Mill Hill Road, Mill Neck 11765
Cushman Family Trust C	Mill Hill Road, Mill Neck 11765
Milton Hecht	87 Lefferts Road, Yonkers, New York 10705

1 BC 25-1
200-231

WE DO FURTHER CERTIFY that we are the successors in interest to

the person or persons heretofore using such name or names to carry on or conduct or transact business.

In Witness Whereof, We have this 11th day of December, 19 86 made and signed this certificate.

Cushman Family Trust A
By Milton Hecht
Milton Hecht, as Trustee

Cushman Family Trust B
By Milton Hecht
Milton Hecht, as Trustee

Cushman Family Trust C
By Milton Hecht
Milton Hecht, as Trustee

State of New York, County of _____
On this _____ day of _____ 19 _____, before me personally appeared

to me known and known to me to be the individual(s) described in, and who executed the foregoing certificate, and they thereupon St duly acknowledged to me that they executed the same.

NOTARY PUBLIC



Printed: 11/21/2016

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:
 HALPERN ENTERPRISES INC

HALPERN ENTERPRISES INC

Payment Date: 10/12/2016

Tax Year	Parcel ID	Due Date	Appeal Amount	Tax Due
2016	17049000010	10/17/2016	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$62,712.36	\$0.00



Scan this code with your
 mobile phone to view this
 bill

6060-0000
 200003

City of Smyrna

Real Estate

[View Bill](#)

[View bill image](#)

As of 11/23/2016
 Bill Year 2016
 Bill 6496
 Owner HALPERN ENTERPRISES INC
 Parcel ID 17049000010

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2016	\$21,860.57	\$21,860.57	\$0.00	\$0.00	\$0.00
TOTAL		\$21,860.57	\$21,860.57	\$0.00	\$0.00	\$0.00

200003

6060-0000



CITY OF SMYRNA

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

WATER AND SEWER AVAILABILITY

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Water is located and stubbed out on Belmont Place and sanitary sewer stubbed at Belmont Blvd.

Stub out sizes and elevations are the responsibility of the developer. Public streets with 50' right-of-way and or 50' water and sewer utility easements are required, though a private development may be allowed only since this is a continuation of an existing planned development. Each unit will be required to have a separate water meter and sewer tap.

This information is based upon a site plan titled Belmont Pod B for David Weekly Homes dated 3/28/17.

Sincerely,

Scott Stokes
Director Public Works

	MAYOR A. MAX BACON						
CITY COUNCIL	WARD 1 DEREK NORTON	WARD 2 ANDREA BLUSTEIN	WARD 3 TERI ANJLEWICZ	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 CLERK TERRI GRAHAM	CITY ATTORNEY SCOTT A. COCHRAN	MUNICIPAL COURT JUDGE E. ALTON CURTIS, JR.		