

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

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376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770•422•7016
TELEPHONE
770•426•6583
FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

October 13, 2017

VIA HAND DELIVERY

Mr. Ken Suddreth, Director
Community Development Department
City of Smyrna
3180 Atlanta Road
Smyrna, GA 30080

Re: Applications of Epic Homes, LLC to Annex and Rezone an approximate 4.2 ± Acre Tract from R-20 (Cobb County) to RAD Conditional (City of Smyrna); Land Lot 340; 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia.

Dear Ken:

This firm has been engaged by and represents the Applicant, Epic Homes, LLC (“Epic”) concerning the above-captioned Annexation and Rezoning Applications.

With respect to the foregoing, enclosed please find the Applications for Rezoning and Annexation and the requisite number of copies of same, including the following:

1. Vesting Deeds reflecting the current record Titleholder.
2. Legal descriptions concerning the Subject Property, as contained within the Vesting Deeds. Also provided is an overall legal description (printed and in Word format).
3. Copies of paid tax receipts concerning the Subject Property.
4. The requisite number of full-sized and 11” x 17” sized copies of the current proposed Site Plan prepared by TerraBuild USA, Inc., and an 8½” x 11” copy of the site plan.
5. The Tree Protection/Replacement Plan will be provided under separate cover.
6. A Water/Sewer Availability report provided by Mr. Tim Davidson, Cobb County Water and Sewer Agency.

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Mr. Kenneth Suddreth, Director
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7. Renderings/elevations depicting the architectural style and composition of the proposed residential development to be provided under separate cover.
8. A Constitutional Challenge.
9. A thumb drive containing a pdf copy of this submittal and the overall legal description in Word format.
10. A check made payable to the City of Smyrna in the sum of \$1,000.00 representing the Application and Tree Protection/Replacement Review fees.

Assuming that these Applications are deemed complete, it is my understanding that the Applications will be scheduled to be heard and considered by the Planning & Zoning Board on November 13, 2017 and thereafter heard by the Mayor and City Council on December 18, 2017.

I will, of course, be contacting you and Senior Planner Rusty Martin to establish a dialogue regarding the Annexation and Rezoning requests and to address any concerns which you may have regarding the Applications. In the interim, please do not hesitate to contact me should you have any questions whatsoever regarding these matters.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff
phuff@slhb-law.com

PFH/klk
Enclosures

cc: Listed on next page

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. Kenneth Suddreth, Director
Community Development Department
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cc: Honorable Mayor A. Max Bacon, Mayor (via email w/attachments)
Members, City of Smyrna City Council (via email w/attachments)
Members, City of Smyrna Planning & Zoning Board (via email w/attachments)
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)
Scott A. Cochran, Esq. (via email w/attachments)
Mr. Eric Randall, P.E., City Engineer (via email w/attachments)
Mr. Scott Stokes, Public Works Director (via email w/attachments)
Mr. Timothy Grubaugh, Fire Marshall (via email w/attachments)
Ms. Terri Graham, City Clerk (via email w/attachments)
Mr. Russell Martin, AICP, Senior City Planner (via email w/attachments)
Mr. Joey Hipps, President, Epic Homes, LLC (via email w/attachments)

Annexation Application Form Check List

Using this checklist as a guide, please review application materials with applicant or representative **before** accepting application.

1. APPLICATION FORM

- Correct Application Form Used (for 60% method or 100% method as applicable)
- Original form with original signature(s), address(es) and telephone number(s) obtained
- Check to make certain all signatures can be read. If signature(s) is/are illegible, make certain the applicant names are typed or legibly printed near the corresponding signature. (the notation "L.S." on the form stands for *legal signature*)
- All legal owners of the property have signed the application form

2. LEGAL DESCRIPTION

- Legal description of the subject property accompanies application
- Ask the applicant or representative if an electronic copy of the legal description is available; if so, make arrangements for the electronic information to be furnished to either the Community Development Department or City Clerk's Office

3. SECTION 5 VOTING RIGHTS ACT QUESTIONNAIRE

- Completed *Section 5 Voting Rights Act Questionnaire* accompanies application

4. MAP OF PROPERTY TO BE ANNEXED

- A tax plat, map or other graphic representation of the subject parcel(s) accompanies the application

I have reviewed the annexation application with the applicant(s) and/or representative(s) and have found the submitted paperwork to be complete and in good order.

City staff member signature

Date

This completed form should accompany annexation application materials submitted to the City Clerk's office.

2017 SUBMISSION UNDER SECTION 5
OF THE VOTING RIGHTS ACT
FOR THE CITY OF SMYRNA, GEORGIA

Map Designation# _____ LL/Parcel# _____

City Ward# _____ Census Tract# _____

Copies of annexation ordinance (council meeting minutes) are attached, marked:
Exhibit _____

Responsible body: Mayor and Council of the City of Smyrna
P.O. Box 1226
Smyrna, GA 30081
Telephone (770) 434-6600

THIS SECTION TO BE COMPLETED BY APPLICANT. PLEASE BE SURE THIS INFORMATION IS ACCURATE – IT WILL BE USED TO ESTABLISH EMERGENCY SERVICE THROUGH OUR 911 SYSTEM.

1. Is the property to be annexed vacant? Yes No
2. If NO, name of resident(s): _____
3. Complete street address: 3328 & 3366 Old Concord Road
4. Telephone Number _____
5. Number of registered voters before annexation: 2 homes = 4 possible voters
Number and type of minorities or minority language groups: None
6. Number of registered voters after annexation: 16 homes = 32 possible voters
Number and type of minorities or minority language groups: _____
7. Use of property before annexation (i.e., vacant, business, residential): vacant residential
8. Zoning classification before annexation: R-20 (Cobb County)
9. Use of property after annexation (i.e., vacant, business, residential). If residential, please state proposed number of dwelling units: Residential - 16 homes
10. Zoning classification being requested (if any): RAD (Conditional)
11. Effect of change on members of racial or minority groups: N/A
12. Total number of acres being annexed: 4.2±

**City of Smyrna
Application for Annexation**

We, the undersigned, who constitute one hundred percent (100%) of the owners of the land by acreage, as described below, which is unincorporated and contiguous to the City of Smyrna, hereby apply to have said area annexed into the City of Smyrna under the provisions of laws of the State of Georgia, said property being annexed being described as follows:

WHEREFORE, THE UNDERSIGNED HEREBY APPLY FOR SUCH ANNEXATION.

Janice K. Marshall
Owner's Printed Name

Owner's Printed Name

Address Telephone#

Address Telephone#

Witness the hands and seals of 100% of the record title holders of the land described above:

Janice K. Marshall
Owner's Legal Signature/Date 8-24-17

Owner's Legal Signature/Date

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

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

APPLICANT: Epic Homes, LLC

Name: Parks F. Huff, Attorney for Applicant
(Representative's name, printed)

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

Business Phone: 770-422-7016 Cell Phone: 404-975-8859 Fax Number: 770-426-6583

E-Mail Address: phuff@slhb-law.com

Signature of Representative: 

TITLEHOLDER

Name: Janice K. Marshall
(Titleholder's name, printed)

Address: _____

Business Phone: _____ Cell Phone: _____ Home Phone: _____

E-mail Address: _____

Signature of Titleholder: See Attached
(Attach additional signatures, if needed)

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

APPLICATION FOR REZONING TO THE CITY OF SMYRNA

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

APPLICANT: EPIC Homes LLC

Name: Joey Higgs
(Representative's name, printed)

Address: 884 MADISON GROVE LAKE MARIETTA GA 30064

Business Phone: 578-402-8321 Cell Phone: 770-231-7719 Fax Number: _____

E-Mail Address: Joey.Higgs@EPICHomesGeorgia.com

Signature of Representative: Janice K. Marshall

TITLEHOLDER

Name: Janice K. Marshall
(Titleholder's name, printed)

Address: 3366 Old Concord Road

Business Phone: _____ Cell Phone: _____ Home Phone: _____

E-mail Address: _____

Signature of Titleholder: Janice K. Marshall
(Attach additional signatures, if needed)

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

ZONING REQUEST

From R-20 (Cobb County) to RAD - Conditional (City of Smyrna)
Present Zoning Proposed Zoning

LAND USE

From Low Density Residential (Cobb County) to Moderate Density Residential (City of Smyrna)
Present Land Use Proposed Land Use

For the Purpose of 16 Single Family Detached Residences

Size of Tract 4.2 ± Acres

Location At the southwest intersection of Charlotte Circle and Old Concord Road
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 340 District 17th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X there are such assets. If any, they are as follows:

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: R-20 (Cobb County)

East: R-20 (Cobb County and RAD (City of Smyrna))

South: GC & LC (City of Smyrna)

West: R-15 (Cobb County)

CONTIGUOUS LAND USE

North: Low Density Residential (Cobb County)

East: Moderate Density Residential (City of Smyrna) & Medium Density Residential and NAC (Cobb County)

South: Community Activity Center (City of Smyrna) & NAC (Cobb County)

West: Low Density Residential (Cobb County)

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:

Currently in Cobb County jurisdiction. Verification provided by Tim Davidson, Cobb County Water and Sewer Agency (attached).

TRANSPORTATION

Access to Property? Charlotte Circle and Old Concord Road

Improvements proposed by developer? The applicant proposes 16 single family detached homes with density of 3.8 units per acre. The applicant will install sidewalks along rights-of-way as may be required and will donate sufficient right-of-way as needed.

Comments:

The applicant proposes redevelopment of aging older homes to add new single family residences in an area which is benefiting from interest by new home buyers. The subject property is located adjacent to an area on the City's Future Land Use Map designated as Moderate Density Residential. Therefore, this proposed Annexation and Rezoning is appropriate from a Land Use Planning perspective and meets the policy and intent of the Mayor and City Council.

ZONING DISCLOSURE REPORT

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

NO

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:

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:

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:

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

NO

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

ZONING DISCLOSURE REPORT (CONTINUED)

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

NO

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

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

NO

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

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 11 day of Oct., 2017.


(Applicant's Signature)

(Attorney's Signature, if applicable)

Notes

* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

** Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

CAMPAIGN DISCLOSURE REPORT¹
BY ATTORNEY FOR APPLICANT²

Has the Applicant made, within two (2) years immediately preceding the filing of this Application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Smyrna City Council or Planning Commission who will consider the Application?

Yes _____

If so, the Applicant and the attorney representing the Application must file a disclosure report with the Smyrna City Council within ten (10) days after this Application is first filed.

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


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

The dollar amount of each campaign contribution made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application and the date of each such contribution: Max Bacon - \$2,500.00 on 7/23/15; Doug Stoner - \$1,000.00 on 7/24/15 and \$1,500.00 on 10/23/15; Ron Fennel - \$2,500.00 on 8/27/15; and, Derek Norton (Mayoral Candidate) - \$2,000.00 on 6/15/17.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application: N/A

I certify that the foregoing information is true and correct, this the 12 day of Sept, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

PARKS F. HUFF
Attorney for Applicant

¹If the answer to any of the above is "Yes", then the member of the Smyrna City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing to the Smyrna City Council. A copy should be filed with the Application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

DISCLOSURE

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", YOU MAY BE REQUIRED UNDER O.C.G.A. §36-67A-3 TO PROVIDE FURTHER INFORMATION:

- A) ARE YOU, OR ANYONE ELSE WITH A PROPERTY INTEREST IN THE SUBJECT PROPERTY, A MEMBER OF THE CITY OF SMYRNA PLANNING COMMISSION OR CITY OF SMYRNA MAYOR AND COUNCIL? **NO**
- B) DOES AN OFFICIAL OF SUCH PUBLIC BODIES HAVE ANY FINANCIAL INTEREST IN ANY BUSINESS ENTITY WHICH HAS A PROPERTY INTEREST IN THE SUBJECT PROPERTY? **NO**
- C) DOES A MEMBER OF THE FAMILY OF SUCH OFFICIALS HAVE AN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN (A) AND (B)? **NO**
- D) WITHIN TWO (2) YEARS IMMEDIATELY PRECEDING THIS APPLICATION, HAVE YOU MADE CAMPAIGN CONTRIBUTION(S) OR GIVEN GIFTS TO SUCH PUBLIC OFFICIALS AGGREGATING \$250.00 OR MORE? **YES**

SAMS, LARKIN, HUFF & BALLI, LLP

10-12-2017
DATE

By: _____


PARKS F. HUFF
Attorney for Applicant

REZONING ANALYSIS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the rezoning request.**

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed Annexation and Rezoning will permit a use which is suitable in view of the uses and development in the area.

The adjoining parcels to the north and west are located in Cobb County and residentially utilized. Properties located to the east and south of the subject property are within the Smyrna City Limits and are residentially (RAD) zoned (Concord Lake Village Subdivision), and commercially zoned (GC and LC) across Concord Road.

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

The proposed Annexation and Rezoning will not adversely impact the use or usability of adjacent or nearby properties and will, in fact, constitute an appropriate and advanced high-end utilization of the Subject Property which is compatible with the development desires of the City of Smyrna. The zoning proposal provides for single-family detached residences which is similar to the residential uses within the City of Smyrna.

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

As zoned, the property does not have a reasonable economic use given the cost of development and the value of lots in the area.

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 sixteen lot development will not cause an excessive or burdensome use of public utilities.

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

The County's Land Use Plan has a portion of the subject property designated as commercial (Neighborhood Activity Center) and the remaining property designated as Low Density Residential. The proposed Moderate Density Residential is consistent with the City's Moderate Density Residential Category across Old Concord Road.

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.

The successful Concord Lake Village neighborhood across Old Concord Road shows the viability and need for moderate density residential development in the area.

REZONING ANALYSIS (CONTINUED)

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

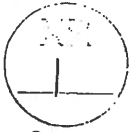
The neighborhood will have sidewalks along Old Concord Road and the homes will face the street to create an attractive streetscape.

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

The proposed use is compatible to existing uses in the area. The residential use will support the commercial uses closer to South Cobb Drive and will create a buffer and attractive streetscape for older residential properties in the area.

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

The proposed neighborhood will positively affect adjoining properties by introducing a high price point to the area and creating an attractive buffer for the existing houses.



Mail

Perrie & Associates, LLC
100 Galleria Pkwy, Suite 1170
Atlanta, Georgia 30339
File # 171051KW

Deed Book 15481 Ps 3873
Filed and Recorded Oct-02-2017 11:14am
2017-0110476
Real Estate Transfer Tax \$0.00
0332017024189

Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Please Cross Reference:
Deed Book 15451
Page 4737

Corrective Administrator's Deed

This deed is being recorded to correct the legal description on that certain Administrator's Deed, dated 06/05/2017 and recorded at Deed Book 15451, Page 4737

STATE OF Georgia
COUNTY OF Cobb

THIS INDENTURE is made as of September 29, 2017, between FRANCES THEODOCION Administrator of the Estate of CORA MARTHA THEODOCION A/K/A CORA MARTHA PECK THEODOCION, (hereinafter referred to as "Grantor") and JANICE MARSHALL (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective successors, legal representatives and assigns where the context requires or permits).

WITNESSETH

That said Grantor, acting under and by virtue of the power and authority contained in that certain Letters of Administration for the estate of CORA MARTHA THEODOCION A/K/A CORA MARTHA PECK THEODOCION and recorded in the records of the Probate Court of Cobb County, Georgia, Estate No. 12-0811 and in consideration of the sum of Ten and NO/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee;

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

TO HAVE AND TO HOLD said 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 behoof of Grantee forever in FEE SIMPLE;

AND GRANTOR WILL WARRANT and forever defend the right and title to said property unto Grantee against the claims of any persons owning, holding or claiming by, through or under Grantor.

In witness whereof the undersigned have set his/her hand and affixed his/her seal as of the date first shown above.

Signed, sealed and delivered in the presence of:

Unofficial Witness

FRANCES THEODOCION
As Administrator of the Estate
Of CORA MARTHA THEODOCION

Notary Public
My Commission Expires:

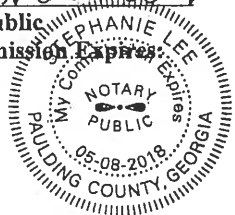


EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 340, OF THE 17TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT 1:

BEGINNING AT AN IRON PIN AT THE SOUTHWEST CORNER OF THE INTERSECTION OF OLD CONCORD ROAD AND CHARLOTTE CIRCLE THENCE IN A WESTERLY DIRECTION 234.06 FEET ALONG THE SOUTHERLY SIDE OF CHARLOTTE CIRCLE TO AN IRON PIN, THENCE SOUTHERLY 163.15 FEET TO AN IRON PIN, THENCE EASTERLY 300.64 FEET TO THE WESTERLY SIDE OF OLD CONCORD ROAD AND AN IRON PIN, THENCE NORTHWESTERLY ALONG THE WESTERLY SIDE OF OLD CONCORD ROAD 214.09 FEET TO AN IRON PIN AND THE POINT OF BEGINNING.

TRACT 2:

BEGINNING AT THE SOUTHWESTERLY INTERSECTION OF CHARLOTTE CIRCLE AND OLD CONCORD ROAD; THENCE SOUTHEASTERLY ALONG THE WESTERLY SIDE OF OLD CONCORD ROAD 190 FEET TO A POINT; THENCE CONTINUING SOUTHEASTERLY ALONG THE WESTERLY SIDE OF OLD CONCORD ROAD 57 FEET TO A POINT; THENCE WESTERLY ALONG THE NORTHERN BOUNDARY OF SAID PROPERTY 200 FEET TO A POINT; THENCE NORTHERLY 49 FEET TO A POINT; THENCE EASTERLY 169 FEET MORE OR LESS TO A POINT ON THE WESTERLY SIDE OF OLD CONCORD ROAD AND THE POINT OF BEGINNING.

A handwritten signature in black ink, appearing to be the initials 'JK' or similar, located at the bottom right of the page.

Rebecca Keaton

Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Perrie & Associates
100 GALLERIA PKWY, SW
SUITE 1170
ATLANTA, Georgia 30339
File #171051KW

Administrators' Deed

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE is made as of JUNE 5, 2017 between FRANCES THEODOCION as Administrator of the Estate of CORA MARTHA THEODOCION A/K/A CORA MARTHA PECK THEODOCION, (hereinafter referred to as "Grantor") and JANICE MARSHALL (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective successors, legal representatives and assigns where the context requires or permits).

WITNESSETH

That said Grantor, acting under and by virtue of the power and authority contained in that certain Letters of Administration for the estate of CORA MARTHA THEODOCION A/K/A CORA MARTHA PECK THEODOCION and recorded in the records of the Probate Court of Cobb County, Georgia, Estate No. 12-0811 and in consideration of the sum of Ten and NO/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee;

See Exhibit A attached hereto and made a part hereof and incorporated herein by reference.

TO HAVE AND TO HOLD said 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 behoof of Grantee forever in FEE SIMPLE;

AND GRANTOR WILL WARRANT and forever defend the right and title to said property unto Grantee against the claims of any persons owning, holding or claiming by, through or under Grantor.

In witness whereof the undersigned have set their hands and affixed their seals as of the date first shown above.

Signed, sealed and delivered in the presence of:

Karen B. Solenik
Unofficial Witness

Frances Theodocion (Seal)
FRANCES THEODOCION As
Administrator of the Estate
OF CORA MARTHA THEODOCION

[Signature]
Notary Public
My Commission Expires:
(NOTARIAL SEAL)

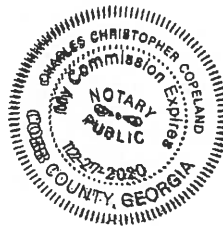


EXHIBIT "A"

BEGINNING AT AN IRON PIN AT THE SOUTHWEST CORNER OF THE INTERSECTION OF OLD CONCORD ROAD AND CHARLOTTE CIRCLE THENCE IN A WESTERLY DIRECTION 234.06 FEET ALONG THE SOUTHERLY SIDE OF CHARLOTTE CIRCLE TO AN IRON PIN, THENCE SOUTHERLY 163.15 FEET TO AN IRON PIN, THENCE EASTERLY 300.64 FEET TO THE WESTERLY SIDE OF OLD CONCORD ROAD AND AN IRON PIN, THENCE NORTHWESTERLY ALONG THE WESTERLY SIDE OF OLD CONCORD ROAD 214.09 FEET TO AN IRON PIN AND THE POINT OF BEGINNING.

[Handwritten signature]

Rebecca Keaton
REBECCA KEATON
CLERK OF SUPERIOR COURT Cobb Cty. GA.

STATE OF GEORGIA
COUNTY OF COBB

MA / Return Recorded Deed to:
Jeffrey L. Tucker
COCHRAN & EDWARDS, LLC
2950 Atlanta Road, S.E.
Smyrna, Georgia 30080-3655
(770) 435-2131

ASSENT OF EXECUTOR TO DEVISE AND BEQUEST

The undersigned **Janice K. Marshall and Robert Alan Marshall**, the duly qualified Executors of the Last Will and Testament of **Donald F. Marshall**, deceased, late of said County, does hereby assent to the devise made by Item IV of the Will of said **Donald F. Marshall**, deceased, the same being recorded in Estate No. **13-1277** in the office of the Probate Court of Cobb County, Georgia, which Item reads in relevant part as follows:

"I give, devise and bequeath to my wife, **JANICE K. MARSHALL**, . . . the residence or home place, if in my name, I which I am living at my death, if she is living at the time of my death."

And the real property in the Estate of the deceased, **Donald F. Marshall**, being more particularly described as follows:

SEE EXHIBIT "A"

This assent is made under the provisions of O.C.G.A. 53-8-15 et seq., as amended, to pass the title of said real property to **Janice K. Marshall** as devisee of the devise made in said Item of said Will. There is sufficient amount of property in said estate in addition to the above-described real property to pay the indebtedness of said estate.

Given under our hand and seal, this 14th day of May, 2014.

Janice K. Marshall
Janice K. Marshall, Executor under the Last Will and Testament of Donald F. Marshall, Deceased

Robert Alan Marshall
Robert Alan Marshall, Executor under the Last Will and Testament of Donald F. Marshall, Deceased

Signed, sealed and delivered in the presence of:

[Signature]
Witness
[Signature]
Notary Public

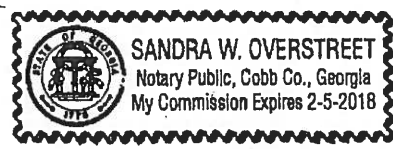


EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 340 of the 17th District, 2nd Section of Cobb County, Georgia, and being more particularly described as Tract No. 1 according to a survey and plat thereof made by John H. Lord, Registered Surveyor No. 1243, which plat is recorded in Plat Book 22, Page 11, Clerk's Office, Cobb Superior Court.

Said Tract No. 1 contains 3.17 acres, more or less, and is more particularly described as follows: BEGINNING at a point on the Northwesterly side of Concord Road where the line between Land Lots 339 and 340 intersect the Northwesterly side of Concord Road and thence in a Northeasterly direction along the Northwesterly side of Concord Road for a distance of 370.8 feet to an iron pin, marking the point of beginning of the property herein described and conveyed and from this beginning point thence North 33 degrees 32 minutes West for a distance of 671.4 feet to an iron pin; thence North 22 degrees 46 minutes East for a distance of 116.1 feet to an iron pin; thence North 89 degrees 20 minutes East for a distance of 200 feet to an iron pin on the Southwesterly side of Old Concord Road; thence in a Southeasterly direction along the Southwesterly side of Old Concord Road for a distance of 578.8 feet to the point of intersection of a prolongation of the Southwesterly of Old Concord Road with a prolongation of the Northwesterly side of Concord Road; thence in a Southwesterly direction along the prolongation of the Northwesterly side of Concord Road for a distance of 125.1 feet to an iron pin and the point of beginning. There is excepted from this conveyance so much of the above described property as forms the road right-of-way of the intersection of the Northwesterly and Southwesterly sides of Concord Road and Old Concord Road as shown by the above referred to plat.

OLD CONCORD ROAD
TRACT DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 340 OF THE 17TH DISTRICT, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHWESTERLY SIDE OF CONCORD ROAD WHERE THE LINE BETWEEN LAND LOTS 339 AND 340 INTERSECT THE NORTHWESTERLY SIDE OF CONCORD ROAD AND THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID ROAD FOR A DISTANCE OF 370.8 FEET TO AN IRON PIN AND THE POINT OF BEGINNING;

;

THENCE, NORTH 33 DEGREES 32 MINUTES WEST, 671.4 FEET TO AN IRON PIN;
THENCE, NORTH 22 DEGREES 46 MINUTES EAST, 116.1 FEET TO AN IRON PIN;
THENCE, NORTH 00 DEGREES 00 MINUTES EAST, 49.0 FEET TO AN IRON PIN;
THENCE, SOUTH 89 DEGREES 20 MINUTES WEST, 162.4 FEET TO AN IRON PIN;
THENCE, NORTH 19 DEGREES 44 MINUTES WEST, 160.00 FEET TO AN IRON PIN;
THENCE, ALONG THE SOUTHERLY LINE OF CHARLOTTE CIRCLE IN AN EASTERLY DIRECTION, A DISTANCE OF 234.06 FEET TO AN IRON PIN;
THENCE, ALONG THE WESTERLY LINE OF OLD CONCORD ROAD, IN A SOUTH EASTERLY DIRECTION, A DISTANCE OF 849.9 FEET TO AN IRON PIN;
THENCE, ALONG THE NORTHERLY LINE OF CONCORD ROAD IN AN SOUTH WESTERLY DIRECTION, A DISTANCE OF 125.1 FEET TO THE POINT OF BEGINNING;

SAID TRACT OR PARCEL CONTAINING 4.2 ACRES, MORE OR LESS



Printed: 8/17/2017

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
 JANICE F MARSHALL

MARSHALL JANICE K

Payment Date: 9/7/2016

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2016	17034000100	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	\$759.18	\$0.00	



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Printed: 8/17/2017

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
DAN THEODOCION

THEODOCION MARTHA

Payment Date: 8/22/2016

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2016	17034000110	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	\$272.55	\$0.00



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mobile phone to view
this bill!



Printed: 8/17/2017

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
FRANCES THEODOCION

THEODOCION CORA MARTHA

Payment Date: 9/21/2016

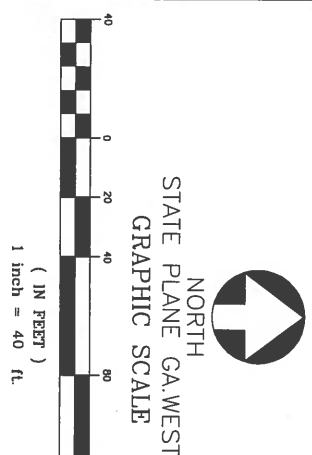
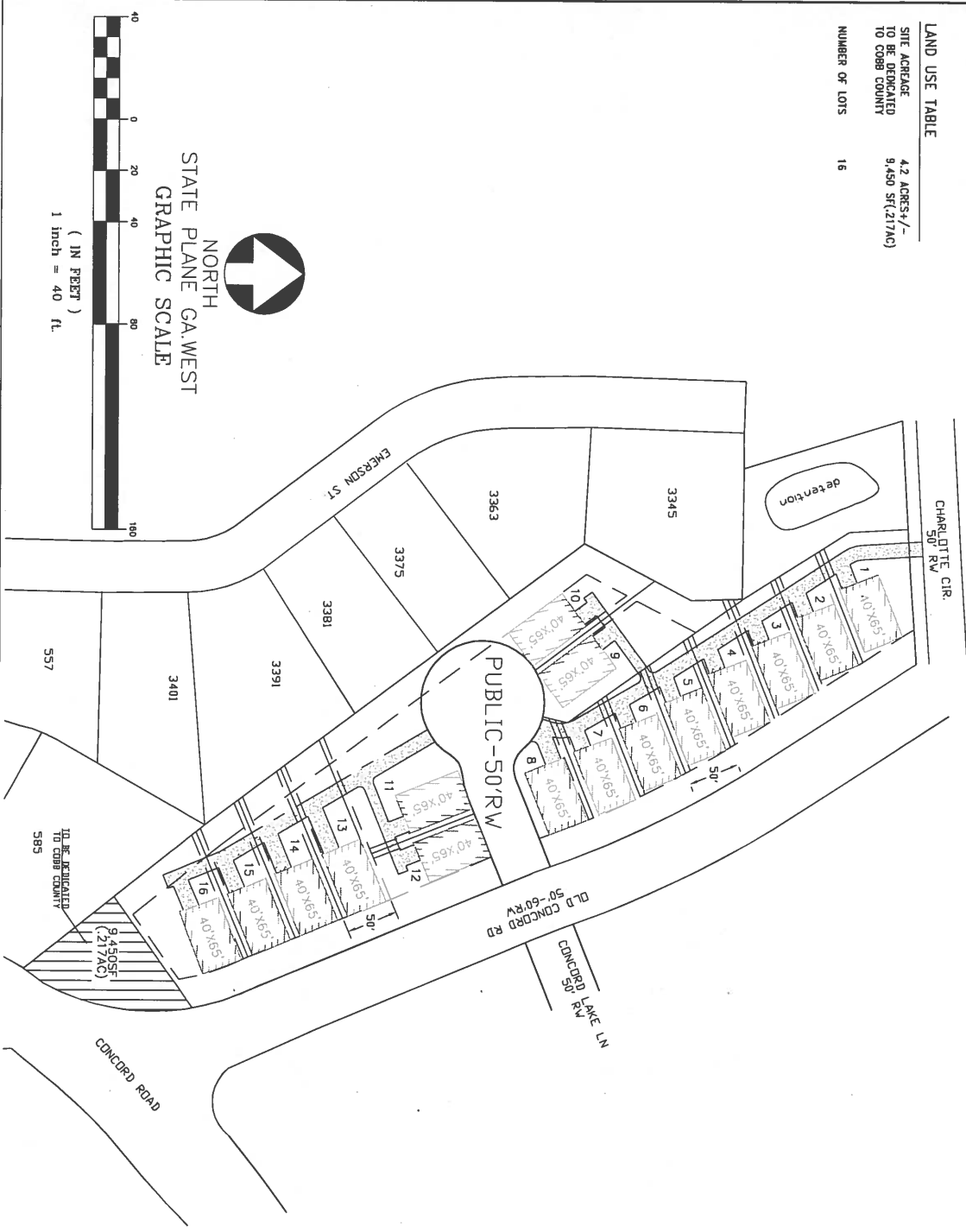
Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2016	17034000090	10/17/2016	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$1,138.38	\$0.00



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

LAND USE TABLE	
SITE ACREAGE TO BE DEDICATED TO COBB COUNTY	4.2 ACRES +/- 9,450 SF (217AC)
NUMBER OF LOTS	16



TerraBuild USA
P.O. BOX 601, LILBURG, GA 30048
PH: 770.900.7619, www.TerraBuildUSA.com

EPIC HOMES LLC
884 MADISON GROVE LANE
MARIETTA, GA 30064
Phone: 770.231.7719

**ANNEXATION PLAT
FOR
OLD CONCORD RD**



NOT VALID WITHOUT SIGNATURE AND DATE
These drawings are instruments of service and are the exclusive property of TerraBuild USA, Inc (TerraBuild). Their use and publication shall be restricted to the project for which they were prepared. Reuse, reproduction, or publication by any method, in whole or in part, is prohibited except by written permission from TerraBuild.

Project No	E17006	Scale	1"=40'
Designed By	SYI	Date	10-9-17
Drawn By	SYI	Review	<input checked="" type="checkbox"/> DRAWING FOR CONSTRUCTION
Checked By	-	Review	<input type="checkbox"/>

1



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

October 11, 2017

Karen King
Legal Assistant
Sams, Larkin, Huff & Balli, LLP
376 Powder Springs Street, Suite 100
Marietta, GA 30064

Re: Proposed +/- 17-lot residential development
Old Concord Road, +/- 4.4 acres
Land Lot 340, 17th District,
Nickajack Creek Basin, South Cobb 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.

Water service is currently available via the existing 6-inch water main on Old Concord Road. A passing fire flow test is a requirement of approval of construction plans by this department.

Sincerely,

COBB COUNTY WATER SYSTEM

Tim Davidson
Engineering & Records Division

TO THE MAYOR AND CITY COUNCIL
CITY OF SMYRNA, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, EPIC HOMES, LLC, hereinafter referred to as the
"Applicant" for Rezoning and asserts the following, to wit:

1.

By application to which this exhibit relates, the Applicant has applied for a rezoning of certain real property lying and being in Cobb County, Georgia, a more particular description and delineation of the subject property, hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for Zoning of the property seeks a rezoning from the existing category of R-20 (Cobb County), as established by the governing authority of the Cobb County, Georgia to the zoning category of RAD (Conditional) within the City of Smyrna for a Single Family Detached Residential Community.

3.

The current R-20 zoning classification of the property and all intervening classifications between same and RAD (Conditional) are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The zoning classification of R-20 and all intervening classifications between same and RAD (Conditional) as they presently exist violate the Applicant's rights to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classification is unconstitutional in that it is arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Smyrna Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand, and are in many instances controlled by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 12 day of October, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010