

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

JAMES A. BALLI

SUITE 100

376 POWDER SPRINGS STREET

MARIETTA, GEORGIA 30064-3448

770•422•7016

TELEPHONE

770•426•6583

FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

June 9, 2017

VIA HAND DELIVERY

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

Re: Application of Neighborhood Commercial, LLC to Rezone a 1.188 Acre Tract from R-15 to RAD – Conditional; Land Lot 593, 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia.

Dear Ken:

This firm has been engaged by and represents Neighborhood Commercial LLC (“NC”) concerning the above-captioned Rezoning Application.

By meeting today’s deadline, it is my understanding that the Application will be heard by the Planning & Zoning Board on July 10, 2017 and by the Mayor and City Council on August 21, 2017. With respect to the foregoing, enclosed please find the original and five (5) copies of the Application and supplemental documentation as follows:

1. Titleholder signatures and paid tax receipts indicating that taxes are paid on the subject property with respect to both the City of Smyrna and Cobb County and the deeds reflecting the current Titleholder.
2. A legal description of the subject property, printed and provided in Word format.
3. A full-sized copy, an 11” x 17” sized copy and an 8½” x 11” copy of the Site Plan, and a color depiction of the lot layout plan.
4. A full-sized copy, an 11” x 17” sized copy and an 8½” x 11” copy of the Tree Protection/Replacement Plan, and the accompanying Arborist Report.
5. A Water/Sewer availability letter from Mr. Scott Stokes.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

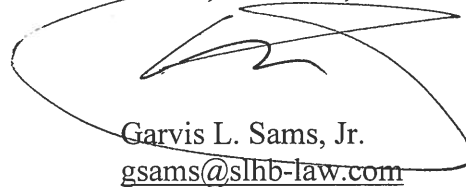
Mr. Kenneth Suddreth, Director
Community Development Department
June 9, 2017
Page 2

6. Copies of elevations/renderings which substantially depict the architectural style and composition of this proposed residential development.
7. A Constitutional Challenge.
8. A check made payable to the City of Smyrna in the sum of \$1,000.00 representing the Application fee and Tree Protection Plan Review Fee.
9. A disc containing a pdf copy of this submittal and the legal description in Word format.

I will be contacting you and your staff to discuss potential stipulations/conditions of the Rezoning Request and to address any concerns which you or the staff may have regarding the Application. In the interim, should you have any questions or need any additional documentation or information, please do not hesitate to contact me. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/klk
Enclosures

cc: Mr. Russell Martin, AICP, Senior Planner (via email w/attachments)
Ms. Tammi Saddler Jones, Interim 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)
Ms. Terri Graham, City Clerk (via email w/attachments)
Mr. Thair Hanaway, Neighborhood Commercial, LLC (via email w/attachments)

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

Type or Print Clearly

(To be completed by City)

Ward: _____

Application No: _____

Hearing Date: _____

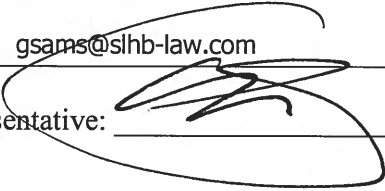
APPLICANT: Neighborhood Commercial, L.L.C.

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

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

Business Phone: 770-422-7016 Cell Phone: _____ Fax Number: 770-426-6583

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

Signature of Representative: 

TITLEHOLDER

Name: See Attached
(Titleholder's name, printed)

Address: _____

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

E-mail Address: _____

Signature of Titleholder: _____
(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: Neighborhood Commercial Holdings, LLC

Name: THAIR P. HANAWAY - MANAGING PARTNER
(Representative's name, printed)

Address: 1091 Mendell Circle, NE Atlanta Ga 30319

Business Phone: 678-227-9334 Cell Phone: 404-975-9457 Fax Number: 404-920-3440

E-Mail Address: Office @ neighborhood-commercial.com

Signature of Representative: 

TITLEHOLDER

Name: Neighborhood Commercial Holdings, LLC
(Titleholder's name, printed)

Address: 1091 Mendell Circle, NE Atlanta Ga 30319

Business Phone: 678-227-9334 Cell Phone: 404-975-9457 Home Phone: 404-975-9457

E-mail Address: Office @ neighborhood-commercial.com

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

(To be completed by City)

Received: _____

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: _____

Approved/Denied: _____

CONTIGUOUS ZONING

North: R-15

East: RAD

South: R-15

West: R-15

CONTIGUOUS LAND USE

North: Moderate Density Residential

East: Moderate Density Residential

South: Moderate Density Residential

West: Moderate Density Residential

INFRASTRUCTURE

WATER AND SEWER

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

See Attached

TRANSPORTATION

Access to Property? Spring Street

Improvements proposed by developer? Construction of 5 single-family detached homes.

Comments:

The Subject Property is located in an area on the City's Future Land Use Map designated for Moderate Density Residential development. In that regard, the Subject Property is positioned for development of Single-Family Detached residences in a range of densities up to 4.5 units per acre. For those reasons, the proposed 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?

_____ *Applicant has made no contributions.* _____

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:

_____ *N/A* _____

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:

_____ *N/A* _____

An enumeration and description of each gift having a value of \$250 or more by the applicant* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application:

_____ *N/A* _____

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

_____ *N/A* _____

If so, describe the nature 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?

N/A

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

N/A

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?

N/A

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

N/A

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 18 day of MAY, 2017.


(Applicant's Signature)
THAIR P. HANAWAY

(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; and, Doug Stoner

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

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

I certify that the foregoing information is true and correct, this the 8th day of June, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

GARVIS L. SAMS, JR.

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 this 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

By: 

Garvis L. Sams, Jr.
Attorney for Applicant

6-8-17

DATE

REZONING ANALYSIS

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

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

The proposed Rezoning will permit a use which is suitable in view of the use and development of adjacent and nearby properties and is consistent with the policy and intent of the Mayor and City Council based upon policy considerations and recommendations regarding adjacent and contiguous Rezonings, including RAD Conditional.

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

The proposed Rezoning will not adversely impact the use or usability of adjacent or nearby properties and will, in fact, constitute an appropriate Rezoning which will advance a high-end utilization of the Subject Property which is compatible with the development desires of the City of Smyrna, its professional consultants and staff.

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

The Subject Property, as currently zoned (R-15) can not compete favorably with other similarly zoned and situated properties with equivalent utility in view of the development trends in this area, including The Village at Williams Park currently under development.

REZONING ANALYSIS (CONTINUED)

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

The proposed Rezoning will not result in a use which will have an adverse impact upon the existing City infrastructure and this proposal which comports with the anticipated and current trends of development within this sub-area of the City of Smyrna.

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

The proposed Rezoning conforms to the City's Future Land Use Map which reflects that the Subject Property is located within an area denominated as Moderate Density Residential. The proposed Rezoning is consistent with the established policies of the Mayor and City Council based upon previous recommendations and Rezonings within this sub-area of the City.

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

There are existing and changing conditions affecting the use and development of the Subject Property which give supporting grounds for approval in that the Subject Property is in an area denominated for utilization under the RAD Conditional zoning classification and is adjacent to other RAD zoned property.

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 Rezoning proposal will enhance the architectural standards and aesthetics within this sub-area of the City
and will also constitute an event upon redevelopment which will precipitate higher residential values within the
confines of the proposed single-family detached residential development.

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

The proposed Rezoning of the Subject Property will not create a nuisance and is compatible with the existing uses
within this sub-area of the City of Smyrna.

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

The proposed Rezoning will positively affect the trend of development within this sub-area of the City of Smyrna
and will precipitate additional upscale, high-end single-family detached residential development.

CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE REZONING

1.

My name is THAIR P. HANAWAY. I am the officer who is delegated the responsibility for authenticating records of *Neighborhood Commercial Holdings, LLC*, a Domestic Profit Corporation (the Titleholder”). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicant’s Rezoning Application regarding certain real property owned by the Titleholder Company located in the City of Smyrna, Cobb County, Georgia.

2.

In accordance with the Requirements for completing a Smyrna City Rezoning Application, I hereby attest on behalf of the Titleholder Company that I have reviewed the Rezoning Application and related documents which are being filed simultaneously therewith on behalf of the Applicant and Titleholder(s) (collectively, the “Rezoning Application”) to which this Certificate is attached and hereby certify:

- (a) That corporate seal or facsimile affixed to the Rezoning Application is in fact the seal of the Titleholder Company or a true facsimile thereof; and
- (b) That the officer or other representative of the Titleholder Company who executed the Rezoning Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Rezoning Application on behalf of the Titleholder Company, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Rezoning Application and the filing of the Rezoning Application on behalf of the Titleholder Company by the officer or other representative of the Applicant Company has been duly authorized by the Titleholder Company.

NEIGHBORHOOD COMMERCIAL HOLDINGS, LLC.

By:  (CORPORATE SEAL)
Its: MANAGING PARTNER
Neighborhood Commercial Holdings, LLC

ATTACHMENT TO
REZONING APPLICATION TO THE CITY OF SMYRNA

Ward: 3

Application No.: _____

Hearing Date: _____

Applicant: Neighborhood Commercial Holdings, LLC

Titleholder: Neighborhood Commercial Holdings, LLC

Signature: 

Address: 1091 Mendell Circle NE.
Brookhaven Ga 30319

Telephone No.: 404-975-9457

Signed, sealed and delivered
in the presence of:


Notary Public
Commission Expires: 11/3/2020

(Notary Seal)





Printed: 1/31/2017

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:
Lou Ashcraft

GULF SOUTH INC

Payment Date: 1/11/2017

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2016	17059300260	10/17/2016	Pay:	N/A	or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$17.82	\$52.20	\$0.00	\$0.00	\$1,114.00	\$0.00



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

Real Estate

[View Bill](#)

[View bill image](#)

As of	<input type="text" value="1/31/2017"/>
Bill Year	2016
Bill	6295
Owner	GULF SOUTH INC
Parcel ID	17059300260

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2016	\$363.92	\$363.92	\$0.00	\$0.00	\$0.00
Interest			\$3.93			\$0.00
TOTAL		\$363.92	\$367.85	\$0.00	\$0.00	\$0.00



Printed: 1/31/2017

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:
Lou Ashcraft

GULF SOUTH INC

Payment Date: 1/11/2017

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2016	17059300270	10/17/2016	Pay:	N/A	or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$18.21	\$53.33	\$0.00	\$0.00	\$1,138.21	\$0.00



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

Real Estate

[View Bill](#)

[View bill image](#)

As of	<input type="text" value="1/31/2017"/>
Bill Year	2016
Bill	6296
Owner	GULF SOUTH INC
Parcel ID	17059300270

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2016	\$371.83	\$371.83	\$0.00	\$0.00	\$0.00
Interest			\$4.02			\$0.00
TOTAL		\$371.83	\$375.85	\$0.00	\$0.00	\$0.00

Deed Book 15444 Pg 4767
Filed and Recorded May-24-2017 12:43pm
2017-0057483
Real Estate Transfer Tax \$375.00
0332017003337

Rebecca Keaton
Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Return Recorded Document to:
MULLICK & ASSOCIATES, LLC
1350 Spring Street | Suite 485
Atlanta, GA 30309
FILE NO: 17-01-06

MAIL

2/12

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF DEKALB

THIS INDENTURE, made the 11th day of February, 2017, between

GULF SOUTH, INC.

as party of the first part, hereinafter called Grantor, and

NEIGHBORHOOD COMMERCIAL HOLDINGS, LLC

as parties of the second part, hereinafter called Grantee (the words "Grantor(s)" and "Grantee(s)" 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 AND 00/100 DOLLARS (\$10.00) and other good and valuable considerations 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 Grantees, the following described property, to wit:

SEE ATTACHED EXHIBIT "A"

Subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

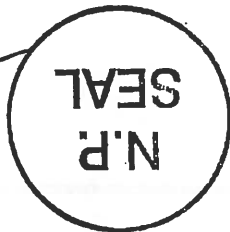
AND THE SAID Grantor will warrant and forever defend the right and title to the above described Property unto the said Grantee against the lawful claims and demands of all persons claiming by, through or under the above named Grantor, but against none other.

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:

GRANTOR:

Lisa L Taylor
Unofficial Witness



J Lou Ashcraft (SEAL)
GULF SOUTH, INC.
By: J. Lou Ashcraft
Its: President/CEO

Donna Taylor
Notary Public
My Commission Expires:
[Notary Seal]

Donna Taylor
Notary Public
Fulton County, Georgia
My Commission Expires
October 10, 2017



Exhibit "A"

1505 Spring Street SE: All that tract or parcel of land lying and being in the City of Smyrna, Cobb County, Georgia and being a part of Land Lot 593 of the 17th District, 2nd Section, Cobb County, Georgia, and being a part of Lot No. 3, of the subdivision of property of Susan S. Stephens Estate as per plat made by J.P. Phillips, August 2, 1943 and recorded in Plat Book 5, Page 27, Cobb County Records and more particularly described as follows:

BEGINNING on the north side of Spring Street at the Southeast corner of Lot No. 2 of said plat; thence running East along the north side of Spring Street a distance of 78 feet to a point; thence in a Northerly direction a distance of 377 feet; thence West 78 feet to the Northeast corner of Lot No. 2; thence in a Southerly direction along the East side of Lot No. 2 a distance of 377 feet to Spring Street at the point of beginning.

This conveyance is made subject to all zoning ordinances, easements and restrictions of record.

Tax ID: 17059300260

Address: 1505 Spring Street SE, Smyrna, GA 30080 according to the present system of numbering property in Cobb County, Georgia.

1515 Spring Street SE: All that tract or parcel of land lying and being in the town of Smyrna, Cobb County, Georgia, and being a part of Land Lot 593 of the 17th District, 2nd Section, Cobb County, Georgia, as per plat of Susan S. Stephens Estate made by J.P. Phillips, Surveyor, dated August 2, 1943, copy of which is recorded in The Office of the Clerk of the Superior Court of Cobb County, Georgia. Said property being located on the north side of Spring Street as shown on said plat and is more particularly described as follows:

Beginning at a point at the center of the driveway between Lot No. 3 and Lot No. 4 on the north side of Spring Street and running thence east 66 feet more or less to Lot No. 5; thence north along the west line of said Lot No. 5, 374.4 feet; thence west 62 feet; thence south 377 feet to Spring Street and the point of beginning; being all of Lot No. 4 and two feet off the east side of Lot No. 3 of said plat, being a part of the same property as described in deed from P.H. Mell to Earl G. Medford recorded in Book 161, Page 538, Cobb County records.

EASEMENT: The party of the first part does hereby grant the parties of the second part use of that part of the driveway which lies in Lot No. 3 and the parties of the second part does hereby grant to the party of the first part use of that part of the driveway that lies in Lot No. 4. The driveway width, length, and location shall remain as is.

This conveyance is made subject to all zoning ordinances, easements and restrictions of record.

Tax ID: 17059300270

Address: 1515 Spring Street SE, Smyrna, GA 30080 according to the present system of numbering property in Cobb County, Georgia.

Exhibit "A"

1505 Spring Street SE: All that tract or parcel of land lying and being in the City of Smyrna, Cobb County, Georgia and being a part of Land Lot 593 of the 17th District, 2nd Section, Cobb County, Georgia, and being a part of Lot No. 3, of the subdivision of property of Susan S. Stephens Estate as per plat made by J.P. Phillips, August 2, 1943 and recorded in Plat Book 5, Page 27, Cobb County Records and more particularly described as follows:

BEGINNING on the north side of Spring Street at the Southeast corner of Lot No. 2 of said plat; thence running East along the north side of Spring Street a distance of 78 feet to a point; thence in a Northerly direction a distance of 377 feet; thence West 78 feet to the Northeast corner of Lot No. 2; thence in a Southerly direction along the East side of Lot No. 2 a distance of 377 feet to Spring Street at the point of beginning.

Tax ID: 17059300260

Address: 1505 Spring Street SE, Smyrna, GA 30080 according to the present system of numbering property in Cobb County, Georgia.

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Tax ID: 17059300270

Address: 1515 Spring Street SE, Smyrna, GA 30080 according to the present system of numbering property in Cobb County, Georgia.



(250.8 ft TO SSMH)
REV. 1037.31

SPRING (40 ft RW) STREET

LOT 1
1523 & 1531
SPRING ST
S/D
10,018 SF

LOT 2
1523 & 1531
SPRING ST
S/D
10,533 SF

LOT 3
1523 & 1531
SPRING ST
S/D
10,544 SF

LOT 4
1523 & 1531
SPRING ST
S/D
10,018 SF

N/F
SPRING STREET COMMONS
HOMEOWNER'S ASSOC., INC.
DB 15330, PG 6260

SSMH
REV. 1038.31
metal structure

1033.07

EXISTING PAVING

EXISTING PAVING

FRAME SHED

5

4

3

2

1

1/2"

(65.5ft)

SSMH
REV. 1037.31

ARBORIST REPORT FOR:

Spring Street 5 Lot SD

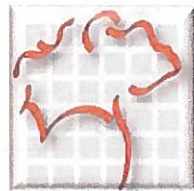
Smyrna, Georgia

Prepared For:

Thair Hanaway

Thunder Road Construction, LLC

Visual Inspection only



Prepared by:

T.J. Schell, LLC

Landscape Architect
& Certified Arborist

2985 Gordy Parkway, Suite 422

Marietta, GA 30066

Fax 770-578-9126

Cell 770-361-2319

Teresa H. Eldredge, RLA, ISA

Certified Arborist

ISA SO-5442A

May 23, 2017

1. Water Oak (Tag #158) 33" Caliper - FAILED



- 2. Red Oak (Tag #159) 32" Caliper - 10% dieback - minimal included bark at high split - Fair to Good Condition – To Remain with 2 Year Maintenance plan**
- 3. Water Oak (Tag #355) 24" Caliper – Good Condition – To Remain**
- 4. Water Oak (Tag #169) 26" Caliper - Hollow area at base with active insect infestation, Co-dominant – 1 Large dead branches – To Remain with 2 Year Maintenance plan**



5. **Water Oak (Tag #166) 40" Caliper - 8 major dead branches- more than 50% canopy gone - hollow when thumped – Tree in serious decline – Request Not Specimen**



6. **Water Oak (Tag #167) 44" Caliper - Large conks at base, extensive decay, 3 major branches dead, hollow when thumped. Request Not Specimen**



7. **Water Oak (Tag #168) 35" Caliper** – One main leader dead and 3 major dead branches dead with obvious decay/wounds throughout lower trunk – water sprouts - 10% dieback



Boundary Trees

- **Water Oak - 30" Caliper** - Fair to Good Condition (Request 2 Yr. Maintenance Plan for disturbed area of CRZ)
- **Pecan - 25" Caliper** - Fair to Good Condition (Request 2 Yr. Maintenance Plan for disturbed area of CRZ)
- **Hickory – 38" Caliper** – Fair to Good Condition (Request 2 Year Maintenance Plan for disturbed area of CRZ)



CITY OF SMYRNA

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

CITY OF SMYRNA

WATER AND SEWER AVAILABILITY

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Sanitary sewer and water are located within the street right-of-way of Spring Street.

The developer will need to determine how to provide public utilities into the development when it appears that no public right-of-way exists. Elevations are the responsibility of the developer.

This information is based upon site plan labeled 1505 and 1515 Spring Street by BH & D Engineering, dated 3/16/17.

Scott Stokes
Director Public Works

MAYOR
A. MAX BACON

CITY COUNCIL

WARD 1
DEREK NORTON

WARD 2
ANDREA BLUSTEIN

WARD 3
TERI ANULEWICZ

WARD 4
CHARLES A. WELCH

WARD 5
SUSAN WILKINSON

WARD 6
DOUG STONER

WARD 7
RON FENNEL

CITY ADMINISTRATOR
MICHAEL L. JONES, PE.

CITY CLERK
TERRI GRAHAM

CITY ATTORNEY
SCOTT A. COCHRAN

MUNICIPAL COURT JUDGE
E. ALTON CURTIS, JR.





TO THE MAYOR & CITY COUNCIL
SMYRNA, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, Neighborhood Commercial, L.L.C., hereinafter referred to as the "Applicant", and asserts the following, to wit:

1.

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

2.

The Application for Zoning of the property seeks a rezoning from the existing category of R-15, as established by the governing authority of Smyrna, Georgia to the zoning category of RAD - Conditional as proposed.

3.

The current R-15 zoning classification of the property and all intervening classifications between same and RAD - Conditional as proposed are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

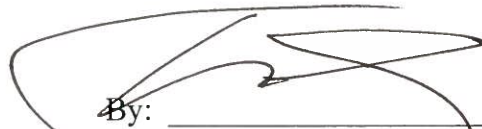
The zoning classification of R-15 and all intervening classifications between same and RAD - Conditional as proposed as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classifications are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

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

Respectfully submitted, this the 8th day of June, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950