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October 13, 2020

VIA ELECTRONIC MAIL

Mr. Rusty Martin
Community Development Director
City of Smyrna
3180 Atlanta Road
Smyrna, Georgia 30080
rgmartin@smyrnaga.gov

RE: Variance Applications – CMS Custom Homes, LLC
Subdivided Lots 11 and 12 of F.M. Collier Subdivision
1460 and 1470 Memory Lane

Dear Mr. Martin:

Please accept this letter in further support of the variance applications of CMS Custom Homes, LLC, for certain limited variances to permit the reduction in lot size of each of these lots to not less than 19,463 s.f., Such variances are requested to allow for the development of each of these lots for a single family home in accordance with the current platted lot configuration.

As previously noted, each of these lots was originally subdivided and platted in their current configuration pursuant to a 1951 plat which was reviewed and approved by the Cobb County Planning Commission. The property was annexed into the City of Smyrna in 2001 (See Exhibit C). At the time the property was annexed (and apparently zoned to the R-20 zoning category), Smyrna did not have any prohibition on development of existing platted residential lots that may not comply with some aspect of the zoning category. Rather, it was not until 2007 that Smyrna adopted Section 1208 of the Smyrna Zoning Ordinance (Exhibit D). This provision, which became effective on April 2, 2007, for the first time imposed a restriction on the construction of residential structures on substandard platted lots. The timing of this change in the Smyrna Zoning Ordinance further supports the fact that the Applicant satisfies the first two factors applicable to the grant of a variance pursuant to Section 1403 of the Smyrna Zoning Ordinance: (1) There are unique and special circumstances that apply to these properties; and (2) such hardship was not caused by the Applicant (or its predecessors in title).

Further, and significantly, Section 1208 of the Smyrna Zoning Ordinance specifically contemplates the grant of a variance pursuant to Article XIV of the Smyrna Zoning Ordinance for any substandard lot upon which a party desires to construct a new residential structure. As such, the approval of the requested variances is not a political issue, nor does it require a rezoning of the properties. Rather, the determination of whether to grant the requested variances is a quasi-judicial

LAW OFFICES
SCHREEDER, WHEELER & FLINT, LLP

Mr. Rusty Martin

Page 2

October 13, 2020

determination that is controlled by the standards set forth in Section 1403 of the Smyrna Zoning Ordinance.

Here, it is clear that the Applicant satisfies such standards. This subdivision is unique in that it was annexed into the City of Smyrna and zoned to the R-20 category despite the fact that there are numerous lots within the subdivision that do not satisfy the 20,000 s.f. area requirement. This was likely not an issue in 2001 due to the ability of owners to build residential structures on substandard lots, which right was limited in 2007 through the adoption of Section 1208 of the Smyrna Zoning Ordinance. Such hardship was not created by the Applicant or its predecessors in title. Strict application of the lot size requirements would deprive the Applicant with a reasonable use of the two lots, as they would be forced to construct one large home which would be completely out of character with the surrounding homes. Denial of the variance would also be inherently unfair to the Applicant due to the fact that the City of Smyrna allows other property owners to avoid the requirements of Section 1208 by retaining a small part of an original structure in order to classify the new home as something other than a new residential structure. Finally, the grant of the requested variance is the minimum necessary to permit the reasonable use of the property for the construction of two separate residential structures.

We respectfully request that the requested variances be granted so as to allow these two existing subdivided lots to be developed consistent with the other properties in the immediate vicinity. Thank you for your attention to this matter and please feel free to contact me to discuss this application at your convenience.

Sincerely,

Scott W. Peters

Scott W. Peters

SWP/mrs

Enclosure

ORDINANCE ANNEXING PROPERTY
INTO THE CITY OF SMYRNA

Ordinance Number 2001-07
Land Lots (see attached)
Island 13 - 204 acres

WHEREAS, the City of Smyrna is authorized pursuant to Title 36, Article 2, of the Official Code of Georgia Annotated to allow annexation of property; and

WHEREAS, the property be annexed into the City of Smyrna is an unincorporated island as shown on said Exhibit A attached hereto; and

WHEREAS, the City of Smyrna held a public hearing on such application on June 4, 2001, after first providing notice as required by law; and


WHEREAS, the City of Smyrna has determined, and does hereby determine that the annexation of said property into the municipality would be in the best interests of the citizens of the municipality; and

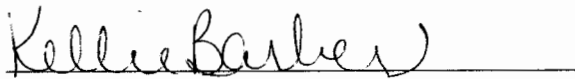
WHEREAS, at a regular meeting of the City Council of Smyrna the motion to approve the annexation of said property passed by a majority vote without veto; and

NOW THEREFORE, BE IT ORDAINED, and it is hereby ordained that the Charter of the City of Smyrna be amended and the same is hereby amended by adding to the description of the City Limits the property herein annexed as shown on Exhibit A attached hereto.

BE IT ALSO ORDAINED that the Official Map of the City of Smyrna be amended to show the annexation of said property.

SO ORDAINED by the City Council of the City of Smyrna, this 4th day of June, 2001.


A. Max Bacon, Mayor


Kellie Barber, City Clerk
City of Smyrna

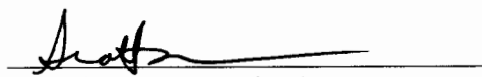

Scott A. Cochran, City Attorney
City of Smyrna

EXHIBIT C

Legal Description
Annexation

All that tract of land lying and being in Land Lots 524, 525, 526, 527, 528, 554, 555, 556, 557, 596, 597, and 598 of the 17th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the intersection of the northern right of way of Daniell Drive with the eastern right of way of King Springs Road; thence northerly along said right of way King Springs Road a distance of 100 feet to a point, said point being the **POINT OF BEGINNING**; thence easterly 204.5 feet to a point; thence northerly 98.2 feet to a point; thence easterly 330 feet to a point; thence southerly a distance of 188.4 feet to a point on the northern right of way on Daniell Drive; thence westerly along said right of way of Daniell Drive a distance of 45 feet more or less to a point; thence southerly a distance of 340 feet to a point; thence easterly a distance of 437 feet to a point on the eastern right of way of Dunn Street; thence northerly along said right of way of Dunn Street a distance of 285 feet to a point at the intersection of eastern right of way of Dunn Street with the southern right of way of Daniell Drive; thence easterly along said right of way of Daniell Drive a distance of 175 feet to a point; thence northerly a distance of 145 feet to a point; thence easterly a distance of 184.5 feet to a point on the western right of way of Lee Street; thence northerly along said right of way of Lee Street a distance of 510 feet to a point; thence westerly 192 feet to a point; thence northerly a distance of 100 feet to a point; thence easterly a distance of 250 feet to a point on the eastern right of way of Lee Street; thence southerly along said right of way of Lee Street a distance of 50 feet more or less to a point; thence easterly a distance of 195.5 feet to a point; thence southerly a distance of 120 feet to a point; thence westerly a distance of 55 feet more or less to a point; thence southerly 363 feet to a point; thence easterly a distance of 50 feet to a point; thence southerly a distance of 140 feet to a point; thence westerly a distance of 40 feet to a point; thence southwesterly a distance of 135 feet to a point on the northern right of way of Forest Drive; thence westerly along said right of way of Forest Drive a distance of 128 feet to a point at the intersection of the northern right of way Forest Drive with the eastern right of way of Lee Street; thence southerly along said right of way of Lee Street a distance of 150 feet to a point; thence westerly 235 feet to a point; thence southerly 400 feet to a point; thence easterly a distance of 235 feet to a point on the eastern right of way of Lee Street; thence easterly and southeasterly a distance of 220 feet to a point; thence southeasterly a distance of 125 feet to a point on the northern right of way of Dogwood Circle; thence easterly along said right of way of Dogwood Circle a distance of 120 feet to a point; thence northerly 88.5 feet to a point; thence northeasterly a distance 262 feet to a point on an unnamed creek; thence southeasterly along said unnamed creek a distance of 430 feet to a point; thence westerly 470 feet to a point; thence northwesterly a distance of 73 feet to a point; thence southwesterly a distance of 201 feet to a point at the intersection of the southwestern right of way of Lee Street with the northwestern right of way of Marion Street; thence southwesterly along said right of way of Marion Street a distance of 115.7 feet to a point; thence westerly 246.9 feet to a point; thence southerly a distance of 174.9 feet to a point on the southern right of way of Hayes Street; thence

westerly along said right of way of Hayes Street a distance of 330 feet to a point; thence southerly a distance of 185 feet to a point; thence westerly a distance 110 feet to a point; thence southeasterly a distance of 195.2 feet to a point; thence westerly a distance of 187.5 feet to a point; thence northwesterly a distance 230.1 feet to a point; thence westerly a distance of 39 feet to a point; thence northerly a distance of 146.5 feet to a point on the southern right of way of Hayes Drive; thence westerly along said right of way of Hayes Drive a distance of 132 feet to a point at the intersection of the southern right of way of Hayes Drive with the eastern right of way of King Springs Road; thence southeasterly along said right of way of King Springs Road a distance of 1050 feet more or less to a point; thence northeasterly a distance of 293 feet more or less to a point; thence southerly a distance of 51.2 feet to a point; thence southwestery a distance of 59.8 feet to a point; thence southerly a distance of 155 feet to a point; thence westerly a distance of 190.1 feet to a point on the eastern right of way of King Springs Road; thence southeasterly along said right of way of King Springs Road a distance of 836 feet more or less to a point; thence easterly a distance of 246 feet to a point; thence northwesterly a distance of 729 feet to a point on the northern lot line of Land Lot 528; thence easterly along northern lot line of Land Lot 528 a distance of 435.6 feet to a point at the intersection of Land Lots 527, 528, 553, and 554; thence easterly along the southern lot line of Land Lot 554 a distance of 934.7 feet to a point; thence northerly a distance of 173.7 feet to a point at the intersection of the northern right of way of Ashwood Drive with the easterly right of way of Twin Oaks Drive; thence northeasterly along said right of way of Twin Oaks Drive a distance of 1000 feet more or less to a point at the intersection of the southern right of way of Hickory Circle with the eastern right of way of Twin Oaks Drive; thence northwesterly along a creek a distance of 190 feet more or less to a point on the southern lot line of Land Lot 555; thence westerly along said lot line of Land Lot 555 a distance of 315.5 feet to a point on the eastern right of way of Lee Street; thence northwesterly along said right of way of Lee Street a distance of 110 feet to a point; thence northeasterly a distance of 530 feet more or less to a point on the western right of way of Colby Circle; thence southerly along said right of way of Colby Circle a distance of 119 feet to a point; thence southerly a distance of 247 feet to a point on the southern lot line of Land Lot 555; thence easterly along said lot line of Land Lot 555 a distance of 138.4 feet to a point at the common intersection of Land Lots 554, 555, 598, and 599; thence easterly along the southern lot line of Land Lot 598 a distance of 644.7 feet to a point; thence northerly a distance of 1032 feet to a point on the southern lot line of Land Lot 597; thence westerly along said lot line of Land Lot 597 a distance of 305 feet to a point; thence northerly a distance of 405.4 feet to a point; thence westerly a distance of 335 feet to a point on the eastern right of way of Pinetree Drive; thence northerly along said right of way of Pinetree Drive a distance of 200 feet to a point; thence easterly 336 feet to a point; thence northerly a distance of 1300 feet to a point on the southern and eastern right of way of Collier Drive; thence northerly along said right of way of Collier Drive a distance 730 feet to a point; thence westerly a distance of 230.7 feet to a point; thence northerly a distance of 20 feet more or less to the point on the northern lot line of Land Lot 596; thence westerly along the northern lot line of Land Lots 596 and 557 a distance of 550 feet to a point; thence southerly a distance of 217 feet to a point; thence westerly a distance of 200 feet to a point; thence northerly a distance of 217 feet to a point on the northern lot line of Land Lot 557; thence westerly along said lot

line of Land Lot 557 a distance of 670 feet to a point on the eastern right of way of Lee Street; thence southerly along said right of way of Lee Street a distance of 218 feet to a point; thence westerly a distance of 240 feet to a point; thence northerly a distance of 218 feet to a point on the northern lot line of Land Lot 524; thence westerly along said lot line of Land Lot 524 a distance of 566.2 feet to a point; thence southerly a distance of 251.5 feet to a point; thence easterly a distance of 325.7 feet to a point on the western right of way of Dunn Street; thence southerly along said right of way of Dunn Street a distance of 100 feet to a point; thence westerly a distance of 332.1 feet to a point; thence southerly a distance of 660 feet more or less to a point; thence westerly a distance of 400 feet to a point on the eastern right of way of King Springs Road; thence southerly along said right of way of King Springs Road a distance of 355 feet more or less to a point on the southern lot line of Land Lot 524; thence easterly along said lot line of Land Lot 524 a distance of 422.7 feet to a point; thence southerly a distance 100 feet to a point; thence easterly a distance of 255 feet to a point; thence southerly a distance of 691 feet to a point; thence westerly a distance of 645.4 feet to a point on the eastern right of way of King Springs Road; thence southerly along said right of way of King Springs Road a distance of 422.5 feet to the **POINT OF BEGINNING**.

June 4, 2001

The regular scheduled meeting of Mayor and Council was held at Smyrna City Hall. Presiding officer Mayor A. Max Bacon called the meeting to order at 7:30 o'clock p.m. All council members were present. Also present was City Administrator Howard Smith, Former City Clerk Melinda Dameron, City Attorney Scott Cochran and representatives of the press.

Invocation was given by Councilman Hawkins, followed by the pledge to the flag.

CITIZENS INPUT:

Mayor Bacon recognized Officer Frank Durrance, Smyrna Police Department STEP Officer, who stated that the Smyrna Police Department participated in a child seat check on May 19th at Cub Foods. Officer Durrance thanked White Water Theme Park for donating tickets for a raffle drawing, and Cub Foods for donating hot dogs and soft drinks. Mayor Bacon commended the Police Department for their efforts.

Mayor Bacon recognized Ms. Melleny Pritchett, Ward 1 candidate, who encouraged Ward 1 citizens to vote for her in the June 19th election.

PUBLIC HEARINGS:

(A) Rezoning Request—9.80 Acres—Cooper Lake Road—From R-20 to RAD Conditional.

Mayor Bacon stated that this is a public hearing and asked for public comment. There was none.

Councilman Wood stated that this item was tabled from the May 19, 2001, Council Meeting and that there are current water drainage issues that need to be addressed. Councilman Wood made a motion to table the rezoning request of the 9.80 acres on Cooper Lake Road from R-20 to RAD Conditional until the June 18, 2001, Council Meeting. Councilman Cramer seconded the motion to table. Motion was approved 6-0.

(B) Zoning Request—Extension of Apartment Moratorium.

Mr. Smith stated that the current apartment moratorium has been in effect for the past decade. Mayor Bacon stated that this is a public hearing and asked for public comment. There was none.

Councilman Newcomb made a motion to extend the apartment moratorium from July 3, 2001 to January 3, 2002. Councilman Scoggins seconded the motion. Motion was approved 6-0.

(C) Island Annexation—206 Acres—Dunn Street, Collier Drive, Lee Street, King Springs Road, Marion Street, Spruce Drive, Ashwood Drive, Kingsview Drive, Kingsview Circle, Pretty Branch Drive, Northview Place, Hayes Drive, Collier Drive, Twin Oaks Drive, Ashwood Drive, Pretty Branch Road, Peachtree Drive, Colby Drive and Memory Lane.

Mr. Smith stated the City of Smyrna has made a commitment to annex all unincorporated islands that exist within city boundaries. Mayor Bacon stated that this is a public hearing and asked for public comment. Mr. Cochran administered the oath to those wishing to speak.

Mayor Bacon recognized Mr. Pat Terry, 3305 Dunn Street, who stated that the Forest Hills neighborhood is unique and asked the City of Smyrna to respect their individuality, character and R-20 zoning. Mr. Terry asked Mayor and Council to pursue a Greenspace Preservation plan.

Mayor Bacon introduced Mr. Bob Wiseman, 3358 Pretty Branch Drive, who asked when his taxes would be due and Councilman Hawkins stated taxes would not be due until 2002. Mr. Wiseman requested consideration of phasing in taxes, or assessing a lower tax rate if full services are not provided.

Mayor Bacon recognized Mr. Jimmy Franklin, 3353 Dunn Street, who stated that he does not want another tax and would like the opportunity to vote on the annexation.

Mayor Bacon recognized Mr. Phil Minetti, 4252 Lake Laurel Drive, who requested that Mayor and Council postpone their vote on this annexation. Mr. Minetti said their research indicates that there were some areas in this island that were previously annexed which do not meet the legal parameters.

Mayor Bacon recognized Mr. Chris Landrum, 1424 Forest Drive, who asked Mayor Bacon to explain the street light request process, and Mayor Bacon stated that the City Engineer would speak with all affected property owners and make the location determination. Mayor Bacon stated that the City of Smyrna would then contract with Georgia Power to have the streetlights installed, on request from the residents.

Councilman Hawkins stated that this area is unquestionably in the heart of Smyrna and for years most have assumed that they are city residents. Councilman Hawkins said he felt this is long overdue and firmly believed it to be in the best interest of everyone living there. Councilman Hawkins read the

resolution for the annexation of this unincorporated island and made a motion it be approved. Councilman Newcomb seconded and said he would support the motion because this annexation is consistent with others. This island is in the heart of the City and has existed for quite some time and the annexation should eliminate jurisdictional problems. Vote on the motion was approved 6-0.

(D) Presentation of Proposed FY2002 Budget.

Budget Officer Greg Van Antwerp presented the proposed FY2002 budget totaling \$40,213,765. There were no questions or comments from the audience. Councilman Hawkins stated this budget contains an overall increase of 5.5% from current year. The millage rate cannot be set until the tax digest is received in August, but it is anticipated that there will be no increase. Councilman Hawkins said a copy of the proposed budget is available for inspection in the office of the City Clerk.

FORMAL BUSINESS:

(A) Authorize Mayor to Sign Resolution Authorizing Media One of Colorado to Provide Cable Services until December 4, 2001.

Howard Smith stated that Media One has been serving a small area of the City without an authorized franchise agreement and this resolution will allow them to continue to provide cable services for a limited period of time.

Councilman Hawkins said a resolution has been prepared and basically, Media One is providing service to a small portion in the City and we are still in negotiations with them. They have submitted an application for a cable franchise to the City on August 3, 1999 and now request another extension of the agreement term to allow adequate time for the negotiations process.

Councilman Hawkins made a motion the resolution be approved, to allow Media One to continue to provide cable services in the City for a limited period of time. Councilman Scoggins seconded the motion, which carried 6-0.

(B) Authorize Mayor to Execute Georgia Greenspace Program Award Agreement.

Howard Smith stated the City has applied for grant funds from the Georgia Department of Natural Resources for the Georgia Greenspace Program, and was awarded \$227,769.

Councilman Wood made a motion the Mayor be authorized to execute the Georgia Greenspace Program Grant Award Agreement. Councilman Cramer seconded the motion, which carried 6-0.

(C) Validate Petition for Annexation—6.70 Acres—Oakdale Road—Land Lot 55, 18th District, 2nd Section, Cobb County, Georgia.

Councilman Wood said this annexation has been requested by James Freeman and made a motion the petition be validated and the public hearing set for July 2, 2001. Councilman Cramer seconded the motion, which was approved 6-0.

(D) Validate Petition for Annexation—9.82 Acres—Dickerson Road—Land Lot 62, 18th District, 2nd Section, Cobb County, Georgia.

Councilman Wood stated this annexation has been requested by James Freeman and made a motion the petition be validated and a public hearing set for July 2, 2001. Councilman Cramer seconded the motion, which carried 6-0.

(E) Reappointment of DDA Members.

Councilman Scoggins made a motion the following members be reappointed to the Downtown Development Authority for a one year term:

A. Max Bacon, Chairman	Hubert Black
C. J. Fouts	Jim Pitts
Melinda Dameron	Eric Cash
Doug Stoner	Larry Freeman

Councilman Hawkins seconded the motion, which carried 6-0.

COMMERCIAL BUILDING PERMITS:

There were none.

BID AWARDS:

There were none.

CONSENT AGENDA:

- (A) Approval of May 21, 2001 minutes
- (B) Approval to close Austin Lake Drive to non-resident motorized vehicles for a block party from 6:00 p.m. to 8:30 p.m. on October 31, 2001
- (C) Approval to transfer \$47,000 from FY2001 Contingency funds to Library's Buildings and Improvement budget for the construction of Genealogy/Georgia History Room
- (D) Approval to purchase new network switches for City Hall on State contract
- (E) Approval to purchase sniffer basic network analysis software and hardware bundle on State contract
- (F) Approval to advertise for the abandonment of Hardin Road

Councilman Wood made a motion the consent agenda be approved. Councilman Cramer seconded the motion, which carried 6-0.

COMMITTEE REPORTS:

Councilman Cramer stated the Community Development department has been short of staff recently and apologized to the residents of Ward 5 who may have unanswered code violation complaints.

Councilman Hawkins said the annexation approved earlier tonight was a positive step and felt the people living in that area would be pleased.

Councilman Newcomb stated that it appears construction of the linear park on Spring Road will begin soon because equipment is on the site.

Howard Smith stated the City is sponsoring its first annual tennis championship this year at Tolleson Park and Campbell High School facilities, the "Smyrna Classic 2001."

ADJOURNMENT

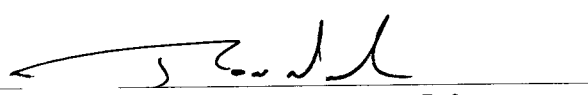
With no further business, the meeting adjourned at



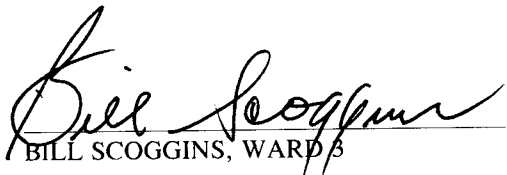
A. MAX BACON, MAYOR

KELLIE BARBER, ACTING CITY CLERK

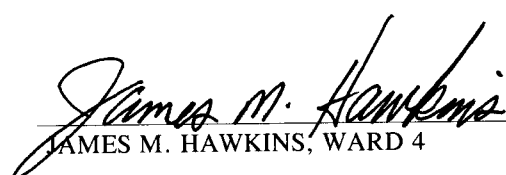
VACANT, WARD 1



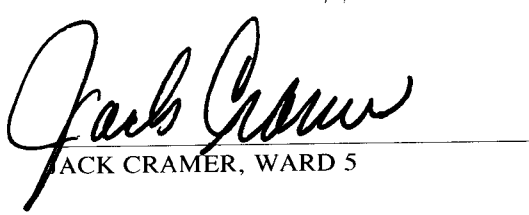
RON NEWCOMB, WARD 2



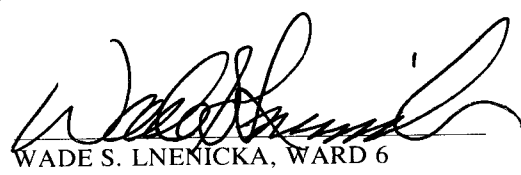
BILL SCOGGINS, WARD 3



JAMES M. HAWKINS, WARD 4



JACK CRAMER, WARD 5



WADE S. LLENICKA, WARD 6



CHARLES PETE WOOD, WARD 7

Sec. 1208. - Substandard nonconforming lots of record.

After April 2, 2007, no residential structure shall be built on a lot that has been platted but does not meet all requirements of the zoning category or designation applicable to the property.

Any request for deviation from the requirements of this ordinance shall be processed through the variance procedure set forth in Article XIV of "Appendix A-Zoning" of the Smyrna Code of Ordinances.

(Ord. No. 2007-3, 4-2-07)

EXHIBIT D