

# APPLICATION FOR REZONING TO THE CITY OF SMYRNA

*Type or Print Clearly*

(To be completed by City)

Ward: \_\_\_\_\_

Application No: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

**\*APPLICANT:** Smyrna Residential, LLC.

Name: Jay T. Clark

(Representative's name, printed)

Address: 2849 Paces Ferry Road, Suite 625, Atlanta, Ga. 30339

Business Phone: 404-504-0500 Cell Phone: 404-285-6723 Fax Number: 404-504-9866

E-Mail Address: jaytclark@seccompanies.com

Signature of Representative: 

BY:

Jay T. Clark  
Principal and Managing General Partner

**\*  
TITLEHOLDER**

Name: Smyrna Downtown Development Authority

(Titleholder's name, printed)

Address: 2800 King Street, Smyrna, Ga. 30080

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: \_\_\_\_\_

**\*Applicant's and Titleholder's Representative:**

J. Kevin Moore, Esq.  
Moore Ingram Johnson & Steele, LLP  
(See separate Exhibit "A" for contact  
information)

**ZONING REQUEST**

From RM-12 to RAD-Conditional  
Present Zoning Proposed Zoning

**LAND USE**

From Urban Residential to Urban Residential  
Present Land Use Proposed Land Use

For the Purpose of developing 194 single-family, detached, residential houses

Size of Tract Approximately 47.5 acres

Location 490 Windy Hill Road (at the corner of Windy Hill Rd. and Old Concord Rd.)  
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 274, 303, and 304 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 the best of our knowledge, information, and belief.

Not Applicable.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(To be completed by City)

Recommendation of Planning Commission:  
\_\_\_\_\_  
\_\_\_\_\_

Council's Decision:  
\_\_\_\_\_  
\_\_\_\_\_

**CONTIGUOUS ZONING**

**North:** GC, OI

**East:** GC

**South:** R-15 - Single-Family Residential; RM-12, NS (Cobb County)  
(City of Smyrna)

**West:** LRC, NS, R-15 (Cobb County)

**CONTIGUOUS LAND USE**

**North:** Mixed-Use

**East:** Mixed-Use

**South:** Suburban Residential (City of Smyrna)  
High Density Residential (Cobb County)

**West:** Neighborhood Activity Center (NAC), 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:

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### **TRANSPORTATION**

Access to Property? The Smyrna Grove Property is accessed at two (2) points: one access point is a gate off of Old Concord Rd. and the second access point is a gate off of Windy Hill Rd.

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Improvements proposed by developer? The developer will construct the new streets, including curb and guttering, for the entire, new residential sub-division, as reflected on the Site Plat.

The 2 access points mentioned above will be gated during the build-out but then remain open upon dedication to the City of Smyrna.

Comments:

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## **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?

The Applicant has not made any campaign contributions to the Mayor or to any member of the City Council or Planning and Zoning Board within two years immediately prior to this application.

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

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

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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

No.

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

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**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?

Neither the Mayor nor any member of the City Council or Planning and Zoning Board

have a financial interest in Smyrna Residential, LLC, Southeast Capital Companies, or any affiliated companies.

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

Not Applicable.

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

No.

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

Not Applicable.

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

We certify that the foregoing information is true and correct, this 13th day of June, 2014.

SMYRNA RESIDENTIAL, LLC

BY:

  
(Applicant's Signature)

Jay T. Clark

Principal and Managing General Partner

(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.

**APPLICANT'S AND TITLEHOLDER'S REPRESENTATIVE  
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.

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

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

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

Not Applicable.

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

Not Applicable.

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

Not Applicable.

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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.

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

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**APPLICANT'S AND TITLEHOLDER'S REPRESENTATIVE**  
**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.

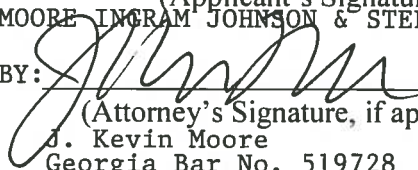
If so, describe the nature and extent of such interest:  
Not Applicable.

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?  
No.

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

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

We certify that the foregoing information is true and correct, this 13th day of June, 20 14.

(Applicant's Signature)  
MOORE INGRAM JOHNSON & STEELE, LLP  
BY:   
(Attorney's Signature, if applicable)  
J. Kevin Moore  
Georgia Bar No. 519728

**Notes**

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

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



## REZONING ANALYSIS

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

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

The proposal to develop approximately 200 new, single-family homes in an  
area predominantly multi-family and aged single-family residential will only  
elevate the surrounding properties in terms of future value and potential.

As such, the proposal is suitable.

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

The prior use of the Property as multi-family existed for many years and  
served to detract from the use of the surrounding area. By comparison,  
the proposal for approximately 200 single-family homes will create new,  
positive energy and impacts on surrounding values.

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

The Property as currently zoned for multi-family does have a reasonable  
economic use.

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**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.

By comparison to the prior use of the Property as multi-family, the  
proposal will significantly decrease the impacts on municipal infrastructure.

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

The proposal is consistent with the Land Use Plan and the City's vision of  
redevelopment.

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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 prior use of this Property as blighted, multi-family, now demolished,  
provides the opportunity for the subject proposal to create a halo effect  
on the surrounding area; and improve the quality of life for the community  
as a whole.

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**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.

By comparison to the prior, dilapidated multi-family use, the proposal  
will greatly enhance the overall quality and aesthetics of the neighborhood.

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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 significantly bolsters the surrounding area, especially  
in comparison to the prior, multi-family use. As such, the proposal is  
not a nuisance nor incompatible.

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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.

By comparison to the prior multi-family use, the proposal significantly  
impacts the area in a positive manner by injecting approximately 200 single-  
family homes into an area long known as transient.

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**EXHIBIT "A" -ATTACHMENT TO APPLICATION FOR REZONING**

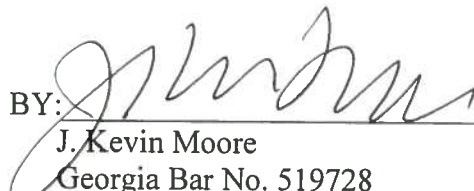
Application No.: \_\_\_\_\_  
Hearing Dates: \_\_\_\_\_, 2014 and  
\_\_\_\_\_, 2014

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

**Applicant:** Smyrna Residential, LLC  
**Titleholder:** Smyrna Downtown Development Authority


**APPLICANT'S AND TITLEHOLDER'S REPRESENTATIVE:**

MOORE INGRAM JOHNSON & STEELE, LLP

BY:   
J. Kevin Moore  
Georgia Bar No. 519728

Attorneys for Applicant and Titleholder

Signed, sealed, and delivered in the presence of:

  
\_\_\_\_\_  
Notary Public  
Commission Expires: January 10, 2015

[Notarial Seal]



Moore Ingram Johnson & Steele, LLP  
Attorneys at Law  
Emerson Overlook  
326 Roswell Street  
Marietta, Georgia 30060  
(770) 429-1499  
(770) 429-8631 (Telefax)  
E-mail: [jkm@mijs.com](mailto:jkm@mijs.com)  
[W7@mijs.com](mailto:W7@mijs.com)

Deed Book 14820 Pg 6225  
Filed and Recorded Dec-15-2010 02:04pm  
2010-0162929  
Real Estate Transfer Tax \$0.00

J.C. Stephenson

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

Space Above This Line for Recorder's Use

After recording return to:  
Calloway Title & Escrow, LLC  
David W. Dudley-25607  
4170 Ashford Dunwoody Rd. Ste. 285  
Atlanta, Georgia 30319

After recording, please return to:  
Scott Cochran, Esq  
Cochran & Edwards  
Attorneys at Law  
2950 Atlanta Road, SE  
Smyrna, GA 30080

STATE OF GEORGIA

COUNTY OF COBB

**LIMITED WARRANTY DEED**

THIS INDENTURE is made this 9<sup>th</sup> day of December, 2010, by and between AMTAX Holdings 665, LLC, hereinafter called "Grantor", and Downtown Smyrna Development Authority, hereinafter called "Grantee". The words "Grantor" and "Grantee" include the neuter, masculine and feminine genders, and the singular and the plural.

**WITNESSETH:**

**FOR AND IN CONSIDERATION** of the sum of Ten Dollars (\$10.00) in hand paid to Grantor by Grantee at and before the execution, sealing and delivery hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee, and the successors, legal representatives and assigns of Grantee, all that tract or parcel of land lying and being in Land Lots 274, 303 and 304 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference.

**TO HAVE AND TO HOLD** said tract or parcel of land, together with any and all of the rights, members and appurtenances thereof to the same being, belonging or in anywise appertaining to the only proper use, benefit and behalf of Grantee forever, in fee simple; and

**GRANTOR SHALL WARRANT** and forever defend the right and title to said tract or parcel of land unto Grantee, and the successors, legal representatives and assigns of Grantee, against the claims of all persons whomsoever, claiming by, through or under Grantor, but not otherwise; provided, however, that the warranties of title made by Grantor herein shall not

extend to any claims arising under any matter set forth on Exhibit "B", attached hereto and incorporated herein by reference.

The conveyance under this Limited Warranty Deed is exempt from the tax imposed by Georgia Code §48-6-1 pursuant to the exemption set forth in Georgia Code §48-6-2(a)(3).

IN WITNESS WHEREOF, Grantor, acting by and through its general partner, has executed and sealed this indenture, and delivered this indenture to Grantee, all the day and year first written above.

**GRANTOR:**

**AMTAX HOLDINGS 665, LLC**, an Ohio limited liability company

By: Capmark Affordable Properties Inc. (formerly known as Paramount Properties, Inc.), Debtor-in-Possession, a Delaware corporation, its manager

By: [Signature]  
Name: Alisa B. Kennedy  
Title: Senior Vice President

Signed, sealed and delivered AMTAX Holdings 665, LLC  
in the presence of:

Angela Brandenstein  
BY: Angela Brandenstein (SEAL)

Unofficial Witness

TITLE: Assistant Vice President

[Signature]

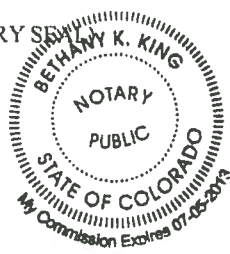
ATTEST: Bethany K. King (SEAL)

Notary Public

TITLE: AVP Senior Paralegal

MY COMMISSION EXPIRES: 7-5-2013 [CORPORATE SEAL]

(AFFIX NOTARY SEAL)



#9938582\_v1

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 274, 303 and 304 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, containing 47.523 acres and being more particularly described as follows:

BEGINNING at an iron pin at the southeast corner of Land Lot 303 and the northeast corner of Land Lot 304 (said iron pin also being on the westerly right of way line of Old Concord Road) (right of way varies); thence along the said westerly right of way line of Old Concord Road and the easterly line of Land Lot 304 South 01 degree 53 minutes 04 seconds East a distance of 681.38 feet to a nail on the northeasterly line of a 50 foot right of way of Smyrna - Powder Springs Road; thence leaving said right of way line of Old Concord Road and easterly line of Land Lot 304 and along the said northeasterly right of way line of Smyrna - Powder Springs Road along the arc of a curve to the right a distance of 566.11 feet (chord Bearing North 53 degrees 36 minutes 04 seconds West, chord distance of 561.93 feet, radius 1,342.62 feet) to a point; thence continuing along said right of way line North 38 degrees 20 minutes 07 seconds West a distance of 78.43 feet to a point; thence along the arc of a curve to the left a distance of 254.78 feet (chord bearing North 54 degrees 06 minutes 26 seconds West, chord distance of 250.26 feet, radius 389.33 feet) to an iron pin; thence leaving said right of way line North 00 degrees 24 minutes 00 seconds East a distance of 144.08 feet to a nail on the northerly line of Land Lot 304; thence along said Land Lot Line North 89 degrees 36 minutes 00 seconds West a distance of 655.00 feet to an iron pin at the Land Lot Corner common to Land Lots 273, 274, 303 and 304; thence along the South line of Land Lot 274 South 85 degrees 46 minutes 00 seconds West a distance of 381.33 feet to an iron pin on the southeasterly right of way line of Benson Pool Road (right of way varies); thence along said right of way line along the arc of a curve a distance of 190.67 feet (chord bearing North 21 degrees 06 minutes 19 seconds East, chord distance of 190.66 feet, radius 5,945.40 feet) to a point; thence continuing along said right of way line North 18 degrees 45 minutes 42 seconds East a distance of 517.39 feet to a point; thence along the arc of a curve to the right a distance of 302.04 feet (chord bearing North 24 degrees 35 minutes 27 seconds East, chord distance of 301.85 feet, radius 2,467.25 feet) to an iron pin; thence South 61 degrees 54 minutes 15 seconds East a distance of 4.89 feet to an iron pin; thence North 27 degrees 02 minutes 46 seconds East a distance of 22.00 feet to a point; thence along the arc of a curve to the right a distance of 248.88 feet (chord bearing North 31 degrees 59 minutes 01 second East, chord distance of 248.55 feet, radius 1,395.57 feet) to a point; thence North 37 degrees 05 minutes 33 seconds East a distance of 31.74 feet to an iron pin; thence North 61 degrees 17 minutes 24 seconds East a distance of 74.02 feet to an iron pin on the southerly right of way line of Jones Shaw Road (right of way varies); thence leaving said right of way line of Benson Pool Road and along the said right of way line of Jones Shaw Road North 88 degrees 31 minutes 12 seconds East a distance of 1,062.24 feet to an iron pin; thence South 47 degrees 31 minutes 37 seconds East a distance of 37.81 feet to an iron pin on the westerly right of way line of Old Concord Road; thence leaving said right of way line of Jones Shaw Road and along said right of way line of Old Concord Road South 01 degree 25 minutes 39

seconds East a distance of 104.59 feet to an iron pin; thence continuing along right of way line North 88 degrees 25 minutes 39 seconds East a distance of 2.00 feet to an iron pin on the easterly line of Land Lot 303; thence continuing along said right of way line and Land Lot Line South 01 degree 34 minutes 21 seconds East a distance of 1,110.22 feet to an iron pin at the southeast corner of Land Lot 303 and the point of BEGINNING.

LESS AND EXCEPT from the above described property that portion of the property conveyed by that certain Right of Way Deed from Hickory Lake LP to Cobb County, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3658, Records of Cobb County, Georgia.

FURTHER LESS AND EXCEPT from the above described property that portion of the property conveyed by that certain Right of Way Deed from Hickory Lake LP to Cobb County, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3668, aforesaid Records.



EXHIBIT "B"

1. All taxes for the year 2011 and subsequent years.
2. Rights of tenants in possession under unrecorded leases.
3. Easement from D.T. Roebuck to Georgia Power Company, dated July 9, 1962, filed for record July 30, 1962 at 4:30 p.m., recorded in Deed Book 655, Page 366, Records of Cobb County, Georgia.
4. Easement from Deville Apts., Inc. to Georgia Power Company, dated October 8, 1965, filed for record October 29, 1965 at 11:00 a.m., recorded in Deed Book 873, Page 318, aforesaid Records.
5. Permit for Anchors, Guy Poles and Wires from Bernard Jaffe to Georgia Power Company, a corporation, dated December 28, 1967, filed for record March 14, 1968 at 4:00 p.m., recorded in Deed Book 1027, Page 315, aforesaid Records.
6. Easement from Armond R. Caplan, Alan H. Fleder and Bernard Jaffee [sic] to Georgia Power Company, dated June 10, 1968, filed for record September 24, 1968 at 2:00 p.m., recorded in Deed Book 1060, Page 67, aforesaid Records.
7. Easement from B. Jaffe, A. Fleder and Armond R. Caplan to Georgia Power Company, dated October 22, 1970, filed for record May 11, 1971 at 9:00 a.m., recorded in Deed Book 1223, Page 5, aforesaid Records.
8. Easement (sewer purposes) from Two Trees Apts. Inc. to Cobb County, a political subdivision of the State of Georgia, dated November 22, 1974, filed for record November 27, 1974 at 10:20 a.m., recorded in Deed Book 1571, Page 161, aforesaid Records.
9. Easement from TM Arbor Lake Associates dba Mallard Pointe to Georgia Power Company, dated November 18, 1985, filed for record December 10, 1985 at 9:24 a.m., recorded in Deed Book 3752, Page 485, aforesaid Records.
10. Easements as contained in that certain Right-of-Way Deed from Northwest Cobb I Limited Partnership to Cobb County, Georgia, dated January 20, 1993, filed for record March 9, 1993 at 12:45 p.m., recorded in Deed Book 7191, Page 100, aforesaid Records. (Jones Shaw Road)
11. Easement from Northwest Cobb I Ltd. Partnership to BellSouth Telecommunications, Inc., a Georgia corporation, dated April 26, 1994, filed for record May 13, 1994 at 1:07 p.m., recorded in Deed Book 8250, Page 297, aforesaid Records.

12. Telecommunications Services Agreement by and between OnePoint Communications-Georgia, LLC and Northwest Cobb I LLC, undated, filed for record March 21, 2001 at 3:59 p.m., recorded in Deed Book 13342, Page 2726, aforesaid Records.
13. Memorandum of Easement by and between Northwest Cobb I, LLC, a Georgia LLC and Vista Broadband Communications, LLC, d/b/a Charter Communications, dated effective as of January 18, 2000, filed for record February 1, 2002 at 8:14 a.m., recorded in Deed Book 13487, Page 1956, aforesaid Records.
14. Declaration of Easements by Northwest Cobb I Limited Partnership, a Georgia limited partnership, dated November 8, 1994, filed for record November 14, 1994 at 10:37 a.m., recorded in Deed Book 8586, Page 458, aforesaid Records.
15. Easement for Anchors Guy Poles and Wires from Hickory Lake, LP to Georgia Power Company, a Georgia corporation, dated October 21, 2009, filed for record November 16, 2009 at 9:10 a.m., recorded in Deed Book 14736, Page 4754, aforesaid Records.
16. Right of Way Deed from Hickory Lake, LP to Cobb County, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3656, aforesaid Records.
17. Temporary Construction Easement for Construction of Slopes from Hickory Lake, L.P. to Cobb County, a political subdivision of the State of Georgia, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3662, aforesaid Records.
18. Right of Way Deed from Hickory Lake, LP to Cobb County, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3668, aforesaid Records.
19. Temporary Construction Easement for Construction of Slopes from Hickory Lake, LP to Cobb County, a political subdivision of the State of Georgia, dated October 1, 2009, filed for record November 18, 2009 at 2:21 p.m., recorded in Deed Book 14737, Page 3673, aforesaid Records.
20. Grant of Easement by and between Hickory Lake, LP and Vista Broadband Communications, LLC, Charter Communications Operating, LLC, dated effective as of October 1, 2009, filed for record April 13, 2010 at 4:14 p.m., recorded in Deed Book 14765, Page 3122, aforesaid Records.

21. Those matters as disclosed by that certain survey entitled "Hickory Lake Apartments Updated ALTA/ACSM Survey For: Hickory Lake LP, a Georgia limited partnership, Housing Authority of Cobb County, Georgia, its successors and assigns, SunTrust Bank, its successors and assigns, GMAC Commercial Holding Capital Corp., a Colorado corporation, its successors and assigns and First American Title Insurance Company", prepared by Bostwick, Duke Harper & Worthy, Inc., bearing the seal and certification of H. E. Harper, Georgia Registered Land Surveyor No. 1331 and bearing the seal and certification of George M. Venable, Jr., Georgia Registered Land Surveyor No. 1331, dated April 8, 1991, last revised December 12, 2002, as follows:
- (a) Thirty-five (35') foot setback line along the Rights-of-Way of Smyrna - Powder Springs Road, Old Concord Road and Bensen Poole Road and along the southeasterly boundary line of subject property;
  - (b) Fifty (50') foot setback line along the Right-of-Way of Jones Shaw Road; and
  - (c) Buildings 1500, 1700 and 2000 encroaching into the thirty-five (35') foot setback line along the southerly boundary line of subject property.

PARID: 17030300010  
DOWNTOWN SMYRNA  
DEVELOPMENT AUTHORITY

NEIGHBORHOOD: 19C03

TAX YEAR: 2014  
490 WINDY HILL RD

**Parcel**

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Class	Exempt - Public Property
Total Acres	48.43
Total Land Sqft	2109523
Address	490 WINDY HILL RD
Neighborhood	19C0 - 3

**Owner**

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Owner	DOWNTOWN SMYRNA DEVELOPMENT AUTHORITY
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**Legal**

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Tax District	6 - SMYRNA
Subdivision Number	

## LEGAL DESCRIPTION

All of that tract or parcel of land lying and being in Land Lots 274, 303, and 304 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, City of Smyrna, Cobb County, Georgia, being more particularly described as follows:

BEGINNING at a point along the western right-of-way of Old Concord Road, point being the northeast corner of Land Lot 304, being the corner common to Land Lots 303, 304, 345, and 346; THENCE south 01 degrees 53 minutes 04 seconds east for a distance of 681.38 feet to a point where the eastern right-of-way of Old Concord Road intersects with the northern right-of-way of Smyrna-Powder Springs Road; THENCE along a curve to the right having a radius of 1342.62 feet and an arc length of 566.11 feet, being subtended by a chord of north 53 degrees 36 minutes 04 seconds west for a distance of 561.93 feet to a point on the northern right-of-way of Smyrna-Powder Springs Road; THENCE north 38 degrees 20 minutes 07 seconds west for a distance of 78.43 feet to a point on the northern right-of-way of Smyrna-Powder Springs Road; THENCE along a curve to the left having a radius of 389.33 feet and an arc length of 254.77 feet, being subtended by a chord of north 54 degrees 06 minutes 21 seconds west for a distance of 250.25 feet to a point on the northern right-of-way of Smyrna-Powder Springs Road; THENCE north 00 degrees 24 minutes 00 seconds east for a distance of 144.08 feet to a point on the northern Land Lot line of Land Lot 304; THENCE north 89 degrees 36 minutes 00 seconds west for a distance of 655.00 feet to a point at the northwest corner of Land Lot 304, being the corner common to Land Lots 273, 274, 303 and 304; THENCE south 85 degrees 46 minutes 00 seconds west for a distance of 378.93 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE north 23 degrees 28 minutes 13 seconds east for a distance of 27.81 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE along a curve to the left having a radius of 1738.00 feet and an arc length of 139.28 feet, being subtended by a chord of north 21 degrees 10 minutes 28 seconds east for a distance of 139.24 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE north 18 degrees 52 minutes 44 seconds east for a distance of 423.04 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE north 19 degrees 02 minutes 31 seconds east for a distance of 107.58 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE along a curve to the right having a radius of 1227.00 feet and an arc length of 158.88 feet, being subtended by a chord of north 22 degrees 44 minutes 58 seconds east for a distance of 158.77 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE north 26 degrees 27 minutes 33 seconds east for a distance of 98.48 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE along a curve to the right having a radius of 1977.00 feet and an arc length of 116.78 feet, being subtended by a chord of north 28 degrees 09 minutes 04 seconds east for a distance of 116.76 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE along a curve to the right having a radius of 1971.90 feet and an arc length of 123.52 feet, being subtended by a chord of north 34 degrees 25 minutes 01 seconds east for a distance of 123.50 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE along a curve to the right having a radius of 1971.00 feet and an arc length of 132.22 feet, being subtended by a chord of North 35 degrees 20 minutes 17 seconds East for a distance of 132.20 feet to a point on the eastern right-of-way of Benson Poole Road; THENCE north 61 degrees 17 minutes 24 seconds east for a distance of 55.09 feet to a point on the southern right-of-way of Jones Shaw Road; THENCE north 88 degrees 31 minutes 12 seconds east for a distance of 1062.24 feet to a point on the southern right-of-way of Jones Shaw Road; THENCE south 47 degrees 31 minutes

37 seconds east for a distance of 37.81 feet to a point on the western right-of-way of Old Concord Road; THENCE south 01 degrees 25 minutes 39 seconds east for a distance of 104.59 feet to a point on the western right-of-way of Old Concord Road; THENCE north 88 degrees 25 minutes 39 seconds east for a distance of 2.00 feet to a point on the western right-of-way of Old Concord Road; THENCE south 01 degrees 34 minutes 21 seconds east for a distance of 554.82 feet to a point on the western right-of-way of Old Concord Road; THENCE south 01 degrees 34 minutes 21 seconds east for a distance of 555.40 feet to a point on the western right-of-way of Old Concord Road being the POINT OF BEGINNING.

Said property contains 47.396 acres more or less.

**ATTACHMENT TO APPLICATION FOR REZONING**

**Application No.:** \_\_\_\_\_  
**Hearing Dates:** \_\_\_\_\_, 2014 and  
\_\_\_\_\_, 2014

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

**Applicant:** Smyrna Residential, LLC  
**Titleholder:** Smyrna Downtown Development Authority

**TRAFFIC IMPACT STATEMENT**

The Subject Property was formerly an approximately 750 unit, multi-family, predominantly transient, apartment community which had been in existence for a number of years. The proposed development is approximately 200 new, single-family residences. Based on the prior use of the Subject Property versus the proposed use, there will be no adverse or negative impact to the local traffic network. The improved roadway infrastructure within the area can accommodate any increase in traffic. The access points of the proposed development will allow for better traffic flow onto the roadways than afforded with the previous development and use.



# COBB COUNTY SCHOOL DISTRICT

*Empowering Dreams for the Future*

P.O. Box 1088  
Marietta, GA 30061  
Telephone: (770) 426-3300  
[www.cobbk12.org](http://www.cobbk12.org)

June 10, 2014

Mr. Russell G. Martin, AICP  
Senior Planner  
Community Development Department  
3180 Atlanta Road  
Smyrna, Georgia 30080

RE: Impact of Proposed Development Located at 490 Windy Hill Road  
Parcel ID: 17030300010

Dear Mr. Martin:

As requested by J. Kevin Moore, below is a table outlining the impact of the proposed development on the pertinent schools within Cobb County School District.

School	Student Capacity	Student Enrollment	Capacity Status
Belmont Hills Elem	414	307	107 under enrollment
Campbell Middle	1203	1308	105 over enrollment
Campbell High	2637	2394	243 under enrollment

- School attendance zones are subject to revision at any time.

Comments
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Approval of this petition could adversely affect the enrollment at Campbell Middle School, which is over capacity at this time.

Please feel free to contact me if you have any additional questions.

Sincerely,

  
Dennis L. Campbell  
Director, Planning

BOARD OF EDUCATION

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