

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

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

March 10, 2021

VIA E-MAIL: sedwards@cityofpowdersprings.org

Ms. Shauna Wilson-Edwards
Zoning Administrator
City of Powder Springs
4488 Pineview Drive
Powder Springs, 30127

[R-15 SHOULD BE R-20
COMMDEV NOTES](#)

Re: Application of Smith Douglas Homes to Rezone a 4.3 ± Acre Tract from R-15 and MDR, to PUD-R, Land Lot 869, 19th District, 2nd Section, Powder Springs, Georgia

Application of Smith Douglas Homes to Rezone a 10.2 ± Acre Tract from R-20 and MDR, to PUD-R, Land Lots 869 and 870, 19th District, 2nd Section, Powder Springs, Georgia

Dear Ms. Wilson-Edwards:

Attached is a revised page from each of the above-described applications adding a variance to allow alternative compliance with the 50% brick or stone rule. Smith-Douglas Homes does not want to waive this requirement or the design requirement for articulation for the townhomes. These design requirements are designed to create both a quality product and architectural interest. Smith Douglas Homes proposes specific architecture and design elements to meet these goals but in a different manner. For example, the requirement that each townhome is staggered is required so each building does not have a flat uniform look. As the townhome product submitted with the application shows, Smith Douglas product is not flat or uniform. Each unit has distinct architecture and the front facades have articulation between each floor with different windows, roof pitches and dormer elements. The elements are further differentiated by having different building material on each unit and between each floor with the use of brick, stone, shake and lap board siding.

Similarly, the requirement for 50% brick is designed to ensure a quality product is built. Smith Douglas achieves this goal by providing homes with many different materials. All board siding is cementitious siding for ease of maintenance and longevity. To achieve 50% brick or stone siding it ties the hand of the architect in unintended ways. For example, on the side of a house to achieve 50% brick, the brick must go above any side windows which then creates an awkward brick height. There is a similar situation for the front elevation, especially if garage



VIA E-MAIL: sedwards@cityofpowdersprings.org

March 10, 2021

Page 2

doors and windows are not counted towards the 50%. This could lead to going with 100% brick facades but that can be monotonous if all the homes are 100% brick. This is especially true because the design element that is popular now is a farmhouse look using different lighter colored siding material. Brick and stone can look heavy and can create issues when coupled with dormer windows or other design elements that are designed for other materials. Based upon the foregoing, Smith Douglas Homes proposes approving specific house plans that will create attractive homes and flexibility for buyers to choose their own home style. Elements such as water tables and other elements will ensure an attractive overall appearance. As mentioned in the beginning of the letter, Smith Douglas Homes proposes to meet the goals of these two provisions with alternative measures and is open to a discussion on how best to achieve the mutual goal of attractive homes that are long lasting and will home their value.

Please do not hesitate to contact me should you have any questions regarding this application.

Sincerely,

SAMS, LARKIN & HUFF, LLP

Parks F. Huff

phuff@samslarkinhuff.com

PFH/jcc

Attachments



**city of
powder springs**
Rezoning Request
Notice of Intent

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samslarkinbuff.com; jshank@smithdouglas.com

Notice of Intent

PART I. Please indicate the purpose of this application :

Smith Douglas proposes a neighborhood of 34 townhomes.

PART II. Please list all requested variances:

The code requires townhomes to have each unit staggered. The applicant requests to stagger each building, not each unit. Section 4-120 (e).

Amend 2-15 (h) to allow the approval of the attached renderings in lieu of 50% brick or stone.

Part III. Existing use of subject property:


Undeveloped

Part IV. Proposed use of subject property:

34 townhomes.

Part V. Other Pertinent Information (List or attach additional information if needed):

Applicant Signature

	Parks F. Huff, Attorney for Applicant	January 26, 2021
Signature of Applicant	Printed Name	Date



**city of
powder springs**
Rezoning Request
Notice of Intent

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samlarkinbuff.com; jshank@smithdouglas.com

Notice of Intent

PART I. Please indicate the purpose of this application :

A portion of the property was already zoned for 24 townhomes and is zoned MDR. The applicant is adding two addition properties create a larger development with a combination 35 single family homes and 28 townhomes.

PART II. Please list all requested variances:

The code requires townhomes to have each unit staggered. The applicant requests to stagger each building, not each unit. Section 4-120 UDC

Approve specific architecture as an alternative to 50% brick. Sec 2-15 (h)

Part III. Existing use of subject property:

Undeveloped

Part IV. Proposed use of subject property:

35 single family homes and 28 townhomes.

Part V. Other Pertinent Information (List or attach additional information if needed):

Applicant Signature

	<u>Parks Huff</u>	<u>1/20/2021</u>
Signature of Applicant	Printed Name	Date



**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samslarkinbuff.com; jshank@smithdouglas.com

Rezoning Request Property Information

Address 3610 and 3620 Powder Springs Road 3840 Hopkins Road	Parcel ID / Lot# 19-087000-230 and 19-087000-040 19-086900-28-0	Acreage ±10.2
Present Zoning R-20 & MDR	Proposed Zoning PUD-R	
Source of Water Supply Cobb	Source of Sewage Disposal Cobb	
Proposed Use Peak Hour Trips Generated	Source	


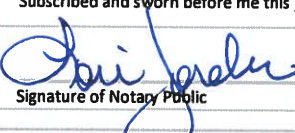
Additional Information, If Applicable


* data taken from Cobb County School District Enrollment Projection Study Annual Update May 2019

Elementary School and School's Capacity Compton Elementary 925	Middle School and School's Capacity Tapp Middle 1,137
High School and School's Capacity McEachern High School 2,362	

Notary Attestation

Executed in Marietta (City), Ga. (State).

	Printed Name Parks F. Huff, Attorney for Applicant	Date 1/26/2021
Subscribed and sworn before me this _____ day of _____ month, 20__.		
	Name of Notary Public Lori Jordan	My Commission Expires 11/13/2023



For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
Withdrawal Date	Reason for Withdrawal



**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samslarkinbuff.com; jshank@smithdouglas.com

Rezoning Request Property Information

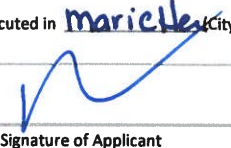
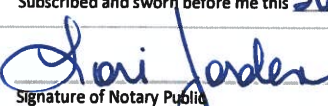
Address 3610 Powder Springs Road	Parcel ID / Lot# 19087000120	Acreage 3.6
Present Zoning R-20	Proposed Zoning PUD-R	
Source of Water Supply Cobb County	Source of Sewage Disposal Cobb County	
Proposed Use Peak Hour Trips Generated	Source	

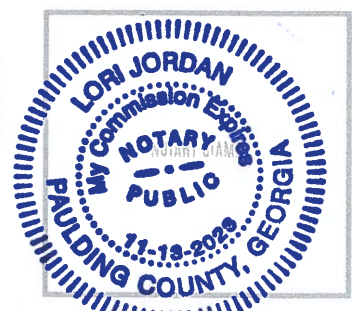
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Executed in maricetta (City), Ga. (State).

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Subscribed and sworn before me this <u>26</u> day of <u>Jan</u> month, 20 <u>21</u>		
	Name of Notary Public Lori Jordan	My Commission Expires 11/13/2021



For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
Withdrawal Date	Reason for Withdrawal



**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samlarkinbuff.com; jshank@smithdouglas.com

Rezoning Request Property Information


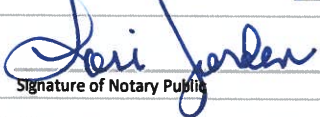
Address 3620 Powder Springs Road	Parcel ID / Lot# 19087000040	Acreage 3.5
Present Zoning R-20	Proposed Zoning PUD-R	
Source of Water Supply Cobb County	Source of Sewage Disposal Cobb County	
Proposed Use Peak Hour Trips Generated	Source	

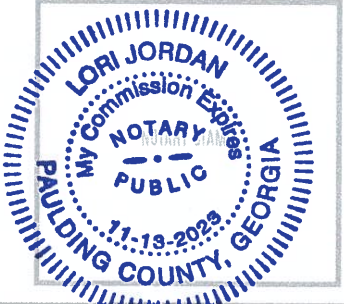
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For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
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**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samlarkinbuff.com; jshank@smithdouglas.com

Rezoning Request Property Information

Address 3840 Hopkins Rd.	Parcel ID / Lot# 19086900280 Acreage 3.1
Present Zoning MDR	Proposed Zoning PUD-R
Source of Water Supply Cobb County	Source of Sewage Disposal Cobb County
Proposed Use Peak Hour Trips Generated	Source

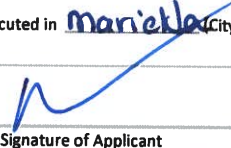

Additional Information, If Applicable

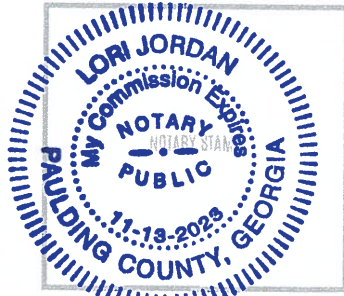
* data taken from Cobb County School District Enrollment Projection Study Annual Update May 2019

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	Printed Name Parks F. Huff, Attorney for Applicant	Date 1/20/2021
Subscribed and sworn before me this <u>26</u> day of <u>Jan</u> month, 20 <u>21</u>		
	Name of Notary Public Lori Jordan	My Commission Expires 11/13/2023



For Official Use Only

PZ #	
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**city of
powder springs**

Rezoning Request

Notice of Intent

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samlarkinbuff.com; jshank@smithdouglas.com

Notice of Intent

PART I. Please indicate the purpose of this application :

A portion of the property was already zoned for 24 townhomes and is zoned MDR. The applicant is adding two addition properties create a larger development with a combination 35 single family homes and 28 townhomes.

PART II. Please list all requested variances:

The code requires townhomes to have each unit staggered. The applicant requests to stagger each building, not each unit. Section 4-120 UDC

Part III. Existing use of subject property:

Undeveloped

Part IV. Proposed use of subject property:

35 single family homes and 28 townhomes.

Part V. Other Pertinent Information (List or attach additional information if needed):

Applicant Signature

	Parks Huff	1/26/2021
Signature of Applicant	Printed Name	Date



Rezoning Request

Applicant's Written Analysis

Applicant Information

Name Smith Douglas Homes	Phone (770) 422-7016
Mailing Address 110 Village Trail Suite 110, Woodstock, GA 30188	Email phuff@samslarkinhuff.com; jshank@smithdouglas.com

Written Analysis

In details please address these Rezoning Criteria:

Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city's comprehensive plan shall be used in decision making relative to amendments to the official zoning map.

The property is a transition property containing both a Neighborhood Activity Center and LDR. The transition between the two categories makes the proposed density and use appropriate.

Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.

The area is developed with a combination of LDR, MDR an assisted living facility and older commercial at the corner of Hopkins Road.

Whether the existing use or usability of adjacent or nearby property will be adversely affected by one or more uses permitted in the requested zoning district.

The proposed use will have a positive impact on existing development. It will create housing close to trails, downtown and work opportunities. It will create the appropriate transition from the commercial corner to the residential further down Hopkins Road

Whether there are substantial reasons why the property cannot or should not be used as currently zoned;

As zoned, the property has little utility. The lower density allowed under the current zoning would not support the cost of developing the land.

Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.

The existing public infrastructure can support the proposed development. The proposal puts residents close to downtown and in close proximity to trails and other activities.

Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.

The city has a goal to build an active and vibrant downtown. This goal needs residents close by to built the synergy needed to support new businesses. The goal is to make a walkable district extending out Marietta Street.

Whether the proposed zoning district and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.

The proposed development is designed to support the goals for Powder Springs and especially for the downtown development.

Applicant Signature

 Signature of Applicant	Parks F. Huff, Attorney for Applicant Printed Name	1/26/2021 Date
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Rezoning Request

Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name Smith-Douglas Homes	Applicant's Address 110 Village Trail Suite 110, Woodstock, GA 30188
Applicant's Attorney Parks F. Huff	Attorney's Address 376 Powder Springs St., Suite 100 Marietta, GA 30064

Campaign Contribution Disclosure

The following information is provided in accordance with the Georgia Conflict of Interest in Zoning Actions Act, O.C.G.A. 36-67A-1 et seq.

The property that is the subject of the attached application is owned by:

- Individual(s)
 Corporation
 Partnership
 Limited Partnership
 Joint Venture

All persons, corporations, partners, limited partners, or joint ventures party to ownership of the property that is the subject of the attached application are listed below:

Ruby Moore	Randy Moore
	Z D Hamidibroomand

APPLICANT: Within the two years preceding the date of the attached application, the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift

ATTORNEY: Within the two years preceding the date of the attached application, the attorney representing the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift
Mayor Al Thurmond	\$500	08/19/2019
Patrick Bordelson	\$500	08/19/2019



city of powder springs

Rezoning Request Owner's Authorization Form

Owner's Authorization

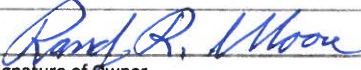
Applicant Name Smith-Douglas Homes	Applicant's Address 110 Village Trail #215, Woodstock, GA 30188
Property Address 3620 Powder Springs Rd. Powder Springs, GA	Property PIN 19087000040

This is to certify that I am or We are or I am the Authorized Representative of a Corporation that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

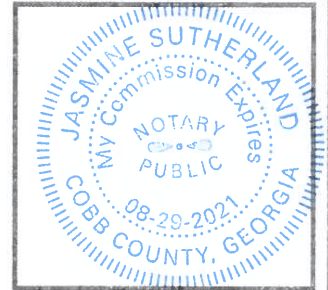
Signature of Property Owner(s)


	Ruby R. Moore	Dec 18, 2020
Signature of Owner	Printed Name	Date

State of GA, County of Cobb.

This instrument was acknowledged before me this 18th day of December month.

20 20, by Jasmine Sutherland Identification Presented: DL



	Jasmine Sutherland	08/29/2021
Signature of Notary Public	Name of Notary Public	My Commission Expires

_____	_____	_____
Signature of Owner	Printed Name	Date

State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 _____, by _____ name of signer, Identification Presented: _____



_____	_____	_____
Signature of Notary Public	Name of Notary Public	My Commission Expires



**city of
powder springs**
Rezoning Request
Owner's Authorization Form

Owner's Authorization

Applicant Name <u>Smith-Douglas Homes</u>	Applicant's Address <u>110 Village Trail #215, Woodstock, GA 30188</u>
Property Address <u>3610 Powder Springs Rd. Powder Springs, GA</u>	Property PIN <u>19087000120</u>

This is to certify that I am or We are or I am the Authorized Representative of a Corporation that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

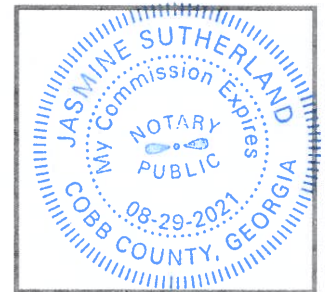
Signature of Property Owner(s)

<u>Randy R. Moore</u> Signature of Owner	<u>Randy R. Moore</u> Printed Name	<u>Dec. 18, 2020</u> Date
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State of GA, County of Cobb.

This instrument was acknowledged before me this 18th day of December month.

20 20, by Jasmine Sutherland Identification Presented: DL



<u>Jasmine Sutherland</u> Signature of Notary Public	<u>Jasmine Sutherland</u> Name of Notary Public	<u>8/29/2021</u> My Commission Expires
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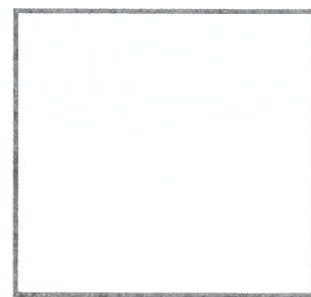
_____ Signature of Owner	_____ Printed Name	_____ Date
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State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 _____, by _____ name of signer Identification Presented: _____

_____ Signature of Notary Public	_____ Name of Notary Public	_____ My Commission Expires
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city of powder springs

Rezoning Request

Owner's Authorization Form

Owner's Authorization

Applicant Name <u>Smith-Douglas Homes</u>	Applicant's Address <u>110 Village Trail #215, Woodstock, GA 30188</u>
Property Address <u>3840 Hopkins Rd. Marietta, GA</u>	Property PIN <u>19086900280</u>

This is to certify that I am or We are or I am the Authorized Representative of a Corporation that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

Signature of Property Owner(s)

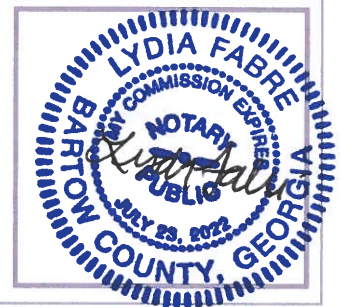
<u>Z-D. HAMIDI</u> Signature of Owner	<u>Z D Hamidibroomand</u> Printed Name	<u>1-14-2021</u> Date
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State of GA, County of Cobb.

This instrument was acknowledged before me this 14 day of JANUARY month.

20 21, by ZAREN HAMIDI BROOMAND Identification Presented: GA ID CARD

<u>Lydia Fabre</u> Signature of Notary Public	<u>Lydia Fabre</u> Name of Notary Public	<u>07/23/22</u> My Commission Expires
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_____ Signature of Owner	_____ Printed Name	_____ Date
-----------------------------	-----------------------	---------------

State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 _____, by _____ Identification Presented: _____

_____ Signature of Notary Public	_____ Name of Notary Public	_____ My Commission Expires
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Rebecca Keaton
Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Sams & Cole, LLC
2809 Lassiter Road
Suite 100
Marietta, Georgia 30062
File# Fatemi

Ma

WARRANTY DEED

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE, Made the 4th day of May in the year Two Thousand and Seventeen (2017) between **Hamidi Enterprises, Inc.**, as party of the first part, hereinafter referred to as Grantor, and **Z.D. Hamidibroomand**, as party or party of the second part, hereinafter referred to as Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor for and in consideration of the sum of Ten Dollars and no cents (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, alienated, conveyed and confirmed and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee the following described property:

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

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 claims of all persons whomever.

IN WITNESS WHEREOF, the Grantors have set her hand and affixed her seal the day and year first above written.

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness

Hamidi Enterprises, Inc.

Z.D. HAMIDI

By: Zarrin Dokht Hamidibroomand

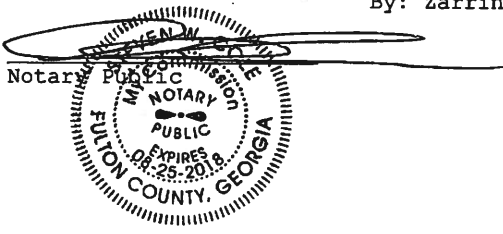
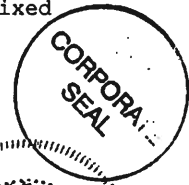


EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 869 and 870 of the 19th District, 2nd Section, Cobb County, Georgia, and being 3.10 acres as shown on plat of survey prepared by Kenneth L. Nutt, Registered Land Surveyor, dated September 9, 1985 and revised October 18, 1985, and being more particularly described as follows:
TO FIND THE TRUE POINT OF BEGINNING, begin at the intersection of the northerly right of way line of Georgia Highway Number 5 (60 foot right of way) and the westerly right of way line of Hopkins Road (50 foot right of way), running thence westerly along the northerly right of way line of Georgia Highway Number 5 258.90 feet to a point; running thence north 00° 12' 10" east 258.05 feet to a point, said point being the true point of beginning. FROM SAID TRUE POINT OF BEGINNING THUS ESTABLISHED, running thence south 89° 23' 12" west 200.53 feet to a point; running thence north 00° 12' east 296.00 feet to a point; running thence north 89° 23' east 454.14 feet to a point on the westerly right of way line of Hopkins Road; running thence south 00° 20' east along the westerly right of way line of Hopkins Road 296.00 feet to a point; running thence south 89° 23' 12" west 256.37 feet to a point, said point being the true point of beginning.

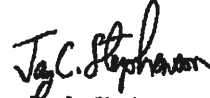
Also a non-exclusive easement for ingress and egress over, across and through the following described property:

Beginning at a point on the northerly right of way line of Georgia Highway Number 5, said point being 258.90 feet westerly as measured along the northerly right of way line of Georgia Highway Number 5 from the intersection of the northerly right of way line of Georgia Highway Number 5 and the westerly right of way line of Hopkins Road, running thence south 87° 54' west along the northerly right of way line of Georgia Highway Number 5 20.34 feet to a point; running thence north 89° 02' west along the northerly right of way line of Georgia Highway Number 5, 19.67 feet to a point; running thence north 00° 12' 10" east 257.93 feet to a point on the southerly line of the above described property; running thence north 89° 23' 12" east along the south line of the above described property 40.0 feet to a point; running thence south 00° 12' 10" west 258.05 feet to a point on the northerly right of way line of Georgia Highway Number 5, said point being the point of beginning.

Probate Court Return Mailing Address:

25 COURTHOUSE SQUARE ANNEX
ROOM 102
DALLAS, GA 30132

Deed Book 14506 Pg 6311
Filed and Recorded Jun-27-2007 04:32pm
#007-0102163



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

CERTIFICATE OF CREATION OF CONSERVATORSHIP

(Pursuant to O.C.G.A. §29-5-13(d))

GEORGIA, Paulding County

PROBATE ESTATE NO. 2007-105

DATE ORDER ISSUED: May 31, 2007

GRANTOR: (NAME OF WARD) RUBY ROGERS MOORE

GRANTEE: (NAME OF CONSERVATOR OF ABOVE WARD)

RANDY ROGERS MOORE

A Conservatorship has been created for the above-named ward.

C.P. a. The Conservatorship is permanent.

b. The expiration date set by court order, is _____, 20____.

Original Certificate delivered or mailed to Clerk of Superior Court of _____

Cobb County on June 21, 2007.

I do hereby certify that the above information is based on the order of the Probate Court issued on the date set out above and that the above information is true and correct.

By: Conla Puckett
PROBATE CLERK/DEPUTY CLERK

STATE OF GEORGIA

Effective 7/06

2GPCSF 12Court



STATE OF GEORGIA

COBB COUNTY

THIS INDENTURE, made this 21 day of March
in the year of our Lord One Thousand Nine Hundred and Eighty-six

Between RUBY ROGERS MOORE
of the State of Georgia and County of Cobb of the first part
and RANDY ROGERS MOORE
of the State of Georgia and County of Cobb of the second part

WITNESSETH: That the said part y of the first part, for and in consideration of the sum of ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION (\$1.00) DOLLARS LOVE AND AFFECTION in hand paid at and before the sealing delivery of these presents, the receipt whereof is hereby acknowledged ha s granted, bargained, sold and conveyed and by these presents do es grant, bargain, sell and convey unto the said part y of the second part, his heirs and assigns, all that tract or parcel of land lying and being in Land Lot 870 of the 19th District and 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin located on the northerly side of the right of way of Powder Springs Road, which iron pin is located 461.03 feet westerly from the north-west corner of Powder Springs Road and Hopkins Road, as measured along the northerly side of the right of way of Powder Springs Road; running thence in a westerly direction along the northerly side of the right of way of Powder Springs Road a distance of 200 feet to an iron pin; running thence north 03 minutes and 05 seconds east a distance of 794.63 feet to an iron pin; running thence south 87 degrees, 34 minutes and 50 seconds east a distance of 21.53 feet to an iron pin; running thence south 87 degrees, 38 minutes and 50 seconds east a distance of 112.92 feet to an iron pin; running thence south 87 degrees, 38 minutes and 20 seconds east a distance of 65.39 feet to an iron pin; running thence south 16 minutes and 30 seconds east a distance of 145.52 feet to an iron pin; running thence south 12 minutes and 45 seconds east a distance of 104.46 feet to an iron pin; running thence south 11 minutes and 50 seconds west a distance of 295.81 feet to an iron pin; running thence south 13 minutes and 40 seconds west a distance of 255.11 feet to an iron pin located on the northerly side of the right of way of Powder Springs Road at the point of beginning, and being a tract of land containing 3.67 acres as shown on plat of survey made by Arthur F. Shadix, surveyor, for Randy Rogers Moore, dated March 18, 1986.

GEORGIA, OFFICE OF COBB SUPERIOR COURT CLERK
FILED AND RECORDED 26 11 O'CLOCK A.M.
JAY C. STEPHENSON, CLERK

none

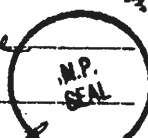
TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, members and appurtenances thereof, too the same being, belonging or in any wise appertaining, to the only proper use, benefit and behoof of him the said part y of the second part, his heirs and assigns, forever, IN FEE SIMPLE.

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

IN WITNESS WHEREOF, The said part y of the first part ha s hereunto set his hand and affixed his seal, the day and year above written.

Signed, sealed and delivered in the presence of

Jennifer Ann Payne
Witness
G. C. Payne, Jr.
Notary Public
Executed: 3.26.86



Ruby Rogers Moore (Seal)
RUBY ROGERS MOORE
Cobb County, Georgia (Seal)
Paid none Real Estate Transfer Tax (Seal)
Date 3-26-86 (Seal)
Jay C. Stephenson
Clerk of Superior Court (Seal)

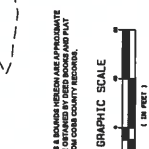
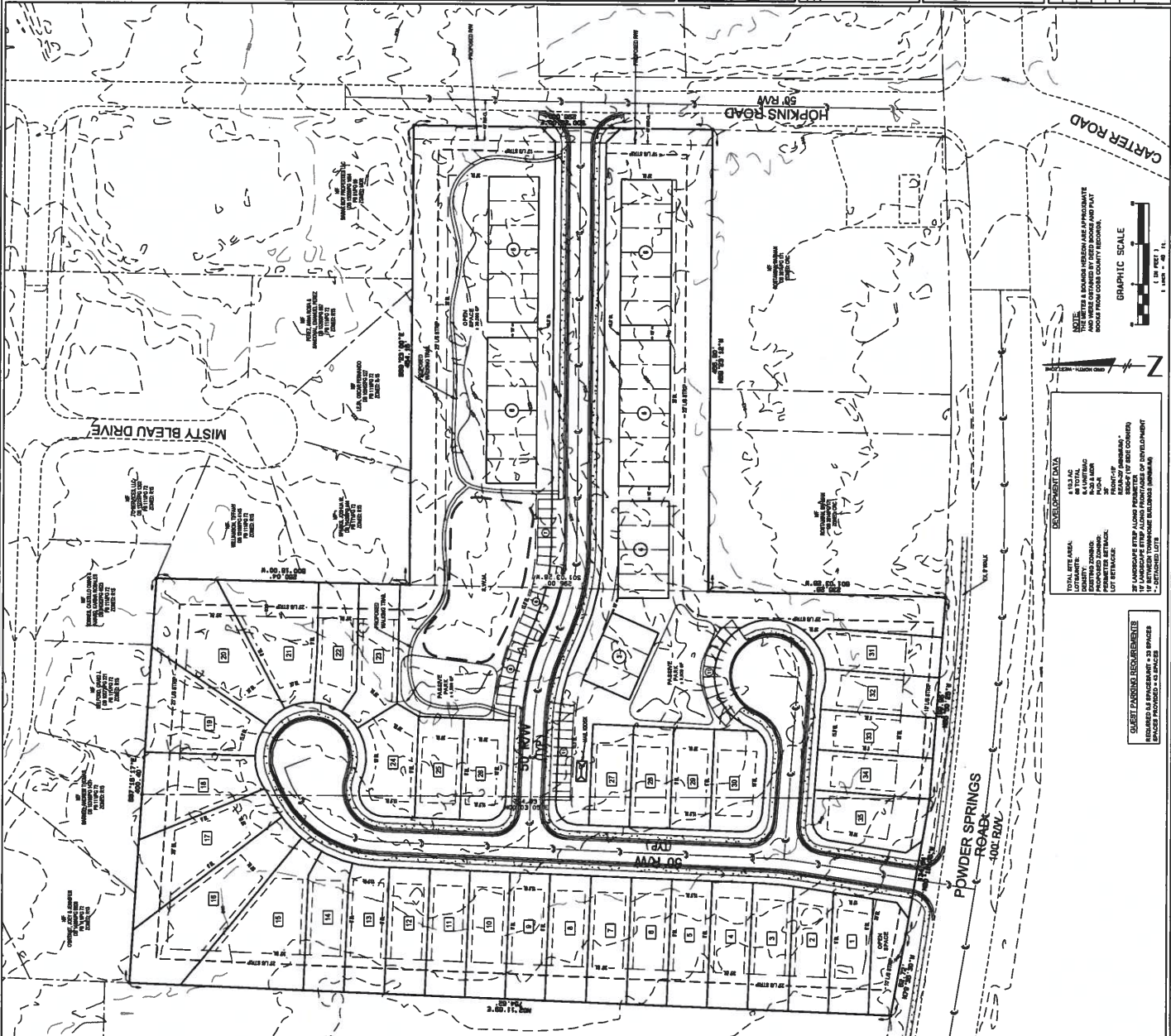
FOR
REZONING EXHIBIT
 3610 & 3620 POWDER SPRINGS ROAD
 CITY OF POWDER SPRINGS,
 COBB COUNTY, GEORGIA



DATE: 12/15/2010
 DRAWN BY: JAT
 CHECKED BY: JAT
 PROJECT NO: 1000000
 SHEET NO: 200000
 SHEET NAME: 1



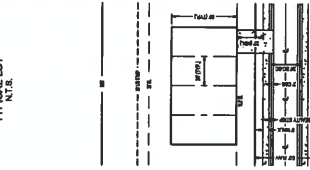
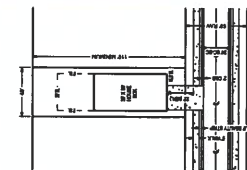
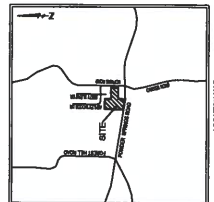
SCALE: 1" = 40'
 DATE: 12/15/2010
 DRAWN BY: JAT
 CHECKED BY: JAT
 PROJECT NO: 1000000
 SHEET NO: 200000
 SHEET NAME: 1



EXISTING UTILITIES
 TOTAL SITE AREA: 100,000 SQ. FT.
 LOT AREA: 10,000 SQ. FT.
 TOTAL LOT AREA: 100,000 SQ. FT.
 TOTAL ROADWAY AREA: 10,000 SQ. FT.
 TOTAL UTILITY AREA: 10,000 SQ. FT.
 TOTAL PARKING AREA: 10,000 SQ. FT.
 TOTAL OPEN SPACE: 10,000 SQ. FT.

GUEST PARKING REQUIREMENTS
 REQUIRED AS PER CHAPTER 20, BRIDGE
 BRIDGE PROVIDED: 10 SPACES

FIRM
 CHARTERED SURVEYORS
 1000000
 200000

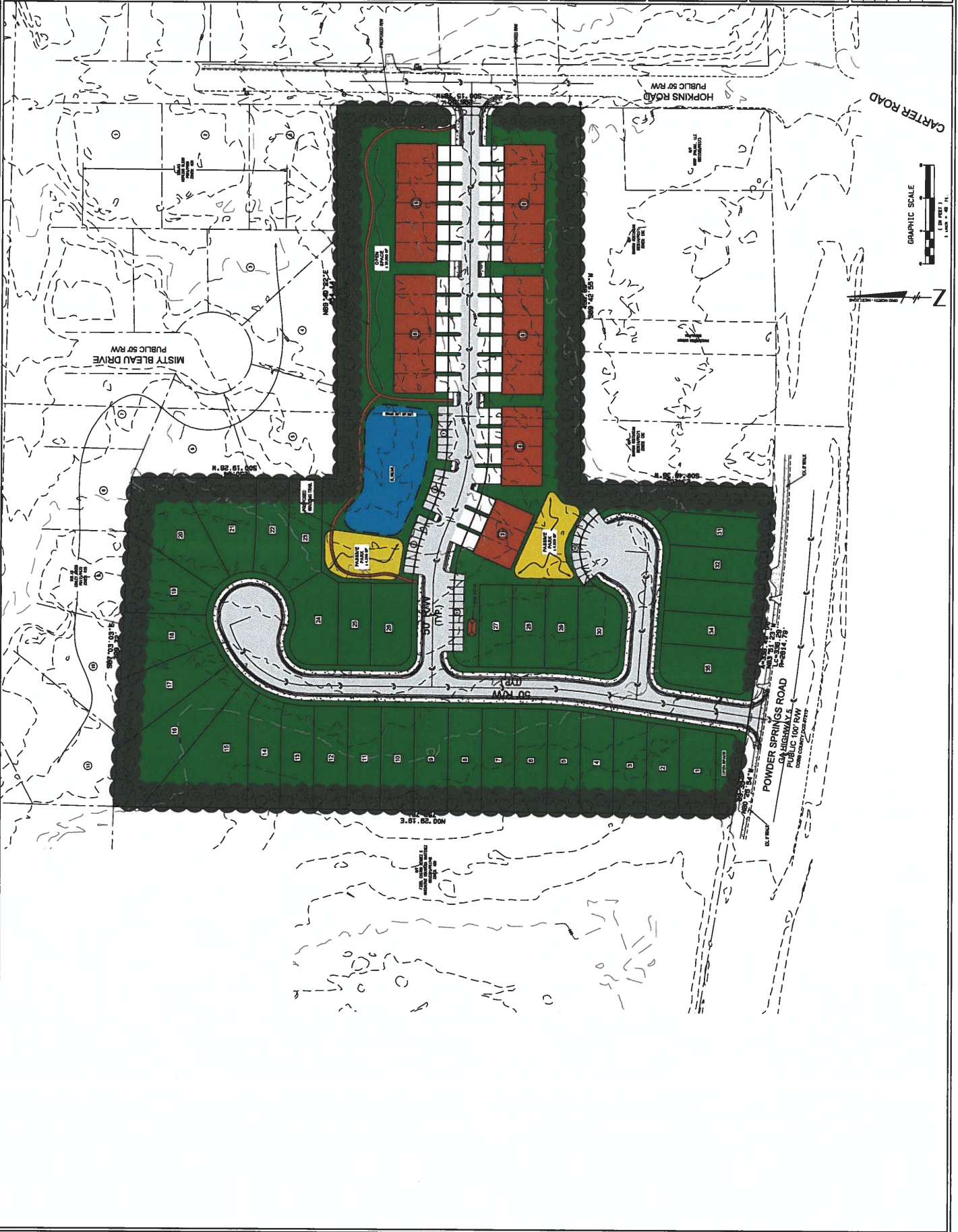


3610 & 3620 POWDER SPRINGS ROAD
 FOR
 CITY OF POWDER SPRINGS
 COBB COUNTY, GEORGIA

EXHIBIT



DATE:	11-14-07
DRAWN BY:	DAC
CHECKED BY:	JAT
SCALE:	AS SHOWN
PROJECT NAME:	13750000
JOB NUMBER:	201008
SHEET NUMBER:	1



MISTY BLEAU DRIVE
 PUBLIC 50' R/W

HOPKINS ROAD
 PUBLIC 50' R/W

POWDER SPRINGS ROAD
 HIGHWAY 5
 PUBLIC 100' R/W
 CONC. DRIVEWAY

CARTER ROAD



GRAPHIC SCALE
 1" = 40' FT.



3840 Hopkins Rd, 3610 & 3620 Powder Spr Rd



3,009.3

1,504.66

3,009.3 Feet



This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 18,056



Map Notes:

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Cobb County Georgia

TO THE CITY OF POWDER SPRINGS
COBB COUNTY, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW SMITH DOUGLAS HOMES, hereinafter referred to as the "Applicant", and asserts the following, to wit:

1.

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

2.

The Application for Zoning of the property seeks a rezoning from the existing categories of MDR and R-20, as established by the governing authority of Powder Springs, Cobb County, Georgia to the zoning category of Planned Unit Development-Residential ("PUD-R").

3.

The current MDR and R-20 zoning classification(s) of the properties and all intervening classifications between same 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(s) MDR and R-20 and all intervening classifications between same 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 City of Powder Springs' Unified Development Code is further unconstitutional in that the procedures contained therein pertaining to the public hearings 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 26th day of January, 2021.

SAMS, LARKIN & HUFF, LLP

By: 

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