

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100

376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

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

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

RCVD
3-23-21
DM

March 23, 2021

VIA HAND DELIVERY & EMAIL

COPY

Ms. Shauna Wilson-Edwards
Special Projects Coordinator for Zoning and Plan Review
City of Powder Springs
4488 Pineview Drive
Powder Springs, Georgia 30127

Re: Variance Application of Selig Enterprises Inc. to waive the dwelling units per acre from 12 upa to 15.61 upa - Land Lots 1025, 1026, 1027 and 1047, 19th District, 2nd Section, Cobb County, Georgia

Dear Shauna:

This firm has been engaged by and represents Selig Enterprises Inc. concerning the above-captioned Variance Application which is filed contemporaneously with the Rezoning Application to the MXU zoning district. In that regard, enclosed please find the Original Variance Application and the following:

1. A copy of the Deed reflecting the record titleholder.
2. Legal descriptions of the Subject Property sought to be rezoned, as contained in the above referenced Deed.
3. Two (2) copies of a Site Plan prepared by Flippo Civil Design drawn to scale and two (2) 8½" x 11" copies of same.
4. A copy of the of the 2020 paid tax receipts for Cobb County and the City of Powder Springs.
5. A Vicinity Map outlining the parcels in relation to the surrounding area.
6. A Survey of the Subject Property.
7. A copy of the Architectural Rendering/Elevation depicting the proposed residential product.

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & EMAIL

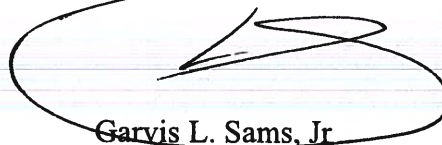
Ms. Shauna Wilson-Edwards
Special Projects Coordinator for Zoning and Plan Review
City of Powder Springs
March 23, 2021
Page 2

8. A Constitutional Challenge.
9. Payment of the Variance Application fee, sign deposit fee, and notification sign costs will be presented after submittal of the application.

Based upon all of these factors, the Applicant has produced sufficient information which will allow the City to fully consider all relevant factors and to demonstrate that the Variance Application complies with applicable requirements and is otherwise consistent with the policies reflected and the factors enumerated within the UDC. Please do not hesitate to contact me should you or your staff have any questions or require any additional information or documentation. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr
gsams@samslarkinhuff.com

GLS, Jr./klk
Enclosures

cc: Ms. Pam Conner, City Manager (via email w/attachments)
Ms. Tina Garver, AICP, Community Development Director (via email w/attachments)
Mr. Greg Lewis, Senior Vice President, Selig Enterprises (via email w/attachments)
Mr. Paul Flippo, PE, Flippo Civil Design (via email w/attachments)



Variance Request Application Packet

Applicant's Public Notice Requirements

The Code requires public notice of your Rezoning request, Special Use and Variance requests. The Community Development Department will tell you when and where the Planning and Zoning Commission and the Mayor and Council meetings will be held.

Newspaper: The City will publish a legal notice in the newspaper regarding your application and announcing the time and place of the public hearing. At least 15 days before the Mayor and Council but no more than 45 days prior to the date of the public hearing.

Sign Posting, Public Hearing Notice & Affidavit

Sign Posting: The applicant shall be required to post and maintain signs supplied by the City on or near the right-of way of the nearest public street, so as to be visible from the street for at least 15 days and not more than 45 days immediately preceding the date for the governing body's public hearing on the rezoning or special use application. It is your responsibility to post the signs and to maintain the signs during the posting period. Failure to post and maintain the signs continuously may prohibit consideration of the application at any scheduled public hearing. In the event the signs are not posted continuously, the City, in its sole discretion, may require the reposting and re-advertising prior to any future public hearing, for which the applicant shall pay an additional re-advertising fee. The City may also in its sole discretion, continue, hold, approve, or dismiss the application. Any dismissal under the provisions of this paragraph shall be with prejudice unless specifically noted as being without prejudice by the City.

Public Hearing Notice: At least 15 days before the Planning & Zoning Commission's public hearing, you are to mail a notice to all persons owning property within 200 feet of the property that is the subject matter of the zoning change. The notice is to state the time, place and purpose of the hearings, and include a page size copy of the sketch plan submitted with the application.

Affidavit: Prior to the public-hearing you must also submit an affidavit with a copy of the notice to the Community Development Director listing the property owners and certifying the date that the notices were mailed (form attached)

City Actions

The Community Development Department will date your application when it is received. The Community Development Department has five (5) working days in which to determine that your application is complete or to return it to you for additional information. The application will not be scheduled for public hearing until it is complete. The Planning Commission's public hearing will be held at the time advertised. At the public hearing, you will be allowed to speak first in order to present the application. Others in support of the application may then speak, followed by those in opposition to the application. You may then be allowed time for rebuttal if adequate time remains. Rebuttal must be limited to points or issues raised by opponents to the application at the hearing. After the Planning Commission has made their recommendation, the Mayor and City Council will consider approval or denial of the application at their own public hearing. You or a representative thereof with authority to make binding commitments to the City with respect to any stipulations that may be offered in connection with such application shall attend the meetings, and make a presentation following the same procedure as the Planning Commission hearing. The final action taken by the Mayor and City Council will be indicated on the application form, along with any stipulations that they impose on the property if approved, and a copy will be given to you as official notice of their final action.

Contact Information

The Community Development Dept.
4488 Pineview Drive
Powder Springs GA 30127.
commdev@cityofpowdersprings.org
770-943-1666

Zoning Administrator
Shauna Wilson-Edwards
Special Projects Coordinator for Zoning
sedwards@cityofpowdersprings.org
770-943-1666



Variance Request Application Checklist

Applicant Information

Name **Selig Enterprises Inc.**

Phone **404-876-5511**

Mailing Address **1100 Spring Street NW, Ste. 550
Atlanta, GA 30309**

Email **glewis@seligenterprises.com**

Application Checklist

The following information will be required:

1. Application
2. Notice of Intent
3. Applicant's Written Analysis
4. Campaign Contribution Disclosure
5. Owner's Authorization, if applicable.
6. Legal Description and Survey Plat of the property
7. Application Fee (summary of fees attached)
8. Copy of the Deed that reflects the current owners name
9. Vicinity Map outlining the parcel/s in relation to the surrounding area
10. Site plan, plat or survey prepared by an architect, engineer. The following information **must** be included:
Specific use or uses proposed for the site. Acreage, bearing and distances, other dimensions, and location of the tract(s). Locations, sizes and setbacks of proposed structures, including the number of stories and total floor area, height, for residential number of units, Square footage of heated floor area. Detention/retention areas, and utility easements. Location of dumpsters. Public or private street(s) - right of way and roadway widths, approximate grades Location and size of parking area with proposed ingress and egress. Specific types and dimensions of protective measures, such as buffers. Landscaping. Wetlands, stream buffers, and 100 year floodplain.
11. Sketch Plan/ Architectural Rendering, if applicable
12. Traffic Study required for development with 500,000 sf of nonresidential floor area or 350 dwelling units or more.
 List additional attachments:

Note Carefully

If your application qualifies as a "Development of Regional Impact" (see Article 13) then you must follow additional procedures BEFORE your application can be considered. The Community Development Department will assist you with the DRI process, which is mandated by State and GRTA requirements.

Indicate the current zoning district of the property, and the zoning district you are requesting. File a separate application for each Rezoning request naming a different zoning district. A Special Use request, Variance request can be filed concurrently with a Rezoning request on the same property by separate application.



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

Applicant Information

Name **Selig Enterprises Inc.**

Phone **404-876-5511**

Mailing Address **1100 Spring Street, NW, Ste 550
Atlanta, GA 30064**

Email **glewis@seligenterprises.com**

Variance Request Property Information

Address **4493, 4391 & 4327 Brownsville Rd.; Oglesby Rd.**

Parcel ID / Lot# **191026000080, 19102600010, 19102600070 & 19104700310**

Acreage **32.11 (total tract for Rezoning to MXU)**

Present Zoning **CRC (concurrent Rezoning Application to MXU)**

Variance Request **To waive the density from 12 dwelling units per acre to 15.61 dwelling units per acre.**

Source of Water Supply **Cobb County**

Source of Sewage Disposal **Cobb County**

Additional Information, If Applicable

Elementary School and School's Capacity **Powder Springs (900)**

Middle School and School's Capacity **Cooper Ms (1162)**

High School and School's Capacity **McEachern (2450)**

Peak Hours Trips Generated **Trip Generation Analysis to be provided under separate cover**

Notary Attestation

Executed in **Marietta** (City), **GA** (State).



Signature of Applicant

Garvis L. Sams, Jr.
Printed Name

March 23, 2021
Date

Subscribed and sworn before me this **23** day of **March**, 20**21**.



Signature of Notary Public

Karen L. King
Name of Notary Public

2-28-2023
My Commission Expires



For Official Use Only

PZ #

Planning Commission Hearing

City Council Hearing

Withdrawal Date

Reason for Withdrawal



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

Applicant Information

Name **Selig Enterprises Inc.**

Phone **404-876-5511**

Mailing Address **1100 Spring Street, NW, Ste 550
Atlanta, GA 30064**

Email **glewis@seligenterprises.com**

Notice of Intent

PART I. Please indicate the purpose of this application :

The Applicant is proposing the development of Class "A", highly-amenitized luxury apartments and retail commercial.

PART II. Please list all requested variances:

To waive the density from 12 dwelling units per acre to 15.61 dwelling units per acre.

Part III. Existing use of subject property:

Commercial along CH James Parkway and undeveloped parcels along Brownsville Road and Oglesby Road.


Part IV. Proposed use of subject property:

Mixed Use Development including multi-family apartments.

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

Selig Enterprises, Inc. is a real estate operating company and its portfolio includes retail, industrial, office, multi-use flexes. The subject property will be developed for luxury apartments; repurposed existing commercial on site and construction of new brick-and-mortar retail.

Applicant Signature



Signature of Applicant

Garvis L. Sams, Jr.
Printed Name

March 23, 2021
Date



city of
powder springs

Variance Request

Applicant's Written Analysis

Applicant Information

Name **Selig Enterprises Inc.**

Phone **404-876-5511**

Mailing Address **1100 Spring Street, NW, Ste 550
Atlanta, GA 30064**

Email **glewis@seligenterprises.com**

Written Analysis

In details please address these Variance Criteria: **See attached**

- a. Are there extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- b. A literal interpretation of the provisions of this development code would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.

be able to development the property
- c. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located
- d. The requested variance will be in harmony with the purpose and intent of this development code and will not be injurious to the neighborhood or to the general welfare.
- e. The special circumstances are not the result of the actions of the applicant.
- f. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
- g. The variance shall not permit a use of land, building or structures, which is not permitted by right in the zoning district overlay district involved.

Applicant Signature

Signature of Applicant

Garvis L. Sams, Jr.
Printed Name

March 23, 2021
Date

STATE OF GEORGIA
CITY OF POWDER SPRINGS

VARIANCE ANALYSIS

Selig Enterprises Inc.

- a) Are there extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district:

This property is limited by its size and shape (encumbered by three [3] separate roadways) and is constrained by its proximity to the Linked In Church. The subject site is surrounded by various zoning districts (CRC, MDR and R-20). There are developed residential zonings located to the east and intensive commercial located to the west.

- b) A literal interpretation of the provisions of this development code would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located:

Other property owners have been able to develop their properties in economically feasible situations. Without the granting of the Variance, the Applicant will not be able to develop the property.

Additionally, the MXU zoning district (sought as part of the contemporaneous filing of this Variance Application) is intended for development of mixed uses and allow the opportunity for an integrated mixture of residential and commercial uses within this sub-area of the City of Powder Springs.

- c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located:

The Applicant has concurrently applied for zoning under the MXU category which is recommended as a permitted use in this area of the City and the Unified Development Code (UDC).

- d) The requested variances will be in harmony with the purpose and intent of this development code and will not be injurious to the neighborhood or to the general welfare:

The subject site is surrounded by various commercial and residential districts and uses and is separated from existing abutting residential by wetlands/flood plain and therefore will not impact those residential uses. Granting of the Variance would not cause substantial detriment to the general welfare or to the intent of the code.

- e) The special circumstances are not the result of the actions of the applicant:

The Applicant has not done anything to create the conditions of a configuration of the site that is constrained by existing developments and wetlands.

- f) The variances requested are the minimum variances that will make possible the proposed use of the land, building, or structures in the use district proposed:

The Applicant has endeavored to create a mixed use project that will compliment this sub-area of the City of Powder Springs.

- g) The variances shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

Residential uses (including the proposed multi-family apartments) are permitted in the MXU District.



Variance Request

Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name Selig Enterprises Inc.

Applicant's Address 1100 Spring Street NW, Ste. 550, Atlanta, GA 30309

Applicant's Attorney Garvis L. Sams, Jr. (SAMS, LARKIN & HUFF, LLP)

Attorney's Address 376 Powder Springs Street, 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:

N/A

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
N/A		

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
N/A		

Garvis L. Sams, Jr.



**city of
powder springs**

Variance Request

Owner's Authorization Form

Owner's Authorization

Applicant Name Selig Enterprises, Inc.	Applicant's Address 1100 Spring Street NW, Ste. 550 Atlanta, GA 30309
Property Address 4493, 4391 & 4327 Brownsville & 0 Oglesby Rd. <small>Powder Springs, GA</small>	Property PIN 19102600080, 19102600010, 19102600070 & 19104700310

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

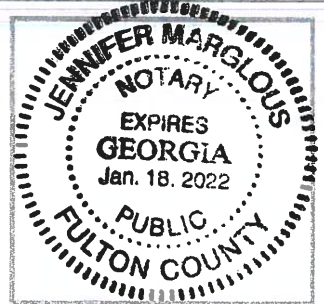
Signature of Property Owner(s)

	<u>Gregory Lewis</u>	<u>3/6/21</u>
Signature of Owner	Printed Name	Date

State of GA County of FULTON

This instrument was acknowledged before me this 6th day of MARCH month.

20 21, by Gregory Lewis name of signer. Identification Presented: self



	<u>Jennifer Marglous</u>	<u>1-18-2022</u>
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



Affidavit of Public Notification

Public Notification Requirements

Per Article 13 and 14 of the City of Powder Springs Unified Development Code, I certify that I have met the advertising requirements of Article 13 and Article 14 for a Special Use, Variance or Rezoning application for subject property located at 4493, 4391 & 4327 Brownsville Rd.; Oglesby

Notices were mailed to all persons owning property located in whole or in part within 200 feet of any portion of the property that is the subject of the rezoning, special use or variance application. The written notice was mailed to the property owners as such names and addresses appear on the County's current ad valorem tax records on _____. Said notices were mailed at least 15 days but no more than 45 days prior to the Mayor and Council first public hearing date.

Signs were placed on the subject property advertising said hearing on _____. One sign was placed at each road frontage at least 15 days prior to the Mayor and Council first hearing date.

Please attach the following to affidavit: notices, list of addresses, picture of sign posted on property and any receipt or documentation that was provided at the post office.

Please sign affidavit after letters have been mailed out to neighboring lot owners within 200 feet of the subject site and sign/s have been posted on subject site.

Notary Attestation

Executed in _____ (City), _____ (State).

Signature of Applicant

Printed Name

Date

Subscribed and sworn before me this _____ day of _____, 20____.

Signature of Notary Public

Name of Notary Public

My Commission Expires

Document will be submitted when letters are sent out and signs posted



Fee Schedule

FEES – Updated 11/5/2018. Please verify cost with staff

Variance, residential	\$	250.00
Variance, commercial	\$	450.00
Special Use	\$	250.00
Rezoning Application, single family, 0-5 acres	\$	250.00
Rezoning Application, single family, 6-10 acres	\$	700.00
Rezoning Application, single family, 11-20 acres	\$	1,000.00
Rezoning Application, single family, 21-100 acres	\$	1,500.00
Rezoning Application, single family, =/> 101 acres	\$	1,500.00 + \$30/acre
Rezoning Application, undeveloped med/high density residential, 0-5 acres	\$	700.00
Zoning - Rezoning Application, undeveloped med/high density residential, 6-10 acres	\$	1,200.00
Zoning - Rezoning Application, undeveloped med/high density residential, 11-20 acres	\$	1,500.00
Zoning - Rezoning Application, undeveloped med/high density residential, 21-100 acres	\$	2,000.00
Rezoning Application, undeveloped med/high density residential, =/> 101 acres	\$	2,000.00 + \$40 /acre
Rezoning Application, undeveloped non-residential, 0-5 acre	\$	900.00
Rezoning Application, undeveloped non-residential, 6-10 acres	\$	1,500.00
Rezoning Application, undeveloped non-residential, 11-20 acres	\$	1,800.00
Rezoning Application, undeveloped non-residential, 21-100 acres	\$	2,200.00
Rezoning Application, undeveloped non-residential, =/> 101 acres	\$	2,200.00 + \$50 /acre
Zoning - Rezoning Application, developed med/high density residential, 0-20,000 SF	\$	700.00
Rezoning Application, developed med/high density residential, 20,0001 - 50,000 SF	\$	1,200.00
Rezoning Application, developed med/high density residential, 50,001 - 100,000 SF	\$	1,500.00
Rezoning Application, developed med/high density residential, 100,001 - 500,000 SF	\$	2,000.00
Rezoning Application, developed med/high density residential, =/> 500,001 SF	\$	2,000.00 \$90 /100,000 SF
Rezoning Application, developed non-residential, 0-20,000 SF	\$	900.00
Rezoning Application, developed non-residential, 20,001-50,000 SF	\$	1,500.00
Rezoning Application, developed non-residential, 50,001-100,000 SF	\$	1,800.00
Rezoning Application, developed non-residential, 100,001-500,000 SF	\$	2,200.00
Rezoning Application, developed non-residential, =/> 500,001 SF	\$	2,200.00 + \$115 /100,000 SF
Public Hearing signs	\$	25.00
Public Hearing signs - Deposit	\$	10.00

15.00
PK

1-11 C. Robin Wyatt
Ste D-4100
1140 Hammond Drive
Atlanta, GA. 30328

STATE OF GEORGIA
COUNTY OF FULTON

Cobb County, Georgia
Paid 2,280.00 Real Estate Tax
Date 5-5-95
Jay C. Stephenson
Clerk of Superior Court

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED (this "Deed"), made and entered into effective the 21st day of April, 1995, by and between VF POWDER SPRINGS ASSOCIATES, L.P., a Georgia limited partnership (the "Grantor") and SELIG ENTERPRISES INC., a Georgia corporation (the "Grantee"), the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits.

Jay C. Stephenson
CLERK SUPERIOR COURT CLERK

FILED AND RECORDED
1995 MAY -5 AM 11:01

W I T N E S S E T H:

FOR AND IN CONSIDERATION OF exchange of properties, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed, and does by these presents grant, bargain, sell, alien, convey and confirm unto Grantee, and the heirs, successors, legal representatives and assigns of Grantee, all that tract or parcel of land lying and being in Land Lot 1025, 1026, 1027 and 1047 of the 19th District, Second Section, of Cobb County, Georgia, being more particularly described in Exhibit "A" annexed hereto.

2,280.00

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 any wise appertaining, to the only proper use, benefit and behoof of Grantee forever, in FEE SIMPLE.

THIS DEED AND THE WARRANTY of title contained herein are subject only to those matters set forth on Exhibit "B" annexed hereto (the "Permitted Title Exceptions").

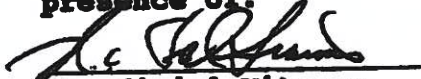
SUBJECT ONLY TO the Permitted Title Exceptions, Grantor shall warrant and forever defend the right and title to said tract or parcel of land unto Grantee and the heirs, successors, legal representatives and assigns of Grantee from and against any and all claims of any and all parties whomsoever holding, owning or claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, the duly authorized officers of Grantor have signed, sealed and delivered this Deed, and


caused its corporate seal to be affixed hereto, the day and year first above written.

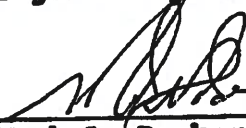
Signed, sealed and delivered in the presence of:

VF POWDER SPRINGS ASSOCIATES, L.P., a Georgia limited partnership, "Grantor"


Unofficial Witness

By: The Vlass-Fotos Group, Ltd. a Georgia corporation, its sole general partner


Notary Public

By: 
Mark A. Parker
Vice President



DIANNA NORRIS
Notary Public, Cobb County, Georgia
My Commission Expires Nov. 14, 1999

(CORPORATE SEAL)



(NOTARY SEAL)

Exhibit "A"

All that tract or parcel of land lying and being in Land Lots 1025, 1026, 1027 and 1047 of the 19th District, 2nd Section, Cobb County, Georgia, being known as Parcel 3, Parcel 4, Parcel 5 and Parcel 6, as shown on that certain Plat of Survey prepared for Selig Enterprises, Inc. and Old Republic National Title Insurance Company dated February 24, 1995, by David A. Burre Engineers & Surveyors, and being more particularly described as follows:

Beginning at an iron pin found located on the southeasterly right of way of Brownsville Road (having a 60 foot right of way) 245.00 feet southwesterly from the intersection formed by the southeasterly right of way of Brownsville Road and the northerly line of Land Lot 1026; thence south 48 degrees 15 minutes 44 seconds east 197.88 feet to an iron pin found; thence south 41 degrees 44 minutes 16 seconds west 142.50 feet to an iron pin found; thence south 48 degrees 15 minutes 44 seconds east 351.12 feet to an iron pin found; thence north 41 degrees 44 minutes 16 seconds east 72.50 feet to an iron pin found; thence south 48 degrees 15 minutes 44 seconds east 181.20 feet to an iron pin found; thence south 41 degrees 44 minutes 16 seconds west 40.50 feet to an iron pin found; thence south 48 degrees 15 minutes 44 seconds east 195.63 feet to an iron pin found; thence south 48 degrees 02 minutes 07 seconds west 143.21 feet to an iron pin found; thence south 03 degrees 57 minutes 19 seconds west 145.05 feet to an iron pin found; thence south 03 degrees 57 minutes 09 seconds west 171.79 feet to an iron pin found located at the common intersection formed by Land Lots 1025, 1026, 1047 and 1048; thence south 00 degrees 38 minutes 53 seconds west 294.25 feet to an iron pin found located on the northerly right of way of Oglesby Road (having a 50 foot right of way); thence following the northerly right of way of Oglesby Road the following courses and distances: north 86 degrees 41 minutes 03 seconds west 184.65 feet to a point; thence north 89 degrees 34 minutes 38 seconds west 200 feet to a point; thence running in a northwesterly direction along the arc of a curve to the left, said curve having a radius of 1344.64 feet, said arc being subtended by a chord line having a magnetic bearing of north 73 degrees 07 minutes 59 seconds west and a chord length of 761.18 feet, and arc distance of 771.73 feet to a point; thence north 56 degrees 36 minutes 37 seconds west 274.43 feet to an iron pin located on the southeasterly right of way of Brownsville Road; thence following the southeasterly right of way of Brownsville Road the following courses and distances: north 33 degrees 02 minutes 33 seconds east 136.71 feet to a point; thence running in a northeasterly direction along the arc of a curve, said curve having a radius of 2086.65 feet, said arc being subtended by a chord line having a magnetic bearing of north 38 degrees 00 minutes 29 seconds east and a chord length of 306.98 feet and an arc distance of 307.26 feet to a point; thence north 41 degrees 43 minutes 42 seconds east 58.86 feet to a point; thence north 41 degrees 44 minutes 16 seconds east 831.46 feet to an iron pin found to the point of beginning.

CONTINUED

BK 8849PG0127

EXHIBIT A, CONTINUED

Together with perpetual, nonexclusive easements as set forth in (i) that certain Grant of Easement from Jack Thompson and James H. Pruitt to The Vlass-Fotos Group, Ltd. ("VFG") dated November 30, 1988, recorded in Deed Book 5162, page 13, Cobb County, Georgia records; and (ii) that certain Grant of Easement from Jack Thompson Properties, Inc. to VFG, dated November 30, 1988, recorded in Deed Book 5162, page 9, aforesaid records.

Together with perpetual, exclusive easements as set forth in (i) that certain Road Easement Agreement among V. C. Rainwater and Margie Beatrice Rainwater and VFG, dated January 7, 1991, recorded in Deed Book 5988, page 500, aforesaid records; and (ii) that certain Road Easement Agreement among Branson E. Wood, Edith Wood Reid and Lorene Wood Rowe and VFG, dated January 7, 1991, recorded in Deed Book 5988, page 11, aforesaid records.

Further together with a perpetual non-exclusive easement as set forth in that certain Reciprocal Easement Agreement among VF Powder Springs Associates, L.P. and Sunbelt-Dix, Inc. dated November 25, 1992, filed December 9, 1992, recorded in Deed Book 7028, page 462, aforesaid records.

AND

All that tract or parcel of land lying and being in Land Lots 1025, 1026, of the 19th District, 2nd Section, Cobb County, Georgia, being known as **Parcel 1**, as shown on that certain Plat of Survey prepared for Sellg Enterprises, Inc. and Old Republic National Title Insurance Company dated February 24, 1995, by David A. Burre Engineers & Surveyors, and being more particularly described as follows:

Beginning at an iron pin found located on the southeasterly right of way of Brownsville Road (having a 60 foot right of way) and the northerly line of Land Lot 1026; thence south 88 degrees 41 minutes 00 seconds east 334.15 feet to an iron pin found; thence south 41 degrees 47 minutes 28 seconds east 730.15 feet to an iron pin found; thence south 48 degrees 02 minutes 07 seconds west 170.40 feet to an iron pin found; thence north 48 degrees 15 minutes 44 seconds west 65.31 feet to an iron pin found; thence north 19 degrees 18 minutes 39 seconds west 103.29 feet to a point; thence north 48 degrees 15 minutes 44 seconds west 75.50 feet to an iron pin found; thence south 41 degrees 44 minutes 16 seconds west 50 feet to an iron pin found; thence north 48 degrees 15 minutes 44 seconds west 433.95 feet to an iron pin found; thence south 81 degrees 39 minutes 31 seconds west 143.43 feet to an iron pin found; thence south 48 degrees 15 minutes 44 seconds west 204.01 feet to an iron pin located on the southeasterly right of way of Brownsville Road; thence following said right of way north 41 degrees 44 minutes 16 seconds east 145.00 feet to an iron pin found to the point of beginning.

TOGETHER WITH THE FOLLOWING EASEMENTS:

BK8849PG0128

EXHIBIT A, CONTINUED

Together with perpetual, nonexclusive easements as set forth in (i) that certain Grant of Easement from Jack Thompson and James H. Pruitt to The Vlass-Fotos Group, Ltd. ("VFG") dated November 30, 1988, recorded in Deed Book 5162, page 13, Cobb County, Georgia records; and (ii) that certain Grant of Easement from Jack Thompson Properties, Inc. to VFG, dated November 30, 1988, recorded in Deed Book 5162, page 9, aforesaid records.

Together with perpetual, exclusive easements as set forth in (i) that certain Road Easement Agreement among V. C. Rainwater and Margie Beatrice Rainwater and VFG, dated January 7, 1991, recorded in Deed Book 5988, page 500, aforesaid records; and (ii) that certain Road Easement Agreement among Branson E. Wood, Edith Wood Reid and Lorene Wood Rowe and VFG, dated January 7, 1991, recorded in Deed Book 5988, page 11, aforesaid records.

Further together with a perpetual non-exclusive easement as set forth in that certain Reciprocal Easement Agreement among VF Powder Springs Associates, L.P. and Sunbelt-Dix, Inc. dated November 25, 1992, filed December 9, 1992, recorded in Deed Book 7028, page 462, aforesaid records.

EXHIBIT B

PERMITTED TITLE EXCEPTIONS

1. All taxes subsequent to the year 1994.
2. License Agreement contained in Agreement of Purchase and Sale by and between Marcia L. Shell ("Seller") and The Vlass-Fotos Group, Ltd. ("Purchaser") dated March 6, 1995 for Seller and March 3, 1995 for Purchaser.
3. Deed to Secure Debt from VF Powder Springs Associates, L.P. to V.C. Rainwater, Jr. and Margie Beatrice Rainwater dated December 18, 1992, recorded in Deed Book 7051, page 467, Cobb County, Georgia records.
4. Second Priority Deed to Secure Debt from VF Powder Springs Associates, L.P. to Charles G. Economy dated December 18, 1992, recorded in Deed Book 7051, page 472, aforesaid records, as transferred and assigned to Edward J. Levin, I.R.A. (Individual Retirement Account) by Assignment dated May 26, 1993, recorded in Deed Book 7541, page 321, aforesaid records.
5. Reciprocal Easement and Restrictive Covenant Agreement between VF Powder Springs Associates, L.P. and Sunbelt-Dix, Inc. dated November 25, 1992, recorded at Deed Book 7028, page 465, aforesaid records.
6. Access Easement Agreement between VF Powder Springs Associates, L.P. and Jack Thompson and Tommy A. Whitener dated December 9, 1992, recorded in Deed Book 7032, page 98, aforesaid records.
7. Easement from VF Powder Springs Associates, L.P. to Bell South Telecommunications dated September 7, 1993, recorded in Deed Book 7750, page 235, aforesaid records.
8. Easement to Colonial Pipeline Company as evidenced by the following documents, as modified by that certain Partial Release of Pipeline Easement Rights from Colonial Pipeline Company dated November 30, 1987, recorded in Deed Book 4739, page 175, aforesaid records:
 - a. Right of Way Easement from Roberta Murray to Colonial Pipeline Company dated July 16, 1962, recorded in Deed Book 675, page 212, aforesaid records;
 - b. Gate Valve Contract from Roberta Murray to Colonial Pipeline Company dated November 30, 1971, recorded in Deed Book 1281, page 660, aforesaid records;
 - c. Gate Valve Contract from Roberta Murray to Colonial Pipeline Company dated June 14, 1972, recorded in Deed Book 1327, page 253, aforesaid records;
 - d. Gate Valve Easement from Thomas L. Turner, Louise Turner Collett and Robert M. Turner to Colonial Pipeline Company dated October 24, 1983, recorded in Deed Book 2935, page 468, aforesaid records.
9. Department of Transportation Right of Way Deed (Limited Access) from Thomas L. Turner, Robert M. Turner and Louise Turner Collett dated October 4, 1982, recorded in Deed Book 2602, page 509, aforesaid records.
10. Matters shown on survey prepared for Selig Enterprises, Inc. and Old Republic National Title Insurance Company by David A. Burre Engineers & Surveyors, Inc., David A. Burre, Georgia Registered Land Surveyor No. 1965, dated February 24, 1995, Project No. 91-1551.

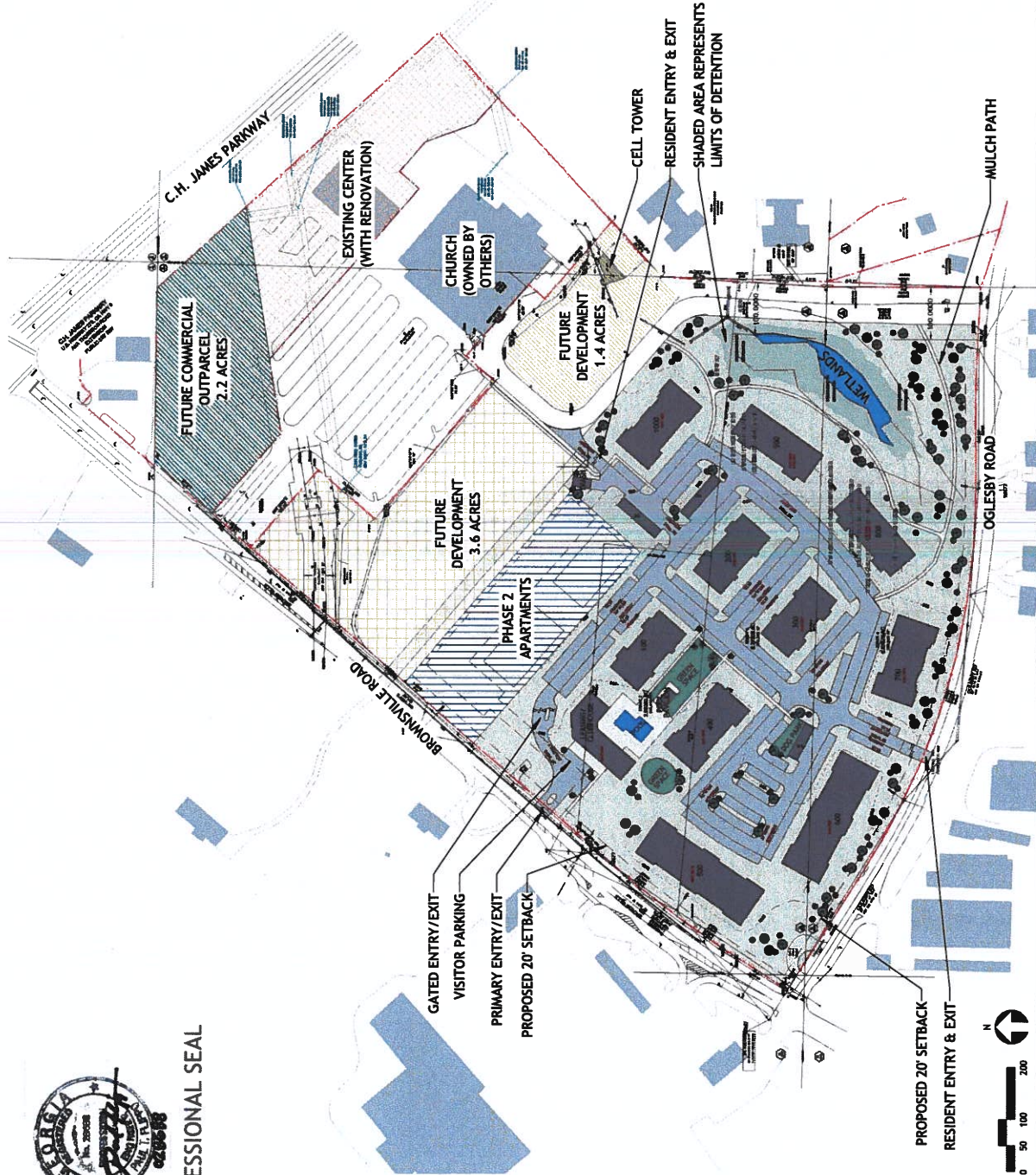
BK8849PG0130



PROFESSIONAL SEAL

SITE PLAN 4B

BROWNSVILLE ROAD



DEVELOPMENT SUMMARY- PHASE 1:

MULTI-FAMILY APARTMENTS	
LEASING/CLUBHOUSE & POOL PAVILION (+/- 9,000 SF)	
10 RESIDENTIAL BUILDINGS (3-STORY AND 3/4 SPLIT)	
+/- 300 UNITS	
962 SF AVG	
(48X 1-BR, 46X 2-BR, 6X 3-BR)	
CONCEPTUAL AREAS	
HEATED FLOOR AREA	316,000 SF
TOTAL FLOOR AREA	390,000 SF
*EXCLUDES BALCONIES	
PARKING	
REQ. MULTI-FAMILY PARKING:	1.65 * 300= 495 SPACES
(PER ZONING: 1-BR @ 1.6, 2-BR @ 1.6, 3-BR @ 2.2)	
PROVIDED PARKING:	
SURFACE PARKING:	+/- 474 SPACES
GARAGE PARKING:	+/- 21 SPACES
TOTAL:	+/- 495 SPACES

DEVELOPMENT SUMMARY- PHASE 2:

MULTI-FAMILY APARTMENTS	
2 RESIDENTIAL BUILDINGS (3-STORY)	
+/- 48 UNITS	
CONCEPTUAL AREAS	
HEATED FLOOR AREA	52,000 SF
TOTAL FLOOR AREA	63,000 SF
*EXCLUDES BALCONIES	
PARKING	
REQ. MULTI-FAMILY PARKING:	1.65 * 48= 80 SPACES
PROVIDED PARKING:	
TOTAL:	+/- 80 SPACES

PHASE 1 + PHASE 2	
PHASE 1 + PHASE 2 =	22.3 ACRES
PROPOSED DENSITY =	348 UNITS/ 22.3 ACRES = 15.61 UNITS/ACRE

FUTURE DEVELOPMENT
COMMERCIAL OR TOWNHOMES

COMMERCIAL SHOPPING CENTER
12,000 SF RETAIL WITH PROPOSED FACADE AND SITE RENOVATION

*TO BE CONFIRMED WITH ZONING

A-4

SILVERSTUDIO

SELIG ENTERPRISES | 03/19/21



Printed: 1/25/2021

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
SELIG ENTERPRISES INC

SELIG ENTERPRISES INC

Payment Date: 8/31/2020

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2020	19102600080	10/15/2020	Pay: N/A or	\$0.00	
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$3,046.05	\$0.00



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



Parcel Id:	19-102600080	Tax Account Id:	6270
Property Location:	4391 BROWNSVILLE RD	Zoning Code:	
Owner Name/Address:	SELIG ENTERPRISES INC 1100 SPRINGS ST SUITE 550 ATLANTA GA 30309-2827	Land Value:	0
		Improvement Value:	100,364
		Exempt Value:	0.00
		Total Assessed Value:	100,364.00
		Deductions:	None

[Make a Payment](#)

[View Current Bill](#)

11/15/2020	Tax	953.46	0.00	0.00	0.00	PAID
11/29/2019	Tax	953.46	0.00	0.00	0.00	PAID

Last Payment: 10/27/20

[Return to Home](#)



Printed: 1/25/2021

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
SELIG ENTERPRISES INC

SELIG ENTERPRISES INC

Payment Date: 8/31/2020

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2020	19102600010	10/15/2020	Pay: N/A or	\$0.00	
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$12,807.70	\$0.00



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 mobile phone to view
 this bill!!



Parcel Id:	19-102600010	Tax Account Id:	6267
Property Location:	4327 BROWNSVILLE RD SW	Zoning Code:	
Owner Name/Address:	SELIG ENTERPRISES INC 1100 SPRINGS ST SUITE 550 ATLANTA GA 30309-2827	Land Value:	0
		Improvement Value:	422,000
		Exempt Value:	0.00
		Total Assessed Value:	422,000.00
		Deductions:	None

Make a Payment		View Current Bill				
11/15/2020	Tax	5,722.60	0.00	0.00	0.00	PAID
11/29/2019	Tax	5,722.60	0.00	0.00	0.00	PAID
Last Payment: 10/27/20						

[Return to Home](#)



Printed: 1/25/2021

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
SELIG ENTERPRISES INC

SELIG ENTERPRISES INC

Payment Date: 8/31/2020

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2020	19102600070	10/15/2020	Pay: N/A or	\$0.00	
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$5,421.84	\$0.00



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 mobile phone to view
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Parcel Id:	19-102600070	Tax Account Id:	6269
Property Location:	4493 BROWNSVILLE RD	Zoning Code:	
Owner Name/Address:	SELIG ENTERPRISES INC	Land Value:	0
	1100 SPRINGS ST SUITE 550	Improvement Value:	178,644
	ATLANTA GA 30309-2827	Exempt Value:	0.00
		Total Assessed Value:	178,644.00
		Deductions:	None

Make a Payment		View Current Bill				
11/15/2020	Tax	1,793.12	0.00	0.00	0.00	PAID
11/29/2019	Tax	1,793.12	0.00	0.00	0.00	PAID
Last Payment: 10/27/20						

[Return to Home](#)



Printed: 1/25/2021

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
SELIG ENTERPRISES INC

SELIG ENTERPRISES INC

Payment Date: 8/31/2020

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2020	19104700310	10/15/2020	Pay: N/A or	\$0.00	
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$6,518.45	\$0.00



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 mobile phone to view
 this bill!!



Parcel Id:	19-104700310	Tax Account Id:	6275
Property Location:	OGLESBY RD	Zoning Code:	
Owner Name/Address:	SELIG ENTERPRISES INC 1100 SPRINGS ST SUITE 550 ATLANTA GA 30309-2827	Land Value:	0
		Improvement Value:	214,776
		Exempt Value:	0.00
		Total Assessed Value:	214,776.00
		Deductions:	None

Make a Payment		View Current Bill				
11/15/2020	Tax	2,213.17	0.00	0.00	0.00	PAID
11/29/2019	Tax	2,213.17	0.00	0.00	0.00	PAID
Last Payment: 10/27/20						

[Return to Home](#)



Selig - Vicinity Map



752.3
 0 376.17 752.3 Feet
 WGS_1984_Web_Mercator_Auxiliary_Sphere
 © Cobb County Georgia

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

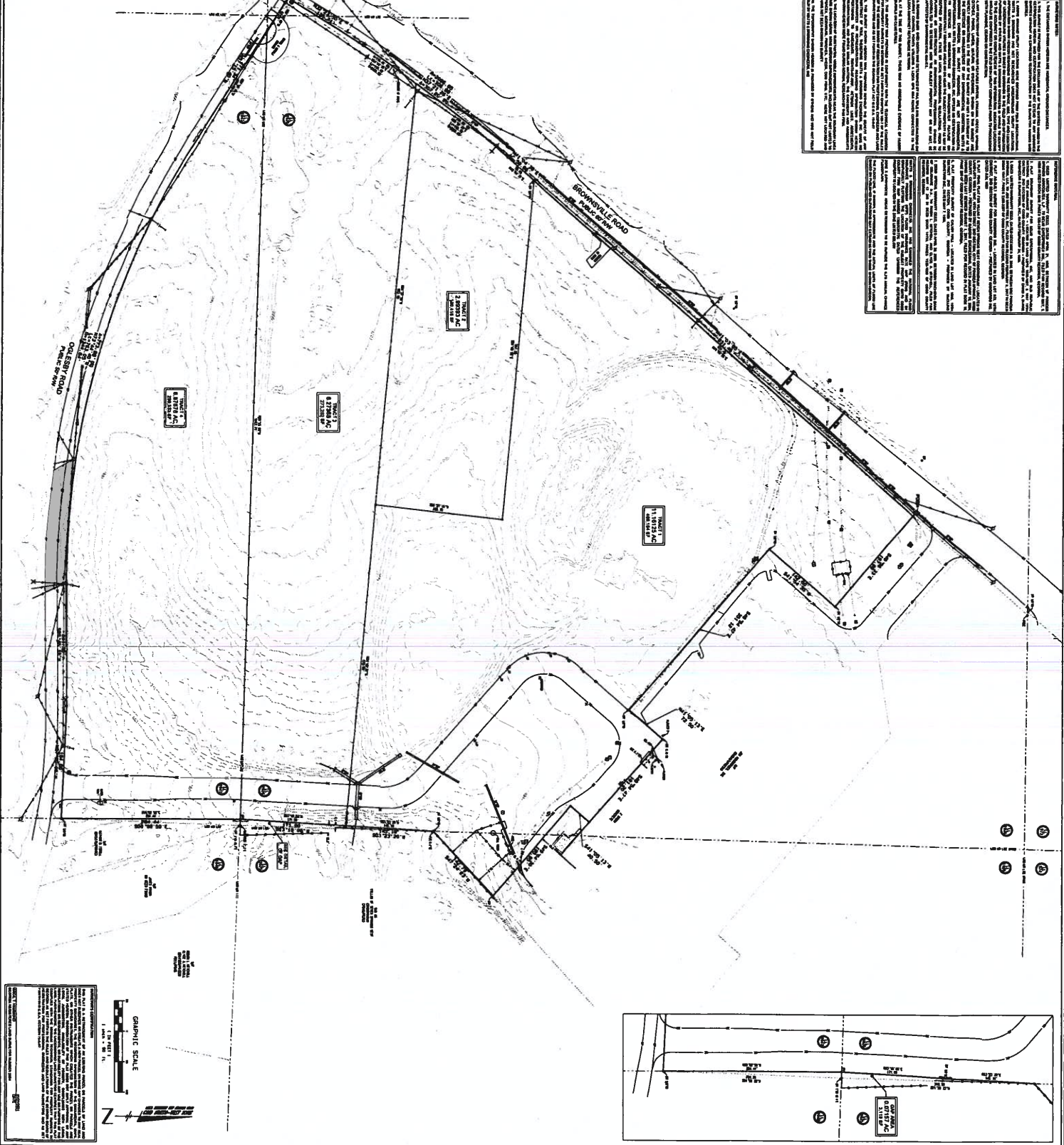
1: 4,514



Map Notes:

PROVIDED FOR THE RECORD BY THE SURVEYOR. THIS SURVEY WAS MADE BY THE SURVEYOR ON THE ABOVE DESCRIBED PROPERTY. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE PROPERTY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY.

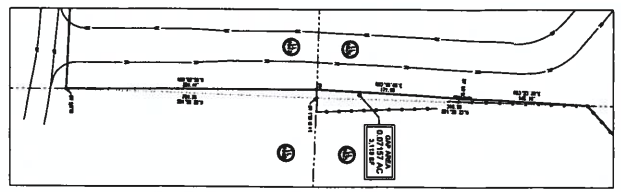
SYMBOL LEGEND	
[Symbol]	Property Line
[Symbol]	Boundary Line
[Symbol]	Survey Line
[Symbol]	Corner Marker
[Symbol]	Structure
[Symbol]	Water Body
[Symbol]	Topography
[Symbol]	Other



THIS SURVEY WAS MADE BY THE SURVEYOR ON THE ABOVE DESCRIBED PROPERTY. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE PROPERTY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY.

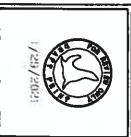
THIS SURVEY WAS MADE BY THE SURVEYOR ON THE ABOVE DESCRIBED PROPERTY. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE PROPERTY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE RECORDS OF THE SURVEY.

GRAPHIC SCALE
1" = 100.00 FT
N



DATE OF SURVEY: 10/15/2011
SURVEYOR: [Name]
FIRM: [Name]

COBB COUNTY, GEORGIA
19TH DISTRICT, 2ND SECTION
LAND LOT 1025



BOUNDARY SURVEY FOR
SELIG ENTERPRISES
LOCATED IN
LAND LOT 1025
19TH DISTRICT, 2ND SECTION
COBB COUNTY, GEORGIA



BROWNSVILLE ROAD | RENDERED VIEW

SELIG ENTERPRISES

3/19/21

TO THE MAYOR & CITY COUNCIL
POWDER SPRINGS, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, SELIG ENTERPRISES, INC., hereinafter referred to as the "Applicant", and asserts the following, to wit:

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

2.

The Application seeks approval of a Variance Application and for grant of waiver of dwelling units per acre from 12 units per acre to 15.61 units per acre by the governing authority of the City of Powder Springs.

3.

Applicant states that a literal interpretation and enforcement of the Unified Development Code ("UDC") provisions creates an unnecessary and unreasonable hardship with no resulting substantial benefit to the public good.

4.

The Variance sought by the Applicant concerning the Subject Property will not impair the purpose, spirit and intent of the UDC and stands to alleviate any and all non-compliance of the foregoing requirements while causing no substantial detriment to the public good.

5.

The current Code requirements and any other conditions to the use of the Subject Property 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 rights without due process violates constitutional prohibitions against the taking of private property without just compensation.

6.

The zoning conditions and requirements as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing conditions and stipulations do not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said requirements 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.

7.

The City of Powder Springs UDC and meeting procedures are further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with Variance 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 23rd day of March, 2021.

SAMS, LARKIN & HUFF, LLP

By: 

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