

Legislation Text

File #: PZ 18--035, **Version:** 1

File #: PZ 18--035

APPLICATION: Hardship Variance, Paran Homes Sweetwater Landing Townhouses

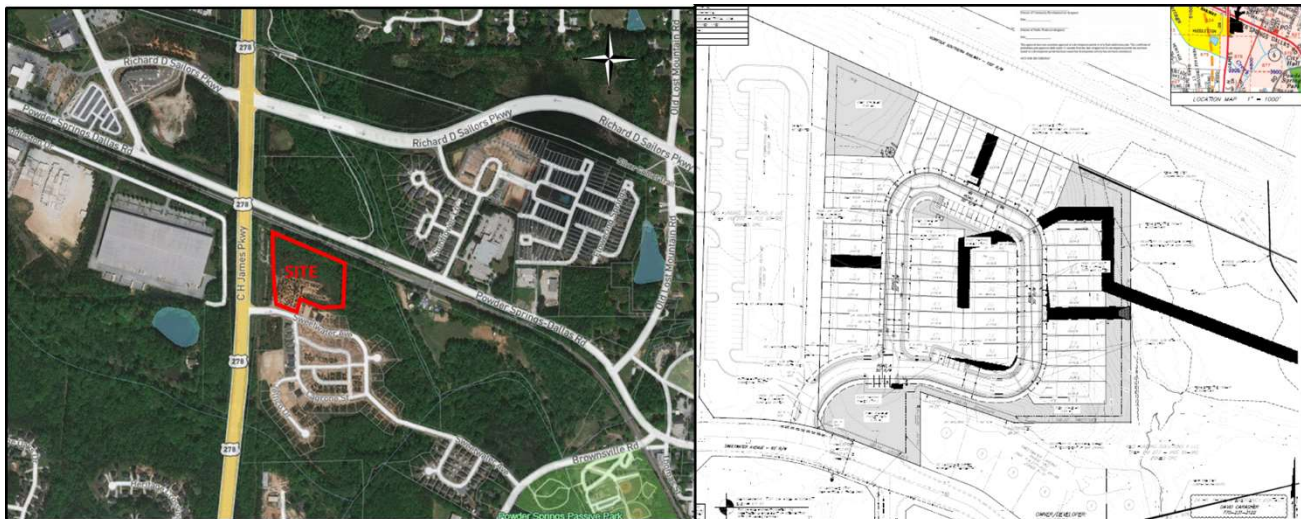
PETITION: The applicant, Paran Homes, is requesting a hardship variance to reduce the front setback from 35 feet to 15 feet; reduce the rear setback from 20 feet to 15 feet on lots 32-45 as indicated on site plan (internal island).

PURPOSE OF THE REQUEST: reduce the front setback from 35 feet to 15 feet; reduce the rear setback from 20 feet to 15 feet on lots 32-45 as indicated on site plan (internal island only).

LOCATION: Land Lots 825 and 878, 19th Districts, Powder Springs, Georgia.

ACRES: 5.69 acres with a density of 7.91 units per acre

Zoning: MDR



Background:

The subject site that has been rezoned from Community Retail Commercial (CRC) to Medium Density Residential (MDR) zoning district to facilitate a townhome development consisting of 45 units. The rezoning application was approved on September 17, 2018 with the following condition:

The Rezoning of the Subject Property shall be from CRC to MDR. The applicant shall provide a site plan meeting all requirements of the UDC, except those varied by the concurrent variance application. This site

plan shall show that two cars can fit in the driveway without blocking the sidewalk and the private open space requirement of the MDR zoning district.

When the applicant presented the land disturbance plan, staff noted that the site did not meet the setbacks of the Medium Density Residential (MDR) zoning district. After discussing the project with the applicant and the project engineer, it was determined that the setback was calculated using the entire project site rather than the individual parcels. The Unified Development Code requires that setbacks be calculated for each individual parcel. The site plan as approved at the rezoning, is not feasible without a variance for setback. Furthermore, the MDR zoning district requires a front setback of 35 feet, and a rear setback of 20 feet. The adjacent Sweetwater Landing subdivision has the following setbacks:

Front

- 15 feet from back of curb on Sweetwater Avenue.
- 20 feet from back of curb on other streets

Back - 10 feet

The setbacks may be able to be approved without a variance, using the section of the code below.

Sec. 5-74. Setback.

“While a minimum building setback is established for the zoning district in which the dwelling is located, consideration should be given to establishing the front building line in a manner that is consistent with other dwellings on the same side of the street and within 500 feet of the lot to be built upon.”

If the above section is used, the setbacks of the adjacent Sweetwater Landing Single Family should be used as a guide.

However, the zoning stipulations approved stated that the property must comply with MDR zoning unless variances are granted. The Rezoning required the setback to meet the setbacks of the MDR zoning district, but also provided that they maintain a minimum of 22 feet of driveway without sidewalk obstruction. In an effort to work with the developer, staff has initiated a variance request for setbacks matching the site plan presented at council. In order to allow development as envisioned at the rezoning, the following variances are needed.

- 1) Reduce the front setback from 35 feet to 15 feet
- 2) Reduce the rear setback from 20 feet to 15 feet on lots 32-45 as indicated on site plan (internal island only).

Analysis:

- 1. There are 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;**

The townhome development will consist of 45 units at a density of 7.91 units per acre. The subject site is bordered by wetlands located to the east, Powder Springs Dallas Road to the north, commercial designated property to the west, Sweetwater Avenue and single-family homes located to the south.

Though a variance is requested the layout does not pose any public health and safety concerns. There will be more than 10 feet between structures, adequate right-of-way width and guest parking to support safe traffic flow for resident and emergency vehicles. The layout also has sidewalk on both side of the right-of-way to support safe pedestrian activity. The proposed development is located within the existing Sweetwater Landing subdivision. The single family portion of this subdivision was previously approved and developed using similar setbacks.

- 2. 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;**

If this variance is not approved, the setback requirement of the code would not allow the development to be constructed as presented at zoning, and would be inconsistent with the surrounding development.

- 3. 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;**

Granting of the variance may confer a special privileges not provided to other properties zoned MDR. However, the subject property is located within a subdivision that was previously approved and developed with shorter setbacks.

Sec. 5-74. Setback.

"While a minimum building setback is established for the zoning district in which the dwelling is located, consideration should be given to establishing the front building line in a manner that is consistent with other dwellings on the same side of the street and within 500 feet of the lot to be built upon."

In this case, the setbacks of the adjacent Sweetwater Landing Single Family should be used as a guide. The Rezoning required the setback to meet the setbacks of the MDR zoning district, but also provided that they maintain a minimum of 22 feet of driveway without sidewalk obstruction.

- 4. 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;**

Though a variance is requested the layout does not pose any public health and safety concerns. There will be more than 10 feet between structures, adequate right-of-way width and guest parking to support safe traffic flow for residence and emergency vehicles. The layout also has sidewalk on both side of the right-of-way to support safe pedestrian activity.

- 5. The special circumstances are not the result of the actions of the applicant;**

The circumstances that exists are not as a result of the applicant.

- 6. 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; and/or

The variance requested is the minimum variance that is required to make possible the proposed development of 45 townhomes. There is a hardship as the site is surrounded by physical and environmental constraints.

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

The subject site has gone through a rezoning classification from CRC to MDR. The site has also gone through a Special Use approval that will allow higher density of up to eight (8) dwelling units per acre. All the necessary approval has been sought to accommodate the townhome development.

Fiscal Impact:

There are currently existing services and infrastructure to support the proposed request. The proposed development will provide increased tax income for the City. The proposed request should not have any negative economic impact on the City of Powder Springs as infrastructure and services are already in place to serve the proposed request.

Recommendation:

Staff recommends approval of PZ 18-035.

1. Reduce the front setback from 35 feet to 15 feet.
2. Reduce the rear setback from 20 feet to 15 feet on lots 32-45 as indicated on site plan (internal island).