

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
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FACSIMILE

ADAM J. ROZEN

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November 5, 2018

## VIA HAND DELIVERY & EMAIL:

Ms. Tina Garver, AICP  
Community Development Director  
City of Powder Springs  
4488 Pineview Drive  
Powder Springs, 30127

COPY

Recd 11/5/18  
J. Maser

Re: Application of Paran Homes, LLC to Rezone (with concurrent Variances) a 27.77 ± Acre Tract from R-20 to MDR (No. PZ 18-031)

Dear Tina:

As you know, this firm represents Paran Homes concerning the above-captioned Application for Rezoning. Presently, the Rezoning Application is scheduled to be heard and considered for final action by the Mayor and City Council on December 3, 2018.

On October 31, 2018, Paran Homes' submittal was reviewed by the Mayor and City Council as part of its Work Session Agenda. Pursuant to those discussions and to further clarify and refine the request, the Applicant is now submitting Variance requests based on those discussions, which include:

1. A reduction in the front setback from 35 feet (35') to 25 feet (25').
2. Reducing the required right-of-way from 60 feet (60') with 28 feet (28') of required pavement to fifty feet (50') with twenty-four feet (24') required pavement.
3. A reduction in the minimum lot size for Fee Simple Townhomes from 2,000 square feet to 1,700 square feet.

The Variance application is enclosed herein along with a check made payable to the City of Powder Springs for the application fee. Please include these documents in the official record for the rezoning file and variance file. The Variance notification signs will be posted and the notification letters mailed out no later than November 16, 2018.

SAMS, LARKIN, HUFF & BALLI

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**VIA HAND DELIVERY & EMAIL :**

Ms. Tina Garver, AICP  
Community Development Director  
City of Powder Springs  
November 5, 2018  
Page 2

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Please do not hesitate to contact me should you or your Staff require additional information or documentation prior to the formulation of Staff's Analysis and Recommendations or prior to the Applications being heard and considered by the Mayor and City Council. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Joel L. Larkin  
[jlarkin@slhb-law.com](mailto:jlarkin@slhb-law.com)

JLL/klk

Enclosures/Attachments

cc: Honorable Al Thurman, Mayor (via email w/attachments)  
Members, Powder Springs City Council (via email w/attachments)  
Members, Powder Springs Planning Commission (via email w/attachments)  
Ms. Pam Conner, City Manager (via email w/attachments)  
Ms. Kelly Axt, CMC, City Clerk (via email w/attachments)  
Mr. Alex Almodóvar, MPA, Permitting & Development Coordinator  
(via email w/attachments)  
Mr. Kelly Davis, P.E., Gaskins (via email w/attachments)  
Mr. Kendall King, Director of Acquisitions, Paran Homes (via email w/attachments)  
Garvis L. Sams, Jr., Esq. (via email w/attachments)

**HARDSHIP VERIFICATION**

Applicant: Paran Homes Telephone: 678-726-9646 x 205

Applicant Address: 3005 Breckinridge Blvd. , Suite 200, Duluth, GA 30096

Property Location: 3700 Powder Springs Road Land Lot No: 833 and 870, 19th District

Applicant is:

Property Owner  Other

Representative of the Owner  NOT a Representative of the Owner

**Current Zoning:** R-20 (Rezoning Application requests rezoning to MDR [PZ18-031])

**Type of Appeal**

Hardship Variance

Change in Stipulations Approval

**Attachments**

Application Fee  Maps or Drawings

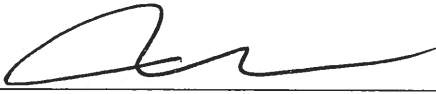
Boundary Description  Not required

Review Checklist  Other: \_\_\_\_\_

**Description of Appeal:**  Additional pages explaining the Appeal are attached

1) Reduce front setback from 35' to 25'; 2) Reduce required ROW width from 60' with 28' of required pavement to 50' with 24' required pavement; 3) Reduce the minimum lot size for Fee Simple Townhomes from 2,000 sq. feet to 1,700 sq. feet.

I attest that this Application and it's attachments are accurate to the best of my knowledge, And that all written or reproducible evidence supporting my appeal is attached.



Signature of Applicant (to be Notarized)  
Joel L. Larkin, Esq. (Sams, Larkin, Huff & Balli, LLP) on behalf of Applicant

**DO NOT WRITE IN THE BOXES BELOW**

DRI  Forms filed with ARC/DCA/GRTA on: \_\_\_\_\_  Final determination received on: \_\_\_\_\_

|   |   |   |
|---|---|---|
| <p>Application Received Date: _____</p> <p><b>Scheduled for Public Hearing:</b></p> <p>Planning Commission Date: _____</p> <p><input type="radio"/> Appealed to MCC Date: _____</p> <p>Mayor &amp; City Council Date: _____</p> <p><input type="radio"/> Signs Provided Date: _____</p> <p><input type="radio"/> Newspaper AD Date: _____</p> <p><input type="radio"/> Affidavit Received Date: _____</p> | <p><b>Planning Commission:</b></p> <p>Public Hearing: Date: _____</p> <p>Tabled Until: Date: _____</p> <p><b>Action</b></p> <p><input type="radio"/> Approved</p> <p><input type="radio"/> Approved with Changes</p> <p><input type="radio"/> Denied</p> <p><input type="radio"/> Stipulations Attached</p> | <p><b>Mayor &amp; Council</b></p> <p>Public Hearing: Date: _____</p> <p>Tabled Until: Date: _____</p> <p>Returned to P.C. Date: _____</p> <p><b>Final Action:</b></p> <p><input type="radio"/> Approved</p> <p><input type="radio"/> Approved with Changes</p> <p><input type="radio"/> Denied</p> <p><input type="radio"/> Stipulations Attached</p> |
|---|---|---|

**Application Withdrawn:** **Date:** \_\_\_\_\_

By Planning Director  Without time restriction

By P.C. or Mayor & Council  With Restriction: Cannot be refiled for 12 months

**Powder Springs**

**OWNER'S AUTHORIZATION**

This is to certify that (  I am  we are  I am the Corporate Secretary of a Corporation that is) the owner of a majority interest in the property that is the subject of the attached application.

By the 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 applies and  cross out each that does not apply)

**Hardship Variance Application**

Applicant: Paran Homes

Applicant Address: 3005 Breckinridge Blvd, Suite 200, Duluth, GA 30096

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date this Authorization becomes null and void: N/A, 20\_\_\_\_. (  Not applicable)

[Signature]  
Signature of Owner

(Notarized)

[Signature]  
Signature of Owner

(Notarized)

\_\_\_\_\_  
Signature of Owner

(Notarized)

\_\_\_\_\_  
Signature of Owner

(Notarized)



[Signature]  
1.5.2019

**Attach additional sheets as needed  
Corporations – attach copy of corporate resolution approving authorization.**

**Powder Springs**

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Applicant: Paran Homes

Applicant Address: 3005 Breckinridge Blvd, Suite 200, Duluth, GA 30096

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date this Authorization becomes null and void: N/A, 20\_\_\_\_. (  Not applicable)

*Carol Alane McDonald Schneider*

(Notarized)

*As Proposed Administrator of Estate of John Green Moore*  
Signature of Owner

*Elaine Moore Conn*

(Notarized)

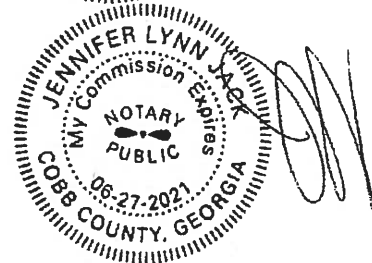
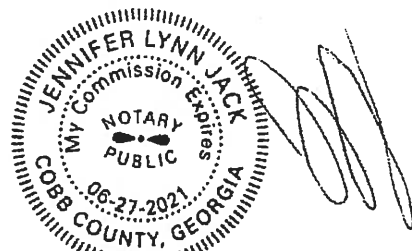
*As Proposed Administrator of Estate of John Green Moore*  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

(Notarized)

\_\_\_\_\_  
Signature of Owner

(Notarized)



**Attach additional sheets as needed  
Corporations – attach copy of corporate resolution approving authorization.**



**Powder Springs**

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Check all that applies and  cross out each that does not apply)

**Hardship Variance Application**

Applicant: Paran Homes

Applicant Address: 3005 Breckinridge Blvd, Suite 200, Duluth, GA 30096

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date this Authorization becomes null and void: N/A, 20\_\_\_\_. (  Not applicable)

*Thomas Ray McDonald*  
Signature of Owner

(Notarized)

Thomas Ray McDonald  
Signature of Owner

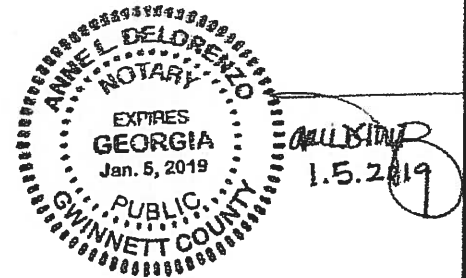
(Notarized)

\_\_\_\_\_  
Signature of Owner

(Notarized)

\_\_\_\_\_  
Signature of Owner

(Notarized)



**Attach additional sheets as needed  
Corporations – attach copy of corporate resolution approving authorization.**

## Review Checklist

Applicant:     Paren Homes     Current Zoning:     R-20 (Rezoning requested to MDR - No. PZ18-031)      
 Property Location:     3700 Powder Springs Road     Land Lot No:     833 and 870, 19th District    

### Standards for Approval

Any applicant requesting consideration of a variance to any provision of this development code shall provide a written justification that one or more of the following condition(s) exist. The governing body shall not approve a variance application unless it shall have adopted findings that one or more of the following conditions exist:

**Standard** **Yes** **No** **Comments:**

|  | Yes                                 | No                       |              |
|--|-------------------------------------|--------------------------|--------------|
| a. 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; | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See Attached |
| 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;  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See Attached |
| 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;   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See Attached |
| 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;   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | See Attached |

Prepared...Date:     Nov. 2         20 18     for                                      Applicant  
 Date:                          20     by                      Powder Springs Staff  
 Date:                          20     Other:



Attachment to Variance Application  
City of Powder Springs  
Applicant: Paran Homes  
Variance Review Checklist 11/2/2018

Any applicant requesting consideration of a variance to any provision of this development code shall provide a written justification that one or more of the following condition(s) exist.

- a) 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:

This property is limited by its size and shape (narrowly configured and contains a stream) and is constrained by its proximity to developed properties. The subject site is surrounded by various zoning districts. There are developed residential zonings located to the east (R15), west (R20) and north (R20) of the subject site consisting of single-family residences. Parcels located to the south of the subject site are zoned Light Industrial (LI) consisting of industrial, residential dwelling units, recently vacated agricultural property, and vacant lots.

- 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 variances, the applicant will not be able to develop the property.

Additionally, the MDR zoning district is intended to implement the proposed "Village Center Residential" future development area as established by the Comprehensive Plan. Further, the Village Center Residential development area's intended uses include townhomes. The proposed rezoning request is for a residential senior living, age-restricted, attached "townhome-type" fee simple community consisting of 104 units and is consistent with the purpose of the Village Center Residential development area outlined in the Comprehensive Plan.

- 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 MDR category which is recommended as a permitted use in this area of the City and although the Unified Development Code (UDC) allows a density of up to eight (8) dwelling units per acre via a Special Use approval, this proposal is for 3.75 dwelling units per acre. By-right the MDR zoning allows townhome type dwellings consisting of five (5) dwelling units per acre without a Special Use approval.

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 residential districts (R20 and R15), and abuts single-family residences located to the east of the subject site. The UDC requires a 25' landscape buffer between higher density and lower density residential activity. The site plan indicates a 25' landscape buffer located to the east and west of the property lines. The 25' landscape buffer will mitigate noise, dust and light generated from higher density. The site plan also indicates a 35' separation of buildings from the property lines which meets the UDC and provides adequate distance from neighboring structures. There is a stream located to the rear of the property. State and local legislation requires a total of 75' buffer from all streams. In addition to the 75' buffer, the detention pond will also be located to the rear of the property providing additional separation from neighboring lots. Based on the site plan submitted the proposed request is compatible with the surrounding area and should not create a public health and safety concern.

- d) 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 narrowly configured site that is constrained by existing developments and a stream.

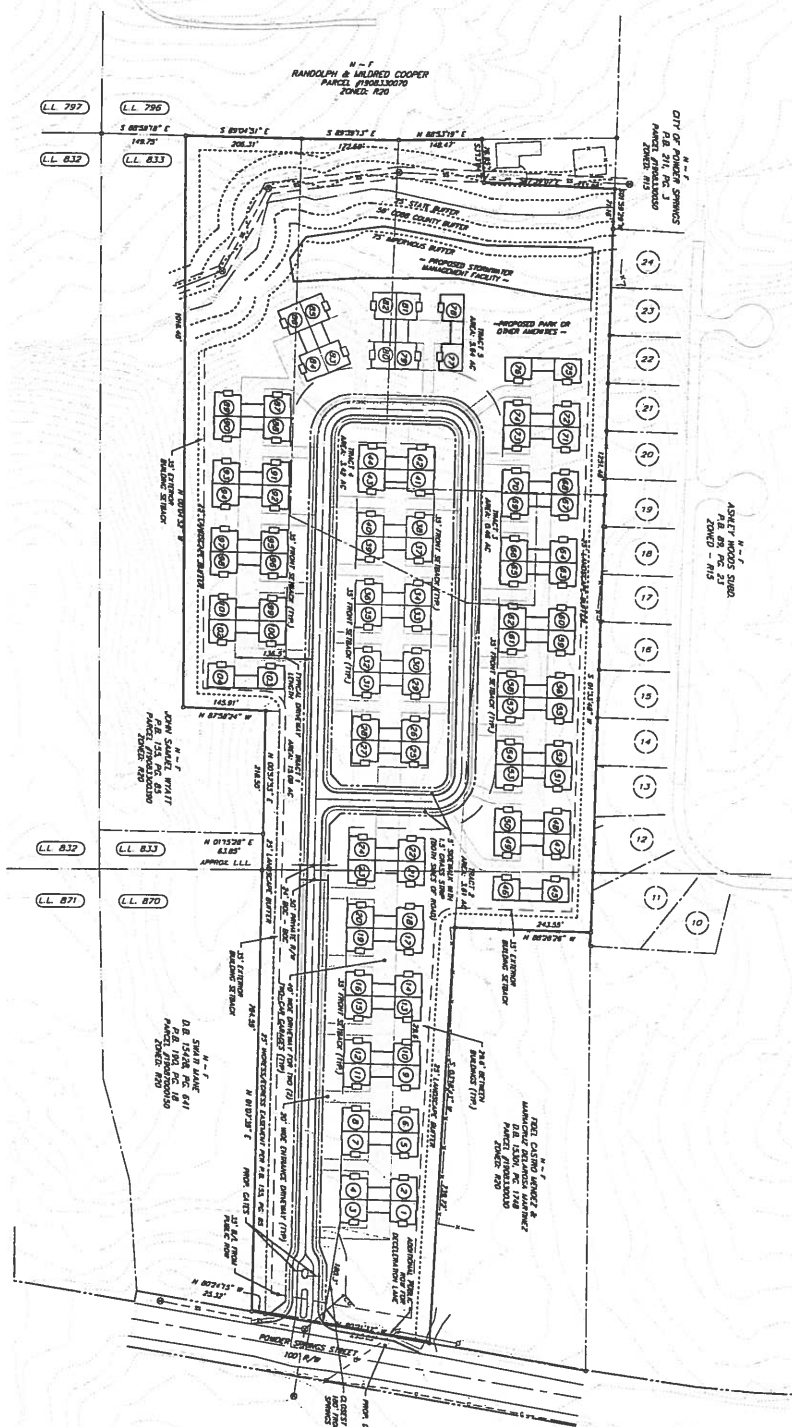
- e) The variances requested are the minimum variances that will make possible the proposed use of the land, building, or structures in the use district proposed:

The Applicant has endeavored to maintain the required setbacks as much as possible while still making use of the narrowly configured site.

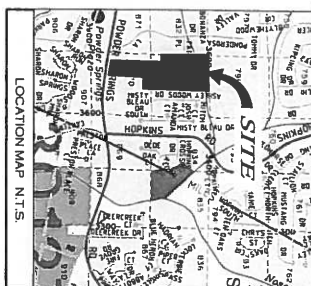
- f) The variances shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

Residential uses (including the proposed senior living, age-restricted, attached "townhome-type" fee simple homes) are permitted in the MDR (Medium Density Residential) District.

THIS SHEET OF LAND IS NOT TO BE USED FOR CONSTRUCTION UNLESS IT IS APPROVED BY THE CITY OF POWDER SPRINGS, GEORGIA. ANY VIOLATION OF THIS ZONING ORDINANCE IS SUBJECT TO A FINE OF \$500 PER VIOLATION.



- GENERAL NOTES:**
1. ALL DIMENSIONS ARE IN FEET AND INCHES.
  2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
  3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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NOT ISSUED FOR CONSTRUCTION

|              |            |
|--------------|------------|
| PROJECT NO.  | FIELD BOOK |
| DRAWN BY     | CHECKED BY |
| SCALE        | DATE       |
| 1"=100'      | 10/17/2018 |
| SHEET NUMBER |            |



| REV. | DATE | REVISION |
|------|------|----------|
|      |      |          |
|      |      |          |
|      |      |          |

## POWDER SPRINGS QUADS

LAND LOT 833 AND 870, 19TH DISTRICT, 2ND SECTION,  
 CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA

**Gaskins**  
 ENGINEERING SURVEYING  
 PLANNING/CONSULTING CONSTRUCTION MGMT

1366 Powder Springs Road  
 Marietta, Georgia 30064  
 Phone: (770) 247-1888  
 Fax: (770) 247-1889

WWW.CSCSURVEY.COM

**47773**

**PARAN HOMES LLC**

CITY22

City of Powder Springs

250.00

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250.00

9/21/18 PSR variance apPwdr Sprgs Rd varia

250.00

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250.00

47773

9/21/18