

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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May 25, 2018

(Revised Stipulation Letter and Revised Site Plan)

VIA HAND DELIVERY & EMAIL:

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

Re: Application of Paran Homes to Rezone (with one [1] Variance Request) an
approximate 5.69 Acre Tract from CRC to MDR (Nos. PZ 18-009 & PZ 18-010)

Dear Ms. Garver:

This firm represents Paran Homes, LLC concerning the above-captioned Applications. At Paran Homes' request and in order to ensure that we have addressed and resolved all outstanding issues, with the exception of one (1) Variance request seeking a waiver increasing the maximum percent of impervious surface from 50% to 51.0%, this letter and these attachments will constitute Paran Homes' Revised proposal which is scheduled to be heard and considered for final action by the Mayor and City Council on June 4, 2018.¹

The property at issue ("subject property") is a small part of a 75.15 acre tract of land which was rezoned from Heavy Industrial ("HI") to Community Retail Commercial ("CRC – 6.86 acres") and R-15 (68.29 acres) in September of 2004. The property is located in City Council District 1 and is adjacent to the northwest corner of the intersection of C. H. James Parkway (US 278) and Powder Springs-Dallas Road (and the Norfolk Southern 150' Railway). The subject property is also located in an area on the City's Future Land Use Map ("FLUM") within a Community Activity Center (CAC) which contemplates the type of development, in conjunction with the single family homes presently being constructed within Sweetwater Landing and the remaining undeveloped commercial tract (20,000 square feet of retail space) contemplated by the FLUM.

¹ The Mayor and City Council Agenda Work Session is scheduled for May 30, 2018.

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Paran Homes' proposal constitutes a request for Rezoning from CRC to Medium Density Residential ("MDR") for the purposes of the development and construction of forty-five (45) Town Homes at a maximum density of 7.91 units per acre.² The proposed rezoning preserves 20,000 square feet of Retail property zoned CRC along the subject property's frontage on C. H. James Parkway. However, the portion of the original 75.15 acre tract which is zoned CRC has lain idle for the past 14 years and market-driven indicators suggest (and the City's staff has concurred) that the Commercial tract is, at best, a secondary Commercial location.³

Paran Homes is in the process of completing or continuing construction and development of the following subdivisions both within the City of Powder Springs and within Unincorporated Cobb County: Sweetwater Landing; Silver Springs II, Chestnut Farms (Mars Hill Road at Hadaway Road); and, Millwood Farms (Macland Road at Barrett Parkway). Also, construction and development is entitled and pending commencement at Moore Farm (Corner Road); Burnt Hickory (Burnt Hickory Road at Bob Cox Road); Antioch Road (Antioch Road); and, Magnolia Court (Ebenezer Road).

While this application has been pending, Paran Homes has engaged in very specific discussions with the City's staff, Planning Commission members, Development Authority Members, nearby business and residential property owners and others. Additionally, in connection with discussions with the Sweetwater Landing HOA, Paran Homes has established a dialogue and solicited input from that HOA specifically with respect to creating a joint HOA between the two residential developments and the utilization of joint amenities which are being constructed by Paran Homes which are addressed within this Revised Stipulation Letter.

² The density allowance in the MDR Zoning District was increased by the City Council in 2015 to allow increased density by special use and not exceeding 8 dwelling units per acre with the incorporation of exceptional and traditional neighborhood development design and amenities into the site plan. If Paran Homes was expressly incorporating the undeveloped CRC, then the maximum density allowed under the UDC for MDR within a CAC would be 12 units per acre.

³ Staff has suggested that Paran Homes provide a Market Study to ensure that Commercial development is not viable. However, rather than engaging commercial market specialists within the context of this rezoning, the passage of time (14 years) speaks fairly eloquently for the problematic aspects of any remaining portion of the CRC being commercially developed until Paran Homes provides the "mass" which will support the potential success of the remaining CRC retail space.

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Consistent with all of the above discussions, Paran Homes agrees to the following Revised stipulations becoming conditions and a part of the grant of the Rezoning and the single concurrent Variance request and binding upon the subject property thereafter. The referenced Revised stipulations/conditions are as follows, to wit:

1. The Revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the subject property.
2. The Rezoning of the subject property shall be from CRC to MDR in substantial conformity to that certain Revised Site Plan prepared by Gaskins Planning/Consulting/Construction Management (“Gaskins”), dated May 23, 2018 which is being formally submitted concurrently herewith.
3. There shall be a total maximum number of forty-five (45) Town Homes at a maximum density of 7.91 units per acre.⁴
4. The Town Homes shall range in size from a minimum of 1,800 square feet up to 2,400 square feet and possibly greater.⁵
5. The architectural style and composition of the Town Homes shall be in substantial conformity to the Revised architectural renderings/elevations by Caldwell-Cline which will be submitted prior to the May 30, 2018 Mayor and City Council Agenda Work Session, the composition of which shall consist of a mixture of either brick, stacked stone, cedar shake, Hardipanel and/or Hardiplank consistent with the Standards of Article 5 of the UDC.

⁴ Paran Homes’ revised proposal is consistent with the City’s MDR District upon the City’s initiation and allowance a special use designation as suggested and recommended by staff within Staff’s Analysis and Recommendations. The current density of 7.91 units per acre is a significant departure from the original request for Rezoning which included a total number of 56 homes at a density of 9.84 units per acre and considerably less than the 12 units per acre which would be allowed under UDC provisions if the undeveloped CRC tract were included with this rezoning.

⁵ Price points are anticipated ranging from \$225,000.00 to \$275,000.00 and greater.

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6. Each home shall have an attached two-car garage which shall be designed to accommodate two (2) vehicles at all times. The driveways of the Town Homes shall be twenty-two feet (22') in length as measured flush with the garage door and shall accommodate the parking of two (2) additional vehicles.

Additionally, Paran Homes shall comply, as shown on the Revised Site Plan, with newly adopted Cobb County Fire Department ("CCFD") provisions regarding guest parking by providing twenty four (24) additional guest parking spaces for a total of one hundred-fourteen (114) parking spaces (including the garages, driveways and guest parking spaces required by CCFD).

7. The Town Homes within the Residential Community shall be "For Sale" only. The Subdivision Covenants shall, however, contain a recital stating that the leasing of the Town Homes shall be limited to no more than ten percent (10%) of the total number of Town Homes and for no lease term less than one (1) year in duration.
8. The creation of an Overall Master Mandatory Homeowners Association ("HOA") in conjunction with the Sweetwater Landing HOA. Additionally, Paran Homes shall submit an Overall Declaration of Covenants, Conditions and Restrictions ("CCRs") which shall include, among other multiple components, strict architectural controls; houses built in substantial conformity to the architectural style and composition mentioned above; and, consistency with Article 5 of the UDC.

The Overall Master Mandatory HOA shall be responsible for the upkeep and maintenance of all common areas; tree preservation areas; community Open Space (which exceeds Ordinance requirements)⁶; joint recreational amenities; Gazebo and benches; mail kiosks as required by the USPS; and, any and all landscaped buffers, landscaping for the entrance signage area, fencing, lighting and irrigation for said signage.

⁶ As shown on the Revised Site Plan, Open Space has been provided in areas denominated as Open Space #1, #2, #3 and #4 consisting of commonly used Open Space, pocket parks, strategically placed guest parking and other amenities as mentioned above (signage & landscaping, gazebo and benches and other commonly utilized and HOA-owned Open Space amenities). The Open Space provided consists of a total of 1.70 acres (29.8%) which has increased from the previously revised site plan.

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9. A third party management company shall be hired to manage the day-to-day operations of the HOA and shall also be responsible for the management of all Association monies as well as insuring that the Association is properly insured until such time as the HOA makes a determination that it can undertake such responsibilities.
10. The submission of a landscape plan under the Plan Review process which shall be subject to Staff review and approval and which shall include, but not necessarily be limited to, the following:
 - a. The landscape plan, which shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed Horticulturist shall be in substantial conformity to the Gaskins' Landscape Rendering/Elevation being submitted concurrently herewith; shall identify Open Space areas; landscaped common areas; and other components of the proposed Town Home Community which will be further identified during the Plan Review Process.
 - b. The installation of underground utilities and the utilization of decorative lighting themed to the architectural style and composition as above mentioned.
 - c. All HVAC, mechanical systems and home utilities within the community shall be screened by way of fencing and/or landscaping.
 - d. Entry signage for the proposed Town Home Community shall be ground-based, monument-style, landscaped, lighted and irrigated.
 - e. The installation of landscaped front, side and rear yards.
 - f. Stormwater detention and water quality components shall be landscaped and fenced appropriately in order to be attractive to homes both on the inside and the outside of the proposed Town Home Community.
 - g. Compliance with the City's current Tree Preservation & Replacement Ordinance and substantial conformity to all tree protection measures and the adherence to same during the construction and build out of the Town Home Community.

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11. Subject to recommendations from the City of Powder Springs Engineer and/or the City's consultants concerning hydrology, stormwater management, detention, water quality and downstream considerations, including recommendations regarding the ultimate positioning and configuration of on-site detention and water quality. Also, compliance with the following engineering considerations:
 - a. Providing the City Engineer and/or the City's consultants with a Hydrology Plan for the subject property during the Plan Review Process.
 - b. Verifying all points of discharge with respect to detention/water quality.
 - c. Compliance with the protections required concerning adjacent Streambank Buffers.
12. Compliance with the recommendations from the City's Engineer and/or Consultant with respect to Public Works and traffic/transportation issues, as follows:⁷
 - a. Streets to be constructed shall be public and shall be built to the City of Powder Springs' Design and Detail Standards, including the construction of sidewalks on both sides of the internal streets.
 - b. The public streets shall be designed to provide appropriate access and maneuverability for public safety services and vehicles.
 - c. Compliance with Fire Department recommendations with respect to Life Safety & Fire Prevention Issues during the Plan Review Process.

⁷ The Traffic Impact (Signal Needs) Study ("TIS"), dated February 20, 2018 and prepared by Marc Acamporo, P.E., shows that traffic signalization at this intersection is not Warranted under GDOT or ITE standards within either a "Build" or "No Build" scenario.

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13. The subject property is bounded by major rights-of-way, a 150' railroad right-of-way and an existing subdivision (Sweetwater Landing) which is under construction. Those issues, coupled with the subject property's irregular configuration and stream-traversed nature, constitute a special set of circumstances wherein a literal interpretation or enforcement of UDC provisions constitutes a legal hardship.

The granting of the only requested concurrent Variance waiving the maximum impervious surface from 50% to 51.0% as shown on the Revised Site Plan does not in any way set an adverse precedent nor does the granting of the requested concurrent Variance, consisting of one-percent (1%) of impervious surface, impair the purpose, spirit and intent of the UDC.⁸

14. Common Open Space areas, amenities, mail kiosks, and all of the various components for common and public use as described above shall be constructed in substantial compliance with ADA regulations with respect to accessibility.
15. The Community Development Director shall have the authority to approve minor modifications to these stipulations, the architectural renderings/elevations, the site plan and the overall proposal as it proceeds through the Plan Review Process and thereafter except for those that:
 - a. Increase the density of the Residential Community.
 - b. Relocate a structure closer to the property line of adjacent property which is zoned the same or in a more restrictive zoning district.
 - c. Increase the height of a building which is adjacent to property which is zoned in the same or more restrictive zoning district.
 - d. Change access locations to different rights-of-way.

⁸ All other previously submitted Variance requests and/or waivers, in whatsoever form, shall be and the same are hereby Withdrawn.

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

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP

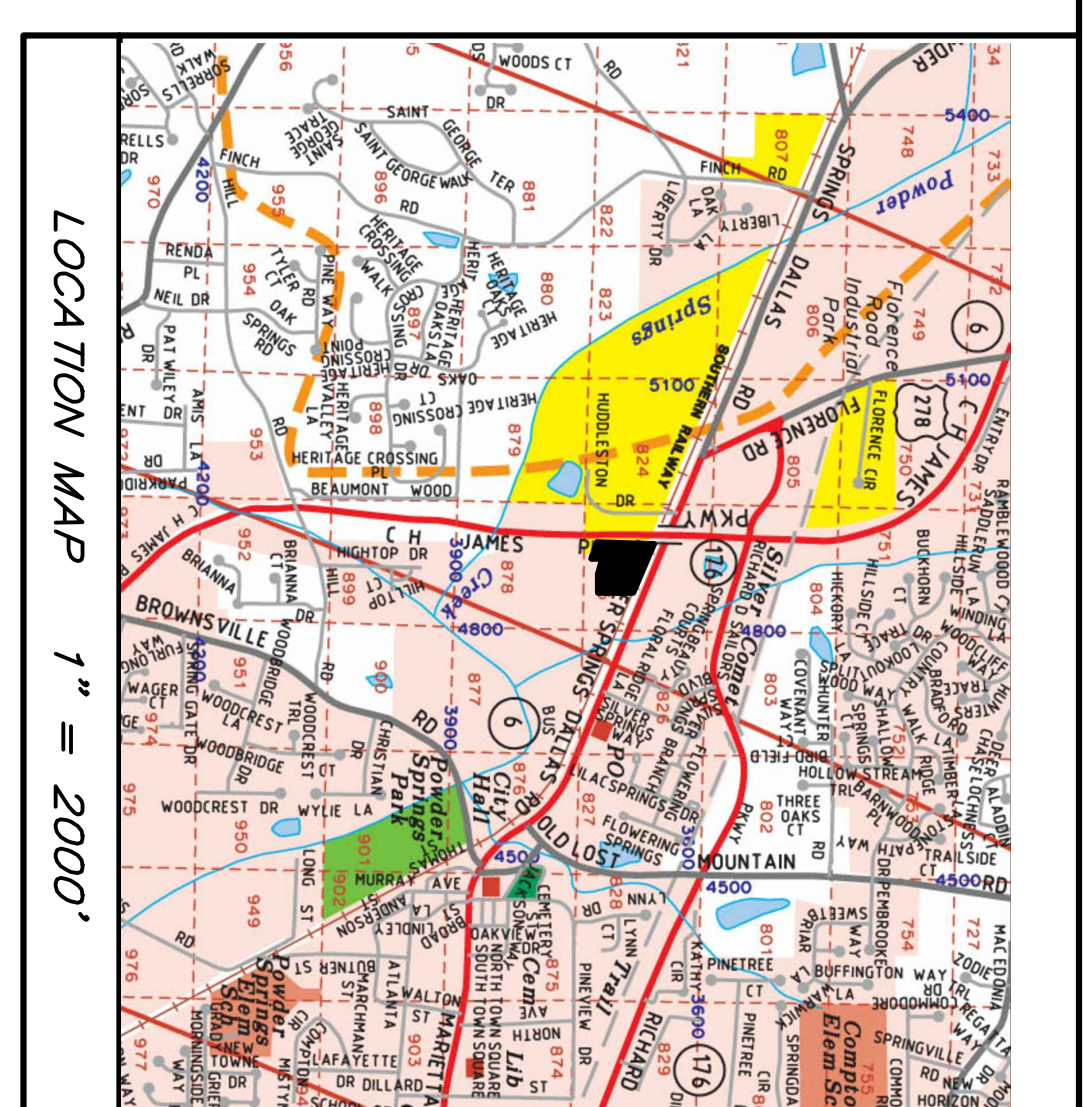
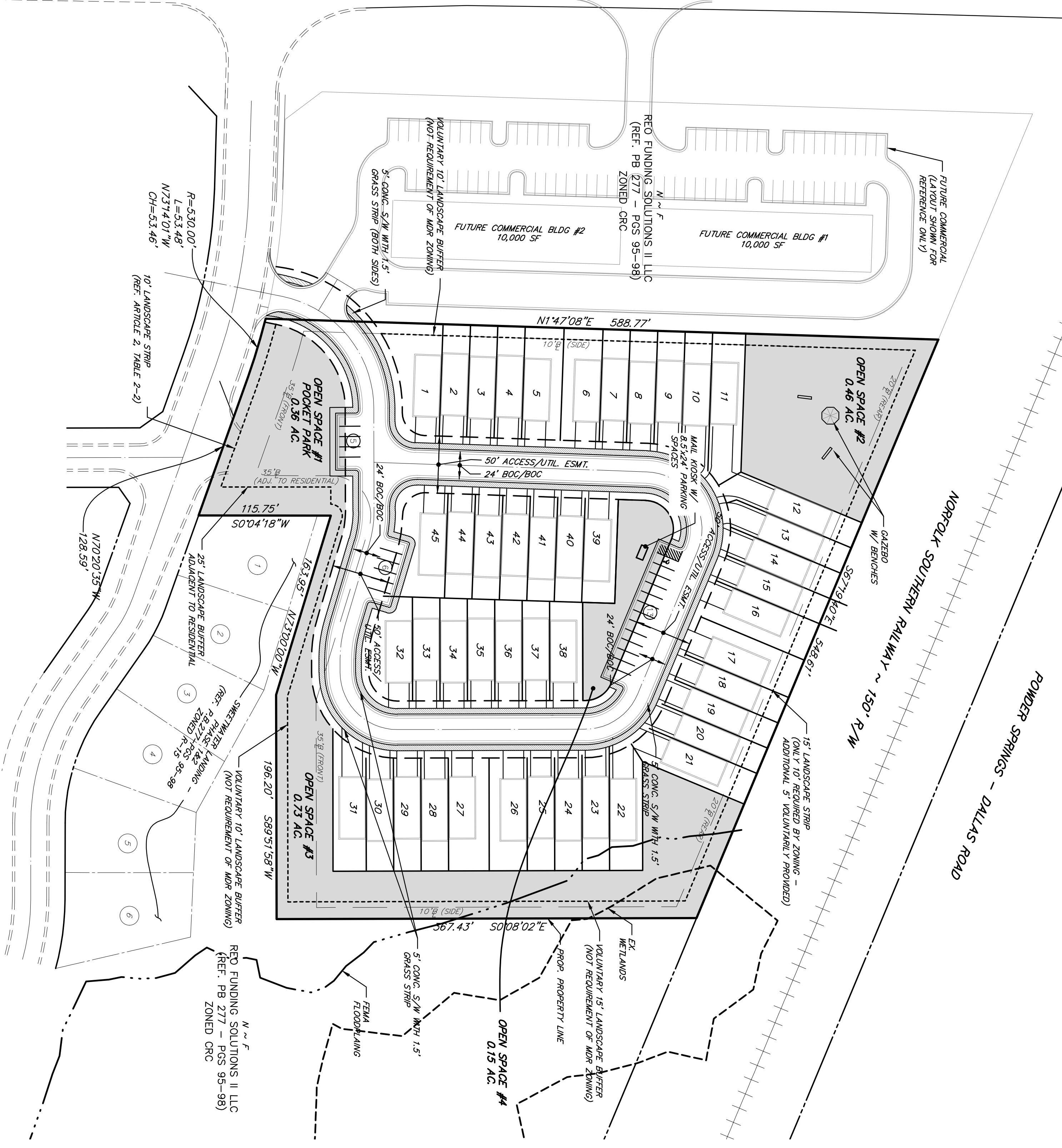


Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Enclosures/Attachments

cc: Honorable Al Thurman, Mayor (via email w/attachments)
Members, Powder Springs City Council (via email w/attachments)
Ms. Pam Conner, City Manager (via email w/attachments)
Richard W. Calhoun, Esq., City Attorney (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)
Honorable Phillip Homan, Chairman, Powder Springs Development Authority (via email w/attachments)
Mr. Kelly Davis, P.E., Gaskins (via email w/attachments)
Mr. David Caragher, Director of Land Development, Paran Homes (via email w/attachments)
Mr. Kendall King, Director of Acquisitions, Paran Homes (via email w/attachments)

C. H. JAMES PARKWAY ~ U.S. 278
 THORNTON ROAD CONNECTOR ~ R/W VARIES



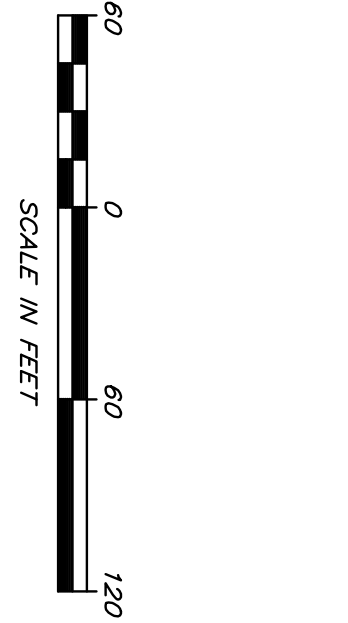
GENERAL ZONING NOTES:
 1. PROPERTY OWNER: RED FUNDING SOLUTIONS II LLC
 150 PENNINGTON ST. N.E.
 ATLANTA, GA 30309

2. APPLICANT: PARAM HOMES, LLC
 3005 BRECKENRIDGE BLVD
 DUBLIN GA 30098

3. PROPERTY AREA: 5.69 AC.

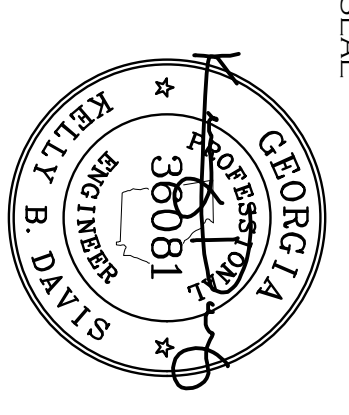
- 4. EX. ZONING - CRC
- 5. PROPOSED ZONING - MDR
- 6. SURVEY PROVIDED BY GASKINS SURVEYING COMPANY (REF. PLAT-BOOK 277 - PAGES 95-98).
- 7. THERE IS FEMA FLOODPLAIN ON THIS PROPERTY (FEMA MAP NUMBER 13087 C THERE IS FLOOD ELEVATION IS 200.8) THERE ARE METEORUS ON THE PROPERTY (REF. PLAT-BOOK 277-PAGES 95-98).

- 9. UNITS - 45
- 10. DENSITY - 45 UNITS/5.69 AC. = 7.91 UNITS/AC.
- 11. IMPERVIOUS AREA = 2.90 AC. 51.0% (MAX. 50% PER ZONING)
- 12. OPEN SPACE PROVIDED = 1.70 AC. (28.8%)
- 13. PARKING PROVIDED - 2 SPACES/UNIT (22 DRIVEWAYS) = 45 * 2 = 90 SPACES - ADDITIONAL GUEST PARKING SPACES = 24 SPACES - TOTAL SPACES = 114 SPACES



NOT ISSUED FOR CONSTRUCTION

PROJECT ID	FIELD BOOK
P201	
DRAWN BY	CHECKED BY
SCALE	ISSUE DATE
1"=60'	5/23/18
SHEET NUMBER	



SWEETWATER LANDING COMMERCIAL PARCEL

LAND LOTS 825 AND 878, 19TH DISTRICT, 2ND SECTION,
 CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA
 CURRENT ZONING CRC

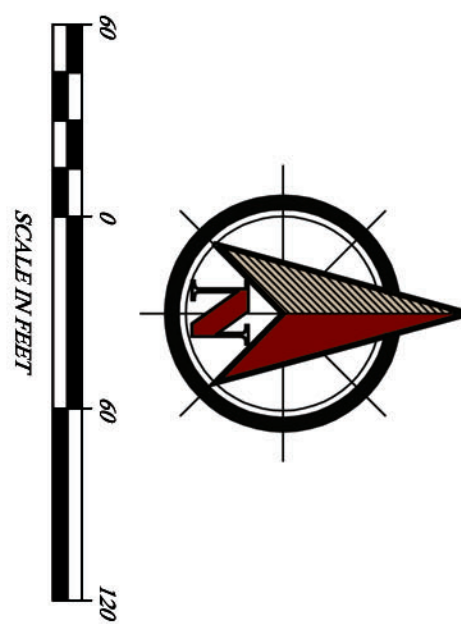
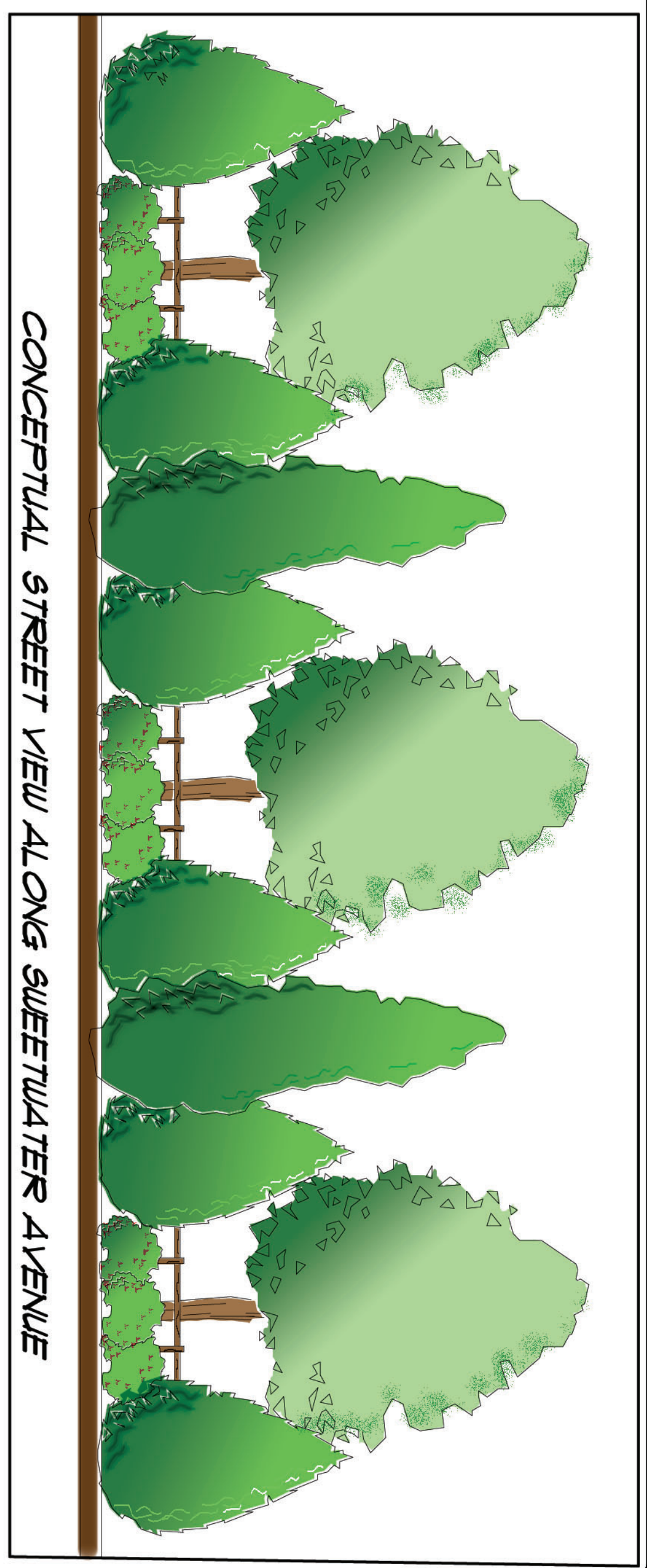
REV.	DATE	REVISION REFERENCE

Gaskins
 ENGINEERING SURVEYING
 PLANNING/CONSULTING CONSTRUCTION MGMT

1266 Powder Springs Road
 Marietta, Georgia 30064
 Phone: (770) 424-7168
 Fax: (770) 424-7593
 WWW.GSCSURVEY.COM

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C. H. JAMES PARKWAY ~ U.S. 278
 THORNTON ROAD CONNECTOR ~ R/W VARIES



NOT ISSUED FOR CONSTRUCTION

<p>SWEETWATER LANDING COMMERCIAL PARCEL LAND LOTS 825 AND 878, 19TH DISTRICT, 2ND SECTION, CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA CURRENT ZONING CRC</p>		<p>Gaskins ENGINEERING SURVEYING PLANNING/CONSULTING CONSTRUCTION MGMT</p> <p>1266 Powder Springs Road Marietta, Georgia 30064 Phone: (770) 424-7168 Fax: (770) 424-7593</p> <p>www.GSCSURVEY.COM</p>					
<p>REVISIONS</p> <table border="1"> <tr> <th>REV</th> <th>DATE</th> <th>REVISION REFERENCE</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	REV		DATE	REVISION REFERENCE			
REV	DATE	REVISION REFERENCE					
<p>PROJECT ID: P201</p> <p>FIELD BOOK: --</p> <p>DRAWN BY: --</p> <p>CHECKED BY: --</p> <p>SCALE: 1"=40'</p> <p>ISSUE DATE: 3/21/18</p> <p>SHEET NUMBER: --</p>	<p>SEAL</p>	<p><small>© 2018 GASKINS SURVEYING COMPANY, INC. This drawing may be used for the express purpose of site construction and shall not be used for any other use without the prior written approval of Gaskins Surveying Company, Inc. (Gaskins).</small></p>					