

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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December 28, 2018

(Revised Stipulation Letter)

VIA EMAIL:

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

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, LLC concerning the above-captioned Application for Rezoning. In that regard, the Application has been heard, considered and unanimously recommended for approval by the Planning Commission. Presently, after having been tabled upon our request to do so, the Application is scheduled to be heard and considered by the Mayor and City Council at its Agenda Work Session on January 2, 2019. Thereafter, it is scheduled to be heard and considered by the Mayor and City Council for final action in the context of a Public Hearing which is scheduled for January 7, 2019 at 7:00 p.m.

The property at issue (“Subject Property”) consists of an approximate 27.77 acre tract of land which is located on the north side of Powder Springs Road, west of its intersection with Hopkins Road and within an area on the Comprehensive Plan (adopted in October, 2017) classified as a “Redevelopment Area” which is designed to include a multiplicity of uses such as multi-family, townhomes, single-family, office/flex space and commercial uses. Nearby property is zoned Community Retail Commercial (“CRC”) and is developed as a convenience store with fuel sales. Additionally, on the opposite side of the road there is an area containing a mixture of uses within an “Area of Future Development” as defined by and shown in the Comprehensive Plan.

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Paran Homes is requesting a Rezoning of the Subject Property from its existing zoning classification of R-20 to Medium Density Residential (“MDR”) specifically and exclusively for the purposes of an Active Adult/Age Restricted Residential Community consisting of a total number of one-hundred four (104) homes at a maximum density of 3.79 units per acre. As you know, unless an Application is accompanied by a Special Use Permit Application, which seeks a residential density up to 8 units per acre, the maximum density allowed under MDR is 5 units per acre. Paran Homes’ proposal is significantly below that density cap.

During the pendency of this Application, Paran Homes has engaged in a dialogue with the City’s professional staff which recommends approval of the Application. Additionally, we have spoken with area residents and business owners and met with the Planning Commission in the context of Work Sessions and Public Hearings. As a follow-up to and in accordance with the foregoing, Paran Homes agrees to the following revised stipulations becoming conditions and a part of the grant of the requested rezoning and binding upon the Subject Property thereafter:

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 property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Subject Property shall be developed in substantial conformity to that certain revised site plan, prepared by Gaskins Engineering & Surveying, which was submitted under separate cover on October 10, 2018.
3. The construction of a maximum number of one-hundred four (104) non-supportive active adult, age-restricted residential homes at an overall maximum density of 3.79 units per acre.
4. The architectural style and composition of the homes shall consist of traditional architecture on all sides in substantial conformity to the architectural renderings/elevations which were submitted under separate cover on October 10, 2018.¹

¹ The UDC requires fifty percent (50%) brick/stone on the front façade and a brick/stone water table on the sides. In view of the fact that the homes proposed are only one story in height, fifty percent (50%) brick on all sides is not aesthetically advantageous to the City nor to Paran Homes. By way of example, Staff has been provided photographs of one of Paran Homes’ RSL Communities at the Villas at Park Place in Stone Mountain which reflect one-hundred percent (100%) brick. Also provided to Staff were contrasting elevations which are proposed for the Powder Springs Road property and which are demonstrative of the same homes which Paran Homes is building at Seaboard Junction in Grayson, Georgia.

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5. The creation of a mandatory Homeowners' Association ("HOA") and the submission of Declaration of Covenants, Conditions and Restrictions ("CCRs") during the Plan Review process, which shall include, among other components, strict architectural controls. The mandatory HOA shall be responsible for the maintenance and upkeep of fencing, landscaping, interior private streets, open space areas, sidewalks, community areas, stormwater detention and/or water quality ponds, lighting, the entrance to the Residential Community and any amenities.

Paran Homes is agreeable to including within the CCRs a "trigger mechanism" which designates that a certain percentage (which will be determined between Paran Homes and the City during Plan Review) of the HOA fees will be solely and exclusively dedicated to interior infrastructure such as streets, sidewalks, amenities, stormwater management/detention features and other such interior infrastructure components within the proposed RSL Community.

6. The HOA shall publish and adhere to policies and procedures which demonstrate that the proposed community is intended to provide housing for persons fifty-five (55) years of age and over, including maintaining surveys or affidavits verifying the fifty-five (55) years of age and older occupancy requirements as permitted by 42 U.S.C. § 3607, (b)(2)(c) of the Federal Fair Housing Act. The HOA shall also include Declarations and By-Laws including rules and regulations as mentioned hereabove which, at a minimum, shall regulate and control the following:
 - a. A restriction on homes being occupied with at least eighty percent (80%) of the occupied units being occupied by at least one (1) resident who is fifty-five (55) years of age or older.
7. The submission of a landscape plan during the Plan Review process which shall be subject to review and approval by the Community Development Director. Additionally, the landscape plan shall include, but not necessarily be limited to, the following:
 - a. Landscaping and screening around the proposed detention and water quality areas with Cryptomeria, Arborvitae and/or other evergreen trees.
 - b. A twenty-five foot (25') landscape buffer around the perimeter of the Subject Property.

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- c. Compliance with landscape section renderings/elevations which will be submitted under separate cover during the Plan Review process.
 - d. The landscape plan, which shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed Horticulturist and shall identify open space areas; landscaped common areas; and other components of the proposed Residential Community which will be further identified during the Plan Review process.
 - e. The installation of underground utilities and the utilization of decorative lighting themed to the architectural style and composition as above mentioned.
 - f. All HVAC, mechanical systems and home utilities within the community shall be screened by way of fencing and/or landscaping.
 - g. Entry signage for the proposed Residential Community shall be ground-based, monument-style, landscaped, lighted and irrigated.
 - h. The installation of landscaped front, side and rear yards.
 - i. 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 Residential Community.
8. 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.
 9. 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.

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- b. Verifying all points of discharge with respect to detention/water quality.
 - c. Compliance with the protections required under State and Local Law concerning adjacent and on-site streambank buffers.
 - d. Impervious surface calculations shall not exceed 50% of the total site area pursuant to and in accordance with UDC requirements and as shown on the revised site plan.
10. Compliance with the recommendations from the City's Engineer and/or Consultant with respect to Public Works and traffic/transportation issues, as follows:
- a. Restricting the proposed Subdivision's sole point of ingress/egress to "right-out only" while allowing ingress turning movements to be both "right-in" and "left-in".
 - b. Streets to be constructed shall be private; however, said streets shall be built to the City of Powder Springs' Design Detail Standards, including the construction of sidewalks on both sides of the interior streets.
 - c. The interior streets shall be designed to provide appropriate access and maneuverability for public safety services and vehicles.
 - d. Compliance with the Fire Marshall's recommendations with respect to Life Safety & Fire Prevention Issues during the Plan Review process.
 - e. The installation of a deceleration lane and taper as shown on the revised site plan.
 - f. The Residential Community will be gated subject to UDC requirements for gated communities.
11. 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.

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The development shall contain an amenity area which shall include, at a minimum, a clubhouse. The development of the amenity area shall include input from Paran Homes' prospective purchasers and said amenity area shall be completed, as evidenced by the issuance of a Certificate of Occupancy on or by March 1, 2021 unless an extension of said time frame is granted by the Community Development Director and/or the Mayor and City Council.

12. The granting of concurrent Variances allowing the following:
 - a. A reduction of the front setback from thirty-five feet (35') to twenty-five feet (25').
 - b. A reduction of the required right-of-way from sixty feet (60') to fifty feet (50') and a reduction in the width of the pavement from twenty-eight feet (28') to twenty-four feet (24').
 - c. A reduction in the minimum house size from 2,000 sq. ft. to 1,700 sq. ft.

13. 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.

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Please do not hesitate to contact me should you or the City's Staff, the City Manager or the Mayor and/or City Council Members need any additional information or documentation prior our appearance before the Mayor and City Council at their Work Session on January 2, 2019. With kind regards and best wishes for the New Year, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



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

GLS, Jr./dls

cc: Honorable Al Thurman, Mayor (via email)
Members, Powder Springs City Council (via email)
Ms. Pam Conner, City Manager (via email)
Ms. Kelly Axt, CMC, City Clerk (via email)
Ms. Shauna Wilson-Edwards, Special Projects Coordinator for Zoning and Plan Review (via email)
Mr. Alex Almodóvar, MPA, Permitting & Development Coordinator (via email)
Mr. Kendall King, Director of Acquisitions, Paran Homes (via email)
Mr. Michael Barlow, P.E., Gaskins Engineering & Surveying (via email)
Mr. Marc Acampora, P.E. (via email)
Mr. Whit Porter, Paran Homes (via email)
Mr. Stuart A. Wiggins, Evergreen Development & Real Estate Services (via email)