

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.

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ADAM J. ROZEN

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WWW.SLHB-LAW.COM

May 6, 2019

**(REVISED STIPULATION LETTER, REVISED SITE PLAN & ADDITIONAL  
RENDERINGS/ELEVATIONS)**

**VIA EMAIL & HAND DELIVERY:**

Mr. Ken Suddreth, Director  
Community Development Department  
City of Smyrna  
3180 Atlanta Road  
Smyrna, GA 30080

Re: Application for Rezoning of Lennar Homes to Rezone a 12.495 ± Acre Tract from  
GC to RM-12 (Z19-003)

Dear Ken:

You will recall that this firm represents Lennar Homes (“Lennar”) concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the City of Smyrna Planning Commission on May 13, 2019. Thereafter, the Application will be heard and considered for final action by the Mayor and City Council on June 17, 2019.

My client, its consultants and representatives of Cumberland Christian Academy (“CCA”) very much appreciate the time which you, your staff and other city staff members provided late last week wherein we addressed and resolved all of the issues which had been articulated by staff and others. In that regard, Lennar and its consultants have met and/or spoken with the City Engineer, the Fire Marshal and the Public Works Director and have been placed in a position to satisfy the City’s professional staff in terms of crafting and submitting this Revised Letter of Agreeable Stipulations/Conditions.

The property at issue (“Subject Property”) is located within an area which is “governed” under the City’s Livable Centers Initiative (“LCI”) Study which was adopted by the City in April, 2017, and consists of a 12.495± acre tract of land which is the present location of CCA. Lennar has submitted an LCI-driven proposal for Rezoning consisting of a total number of 108 high-end, luxury Townhomes at a density of 8.64 units per acre which meets the purpose, spirit and intent of the LCI and which is consistent with the Subject Property’s positioning within a Regional Activity Center (“RAC”) as shown on the City’s Future Land Use Map (“FLUM”).

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City of Smyrna  
May 6, 2019  
Page 2

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This letter will serve as Lennar's expression of agreement with the following revised stipulations which, upon the Rezoning being approved, as amended, revised and modified hereby, shall become conditions and a part of the grant of the requested Rezoning and shall be binding upon the Subject Property thereafter. The referenced revised stipulations 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 property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Rezoning of the Subject Property shall be from General Commercial ("GC") to RM-12 in substantial conformity to the Revised Site Plan prepared by Planners and Engineers Collaborative which is being submitted concurrently herewith.
3. The Subject Property shall be developed for Attached Single-Family Townhome Residences upon a total of 12.495 acres in order to accommodate 108 Townhomes at a maximum density of 8.64 units per acre.<sup>1</sup>
4. The size of the Attached Single-Family Townhomes shall range from a minimum of 2,000 square feet up to 2,400 square feet and greater.<sup>2</sup>
5. The architectural style and composition of the Townhomes shall be in substantial conformity to the architectural renderings/elevations which are being resubmitted concurrently herewith. The composition of said Townhomes shall consist of a mixture of brick, stone, shake, board and batten and cementitious lap siding in accordance with the City of Smyrna Zoning Ordinance provisions.

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<sup>1</sup> By way of precedent concerning recent Rezonings within the City of Smyrna within the past three (3) years, the City has approved Townhome Developments at 13 units per acre (No. Z16-012); 12.52 units per acre (No. Z17-016); 11.39 units per acre (No. Z18-006); and, 9.38 units per acre (No. Z18-010).

<sup>2</sup> Price points are anticipated ranging from \$355,000.00 to \$435,000.00.

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May 6, 2019  
Page 3

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No-lap siding shall be allowed as the dominant building material on the facades of any Townhomes having frontage on public rights-of-way. No patios, decks or privacy fencing shall be allowed on or oriented to any public rights-of-way. Covered porches or stoops shall be permitted as long as such are apropos to the architectural style and composition of the Townhomes.

6. As shown on the Revised Site Plan, there will be a mixture of both front-loaded and rear-loaded Townhomes. Each Townhome will be able to accommodate (at all times) the parking of two (2) vehicles within the garages. Driveways will be minimum of twenty-two feet (22') in length and of sufficient width to accommodate the parking of a minimum of two (2) additional vehicles with supplemental guest parking being strategically situated throughout the proposed Townhome Community.

The calculation of driveway lengths shall be measured from a position flush with the garage doors to the five-foot (5') sidewalk in order to achieve driveways which meet the foregoing dimensions and specifications.

7. The creation of a Master Mandatory Homeowner Association ("HOA") and the submission of a Declaration of Covenants, Conditions and Restrictions ("CCRs") which shall include, upon multiple other components, strict architectural controls and substantial conformity to the concurrently resubmitted architectural style and composition.

The HOA shall be responsible for the upkeep and maintenance of all common areas; tree preservation areas; community Open Space; amenities; mail kiosks as required by the USPS; and, landscape buffers.

8. All of the Townhomes shall be "For Sale" only. The Subdivision CCRs shall, however, contain a recital that the leasing of the Townhomes shall be allowed but limited to no more than ten percent (10%) of the total number of Townhomes and for no lease term of less than one (1) year in duration.
9. A Third-Party Management Company shall be hired to manage the day-to-day operations of the HOA. That same company shall also be responsible for the management of all Association monies as well as ensuring that the HOA is properly insured until such time as the HOA makes a determination that it can undertake and assume such responsibilities.

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May 6, 2019  
Page 4

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10. Compliance with recommendations from the City of Smyrna Engineer 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 with a Conceptual Hydrology Plan for the Subject Property prior to the final Public Hearing before the Mayor and City Council.
  - b. Verifying point(s) of discharge with respect to detention/water quality.
  - c. Providing the City Engineer and Public Works Director with Certified Final Plans during the Plan Review Process reflecting the manner in which sewer on the Subject Property will be handled; that is, making sewer public as opposed to its present private configuration.<sup>3</sup>
  - d. Stormwater detention and water quality components shall be landscaped and fenced appropriately in order to be attractive to homes both inside and outside of the Townhome Community.
  
11. Compliance with the City of Smyrna Fire Department recommendations with respect to Life-Safety and Fire-Prevention issues, including the following:
  - a. Providing a turning model for the site in order to depict that fire vehicles and apparatus and public safety vehicles will be able to access the Subject Property.
  - b. Compliance with the City Fire Marshal's Turning Performance Analysis.
  - c. Ensuring that there is sufficient interior maneuverability for emergency and fire apparatus vehicles and to ensure that there are no design components which hinder interior accessibility. Additionally, Lennar and/or its successor(s) agree that the Townhome Community will not be gated or restricted in terms of accessibility with respect to fire apparatus, public safety vehicles and/or public traffic, generally.

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<sup>3</sup> An enormous amount of work, due diligence and manpower have gone into addressing and resolving all of the Sewer System issues and the City's staff has been fully briefed regarding staff's expectations in terms of finalization of those issues during the Plan Review Process.

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May 6, 2019  
Page 5

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- d. During the Plan Review Process, additional fire hydrant locations within strategically-determined positions will be decided upon and implemented.
  - e. Concurrently with this Rezoning/Entitlement Process and/or prior to the issuance of Development Permits, Lennar and the City will effectuate the abandonment of certain City rights-of-way and Lennar in-turn, will convey portions of the Subject Property to effectively ensure a *quid pro quo* exchange of property for purposes of both accommodating the City in its furtherance of the LCI Study specifically regarding transportation and in order to benefit Lennar in terms of accomplishing the maneuverability and access goals discussed above.
12. Compliance with recommendations from the City Engineer and Public Works Director regarding traffic and transportation related issues. In that regard, Lennar will follow the LCI's Road Network Concepts and reserve a fifty-foot (50') right-of-way traversing the Subject Property in order to tie into the proposed network as described and defined in the LCI, all as shown on the Revised Site Plan submitted concurrently herewith.
  13. Subject to the updated Traffic Impact Study ("TIS") and/or other documentation prepared by A&R Engineering and requested by the City Engineer and the Public Works Director. That TIS is being provided to the City under separate cover and made a part hereof by reference.
  14. With respect to the foregoing and in order for the LCI-driven road network to act as a reliever system for Spring Road, Lennar will, in all respects, cooperate with the City Public Works Director and the City Engineer regarding proposed or potential transportation-related operational improvements.<sup>4</sup>

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<sup>4</sup> The overall plans for the City of Smyrna as depicted within the LCI include reaching an ultimate transportation scenario wherein the City has connections to Cumberland Parkway and other arterials (See Page 85 of the LCI ["Major infrastructure moves: Baseball Boulevard"]) which outlines the anticipated road network of the Subject Property within the LCI Study Area.

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City of Smyrna  
May 6, 2019  
Page 6

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15. The submission of a landscape plan during 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 identify the following: Open Space areas; landscaped common areas; and, other components of the proposed Townhome Community which will be identified during the Plan Review Process.
  - b. All HVAC mechanical systems and home utilities within the community shall be screened by way of fencing, landscaping and/or respective positioning.
  - c. Entrance signage for the proposed Townhome Community shall be appropriately lighted, landscaped and irrigated and shall consist of a request for a concurrent Variance in order for Lennar to utilize the existing structure of CCA's current signage with said proposed signage "blending into" its current as-built signage positioning (which is within an "island" within the right-of-way of Sports Avenue).

The architectural style and composition of the entrance signage shall be consistent with the architectural style and composition of the Townhomes and consistent with the City's Sign Ordinance except with respect to the foregoing which states a request for waiver in order to utilize CCA's existing signage position.

- d. Subject to the granting of a concurrent Variance waiving the otherwise required five-foot (5') landscape strip along an approximate two hundred, seventy-five foot (275') lineal feet on Sports Avenue in accordance with favorable discussions with staff regarding that issue. Enclosed is a rendering/elevation reflecting this issue and entry signage as discussed in the previous paragraph.

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Community Development Department  
City of Smyrna  
May 6, 2019  
Page 7

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16. Compliance with recommendations from the Public Works Director concerning interior aspects of the Subject Property, as follows:
  - a. The streets to be constructed within the Townhome Community shall be built to the City's Design and Detail Specifications.
  - b. Each Townhome unit shall be individually metered with respect to water utilization.
  - c. The public streets shall be designed to provide adequate access and maneuverability for public safety services, public safety vehicles, fire apparatus and sanitation vehicles.
  - d. Lennar agrees that this proposed Townhome Community shall not be a "gated community" and that the reserved/preserved fifty foot (50') right-of-way as mentioned above and as described and defined within the LCI shall not be circuitous but shall "run" as directly as possible through the property for connectivity purposes and in order to facilitate the LCI's anticipated overall road network.
17. Compliance with recommendations from the City Engineer regarding streambank buffers and ensuring that said buffers are placed within a Conservation Easement in favor of the City of Smyrna in order to ensure that said buffer areas are protected and remain inviolate in perpetuity.
18. Common Open Space areas, recreational areas, mail kiosks, etc. shall be in constructed and maintained in compliance with ADA Regulations with respect to accessibility.
19. The granting of concurrent Variances as follows:
  - a. Reducing the separation between buildings from 30' to 20'.
  - b. Reducing the front setback on the newly designed road from 50' to 15'.
  - c. Reducing the front setback on future dedicated right-of-way to Zero feet (0').

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May 6, 2019  
Page 8

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- d. Increasing the maximum impervious area to 48%.
  - e. Reducing the back-to-back distance on Townhomes to 30'.
  - f. Waiving the otherwise required 5' landscape strip along approximately 275 lineal feet on Sports Avenue.
20. The Community Development Director shall have the authority to approve minor modifications to these stipulations/conditions, 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 Townhome Community.
  - b. Relocate a structure closer to the property line of an adjacent property which is zoned in a more restrictive zoning district.
  - c. Increase the height of a building which is adjacent to a property which is zoned a more restrictive zoning district.
  - d. Changes access location as shown on the Revised Site Plan to a different right-of-way.

The Subject Property is located in an area under the City's FLUM which is denominated as lying and being within a RAC which contemplates the use and the density which Lennar has requested. Additionally, the proposed development of the Subject Property is in keeping with the City's LCI and is located within an area of "Development Opportunity".

Lennar's Townhome Proposal is entirely appropriate from a land use planning perspective and the proposal is in keeping with the densities, products and price points of other similarly situated Townhome Communities which have been approved and planned and which have similar adjacency to commercial developments and commercially-oriented uses along the Spring Road Corridor.



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Community Development Department  
City of Smyrna  
May 6, 2019  
Page 9

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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 Application being heard and considered by the Planning Commission and the Mayor and City Council. With kind regards, I am

Very truly yours,

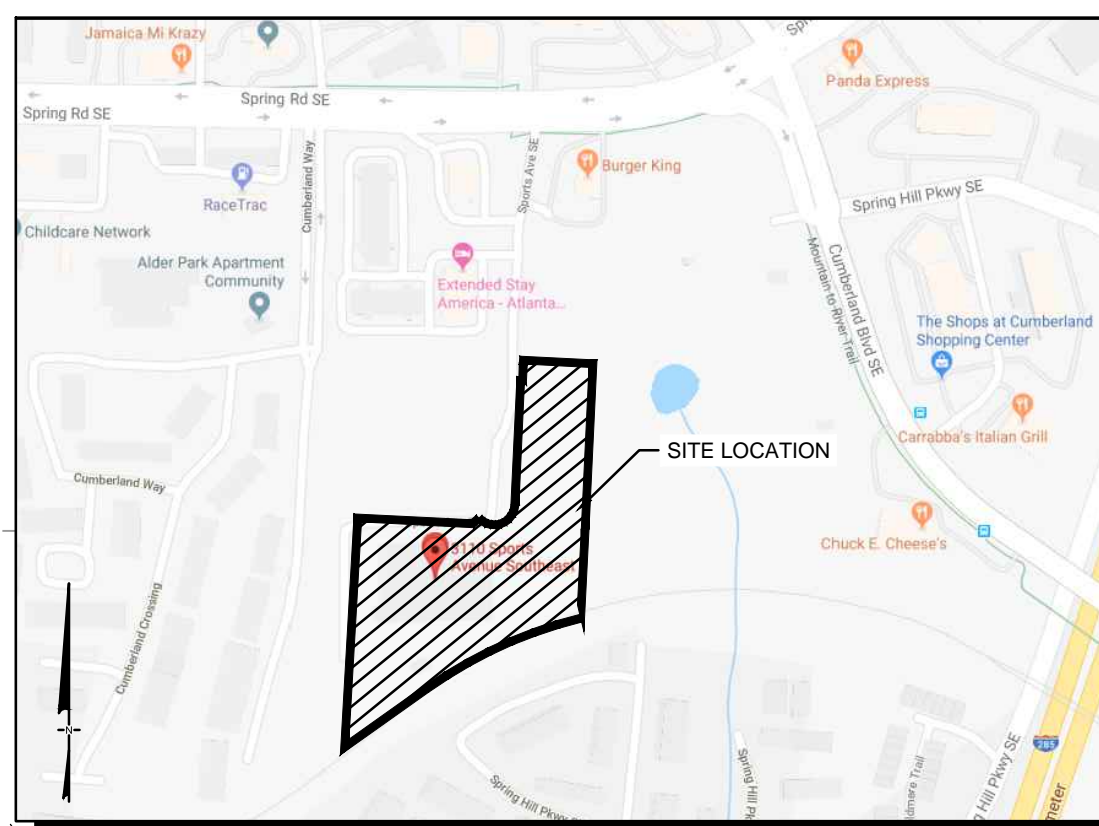
SAMS, LARKIN, HUFF & BALLI, LLP



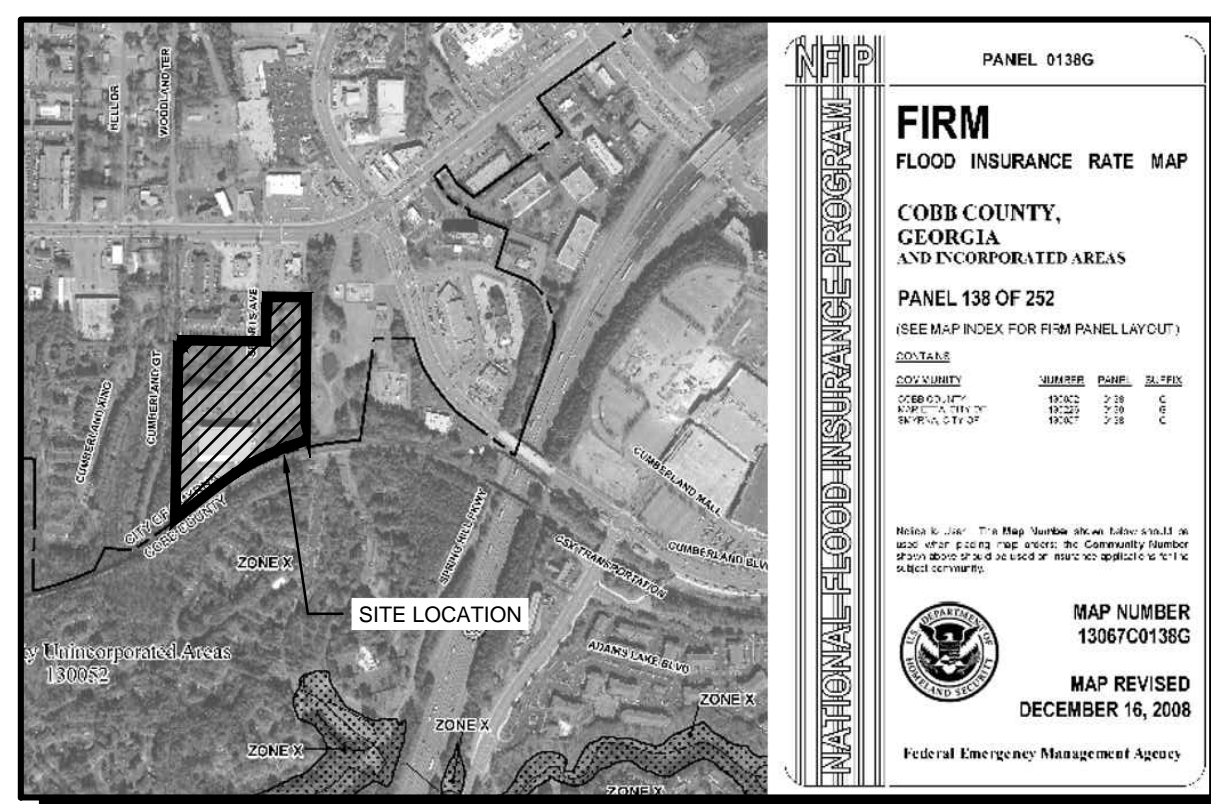
Garvis L. Sams, Jr.  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)

GLS, Jr./klk  
Enclosures/Attachments

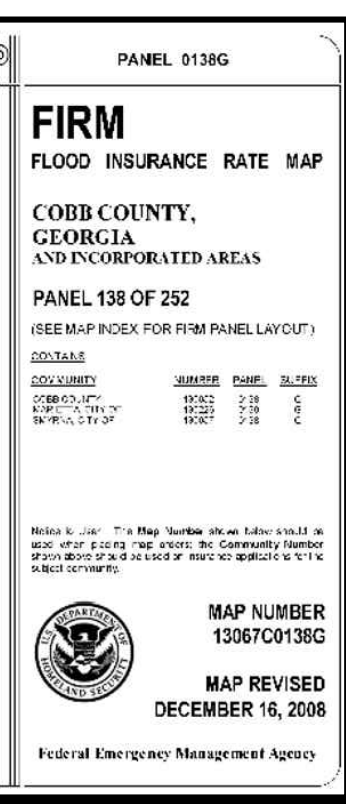
cc: Honorable Mayor A. Max Bacon, Mayor (via email w/attachments)  
Members, City of Smyrna City Council (via email w/attachments)  
Members, City of Smyrna Planning Commission (via email w/attachments)  
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)  
Mr. Russell G. Martin, AICP, Senior City Planner (via email w/attachments)  
Mr. Tom Boland, Economic Development Manager (via email w/attachments)  
Scott A. Cochran, Esq. (via email w/attachments)  
Mr. Kevin Moore, P.E., City Engineer (via email w/attachments)  
Mr. Frank Martin, Public Works Director (via email w/attachments)  
Mr. Timothy Grubaugh, Fire Marshal (via email w/attachments)  
Ms. Terri Graham, City Clerk (via email w/attachments)  
Mr. Kenneth Wood, P.E., LEED, AP Planners & Engineers Collaborative (via email w/attachments)  
Mr. Jim Bowersox, Lennar Homes (via email w/attachments)  
Mr. Carter Richardson, Lennar Homes (via email w/attachments)  
Mr. Dave Colestock, Lennar Homes (via email w/attachments)  
Mr. T. Daniel Buyers, McWhirter Realty Partners (via email w/attachments)  
Mr. Nelson Vinson, McWhirter Realty Partners (via email w/attachments)



**SITE LOCATION MAP**  
NOT TO SCALE



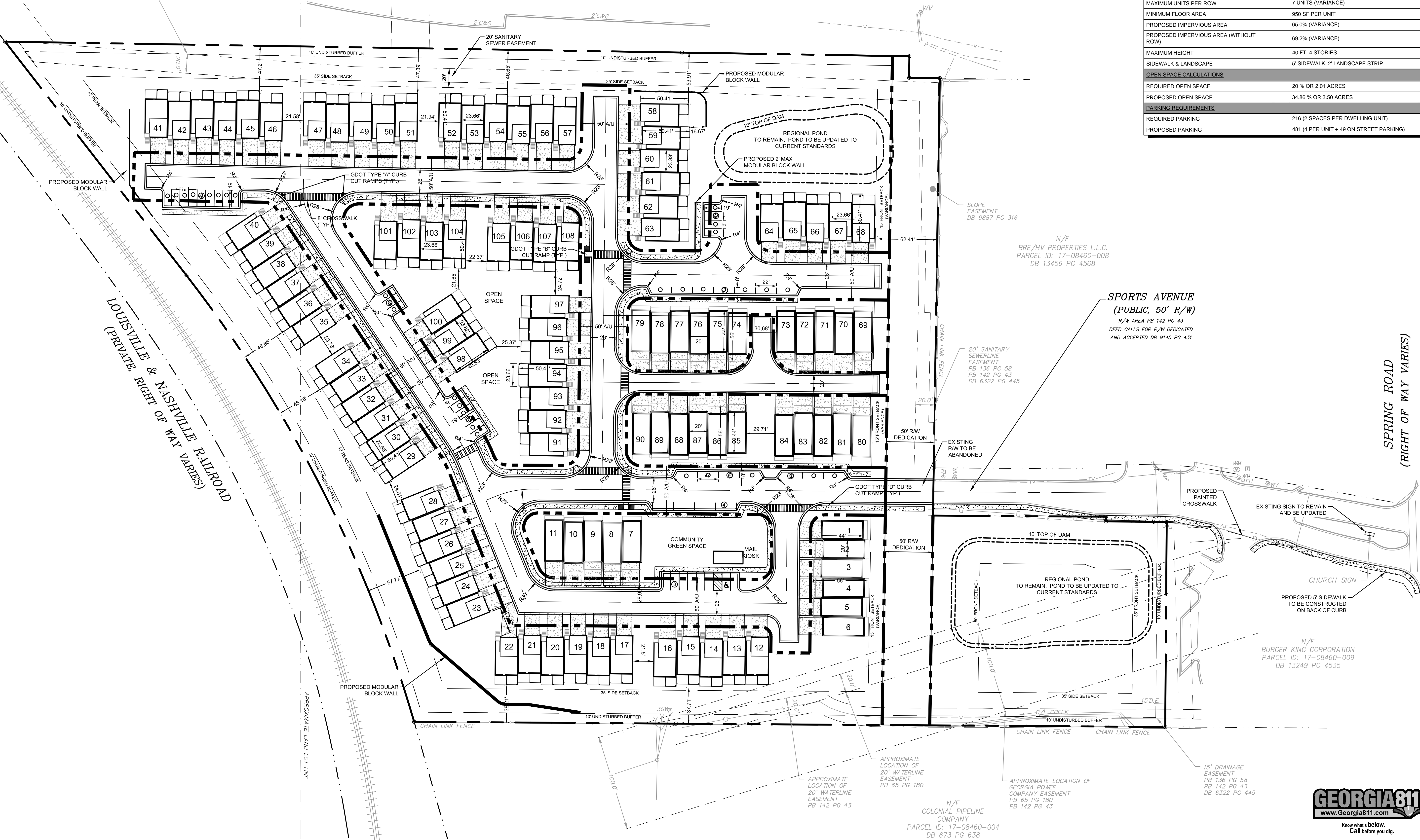
**FEMA FIRM MAP**  
FEMA FIRM PANEL NO.: 13067C0138 G  
NOT TO SCALE



- GENERAL NOTES:**
- VARIANCE REQUIRED TO REDUCE SIDE TO SIDE FROM 30' TO 20'.
  - VARIANCE REQUIRED TO INCREASE MAXIMUM IMPERVIOUS AREA TO 65% WITH PROPOSED ROW INCLUDED, 69.1% WITHOUT ROW AREA INCLUDED.
  - VARIANCE REQUIRED TO REDUCE THE FRONT SETBACK ALONG THE NEW DEDICATED ROAD FROM 50 FEET TO 15 FEET.
  - VARIANCE TO ALLOW FOR 7 TOWNHOMES IN SINGLE ROW.
  - VARIANCE REQUIRED TO REDUCE THE BACK TO BACK DISTANCE ON TOWNHOMES TO 30 FT.

SITE DATA:	
SITE AREA	12.495 ACRES
ZONING	GC
EXISTING ZONING	GC
PROPOSED ZONING	RM-12
ZONING JURISDICTION	CITY OF SMYRNA
USE CALCULATIONS	
TOTAL SITE AREA	12.495 ACRES
20' REAR LOADED TOWNHOMES	32 UNITS
24' FRONT LOADED TOWNHOMES	75 UNITS
TOTAL PROPOSED TOWNHOMES	108 UNITS
MAXIMUM DENSITY	12 UNITS PER ACRE
PROPOSED DENSITY	8.64 UNITS PER ACRE
SETBACK REQUIREMENTS	
PERIMETER FRONT SETBACK	50 FEET (NEW R/W FRONTAGE SETBACK=15')
PERIMETER SIDE SETBACK	35 FEET
PERIMETER REAR SETBACK	40 FEET
TOWNHOME REAR TO REAR	30 FEET ( VARIANCE)
TOWNHOME SIDE TO SIDE	20 FT (VARIANCE)
DEVELOPMENT STANDARDS	
MAXIMUM UNITS PER ROW	7 UNITS (VARIANCE)
MINIMUM FLOOR AREA	950 SF PER UNIT
PROPOSED IMPERVIOUS AREA	65.0% (VARIANCE)
PROPOSED IMPERVIOUS AREA (WITHOUT ROW)	69.2% (VARIANCE)
MAXIMUM HEIGHT	40 FT, 4 STORIES
SIDEWALK & LANDSCAPE	5' SIDEWALK, 2' LANDSCAPE STRIP
OPEN SPACE CALCULATIONS	
REQUIRED OPEN SPACE	20 % OR 2.01 ACRES
PROPOSED OPEN SPACE	34.86 % OR 3.50 ACRES
PARKING REQUIREMENTS	
REQUIRED PARKING	216 (2 SPACES PER DWELLING UNIT)
PROPOSED PARKING	481 (4 PER UNIT + 49 ON STREET PARKING)

N/F  
JASMINE AT THE GALLERIA, LLC  
PARCEL ID: 17-08100-001  
DB 14331 PG 3696  
TRACT III



**CUMBERLAND CHURCH**  
A MASTER PLANNED RESIDENTIAL DEVELOPMENT

FOR  
**LENNAR GEORGIA, INC.**  
1000 HOLCOMB WOODS PKWY  
ROSWELL, GA 30076  
PHONE: 470.538.2250

CITY OF SMYRNA  
COBB COUNTY  
GEORGIA

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350 RESEARCH COURT | PEACHTREE CORNERS, GEORGIA 30092 | (770) 451-2741 | FAX (770) 451-9915

**REVISIONS:**

NO.	DATE	BY	DESCRIPTION
*1	03-22-2019	kw	Staff Comments
*2	04-03-2019	kw	Staff Comments
*3	04-19-2019	kw	Staff Comments

MUNICIPALITY PROJECT #

*This drawing is the property of Planners and Engineers Collaborative and is not to be copied in whole or in part. It is not to be used on any other project and is to be returned upon request. © Planners and Engineers Collaborative.*

**MASTER SITE PLAN**

SCALE: 1" = 50'

DATE: 04/18/2019

PROJECT: 16235.00D

THIS SEAL IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.

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Know what's below. Call before you dig.

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SHEET



Front Elevation

## 20' Townhomes



Residential Design by:  
Main Street Designs of Georgia, LLC  
3050 Royal Blvd. South, Suite 135  
Alpharetta, GA 30022  
404.480-3881

3110 Sports Avenue  
City of Smyrna  
January 30, 2019

**LENNAR**

Lennar  
1000 Holcomb Woods Parkway, Building 200  
Roswell GA 30076



Left Elevation



Rear Elevation

## 20' Townhomes



Residential Design by:  
Main Street Designs of Georgia, LLC  
3050 Royal Blvd. South, Suite 135  
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404.480-3881

3110 Sports Avenue  
City of Smyrna  
January 30, 2019

**LENNAR**

Lennar  
1000 Holcomb Woods Parkway, Building 200  
Roswell GA 30076



Front Elevation

## 24' Townhomes



Residential Design by:  
Main Street Designs of Georgia, LLC  
3050 Royal Blvd. South, Suite 135  
Alpharetta, GA 30022  
404.480-3881

3110 Sports Avenue  
City of Smyrna  
January 30, 2019

**LENNAR**

Lennar  
1000 Holcomb Woods Parkway, Building 200  
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Left Elevation



Rear Elevation

## 24' Townhomes

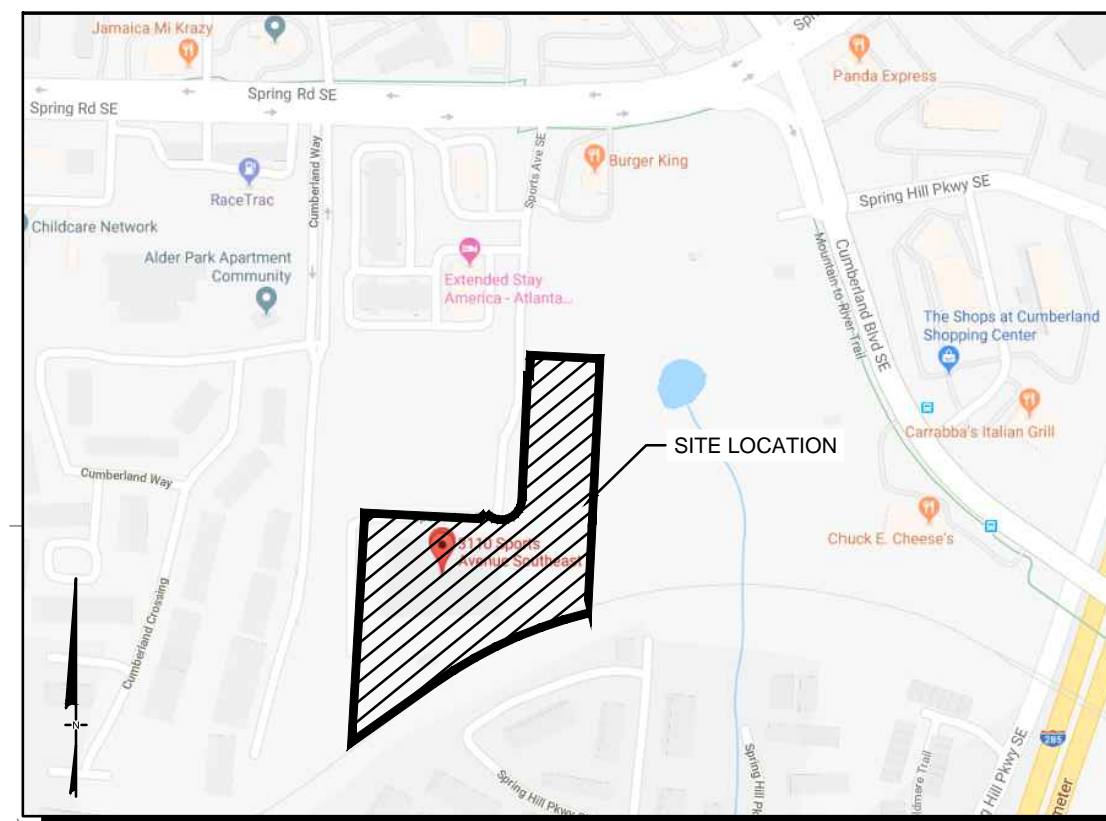


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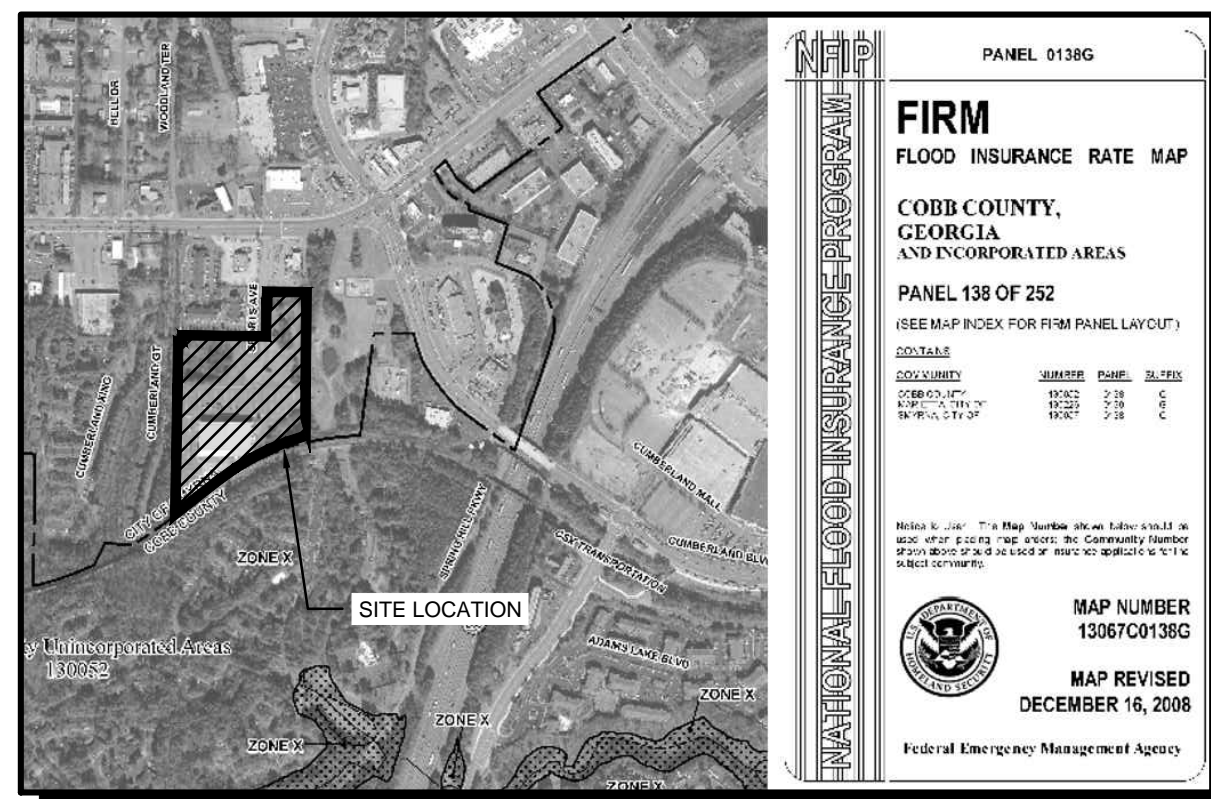
3110 Sports Avenue  
City of Smyrna  
January 30, 2019

**LENNAR**<sup>®</sup>

Lennar  
1000 Holcomb Woods Parkway, Building 200  
Roswell GA 30076



**SITE LOCATION MAP**  
NOT TO SCALE



**FEMA FIRM MAP**  
FEMA FIRM PANEL NO.: 13067C0138 G  
NOT TO SCALE

**FIRM**  
FLOOD INSURANCE RATE MAP  
COBB COUNTY, GEORGIA  
AND INCORPORATED AREAS  
PANEL 138 OF 252  
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)  
2023 RELEASE DATE  
FIRM NUMBER: 13067C0138G  
MAP REVISED: DECEMBER 16, 2008  
Federal Emergency Management Agency

- GENERAL NOTES:**
- VARIANCE REQUIRED TO REDUCE SIDE TO SIDE FROM 30' TO 20'.
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MINIMUM FLOOR AREA	950 SF PER UNIT
MAXIMUM IMPERVIOUS AREA	45 %
PROPOSED IMPERVIOUS AREA	46.7 % (VARIANCE)
MAXIMUM HEIGHT	40 FT, 4 STORIES
SIDEWALK & LANDSCAPE	5' SIDEWALK, 2' LANDSCAPE STRIP
OPEN SPACE CALCULATIONS	
REQUIRED OPEN SPACE	20 % OR 2.01 ACRES
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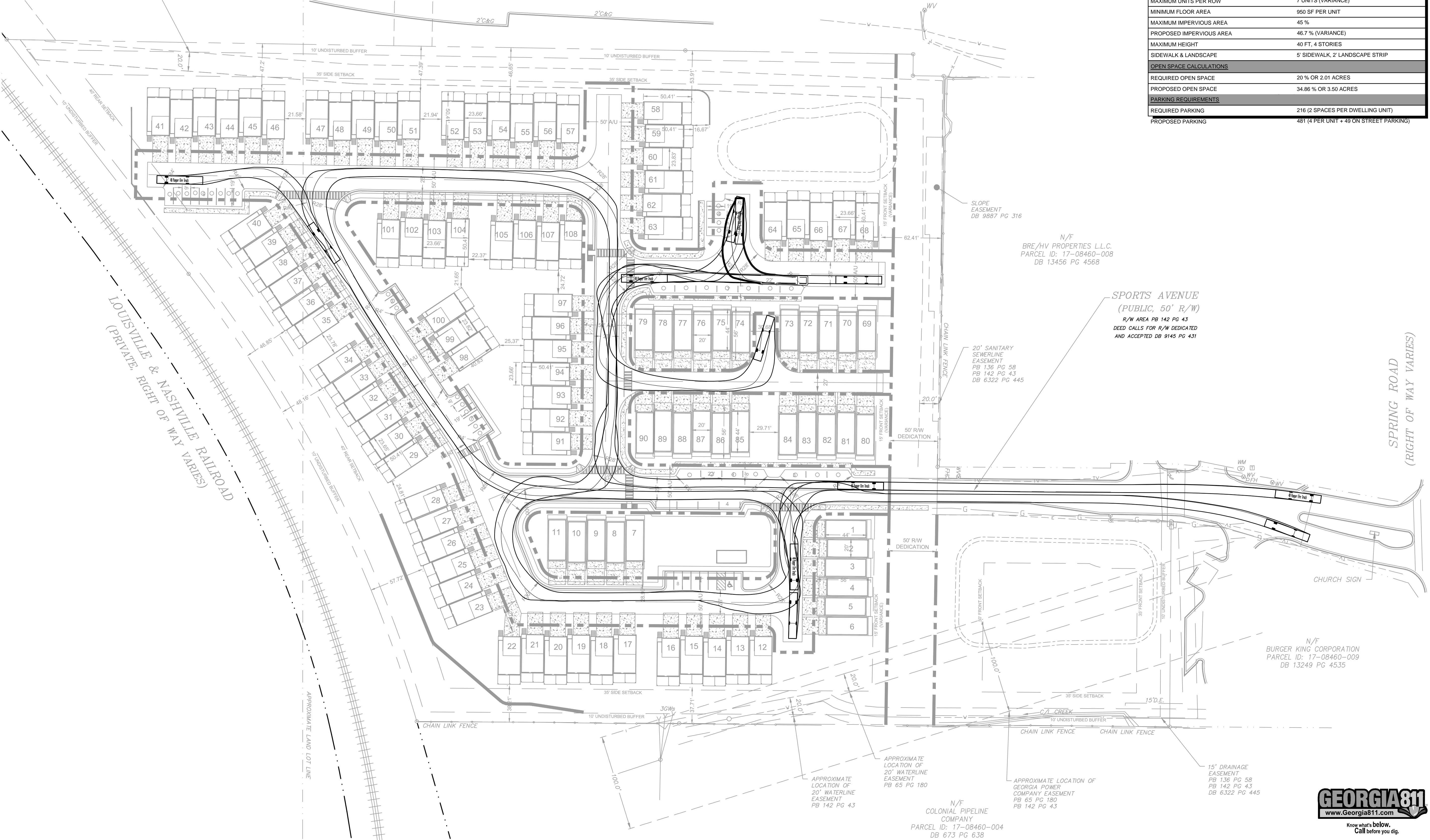
N/F  
JASMINE AT THE CALLERIA, LLC  
PARCEL ID: 17-08100-001  
DB 14331 PG 3696  
TRACT III

N/F  
BRE/HV PROPERTIES L.L.C.  
PARCEL ID: 17-08460-008  
DB 13456 PG 4568

SPORTS AVENUE  
(PUBLIC, 50' R/W)  
R/W AREA PB 142 PG 43  
DEED CALLS FOR R/W DEDICATED  
AND ACCEPTED DB 9145 PG 431

N/F  
BURGER KING CORPORATION  
PARCEL ID: 17-08460-009  
DB 13249 PG 4535

N/F  
COLONIAL PIPELINE  
COMPANY  
PARCEL ID: 17-08460-004  
DB 673 PG 638



**REVISIONS:**

NO.	DATE	BY	DESCRIPTION
*1	03-22-2019	kw	Staff Comments
*2	04-03-2019	kw	Staff Comments
*3	04-19-2019	kw	Staff Comments

MUNICIPALITY PROJECT #

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**FIRE TURN EXHIBIT**

SCALE: 1" = 50'  
DATE: 04/18/2019  
PROJECT: 16235.00D

THIS SEAL IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.

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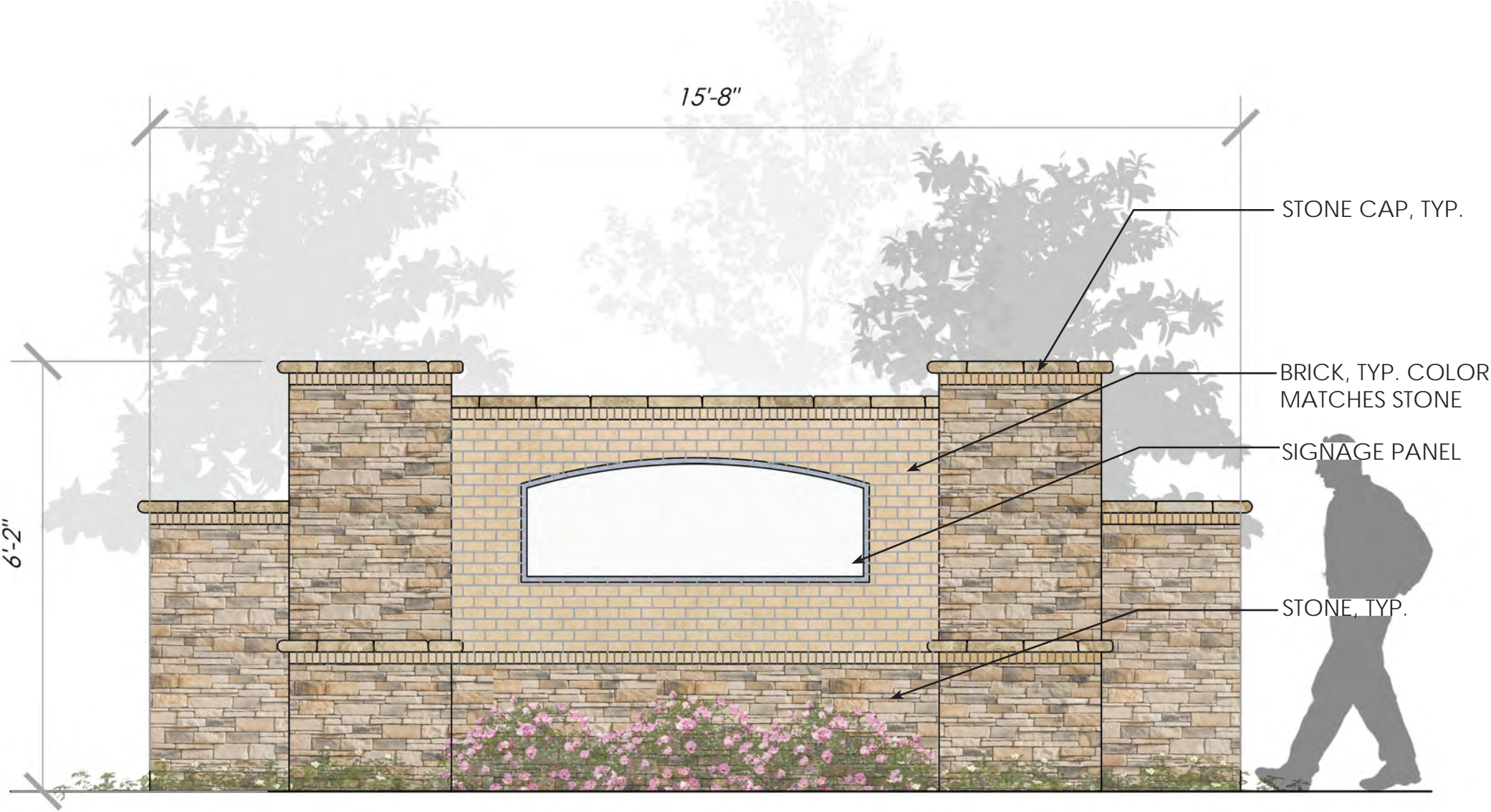
**CUMBERLAND CHURCH**  
A MASTER PLANNED RESIDENTIAL DEVELOPMENT  
FOR  
**LENNAR GEORGIA, INC.**  
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LAND LOT 846, 848  
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PROPOSED



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