

APPLICATION FOR REZONING TO THE CITY OF SMYRNA

Type or Print Clearly

(To be completed by City)

Ward: 6

Application No: 216-018

Hearing Date: 12/19/16

APPLICANT: Waters Edge Group, Inc.

Name: Garvis L. Sams, Jr., Attorney for Applicant

(Representative's name, printed)

Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30064

Business Phone: 770-422-7016 Cell Phone: 404-975-7772 Fax Number: 770-426-6583

E-Mail Address: gsams@slhb-law.com

Signature of Representative: 

TITLEHOLDER

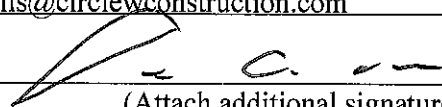
Name: Circle W Construction Co., Inc.

(Titleholder's name, printed)

Address: 613 Club Lane, Marietta, GA 30067

Business Phone: _____ Cell Phone: 678-873-1860 Home Phone: _____

E-mail Address: alanwills@circlewconstruction.com

Signature of Titleholder: 

(Attach additional signatures, if needed)

(To be completed by City)

Received: 10/14/16

Heard by P&Z Board: 11/14/16

P&Z Recommendation: _____

Advertised: _____

Posted: 10/24/16

Approved/Denied: _____

ZONING REQUEST

From OI to RTD
Present Zoning Proposed Zoning

LAND USE

From Community Activity Center (CAC) to Community Activity Center (CAC)
Present Land Use Proposed Land Use

For the Purpose of Townhome Community

Size of Tract 3.35 Acres

Location On the east side of King Springs Road, north of South Cobb Drive
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 528 District 17th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X ~~there are~~ such assets. If any, they are as follows:

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: RM-12

East: RM-12 and OI

South: R-15

West: GC and NS

CONTIGUOUS LAND USE

North: Community Activity Center

East: Public Institutional

South: Community Activity Center and Public Institutional

West: Community Activity Center

INFRASTRUCTURE

WATER AND SEWER

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

Water and sewer is available with suitable capacity, per the attached letter from Scott Stokes,
Director of the Public Works Department.

TRANSPORTATION

Access to Property? King Springs Road

Improvements proposed by developer? As shown on the site plan filed concurrently herewith.

Comments:

The subject property, although presently zoned O&I, was previously rezoned for Townhomes
in 2006.

ZONING DISCLOSURE REPORT

Has the applicant* made, within two years immediately preceding the filing of this application for rezoning, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council or Planning and Zoning Board who will consider this application?

No

If so, the applicant* and the attorney representing the applicant* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

Please supply the following information, which will be considered as the required disclosure:

The name of the Mayor or member of the City Council or Planning and Zoning Board to whom the campaign contribution or gift was made:

The dollar amount of each campaign contribution made by the applicant* to the Mayor or any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application, and the date of each such contribution:

An enumeration and description of each gift having a value of \$250 or more by the applicant* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application:

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

If so, describe the natural and extent of such interest: _____

ZONING DISCLOSURE REPORT (CONTINUED)

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

No


If so, describe the nature and extent of such interest:

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

If so, describe the relationship and the nature and extent of such interest:

If the answer to any of the above is "Yes", then the Mayor or the member of the City Council or Planning and Zoning Board must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application**. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 14 day of Oct., 2016.



Applicant's Attorney on behalf of
Applicant

Notes

* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

** Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

CAMPAIGN DISCLOSURE REPORT¹

BY ATTORNEY FOR APPLICANT²

Has the Applicant made, within two (2) years immediately preceding the filing of this Application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Smyrna City Council or Planning Commission who will consider the Application?

Yes

If so, the Applicant and the attorney representing the Application must file a disclosure report with the Smyrna City Council within ten (10) days after this Application is first filed.

Please supply the following information which will be considered as the required disclosure:


The name of the member(s) of the Smyrna City Council or Planning Commission to whom the campaign contribution or gift was made: Melleny Pritchett; Max Bacon; and, Ron Fennel

The dollar amount of each campaign contribution made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application and the date of each such contribution: Melleny Pritchett - \$2,500.00 (7/23/15 Sams, Larkin, Huff & Balli, LLP); Max Bacon - \$2,500.00 (7/23/15, Sams, Larkin, Huff & Balli, LLP); and, Ron Fennel (8/27/15 Sams, Larkin, Huff & Balli, LLP)

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the Applicant to the member(s) of the Smyrna City Council or Planning Commission during the two (2) years immediately preceding the filing of this Application: N/A

I certify that the foregoing information is true and correct, this the 14 day of Oct., 2016.

~~SAMS, LARKIN, HUFF & BALLI, LLP~~

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant

¹If the answer to any of the above is "Yes", then the member of the Smyrna City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing to the Smyrna City Council. A copy should be filed with this Application. Each disclosure shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

DISCLOSURE

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES", YOU MAY BE REQUIRED UNDER O.C.G.A. §36-67A-3 TO PROVIDE FURTHER INFORMATION:

- A) ARE YOU, OR ANYONE ELSE WITH A PROPERTY INTEREST IN THE SUBJECT PROPERTY, A MEMBER OF THE CITY OF SMYRNA PLANNING COMMISSION OR CITY OF SMYRNA MAYOR AND COUNCIL? **NO**
- B) DOES AN OFFICIAL OF SUCH PUBLIC BODIES HAVE ANY FINANCIAL INTEREST IN ANY BUSINESS ENTITY WHICH HAS A PROPERTY INTEREST IN THE SUBJECT PROPERTY? **NO**
- C) DOES A MEMBER OF THE FAMILY OF SUCH OFFICIALS HAVE AN INTEREST IN THE SUBJECT PROPERTY AS DESCRIBED IN (A) AND (B)? **NO**
- D) WITHIN TWO (2) YEARS IMMEDIATELY PRECEDING THIS APPLICATION, HAVE YOU MADE CAMPAIGN CONTRIBUTION(S) OR GIVEN GIFTS TO SUCH PUBLIC OFFICIALS AGGREGATING \$250.00 OR MORE? **YES**

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

Garvis L. Sams, Jr.
Attorney for Applicant

10-14-16
DATE

REZONING ANALYSIS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the rezoning request.**

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

The proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby properties; provides an appropriate step-down/transition from High Density Residential (HDR) development to the north and the Community Activity Center (CAC) uses to the south and west; and, is consistent with the policy and intent of the Mayor and City Council based upon policy considerations and recommendations regarding Medium Density Development within commercial areas.

2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

The proposed rezoning will not adversely impact the use or usability of adjacent or nearby properties and will, in fact, constitute an appropriate rezoning which will advance a home ownership scenario, an upper scale, high-end utilization which is compatible with the development desires of the City of Smyrna and its professional consultants and staff.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property, as currently zoned (Office & Institutional) cannot compete favorably with other similarly zoned and situated properties with equivalent utility due to its lack of exposure as a commercial site and because it is situated behind the former Quik Trip convenience store at the intersection of South Cobb Drive and King Springs Road.

REZONING ANALYSIS (CONTINUED)

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

The proposed rezoning will not result in a use which will have an adverse impact upon the existing City infrastructure and is a proposal which comports with the anticipated trend of development within this sub-area of the City of Smyrna.

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

While the proposed rezoning does not technically conform to the Future Land Use Map which shows the property to be located within a Community Activity Center (CAC), the proposed rezoning is consistent with established policies of the Mayor and City Council based on previous recommendations received from a consultant regarding land use along major transit corridors. Moreover, the Mayor and City Council rezoned the subject property for the purposes of townhomes which was approved in 2006.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

There are existing and changing conditions affecting the use and development of the subject property which gives supporting grounds for approval in that the subject property is clearly in an area which is uniquely positioned for a homeownership residential developmental scenario and because of the subject property's direct adjacency to commercial areas, medical offices and a hospital facility.

REZONING ANALYSIS (CONTINUED)

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

The zoning proposal will not only enhance the architectural standards and aesthetics within this sub-area of the City of Smyrna but will also constitute an event which will precipitate higher residential values within the confines of the proposed community.

8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

The proposed rezoning of the subject property will not create a nuisance and is compatible with existing uses within this transitional sub-area of the City of Smyrna.

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

The proposed rezoning will positively effect the trends of development within this sub-area of the City of Smyrna and will precipitate additional upscale high-end residential development and new

Jay C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

When recorded, please return to: Cutler & Schulman, P.C., Suite 100, 1600 S. Cobb Dr., Marietta, GA. 30060 (404) 429-9242

File #060286PC
Transfer Tax Due

To Perfect Legal Description - No

STATE OF GEORGIA

COUNTY OF COBB

QUIT CLAIM DEED

THIS INDENTURE, made this **15th** day of **June**, in the year two thousand **six**, between **Regency Court Associates, Ltd.**, as party or parties of the first part, hereinafter called Grantor, and **Circle W Construction Co., Inc.**, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH: That Grantor for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold, and does by these presents bargain, sell, remise, release and forever quit-claim, subject to the reservation hereinafter set out, to Grantee all the right, title interest, claim or demand which the Grantor has or may have had in and to the following described real property, to wit:

(SURVEY LEGAL)

ALL THAT TRACT or parcel of land lying and being in Land Lot 528, 17th District, 2nd Section of Cobb County, Georgia and being more particularly described as follows:

BEGINNING at a point where Land Lot 553 and 552 intersect Land Lot 528 run thence South 89 degrees 58 minutes 17 seconds West a distance of 238.47 feet to a point; thence North 89 degrees 51 minutes 57 seconds West a distance of 170.60 feet to a point located on the northeasterly right of way line of South Cobb Drive (200' R/W); run thence North 38 degrees 32 minutes 53 seconds West a distance of 10.48 feet to a point; thence leaving said right of way run North 51 degrees 31 minutes 13 seconds East a distance of 120.98 feet to a point; run thence South 38 degrees 09 minutes 45 seconds East a distance of 2.00 feet to a point; run thence North 51 degrees 50 minutes 15 seconds East a distance of 74.00 feet to a point; run thence North 38 degrees 09 minutes 45 seconds West a distance of 220.00 feet to a point; run thence South 51 degrees 50 minutes 15 seconds West a distance of 93.57 feet to a point located on the southeasterly right of way of King Springs Road (R/W varies); run thence along the southeasterly right of way of King Springs Road North 16 degrees 00 minutes 07 seconds East a distance of 105.12 feet to a point; run thence North 02 degrees 19 minutes 35 seconds East a distance of 56.94 feet to a point; thence leaving said right of way run thence South 87 degrees 56 minutes 10 seconds East a distance of 451.10 feet to an iron pin found on the line common to Land Lots 528 and 553; run thence along the line common to Land Lots 528 and 553 South 01 degree 39 minutes 16 seconds West a distance of 384.92 feet to the POINT OF BEGINNING. All as per Survey for Circle W Construction by Christopher A. Evans, GRLS #2784 dated May 24, 2006.

Together with all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

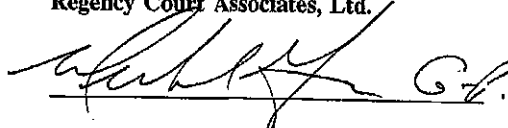
TO HAVE AND TO HOLD the said described premises unto the Grantee, so that neither the said Grantor, nor any other person or persons claiming under Grantor shall at any time claim

or demand any right, title or interest to the aforesaid described premises or its appurtenances.

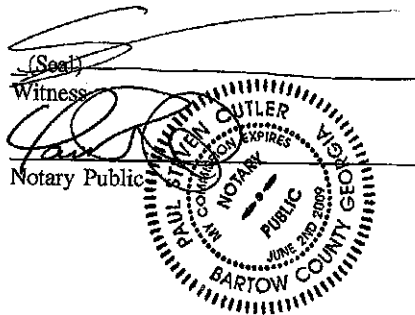
IN WITNESS WHEREOF, the Grantor has signed and sealed this deed the day and year above written.

Signed, sealed and delivered in presence of

Regency Court Associates, Ltd.



Michael McGovern, G.P.



Deed Book 14358 Pg 1443
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

Jay C. Stephenson

Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

21

Notes to Clerk of Superior Court:
When recorded, please return this document to: Cutler & Schulman, P.C., Attorneys at Law, 1600
South Cobb Drive, Suite 100, Marietta, Georgia 30060 att * 770-429-9242
File # 0601476V 060280V

LIMITED WARRANTY DEED

STATE OF GEORGIA,

COUNTY OF COBB

THIS INDENTURE made this 15th day of June, 2006, between Regency Court Associates, Ltd., as Grantor, and Circle W Construction Co., Inc., as Grantee. (In this deed, wherever the context so requires, the masculine gender includes the feminine and/or neuter and the singular number includes the plural. Wherever herein a verb, pronoun or other part of speech is used in the singular, and there is more than one Grantor or Grantee, said singular part of speech shall be deemed to read as the plural and each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein. Wherever herein Grantor or Grantee is used, the name shall be considered as well to mean the heirs, executors, administrators, successors, representatives and assigns of the same.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of TEN DOLLARS AND OTHER VALUABLE CONSIDERATION, in hand paid at or before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained and sold and by these presents does grant, bargain, sell and convey, unto the said GRANTEE, the following described property:

(RECORDED LEGAL)

ALL THAT TRACT or parcel of land lying and being in Land Lot 528, 17th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the point of intersection of the northeasterly right-of-way line of South Cobb Drive (200-foot right-of-way) and the southeasterly right-of-way line of King Springs Road (40-foot right-of-way) and running thence North 14 degrees 43 minutes 18 seconds East along the southeasterly right-of-way line of King Spring Road, a distance of 170.65 feet to a point; running thence North 12 degrees 20 minutes 40 seconds East along said right-of-way line, a distance of 102.08 feet to an iron pin; running thence South 89 degrees 11 minutes 40 seconds East a distance of 457.65 feet to an iron pin on the eastern land lot line of Land Lot 528; running thence South 0 degrees 42 minutes 44 seconds West, along the eastern land lot line of Land Lot 528, a distance of 385.00 feet to an iron pin at the southeastern corner of Land Lot 528; running thence South 88 degrees 57 minutes 28 seconds West along the south line of said Land Lot 528, a distance of 407.45 feet to an iron pin located on the northeasterly right-of-way line of South Cobb Drive; running thence North 39 degrees 31 minutes 49 seconds West along said right-of-way line, a distance of 173.80 feet to the point of beginning; as per survey prepared by Travis N. Pruitt, Sr., Georgia Registered Land Surveyor No. 1729, dated May 11, 1977, and last revised October 21, 1985, said tract containing 4.319 acres according to said survey.

LESS AND EXCEPT ALL THAT TRACT or parcel of land lying and being in Land Lot 528, 17th District, 2nd Section of Cobb County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING commence at the point where Land Lot 553 and 552 intersect. Land Lot 528 run thence South 89 degrees 58 minutes 17 seconds West a distance of 238.47 feet to a point; thence North 89 degrees 51 minutes 57 seconds West a distance of 170.60 feet to a point located on the northeasterly right-of-way line of South Cobb Drive (200' R/W); run thence North 38 degrees 32 minutes 53 seconds West a distance of 10.48 feet to the POINT OF BEGINNING; thence leaving said right of way run North 51 degrees 31 minutes 13 seconds East a distance of 120.98 feet to a point; run thence South 38 degrees 09 minutes 45 seconds East a distance of 2.00 feet to a point; run thence North 51 degrees 50 minutes 15 seconds East a distance of 74.00 feet to a point; run thence North 38 degrees 09 minutes 45 seconds West a distance of 220.00 feet to a point; run thence South 51 degrees 50 minutes 15 seconds West a distance of 93.57 feet to a point located on the southeasterly right-of-way of King Springs Road (R/W varies); run thence South 16 degrees 00 minutes 07 seconds West a distance of 126.29 feet to a point located at the intersection of South Cobb Drive and King Springs Road; run thence along the northeasterly right of way of South Cobb Drive South 38 degrees 32 minutes 53 seconds West a distance of 144.74 feet to the POINT OF BEGINNING.

M

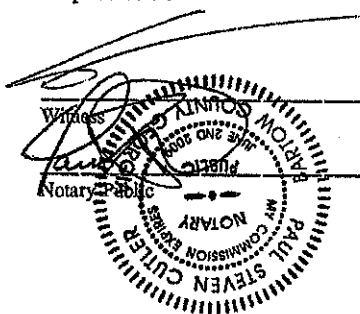
TO HAVE AND TO HOLD the said tract of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in any way appertaining to the only proper use, benefit and behoof of Grantee forever, in Fee Simple.

AND THE SAID GRANTOR, for himself, his heirs, assigns, successors, executors and administrators will warrant and forever defend the right and title to the above-described property unto the said GRANTEE, his heirs and assigns against all the lawful claims of all persons claiming by through or under the said GRANTOR subject to the matters set out in Exhibit 'B' hereto (the "Permitted Exceptions").


Further, Grantor hereby quitclaims to Grantee, and Grantee's successors, successors-in-title, assigns, heirs and legal representatives, all of Grantor's right, title and interest, if any, in and to any land lying in the bed of any street, road, alley, avenue or right of way adjoining the property herein conveyed, together with all gaps, gores, vaults within or contiguous to said property, together with any and all easements serving said property, to have and hold said property and any and all of the rights, members and appurtenances thereof to the same being, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee and Grantee's successors, successors-in-title, assigns, heirs and legal representatives, free and discharged of any claim of Grantor.

IN WITNESS WHEREOF, the said Grantor has herewith set his hand and seal the day and the year first above written.

Signed, Sealed and delivered in
the presence of:



Regency Court Associates, Ltd.

 (LS)
By: Michael McGovern, G.P.



Printed: 9/27/2016

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON
CHELLY MCDUFFIE
Phone:
Fax:

TAX
COMMISSIONER
CHIEF DEPUTY
770-528-8600
770-528-8679

Payer:
William Wills

CIRCLE W CONSTRUCTION CO INC

Payment Date: 9/30/2015

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2015	17052800130	10/15/2015	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$7,656.00	\$0.00	



Scan this code with your
mobile phone to view
this bill!!

Real Estate

[View Bill](#)
[View bill image](#)
As of 8/30/2016

Bill Year 2015

Bill 2900

Owner CIRCLE W CONSTRUCTION CO INC

Parcel ID 17052800130

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/16/2015	\$2,607.10	\$2,607.10	\$0.00	\$0.00	\$0.00
TOTAL		\$2,607.10	\$2,607.10	\$0.00	\$0.00	\$0.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 528 of the 17th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at a 1/2" rebar set at the southeastern corner of Land Lot 528, which is the common corner of Land Lots 528, 529, 552, & 553; thence along the southern land lot line of land Lot 528 South 89 degrees 53 minutes 23 seconds West a distance of 407.45 feet to a 1/2" rebar set on the northeasterly right of way of South Cobb Drive (State Route 280) (200' R/W); thence along the right of way of South Cobb Drive North 38 degrees 35 minutes 54 seconds West a distance of 10.48 feet 1/2" rebar set; thence leaving said right of way North 50 degrees 49 minutes 35 seconds East a distance of 120.38 feet to a nail found; thence South 38 degrees 21 minutes 22 seconds East a distance of 2.00 feet to a nail found; thence North 51 degrees 35 minutes 17 seconds East a distance of 73.98 feet to a 1/2" rebar found; thence North 38 degrees 10 minutes 46 seconds West a distance of 220.00 feet to a 1/2" rebar set; thence South 51 degrees 37 minutes 13 seconds West a distance of 93.57 feet to a point on the right of way of King Springs Road (variable R/W); thence along said right of way North 15 degrees 53 minutes 21 seconds East a distance of 101.80 feet to a point; thence along said right of way North 04 degrees 12 minutes 03 seconds East a distance of 58.04 feet to a 1/2" rebar set; thence leaving said right of way South 88 degrees 15 minutes 45 seconds East a distance of 449.93 feet to a 1/2" rebar found on the eastern land lot line of Land Lot 528; thence along said land lot line South 01 degrees 38 minutes 39 seconds West a distance of 385.00 feet to a 1/2" rebar set, which is THE TRUE POINT OF BEGINNING; having an area of 145,195.632 Sq. Ft., 3.333 Acres, as shown and described on Survey for Waters Edge Group by Georgia Land Surveying Co. Inc., bearing the seal and certification of Josh L. Lewis IV, Georgia Registered Land Surveyor No. 3028, dated September 2, 2016 & revised September 13, 2016 and being referenced as Job Number 196642.



CITY OF SMYRNA

2800 King Street / P.O. Box 1226, Smyrna, Georgia 30081
(770) 434-6600 / www.smyrnacity.com

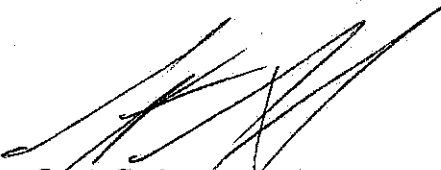
CITY OF SMYRNA

WATER AND SEWER AVAILABILITY

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Water is located on the north side of King Springs Road which will require a case and bore by the developer. Each structure will require a separate sub-water meter.

Sanitary Sewer is located within the right-of-way of South Cobb Drive. Sanitary sewer main extension will be required by the developer with easements. Each structure will require a separate sewer service. Elevations are the responsibility of the developer.

This information is based upon a zoning plan titled King Springs with no date shown by Ridge Planning and Engineering.



Scott Stokes, CPWM
Director Public Works

MAYOR
A. MAX BACON

CITY COUNCIL

WARD 1
DEREK NORTON

WARD 2
ANDREA BLUSTEIN

WARD 3
TERI ANULEWICZ

WARD 4
CHARLES A. WELCH
CITY ATTORNEY
SCOTT A. COCHRAN

WARD 5
SUSAN WILKINSON
MUNICIPAL COURT JUDGE
E. ALTON CURTIS, JR.

WARD 6
DOUG STONER

WARD 7
RON FENNEL

CITY ADMINISTRATOR
MICHAEL L. JONES, P.E.

CITY CLERK
TERRI GRAHAM

TO THE MAYOR AND CITY COUNCIL

CITY OF SMYRNA, GEORGIA

CONSTITUTIONAL CHALLENGE

COMES NOW, WATERS EDGE GROUP, hereinafter referred to as the
"Applicant" for Rezoning and asserts the following, to wit:

1.

By application to which this exhibit relates, the Applicant has applied for a rezoning of certain real property lying and being in the City of Smyrna, Cobb County, Georgia, a more particular description and delineation of the subject property, hereinafter referred to as the "Property", being set forth in said Application.

2.

The Application for Zoning of the property seeks a rezoning from the existing category of OI, as established by the governing authority of the City of Smyrna, Georgia to the zoning category of RTD for a Townhome Community.

3.

The current OI zoning classification of the property and all intervening classifications between same and RTD are unconstitutional in that they deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property without due process violates constitutional prohibitions against the taking of private property without just compensation.

4.

The zoning classification of OI and all intervening classifications between same and RTD as they presently exist violate the Applicant's rights to the unfettered use of the property in that the existing zoning classification does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classification is unconstitutional in that it is arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

5.

The City of Smyrna Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with zoning applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand, and are in many instances controlled by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 14 day of Oct., 2016.

SAMS, LARKIN, HUFF & BALLI, LLP

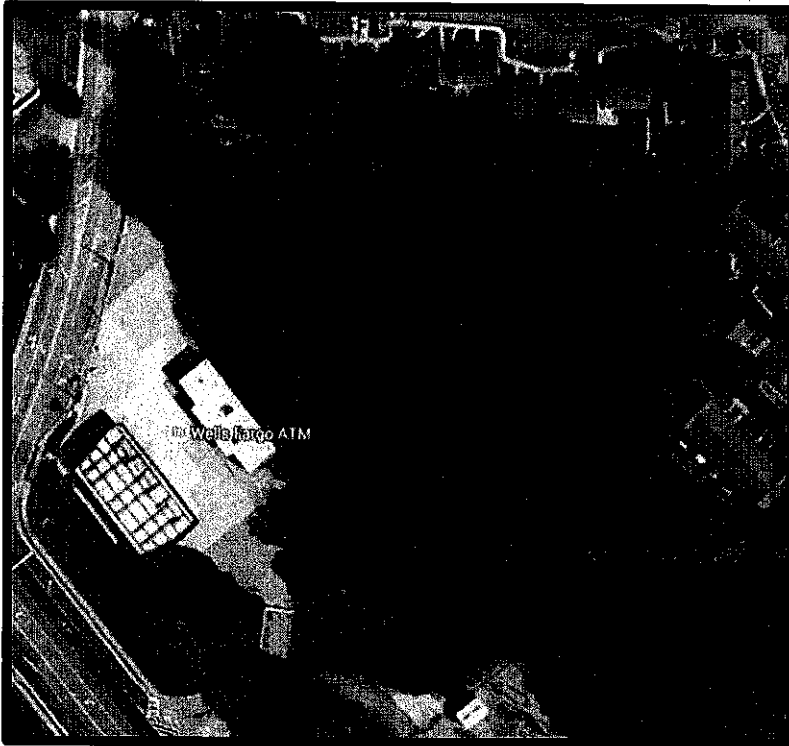
By: 

GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

Tree Inventory & Analysis

Project:

The Gates at King Springs



On-Site Evaluation Date (s):

OCTOBER 10, 2016

Report Date:

OCTOBER 10, 2016

DESCRIPTION OF PROJECT SITE

The subject property is a 3.35 acre site covered by mostly Pine regrowth ranging from 2 – 25" DBH. The property is surrounded by existing development.

EVALUATION BASED ON

Evaluation is based upon field observation and practical horticulture and arboriculture experience. No sub-grade or internal coring investigation was performed on the subject trees. Photos of damage or defect, are included (Exhibit A)

CONDITION DEFINED

GOOD: Tree has excellent vigor and is actively growing without any serious pathogenic problems. Tree exhibits a structural form that is safe and typical of the species.

FAIR: Tree is in moderate health, but may have a minor pathogenic problem. Tree may have minor structural defects and may not exhibit optimal form for the species in an urban environment. A tree in fair condition may not react favorably to site developments or additional stress.

POOR: Tree's vigor is low to moderate. It may also have moderate to severe structural defects or a form that is undesirable for the species. Some trees in poor condition are not recoverable and could degrade into a state of advanced decline leading to death. Some poor trees are in severe decline.

NONSPECIMEN / DDH: Tree is Poor, not of specimen quality per standards of jurisdictional code, Dead, Diseased and/or Hazardous per professional opinion of this Arborist.

INVASIVE: Trees that are non-indigenous to the Atlanta area, Piedmont region.

HAZARDOUS: Tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by an Arborist or Forester.

DBH: Diameter of trunk in inches, measured at 4.5' above average soil level. Where split, tree is measured at narrowest point below split.

SPLIT: Trunk splits into two trunks or is two trees growing together at a point of inclusive bark. See Arborist note last page of report.

Tree # B1

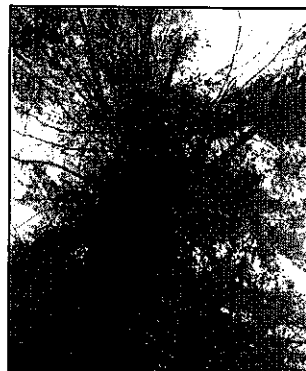
Species PINE

Size (DBH) 26

GOOD	<input type="checkbox"/>	FAIR	<input type="checkbox"/>	POOR	<input type="checkbox"/>	Root Decay	<input checked="" type="checkbox"/>
Canopy				Trunk			
Multi-Leaders	<input type="checkbox"/>	Conk/Mushroom	<input type="checkbox"/>	Weak Attachment	<input type="checkbox"/>	Codominant	<input type="checkbox"/>
Included Bark	<input type="checkbox"/>	Open Wound	<input type="checkbox"/>	Broken Branches	<input checked="" type="checkbox"/>	Included Bark	<input type="checkbox"/>
Decay	<input type="checkbox"/>	Dead Branches	<input type="checkbox"/>	Dead Branches	<input checked="" type="checkbox"/>	Heartwood Decay	<input type="checkbox"/>
Canker/Gall	<input type="checkbox"/>	Unbalanced Crown	<input type="checkbox"/>	Tip Dieback	<input checked="" type="checkbox"/>	Canker/Gall	<input type="checkbox"/>
Roots/Sight Conditions				Lightning Damage	<input type="checkbox"/>	Ooze	<input type="checkbox"/>
Surface Roots	<input type="checkbox"/>	Target	<input type="checkbox"/>	Conk/Mushroom	<input type="checkbox"/>		<input type="checkbox"/>
Root Decay	<input type="checkbox"/>	Slope	<input type="checkbox"/>	Open Wound	<input type="checkbox"/>		<input type="checkbox"/>

Notes:

Evident Prune Wounds



Tree # B2

Species PINE

Size (DBH) 25

GOOD	<input type="checkbox"/>	FAIR	<input type="checkbox"/>	POOR	<input type="checkbox"/>	Root Decay	<input checked="" type="checkbox"/>
Canopy				Trunk			
Multi-Leaders	<input type="checkbox"/>	Conk/Mushroom	<input type="checkbox"/>	Weak Attachment	<input type="checkbox"/>	Codominant	<input type="checkbox"/>
Included Bark	<input type="checkbox"/>	Open Wound	<input type="checkbox"/>	Broken Branches	<input type="checkbox"/>	Included Bark	<input type="checkbox"/>
Decay	<input type="checkbox"/>	Dead Branches	<input type="checkbox"/>	Dead Branches	<input checked="" type="checkbox"/>	Heartwood Decay	<input type="checkbox"/>
Canker/Gall	<input type="checkbox"/>	Unbalanced Crown	<input type="checkbox"/>	Tip Dieback	<input type="checkbox"/>	Canker/Gall	<input type="checkbox"/>
Roots/Sight Conditions				Lightning Damage	<input type="checkbox"/>	Ooze	<input type="checkbox"/>
Surface Roots	<input type="checkbox"/>	Target	<input type="checkbox"/>	Conk/Mushroom	<input type="checkbox"/>		<input type="checkbox"/>
Root Decay	<input type="checkbox"/>	Slope	<input type="checkbox"/>	Open Wound	<input type="checkbox"/>		<input type="checkbox"/>

Notes:

Tree Infested by Ivy Growth



Analysis prepared by:

E. Tyrone Casteel, ISA Certified Arborist
Certificate Number: SO-5646A
Mondo Land Planning + Design, LLC



Warranty Disclaimer:

No warranties expressed or implied are made with respect to the report of aforementioned specimen trees. It is understood the OWNER makes use of this report by the ARBORIST at OWNER'S sole risk and that the report is provided as best judgment opinion. In no manner does this report guarantee the life or imply any length of life span of the trees that are determined to be specimens.

Arborist Note:

Due to certain species and undesirable traits, some trees shall be considered in poor condition if the following is true. Numerous trees grown in a native setting may appear to grow as multi-trunk; however this is not desirable in most trees. Most trees having multi-trunks at the base are usually created when two separate trees grow together or the tree branches off at an early age and the separate trunks become Co-Dominate Leaders. Either scenario is an undesirable condition for most trees because they both create weak crotches, included bark and/or a prime place for debris and water to get trapped that will eventually cause decay. In this case these trees become increasingly hazardous and can not be considered specimen trees.

Some trees are an exception to this rule, such as, but not limited to: Birch, Wax Myrtle, Red Bud, Dogwood, Holly, Cedar, Sourwood, small Magnolia, Red Bay and Live Oak. Said are an exception because they naturally create sucker growth from the roots and/or trunk or do not typically grow to a large enough size to become an increased hazard.

Reference: Sinclair, Wayne A., 1936. Diseases of Trees and Shrubs/ Wayne A. Sinclair and Howard H. Lyon. - 2nd ed. Published 2005

VARIANCE SUMMARY

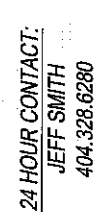
1. REDUCE INLANDING SEPARATION FROM 30 FEET TO 20 FEET.
2. REDUCE SIDE TO SIDE BUILDING SEPARATION FROM 40 FEET TO 20 FEET.
3. REDUCE ROAD WIDTH TO 20 FEET FOR TO EOW, 24 FEET (AC) TO 14 FEET.

WATERS EDGE GROUP, INC.
EXCELLENCE IN EVERY DETAIL
0 KING SPRINGS ROAD
SMYRNA, GA 30080

SOURCE CERTIFICATION NUMBER: J00000
 EXPIRATION DATE: 08/07/2005

REVISIONS

ZONING PLAN
Z100
NEW ZONING PLAN/2000



GEORGIA 811
Utilities Protection Center, Inc.

**Know what's behind.
Call before you dig.**

CURVE	LENGTH	NUMBER	CHORD	CHORD BE
C1	54.62'	36.00'	53.17'	30.2'
C2	54.33'	36.00'	50.8'	30.70'
C3	53.48'	36.00'	47.85'	30.70'
C4	53.35'	36.00'	45.71'	30.70'
C5	43.07'	41.00'	44.37'	31.10'
C6	58.44'	41.00'	58.37'	41.30'

[illegible]

CHILD INFORMATION	STANDARD NAME	IN PROGRESS	FINISHED	IN PROGRESS PERCENT	FINISHED PERCENT	GRADE 2
RELIGIOUS INQUIRY	Religious Inquiry	13	37 (64)	22 (41)	31 (55)	0.50
VISUAL ARTS	Visual Arts	9	37 (64)	22 (41)	27 (48)	0.14
ARTS EDUCATION	Arts across the Curriculum	11	37 (64)	22 (41)	33 (59)	0.17
SCIENCE	Science across the Curriculum	12	37 (64)	22 (41)	36 (63)	0.19
CHINESE LANGUAGE	Chinese Language	12	37 (64)	22 (41)	36 (63)	0.19
RELIGIOUS INQUIRY	Religious Inquiry	2	12 (21)	1 (2)	5 (9)	0.03
PHYSICAL EDUCATION	Physical Education	5	12 (21)	3 (5)	15 (27)	0.08

STREET TREES

PARKING TREES

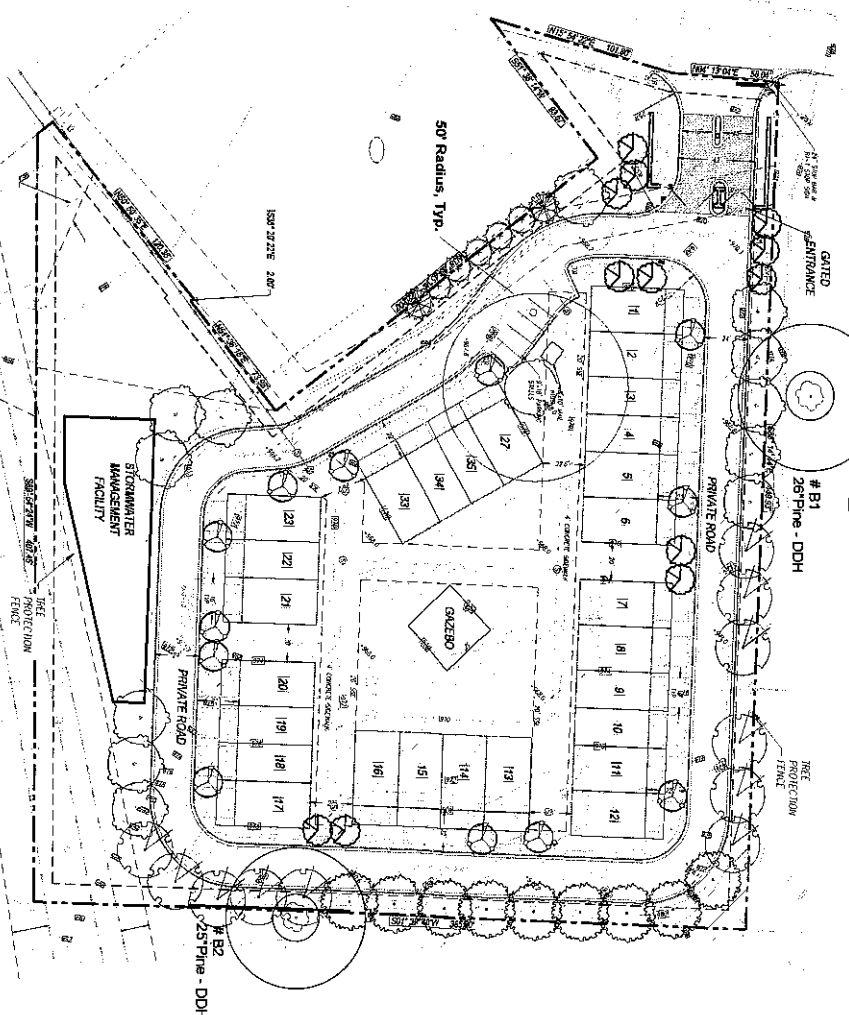
ALL PROPOSED PARKING SPACES THIS SCOPE OF WORK TO BE LOCATED WITHIN 50' OF A SHADE TREE. See Layout for Radius Showing Coverage.

Frontages.

The Collets at Honey Springs

CONCLUSIONS

It is concluded that the use of a single, low-dose, short-acting, intravenous, benzodiazepine, such as midazolam, for the sedation of patients with severe head injury is safe and effective. The use of midazolam for sedation of patients with severe head injury is recommended.

[illegible][illegible]

WATERS EDGE GROUP, INC.
RECYCLED PAPER • 100% VEGAN INK
0 KING SPRINGS ROAD
BIRMINGHAM, AL 35203



mondo
LAND PLANNING and DESIGN, LLC
8020 MAIN STREET
WIDSTOCK, GEORGIA 30188
phone 770.422.3710

TREE PROTECTION PLAN FOR KING SPRINGS

810 & 820 LECROY DRIVE, LAND LOT 1030, 14TH DISTRICT, 2ND SECTION - CITY OF SMOYNA

DATE	10.12.
JOB NO.	AM/11/16
DRAWN	MRC
CHECKED	ETC
SCALE	1" = 30'
SHEET:	
L101	

[illegible]

TREE PROTECTION CALCULATIONS

Total Site Coverage = 3.35 Acres - 1.41 Acres Infrastructure = 1.94 Net Acres
 Required Site Density Factor (SDF) = 1.94 Acres X 100 Inches = 194 SDF
 Three Sample Areas were identified for Density Application
 215' x 241' = 51,815' in One Area
 0.08 Acres Preserved on the Site, 0.08 x 222' = 36' Preserved Existing Density Factor (EDF)
 194 SDF - 36 Units Preserved Onsite = 58 EDF = 58 Sample Site Density Index
 UNITS TO BE PLANTED ON THE SITE - SEE SHEET L101

SAMPLE AREA 1			
INVENTORY	TOTAL NO. OF TREES	TOTAL DBH OF TREES	TOTAL INCHES
1	1	12.00	12.00
2	1	12.00	12.00
3	1	12.00	12.00
4	1	12.00	12.00
5	1	12.00	12.00
6	1	12.00	12.00
7	1	12.00	12.00
8	1	12.00	12.00
9	1	12.00	12.00
10	1	12.00	12.00
11	1	12.00	12.00
12	1	12.00	12.00
13	1	12.00	12.00
14	1	12.00	12.00
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16	1	12.00	12.00
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210	1	12.00	12.00
211	1	12.00	12.00
212	1	12.00	12.00
213	1	12.00	12.00
214	1	12.00	12.00
215	1	12.00	12.00

SPECIMENS TREES

NO SPECIMEN TREES LOCATED WITHIN AREA OF SCOPE OF WORK

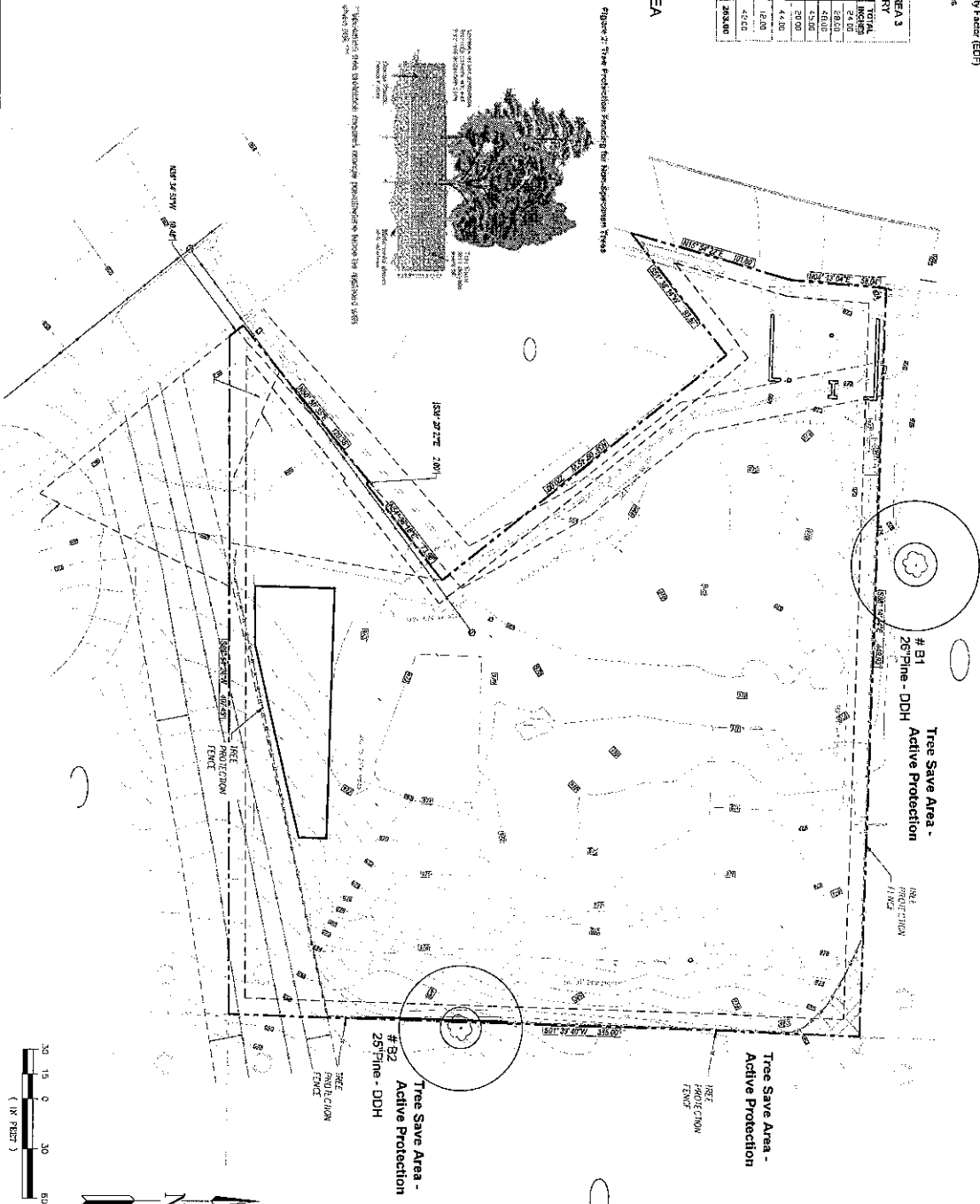
No quality Boundary Trees to be Impacted.
 See Report Sheet L101 for findings regarding Boundary Trees.

TREE PROTECTION NOTES:

- TREE PROTECTION DEVICES MUST BE INSTALLED AND INSPECTED PRIOR TO ANY DEMOLITION, GRADING OR SHEDDING.
- TREE PROTECTION AND REPLACEMENT SHALL BE ENFORCED ACCORDING TO CITY OF SAVANNAH STANDARDS. ANY FIELD SURVEYORS OF PLANTING DEVICES, TREES OR LOCATIONS OR PLANS ARE SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY OF SAVANNAH ARBORISTS.
- THE CITY CONTRACTOR SHALL COORDINATE SERVICE ROUTING OF ALL GAS, TELEPHONE, AND ELECTRICAL LINES WITH THE APPROPRIATE UTILITY COMPANY. ALL CONSTRUCTION MUST COMPLY WITH EACH UTILITY'S STANDARDS AND SPECIFICATIONS AND NOT INTERFERE WITH TREE PLANTING SITES OR EXISTING TREES TO BE PRESERVED.
- WHEN DIGGING NEAR TREES, THE CONTRACTOR SHALL PRUNE ALL EXPOSED ROOTS ONE (1) INCH IN DIAMETER AND LARGER ON THE SE OF THE TRENCH ADJACENT TO THE TREES. PRUNING SHALL CONSIST OF A 45 DEGREE CUT WITH THE SIDE OF THE TRENCH TO PROMOTE NEW ROOT GROWTH.
- PRUNING OF TREE LIMBS TO PROVIDE CLEARANCE FOR EQUIPMENT AND MATERIALS SHALL BE DONE ACCORDING TO STANDARD ARBORISTICAL PRUNING (SEE AND ALSO: 1959).
- PROTECT THE TRUNKS OF ANY TREES BEING PRESERVED WITHIN THE TEMPORARY OR PERMANENT UTILITY EASEMENTS WITH STRAPPELON PLANNING OR SIMILAR PROTECTIVE DEVICE.
- THE INSTALLATION OF EROSION CONTROL DEVICES CAUSES HARM TO TREES. ON INDIVIDUAL LOTS, USE SILT FENCE ONLY AS NECESSARY. NO PERMANENT SIGNS, FLAG POLES, PROPOSED FIRE HYDRANTS, OR POWER TRANSFORMERS WILL BE PLACED IN CONFLICT WITH AN ORNAMENT CODED OR APPROVED TREE PLANTING LOCATION.
- PARKING LOT ISLANDS AND MEDIANS MUST BE COVERED WITH FOUR (4) INCHES OF ORGANIC MULCH MATERIAL (REPLACED PERIODICALLY).

TREE PROTECTION NOTES:

- CONTRACT THE COMMUNITY DEVELOPMENT DEPARTMENT (CDD) TO ARRANGE A PRECONSTRUCTION CONFERENCE PRIOR TO ANY AND ALL DEMOLITION, GRADING OR SHEDDING.
- ALL TREE PROTECTION MEASURES SHALL BE INSTALLED PRIOR TO BEGIN ON THE REMOVAL OF EXISTING SURFACES OR STRUCTURES.
- BUFFERS SHALL BE APPLICABLE SUBJECT TO COMMUNITY DEVELOPMENT DEPARTMENT APPROVAL.



24 HR CONTACT: JEFF SMITH 404.328.6260