

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

#### SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP SUITE 100 376 POWDER SPRINGS STREET MARIETTA, GEORGIA 30064-3448 770•422•7016 TELEPHONE 770•426•6583 FACSIMILE

May 4, 2021

# (REVISED STIPULATION LETTER; REVISED SITE PLAN; AND, REVISED ARCHIECTURAL IMAGERY)

#### **VIA EMAIL:**

Mr. Rusty Martin, AICP, Director Community Development Department City of Smyrna 3180 Atlanta Road Smyrna, GA 30080

Re:

Application for Rezoning of RASS Associates, LLC to Annex and Rezone an approximate 8.7 Acre Tract from NS (City of Smyrna) & O&I (Cobb County) to Conditional – MU (City of Smyrna) – No. Z21-002

#### Dear Rusty:

As you know, this firm represents RASS Associates, LLC ("RASS") regarding the above-captioned Applications for Annexation and Rezoning ("Applications"). The Applications were formally submitted to the City on December 11, 2020 and have been thoroughly discussed and vetted by and with the City's Professional Staff; representatives of unincorporated Cobb County; and, representatives from the City Council. Additionally, RASS and its representatives have interfaced with property owners within the sub-area of the City within which the Subject Property is located.

As a result of the foregoing and in concurrence with our continued dialogue, this letter will serve as RASS' revised letter of agreeable stipulations/conditions. In furtherance thereof, RASS proposes to annex and rezone the property at issue ("Subject Property") in order to allow for the construction and development of a Mixed-Use Development consisting of the following:

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#### **VIA EMAIL**:

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 2

- An eight-story hotel which will accommodate 188 units with associated structured parking.
- An eight-story Multi-Family building consisting of a total number of 300 Class "A" highly-amenitized, luxury apartments.
- Two (2) one-story Retail buildings separated by a plaza and oriented toward Spring Road representing a total of 27,958.00 sq. ft. of strategically positioned Retail Commercial uses.
- An additional one-story Retail building situated adjacent to the roundabout and contiguous and to the north of a proposed pocket park (which also contains an additional one-story, 600 sq. ft. Retail component).
- Plazas, Open Space, pocket parks and other meaningfully positioned public space areas
  will feature outdoor seating areas to accommodate visitors and restaurants; hardscapes;
  art and statuary; branding opportunities for the City of Smyrna; and, RASS' commitment
  to introduce a "jewel box" type of Retail element in the pocket park similar to Avalon
  (Forsyth County).
- The positioning of future aerial pedestrian connectivity on the Subject Property's Spring Road frontage and I-285 frontage, respectively.

RASS' primary goal is to target development opportunities in primary markets which have distinct site and sub-market characteristics such as the Subject Property which is located on Spring Road. Spring Road is an Arterial which connects the east side of Smyrna (Cobb Parkway/Cumberland area) with Smyrna Proper (Atlanta Road/downtown Smyrna/South Cobb Drive). It is a clear and significant commuter route as traffic access is near the major transit corridors of I-285 and I-75 as well as the Cumberland/Galleria area and, of course, The Battery Atlanta and Truist Park.

Spring Hill Road connects the Subject Property to Cumberland Boulevard and to Mt. Wilkinson Parkway and Paces Ferry Road southwest of the site with properties thereon being uniquely positioned, particularly with the traffic/transportation improvements planned and completed in the area generally and for The Battery and Truist Park, specifically. Moreover, the Mixed-Use Development planned for the Subject Property, is consistent with the City of Smyrna's Spring Road Corridor LCI Master Plan ("LCI").

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#### **VIA EMAIL:**

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 3

Clearly, a huge draw for RASS is the approximate \$600 Million Dollar Mixed-Use Development in the form of The Battery which surrounds Truist Park and which is owned by the Atlanta Braves. In that regard, the Cumberland Community Improvement District ("CID") has literally laid the groundwork for the types of growth and development trends which have now been firmly established. According to projections, the CID, defined as a 6.5 square-mile area around Cobb County's largest job centers, has already added 5,000 dwelling units to the Multifamily housing market which will bring approximately 13,000 new residents to this sub-area of the City and Cobb County.

With respect to the foregoing, RASS has proposed this annexation and rezoning which will constitute an approximate \$125 Million Dollar Mixed-Use Development which will serve as an architectural and aesthetic enhancement within this robust section of the City of Smyrna and within the Cumberland/Galleria Regional Activity Center. The purpose of this letter is to provide you and the City's Staff with a list of agreeable revised stipulations which, if the Applications are approved, as submitted and revised, shall become conditions and a part of the grant of the requested annexation and rezoning and binding upon the Subject Property thereafter. The referenced revised stipulations are as follows, to wit:

# STIPULATIONS APPLICABLE TO THE OVERALL MIXED-USE DEVELOPMENT

- 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. RASS seeks to Annex and Rezone the Subject Property to allow for a Mixed-Use Development subject to and in substantial conformity to the revised site plan which is being submitted concurrently herewith.
- 3. The Subject Property consists of an approximate 8.71-acre tract of land which shall be developed as a Mixed-Use Development including the components mentioned above with ancillary and permitted uses allowed under and pursuant to the MU Zoning District.
- 4. RASS shall be the Master Developer and will be involved in all aspects of the Development including but not limited to all components located therein.

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#### **VIA EMAIL**:

- 5. All components of the Mixed-Use development, including the Multi-Family, the full-service Hilton Hotel, the Retail/Commercial and all other and various components of the Mixed-Use development shall commence vertical construction concurrently with each other.
- 6. Prior to the issuance of the final Certificates of Occupancy, RASS shall submit Master Protective Covenants for the Mixed-Use Development which shall include all phases. Concurrently therewith, a Master Association document shall be submitted which will include all components of the proposed Development. The Master Association will ultimately be responsible for the oversight, upkeep and maintenance of all entrance areas, common areas, community buildings and structures, open space areas, pedestrian connectivity and similar features contained within the overall Mixed-Use Development.
- 7. The Master Association shall have architectural design regulations and other usual and necessary covenants and restrictions to protect the quality and integrity of the Mixed-Use Development's architecture.
- 8. RASS agrees to construct all of the necessary roadways and infrastructure improvements as more particularly shown and reflected on the revised site plan which is submitted concurrently herewith. Additionally, RASS agrees to comply in all respects with the City's specifications with respect to such infrastructure improvements interior to the Mixed-Use Development.
- 9. Entrance signage shall be ground-based, monument-style signage with finish, materials and colors being in substantial conformity to the architectural style embodied in the Mixed-Use Development. There shall be no temporary signage excepting only "grand opening" signage and signage indicating the coming development. Free-standing signage and other signage such as building attached, vertical marquee signage shall be permitted in accordance with the terms and provisions of the City of Smyrna Sign Ordinance.
- 10. The entrance areas of the Mixed-Use Development shall be professionally designed, landscaped, maintained and themed to the architectural style and composition of the mixed-use development.
- 11. Lighting within the proposed Mixed-Use Development shall be environmentally sensitive, decorative and themed to the architectural style and composition of the respective components of the development. Every effort shall be made to make all lighting as unobtrusive as possible.

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#### **VIA EMAIL:**

- 12. Architecture for the Mixed-Use Development shall be in substantial conformity to the architectural renderings/elevations (depicting the Hotel, Retail/Commercial, Multi-Family and Office components) previously submitted and which is being submitted concurrently herewith.
- 13. All setback areas may be penetrated for purposes of detention, utilities and stormwater management as long as such encroachments satisfy City of Smyrna requirements.
- 14. RASS shall comply with City of Smyrna Development Standards and Ordinances related to project improvements except as hereinafter approved by the Mayor and City Council and/or the Community Development Director as their respective authority may allow.
- 15. Parking for the Hotel, Office space, Commercial/Retail and the Multi-Family component will be provided by means of structured and surface parking as shown on the site plan and by complying with the parking ratio requirements required under the City of Smyrna's Development Regulations.
- 16. All streets within the proposed Mixed-Use Development shall be private and shall be owned and maintained by RASS and/or its successors in title.
- 17. Prior to the issuance of building permits, the City's staff shall review and approve all architecture which shall be in substantial conformity to the architecture depicted in the architectural renderings/elevations. Said architectural style and composition shall also be reviewed by the City's Urban Design Committee, if applicable to this proposed Mixed-Use Development.
- 18. The plans which have been submitted will include Restaurants as a part of the Hotel/Retail/Commercial components within the proposed Mixed-Use Development. Said Restaurants may serve alcoholic beverages as part of their respective food services upon securing the proper permits from the City of Smyrna and state agencies as a part of a separate process.
- 19. The granting of the following requests for concurrent variances allowing:
  - a. A reduction of the Subject Property's rear Residential setback from 40' to 35'.
  - b. A variation of building height to 95' and eight (8) stories from 66' and five (5) stories.

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#### **VIA EMAIL:**

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 6

20. Minor modifications to the within and foregoing stipulations/conditions, lighting, landscaping, signage, architecture, site fixtures and the like may be approved by the City's CDD or his designee as needed or necessary.

# STIPULATIONS APPLICABLE TO THE NON-RESIDENTIAL COMPONENTS OF THE PROPOSED MIXED-USE DEVELOPMENT

- 1. RASS proposes a Hotel, Retail and Office space by utilizing the Mixed-Use Concept with varying facades, roof elevations and other aesthetically pleasing treatments and substantial conformity to the revised architectural renderings/elevations mentioned above and originally submitted with the filing of the Applications.
- 2. The architectural style and composition shall be substantially similar to the architectural renderings/elevations which are being submitted concurrently herewith or as may be approved during the Plan Review process. It is understood that said architectural renderings are conceptual in nature and shall be refined, clarified and focused as the development proceeds through the Plan Review process. Additionally, it is also understood that the positioning of windows, patios and other such features may be revised during the final Plan Review process as well.
- 3. The proposed Non-Residential components shall include a flexible mix of Hotel, Commercial, Retail and Office Space which will also include ancillary commercial type uses for the Multi-Family Residential Component (Leasing Office, Recreational Amenities, Business Center, etc.).
- 4. Landscaping for the proposed development shall be pursuant to a specific landscape plan which shall be submitted during the Plan Review process, with reference being made to said landscape plan for a more particular delineation and location of the plantings and species to be planted.
- 5. Surface-parked area lighting shall be a maximum height of 30 feet and shall be environmentally sensitive, energy efficient, horizontal cut-off luminaries which will eliminate light pollution and in order to prevent illumination from penetrating outside the boundaries of the Subject Property.
- 6. Hooded security lighting shall be utilized on the buildings within the Non-Residential areas as required by Smyrna Development Regulations.

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#### VIA EMAIL:

- 7. RASS agrees to install and construct site lighting pursuant to a photometric plan which shall be submitted to the City's staff for review and approval during the Plan Review process.
- 8. Dumpsters will be positioned so as to prevent visual intrusion from streets, connection points to the community spaces wherever possible with screening by landscaping, walls and/or vegetation. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying. At-grade trash compaction shall also be allowed and screened as appropriate.
- 9. Any exhaust from restaurant facilities which may be constructed shall be filtered and/or attenuated to minimize odors.
- 10. There shall be no outside paging systems, phone bells or loudspeakers. However, outdoor music systems and outdoor musical performances shall be allowed.
- 11. The following otherwise permitted uses shall be prohibited:
  - a. Video arcades as a primary use.
  - b. Adult-themed book and novelty stores as a primary use.
  - c. Automotive sales, repair and/or service facilities.
  - d. Movie theaters.
  - e. Gas stations and convenience stores with gas sales.
  - f. Pawn shops.
  - g. Automotive was service.
  - h. Boat sales and repairs.
  - i. Boarding and breeding kennels.
  - j. Dry cleaning plants.
  - k. Farm equipment sales and services.

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#### **VIA EMAIL:**

- 1. Lumber, hardware and other building material establishments.
- m. Mobile home and travel trailer sales.
- n. Motorcycle sales and service.
- o. Check cashing establishments.
- p. Service stations.
- q. Station terminals for bus and rail passenger service.
- r. Taxi stands.
- s. Tattoo parlors.
- t. Massage parlors.
- u. Pool halls.
- v. Package stores (except in the context of wine/spirits in a market or specialty shop).
- 12. The Non-Residential components will include pedestrian walkways between the proposed buildings and throughout the parking areas subject to approval by the City's staff. There will also be pedestrian connectivity between the Non-Residential and Residential components including two (2) points of potential pedestrian aerial connectivity located on the Subject Property's Spring Road frontage and on I-285 frontage, respectively.
- 13. In order to implement the recommendations within the LCI with respect to pedestrian connectivity and walkability, RASS, in concert with the City's CDD, shall have the latitude to move the positioning of building footprints on the site in order to enhance pedestrian connectivity, including, but not limited to, potential future aerial pedestrian connectivity.

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#### **VIA EMAIL**:

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 9

### STIPULATIONS APPLICABLE TO THE RESIDENTIAL (LUXURY APARTMENTS) COMPONENT OF THE PROPOSED MIXED-USE DEVELOPMENT

- 1. Within the Residential area of the proposed Mixed-Use Development there shall be a total maximum number of 300 Highly-Amenitized, Class "A" Apartment homes.
- 2. The proposed Residential Community shall have state of the art recreational facilities and amenities for the use and enjoyment of its residents, as follows:
  - a. Conveniently located pool area which will include a clubhouse which will feature a lounge and coffee bar area.
  - b. A fitness center which will be fully equipped and shall contain a yoga studio.
  - c. An outside courtyard and connectivity to existing and planned pedestrian connectivity by virtue of multi-walk sidewalks and Cobb County's Circulator Route.
  - d. Bicycle racks; and,
  - e. Controlled access.
- 3. Floor plans and finishes within the Multi-Family homes shall consist, at a minimum, of the following:
  - a. A minimum of 9' ceiling heights from floor to finished ceilings and greater and a minimum of 10' between floors.
  - b. Wood framed cabinetry or its equivalent.
  - c. Enhanced granite, Corian, marble or other solid surface countertops.
  - d. High-end appliances consistent with luxury apartment and condominium finishes.
  - e. Deep stainless-steel kitchen sinks.
  - f. Wood-inspired plank flooring throughout.
  - g. Spacious, open floor plans including spacious walk-in closets.

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#### **VIA EMAIL:**

- h. High-speed internet wiring in all units.
- i. Upgraded lighting package throughout each unit.
- j. Brushed nickel or chrome bathroom and kitchen fixtures.
- k. Wood-inspired plank flooring in all bathrooms and laundry rooms. Also, tile tub surround and tile showers in select units.
- l. Window treatments throughout the units to present a uniform appearance.
- m. First class landscape and hardscape throughout the proposed development.
- n. Energy efficient construction which will meet and exceed the Georgia Energy Code.
- o. Double paned, insulated windows in all units; and,
- p. Controlled access to buildings, parking and amenity areas.
- 4. The overall lighting within the proposed development shall be environmentally sensitive, decorative and themed to the architectural style and composition of the buildings.
- 5. Pedestrian lighting style and concept will be subject to review and approval by the Community Development Director. Additionally, hooded lighting shall be utilized on the buildings and throughout the walkways, surface parking areas and structured parking.
- 6. Signage for the proposed development shall be ground-based, monument style and shall be constructed in the style and of materials which are complementary to the proposed architecture as aforementioned.
- 7. Compliance with the recommendations from the City Engineer and Public Works Director with respect to hydrology, detention and downstream considerations.
- 8. Compliance with recommendations from the City Engineer and Public Works Director with respect to traffic and transportation issues. Additionally, compliance with recommendations from the previously submitted Traffic Impact Study ("TIS"), prepared by Kimley-Horn:

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#### **VIA EMAIL:**

- a. The installation of sidewalks emanating from the proposed project to connect to sidewalks along the Spring Road Corridor.
- b. Construction of a deceleration lane for entering traffic based upon local standards.
- c. Both points of ingress/egress to the site shall be right-in/right-out turning movements only and shall consist of one (1) entering lane and one (1) exiting lane.
- 9. All construction and employee vehicles and equipment will be parked and otherwise located on the Subject Property during the development of infrastructure and construction of the buildings.
- 10. Landscaping for the entrance area, signage areas, amenity and courtyard areas and all other common areas immediately surrounding the proposed buildings shall be professionally designed, implemented and maintained.
- 11. All utilities within the proposed development shall be located underground and/or screened from view.
- 12. Any retaining walls exposed to public rights-of-way or adjacent properties shall be faced with hard surfaced materials such as brick, stone, stacked stone and/or split-faced segmented block wall.
- 13. Any sidewalk, curb or guttering damaged during construction shall be repaired or fully replaced during the completion of the project.
- 14. All landscaping referenced herein shall be approved by the City of Smyrna Arborist as a part of the Plan Review process and incorporated into the overall landscape plan for the proposed development.

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#### **VIA EMAIL:**

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 12

# STIPULATIONS APPLICABLE TO THE PROPOSED FULL-SERVICE HILTON HOTEL

- 1. The proposed Hotel shall be eight stories in height, contain 188 units ("keys") and shall constitute a total of 158,106 sq. ft. supported by structured below-grade (beneath the hotel) parking.
- 2. The units shall include king, double queen and suite room product selections.
- 3. Three (3) meal full-service food and beverage components, including a bar/lounge.<sup>1</sup>
- 4. A minimum of 7,500 sq. ft. of meeting space, including a ballroom which can serve between 400-500 people and a board room for executive and other meetings.
- 5. The Hotel shall contain a fully-equipped Fitness Center and Business Center and personalized services, including bell service and concierge service.
- 6. Inclusion of a roof-top food & beverage venue to "leverage" the Hotel as a "point of destination" utilizable by the citizenry of Smyrna and others.

RASS' Applications are in conformity with the policy and intent of the City of Smyrna's and Cobb County's Comprehensive Land Use Plans, both of which delineate the Subject Property as lying and being in a Regional Activity Center ("RAC") land use category. For those reasons and because the Subject Property meets the intent of the City's LCI; and, the City's and County's Future Land Use Maps, both the proposed Annexation and Rezoning are entirely appropriate from a land use planning perspective. Moreover, under the Intergovernmental Agreement between the City of Smyrna and Cobb County, on January 26, 2021, the Cobb County Board of Commissioners approved an Annexation Notice of Non-Objection, pursuant to HB 489, Intergovernmental Agreement and HB 2.

Please do not hesitate to contact me should you or the City's Staff require any further information or documentation prior to the formulation of your Zoning Analysis and Staff Recommendations.

<sup>&</sup>lt;sup>1</sup>RASS has secured the franchise for this full-service Hilton Hotel and has paid a non-refundable sum of Seventy-Five Thousand Dollars (\$75,000.00) as that franchise fee.

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#### **VIA EMAIL:**

Mr. Rusty Martin, AICP, Director Community Development Department May 4, 2021 Page 13

With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr. gsams@samslarkinhuff.com

GLS, Jr./dls Attachments

cc: Honorable Derek Norton, Mayor (via email w/attachments)

Members, Smyrna City Council (via email w/attachments)

Members, Smyrna Planning Commission (via email w/attachments)

Chief Joseph Bennett, City Administrator (via email w/attachments)

Scott A. Cochran, Esq., City Attorney (via email w/attachments)

Ms. Andrea Worthy, Economic Development Director (via email w/attachments)

Mr. Joey Staubes, AICP, City Planner (via email w/attachments)

Mr. Kevin Moore, P.E., City Engineer (via email w/attachments)

Ms. Ashley White, P.E., Assistant City Engineer (via email w/attachments)

Mr. Frank Martin, Public Works Director (via email w/attachments)

Mr. Bo Jones, Assistant Public Works Director (via email w/attachments)

Lt. Timothy Grubaugh, Deputy Fire Marshall (via email w/attachments)

Ms. Heather Peacon-Corn, City Clerk (via email w/attachments)

Ms. Kate Triplett, P.E., Kimley Horn and Associates (via email w/attachments)

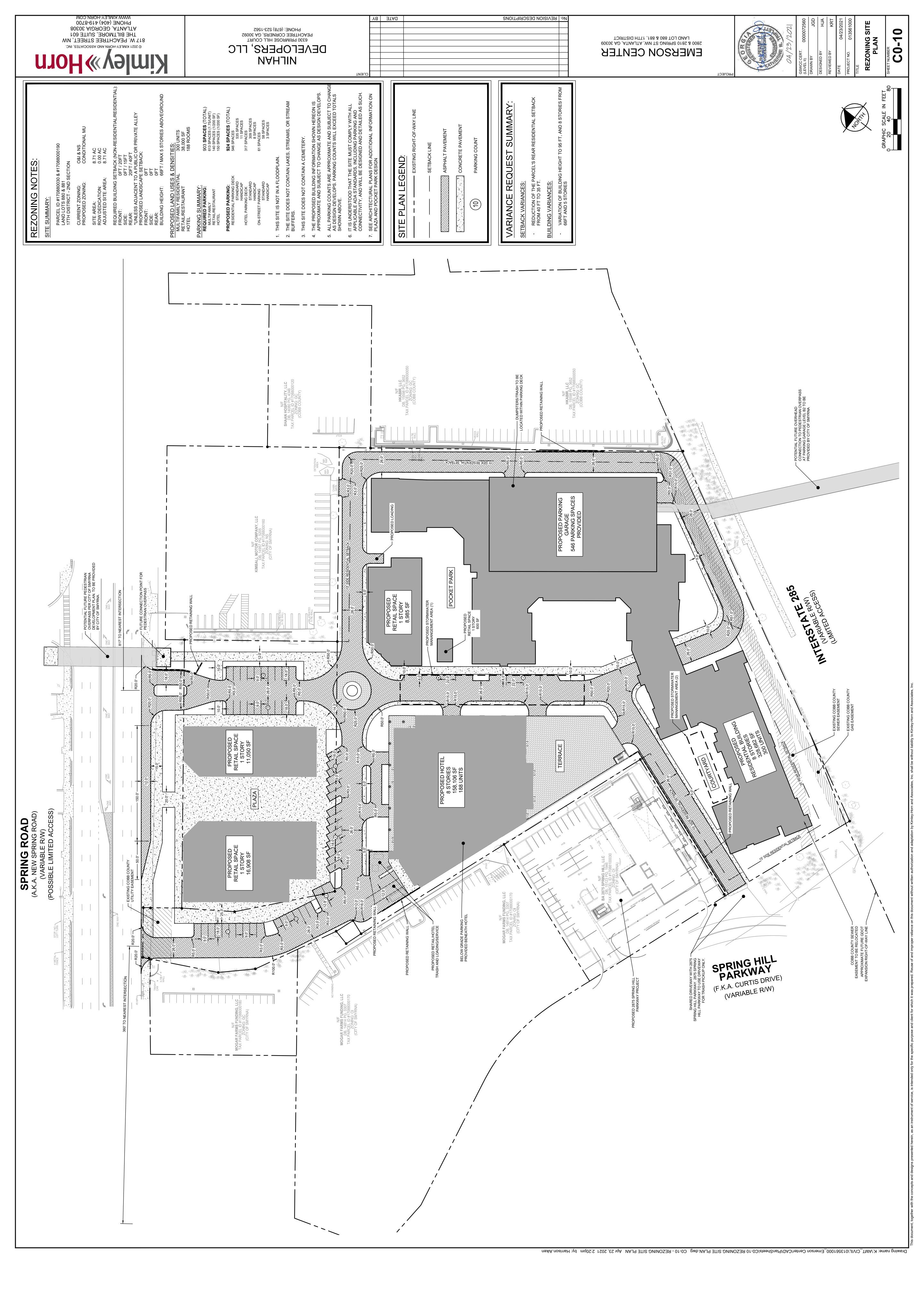
Mr. Harrison Aiken, P.E., Kimley Horn and Associates (via email w/attachments)

Mr. Brad Lutz, Associate AIA, Humphreys & Partners Architects, L.P. (via email w/attachments)

Mr. Rajiv Goswami, RASS Associates (via email w/attachments)

Mr. Naresh Parikh (via email w/attachments)

Mr. Vin Patel (via email w/attachments)



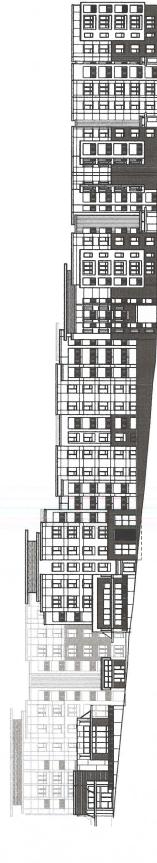
# EMERSON CENTER RASS ASSOCIATES SPRING ROAD, ATLANTA GA

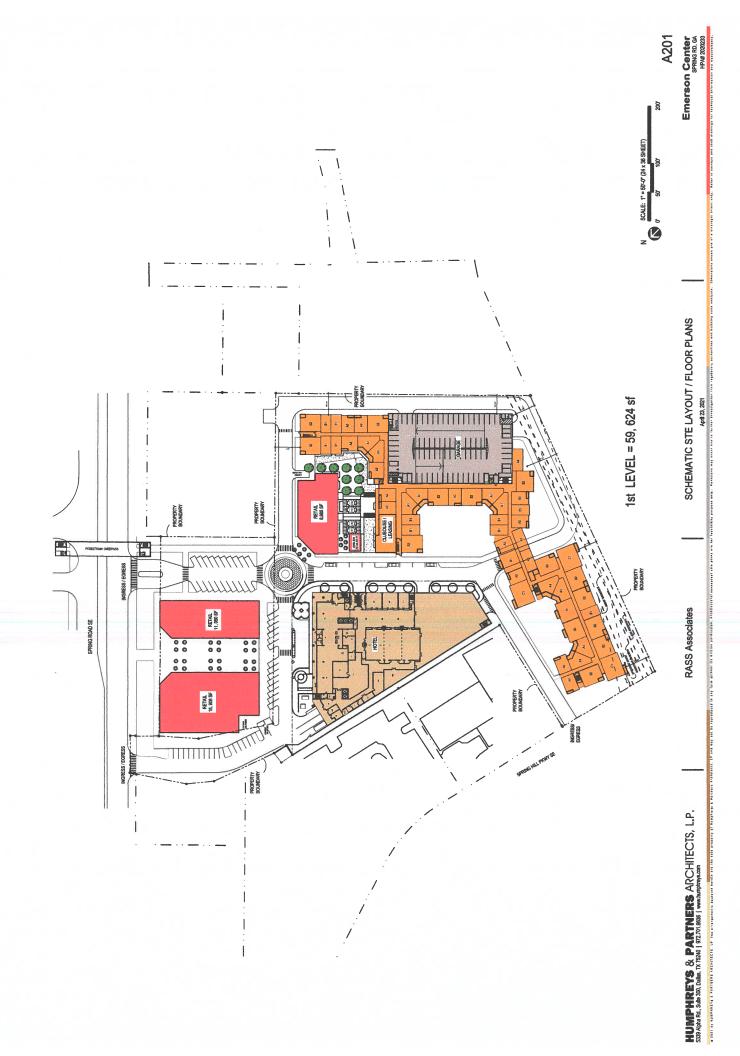
# **HUD PACKAGE SET**





VICINITY MAP





EMERSO	N CENTER	<b>EMERSON CENTER Spring Rd Mixed Use</b>	lixed Use	Rass	Rass Associates	2020233
UNIT TABUL	UNIT TABULATION - SP08					4/23/21
UNIT NAME	UNIT TYPE	NET AREA(SF)	UNIT COUNT	PERCENTAGE	TOTAL AREA	% BREAKDOWN
90	1br/1ba	632	60	20%	37,920	
A1	1br/1ba	749	54	18%	40,446	
A2	1br/1ba	689	10	3%	6,890	
A3	1br/1ba	712	16	2%	11,392	47%
à	d	7.70	,	700	00000	
0	ZDI/2Da	1,101	20	0%0	20,919	
B2	2br/2ba	1,028	72	24%	74,016	30%
5	3br/2ba	1,350	16	2%	21,600	5%
S1	1br/1ba	567	53	18%	30,051	18%
TOTALS			300	100%	243,234	100%
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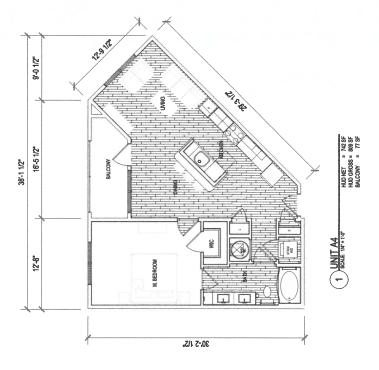
22-7 1/2"



RASS Associates

UNIT LAYOUT SCALE: 1/4" = 1/4"[24 x 38 SHEET) April 23, 2021

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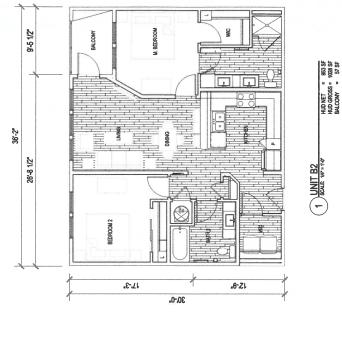




UNIT LAYOUT SCALE: 14" = 1'4" (24 x 38 SHEET) April 23, 2021

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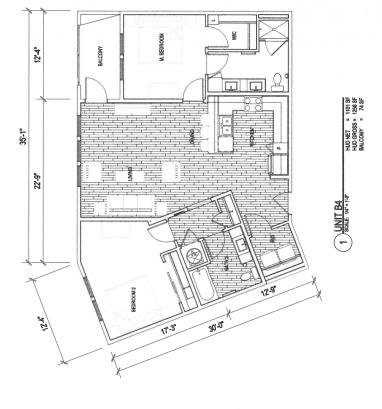
1 UNIT B1 SCALE 1/4"= 1-0"

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2021 DY HUMPHREYS & PARTMÉRS ARCHITECTS, LP. 7br princes

RASS Associates



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UNIT LAYOUT SCALE: 1/4" = 1'4" (24x 36 SHEET) April 23, 2021

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HUD NET = 1287 SF HUD GROSS = 1361 SF BALCONY = 90 SF

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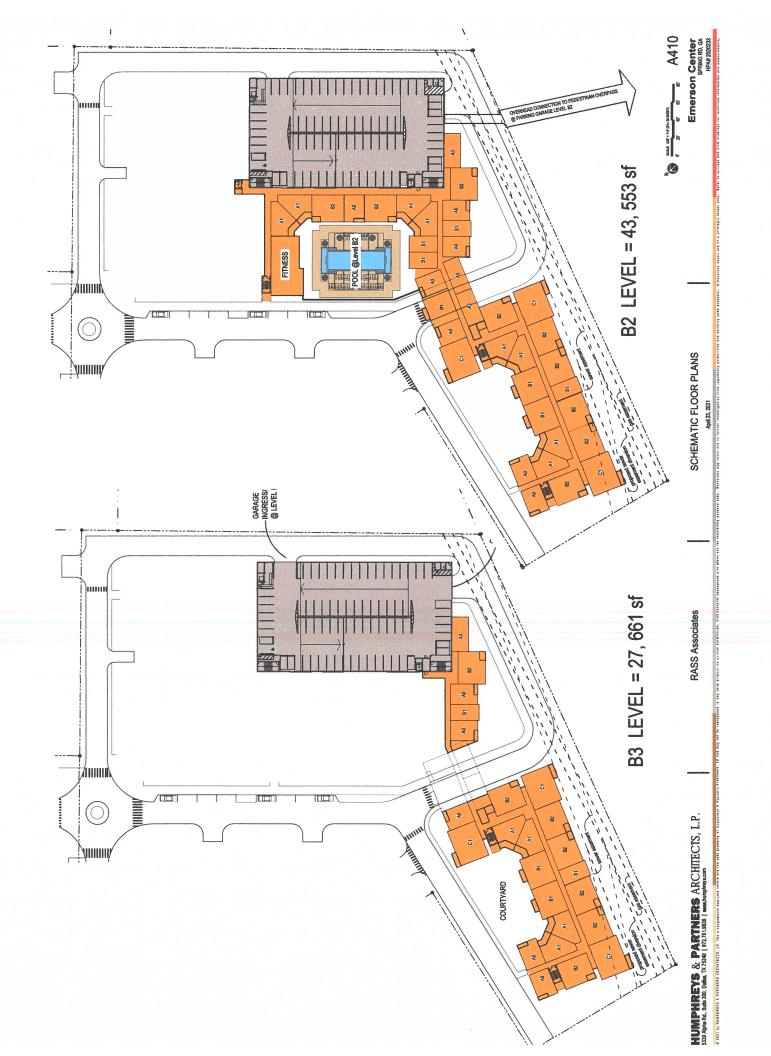
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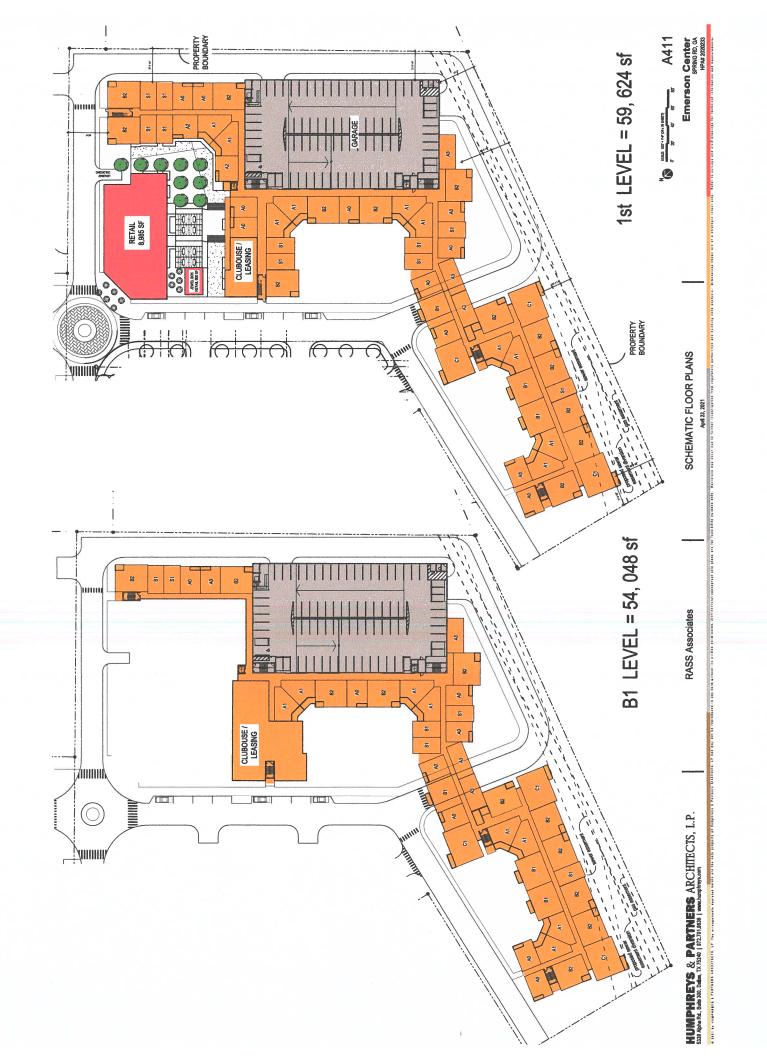
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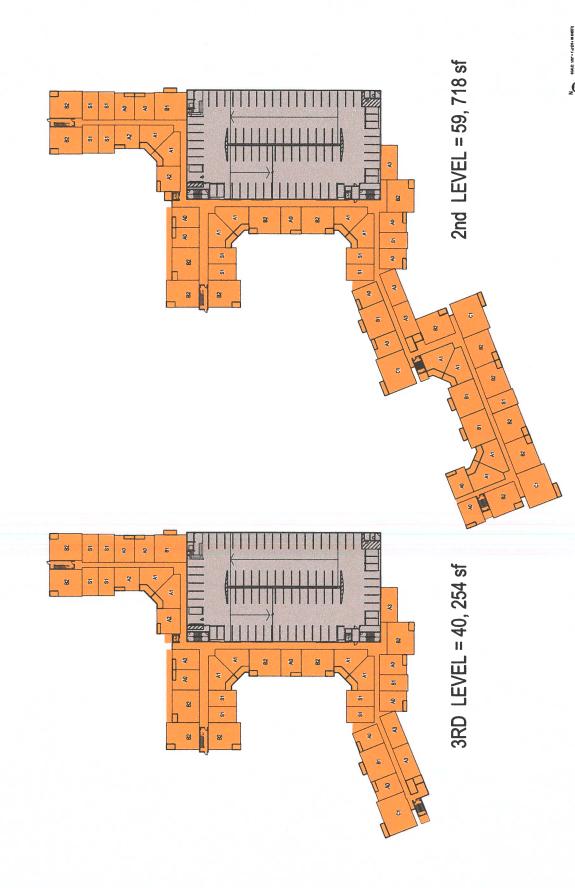


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RASS Associates







SCHEMATIC FLOOR PLANS

RASS Associates

Emerson Center SPRING RD, CA HPA# 2020233

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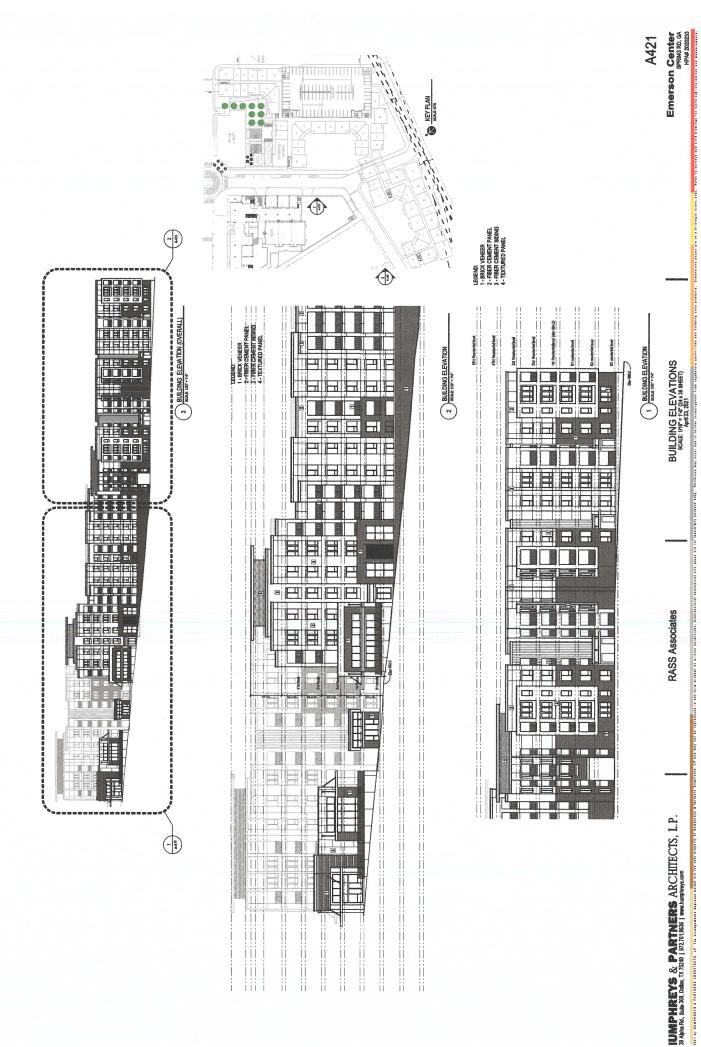
25

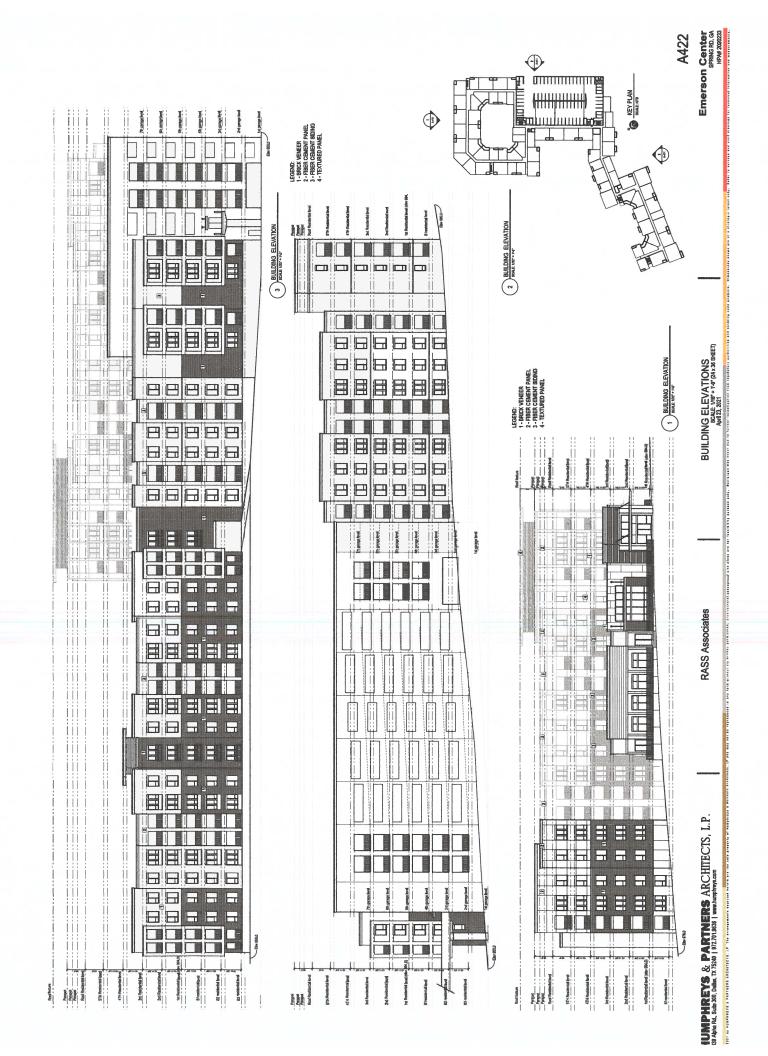
15

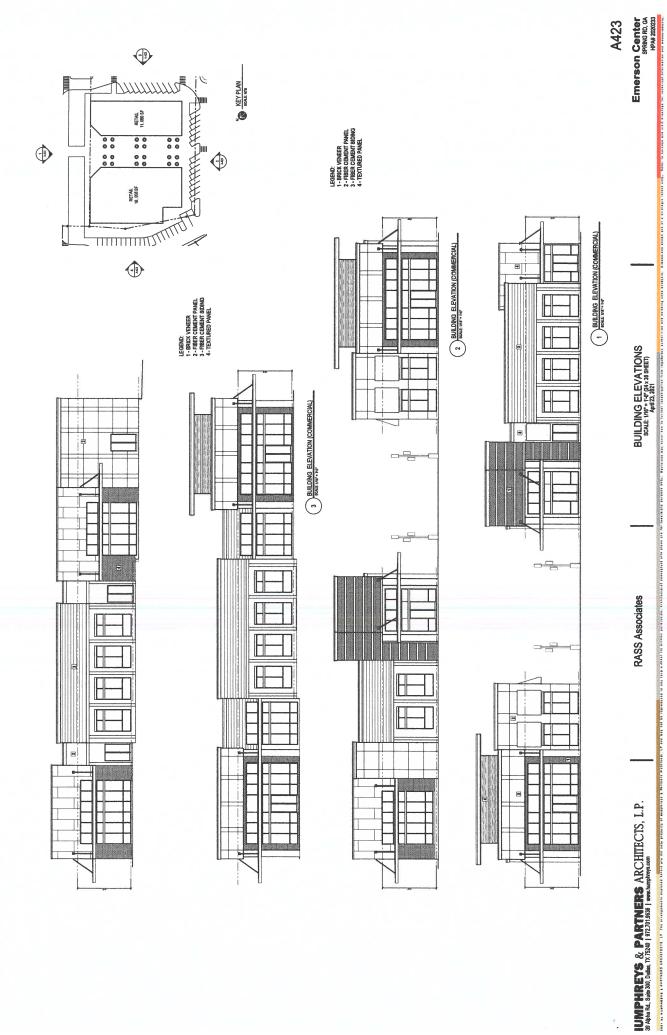
22

90

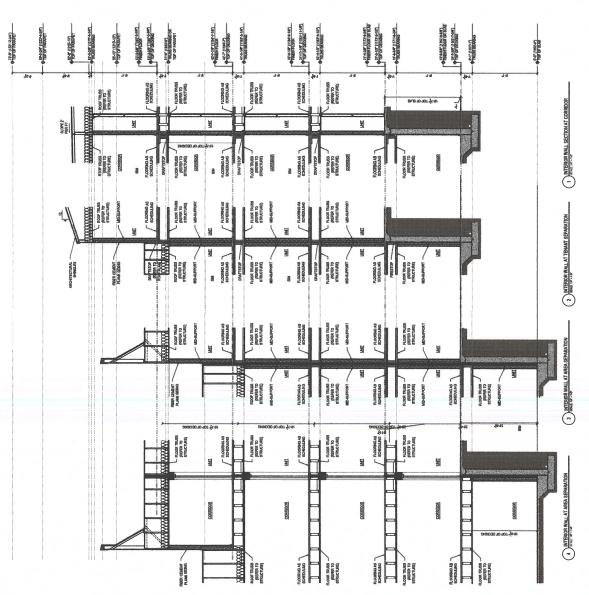
4TH LEVEL = 21, 912 sf







A501



TYPICAL WALL SECTIONS