

REZONING APPLICATION FORM
CITY OF CUMMING, GEORGIA

RECEIVED
NOV 10 2023
CITY OF CUMMING

Rezoning Request No. 2023264
Date Paid _____ Receipt# _____
Amount Paid _____

Property Owner: Name: Central Forsyth Properties, LLC

Address: 112 North Main Street

Cumming, GA 30040

Phone: 770-887-7761

Applicant: Name: Forsyth IL-AL Investors, LLC

(if different from owner) Address: 4423 Pheasant Ridge Road, #301

Roanoke, VA 24014

Phone: 770-887-7761

Agent: (if applicable) Name: Sean Courtney - Lipscomb Johnson LLP Phone: 770-887-7761

Existing Zoning: OCMS

Proposed Zoning: INST

Existing Use: Vacant

Proposed Use: Senior Living Community with 190 Units (Approximately 100 Independent Living, 60 Assisted Living, and 30 Memory Care Units)

Variance to permit height to be 62ft rather than 40ft.

Variance to permit 165 parking spaces rather than 1 space per 3 bed maximum.

Acreage of Site: 7.3198 acres

Location of Property: Sanders Road

(street address) _____

Tax Map and Parcel # Part of C38-013

Applicants shall submit (22) sets of application as follows in order; Application 3 pages, letter of intent, legal description with metes and bounds, plat survey, required site plans, developments plans, elevation drawings to the Zoning Administrative Officer for distribution to the applicable bodies and/or review agencies. The Zoning Administrative Officer may require more or less copies depending on the nature and extent of required review.

All 22 sets must be on 8 1/2 x 11 inch paper. Do not staple!

Please be advised of the following:

- 1) The applicant is bound by the submitted site plan and letter of intent if this application is approved.
- 2) It is a legal requirement that the public hearing for this Rezoning, be advertised in the legal County organ in addition to posting a rezoning sign on the subject property.

Complete the following information. (This section may be addressed in the letter of intent.)

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.

See attached LOI to address items 1-9

2. The extent to which property values are diminished by the particular zoning restrictions.

3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.

4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.

5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.

6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.

7. The zoning history of the subject property.

8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

Property Owner's Certification

I hereby certify that I am the owner of the property described in the attached legal description, that all information contained in this application is true and correct to the best of my knowledge, and that the applicant and/or agent listed above is authorized to act as the applicant and/or agent in the pursuit of the rezoning of this property. I further certify that, within the past two years, the applicant has not made any campaign contributions or made gifts of \$250 or more to members of the Governing Body or Planning Commission who will consider this application, or that if such contributions or gifts have been made, the amount and recipient of such contributions or gifts will be disclosed within ten (10) days after this application is first filed, as required by Title 36, Chapter 85, Georgia Laws.

Signature of Property Owner: 

Printed Name of Property Owner: Mark Morgan for Central Forsyth Properties

Date of Signature: 11/10/23

LAW OFFICES
LIPSCOMB JOHNSON, LLP

112 NORTH MAIN STREET
CUMMING, GEORGIA 30040
TELEPHONE: 770-887-7761
FAX: 770-889-8123

EMORY LIPSCOMB
PUTNAM CLARK SMITH, P.C.
CHRISTOPHER D. LIGHT
SEAN COURTNEY
ASHLEY B. MASHBURN
ANDERSON LIPSCOMB

COY R. JOHNSON
(RETIRED)

L. LEE DAILEY
(1939-2013)

November 10, 2023

VIA HAND DELIVERY

City of Cumming Planning and Zoning Department
Attn: Mr. Scott Morgan, Zoning Administrator
100 Main Street
Cumming, Georgia 30040

Re: Letter of Intent as required by Section 113-110 of the Zoning Ordinance of the City of Cumming, Georgia – Rezoning and Variances for Forsyth IL-AL Investors, LLC
Request No. 2023 _____

Dear Mr. Morgan:

This letter of intent is submitted pursuant to 113-110, and by reference section 113-112, of the Zoning Ordinance of the City of Cumming, Georgia, as part of Forsyth IL-AL Investors, LLC's (the "Applicant's") proposed Rezoning Application (the application and all supplemental documents filed contemporaneously therewith are collectively referred to herein as the "Application"). The Applicant is the agent/authorized representative for the current deed record property owners of the property subject to this rezoning application, commonly known as Forsyth County Tax Parcel Number P/O C38-013 and consisting of approximately 7.3198 acres (the "Subject Property"). The Applicant seeks to rezone the Subject Property from its existing zoning OCMS (Office-Commercial Multi-Story District) to INST (Institutional District) for the purpose of allowing the development of a senior living community. The proposed development will consist of no more than 190 units (100 Independent Living, 60 Assisted Living, and 30 Memory Care units) located in a 4-story building consisting of approximately 200,000 s.f. The estimated time to build-out for this use is between 2-3 years or longer depending on economic and marketing conditions.

With regard to the specific rezoning criteria and requested information contained in sections 1 through 9 of the Application, the Applicant hereby addresses them as follows:

The existing zoning of surrounding properties are City of Cumming PSC, OCMS, INST and R-1A. The Subject Property lies solely in the City of Cumming. Given that fact, the City of

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Cumming Future Land Use Map designated the subject property for commercial/office professional uses; however, based on the fact there is a rising need for the proposed use and that INST zoned properties are located close to the subject property, the proposed rezoning will not adversely affect the existing use or usability of nearby properties, but will rather complement existing use patterns.

The existing use of the Subject Property at its current zoning classification is undeveloped, and the Applicant is requesting to convert this land into a senior living community., therefore it is anticipated that approval of the proposed rezoning to the INST district will raise and not diminish surrounding property values. Approval of the Applicant's Application would not cause a safety hazard or noxious condition, would not reduce property values in the surrounding area, and therefore would promote the health, safety, morals, and general welfare of the public. The relative gain to the public is also estimated to be significant as the proposed senior living community and related amenities will compliment the existing developing trend of the area well.

The Subject Property is physically suitable for development as requested by the Applicant under the INST zoning district and is not currently suitable for development under its existing zoning designation.

The Subject Property is currently vacant and to the best of the Applicant's knowledge and belief, there are no existing or changed conditions affecting the use or development of the Subject Property which would give supporting grounds for disapproval of the rezoning request. As far as the Subject Property's zoning history is concerned, to the best of the Applicant's knowledge and belief, the Subject Property was given the OCMS zoning category by the City of Cumming and has been always undeveloped.

The build-out and transition of the Subject Property from its current use to the Applicant's proposed use will be gradual and in keeping with current and estimated growth patterns in the City, and it is therefore not anticipated that the proposed rezoning/development will result in or cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

Refusal to grant approval of the requested rezoning as described in the Rezoning Application would impose a disproportionate hardship on the Applicant without accruing any benefits to any surrounding property owners. The provisions of the Zoning Ordinance that require the development of the property to be different from the Applicant's plan are unconstitutional in that they would constitute a taking of the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section 3, Paragraph 1 of the Constitution of the State of Georgia, and the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the City of Cumming to approve this Application, so as to permit viable economic use of the property, would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and the owners of similarly situated

Page 3 of 3

properties in violation of Article I, Section 1, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Furthermore, a decision denying the Application would constitute an arbitrary and irrational abuse of discretion and constitute an unreasonable application of local land use authority bearing no relationship to the public health, safety, morality or general welfare of the public in violation of Article I, Section 1, Paragraph 1 of the Constitution of the State of Georgia and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States. The Applicant maintains that a refusal to approve the Application as requested would be an abuse of discretion under the power granted to local governments by the Georgia Constitution and the Zoning Procedures Law, O.C.G.A. Section 36-66-1, et seq.

The Applicant reserves all other rights and privileges under the Constitutions of the United States and the State of Georgia, and available at law and in equity, in the event that the City of Cumming refuses to approve this Application as requested by the Applicant. The Applicant respectfully asks that the Application be approved as requested and reserves the right to amend this Letter of Intent and the Application by supplementing additional responses and documents.

Thank you very sincerely and respectfully for your consideration of this request.

Sean Courtney
Lipscomb Johnson, LLP

PROPERTY DESCRIPTION

Proposed 7.3198 Acre Subdivided Parcel – Tract “C”

All that tract or parcel of land lying and being in Land Lots 77 & 78, 2nd District, 1st Section, City of Cumming, Forsyth County, Georgia and being more particularly described as follows:

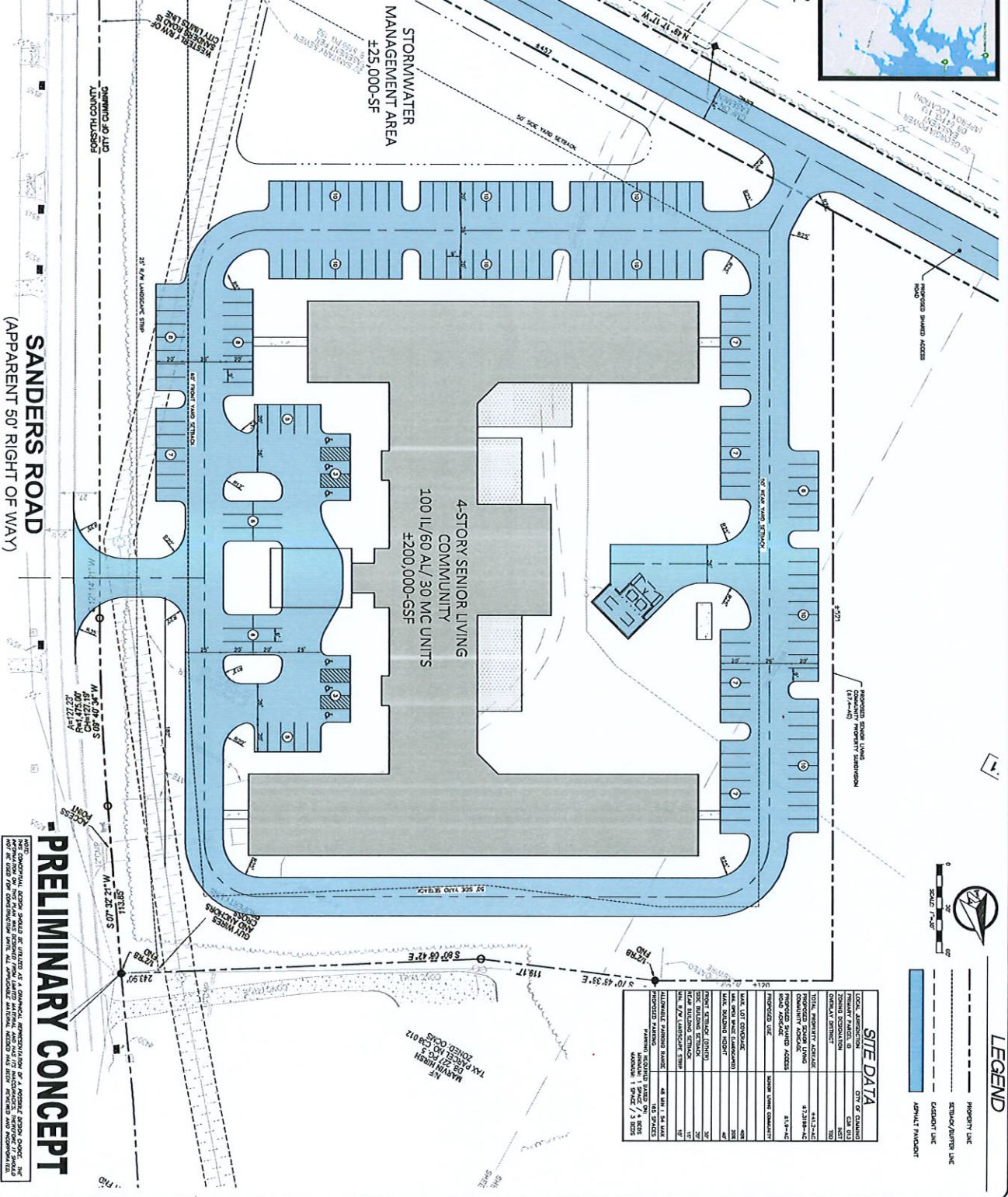
To find the Point of Beginning, commence at a concrete right-of-way monument found (disturbed) at the intersection of the Southwesterly Right-of-Way Line of Mary Alice Park Road (variable width right-of-way) and the Northeasterly Right-of-Way Line of Market Place Boulevard (variable width right-of-way); thence, leaving said point and the said line of Market Place Boulevard and running with the said line of Mary Alice Park Road, South 86° 53' 15" East, 19.90 feet; thence, South 79° 36' 47" East, 289.06 feet to a concrete right-of-way monument found; thence, North 89° 22' 21" East, 108.41 feet to a ½ inch rebar with cap “LSF000810” found; thence, leaving the said line of Mary Alice Park Road and running South 13° 47' 29" West, 173.97 feet to a ½ inch rebar with cap “LSF000810” found; thence, South 76° 12' 31" East, 204.15 feet; thence, North 13° 47' 29" East, 8.97 feet to a ¾ inch crimp top pipe found; thence, South 76° 12' 31" East, 17.75 feet to a ½ inch rebar with cap “LSF000810” found; thence, South 76° 12' 31" East, 192.32 feet to a ½ inch rebar found; thence, South 75° 46' 21" East, 164.88 feet to a ½ inch rebar found; thence, South 14° 10' 27" West, 169.62 feet to a ½ inch rebar found, being the Point of Beginning of the herein described tract or parcel of land; thence, leaving said point and running

1. South 70° 48' 38" East, 119.17 feet; thence,
2. South 80° 08' 42" East, 243.90 feet to a ½ inch rebar found on the Northwesterly Right-of-Way Line of Sanders Road (apparent 50 feet wide right-of-way); thence, running with the said right-of-way line
3. South 07° 32' 21" West, 113.85 feet; thence,
4. 127.23 feet along the arc of a curve deflecting to the right, having a radius of 1,475.00 feet and a chord bearing and distance of South 09° 40' 34" West, 127.19 feet; thence,
5. South 12° 14' 21" West, 495.34 feet to a ½ inch rebar with cap “LSF000810” set; thence, leaving the aforesaid line of Sanders Road and running
6. North 77° 45' 39" West, 89.37 feet; thence,
7. 5.96 feet along the arc of a curve deflecting to the right, having a radius of 12.00 feet and a chord bearing and distance of North 63° 31' 28" West, 5.90 feet; thence,
8. North 49° 17' 17" West, 457.21 feet to a ½ inch rebar with cap “LSF000810” set; thence,
9. North 12° 14' 21" East, 520.72 feet to a ½ inch rebar with cap “LSF000810” set; thence,
10. South 77° 45' 39" East, 120.00 feet to the Point of Beginning, containing 318,851 square feet or 7.3198 acres of land, more or less.

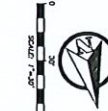
Property is subject to all easements and rights of way recorded and unrecorded.



VICINITY MAP
N.T.S.



LEGEND



- PROPERTY LINE
- SETBACK/EASEMENT LINE
- EASEMENT LINE
- ASPHALT PAVEMENT

SITE DATA	
LOCAL JURISDICTION	CITY OF CUMMING
PROJECT NUMBER	18-027
PROJECT ADDRESS	100 W. SANDERS ROAD, CUMMING, GA 30006
TOTAL PROPERTY ACRES	0.2170
PROPOSED SENIOR LIVING COMMUNITY FLOOR AREA	200,000-SF
PROPOSED PAVED ACCESS	5,136-SF
PROPOSED LOT	13
PROPOSED PARKING SPACES	44
PROPOSED TRAMPOLINE	0
PROPOSED SWIMMING POOL	0
PROPOSED TENNIS COURTS	0
PROPOSED BASKETBALL COURTS	0
PROPOSED PLAYSETS	0
PROPOSED SHELTERS	0
PROPOSED STORAGE SHEDS	0
PROPOSED UTILITIES	0
PROPOSED LANDSCAPE TREES	10
PROPOSED LANDSCAPE SHRUBS	20
PROPOSED LANDSCAPE PERENNIALS	30
PROPOSED LANDSCAPE ANNUALS	40
PROPOSED LANDSCAPE GRASS	50
PROPOSED LANDSCAPE MULCH	60
PROPOSED LANDSCAPE ROCK	70
PROPOSED LANDSCAPE SAND	80
PROPOSED LANDSCAPE SOIL	90
PROPOSED LANDSCAPE WATER	100

-PRELIMINARY CONCEPT

NOTE: ORIGINAL ZONING SHOULD BE CHECKED AS A PRELIMINARY PREPARATION OF A PRELIMINARY CONCEPT. THE APPLICANT IS ADVISED THAT THIS IS A PRELIMINARY CONCEPT AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES. THE APPLICANT IS ADVISED THAT THIS IS A PRELIMINARY CONCEPT AND SHOULD NOT BE USED FOR ANY OTHER PURPOSES.

SHEET
C201

SITE PLAN

JOB NO: 18-027
DATE: 11/09/23

DRAWN: KJH
CHECK: RTC

#	DATE	REVISIONS

HARMONY AT MARKET PLACE SENIOR LIVING COMMUNITY
 JURISDICTION: CITY OF CUMMING
 ISSUED FOR: CONCEPT PLAN
 2ND DISTRICT, LL 87, 77, 78, 139 & 140, 1ST SEC.
 LOCATION: MARKET PLACE BLVD
 CUMMING, GA 30041

SMITH/PACKETT
 MED-COM, LLC
 4423 PHEASANT RIDGE RD, #301
 ROANOKE, VA 24014
 CONTACT: CAMERON SWENDEL



CONTINUED GROUP
 755 COMMERCIAL DRIVE
 SUITE 800
 DECATUR, GA 30003
 770.335.9403
 www.tcge-engineer

DRAFT
 11/09/23

Forsyth IL-AL Investors, LLC
Rezoning and Variances
Tax Parcel P/O C38-013
7.3198 acres Located at Sanders Road
City OCMS to City INST

1. Building exterior shall be substantially similar to the rendering attached as Exhibit "A" hereto, and incorporated herein by this reference, and shall be comprised of brick and hardiplank siding. No vinyl siding shall be permitted. The owner/developer shall submit the final exterior building elevations to the City of Cumming Design Review Committee (DRC) to seek concurrence prior to submitting to the City of Cumming, however, both the DRC and the owner/developer shall work together in good faith, and the DRC shall provide its comments and/or concurrence not more than ten (10) business days after the owner/developer provides DRC its exterior design plan, and in no way shall DRC unreasonably delay or inhibit the owner/developer from submitting its plans to the City of Cumming after such ten (10) day review period.
2. Building on the subject property shall be no more than 62ft in height and shall have a shingled, pitched roof. The building equipment (HVAC, etc.) roof wells shall have a rubber membrane, flat roof. A height variance is approved contemporaneously with this Application.
3. Street lights, amenity lighting area and exterior lighting must be decorative in nature, LED, and designed so as to minimize light spillage along the exterior of the development along any residential property line, commercial or office property line.
4. The subject property must be used as a senior living community, with no more than one-hundred ninety (190) units (approximately 100 independent living, 60 assisted living, and 30 memory care units).
5. If construction is to be phased, a phasing plan shall be included at the time of applying for a Land Disturbance Permit and all major infrastructure including the curb, gutter, and base paving of the proposed thru-road from Market Place Blvd. to Sanders Rd., electric, gas, water, and sewer utilities within 5ft of the building pad, and stormwater management and temporary detention basins shall be installed within the first phase
6. A landscape plan shall be approved by the Department of Planning & Zoning, to include, but not limited to, a planted buffer along the subject property line, between the proposed development and any residential property line. The landscaping adjacent to Tax Map and Parcel No. C38-012 shall be substantially in accordance with Exhibit "B."
7. Property owner and applicant shall enter into a joint access easement and construction agreement pertaining to the proposed thru-road from Market Place Blvd. to Sanders Rd.
8. Proposed parking for the development must be in accordance with the City's off-street parking plan and approved by the Department of Planning and Zoning. Due to the nature

of this Senior Living Community use, the parking required is substantially more than the Code contemplates; therefore a parking variance is approved contemporaneously with this Application and the parking on the subject property shall contain no more than 165 spaces.

9. Any building equipment (HVAC, etc.) must be screened from the public ROW, or located so as not to be seen from the public ROW.
10. All development signage must be in accordance with the City's current Sign Ordinance and approved by the Department of Planning & Zoning. Monument sign shall be substantially similar to the rendering attached as Exhibit "A" hereto, and incorporated herein by this reference, and shall be comprised of brick, hardiplank, cast stone, and an acrylic insert.
11. The proposed fire access perimeter road must be approved by the Department of Planning and Zoning and the Forsyth County Fire Department.
12. Owner/developer will perform water pressure tests to determine if water and fire booster pumps will be required.
13. There shall be no exterior loudspeakers on the subject property.
14. All garbage dumpsters shall be architecturally screened from view and designed to be aesthetically similar to the principal building on the subject property.
15. Delivery times shall be limited to the hours of 6am to 9pm.
16. The use shall be limited to a Senior Living Community and if such other use is sought, it shall require approval of the City Council.

Exhibit "A"
Exterior Building Rendering Example

Exhibit A



FRONT ELEVATION
AS SEEN FROM SANDERS ROAD

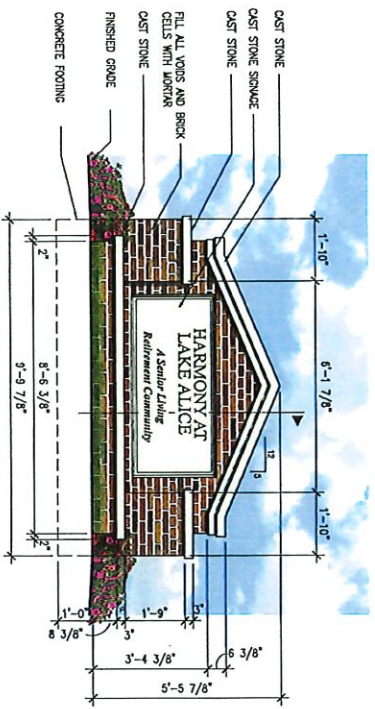


MONUMENT DETAIL

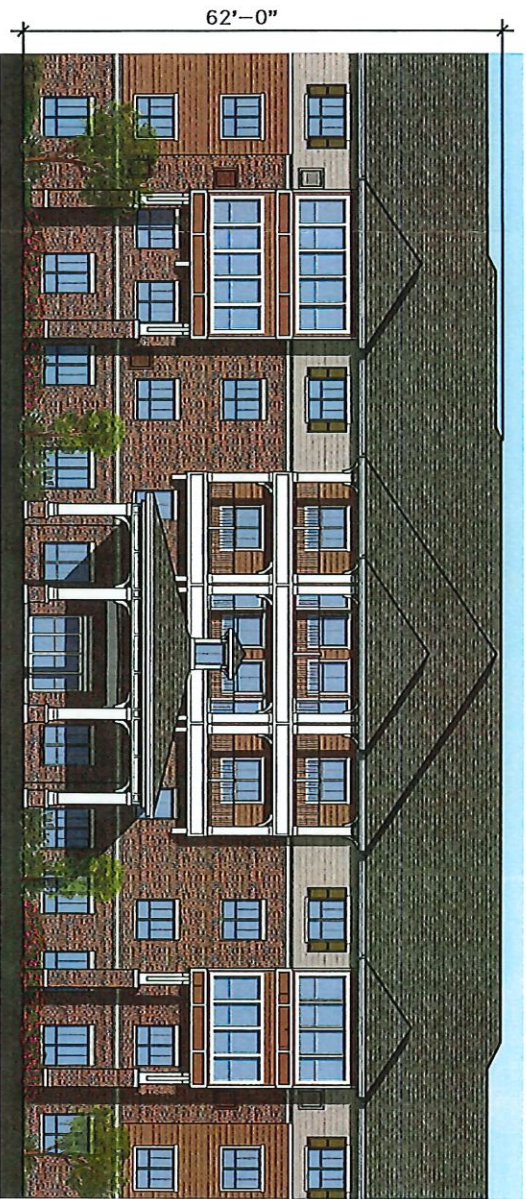
ENTRY ELEVATION DETAIL



FRONT ELEVATION
AS SEEN FROM SANDERS ROAD



MONUMENT DETAIL



ENTRY ELEVATION DETAIL



FRONT ELEVATION
AS SEEN FROM SANDERS ROAD

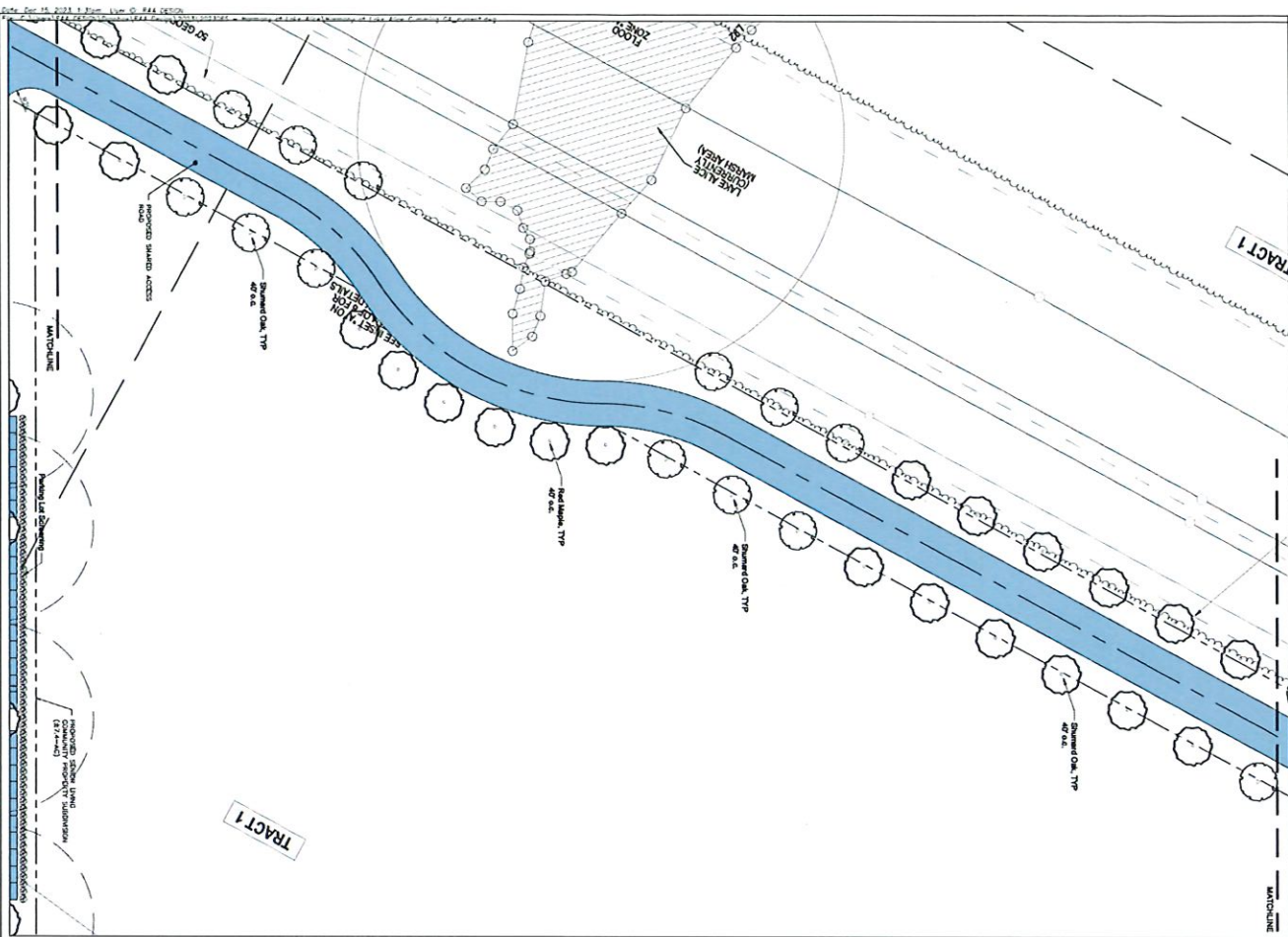


MONUMENT DETAIL



ENTRY ELEVATION DETAIL

Exhibit "B"
Landscape Plan



TREE PROTECTION/REPLACEMENT REQUIREMENTS:

TREE PROTECTION & REPLACEMENT NOTES:

TREE PROTECTION FENCING MUST BE INSTALLED AND INSPECTED PRIOR TO OR CONCURRENT WITH ANY CLEARING, GRUBBING OR GRADING. CALL THE DESIGNER FOR TREE PROTECTION FENCING AND DEVELOPMENT FOR AN INSPECTION.

TREE PROTECTION SHALL BE ENFORCED ACCORDING TO THE RESIDENTIAL TREE PRESERVATION AND REPLACEMENT ORDINANCE.

THE DENSITY REQUIREMENTS SHOWN ON THE TREE PROTECTION PLAN SHALL BE MAINTAINED THROUGHOUT THE PROJECT. THE DENSITY MUST BE VERIFIED PRIOR TO THE ISSUANCE OF THE OCCUPANCY OR ACCEPTANCE CERTIFICATE OF THE FINAL PLAT.

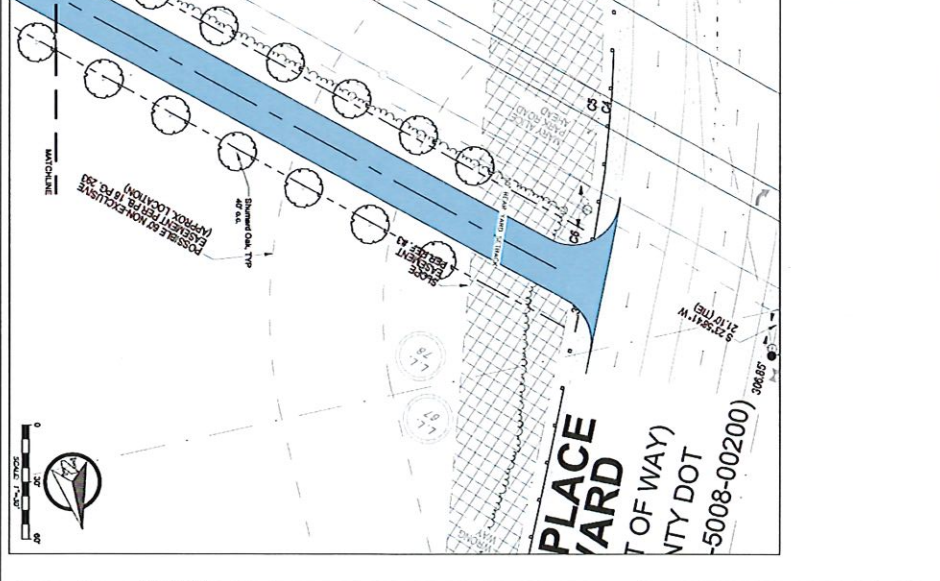
A POST DEVELOPMENT TREE SURVEY SHALL BE SUBMITTED AND APPROVED PRIOR TO ISSUANCE OF A PLAT OR AS-BUILT FOR RESIDENTIAL USES LOCATED ON PROPERTY OF AT LEAST 10 ACRES EXCLUDING MIXED USE ZONING DISTRICTS.


IN RESIDENTIAL USE AND INDUSTRIAL ZONING DISTRICTS, A MAINTENANCE INSPECTION FOR TREES WILL BE PERFORMED AFTER ONE FULL GROWING SEASON FROM THE DATE OF THE FINAL SITE PROJECT OWNERS AT THE TIME OF THE MAINTENANCE INSPECTION ARE RESPONSIBLE FOR SCHEDULING THIS INSPECTION.

ALL PLANT MATERIALS ARE TO CONFORM TO THE AMERICAN STANDARD FOR NURSERY STOCK, LATEST EDITION, AMERICAN NURSERY & LANDSCAPE ASSOCIATION.


ALL BUFFERS MUST MEET THE FORSYTH COUNTY BUFFER STANDARDS. BUFFERS THAT HAVE BEEN OR THAT ARE SPARSELY VEGETATED WILL REQUIRE SUPPLEMENTAL PLANTING OR REPLANTING TO BRING THE BUFFER INTO COMPLIANCE WITH THE BUFFER STANDARDS. BUFFER PLANTINGS IN ADDITION TO THOSE SHOWN ON THIS PLAN MAY BE REQUIRED DUE TO FIELD CONDITIONS PRIOR TO FINAL APPROVAL OF THE BUFFER PLANS. BUFFERS MUST BE INSTALLED PRIOR TO APPROVAL OF THE FINAL PLAT OR AS-BUILT. THE CONTRACTOR RESPONSIBLE FOR LANDSCAPE INSTALLATION MUST CERTIFY THAT ALL PLANT MATERIALS INSTALLED PER THE APPROVED PLANS, THIS CERTIFICATION MUST BE SUBMITTED PRIOR TO THE APPROVAL OF THE AS-BUILT OR FINAL PLAT. (LAND OWNERS SHALL BE NO TREES PLANTED WITHIN THE RIGHT OF WAY OR IN UTILITY EASEMENTS)

SITE DATA	
LOCAL JURISDICTION	CITY OF CUMMING
PROJECT NUMBER	2024-001
PROJECT ADDRESS	157 GEORGIA POWER RD, CUMMING, GA 30041
PROJECT TYPE	RESIDENTIAL DEVELOPMENT
PROJECT OWNER	RAA DESIGN LLC
PROJECT CONTACT	RAA DESIGN LLC
PROJECT PHONE	770-886-1111
PROJECT FAX	770-886-1111
PROJECT EMAIL	info@raadesign.com
PROJECT WEBSITE	www.raadesign.com
PROJECT START DATE	08/15/2024
PROJECT END DATE	12/31/2024
PROJECT STATUS	IN PROGRESS
PROJECT PHASE	LANDSCAPE DESIGN
PROJECT BUDGET	\$1,200,000
PROJECT RISK	LOW
PROJECT COMPLIANCE	COMPLIANT
PROJECT NOTES	SEE ATTACHED DOCUMENTS FOR DETAILED INFORMATION.





RAA DESIGN LLC
Landscape Architecture & Planning
157 Georgia Power Rd, Cumming, GA 30041
770-886-1111



R.A. Anderson
Landscape Architect
No. 12345

LANDSCAPE PLAN

HARMONY AT MARKET PLACE
CUMMING, GEORGIA

LS-1
1 OF 1