

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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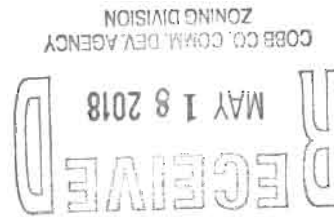
May 18, 2018

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

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

VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064



Re: Application of W. Reed Konigsmark to Rezone an 11.44 Acre Tract from R-30 to R-20 - OSC (No. Z-21).

Dear John:

As you know, this firm represents W. Reed Konigsmark concerning the above-captioned Application for Rezoning. The Application was previously continued by the staff and is now scheduled to be heard and considered by the Cobb County Planning Commission on June 5, 2018. Thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners ("BOC") on June 19, 2018.

The subject property consists of an approximate 11.44 acre tract of land which is located on the northwest side of Poplar Springs Road, south of Dallas Highway (S.R. 120) and in an area designated on the Future Land Use Map ("FLUM") for single-family detached residential developments at densities up to 2 units per acre. In that regard, Mr. Konigsmark's proposal and its density are:

- entirely appropriate from a land use planning perspective;
- consistent with the County's FLUM; representative of the policy of the BOC as embodied in the County's Comprehensive Land Use Plan ("Comp Plan");
- in compliance with the County's professional staff's recommendations for approval; and,
- compliant with the revised Open Space Community District ("OSC") which promotes environmentally sensitive and efficient uses of property.¹

¹ The OSC district provides for the preservation of greenspace and watershed protection and provides environmentally sensitive and efficient uses of property by limiting land disturbance and decreasing the percentage of impervious surfaces which results in a more efficient use and conservation of land.

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After discussions which have occurred with adjacent and contiguous and property owners; with County staff members; and, with the input and direction we have received from elected and appointed officials, this letter will serve as Mr. Konigsmark's Revised expression of agreement with the following Revised stipulations. These Revised stipulations shall become conditions and a part of the grant of the requested Rezoning and binding upon the subject property thereafter:

1. These Revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The subject property shall be developed in substantial conformity to that certain Revised Site Plan prepared by Paul Lee Consulting Engineering Associates, Inc., which is being submitted concurrently herewith. Also submitted is the appropriate signatures, Vesting Deed and other components which are necessary as a result of additional property being added to this proposal.
3. A maximum number of twenty (20) single-family detached homes, at a maximum density of 1.75 units per acre. This proposal and Revised Site Plan result in 4.0 acres (35%) of the subject property being placed in meaningfully positioned Open Space.²
4. The minimum house size for the proposed residential community shall be 2,500 square feet and range up to 3,500 square feet and greater.³ Each of the homes shall have, at a minimum, an attached 2-car garage which shall be used for the parking and storage of vehicles as well as additional parking on the homes' driveways to accommodate sufficient width and length to park at least three (3) additional vehicles.

Reference is made to the Revised Site Plan (specifically lots 1 and 20) which depicts driveways with more than sufficient width and length to park enough individual vehicles to accommodate Fire Marshall Standards.

² Under the Cobb County Zoning Ordinance, the number of lots and the density is equivalent to the density which can be achieved under a "straight" R-20 single-family detached subdivision.

³ Price points are anticipated ranging from \$395,000 to \$450,000.

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5. The architectural style and composition of the homes shall consist of brick, stacked stone, cedar shake, hardi-plank shake and/or hardi-plank siding and/or combinations thereof as more fully depicted on the Revised architectural renderings/elevations which are being submitted concurrently herewith. The architectural style and composition of the homes shall be subject to final review and approval by the District Commissioner.
6. The creation of a mandatory Homeowners Association (“HOA”) and the submission of Declaration of Covenants, Conditions and Restrictions (“CCRs”) which shall include, among other components, strict architectural controls.
7. The mandatory HOA shall be responsible for maintaining fencing, landscaping, Open Space areas, the entrance to the proposed community and entrance signage (including lighting, irrigation and landscaping).
8. Subdivision entrance signage which shall be located on Poplar Springs Road and shall be ground-based, monument-style, consistent with the architectural style and composition mentioned above and shown by the attachments and consistent with provisions of the Cobb County Sign Ordinance. Additionally, said entrance signage shall be incorporated into the Landscape Plan for the subdivision and shall be fully landscaped and irrigated by professionals in both disciplines.
9. The submission of a Landscape Plan during the Plan Review Process which shall be subject to review and approval by the County’s Arborist and which shall include, as shown on the Revised Site Plan, a twenty foot (20’) Open Space buffer area and a concurrent thirty-five foot (35’) setback around the perimeter of the “to be developed” portions of the subject property which are contiguous and/or adjacent to other single-family residential properties.

The subject property has numerous contiguous and/or adjacent property owners. In that regard, Mr. Konigsmark has entered into the following agreement with Mr. and Mrs. James McPherson (854 Poplar Springs Road):

- a. For the entire length of the McPhersons’ property contiguous to the subject property, Mr. Konigsmark shall construct and erect a six foot (6’) decorative wooden privacy fence along that common property line for approximately three hundred (300) lineal feet. Thereafter, Mr. Konigsmark shall construct and erect a five foot (5’) black vinyl chain-link fence along the balance of the common property line between the subject property and land owned by Mr. & Mrs. David Bramlett (868 Poplar Springs Road).

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- b. The buffer along McPherson's property line shall consist of a twenty-foot (20') undisturbed buffer. The chain link fence will connect to the detention pond fence wherein the undisturbed buffer shall be lessened to ten feet (10') in width in accordance with Ordinance requirements.⁴
10. For those lots directly contiguous to Open Space areas, the deeds conveying and vesting title in the ultimate owners of said lots shall contain a recital explaining that said lots are being purchased with the owners' acknowledgement that commonly owned Open Space exists to the rear of their respective properties and cannot be encroached within or built upon.
11. A Conservation Easement shall be granted and conveyed to Cobb County and shall be recorded within the Subdivision Covenants in the Superior Court of Cobb County Deed Records for the purpose of protecting Open Space from development. The Conservation Easement shall be submitted to the Planning and/or Zoning Divisions of the Community Development Agency prior to final plat approval.

One of the purposes of the Open Space is to include the conservation of watershed and natural components. However, based upon input received from respective County Divisions during the pendency of this Application, portions of said Open Space may contain walking and/or pedestrian trails therein. Open Space areas adjoining lots shall contain individual, small, ground-based monumentation for the purposes of the demarcation of Open Space areas.
12. Mr. Konigsmark and/or his successor(s) in interest shall provide contiguous property owners with written notice regarding any proposed changes, modifications or revisions to the development which require Cobb County's or the District Commissioner's review and approval.

⁴ As a result of Mr. Konigsmark's agreement with Mr. and Mrs. McPherson, Mr. and Mrs. David Bramlett (868 Poplar Springs Road) have stated in writing that that they are also in support of Mr. Konigsmark's rezoning proposal.

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13. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer for the subject property.⁵
14. Subject to recommendations from the Cobb County Stormwater Management Division regarding detention, stormwater management, hydrology and downstream considerations, including the following:
 - a. The ultimate permanent location and configuration of on-site detention, stormwater management and water quality components.
 - b. Mr. Konigsmark has reached an agreement with contiguous property owner Mr. Isaac Watson (5797 Dallas Highway) in order to secure the requisite off-site easements to sewer for the site. Mr. Watson has also provided a letter specifically supporting the total of twenty (20) lots under the R-20 OSC Zoning District for the subject property.
 - c. A pre-development and post-development lake study shall be conducted on the lake adjacent to the west of the subject property.⁶
 - d. Recognizing the seventy-five foot (75') streambank buffers on either side of the centerline of the stream which traverses the northeastern portion of the subject property and the placement of same within a Conservation Easement in favor of Cobb County.⁷

⁵ Along the subject property's northern property line on Dallas Highway there is a Cobb-Marietta Water Authority waterline which runs parallel to the subject property along said property line; however, it does not affect the development of any portion of the subject property.

⁶ The downstream lake located adjacent to Poplar Springs Road will not require any studies since the stream bypasses that particular lake. An adjacent property owner, Mr. Jim Shurling (5805 Dallas Highway) owns land adjacent to the subject property which is located west and downstream of the subject property. Having owned that property since 1961 Mr. Shurling reports that since Dallas Highway was widened 20± years ago, the lake on his property has suffered significant silt buildup washed from the shoulders of Dallas Highway.

⁷ Originally, Mr. Konigsmark requested and the County had preliminarily and administratively approved buffer averaging. However, that request is not now needed and is hereby Withdrawn.

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15. Subject to the following recommendations from the Cobb County Department of Transportation (“DOT”):

- a. The voluntary donation and conveyance of right-of-way along Poplar Springs Road so that the County can achieve an additional five feet (5’) of right-of-way on Poplar Springs Road.
- b. The installation of a one-hundred fifty foot (150’) deceleration lane with a fifty foot (50’) taper.
- c. The installation of sidewalk, curb and gutter along the subject property’s frontage on Poplar Springs Road.
- d. The installation of sidewalk, curb and gutter on at least one (1) side of the interior streets.
- e. In accordance with specific direction from Bryan S. Carter, P.E. with the Georgia Department of Transportation (“GDOT”), there will be no requirements for the installation of sidewalk, curb and gutter along Dallas Highway (S.R. 120) in accordance with an email from Mr. Carter and GDOT to Mark Lee, P.E., dated February 5, 2018.
- f. The installation of a ten foot (10’) No-access Easement along those portions of the subject property which have direct frontage on and direct contiguity to Dallas Highway, as shown on the Revised Site Plan.
- g. Verification of minimum sight distance of three-hundred, ninety feet (390’) on Poplar Springs Road or the implementation of remedial measures in which to mitigate same.
- h. The first driveway (Lot 20) within the subject property shall be positioned a minimum of fifty feet (50’) from the intersection of Poplar Springs Road with the subject property’s point of ingress/egress.

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16. Subject to recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues and guest parking requirements as mentioned above.
17. Adherence to the following construction hours:
 - a. 7:00 a.m. – 7:00 p.m., Monday through Friday, from October 1st to March 31st.
 - b. 7:00 a.m. until 7:00 p.m., Monday through Friday, from April 1st to September 30th.
 - c. 9:00 a.m. until 6:00 p.m. on Saturdays.
 - d. No outside work on Sundays or the following national holidays: Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Eve, New Year's Day and Easter Day.
18. All construction and worker vehicles shall be parked on the subject property (not public rights-of-way) during the construction and build-out of the proposed subdivision.
19. The granting of the following concurrent Variances:
 - a. A reduction in the distance between homes from twenty feet (20') to fifteen feet (15').
 - b. A reduction in the Major Side Setback to fifteen feet (15').
20. If curb, gutter and sidewalk are not installed and at least one (1) Construction Permit is not issued within 24-months from the Board of Commissioners' decision to rezone the subject property, said property shall revert to its current R-30 zoning classification.
21. Mr. Konigsmark and/or his successor(s) in interest agree to allow the Georgia Native Plant Society ("GNPS") to conduct a plant rescue prior to the commencement of construction and the development of the subject property.

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22. The District Commissioner shall have the authority to approve minor modifications to these stipulations/conditions, the site plan, the architecture and other issues as the development proposal proceeds through the Plan Review Process and thereafter except for those that:
- a. Increase the density unless other tracts of land are added to the proposed development at a later date and taken through the entitlement process.
 - b. Reduce the size of approved buffers adjacent to property which is zoned the same or in a more restrictive zoning district.
 - c. Relocate a structure closer to the property line of adjacent property that is zoned in the same or a more restrictive zoning district.
 - d. Increase the height of a building which is adjacent to property which is zoned in the same or a more restrictive zoning district.
 - e. Change access locations to a different right-of-way.
 - f. Require additional Variances or is in violation of the Cobb County Zoning Ordinance.

This Revised proposal is consistent with the County's FLUM, Comp Plan and OSC requirements; is located approximately two-hundred feet (200') from the nearest commercially zoned NRC property on Dallas Highway whereupon an approved 6,000+ square foot RaceTrac proto-type will be constructed. Moreover, with staff's previously issued recommendation for approval; the stipulations/conditions contained within this Revised Letter; and, the Revised Site Plan and Architectural Renderings/Elevations, this Revised zoning proposed is entirely appropriate from a land use planning perspective.

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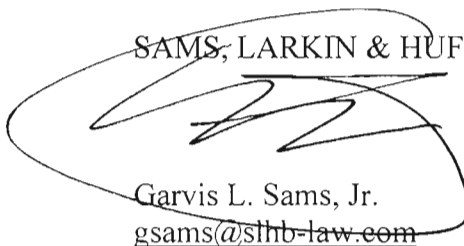
VIA HAND DELIVERY & EMAIL:

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Please do not hesitate to contact me should you or your Staff require additional information or documentation prior to this application being heard and considered by the Planning Commission and the Board of Commissioners next month. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLS, Jr./klk
Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Mr. Bob Weatherford, Commissioner (via email w/attachments)
Mr. Robert L. Hosack, AICP, County Manager (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
BOC Commission Assistants (via email w/attachments)
Mr. Dana Johnson, AICP, Director (via email w/attachments)
Mr. Lee McClead, Deputy Director (via email w/attachments)
Mr. Jason S. Gaines, AICP, Planning Division Manager (via email w/attachments)
Mr. Jason Campbell, Planner III (via email w/attachments)
Mr. Terry Martin, Planner III (via email w/attachments)
Mr. Phillip Westbrook, Planner III (via email w/attachments)
Mr. Donald Wells, Planner I (via email w/attachments)
Ms. Tannessa Bates, Planner I (via email w/attachments)
Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Robin Pressley, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)
Captain Robert "Rock" Toler, Fire Department (via email w/attachments)
Mr. David Breaden, P.E. (via email w/attachments)
Ms. Amy Diaz, P.E. (via email w/attachments)
Ms. Ashley White, P.E. (via email w/attachments)
Mr. Tim Davidson (via email w/attachments)
Ms. Sheri George, GNPS (via email w/attachments)
Mr. and Mrs. James McPherson (via email w/attachments)

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Mr. and Mrs. David Bramlett (via email w/attachments)
Mr. Isaac Watson (via email w/attachments)
Mr. Jim Shurling (via email w/attachments)
Mr. Malik Lee, Poplar Springs HOA (via email w/attachments)
Mr. Mark Lee, P.E. (via email w/attachments)
Mr. W. Reed Konigsmark (via email w/attachments)



TRACT AREA = 11.44 ACRES (498,388 S.F.)

GENERAL NOTES:
1. CURRENT ZONING: R-30
PROPOSED ZONING: R-20 (OSC)
2. REFERENCE TO R-20 ZONING:
FRONT YETBACK LOCAL: 35'
MAJOR SIDE YETBACK: 25'
MINIMUM SIDE YETBACK: 10'
MINIMUM REAR YETBACK: 35'
MAXIMUM COVERAGE PER LOT: 35%
MINIMUM LOT AREA: 13,768 S.F.
MAXIMUM LOT SIZE: 20
MINIMUM LOT SIZE: 13,000 S.F.

3. VARIANCES REQUESTED:
REDUCE SIDE YETBACK: 7.5' AS SHOWN
REDUCE MAJOR SIDE YETBACK: 15' AS SHOWN

4. ALL BOUNDARY INGHAMAS TAKEN FROM
RETRACED SURVEY FOR POPLAR SPRINGS
ROAD, PREPARED BY PERIMETER SURVEYING CO., INC.
DATED 11-24-17. LAST REVISED 1-19-18. NO SURVEYING HAS
BEEN PERFORMED BY PAUL LEE CONSULTING ENGINEERING
ASSOC., INC.

5. TOPOGRAPHIC DATA TAKEN FROM THE COBB
COUNTY WEBSITE

6. SITE TO BE SERVED BY COBB COUNTY WATER & SEWER.

7. ALL STRUCTURES (ON SITE) TO BE REMOVED.

8. NO HISTORIC, ARCHITECTURAL, CULTURAL,
ARCHAEOLOGICAL, LAKES, OR WETLAND FEATURES
ARE KNOWN TO BE ON THIS SITE.

9. STREAM BUFFER AS PER THE COBB COUNTY BUFFER MAP

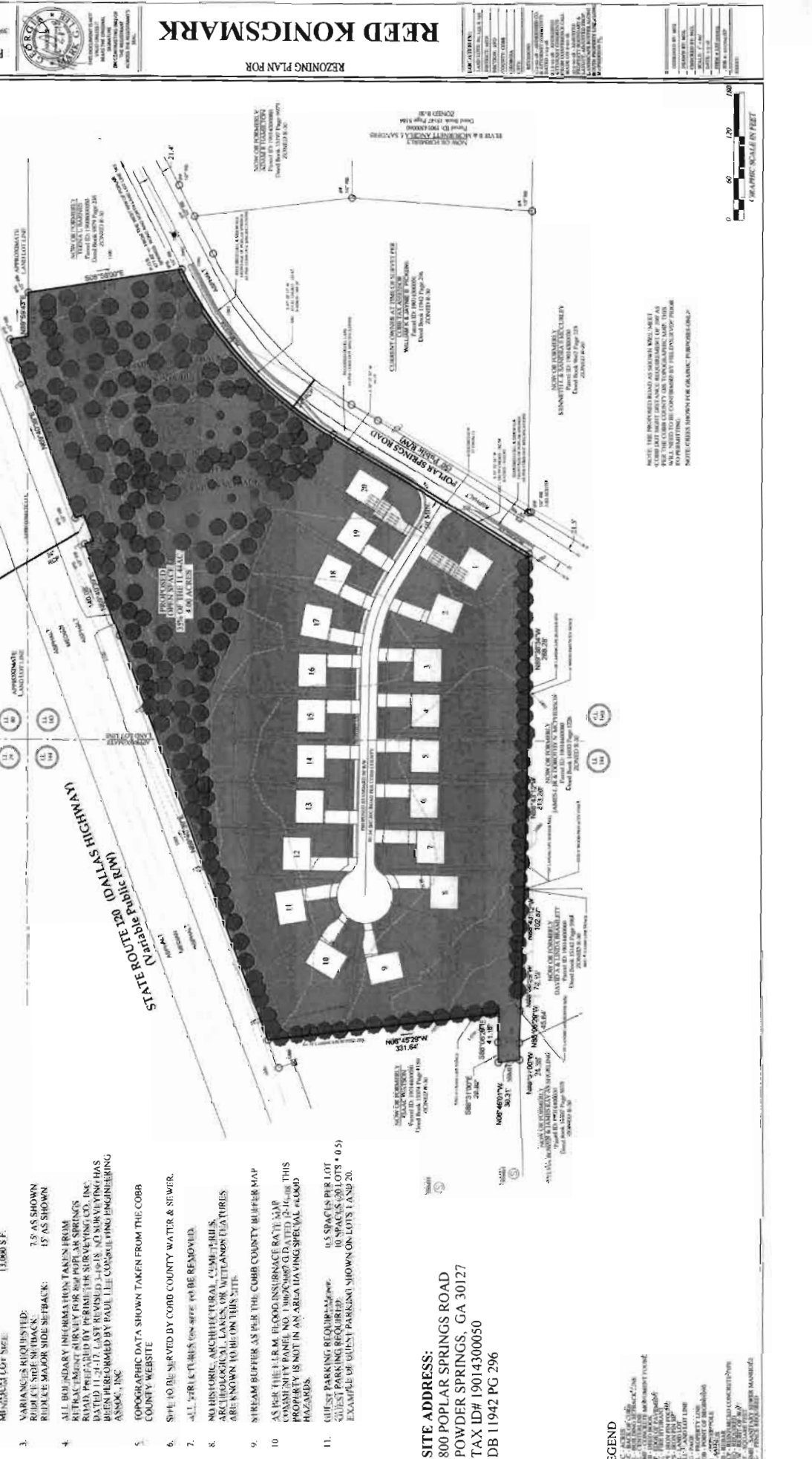
10. AS PER THE F.L.R.M. FLOOD INSURANCE RATE MAP
COMMUNITY PANEL NO. 13070C0097 DATED 2-16-08 THIS
PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD
HAZARDS.

11. (GUEST) PARKING REQUIREMENTS:
GUEST PARKING REQUIREMENTS:
10 SPACES (21 LOTS * 0.5)
EXAMPLE OF GUEST PARKING SHOWN ON LOTS 1 AND 20.

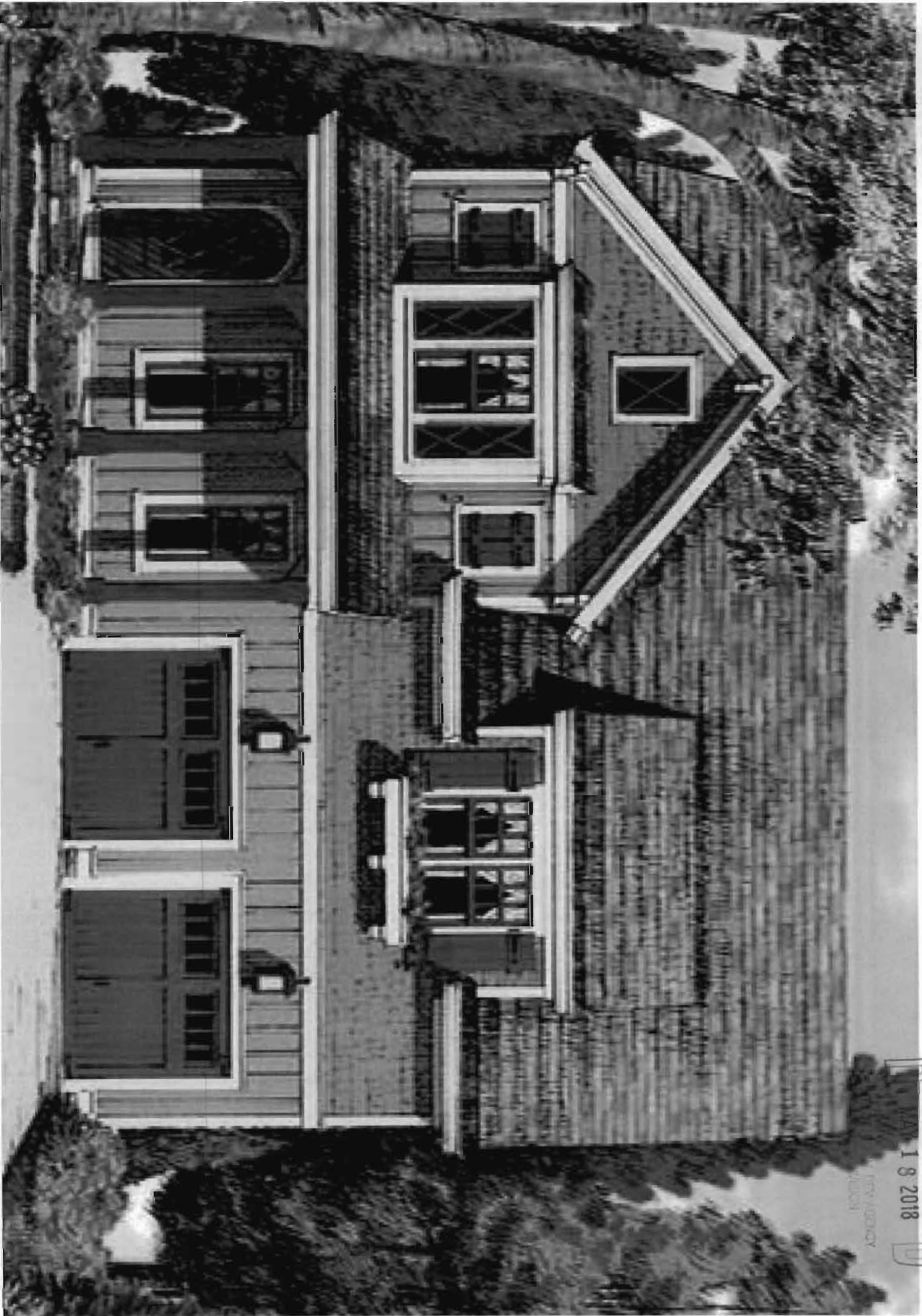
SITE ADDRESS:
800 POPLAR SPRINGS ROAD
POWDER SPRINGS, GA 30127
TAX ID# 19014300050
DB 11942 PG 296

LEGEND

1. EXISTING LOT LINES
2. PROPOSED LOT LINES
3. PROPOSED LOT AREAS
4. PROPOSED LOT COVERAGE
5. PROPOSED LOT COVERAGE PERCENTAGE
6. PROPOSED LOT COVERAGE PERCENTAGE
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18. PROPOSED LOT COVERAGE PERCENTAGE
19. PROPOSED LOT COVERAGE PERCENTAGE
20. PROPOSED LOT COVERAGE PERCENTAGE



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NORTH-BASED ON CURB-TO-CURB SURVEY PROVIDED



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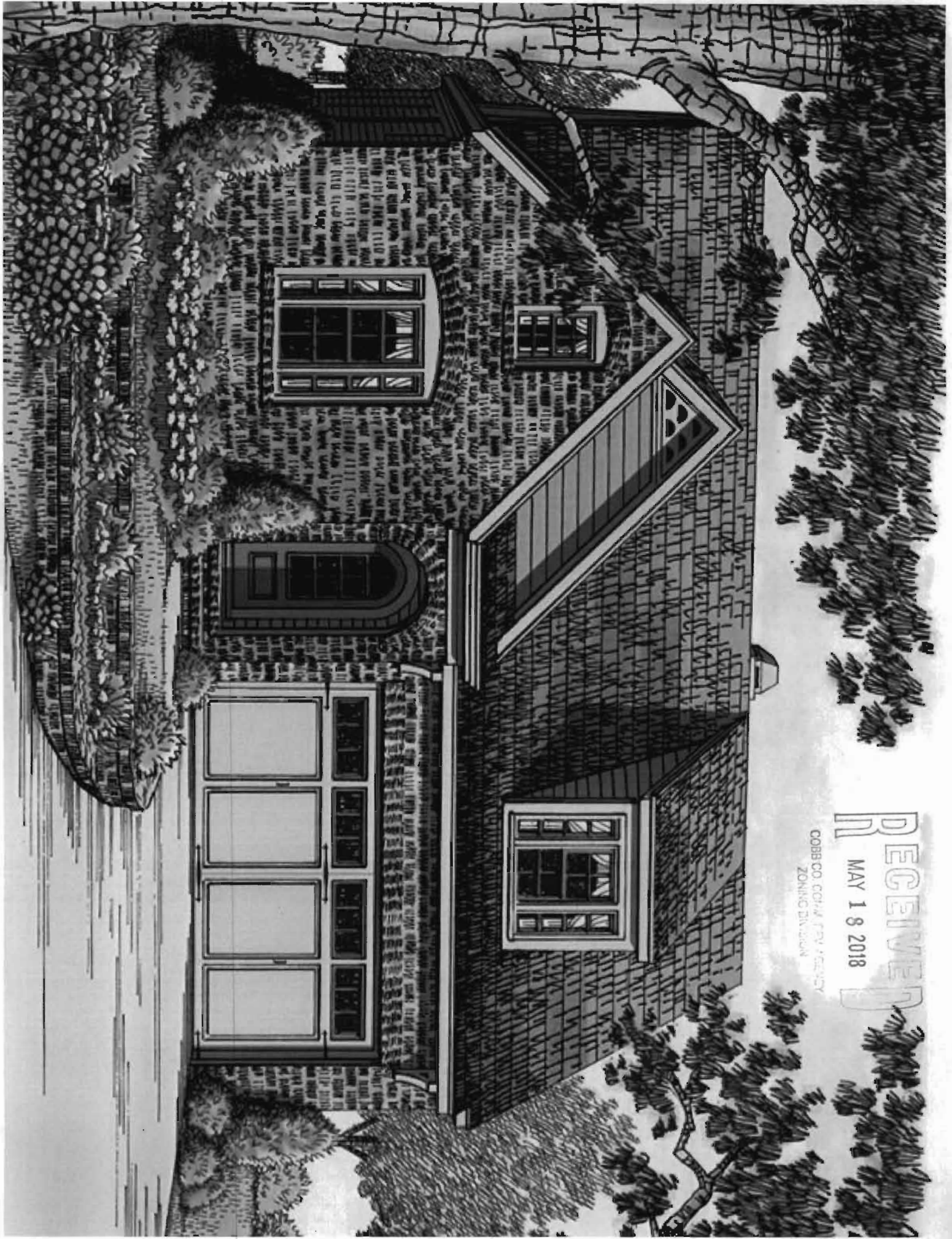


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