FILE REFERENCE NO: 20200038
ORDINANCE NO: 8178

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia Land Lot 9, District 17, Parcels 0040 & 0160 of the 2nd Section, Cobb County, Georgia, and being known as **1520, 1540, & 1560 Cunningham Road.**

WHEREAS, application has been filed by **VENTURE COMMUNITIES, LLC** for rezoning property in the corporate limits of the City of Marietta, Georgia; and,

WHEREAS, following proper notice, a public hearing was held before this body; and,

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: The following property to wit:

All that tract or parcel of land located in Land Lots 8 & 9 of the 17th District, 2nd Section, City of Marietta, County, Georgia, being Cobb County, Georgia Tax Parcel 17000900040 further identified as 1540 Cunningham Road, Marietta, GA 30008, being 7.9 +/- Acres, and all that tract or parcel of land located in Land Lot 9 of the 17th District, 2nd Section, City of Marietta, County, Georgia, being Cobb County, Georgia Tax Parcel 17000900160 further identified as 1560 Cunningham Road, Marietta, GA 30008, being .6 +/- Acres, and being further depicted on the Cobb County, Georgia.

Said tract or parcel of land contains 8.782± acres (382,544 square feet).

Section 2: The above-described property is hereby rezoned into the corporate limits in the City of Marietta, Georgia from R-20 (Single Family Residential – County) and R-2 (Single Family Residential – 2 units/acre – City) to PRD-SF (Planned Residential Development – Single Family).

Section 3: The following stipulations are incorporated as conditions of zoning:

1. Letter of stipulations and variances from Sean G. Randall of Venture Communities, LLC to Russell J. Roth, Director of Development Services, and Shelby Little, Planning & Zoning Manager for the City of Marietta, dated August 12, 2020. However, in paragraph #2, the total number of homes shall be changed to a maximum of fifty-two (52); and in paragraph #4, the minimum distance between homes shall be 8 feet for at least 80 percent of the homes..
2. The homes shall be "for sale" only, and no more than five percent (5%) of all the homes within the residential development shall be allowed to be renter occupied at any time.

3. Homes must be designed and constructed so as to meet the definition of Four-Sided Architecture.

Section 4: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 5: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 6: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:

Rusty Roth

Rusty Roth, Acting Director
Department of Development Services

Approved as to form:

Douglas R. Haynie, City Attorney

Approved by City Council:

DATE: August 12, 2020

APPROVED:

R. Steve Tumlin, Jr.

R. Steve Tumlin, Jr., Mayor

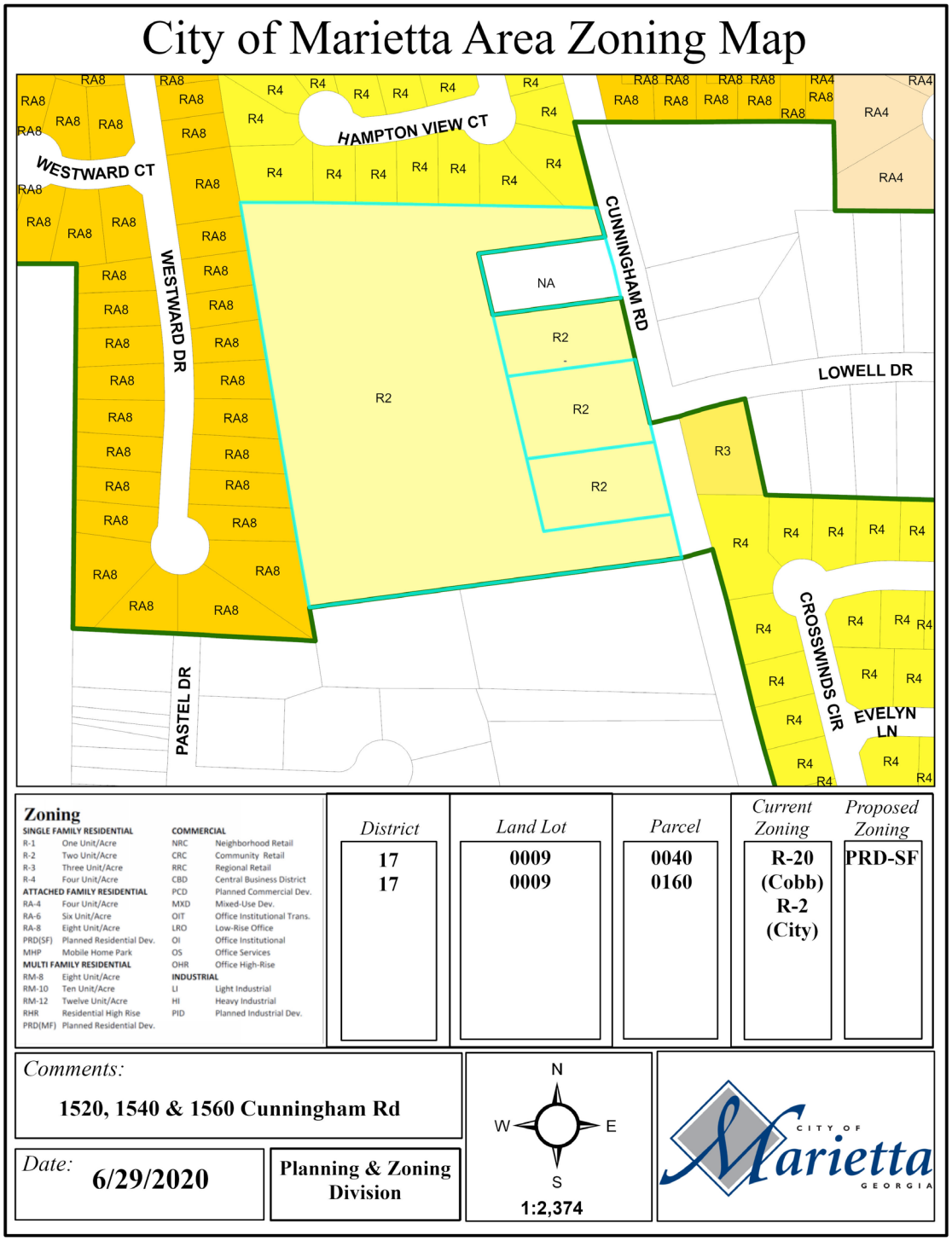
ATTEST:

Stephanie Guy

Stephanie Guy, City Clerk

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

MAP



VENTURE COMMUNITIES

5500 Interstate North Parkway, Suite 150, Atlanta, GA 30328

August 12, 2020

Mr. Russell J. Roth, Director of Development Services
Ms. Shelby Little, Planning and Zoning Manager
City of Marietta
Department of Development Services
205 Lawrence Street, Marietta, Georgia 30060

RE: **Revised Stipulation Letter: Application for Rezoning; Application Z 2020-07 Cunningham Road.**
Applicant: Venture Communities, LLC
Property Owners: Steven A. Cunningham, Carolyn Swanson and Harry W. Cunningham
Property: 8.782 acres, more or less, located on the west side of Cunningham Road at 1520, 1540 & 1560 Cunningham Road, Marietta, Georgia 30008; Land Lots 8 & 9, 17th District, 2nd Section, Cobb County, Georgia.

Dear Rusty and Shelby:

Venture Communities, LLC, the Applicant (hereinafter "Applicant") in the Application for Rezoning with regard to approximately 8.782 acres, more or less, located on the west side of Cunningham Road at 1520, 1540 & 1560 Cunningham Road, Marietta, Georgia 30008; Land Lots 8 & 9, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property") is pleased to present the following information for your consideration. After meeting with planning and zoning staff and various City of Marietta departmental representatives, reviewing the Staff Comments and Recommendations, reviewing the uses of surrounding properties, we are submitting this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property.

The proposed stipulations are as follows:

1. Applicant seeks rezoning of the Subject Property from the existing zoning category of R-2 Residential to the proposed zoning category of PRD-SF per the City of Marietta ("City") ordinances for the construction of Fee Simple Single Family Detached Homes, specific to the original Site Plan prepared by BH&D Engineering, Inc. dated May 11, 2020 and then revised by BH&D Engineering, Inc, revision dated August 12, 2020. A reduced copy of the revised Site Plan from August 12, 2019 is attached hereto as Exhibit "A" and incorporated herein by reference.

2. The Subject Property shall be developed for a residential community consisting of a maximum of fifty-six (56) single family detached homes. The entire site is comprised of 8.782+/- acres and is planned for a total of 56 homes or a maximum density of 6.4 units per acre.

TQM Total Quality Management NAHB

www.venturecommunitiesga.com

Greater Atlanta HomeBuilders Association

3. Applicant agrees the minimum house size for the homes in the proposed development shall be 1,700 square feet of heated and cooled living space. It is anticipated that the typical product constructed will range from 1,850 to 2,450+ square feet of heated and cooled living space.

4. Homes within the proposed community shall be substantially similar in style and architecture to the elevations attached hereto as Exhibit "B except that all homes will be detached and have a minimum 5' between the homes as sideyards (See photos attached on Page 8). All homes will have similar front elevations and shall, as a general rule, use a combination of masonry (i.e. brick, stone or stacked stone or any combination thereof) and stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof. Side and rear elevations may also utilize masonry (i.e. brick, stone, stacked stone or any combination thereof) as well as stucco, cement fiber board & batten, cement lap siding, cement shake or cedar shake shingles or combination thereof.

5. The proposed community shall have public streets to be maintained by the City/County after the community is released to the City upon completion of the Applicant maintenance period. All driveways shall be constructed in such a manner as to minimize parking in fronts of homes and homeowners will be instructed to use designated off-street parking when driveways are full of vehicles. Adequate off-street parking shall be provided in accordance with City standards. All streets and off-street parking shall be constructed and maintained to City Department of Transportation ("City DOT") standards.

6. Applicant agrees to the creation of a mandatory homeowners association ("HOA"). The HOA shall be solely responsible among other things, strict architectural control, the upkeep and maintenance of all front, rear and side yards of all homes, common areas, amenities, and amenity areas; including the entrance areas, pavilion, dog park, Open Space (see Site Plan Exhibit "A"), mail kiosk, boundary buffers, fencing, off-street parking and other items so constructed by the Applicant.

7. Additionally, and in conjunction with the creation of the mandatory HOA, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed community.

8. All homes shall have a minimum of a 2-car garage. Garages shall be primarily used for the parking of vehicles and shall not be converted to other uses. The Applicant shall include this restriction in the covenants to be enforced by the HOA. In addition, the HOA shall be empowered by the covenants to discourage any parking in front of homes (except in designated off-street parking areas) and to encourage, whenever possible, that homeowners park cars in the garage. The HOA shall have authority to issue monetary fines to homeowners for violations of these covenants. It is further understood; the Applicant shall be permitted to utilize the garage of the model home as the sales office for the community, if Applicant so desires. Prior to the issuance of a permanent certificate of occupancy for the model home, the sales office will be converted to garage space.

9. The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents architecturally consistent with the proposed homes.

10. Landscaping of the entrance areas as well as the frontage of the proposed community along all public streets, shall be professionally designed by a registered landscape architect and professionally implemented, which shall include the installation of an irrigation system, where appropriate. Maintenance of the entrance area and public street frontage at the entrance shall be by the mandatory HOA as set forth in the declaration of covenants, easements, and restrictions. All detention ponds shall be professionally landscaped in accordance with any applicable City standards.

11. The submission of a Landscape Plan, designed by a registered landscape architect, during Plan Review process which shall be subject to staff review and approval and which shall include the sodded yards throughout the residential development and irrigated, as necessary.

12. Any streetlights installed within the proposed community will comply with the current City of Marietta Street Lighting Ordinance and shall be environmentally sensitive with down lighting.

13. All utilities servicing the residences within the proposed community shall be underground.

14. Electric and communications transformers, all mechanical and HVAC equipment and all trash and/or garbage receptacles shall be enclosed and/or concealed from view through landscaping or similar measures as long as such efforts toward shielding or concealment do not interfere with utility placement.

15. Applicant agrees the stormwater management facilities and system, hydrology, stormwater management and downstream considerations including, but not limited to, recommendations regarding the shall be constructed and installed consistent with all requirements of the City of Marietta Public Works and the City Engineer.

16. Per the report from Stephen Modica of Gaia Environmental Consulting, LLC dated on January 31, 2020, as reviewed and accepted by the City indicated there are no state waters on this site and therefore no undisturbed state waters' buffers will be necessary as the Applicant proceeds with a land development plan.

17. Compliance with the recommendations from the City of Marietta Public Works Director and the City Engineer with respect to traffic/transportation issues, including the following:

    a. Applicant shall construct decel lanes at both entrances as right-of-way ("ROW") which has been given or can be given by Applicant will allow. It appears as if the 50' taper and perhaps some small piece of the actual decel lane is all that can be built at either entrance at this time. Please reference the traffic study performed by A&R Engineering, Inc. dated August 3, 2020 a copy of which has been given to the City ("Traffic Study").

b. Current Cobb County DOT standards specify that any community in excess of 50 units must have a left turn lane into the community. Per the Traffic Study and in consultation with our civil engineer, Applicant believes there does not exist enough ROW to properly construct the left turn lane into the community at the main entrance or the secondary entrance. Thus, a variance may be necessary regarding both left turn lanes.

18. All setbacks shall be as shown on the referenced Site Plan.

19. Applicant agrees to the installation of interior sidewalks along all interior streets as per the attached Site Plan.

20. Applicant shall construct an open-air pavilion and fire pit with appropriate landscaping for the use and enjoyment of the homeowners. The pavilion shall be constructed per the attached Site Plan adjacent to the Open Space. In addition, a dog park shall be constructed adjacent to the mail kiosk per the attached Site Plan. The pavilion, Open Space and dog park and landscaping associated with these amenities shall be maintained by the HOA.

21. Applicant will need a variance regarding the 25% or 2.2 acres of Open Space per the City ordinance. Currently, the Site Plan has approximately 20% or 1.8 acres of Open Space.

22. All construction vehicles will be parked on-site on the Property at all times. No construction vehicles shall be parked on Cunningham Road or other surrounding streets to the proposed development.

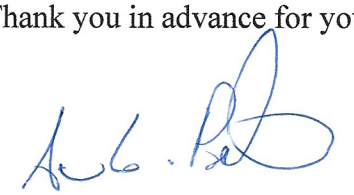
23. Adherence to the following construction hours:

    a. 7:00 a.m. until 7:00 p.m., Monday through Friday, from October 1st to March 31st.
    b. 7:00 a.m. until 8:00 p.m., Monday through Friday, from April 1 to September 30th.
    c. 9:00 a.m. until 6:00 p.m. on Saturdays.
    d. No outside work on Sundays unless approved ahead of time by the City's Director of Development Services.

24. The Director of Development Services shall have the authority to approve minor modifications and revisions as the Development Proposal proceeds through Plan Review process and thereafter, except for those:
    a. Increase the density of the residential community.
    b. Violate the City of Marietta Zoning or Developmental Ordinances and Regulations.
    c. Expressly contravene the existing policies and procedures of the City of Marietta.
    d. Require the granting of a Waiver or a Variance.

We believe the requested zoning, together with the revised Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the area and existing neighborhoods and residents surrounding the proposed development. The proposed residential community shall be a quality development, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole.

Thank you in advance for your consideration of this project.



Sean G. Randall
Venture Communities, LLC
5500 Interstate North Parkway, Suite 150
Sandy Springs, Georgia 30328
Mobile Phone: (770) 616-7515
E-Mail: seanr@totalporpertyadvisors.com

See Attachments

Exhibit "A" Site Plan

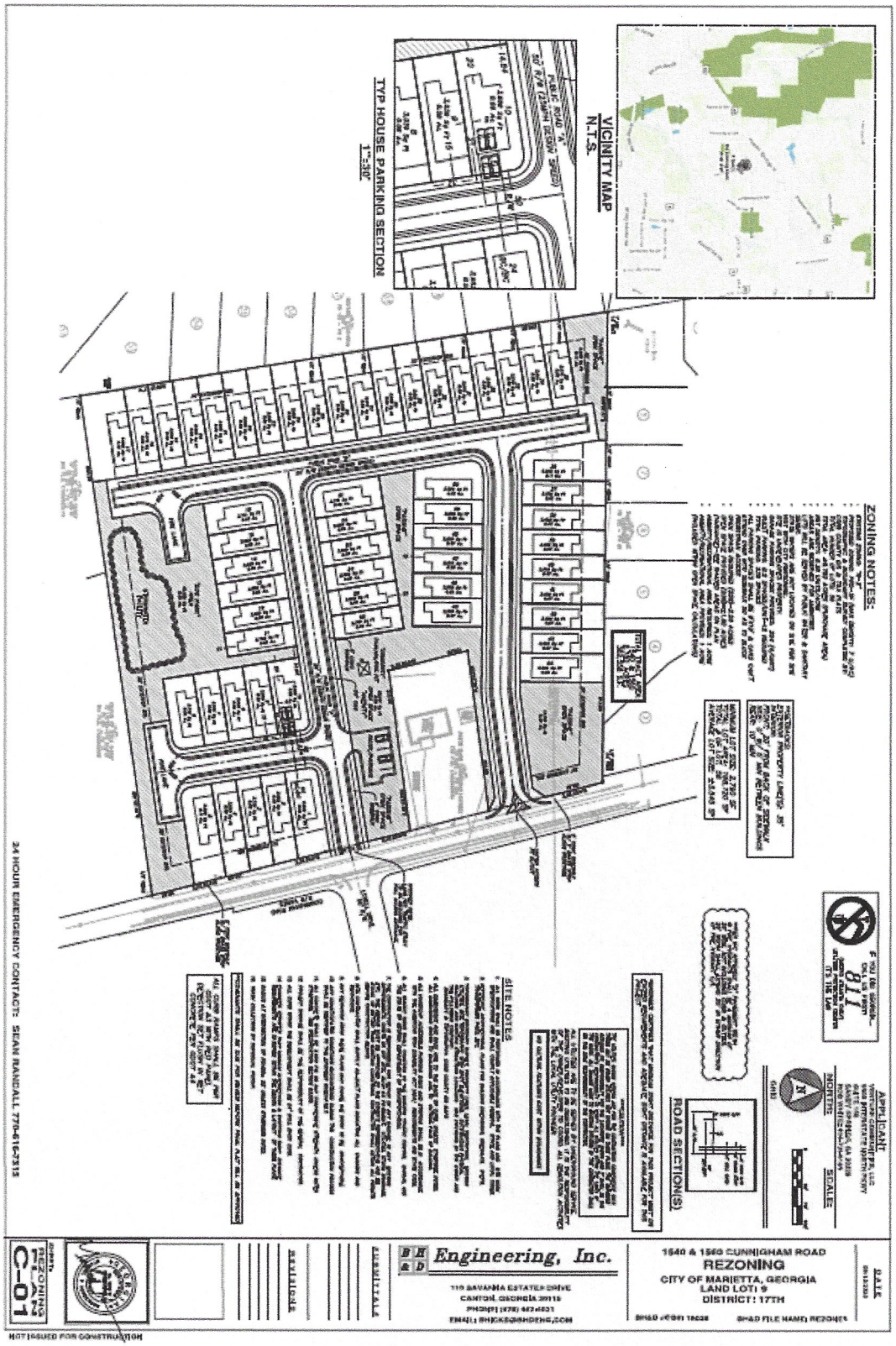
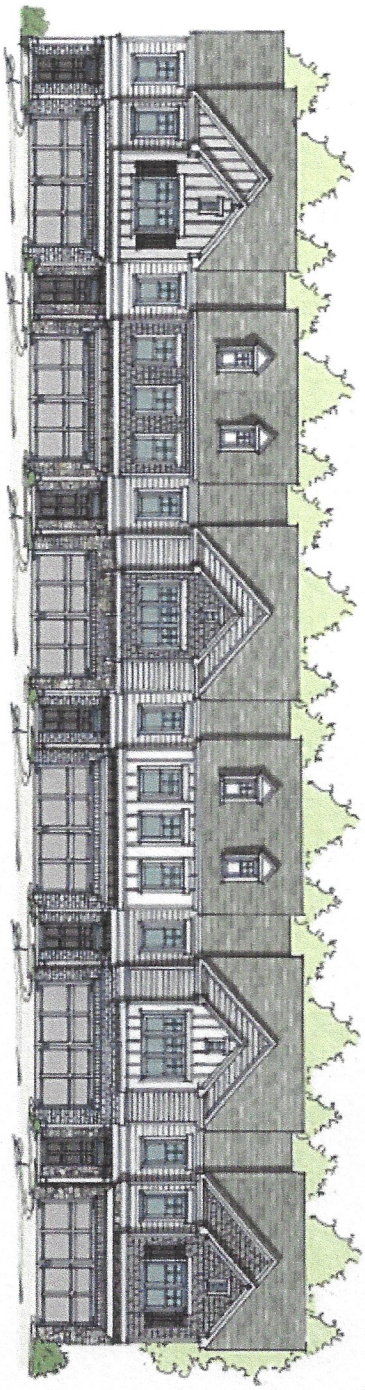


Exhibit "B" Product Front Elevations



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MAIN STREET Designs ESTABLISHED 1999

FRONT ELEVATIONS

CITY OF MARIETTA

VC VENTURE COMMUNITIES

3500 INTERSTATE NORTH PARKWAY
SUITE 80- SANDY SPRINGS, GA. 30328

Other Product Photos from Heritage Ridge (White Circle, City of Marietta)
26' Wide Single Family Detached – See Side/Rear Elevation Treatments by Venture Communities