

**CITY OF SUWANEE
REZONING ANALYSIS**

CASE NUMBER: RZ-2008-001
REQUEST: R-140 (SINGLE FAMILY RESIDENCE DISTRICT) TO R-100 (SINGLE FAMILY RESIDENCE DISTRICT)
LOCATION: 138 TIMBERLOST TRAIL
TAX ID NUMBER: 7-192-056
ACREAGE: 1.38 ACRES
PROPOSED DEVELOPMENT: 2 SINGLE FAMILY LOTS

APPLICANT: JAMES C. MORRIS, JR.
4045 SMITHTOWN ROAD, SUITE A
SUWANEE, GA 30024

OWNER: JAMES C. AND BRENDA MORRIS
138 TIMBERLOST TRAIL
SUWANEE, GA 30024

CONTACT: JIM MORRIS **PHONE:** 770-932-5242

RECOMMENDATION: DENIAL

PROJECT DATA:

The applicant requests a rezoning on 1.38 acres of an approximately 3.464 acre tract from R-140 to R-100 to allow for the creation of an additional residential single family lot. The subject property is located on Timberlost Trail off Smithtown Road. The subject property is currently occupied by an approximately 2,400 square foot home. The applicant proposes to subdivide the property into two lots, one R-140 zoned lot and one R-100 zoned lot. The proposed rezoning would allow for the 250 foot wide lot to meet the minimum lot width requirements for two lots. Driveway access is available onto Timberlost Trail.

The R-140 zoning district requires a minimum lot size of 30,000 square feet with 140 foot wide lots. The proposed R-100 district requires a minimum lot size of 22,000 square feet for a septic tank lot and a minimum lot width of 100 feet. The applicant proposes a single family residence of 2,000 square foot in size for the new lot.

DEVELOPMENT COMMENTS:

The following comments are provided to make the developer aware of certain pertinent issues. This list is not exhaustive of all development issues.

If approved, subdividing the property will require approval from the health department in order to demonstrate compliance with the requirements for a septic tank lot of the applicant will need to extend sewer to the lot subject to the approval of the Gwinnett County Sewer Department.

There are wetlands and floodplain located on the subject property. For R-100 zoned lots, at least 50% of the required lot area is required to be above the Base Flood elevation. For a septic tank lot this would require that at least 11,000 square feet of the new proposed lot would need to be located outside the flood plain.

It appears possible that a portion of the adjacent home is located on the subject property. A plat for the project could not be approved if a house is located on the property line.

ANALYSIS:

The subject property is an approximately 1.38 acre, heavily wooded parcel located along Timberlost Trail. The subject property is located in Timberlost Acres subdivision and is surrounded by single-family residential uses (zone R-140). The property was zoned R-140 in 1983 when the City adopted zoning. The property is located on a local road. There is significant floodplain on the subject property. The applicant will need to demonstrate that there is at least 11,000 square of land outside the floodplain on the proposed R-100 lot. It appears that this is the case. If so, then there is adequate space for an additional residence.

The subject property is located in a low density residential single family area. To the north of the subject property are two lots that front onto Westbrook Road developed with single family residences. They are both zoned R-140 and are 4.5 and 3.8 acres. To the east of the subject property, along Timberlost Trail, is a 5.1 acre lot developed with a single family residence and zoned R-140. To the south of the subject property, across Timberlost Trail, are two single family residential lots developed with homes on 2.69 acres and 2.9 acres. Both lots are zoned R-140. To the west of the subject property is a single family residence zoned R-140 located on a 2.86 acres lot. All of the lots with frontage on Timberlost Trail are zoned R-140 and average 3.39 acres. The only three lots along Timberlost Trail that are less than 2.0 acres are located closest to the entrance to the street off of Smithtown Road. The Character of the street is consistent with the adjacent Leaf Lake Lane and Suwanee Creek Court. The proposed rezoning is not consistent with the character of the surrounding large lot single family lots.

The 2020 Comprehensive Plan anticipates single family residential uses for the subject property. The proposed rezoning does not directly conflict with this recommendation.

During the course of the 2030 Comprehensive planning process significant input was received regarding the preservation of the character of established neighborhoods, such as Smithtown Road. A new Smithtown Road character area is proposed in the 2030 Comprehensive Plan which includes all of Timberlost Trail. In discussing the vision for development in this area, the plan states that "future development in this area should be limited and should reinforce the existing residential and institutional nature that is predominant. The suburban residential character should be maintained. Future lots should not be dramatically different than those in the area at this time." The proposed request is inconsistent with this vision.

The applicant states that he bought the property in 1984. In 1983 the City adopted a Zoning Ordinance and a Zoning Map and the subject property was zoned to R-140. The applicant indicated that when he purchased the property in 1984 he believed the property to be zoned R-100. He indicates that he was not notified when the property was zoned to R-140 when the City adopted zoning in 1983. It should be noted that the applicant was not the property owner when the City adopted zoning. He states that since it was R-100 in Gwinnett County, he believed he would be able to build two homes on the property. The applicant states that the property was purchased to accommodate two home sites originally and denying the zoning request will financially harm the owners by 75 to 100 thousand dollars.

In conclusion, rezoning from R-140 to R-100 for a 1.38 acre portion of a 3.46 acre residential lot would be not appropriate for this area. Those properties zoned R-100 in the area have frontage on a collector street. The surrounding area has been historically zoned R-140 and contains large lots in a rural setting. Subdividing the portion of the tract into a smaller R-100 lot is inconsistent with the future land use plan for the area. Additionally, the 2030 Comprehensive Plan states that "future lots should not be dramatically different than those in the area at this time". Therefore, the Planning Department recommends **DENIAL** of the RZ-2008-001.

Planning Department Recommendation
RZ-2008-001

The Planning Division recommends denial of RZ-2008-001; however, should the Council choose to approve the request the following conditions are recommended:

- 1) The minimum lot size shall be 1.3 acres.
- 2) The minimum heated floor area for any residence shall be 2,000 square feet.
- 3) The minimum setback for a yard abutting a public street shall be 100 feet.
- 4) An HLP and RDP shall be provided prior to the issuance of a building permit.

Standards Governing Exercise of Zoning Power

Pursuant to Section 2006 of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the unrestricted use of property and shall govern the exercise of the zoning power therewith.

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

The zoning proposal will permit a use unsuitable in view of the surrounding development. The surrounding area is characterized by heavily wooded single family residences located on large lot.

- B. Whether the zoning proposal will adversely affect the existing uses or usability of adjacent or nearby property;

The zoning proposal may alter the character of the area.

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

The property has a reasonable economic use as currently zoned.

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

Approval of the request likely would not result in excessive or burdensome use of public facilities.

- E. Whether the zoning proposal is in conformity with the policy and intent of the Land Use Plan;

The City's Future Land Use Plans recommends residential uses for the site. The request is consistent with this designation. Both the existing and proposed zoning are consistent with this designation.

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

The 2030 Comprehensive Plan notes that "future development in this area should be limited and should reinforce the existing residential and institutional nature that is predominant. The suburban residential character should be maintained. Future lots should not be dramatically different than those in the area at this time."

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF CITY OF SUWANEЕ, GEORGIA

APPLICANT INFORMATION*

NAME: James C. Morris, Jr.

ADDRESS: 4045 Smithtown Road, Suite A

Suwanee, Georgia 30024

PHONE: 770/932-5242

CONTACT PERSON: Jim Morris

EMAIL ADDRESS: jim@morris-bryson.com

OWNER INFORMATION*

NAME: James C., Jr. and Brenda Morris

ADDRESS: 138 Timberlost Trail

Suwanee, Georgia 30024

PHONE: 770/945-6939

PHONE: 770/932-5242

FAX NUMBER: 770/932-2352

PROPERTY INFORMATION

PRESENT ZONING DISTRICT(S): R140 REQUESTED ZONING DISTRICT: R140/R100

PROPOSED DEVELOPMENT: Separate 100 feet (1.0 acre) to R100 (Area See Exhibit 1)

TAX PARCEL NUMBER(S): R7192 056 (Gwinnett County)

ADDRESS OF PROPERTY: 138 Timberlost Trail, Suwanee, Georgia 30024

TOTAL ACREAGE: 3.464 PUBLIC ROADWAY ACCESS: Timberlost Trail

FOR RESIDENTIAL DEVELOPMENT:

FOR NON-RESIDENTIAL DEVELOPMENT:

NO. OF LOTS/DWELLING UNITS: 2 DWELLING

NO. OF BUILDINGS/UNITS: _____

UNIT SIZE (SQ. FT.): N/A

TOTAL GROSS SQUARE FEET: _____

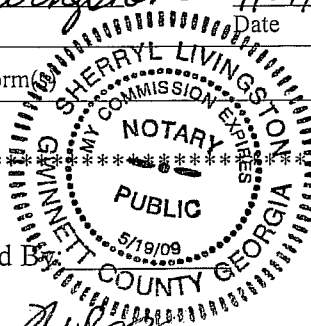
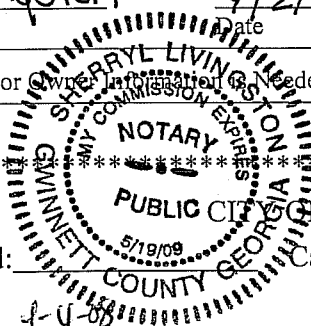
CERTIFICATIONS

I hereby certify that the above and attached information is true and correct. I am also aware that pursuant to Section 2004 no reapplication on the same land which has been denied by the City Council shall be acted upon within 12 months from the date of last action unless said time period is waived by the Council. In no case shall a reapplication be acted upon in less than 6 months from the date of last action by the Council. I am also aware that pursuant to Section 2003 of the Zoning Ordinance any and all conditions which may be attached to the property shall be binding on the property and all subsequent owners.

James C. Morris, Jr. 4/2/08
 Signature of Applicant* Date
James C. Morris, Jr.
 Print Name*
Sherryl Livingston 4/2/08
 Signature of Notary Date

James C. Jr. and Brenda Morris 4/4/08
 Signature of Owner* Date
James C. Jr. and Brenda Morris
 Print Name*
Sherryl Livingston 4/04/08
 Signature of Notary Date

* If Additional Applicant or Owner Information is Needed Please Complete Additional Application Form



Date Received: _____ Case No.: 02-208-001

Accepted By: [Signature]



MORRIS & BRYSON, LLC

4045 SMITHTOWN ROAD, SUITE A
SUWANEE, GEORGIA 30024

JAMES C. MORRIS, JR., ESQ.
Attorney at Law
Certified Public Accountant
Certified Specialist in Estate Planning

TEL: (770) 932-5242
FAX: (770) 932-2352
jim@morris-bryson.com
www.morris-bryson.com

April 8, 2008

Rezoning Board
City of Suwanee
Suwanee, Georgia 30024

**RE: LETTER OF INTENT
RZ-2008-001**

To Whom It May Concern:

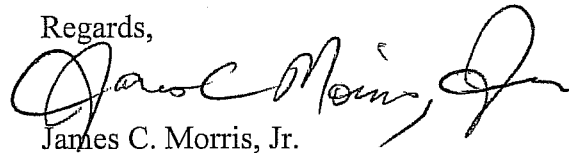
The purpose of this letter of intent is to state the applicant's desire and rationale for requesting the rezoning of part of his property, as well as, stipulating what the resulting property would be appropriately used for. First, the resulting property would be taking the applicant's 3.4664 acres of property, which is currently zoned R-140 and dividing it into two tracks with the applicant's primary residence remaining on part of the property that would still qualify for the R-140 zoning. The rezoned piece of property being requested for the R-100 classification would be offered for sale for the purpose of a single family residence. As shown in the application for rezoning, the size of the rezoned parcel of land is 1.3878 acres (60,451 sq. ft.). As previously stated, this request is to produce one additional residential lot qualified under the R-100 zoning criteria that would support one single family dwelling unit. The size of the home would be approximately 2000 ft.² based on other homes in the area, and therefore, the issue of the number of parking spaces, as well as the height of the home itself is not addressed in this letter of intent since those issues are moot since that would be governed by the building codes.

In summation, the reason the applicant is requesting this rezoning is to be able to maximize the return on investment of his primary residence. Further, at the time that the property was originally purchased the applicant believed that he would be able to build two homes under the existing code structure without any involvement of the political authorities. This

is especially true with the zoning being R-100 by the County of Gwinnett prior to the annexation by the city of Suwanee. This belief was reasonable by the applicant, even though the R-140 zoning occurred in the year just prior to the applicant's purchase of the property. Finally, based on the city's need for additional tax basis and additional residential properties as stated in The Suwanee Town Master Plan, this rezoning request is mutually beneficial for both the applicant and the city.

Your kind consideration of this request is much appreciated.

Regards,

A handwritten signature in black ink, appearing to read "James C. Morris, Jr.", written in a cursive style.

James C. Morris, Jr.

REZONING APPLICANT'S RESPONSE
STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

Pursuant to section 2006 of the 1998 Zoning Ordinance, the city council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

Please respond to the following standards in the space provided or use an attachment as necessary:

- (A) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property:

Absolutely, since taking residential property and separating into 2 tracts. One tract will have the existing home and driveway, etc. and the new tract will meet all the standards for the R100 zoning being requested. (See attached Survey and Warranty Deed)

- (B) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

Should not impact any neighboring property except during potential construction period. Further, the R100 zoning requested is consistent with Gwinnett County's zoning of the property prior to Suwanee's annexation of same one year prior to applicant's purchase. See Exhibit 1. marked item.) Why and what rationale caused the change to a lower density area is puzzling to the applicant.

- (C) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

Property was purchased to accommodate two home-sites originally and without allowing the rezoning requested will financially harm the owners by 75 to 100 thousand dollars after expenses of this rezoning application.

- (D) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools:

Again, with only increasing one home-site on a street that cul-de-sacs, there should be little if any adverse effect on existing roads, schools, etc. Further this should allow an increase in the city's tax base with an additional home, once built.

- (E) Whether the zoning proposal is in conformity with the policy and intent of the land use plan:

It should be in conformity with the comprehensive land use plan and continue to augment the purpose of that plan. In fact, see * marked on page 10 - 12 and this should help lessen the problem noted on the aforementioned page.

- (F) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal:

With the need for individuals to receive reasonable returns on their investments, rezoning approval is appropriate. Further, approval will provide additional funds to the city's tax base and result in a positive cash flow for the future.

CITY OF SUWANEE USE ONLY

Date Received: 11-24-08

Case No.: 12-2008-001

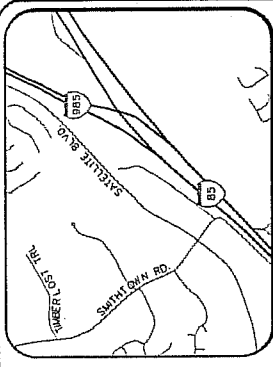
Accepted By: [Signature]

PARCEL SEPARATION FOR
 JAMES C. MORRIS
 LOCATED IN
 LAND LOT 192
 DISTRICT
 WINNETT COUNTY, GEORGIA

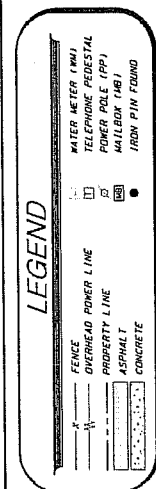
NO.	REVISION	DATE
1	AS SURVEYED	03/18/08
2	APPROVED BY	03/18/08
3	DRAWN BY	03/18/08
4	DATE	03/18/08

TerraMark
 Professional Land Surveying
 1328 Bark Ferry Road
 Marietta, Georgia 30066
 Phone No. (770) 421-5527
 Fax No. (770) 421-5552

SHEET NO.
 1
 TOTAL SHEETS 1



LOCATION MAP
 NOT TO SCALE



SURVEY NOTES

A TRIPLET 202 TOTAL STATION WAS USED TO OBTAIN ANGULAR MEASUREMENTS AND DISTANCE MEASUREMENTS.

CLOSURE STATEMENT:
 THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS ACCURATE WITHIN ONE FOOT IN 275,255 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAD A CLOSURE OF ONE FOOT ADJUSTED USING THE COMPASS RULE.

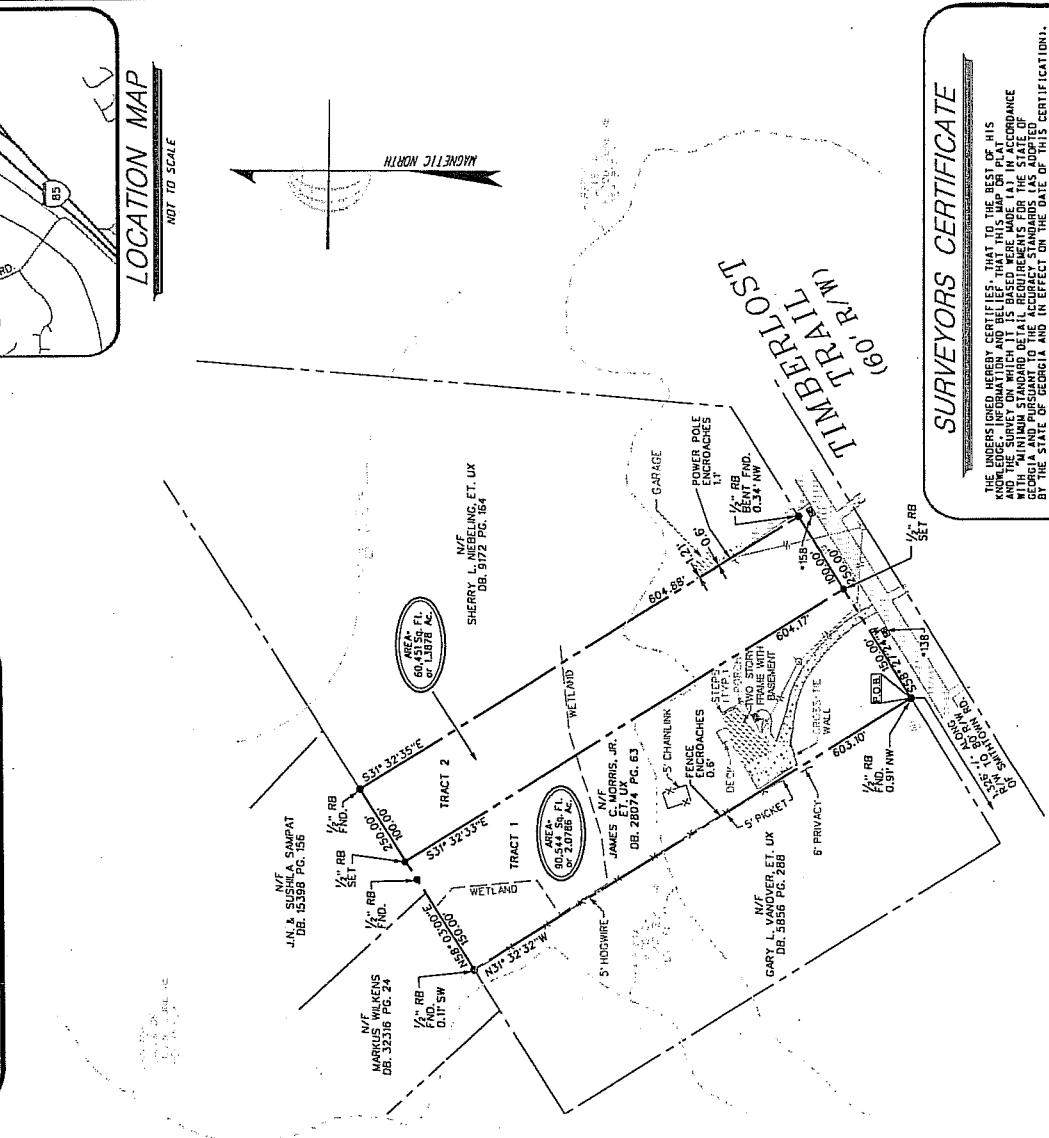
THE BEARING SURVEY ON THIS SURVEY ARE COMPUTED ANGLES BASED ON A MAGNETIC BEARING.

INFORMATION REGARDING THE REQUIRED PRESENCE, SIZE, CHARACTER, AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THE METHOD EMPLOYED IN THIS SURVEY IS THAT OF THE PLAT AND THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN BEING UNDETERMINED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, HIS CONTRACTORS, AND/OR HIS AGENTS SHALL HEREBY DISTINGUISH UNDERSTANDING AND INFORMATION SHOWN HEREON AS TO SUCH UNDERGROUND INFORMATION.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS OR ENTITY WITHOUT THE EXPRESS CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY.

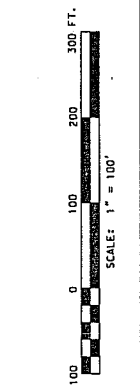
TERRAMARK LAND SURVEYING, INC. DOES NOT WARRANT THE EXISTENCE OR NON-EXISTENCE OF ANY WETLANDS OR HAZARDOUS WASTE IN THE SURVEY AREA.

FIELD WORK FOR THIS PROPERTY WAS COMPLETED ON MARCH 14, 2008



SURVEYORS CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES, THAT TO THE BEST OF HIS KNOWLEDGE, INFORMATION AND BELIEF, THAT THIS MAP OR PLAT IS ACCURATE AND CORRECTLY REPRESENTS THE TRACTS OF LAND DESCRIBED HEREON AND THAT THE SURVEYOR HAS BEEN DULY LICENSED AND REGISTERED BY THE STATE OF GEORGIA AND PURSUANT TO THE ACCURACY STANDARDS HAS ADOPTED BY THE STATE OF GEORGIA AND IN EFFECT ON THE DATE OF THIS CERTIFICATION.



TITLE NOTES

TITLE NOTES:
 THE "TRAIL" FLOOD INSURANCE RATE MAP OF WINNETT COUNTY, GEORGIA, PARCEL NUMBER 131356-0033 DATED SEPTEMBER 29, 2006, A PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD AREA AND IS SHOWN GRAPHICALLY ON THE SURVEY.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH COULD REVEAL ENCUMBRANCES NOT SHOWN ON THIS SURVEY.

SUBJECT PROPERTY HAS ACCESS TO RIGHT OF WAY OF TIMBERLOST TRAIL.

REFERENCE MATERIAL

- FLOOD INSURANCE RATE MAP OF WINNETT COUNTY PARCEL NUMBER 131356-0033 DATED SEPTEMBER 29, 2006
- WARRANTY DEED TO JAMES C. MORRIS, JR. RECORDED IN DB. 28074 PG. 63
- WARRANTY DEED TO GARY L. VANOVER RECORDED IN DB. 5656 PG. 289
- WARRANTY DEED TO SHERREY L. NIEBELING RECORDED IN DB. 9172 PG. 164

WILLIAM C. MORRIS, JR., RLS
 REGISTERED NUMBER: 2577

City of Suwanee

CROSSROADS of PAST and FUTURE







CITY OF
Suwanee
G E O R G I A

RZ-2008-001

Location Map

Legend

-  RZ-2008-001
-  Streams
-  Streets
-  City Limits

