CONDITIONAL USE PERMIT APPLICATION

Planning & Zoning

2635 Talley Street Decatur, GA 30030 Phone 404-377-6198 Fax 404-378-5054



Before submitting this application, you must schedule a pre-application conference with the Zoning Administrator to discuss the procedures, standards and regulations required for approval. Attach a plat of the property drawn to scale and showing property lines, locations and heights of existing and proposed buildings and other structures, locations of all driveways and parking/loading areas, a north arrow, and any other information required to demonstrate conformance with the standards for the specific conditional use requested. Please provide one to-scale copy of all plans, as well as one copy of all plans in an $8\frac{1}{2}$ ° x 11° format. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner.

Address of property 1119, 1123 and 1121 Clairmont Road	Decatur, GA 30030
Name of applicant Emory Heights, LLC c/o Anamaria Hazai	Phone 404-527-4907
Address 303 Peachtree Street Suite 5300	City/state/ZIP Alpharetta, GA 30005
Email anamaria.hazard@dentons.com	
Name of property owner Emory Heights, LLC	Phone 404-527-4907
Address 3460 Preston Ridge Road, Suite 150	City/state/ZIP Alpharetta, GA 30005
☐ Major amendment to existing conditional use permit	✓ New conditional use permit request
Existing zoning R-60 (Decatur), OI (DeKalb), R-75 (DeKalb	Use requested office
0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
Please answer all of the following questions on a separate sheet.	
1. How would the proposed use be suitable in view of the use ar	
2. How is the proposed use consistent with existing zoning requi	
3. What adverse affects does the proposed use have on the existi	
4. To what extent will or could the proposed use cause an excess transportation facilities, utilities or other public facilities?	
5. Describe how the proposed ingress and egress to the subject paraffic impact of the proposed use relative to street capacity and	property is adequate. Include an evaluation of the addition of the safety of public streets and nearby pedestrian uses.
6. What impact will the proposed use have on established proper comfort and general welfare of the residents of the City?	
·····	
I hereby certify that the above and attached statements and documents are true	e to the best of my knowledge and belief.
Applicant signature	Date 2/17/2023
For personal care home, assisted living facility and nursing home applications, corresponding permit or authorization for the operation of the facility from the with its rules and regulations. I also certify that the proposed facility will meet an laws and regulations and with all codes and regulations of the City.	State of Georgia Department of Community Hoolth in accordance
Applicant signature	Date

PROJECT SUMMARY AND APPLICATION RESPONSE

for

ANNEXATION, REZONING AND LAND USE AMENDMENT FROM DEKALB
COUNTY R-75 AND OI, LAND USE TC AND CITY OF DECATUR R-60, LAND USE
RL TO CITY OF DECATUR OSI, LAND USE C, CONDITIONAL USE PERMIT FOR
OFFICE USE, AND LOT CONSOLIDATION

for ±1.09 acres of land known as

1119, 1123 and 1121 Clairmont Road

Land Lot 5 & 51, 18th District Dekalb County, Georgia

Submitted on behalf of **EMORY HEIGHTS, LLC**

by
Anamaria Hazard, Esq.

Dentons US LLP

303 Peachtree Street, N.E.
Suite 5300
Atlanta, Georgia 30308
404.527.4907
anamaria.hazard@dentons.com

INTRODUCTION

These Applications for Annexation, Rezoning, Conditional Use Permit and Lot Consolidation (collectively "Applications") are submitted for three parcels totaling 1.09 acres located in Land Lots 5 & 51 of the 18th District of Dekalb County, Georgia known as 1119, 1121, and 1123 Clairmont Road ("Property"). The Property is shown on the survey prepared by metro Engineering & Surveying Co., Inc. dated January 08, 2018 and filed with this Application.

The Property is currently in both unincorporated Dekalb County and City of Decatur and zoned Dekalb County OI and R-75, land use TC, and City of Decatur R-60, land use RL. The Applicant, Emory Heights, LLC, ("Applicant"), now seeks approval to annex the unincorporated parcels into the City of Decatur, amend the land use to C, rezone the Property to OSI, obtain a conditional use permit to permit an office use and consolidate all three lots for better access and parking to service the Property. This document is submitted as the project summary and application response.

DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property fronts on Clairmont Road, and is on the corner of Clairmont Road and Clairmont Run. There is an existing single family residential structure on the City of Decatur parcel (1119 Clairmont) but it is unoccupied. 1121 Clairmont is a small triangular parcel with no street access. 1123 Clairmont also a single family residential structure that has been converted and is currently being used as an office. Nearby properties are zoned Dekalb County OI, MR-2 and OD and City of Decatur I, RS-17 and R-60.

PROJECT SUMMARY

As shown on the conceptual site plan prepared by filed with this application (the "Site Plan"), Applicant proposes to develop the Property as an office campus. All three parcels would be consolidated to allow for connection between the sites and surface parking behind the existing structures. The existing structures would not be enlarged and no significant work will be done to the exterior of the building. 1119 Clairmont would be converted to extend the Humanly operation that is currently existing at 1123 Clairmont. Humanly is a private office and co-working space specifically for mental health therapists and other wellness professionals. There are two locations in the greater Atlanta area including the one currently in existence at 1123 Clairmont. 1119 Clairmont would carry the same look and feel as the adjacent 1123 Clairmont building. Both buildings will be quiet, professional office space which will fit well with and add to the surrounding community.

APPLICANT RESPONSE STATEMENT: CONDITIONAL USE PERMIT

1. How would the proposed use be suitable in view of the use and development of adjacent and nearby property?

The adjacent and nearby properties have office, industrial and medium density residential uses. The requested office use is compatible with the current uses on the properties and fits well withing the surrounding properties. The existing buildings will not be expanded and the parking will be reconstructed to allow for better internal flow and accommodate more off street parking.

2. How is the proposed use consistent with the existing zoning requirements?

A companion rezoning application to PO has been submitted along with this conditional use application. The proposed use is allowed and consistent with the PO zoning and will meet all of the requirements of the PO zoning.

3. What adverse effects does the proposed use have on the existing use or usability of adjacent or nearby property?

The proposed amendment will not have any adverse effects on the existing use or usability of adjacent or nearby property.

4. To what extent will or could the proposed use cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

The proposed amendment will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. 1123 is already being used as office space and the use across the street is used as a gym facility, so the existing streets and facilities will be able to support the proposed use since it less intensive or as intensive and many of the existing uses.

5. Describe how the proposed ingress and egress to the subject property is adequate. Include an evaluation of the traffic impact of the proposed use relative to street capacity and safety of public street and nearby pedestrian uses?

There will be one point of ingress and one point of egress for the entire site which will help with internal traffic flow and avoid any issues on the surrounding streets. This use should not overflow the existing street capacity at all.

6. What impact will the proposed use have on established property values and on the public health, safety, morality, comfort and general welfare of the residents of the City?

Ideally these properties are combined to create a campus where mental health and wellness practitioners can serve their clients. This will be of great value to the community, especially given

the current focus on mental health and wellness. The conditional use permit is needed to achieve this goal because it a requirement for the use under the PO zoning district.

CONSTITUTIONAL OBJECTIONS

The Applicant respectfully submits that the Unified Development Ordinance of the City of Decatur, Georgia, as amended from time to time and known as the "UDO" to the extent that it classifies the Property in any zoning district that would preclude development of a medical office, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the UDO deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the City Commission to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

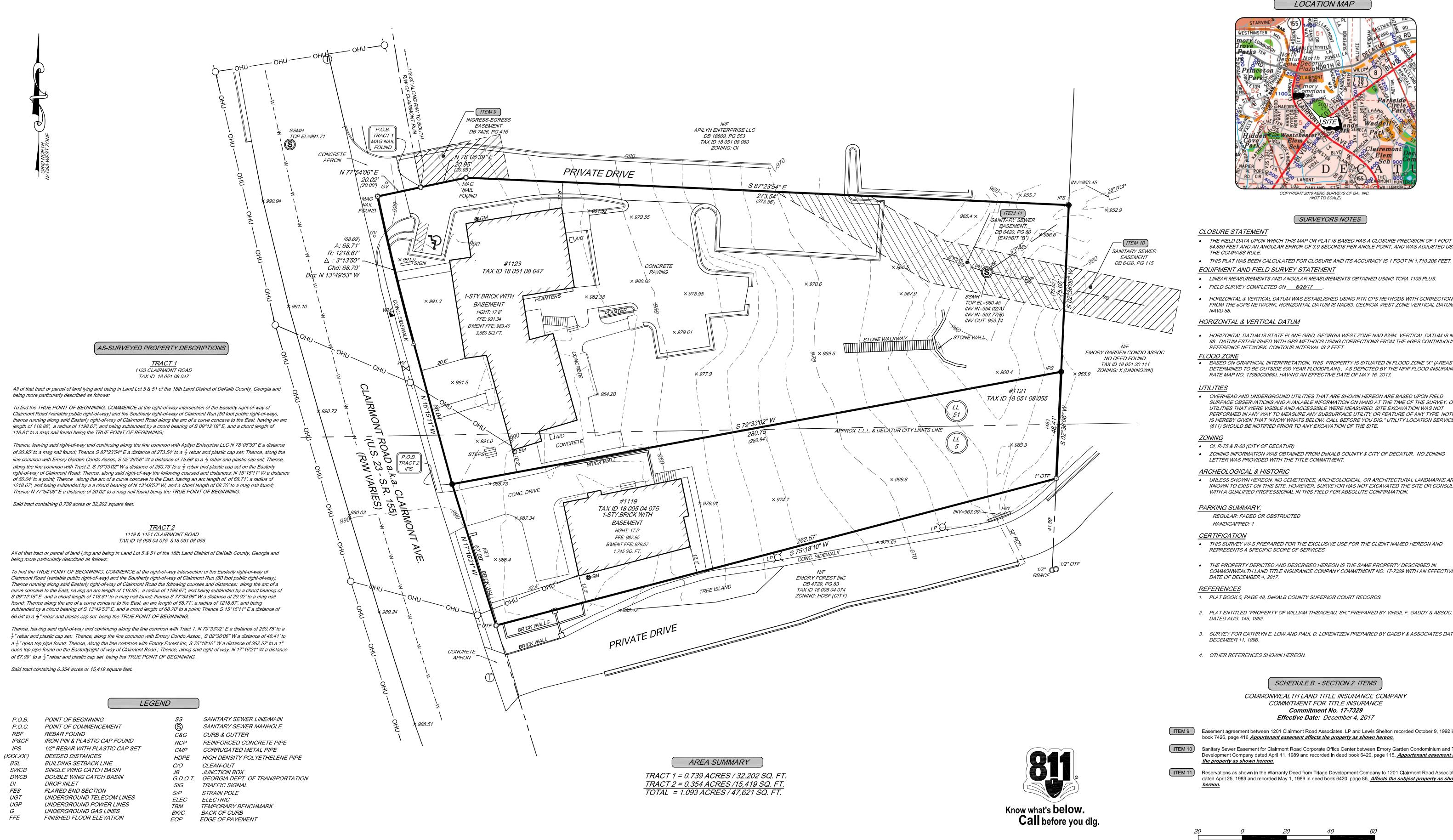
Accordingly, Applicant submits that the current zoning classifications and any other zoning of the Property save for what has been requested as established in the UDO constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested zoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

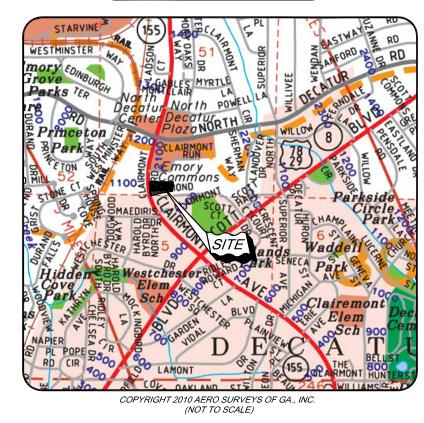
Finally, the Applicant respectfully submits that the City Commission cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount

to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See <u>Guhl vs. Holcomb Bridge</u> Road Corp., 238 Ga. 322 (1977).



LOCATION MAP



SURVEYORS NOTES

CLOSURE STATEMENT

• THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF 1 FOOT IN 54,880 FEET AND AN ANGULAR ERROR OF 3.9 SECONDS PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE.

EQUIPMENT AND FIELD SURVEY STATEMENT

- LINEAR MEASUREMENTS AND ANGULAR MEASUREMENTS OBTAINED USING TCRA 1105 PLUS. • FIELD SURVEY COMPLETED ON 6/28/17
- HORIZONTAL & VERTICAL DATUM WAS ESTABLISHED USING RTK GPS METHODS WITH CORRECTIONS FROM THE eGPS NETWORK. HORIZONTAL DATUM IS NAD83, GEORGIA WEST ZONE VERTICAL DATUM IS

HORIZONTAL & VERTICAL DATUM

• HORIZONTAL DATUM IS STATE PLANE GRID, GEORGIA WEST ZONE NAD 83/94. VERTICAL DATUM IS NAVD 88 . DATUM ESTABLISHED WITH GPS METHODS USING CORRECTIONS FROM THE eGPS CONTINUOUS REFERENCE NETWORK. CONTOUR INTERVAL IS 2 FEET.

BASED ON GRAPHICAL INTERPRETATION, THIS PROPERTY IS SITUATED IN FLOOD ZONE "X" (AREAS DETERMINED TO BE OUTSIDE 500 YEAR FLOODPLAIN), AS DEPICTED BY THE NFIP FLOOD INSURANCE RATE MAP NO. 13089C0066J, HAVING AN EFFECTIVE DATE OF MAY 16, 2013.

 OVERHEAD AND UNDERGROUND UTILITIES THAT ARE SHOWN HEREON ARE BASED UPON FIELD SURFACE OBSERVATIONS AND AVAILABLE INFORMATION ON HAND AT THE TIME OF THE SURVEY. ONLY UTILITIES THAT WERE VISIBLE AND ACCESSIBLE WERE MEASURED. SITE EXCAVATION WAS NOT PERFORMED IN ANY WAY TO MEASURE ANY SUBSURFACE UTILITY OR FEATURE OF ANY TYPE. NOTICE IS HEREBY GIVEN THAT "KNOW WHATS BELOW. CALL BEFORE YOU DIG." UTILITY LOCATION SERVICE (811) SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION OF THE SITE.

• OI, R-75 & R-60 (CITY OF DECATUR)

 ZONING INFORMATION WAS OBTAINED FROM DEKALB COUNTY & CITY OF DECATUR. NO ZONING LETTER WAS PROVIDED WITH THE TITLE COMMITMENT.

ARCHEOLOGICAL & HISTORIC

• UNLESS SHOWN HEREON, NO CEMETERIES, ARCHEOLOGICAL, OR ARCHITECTURAL LANDMARKS ARE KNOWN TO EXIST ON THIS SITE. HOWEVER, SURVEYOR HAS NOT EXCAVATED THE SITE OR CONSULTED WITH A QUALIFIED PROFESSIONAL IN THIS FIELD FOR ABSOLUTE CONFIRMATION.

PARKING SUMMARY:

HANDICAPPED: 1 **CERTIFICATION**

• THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE FOR THE CLIENT NAMED HEREON AND

REPRESENTS A SPECIFIC SCOPE OF SERVICES.

 THE PROPERTY DEPICTED AND DESCRIBED HEREON IS THE SAME PROPERTY DESCRIBED IN COMMONWEALTH LAND TITLE INSURANCE COMPANY COMMITMENT NO. 17-7329 WITH AN EFFECTIVE DATE OF DECEMBER 4, 2017.

REFERENCES

1. PLAT BOOK 5, PAGE 48, DeKALB COUNTY SUPERIOR COURT RECORDS.

- 2. PLAT ENTITLED "PROPERTY OF WILLIAM THIBADEAU, SR." PREPARED BY VIRGIL F. GADDY & ASSOC. DATED AUG. 145, 1992.
- 3. SURVEY FOR CATHRYN E. LOW AND PAUL D. LORENTZEN PREPARED BY GADDY & ASSOCIATES DATED
- 4. OTHER REFERENCES SHOWN HEREON.

SCHEDULE B - SECTION 2 ITEMS COMMONWEALTH LAND TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE Commitment No. 17-7329

Effective Date: December 4, 2017

ITEM 9 Easement agreement between 1201 Clairmont Road Associates, LP and Lewis Shelton recorded October 9, 1992 in deed book 7426, page 416 Appurtenant easement affects the property as shown hereon.



Sanitary Sewer Easement for Clairmont Road Corporate Office Center between Emory Garden Condominium and Triage Development Company dated April 11, 1989 and recorded in deed book 6420, page 115. Appurtenant easement affects the property as shown hereon.



Reservations as shown in the Warranty Deed from Triage Development Company to 1201 Clairmont Road Associates, LP dated April 25, 1989 and recorded May 1, 1989 in deed book 6420, page 86. Affects the subject property as shown



ALTA/NSPS LAND TITLE & TOPOGRAPHIC SURVEY

1119, 1121 & 1123 CLAIRMONT ROAD DECATUR, GA

STEIN INVESTMENT CO., LLC

PREPARED FOR

PROPERTY INFORMATION	
LAND LOTS: 5 & 51	
DISTRICT: 18TH	
SECTION: N/A	
COUNTY: DeKALB	
STATE: GEORGIA	
CITY: DECATUR (PORTION)	

DRAWING INFOR	MATION
DATE: 01/08/18	REVISIONS
SCALE: 1" = 20'	
DWN: JRG	
CHCK: JCS	
JOB No.: 14131	
FILE: 14131-ALTA-0	

ALTA / NSPS CERTIFICATION

To: Stein Investment Co., LLC & Commonwealth Land Title Insurance Company:

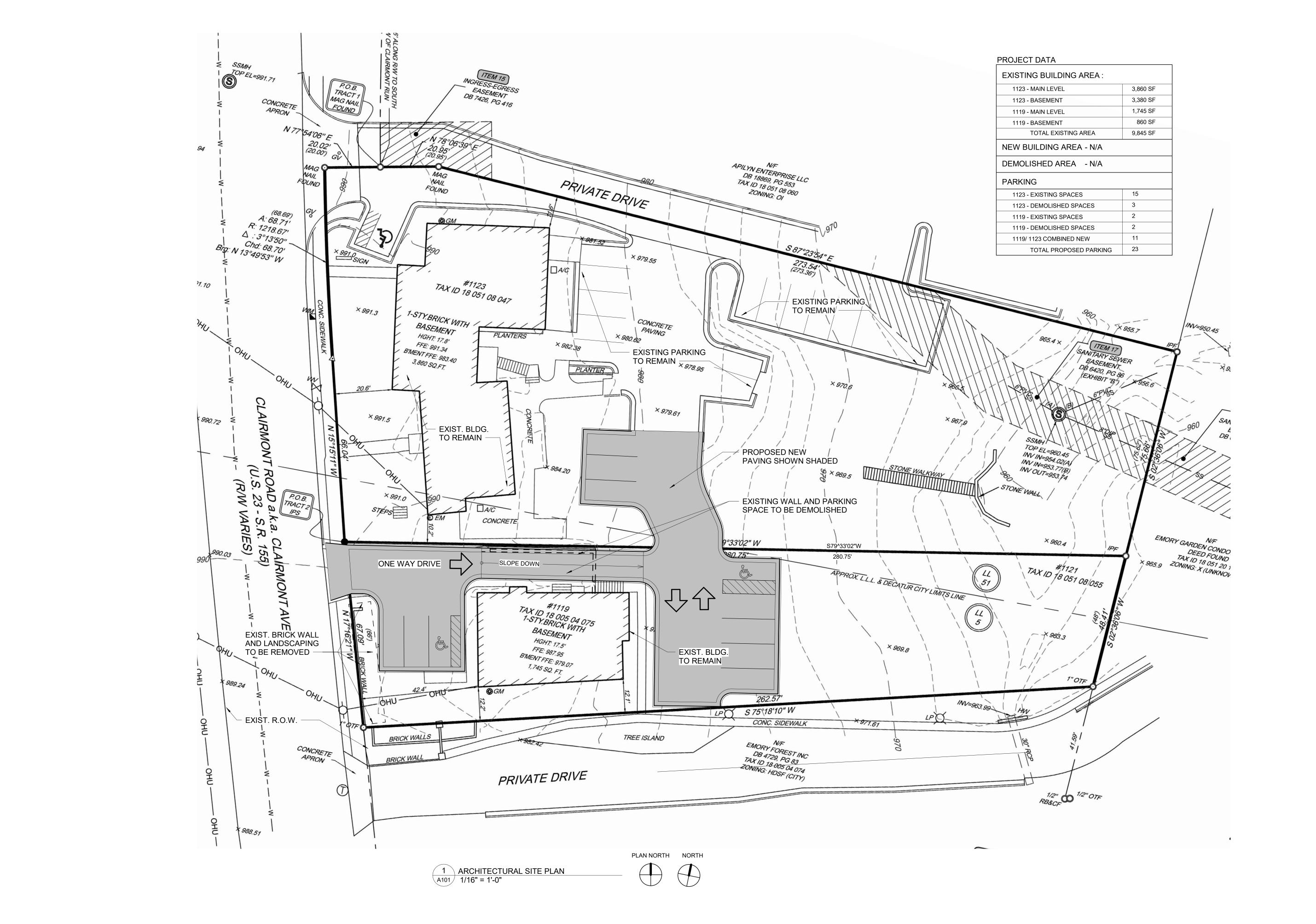
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1-5, 6(b), 7(a), 8, 9,11, 13, 16, 17 and 19 of Table A thereof. The field work was completed on 6/28/17.





www.metro-engineering.com





brian frentress, architect, LLC

204 kings highway decatur, georgia 30030 tel. 404.216.0515 brian@urban-archaeology.net

consultant:

AVENUE 30030

ZONING APPLICATION 2/14/23

seal:

ARCHITECTURAL SITE PLAN

sheet no:

A101



EXISTING WINDOWS TO BE REPLACED

NEW WINDOW IN NEW OPENING

- EXISTING WALL & RAISED PARKING TO BE REMOVED NEW DOOR IN EXIST.
 OPENING W/ NEW

EXISTING WINDOWS TO BE REPLACED



NEW FLASHINGS AT EXISTING CHIMNEY REPLACE GUTTERS & DOWNSPOUTS. REPAIR DAMAGED FASCIA & SOFFIT

- NEW WINDOWS IN EXISTING OPENINGS

- NEW WINDOW IN EXIST. DOOR OPENING

EXISTING WALL, RAILING AND RAISED CONC.
 PLATFORM TO BE REMOVED



NEW ROOF - REPAIR EXISTING DAMAGED SHEATHING AND TRIM

- NEW GUTTERS AND DOWNSPOUTS

REPLACE LIGHT **FIXTURES**

NEW WINDOWS IN NEW OPENINGS

NEW DOOR AND ENTRY CANOPY

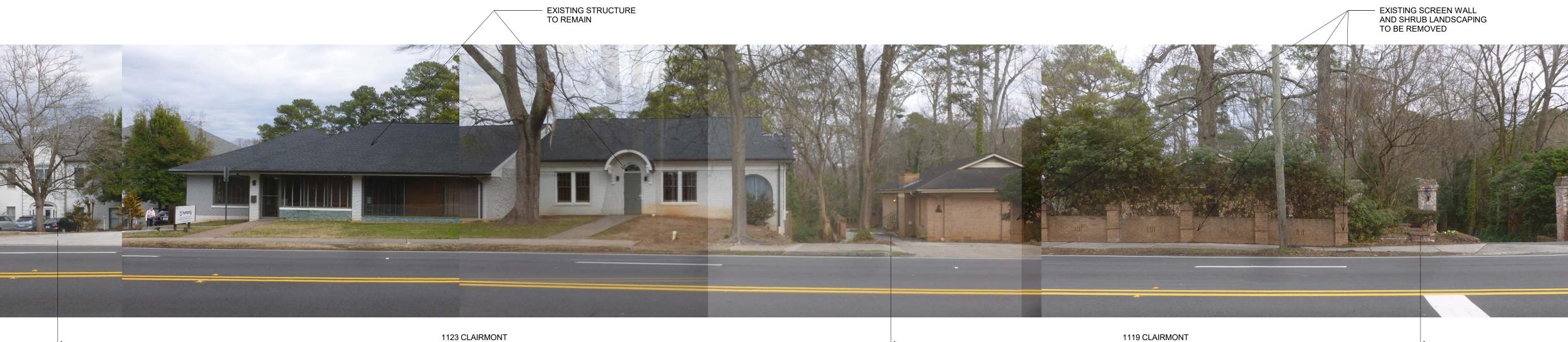
- EXISTING DRIVE/ PARKING TO BE RE-CONFIGURED



NORTH ELEVATION 1119 CLAIRMONT

A102 / NOT TO SCALE





A102 / NOT TO SCALE

STREET WIEW - WEST

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consultant:

ZONING APPLICATION 02/14/23

EXISTING CONDITIONS

sheet no: