

LAND USE PLAN AMENDMENT APPLICATION

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



Please attach a map showing the area for which the amendment is proposed and all immediately adjacent land uses. If there is more than one owner besides the applicant, please list on a separate page.

Address(es) of property 1119, 1123 and 1121 Clairmont Road Decatur, GA 30030

Existing land use category Dekalb (TC), Decatur (RL) Proposed land use category C

Name of applicant Anamaria Hazard on behalf of Emory He Phone 404-527-4907

Address 1119, 1123 and 1121 Clairmont Road City/state/ZIP Atlanta, GA 30339

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

Reason(s) for proposed amendment To combine lots for a private office and co-working space specifically for mental health therapists and other wellness professionals.

mental health therapists and other wellness professionals.

List of all permitted land uses for the subject area under the existing Comprehensive Land Use Plan _____

single family residential

single family residential

.....
Please answer all of the following questions on a separate sheet.

1. How would the uses permitted under the proposed land use category be suitable in view of the use and development of adjacent and nearby property?
2. What adverse affects does the proposed amendment have on the existing use or usability of adjacent or nearby property?
3. To what extent will the proposed amendment result in uses which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?
4. Are there other existing or changing conditions affecting the use and development of the property which, because of their impact on the public health, safety, morality and general welfare of the community, give supporting grounds for either approval or disapproval of the proposed amendment?

.....
I hereby certify that the above and attached statements and documents are true to the best of my knowledge and belief.

Applicant signature  Date 02/07/2023

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: REZONING AND LAND USE AMENDMENT

The Applicant provides the following information in response to the required analysis:

1. *How would the uses permitted under the proposed land use category be suitable in view of the use and development of adjacent and nearby property?*

The adjacent and nearby properties have land use designations of office, industrial or medium density. The requested land use is compatible with the current uses on the properties and fits well with the surrounding land uses.

2. *What adverse effects does the proposed amendment 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.

3. *To what extent will the proposed amendment result in uses which will or could 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 is less intensive or as intensive as many of the existing uses.

4. *Are there other existing or changing conditions affecting the use and development of the property which, because of their impact on the public health, safety, morality and general welfare of the community, give supporting grounds for either approval or disapproval of the proposed amendment?*

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. This amendment is needed to achieve this goal because currently these are three separate parcels, in two different jurisdictions with three different land use and zoning designations. This proposal will allow for all of the parcels to be combined and have the same land use and zoning and will also allow for access and parking across the two buildings.

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.

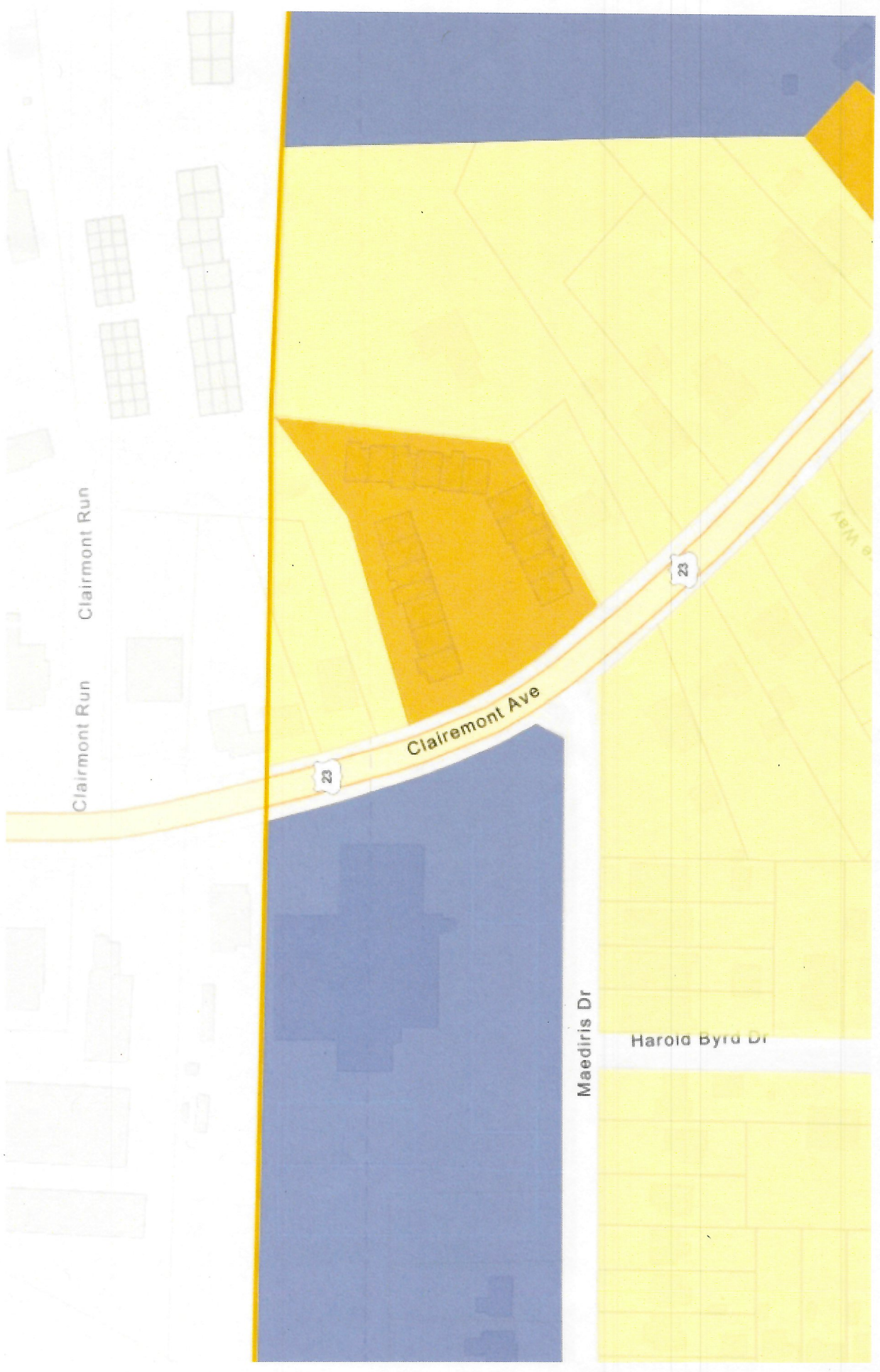
Accordingly, Applicant submits that the current zoning classifications and any other zoning of the Property save for what has been requested as established in the UDO constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public 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.

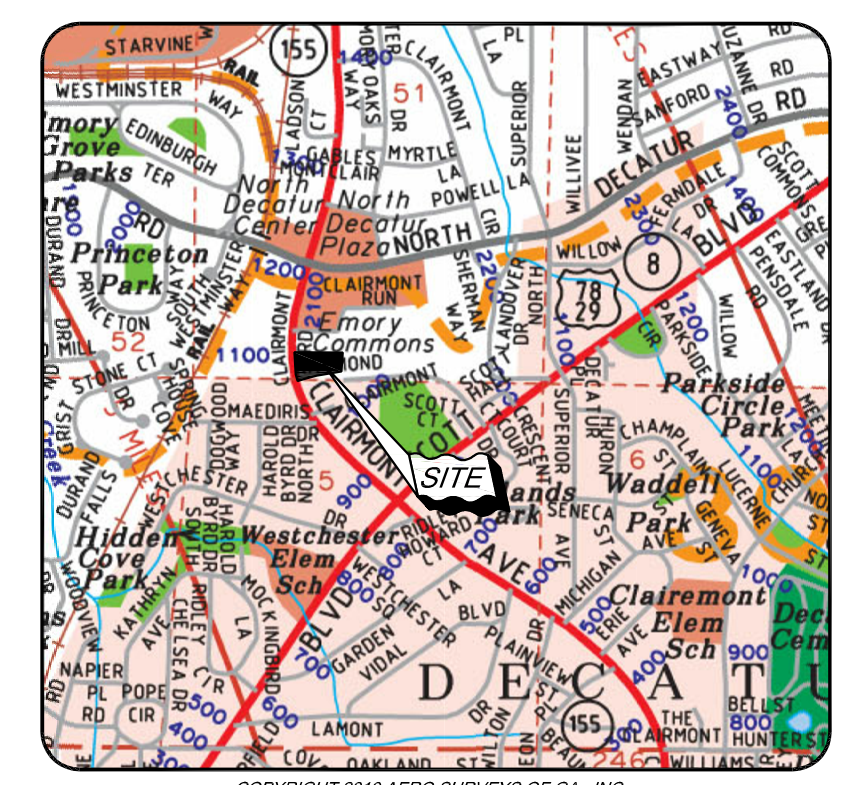
Finally, the Applicant respectfully submits that the City Commission cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount

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 Guhl vs. Holcomb Bridge 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.
 - THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND ITS ACCURACY IS 1 FOOT IN 1,710,206 FEET.
- 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**
- HORIZONTAL DATUM IS STATE PLANE GRID, GEORGIA WEST ZONE NAD 83. VERTICAL DATUM IS NAVD 88. DATUM ESTABLISHED WITH GPS METHODS USING CORRECTIONS FROM THE eGPS NETWORK. HORIZONTAL DATUM IS NAD83, GEORGIA WEST ZONE VERTICAL DATUM IS NAVD 88.
- FLOOD ZONE**
- 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. 13088C0086J, HAVING AN EFFECTIVE DATE OF MAY 16, 2013.
- UTILITIES**
- 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 WHAT'S BELOW CALL BEFORE YOU DIG™ UTILITY LOCATION SERVICE (811) SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION OF THE SITE.
- ZONING**
- OL R-75 & R-80 (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:**
- REGULAR: FADED OR OBSTRUCTED
 - 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**
- PLAT BOOK 5, PAGE 48, DEKALB COUNTY SUPERIOR COURT RECORDS.
 - PLAT ENTITLED "PROPERTY OF WILLIAM THIBEAUD, SR." PREPARED BY VIRGIL F. GADDY & ASSOC. DATED AUG. 145, 1992.
 - SURVEY FOR CATHRYN E. LOW AND PAUL D. LORENTZEN PREPARED BY GADDY & ASSOCIATES DATED DECEMBER 11, 1998.
 - 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.
- ITEM 10** 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.
- ITEM 11** 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 hereon.



Know what's below.
Call before you dig.



AS-SURVEYED PROPERTY DESCRIPTIONS

TRACT 1
1123 CLAIRMONT ROAD
TAX ID 18 051 08 047

All of that tract or parcel of land lying and being in Land Lot 5 & 51 of the 18th Land District of DeKalb County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, COMMENCE AT the right-of-way intersection of the Easterly right-of-way of Clairmont Road (variable public right-of-way) and the Southerly right-of-way of Clairmont Run (50 foot public right-of-way), thence running along said Easterly right-of-way of Clairmont Road along the arc of a curve concave to the East, having an arc length of 118.86', a radius of 1198.67', and being subtended by a chord bearing of S 09°12'18" E, and a chord length of 118.81' to a mag nail found being the TRUE POINT OF BEGINNING;

Thence, leaving said right-of-way and continuing along the line common with Apilyn Enterprise LLC N 78°06'39" E a distance of 20.95' to a mag nail found; Thence S 87°23'54" E a distance of 273.54' to a 1/2" rebar and plastic cap set; Thence, along the line common with Emory Garden Condo Assoc. S 02°36'06" W a distance of 75.66' to a 1/2" rebar and plastic cap set; Thence, along the line common with Tract 2, S 79°33'02" W a distance of 280.75' to a 1/2" rebar and plastic cap set on the Easterly right-of-way of Clairmont Road; Thence, along said right-of-way the following courses and distances: N 15°15'11" W a distance of 66.04' to a point; Thence, along the arc of a curve concave to the East, having an arc length of 68.71', a radius of 1218.67', and being subtended by a chord bearing of N 17°40'53" W, and a chord length of 68.70' to a point; Thence N 13°49'53" W a distance of 20.02' to a mag nail found being the TRUE POINT OF BEGINNING.

Said tract containing 0.739 acres or 32,202 square feet.

TRACT 2
1119 & 1121 CLAIRMONT ROAD
TAX ID 18 005 04 075 & 18 051 08 055

All of that tract or parcel of land lying and being in Land Lot 5 & 51 of the 18th Land District of DeKalb County, Georgia and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, COMMENCE AT the right-of-way intersection of the Easterly right-of-way of Clairmont Road (variable public right-of-way) and the Southerly right-of-way of Clairmont Run (50 foot public right-of-way), thence running along said Easterly right-of-way of Clairmont Road the following courses and distances: along the arc of a curve concave to the East, having an arc length of 118.86', a radius of 1198.67', and being subtended by a chord bearing of S 09°12'18" E, and a chord length of 118.81' to a mag nail found; thence S 77°54'06" W a distance of 20.02' to a mag nail found; Thence along the arc of a curve concave to the East, having an arc length of 68.71', a radius of 1218.67', and being subtended by a chord bearing of S 17°40'53" E, and a chord length of 68.70' to a point; Thence S 15°15'11" E a distance of 66.04' to a 1/2" rebar and plastic cap set, being the TRUE POINT OF BEGINNING;

Thence, leaving said right-of-way and continuing along the line common with Tract 1, N 79°33'02" E a distance of 280.75' to a 1/2" rebar and plastic cap set; Thence, along the line common with Emory Garden Condo Assoc. S 02°36'06" W a distance of 48.41' to a 1/2" open top pipe found; Thence, along the line common with Emory Forest Inc. S 75°18'10" W a distance of 262.57' to a 1" open top pipe found on the Easterly right-of-way of Clairmont Road; Thence, along said right-of-way, N 17°16'21" W a distance of 67.09' to a 1/2" rebar and plastic cap set, being the TRUE POINT OF BEGINNING.

Said tract containing 0.354 acres or 15,419 square feet.

LEGEND

P.O.B.	POINT OF BEGINNING	SS	SANITARY SEWER LINE/MAIN
P.O.C.	POINT OF COMMENCEMENT	S	SANITARY SEWER MANHOLE
RF	REBAR FOUND	C&G	CURB & GUTTER
IP&CF	IRON PIN & PLASTIC CAP FOUND	RCF	REINFORCED CONCRETE PIPE
IPS	1/2" REBAR WITH PLASTIC CAP SET	CMP	CORRUGATED METAL PIPE
(XXX.XX)	DEEDED DISTANCES	HDPE	HIGH DENSITY POLYETHYLENE PIPE
BSL	BUILDING SETBACK LINE	CO	CLEAN-OUT
SWCB	SINGLE WING CATCH BASIN	JB	JUNCTION BOX
DWCB	DOUBLE WING CATCH BASIN	G.D.O.T.	GEORGIA DEPT. OF TRANSPORTATION
DI	DROP INLET	SIG	TRAFFIC SIGNAL
FES	FLARED END SECTION	SIP	STRAIN POLE
UGT	UNDERGROUND TELECOM LINES	ELEC	ELECTRIC
UGP	UNDERGROUND POWER LINES	TBM	TEMPORARY BENCHMARK
G	UNDERGROUND GAS LINES	BK/C	BACK OF CURB
FF	FINISHED FLOOR ELEVATION	EOP	EDGE OF PAVEMENT

AREA SUMMARY

TRACT 1 = 0.739 ACRES / 32,202 SQ. FT.
TRACT 2 = 0.354 ACRES / 15,419 SQ. FT.
TOTAL = 1.093 ACRES / 47,621 SQ. FT.

ALTA/NSPS LAND TITLE & TOPOGRAPHIC SURVEY

OF
1119, 1121 & 1123 CLAIRMONT ROAD
DECATUR, GA
PREPARED FOR

STEIN INVESTMENT CO., LLC

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

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

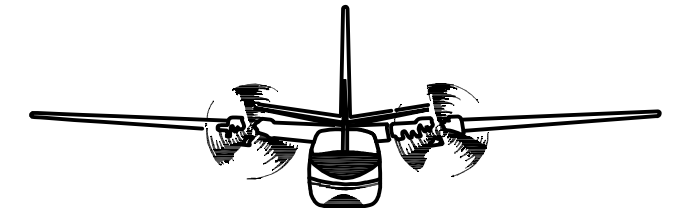
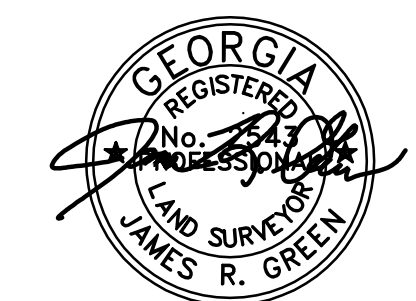
ALTA / NSPS CERTIFICATION

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.

Date of Plat or Map: 01/08/18
James R. Green

FOR THE FIRM
METRO ENGINEERING & SURVEYING CO., INC.
GA L.S.F. #002538



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