



Zoning Board of Appeals

Final Agenda- Revision 2

Commission Meeting Room
Decatur City Hall
509 North McDonough Street

Monday, August 12, 2019
7:30 P.M.

I. Call to Order by Board Chair.

II. Approval of the Minutes.

- A. Approval of the Minutes of the Meeting of May 13, 2019
- B. Approval of the Minutes of the Meeting of June 25, 2019.

III. Applications.

- A. WSE Development, applicant, has applied for variances from stream buffer requirements and flood plain requirements for several properties as listed here with associated owners in Decatur, GA 30030:

-
- | | |
|---|---|
| 1) 304 Commerce Drive, East
Decatur Station LLC | 9) 211 Weekes Street,
Seaboard Properties, LP |
| 2) 255 Freeman Street, FRA
Management LLC | 10) 216 Weekes Street, FRA
Management, LLC |
| 3) 218 S. Columbia Drive,
Commerce and Columbia
LLC | 11) 220 Weekes Street,
Seaboard Weekes, LLC |
| 4) 222 S. Columbia Drive,
Commerce and Columbia
LLC | 12) 223 Weekes Street, FRA
Management, LLC |
| 5) 203 Weekes Street, Seven
Smiths Investments, LP | 13) 224 Weekes Street,
Seaboard Weekes, LLC |
| 6) 206 Weekes Street, Michele
Ritan | 14) 227 Weekes Street,
Commerce and Columbia,
LLC |
| 7) 207 Weekes Street,
Seaboard Properties, LP | 15) 228 Weekes Street, FRA
Management, LLC |
| 8) 210 Weekes Street, Kuhl
Heddy | 16) 231 Weekes Street,
Commerce and Columbia,
LLC |

- B. Chris Chattin and Danielle Chattin, applicants and owners, have applied for a variance from the 75 foot stream buffer requirement for the property located at 172 Mead Road, Decatur, GA 30030.
 - C. Michelle Krahe, applicant and Jim White, owner, have applied for a variance from rear yard setback requirements for the property located at 193 Feld Avenue, Decatur, GA 30030.
 - D. Michelle Krahe, applicant and Amy Wall, owner, have applied for a variance from side yard setback requirements for the property located at 1018 South Candler Road, Decatur, GA 30030.
 - E. Gretchen and James Cobb, applicants and owners, have applied for variances from side yard setback requirements for the property located at 202 Upland Road, Decatur, GA 30030.
 - F. Amy Judd, applicant and Sycamore Ridge HOA, owner, have applied for variances from the requirement for double frontage lots (UDO Section 2.1.5.) and requirements for walls, fencing, and planting (UDO Section 7.2.1) for the properties located at 506 and 517 Sycamore Ridge Drive, Decatur, GA 30030.
 - G. East Lake Drive, LLC (Lawton Jordan), applicant and East Lake Drive, LLC, owner, have applied for a determination of the existence of an illegal non-conforming use under UDO Section 11.3.1 for the property located at 246 and 248 East Lake Drive, Decatur, GA 30030.
 - H. East Lake Drive, LLC (Lawton Jordan), applicant and East Lake Drive, LLC, owner, have applied for variances from use restrictions and requirements under the UDO Sections 3.2.2 6.2 to for continued use as a quadruplex housing unit for the property located at 246 and 248 East Lake Drive, Decatur, GA 30030.
-
- I. Eric and Haley Stevens, applicants and owners, have applied for a variance from average front yard setback requirements for the property located at 245 Mount Vernon Drive, Decatur, GA 30030.
 - J. Calvin King, owner and applicant, has applied for a variance from front yard setback requirements for the property located at 128 Jefferson Place, Decatur, GA 30030.

IV. Other Business.

Consistent with the requirements of O.C.G. A. 50-14-1. (e) (I)a an agenda was posted on Wednesday, July 17, 2019 and revised on July 24, 2019.



Zoning Board of Appeals

Summary

Commission Meeting Room
Decatur City Hall
509 North McDonough Street

Tuesday, June 25, 2019
7:30 P.M.

I. Call to Order by Board Chair.

Members in Attendance

Members in Attendance were Erik Pawloski, Chair, Seegar Swanson Vice Chair, Lindsay Reese, Phillip Wiedower, and KC Boyce.

Staff in Attendance

Staff in attendance were Mark Ethun, Building Official, Design Environment & Construction Division, and John Maximuk, Director, Design Environment & Construction Division, and Jennings Bell, Project Civil Engineer, Design Environment & Construction Division, and Tiera Clark, Summer 2019 Intern, Design Environment & Construction Division.

The meeting was called to order at 7:30PM by Erik Pawloski. Mr. Pawloski initiated introductions of members and staff.

II. Approval of the Minutes of the Regular Meeting of May 13, 2019.

On a motion by Mr. Swanson, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to table the approval of the draft minutes of May 13, 2019 until the August 12, 2019 meeting. The vote was 5-0 in favor.

III. Applications.

A. Stephen Dew, applicant and Melissa Devine, owner have applied for variances from stream buffer requirements and flood plain requirements for the property at 208 Lamont Drive, Decatur, GA 30030.

On a motion by Mr. Wiedower, seconded by Mr. Boyce, the Zoning Board of Appeals voted to approve the variances for stream buffers conditioned on the June 17, 2019 memo of Jennings Bell, and the specific square footage numbers in the June 2019 staff report, and conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application. The vote was 5-0 in favor.

B. WSE Development, applicant, has applied for variances from stream buffer requirements and flood plain requirements for several properties as listed here with associated owners in Decatur, GA 30030:

- 1) 304 Commerce Drive, East Decatur Station LLC
- 2) 255 Freeman Street, FRA Management LLC
- 3) 218 S. Columbia Drive, Commerce and Columbia LLC
- 4) 222 S. Columbia Drive, Commerce and Columbia LLC
- 5) 203 Weekes Street, Seven Smiths Investments, LP
- 6) 206 Weekes Street, Michele Ritan
- 7) 207 Weekes Street, Seaboard Properties, LP
- 8) 210 Weekes Street, Kuhl Heddy
- 9) 211 Weekes Street, Seaboard Properties, LP
- 10) 216 Weekes Street, FRA Management, LLC
- 11) 220 Weekes Street, Seaboard Weekes, LLC
- 12) 223 Weekes Street, FRA Management, LLC
- 13) 224 Weekes Street, Seaboard Weekes, LLC
- 14) 227 Weekes Street, Commerce and Columbia, LLC
- 15) 228 Weekes Street, FRA Management, LLC
- 16) 231 Weekes Street, Commerce and Columbia, LLC

On a motion by Mr. Swanson, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to table the variance requests until such time when the applicant chooses to return. The vote was 5-0 in favor.

C. Erik Johnson and Jane Woo, applicants and owners, have applied for variances from the 50 foot and 75 foot stream buffer requirements for the property located at 210 Glendale Avenue, Decatur, GA 30030.

On a motion by Mr. Boyce, seconded by Ms. Reese, the Zoning Board of Appeals voted to approve the variances for stream buffers conditioned on the June 14, 2019 memo of Jennings Bell and conditioned on plans limited to and conditioned by plans substantially similar to those submitted with the application. The vote was 5-0 in favor.

D. Gail Mooney, applicant and Danielle Ilianuo, owner, have applied for a variance from the 75 foot stream buffer requirements for the property located at 308 Madison Avenue, Decatur, GA 30030.

On a motion by Ms. Reese, seconded by Mr. Boyce, the Zoning Board of Appeals voted to table the variance requests until such time when the applicant chooses to return. The vote was 5-0 in favor.

E. Nancy Weitnauer and David Weitnauer, applicants and owners, have applied for a variance from stormwater management requirements in the Unified Development Ordinance, Section 9.3.3. (Applicability Table), for the property located at 812 Pinetree Drive, Decatur, GA 30030.

On a motion by Mr. Swanson, seconded by Mr. Wiedower, the Zoning Board of Appeals voted to approve the variance to increase the total impervious area to remain exempt from stormwater retention requirements per the Unified Development Ordinance Section 9.3.3. and conditioned on plans exactly as submitted. The vote was 5-0 in favor.

F. Chris Chattin and Danielle Chattin, applicants and owners, have applied for variances from the 50 foot stream buffer requirement, the 75 foot stream buffer requirement, and the average front yard setback requirement for the property located at 172 Mead Road, Decatur, GA 30030.

On a motion by Mr. Wiedower, seconded by Mr. Boyce, the Zoning Board of Appeals voted to table the variance requests until such time when the applicant chooses to return. The vote was 5-0 in favor.

G. Ilene Zeffy and Eric Schulman, applicants and owners, have applied for a variance from lot coverage requirements for the property located at 224 Michigan Avenue, Decatur, GA 30030.

On a motion by Mr. Wiedower, seconded by Ms. Reese, the Zoning Board of Appeals voted to approve the variance from lot coverage requirements allowing 41.5% lot coverage and conditioned by plans substantially similar to those submitted with the application. The vote was 4-1 in favor. Mr. Pawloski voted no.

H. Eric Rothman, applicant, and Lindsay Gaddis and Jim Milanowski, owners, have applied for a variance per the Unified Development Ordinance, Section 11.3.1. (a) non-conforming uses for the property located at 712 W. Ponce De Leon Avenue, Decatur, GA 30030.

On a motion by Mr. Wiedower, seconded by Ms. Reese, the Zoning Board of Appeals voted to approve a variance to allow a reconfigured circular driveway and conditioned on plans substantially similar to those submitted with the application. The vote was 3-2 in favor. Mr. Swanson and Mr. Pawloski voted no.

IV. Other Business.

A. Tracey Diehl, appellant, has filed an appeal of an administrative decision to deny a sign permit application for the property located at 830 Commerce Drive, per Section 7.3.5.C. of the Unified Development Ordinance.

On a motion by Mr. Swanson, seconded by Mr. Boyce, the Zoning Board of Appeals voted to deny an appeal of an administrative decision to deny a sign permit application for the property located at 830 Commerce Drive, per Section 7.3.5.C. of the Unified Development Ordinance. The vote was 4-1 to deny. Ms. Reese voted in favor of the appeal.

B. Member Lindsay Reese announced her resignation from the Zoning Board of Appeals (as noted in her 6.17.19 email) due to a move outside the City of Decatur.

The meeting was adjourned at 2:15 AM (6.26.19)

Consistent with the requirements of O.C.G. A. 50-14-1. (e) (1)a a summary was posted on Wednesday, June 26, 2019.



Design, Environment and
Construction Division
2633 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-373-5054
http://www.decaturga.com

Meeting Date: 3/12/19

Agenda Item: III-A

Zoning Board of Appeals Application Review Checklist

1. Address Commerce Columbia Freeman Weekes
2. Application Received Date: Mar 2019 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month 5/2019, 6/2019
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested Stream buffer variances
6. Existing Site Plan Attached? Yes No DEC Exhibit # —
7. Proposed Site Plan Attached? Yes No DEC Exhibit # —
8. List Other Drawings/ Renderings/ Photos- Below
 - a. See attachment DEC Exhibit # _____
 - b. on the following page DEC Exhibit # _____
 - c. _____ DEC Exhibit # _____
 - d. _____ DEC Exhibit # _____
 - e. _____ DEC Exhibit # _____
 - f. _____ DEC Exhibit # _____
 - g. _____ DEC Exhibit # _____
 - h. _____ DEC Exhibit # _____
 - i. _____ DEC Exhibit # _____

Total Number of Drawing Sheets 0

9. How Many Letters of Support? 2 # 59
79

10. Total Number of Sheets in Application (Excluding Staff Sheets) 95

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)

The following NEW documents have been submitted for review and consideration since the June 25, 2019 public hearing. These documents are numbered in the board packet.

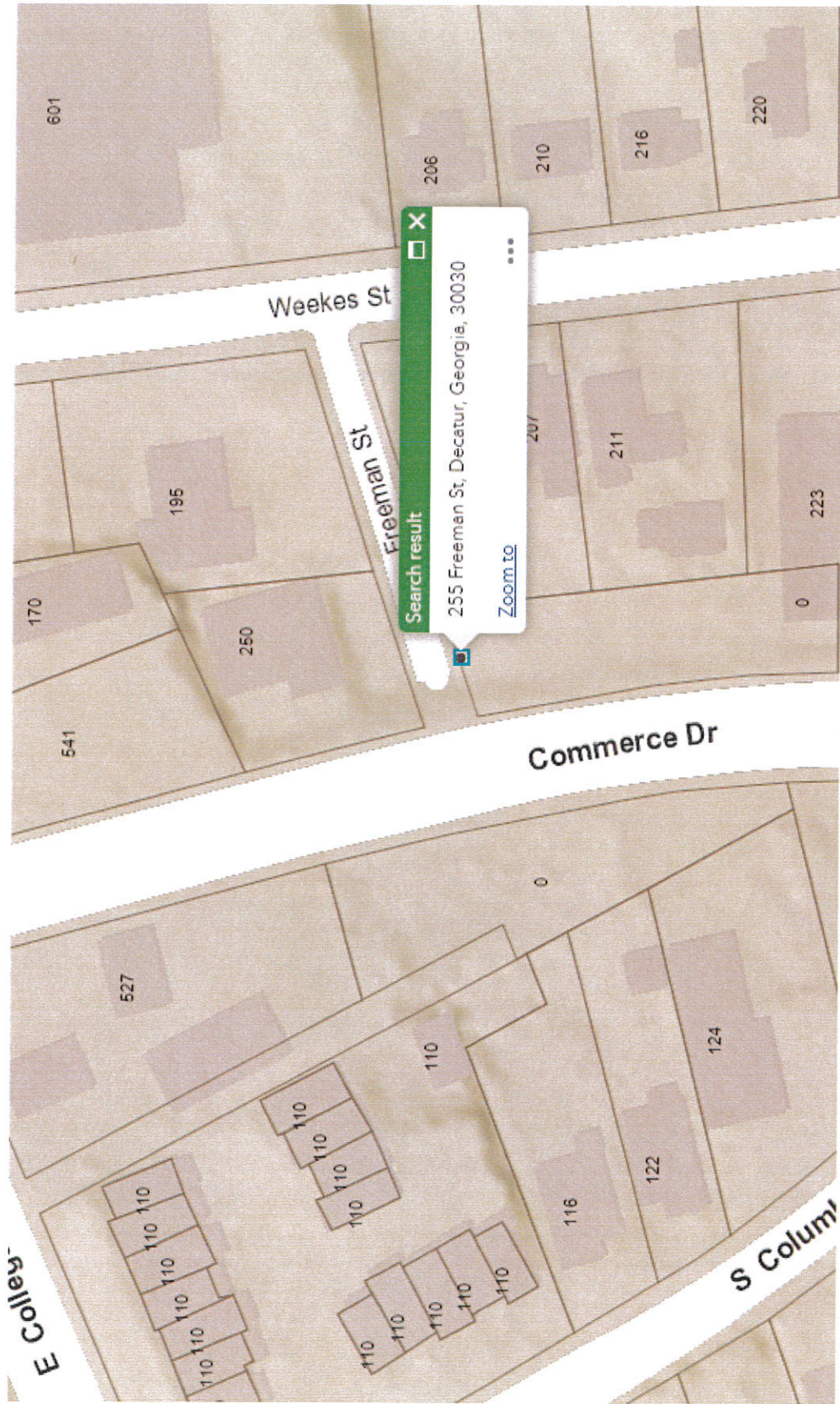
- a) blank, 1
- b) Letter from Mary Jane Leach, 2-3
- c) Letter from Linda Dunlavy, 4-5
- d) Letter from Ash Miller, 6-25
- e) Letter from Catherine Fox, 26-43
- f) Letter from Lynne Rosner, 44
- g) Letter from Craig Hadley, 45
- h) Letter from Steven Black, 46
- i) Letter from Leigh Priestly, 47
- j) Letter from Shawn Mollen, 48
- k) Letter from Chris Neff, 49
- l) Letter from Tonio Andrade, 50
- m) Letter from Timothy Shirah, 51
- n) Letter from Kevin Schuler, 52
- o) Letter from John Thigpen, 53
- p) Letter from Michelle James, 54
- q) Letter from Sallyann and Ray King, 55
- r) Letter from Meredith Burris, 56
- s) Letter from Anna Summerlin, 57
- t) Letter from R. Ruffin, 58
- u) Letter from Steve Monroe, 59-60
- v) Letter from Steven and Darlene Barrett, 61
- w) Letter from Virginia Hawkins, 62
- x) Letter from Dan Chapman, 63
- y) Letter from Cenate Pruitt, 64
- z) Letter from Rebecca Rudich, 65
- aa) Letter from Julie Bailey, 66
- bb) Letter from Jennifer Madsen, 67
- cc) Letter from Chantal Poister, 68
- dd) Letter from Cindy Langley, 69
- ee) Letter from Jan Heckler, 70
- ff) Letter from Tracey Laird, 71
- gg) Letter from Marie Parker, 72
- hh) Letter from Catherine Fox, 73
- ii) Letter from Sonali G. Saindane, 74
- jj) Letter from Yinka Kerr, 75
- kk) Letter from Kate Billings, 76
- ll) Letter from Jeff Barber, 77
- mm) Letter from Ashley Howle, 78
- nn) Letter from Chris Sciarrone, 79-86
- oo) Letter from Tricia Appleton, 87
- pp) Letter from Kathleen Scott, 88-89
- qq) Letter from Caroline Grant, 90-92
- rr) Letter from Friends of Shoal Creek, 93-94
- ss) Letter from Sara Turbow, 95



Subject Address: 304 Commerce Dr.

Zoning Board of Appeals

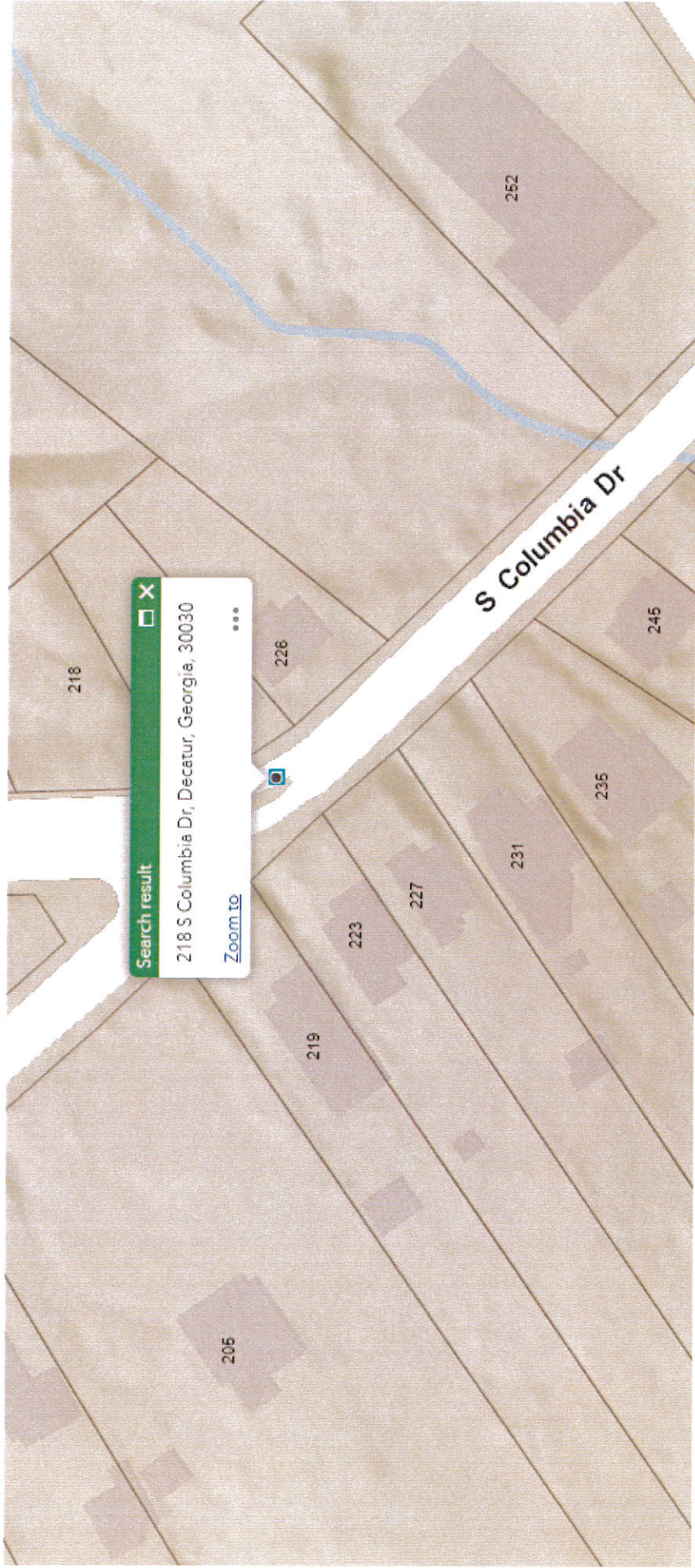
August 12, 2019



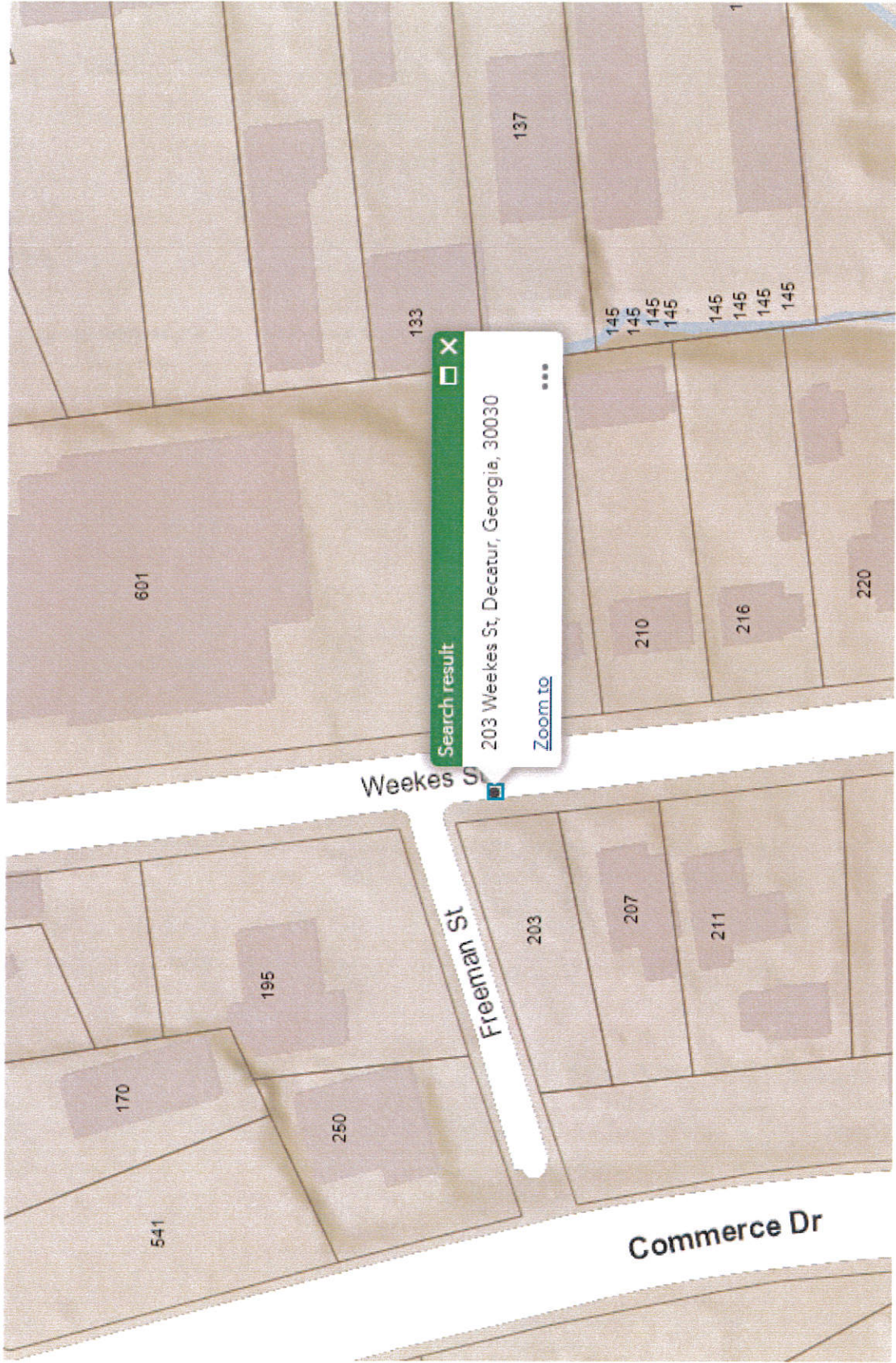
Subject Address: 255 Freeman St.

Zoning Board of Appeals

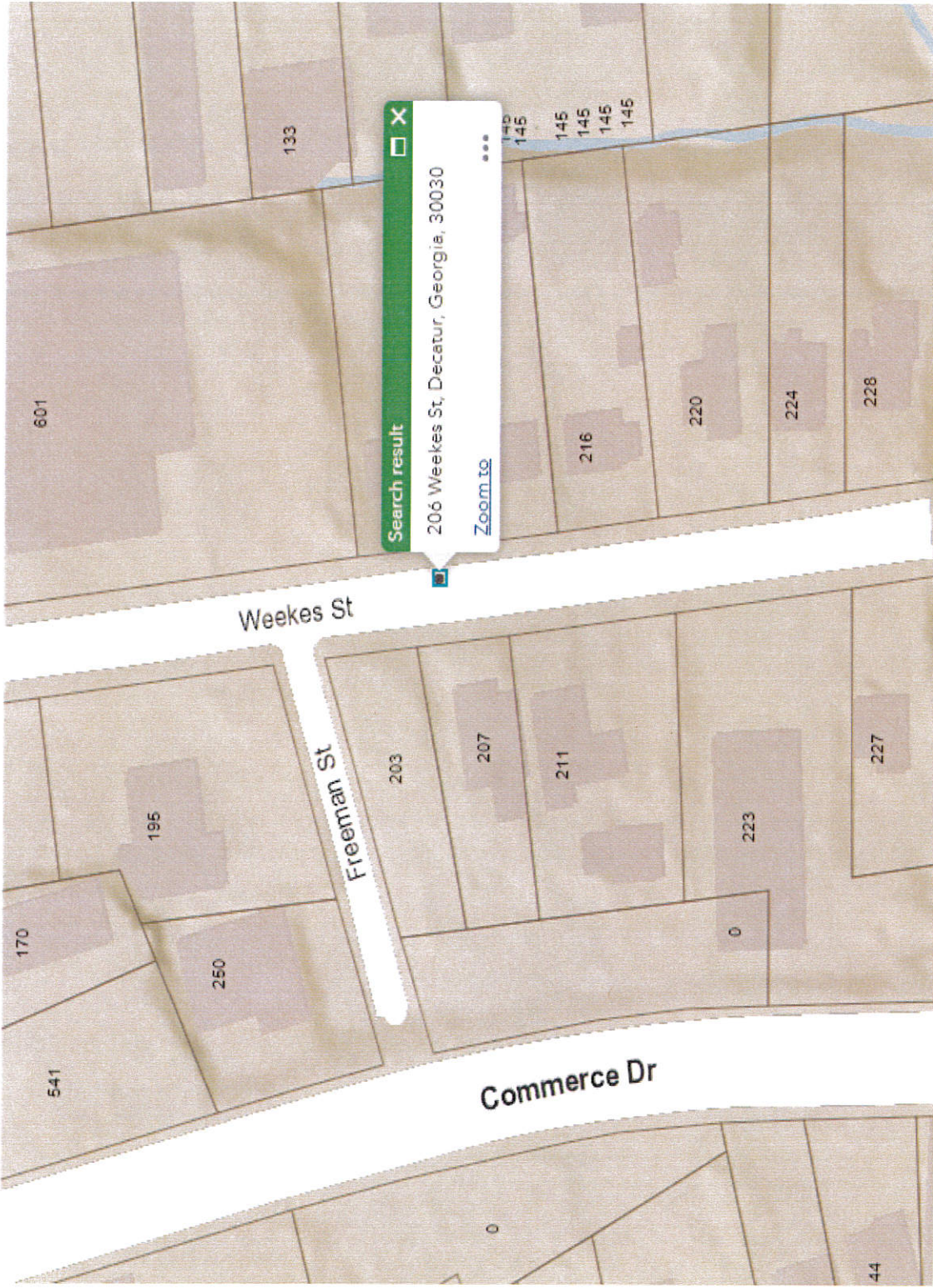
August 12, 2019



**Subject Address: 218 S. Columbia Dr.
Zoning Board of Appeals
August 12, 2019**



Subject Address: 203 Weekes St.
Zoning Board of Appeals
August 12, 2019



Subject Address: 206 Weekes St.
Zoning Board of Appeals
August 12, 2019



Subject Address: 207 Weekes St.

Zoning Board of Appeals

August 12, 2019



Subject Address: 223 Weekes St.

**Zoning Board of Appeals
August 12, 2019**



Subject Address: 227 Weekes St.

Zoning Board of Appeals
August 12, 2019



Subject Address: 231 Weekes St.

**Zoning Board of Appeals
August 12, 2019**



Subject Address: 210 Weekes St.

Zoning Board of Appeals
August 12, 2019



Subject Address: 211 Weekes St.

Zoning Board of Appeals

August 12, 2019



Subject Address: 211 Weekes St.

Zoning Board of Appeals

August 12, 2019



Subject Address: 216 Weekes St.

Zoning Board of Appeals

August 12, 2019



Subject Address: 220 Weekes St.

Zoning Board of Appeals

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Zoning Board of Appeals Staff Report August 12, 2019

The Zoning Board of Appeals will meet on August 12, 2019 at 7:30PM at the Decatur City Hall, 509 N. McDonough Street.

The following staff report has been prepared for an application which was received by the Design, Environment & Construction Division of Public Works.

Applicant: WSE Development

Addresses:

- 304 Commerce Drive, East Decatur Station LLC
- 255 Freeman Street, FRA Management LLC
- 218 S. Columbia Drive, Commerce and Columbia LLC
- 222 S. Columbia Drive, Commerce and Columbia LLC
- 203 Weekes Street, Seven Smiths Investments, LP
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Review of Application

- 1) The properties involved with this variance are located on four different streets: S. Columbia Drive, Commerce Drive, Freeman Street, and Weekes Street. There have been no changes to these locations since the May 2019 application.
- 2) The applicant has applied for a variance from stream buffer requirements for several properties in order to construct a multi-family development on combined lots. There has been no change to this proposal.



Summary from May 13, 2019 meeting and June 25, 2019 meeting

- 3) This application was initially submitted for the May 2019 meeting. After discussion and public comment, the applicant’s representative Linda Dunlavy requested that the Board table the application until a further date so that the applicant could meet with Winnona Park residents, address options, and address zoning. Staff notes that a neighborhood meeting was held on June 4, 2019 regarding this variance application at Legacy Park.
- 4) The public hearing resumed on June 25, 2019. At the end of the discussion, the Zoning Board of Appeals voted to table the public hearing until such time that the applicant wishes to return.
- 5) The specific variances which are being requested have not changed:
 - a. reductions in the buffers for stream #2 (running north to south on the eastern edge of the property); and
 - b. elimination of the stream buffer requirements for stream #1 (running under Commerce Drive to the site west to east).

Pursuant to the Unified Development Ordinance:

Variations Requested	Existing	Proposed	Ordinance
Stream buffer requirements	Variable – Stream #1, non-compliant buffers for 25’,50’, and 75’ Stream #2 non-compliant buffers for 25’, 50’ and 75’	Elimination of buffer for stream #1; and 50’ buffer for stream #2	25’, 50’ and 75’ setbacks, UDO Section 9.2.5

- 6) For general reference on land assembly, variances, and other reports, please refer to May 2019 meeting package or visit <https://www.decaturga.com/Home/Components/Calendar/Event/16477/324?toggle=allpast> for the May 2019 online meeting package for illustrations and site plans.



7) The following NEW documents have been submitted for review and consideration since the June 25, 2019 public hearing. These documents are numbered in the board packet.

- a) Letter from Erin Murphy, 1
- b) Letter from Mary Jane Leach, 2-3
- c) Letter from Linda Dunlavy, 4-5
- d) Letter from Ash Miller, 6-25
- e) Letter from Catherine Fox, 26-43
- f) Letter from Lynne Rosner, 44
- g) Letter from Craig Hadley, 45
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- r) Letter from Meredith Burris, 56
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- z) Letter from Rebecca Rudich, 65
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- hh) Letter from Catherine Fox, 73
- ii) Letter from Sonali G. Saindane, 74



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- jj) Letter from Yinka Kerr, 75
- kk) Letter from Kate Billings, 76
- ll) Letter from Jeff Barber, 77
- mm) Letter from Ashley Howle, 78
- nn) Letter from Chris Sciarrone, 79-86
- oo) Letter from Tricia Appleton, 87
- pp) Letter from Kathleen Scott, 88-89
- qq) Letter from Caroline Grant, 90-92
- rr) Letter from Friends of Shoal Creek, 93-94
- ss) Letter from Sara Turbow, 95

John Maximuk

From: Mary Jane Leach <mjleach2@gmail.com>
Sent: Tuesday, June 25, 2019 10:22 PM
To: John Maximuk
Subject: Weekes proposal

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Hello John,

I know that sending my comments to you is not the same as sending them to the ZBA, but I was not able to attend tonight and did not see a way to send my comments directly to them.

This Weekes St. proposal has many people concerned and surprised. I went out twice last weekend and both times overheard or was approached by people discussing it. ESB members have been approached via email and in person. Nobody I spoke to understands why the stream buffer is up for discussion at the headwaters of Shoal creek. If passed, will Weekes set a precedent for more ignoring of buffers? It could also send a message that developers can threaten the City with a lawsuit.

Tunneling streams is a pretty antiquated practice from an era when planners and lawmakers did not understand the relationship between the stream and the buffer. Now we do know that a naturally shaded stream is valuable for several reasons. This is why municipalities in GA and across the US are daylighting streams and using bioswales in commercial development, rather than building tunnels and infrastructure which are, frankly, not as effective at managing stormwater over time, and obviously destroy any existing natural systems wholesale. That latter point is a clear reason this should not pass, as the variance requirements require that the proposal be as effective in its protection as the buffer itself. (right?)

Creeks are not merely conduits for water. They are part of a larger system with many elements working in concert. It is a system which cannot exist within a tunnel the length of a football field. This relationship between plants, their roots, soil, water, bio-organisms, fungi (particularly) and trees is like a highly effective sponge.

Trees bordering streams transevaporate at higher rates. This is a cooling system which, at this point in human history in the SE United States, is essential to counterbalancing all of the heat producing elements of hot urban areas like metro ATL. We cannot afford to denude buffers and cut off this process which will become more vital as time passes, especially in areas of high density and proximity to where people live. Connectivity of green spaces is particularly effective for heat island effect, the #1 predicted effect of climate change in our region.

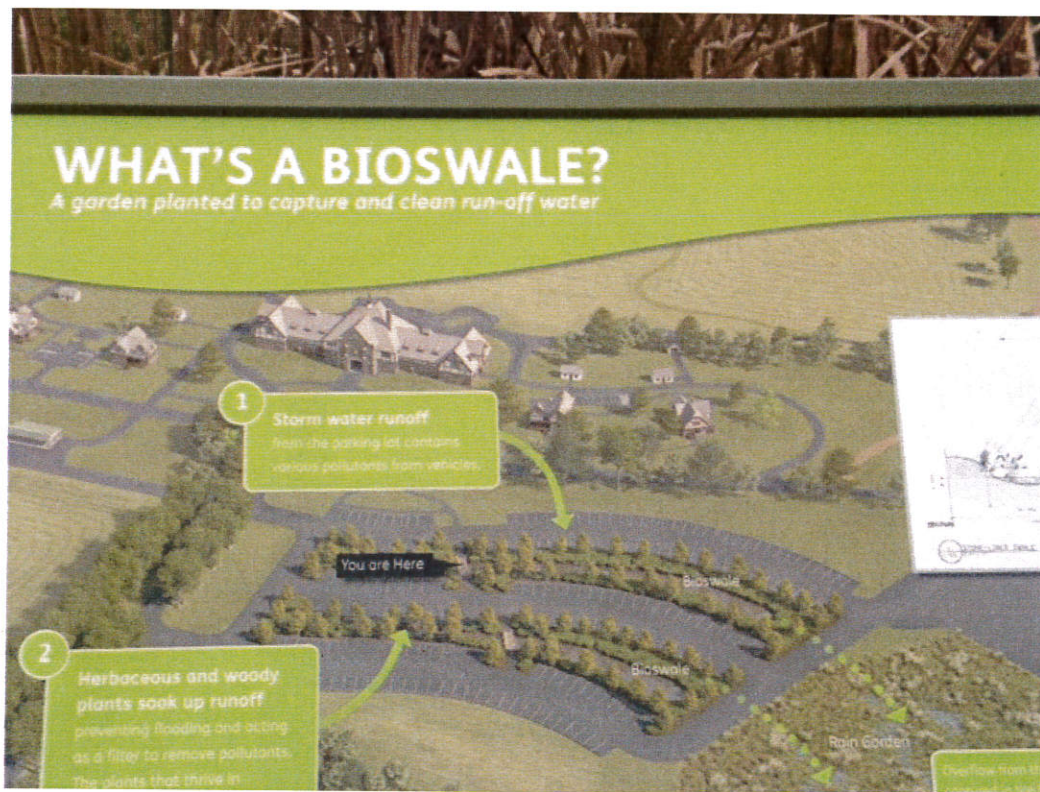
I really hope soon we can get to a point where the City has solutions at its disposal which achieve economic and environmental (resiliency) goals simultaneously. The solutions are out there, being done in communities like ours. Why not here?

Here's one scenario:

If the developer is seeking Talley St. access and parking near the stream, grant it

via a short permeable drive and a culvert over the creek, to a permeable parking area (transitioning to a non-permeable area) within the 75-ft. buffer but outside of the 50 ft. buffer. Keeping the creek in tact, the cooling system in tact, creating an enjoyable space for residents. By removing some of the invasives and concrete on the streambank, and keeping the trees, this could be an asset to the project and have many benefits. The creek and more bioswales around the parking areas would all factor into the stormwater measurements.

If you Google bioswales in commercial projects as I have, you will see that lots of municipalities are on board with this approach. Here's a really awesome example with bioswales in the parking lot itself, but most times they are on the sides--and why not around the sides of a parking deck? I'd love to see something like this considered for Legacy Park when the track is built. This is at Duke Farms.



I urge you and the City staff to try to get comfortable with negotiating solutions that meet environmental, social and economic needs, even with developers who don't readily understand this. You really are the fulcrum of the balance. Please let ESB know what support we can provide.

Lastly, please it's not fair to ignore the parts of community-based plans that many citizens and municipal employees have worked on over the years--plans which specifically address this issue. I'm talking about the Marta Avondale area studies, COD master plan, COD sustainability plan. It's very clear language.

I have a lot of respect for the difficult work you all do.

Sincerely,
Mary Jane Leach

John Maximuk

From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Wednesday, June 26, 2019 9:02 AM
To: Bryan Downs
Cc: Lyn Menne; Michael McGwier; John Maximuk
Subject: ZBA hearing requirements

Importance: High

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Bryan:

I represent WSE Development , a prospective apartment developer, adjacent to East Decatur Station. WSE has been working with the DDA concerning parameters of their proposed development for over 18 months. In order to effectuate a viable development and provide the City with elements that the DDA wishes to see in the project WSE needs stream buffer variances. As such, it applied in April for such variances. Since that time two public hearings have been conducted by the ZBA after public notice. The first hearing took over three hours and last night we were there for 4 hours. At the culmination of the hearing ZBA members expressed a desire that the developer reach out to the property owners east of one of the streams at issue to see if the owners would be willing to provide WSE with a temporary construction easement to restore and stabilize the east bank in a manner similar to what WSE is proposing for the west bank. WSE agreed to make good faith efforts to acquire temporary construction easements from the landowners identified. As such it was agreed that the item would be tabled to allow

WSE to make these efforts. After tabling of the item, I inquired as to whether the next meeting would be a "full blown public hearing" again. In other jurisdictions, as you may know, it is not unusual when an application has had a public hearing and is deferred or tabled, the next time it is before the Board, it is for "decision only" (i.e. no public or applicant comments allowed) or the "hearing" that is conducted is limited to the issues that the ZBA was concerned about when it was deferred or tabled (i.e. in this instance the ability to acquire construction easements) or the hearing is limited in time. However, the members of the ZBA and staff were of the impression that they could not limit the scope of any future hearing on this item ---that they had to conduct a public hearing. This position does not appear to be supported by the UDO which, like most zoning ordinances, only requires a **hearing** on a variance application (we have had 7 hours of hearing on two different occasions). State law does not require more than one public hearing for zoning matters (variances are not covered by the ZPL, as you know but it is a good analogy). Moreover, the UDO only requires a minimum of 10 minutes per side for public hearings.

Based on the foregoing, I am wondering if there is anything you, as the City Attorney , could do to assist in making the next meeting wherein the WSE application is considered more streamlined. Another 3-4 hour hearing on this application would seem unnecessary under the law and as a practical matter when the ZBA is only concerned about the status of our efforts to secure a construction easement. Moreover, another 3-4 hours of public hearing is a burden on staff and the members of the ZBA. It costs my client literally thousands of dollars in fees for expert professionals (myself, engineers, biological consultants and others) to be in attendance. The cost to all could be limited by one of the following: 1) a "decision only " format; 2) limiting the scope of the hearing to the issue that prompted the tabling...the status of efforts to secure construction easements and the question of whether those efforts are satisfactory; or 3) limiting both proponents and opponents in their presentation to the ZBA to the minimum ten minutes under the UDO. If we are successful in securing the construction easements that the ZBA has requested we explore, opening the application up to yet a third public hearing that could consumer numerous additional hours seems unnecessary and counterproductive in light of the ZBA's expressed limited concerns.

Is there a way you could assist with the dilemma outlined above? If so, please let me know. I am happy to provide any additional detail you need. I copied my client and Lyn Menne on this email. Lyn was at the hearing last night on behalf of the DDA and we briefly discussed this dilemma after the hearing. I am also copying John Maximuk as he and Mark Ethun were there last night on behalf of staff. Any thoughts, guidance or assistance you could provide would be greatly appreciated.

Thanks,

Linda



Linda I. Dunlavy
Dunlavy Law Group, LLC
1026 B Atlanta Avenue
Decatur, GA 30030
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Ash Miller
128 West Benson St.
Decatur, GA 30030

July 5, 2019

Via Email (John.Maximuk@decaturga.com)

Zoning Board of Appeals
City of Decatur
509 N. McDonough St.
Decatur GA 30030

Re: Comment on Application for Weekes Street Project, WSE Development

Dear Members of the City of Decatur Zoning Board of Appeals:

Thank you for the opportunity to submit additional comments on the application for a stream buffer variance by WSE Development (“WSE”) for sixteen parcels of property located at 304 Commerce Drive, *et al.* (the “variance”).

My name is Ash Miller, I am an environmental and land use attorney with experience in representing real estate developers, cities, and other public entities including zoning boards, in situations that are similar to this application for a stream buffer variance.¹ I am writing to provide observations and opinions only in my individual capacity.

¹ Relevant here, I have represented cities, towns, school districts, and ports, as well as private developers, in connection with ensuring their actions are in accordance with environmental and land use mandates, including projects such as stream permitting, inverse condemnation (takings), subdivision applications, major infrastructure upgrades (power lines, wastewater treatment plant upgrades, interstate bridge rehabilitation), building and fire code compliance, wetlands protection, and brownfields redevelopment. I am attaching a copy of my professional cv for background on my experience.

As a resident and citizen I believe there are several substantive and outcome-determinative questions that require additional analysis and attention. These issues cannot, in my view, be decided based solely on the information currently in the record. I sincerely urge you to consult with your own independent legal counsel, and if necessary request additional information from the applicant, on the issues raised at the recent Zoning Board of Appeals (“Board”) hearing on June 25, 2019.

I spoke in opposition to the variance at that hearing. However, I am also writing because I am concerned that if the Board were to grant the variance on the current record, its decision would not be based on a firm footing. All parties that are interested in this application -- whatever the outcome -- no doubt share the common interest of a sound decision that is well-founded in the Board’s authority and procedures under the Uniform Development Ordinance (“UDO”), and the factual record.

1. Impacts on Greenspace, Scenic and Recreational Values, Habitat, and Aquatic Ecosystems Have Not Been Adequately Analyzed or Mitigated as Required Under City Ordinances

The City Council has determined that stream buffers in Decatur have multiple beneficial functions. The Board and applicant have addressed some of these substantive environmental issues already, primary involving stormwater quality and volume.

However, many of the functions of buffers have not been addressed in this process, and without equally thorough analyses of these impacts, the application cannot be said to meet the standards for a buffer variance.

UDO 9.2.2.A, subsections 7 through 11 make clear that opportunities for recreation, preservation of greenspace, scenic value, habitat, and the interaction with the aquatic ecosystem are all important beneficial attributes of stream buffers. The Board should consider all of these topics in detail to meet its obligations under the code.

The proposed variance would have potentially significant impacts in these areas, given the proposed removal of a large stand of mature hardwood trees present within the buffer -- located to the south of Stream 1 (the East-West stream). The buffer area of Stream 1 is approximately 1.1 acres, and the area south of the stream, where the site is most heavily wooded, comprises approximately 0.45 acres. Applicant’s proposal would appear to result in the clear-cutting of this entire area, without any compensatory mitigation being proposed.

The area within Stream 1's existing buffer that is proposed for clear cut is approximately as follows (0.45 acres, outlined in orange):



A view of this forested area from Commerce Drive, facing S-SE:



Losing this *de facto* greenspace would create an immediate impact to the public's experience of this part of Decatur; a large stand of greenery would be removed and replaced by parking and paved area. It does not appear from the record that the applicant has considered

alternatives that would reduce these impacts, or analyzed potential scenarios whereby this green forested area would be preserved for public or private recreational use. This forested area also provides habitat for birds and other flora and fauna, which operate as part of the overall ecosystem along with the branch of Shoal Creek which runs from the west to the east, at the edge of this stand of trees.

While the City of Decatur does have a specific ordinance relating to tree removal, these trees are subject to additional protections and special status because of their location in a stream buffer.

The impacts from this level of tree removal are potentially troubling in themselves. However, these impacts are more significant in light of the applicable legal standard for granting a stream buffer variance, and the notable lack of information in the record about these natural resources (see point 2, below).

Specifically, the Board must consider whether the “issuance of the variance is at least as protective of natural resources and the environment” as well as consideration of other factors, including the extent and nature of the intrusion into the buffer. UDO 9.2.5.B.6 (emphasis added).

In addition, the UDO requires the Board to adopt mitigation measures to offset the impacts of a variance, as follows:

[T]he Zoning Board of Appeals may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

UDO 9.2.5.B.1 (emphasis supplied).

Thus, the Board has an obligation to require substantive environmental mitigation for impacts created by a proposed variance, to offset the effects of development. However, at the June 25 Board hearing, the applicant admitted that its mitigation chart omitted mention of green space, and did not separately analyze mitigation or impacts with respect to Stream 1.² A full analysis should be provided.

² Video of Board Hearing on Variance, III.B. at 0:52:30 (June 25, 2019) *available at* <https://decaturga.swagit.com/play/06252019-1644>

At times, the application appears to take the position that piping Stream 1 would cause the buffers to “disappear” and therefore no mitigation would be required.³ To the extent the applicant is taking this position, it is entirely baseless. Of course, on the face of the UDO, a stream cannot be filled or buffers impacted without a variance being granted first -- and to get the variance mitigation is required. In addition, the City has general authority to be more protective of the environmental and natural resources than the federal or state government.⁴ Applicant cannot rely on another governmental approval to meet its obligations under City code.

The applicant and Board should, at minimum, analyze all beneficial functions of buffers to meet its obligation under the UDO, including impacts to greenspace, scenic and recreational values, habitat, and aquatic ecosystems. Thereafter, the Board should consider and adopt mitigation measures to offset these impacts. To date, these impacts have not been adequately addressed.

2. Necessary Baseline Information is Currently Unavailable to Consider Effects of Variance Stream Buffers

Of course, in order to consider whether the proposed variance complies with the standards outlined in the UDO, the Board must first know what current conditions exist on site. This baseline information, however, is currently lacking.

As the applicant stated at the June 25 hearing, it has not to date conducted a tree survey or a geotechnical analysis of the segment of Shoal Creek it wishes to pipe. These studies would of course provide the necessary predicate on which to base mitigation decisions, particularly the tree survey, so the Board would have a clear picture of the impacts to green space, scenic resources, habitat, and related impacts discussed above.

Without knowing the number and types of trees applicant proposes to cut down, the Board cannot fairly be expected to meet its obligation to impose “mitigation measures to offset the effects” of the variance, UDO 9.2.5.B.1, or determine whether the variance is at least as protective of the environment and natural resources. UDO 9.2.5.B.6.

Once baseline information is available, it will form the foundation for a proper analysis.

³ WSE Development Letter/Statement of Intent at 3, fn.1; WSE Mitigation Table at 4.

⁴ UDO 9.2.4, Applicability, states, “These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law ...”

Based on application materials and information available to date, it appears the following baseline information is necessary for the board to meet its decision-making requirements under City code:

1. Tree survey (discussed above). Per City code, analysis of the tree canopy should include, e.g., consideration of the contribution of “organic matter that is a source of food and energy for the aquatic ecosystem” from the surrounding buffer areas, per UDO 9.2.2.A.7.
2. A wildlife survey would establish the relative value of this space as habitat, consistent with UDO 9.2.2.A.9. This survey is particularly important, given that a federally protected species of bird was recently identified at the Winnona Park Elementary School.⁵ Aquatic wildlife should also be considered.
3. Narrowly scoped viewshed/visual impact analysis. In combination with the tree survey, a viewshed impacts analysis should loss of green space. Such a study would shed light on the impacts to scenic and visual resources provided by this stand of greenspace. UDO 9.2.2.A.10. The stand of trees that would be removed is clearly visible from public rights of way, and form a large part of the current neighborhood character of this area of Decatur. Any potential loss of this green space must be analyzed and mitigated.
4. Stream characterization study (discussed above). Determining the properties of the subsurface in and around Shoal Creek will help the Board make a more informed decision about stormwater infiltration, water quality, and related issues. Any such study should also include surrounding riparian areas to adequately characterize the context here. Topographic maps suggest that the stream may have changed course over time, which may provide additional opportunities for mitigation or restoration.
5. A more thorough analysis of potential impacts to recreational resources and alternatives could provide context regarding how the protected stream buffer for Stream 1 could fit within the goals of Decatur’s comprehensive greenway planning efforts. UDO 9.2.2.A.10. To date, there appears to be a presumption that the applicant’s construction of a path along Stream 2 is sufficient to meet its obligations. However, the applicant does not appear to have considered alternatives that would extend such a path along Stream 1. Moreover, the planting plan at Stream 2 does not appear to require any specific amount of tree cover or plantings to offset the loss of canopy at Stream 1, nor could it likely offset such effects given the smaller area of the Stream 2 buffer after intrusion.

⁵ *Residents to Decatur Schools: Protected birds living in Winnona Park’s chimney* (June 24, 2019), <https://decaturish.com/2019/06/residents-to-decatur-schools-protected-birds-living-in-winnona-parks-chimney/>

These studies or analyses need not be costly or time-consuming, they are all relatively routine matters within the scope of a typical environmental impact analysis for large scale development projects such as the one proposed here. Indeed, some of these analyses could likely be accomplished based on a desktop review by the applicant's existing consultants. Moreover, the Board can indicate its priorities to the applicant. However, there is a meaningful gap in the record at this time about many of the stream buffer benefits -- in my view additional analysis is required for the Board to meet its obligations under City code. I believe that whatever the outcome of the variance proceeding, the above studies and information will help design a better project for the site.

The above baseline information and analysis is particularly necessary in light of the "location and extent of the proposed buffer or setback intrusion". UDO 9.2.5..B.6.c. Here, the proposed intrusion into buffer area is, in fact, total -- there would be no buffer remaining for 281 feet of Shoal Creek if it is placed in a pipe. In addition, the 281 feet that is proposed to be piped is the uppermost daylit headwaters of this branch of Shoal Creek; the Board should take note of the fact that upstream of the proposed piping, the entirety of the stream appears to be piped.⁶ Each study should consider that these are the uppermost daylit headwaters, and the implications for environmental impacts. The Board should take extra care when considering an application of the uppermost headwaters of this creek.

To put this into perspective, if the applicant were proposing to place 300 or more feet of stream into a pipe, it's my understanding that they would need a full individual federal permit from the Army Corps of Engineers, and such a permit would require individual compliance with the federal National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (1969) ("NEPA") (apparently, until a few years ago, this threshold for individual NEPA compliance was 100 feet). This is the statute that requires preparation of a federal environmental impact statement for actions that may significantly impact the environment. I can't say an environmental impact statement would be required here -- but it's notable that we are approaching the line where a full individual federal environmental compliance analysis would be necessary. So while additional study of the current variance may sound like an additional imposition on the applicant, it is nonetheless an appropriate and proportional approach, given the scope of the impacts proposed here.

Proper baseline analyses would also help close the information gap identified by the City engineer, who stated to the Board that insufficient information is available to confirm the

⁶ See City of Decatur, Stormwater Concerns, <https://www.decaturnext.com/wp-content/uploads/2019/05/Stormwater-Concerns.pdf> (showing only piping upstream of proposed area of piping Stream 1).

proposal can be as protective of natural resources and the environment as existing conditions.⁷ It should be noted that mitigation option A.1 proposed by the City engineer only addresses treatment of stormwater for the additional 1.1 acres of mitigation area.⁸ With respect to Stream 1, this mitigation option does not address loss of habitat, tree cover, green space, recreational alternatives, or scenic value, as required by UDO 9.2.2.A, subsections 7 through 11. Once equipped with the necessary baseline studies, the Board may wish to consider adoption of mitigation option A.2, also recommended by the City engineer, which contemplates a fuller mitigation through restoration of buffer area on-site or on the closest available properties, in an amount of land equivalent to the buffer area being impacted by the proposal.

I understand that the DDA has adopted a resolution in connection with its support for this project, and that this resolution makes a number of conclusions regarding environmental impacts.⁹ As the DDA has pointed out, its role is strictly advisory. Unfortunately, that resolution contains material omissions and even what appear to be misstatements regarding the environmental impacts of the variance with respect to Stream 1. Most notably, the resolution makes no analysis of habitat loss, tree loss, aquatic interactions between buffer vegetation and Stream 1, loss of greenspace, or the adverse impacts to recreational resources resulting from stream piping and the loss of tree cover south of Stream 1. Moreover, the resolution states that “Developer’s Improvements will restore and enhance stream bank stability, vegetation, and water quality.”¹⁰ This statement is potentially misleading because it is incorrect with respect to Stream 1. As the Board is aware, there will be a substantial loss of vegetation south of Stream 1 -- this is not a restoration or enhancement of this green space. Stream 1 will no longer have banks if the variance is approved -- it will be piped -- so it is incorrect and misleading to say that bank stabilization will be improved by piping the stream. For these reasons -- and because the DDA is not an environmental agency and lacks the expertise to offer definitive opinions on these matters -- the Board should not be constrained by DDA's opinions on environmental protection. I request that this Board consult instead with the City’s Environmental Sustainability Board to fully evaluate environmental considerations here.

Ultimately, the Board has its own obligation to consider whether the variance will be at least as protective of natural resources and the environment, and to impose substantive mitigation to offset the effects of the variance. At the current time, the Board lacks the foundational information necessary to make such an analysis, or a decision on appropriate mitigation measures.

⁷ Memorandum from Jennings Bell to Board Re; 203 Weeks St., at 2, para. 11 (April 30, 2019).

⁸ *Id.* at 2, para. A.1.

⁹ DDA Resolution Concerning the Worthing Companies (March 8, 2019) (“Resolution”)

¹⁰ Resolution at 2.

3. The Applicant Has Not Demonstrated Hardship

a. The Southern Portion of the Property is Developable as Single Family Homes As of Right, Under Existing MU Zoning, Topography and Access

The application does not support a finding of hardship to support a variance. The applicant seeks to argue that at least 50% of the site is undevelopable due to the existence of the pre-existing stream buffer areas for Streams 1 and 2, as well as arguing that property located south of Stream 1 buffer area¹¹ is “undevelopable” because of unusual topography and issues with access to these “cut off” parcels.

A brief review of the zoning ordinance and existing site conditions refutes these contentions. The parcels at issue are zoned Mixed Use (MU). In the MU use classification, attached single family homes are permissible uses as of right. UDO 6.2. - Allowed Use Table. A row of such residences is plainly possible on these parcels -- rendering them valuable and developable even if stream buffers are not infringed. Such housing could provide a beneficial transitional use and density between detached single family homes in Winnona Park, and a higher density multi-family buildings along Weekes or College.

A major misconception in this process needs to be corrected -- specifically, it is not correct to assume that the parcels south of Stream 1 are inaccessible. As we know, an existing curb cut provides access to the extant single-family home at 222 S. Columbia. Applicant has argued that this cut or similar access will not be allowed in the future due to road safety redesigns. But the applicant is overlooking the fact that 231 Weeks Street has existing access to these parcels off of the end of Weekes Street (where Shoal Creek already has been piped for a short distance), providing access to this assemblage of sites. A developer need not build a bridge or create a new curb cut to access these parcels. An access drive that extends Weekes Street further to the south across existing piping of Shoal Creek could provide access through existing buffers (with appropriate mitigation for building in buffer area), and would not require a costly bridge or dangerous curb cut.

¹¹ Specifically 222 S. Columbia, and portions of 218 S. Columbia, 304 Commerce, and 231 Weekes Street.

The lots south of Stream 1 could therefore be developed in any number of ways utilizing the existing access off of Weekes street, and to the extent allowed by traffic redesigns, the existing curb cut, under existing zoning. Moreover, topographical maps from the City of Decatur and a site visit illustrate that the lots do not have insurmountable topographic challenges; a large portion of the lots is flat, with a dip in elevation occurring from the road to an interior flat area.¹² This dip does not, however, preclude access currently. The primary topographical irregularity is toward the eastern edge of the parcels -- what appears to be a historical streambed, which forms a trench with a depth of approximately 8 feet. Of course, WSE has made clear that it is prepared to fill in and re-grade these sorts of topographical features, because it has proposed to fill and grade 281 feet of stream. So this topographical feature should be no impediment to WSE should it wish to develop these parcels separately, in accordance with the City code. But without the applicant providing less intrusive alternatives as required by Code, it is difficult to further evaluate these options. Accessing these parcels south of the stream buffer via the existing stream crossing at Weekes Street could also alleviate topographic concerns the applicant may have, and this option should be further explored.

In short, the applicant is incorrect in stating that the parcels south of Stream 1 buffers are “undevelopable”. Plainly, these parcels have economic value and development potential under existing zoning.

WSE’s position appears to rest on the assumption that it is entitled to evaluate hardship solely based on its own development concept of three hundred-plus units, on all of the property it has assembled. The Georgia Supreme Court, however, has made clear that an election not to build one’s preferred high density project, is merely evidence more akin to an “inconvenience” under the law, and does not constitute a hardship to support a variance. *See DeKalb County v. Wapensky*, 253 Ga. 47 (1984) (where plaintiff showed only that it would elect not to build the high-rise if the variances were denied, denial of variance was upheld).¹³

¹² See elevations between 998 and 990 across most of sites 222 S. Columbia, and portions of 218 S. Columbia, 304 Commerce, and 231 Weekes Street:
<http://onemap.decalbga.com/cityofdecalb/?extent=2259399.7852%2C1371309.8661%2C2260733.1185%2C1371922.7133%2C102667> (DeKalb Topographic Layer)

¹³ The DDA Resolution appears to make the same faulty assumption, in making conclusory findings that applicant would experience hardship because there is not a feasible alternative to develop the Weekes Street Development. *E.g.*, Resolution at para. 20. But that is precisely the issue - applicant must consider other scenarios other than the Weekes Street Development as currently proposed, and the DDA’s assertions in its Resolution do not provide any evidence that no feasible, economically viable alternatives exist. Unfortunately, the Resolution sheds little additional light on the underlying facts or reasons that would support its conclusions.

Recognizing that the parcels south of Stream 1 buffer are, in fact, developable, means that applicant's argument of hardship cannot be sustained. Less than 50% of the site is regulated by stream buffer protections.¹⁴ Moreover, the applicant is receiving public property in the form of the abandonment of Weekes Street, which further facilitates development of those areas outside of stream buffers.

b. Applicant's Alleged Hardship is Self-Created

Under the UDO, the applicant cannot have taken "any action" to create its own hardship, and then seek to claim a variance. UDO 9.2.5.B.4. ("Variances will not be considered when, following adoption of this Section, actions of any property owner of a given property have created conditions of a hardship on that property.").

A textbook example of self-created hardship is where a property owner subdivides or splits their own lot, creating a non-conforming, undevelopable lot. The situation in our current case is the inverse analogue to that classic example. Applicant has full control over what percentage of the site is undevelopable. Adding one more lot here or there, or subtracting one or two can place them in the hardship category, or not. Not surprisingly, the applicant has assembled a parcel which it claims meets this board's standard for hardship -- 50% within a stream buffer or otherwise undevelopable. The applicant has created the actual parcel of property where it is now claiming hardship, by piecing together existing parcels into one. To me, this is about a clear description of self-created hardship as it gets.

Determinations regarding stream buffer protection should not rise and fall based on actions within full control of private applicants. The Board should keep in mind that the applicant has created this situation where a variance is now requested, and the City's code does not empower the Board to grant a variance in this instance. UDO 9.2.5.B.4.

c. Takings -- The Board Should Further Consult with Counsel

In my experience, passing references to takings are not helpful to a considered land use decision. As I'm sure the Board is aware, eminent domain -- and especially regulatory takings law -- is one of the more complicated areas of constitutional law. Many factors play into the analysis of whether a regulatory taking has or has not occurred, and multiple legal tests could conceivably apply, depending on the particular factual and legal situation (*e.g.*, physical invasions, total takings, temporary takings, *Penn Central* takings, *Nolan-Dolan* exactions, etc.).¹⁵

¹⁴ WSE Development Letter/Statement of Intent at 3 (noting 1.83 acres of buffer area).

¹⁵ See, *e.g.*, *Summary of US Supreme Court Takings Decisions*, available at <http://vnrc.org/resources/community-planning-toolbox/land-use-law/summary-of-land-use-regulations-an>

There are also multiple factors to solve the so-called “denominator problem” -- *i.e.*, when you are measuring a percentage of property taken, how do you define the “whole” against which a portion is measured?

My commentary here is in no way is meant to be definitive, but I offer it with the goal of moderating some of the conclusory statements made about takings at the June 25 public hearing.

First, the Board should in no way assume that denial of a variance constitutes a taking. This is for several reasons, most importantly, the complexity of any such analysis and how it might play out in court. While I certainly understand the City may wish to avoid risk of litigation, I would say the best way to avoid court is to make a thorough, considered decision backed by the record, in accordance with the relevant provisions of City code. Land use decisions should not be made based on a potential implicit threat of possible court action. To the extent such a concern arises with the Board, the proper response is to consult with counsel -- and I expect the Board will have done so given the posture of the current application.

Because this is not a situation of eminent domain, any claim of takings in this circumstance would fall under the category of “regulatory taking” which, except in very specific defined circumstances, is generally difficult to prove. There is no dispute that stream buffer regulation is a valid exercise of police power in furtherance of a legitimate public purpose -- environmental protection -- as set forth by the City Council. These types of regulations are generally permissible. One commenter has noted that in light of recent Supreme Court precedent, land use regulation of property can reduce economic value of a property up to 85%, and still not constitute a taking.¹⁶ This leaves ample room to enforce valid regulations, as we are presented with here, without effecting a regulatory taking.

Generally speaking regulatory takings are evaluated based on the test enunciated by the U.S. Supreme Court in a case known as *Penn Central*. See *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978). It is a balancing test, taking into account multiple factors. One which I wish to point out here is the notion of “reasonable investment-backed expectations.” This concept can be applied here to point out that WSE arguably had no reasonable, investment-backed expectation to develop within stream buffers when it negotiated to acquire

[d-takings-law/summary-of-us-supreme-court-decisions/](#), for a brief summary of some relevant federal caselaw.

¹⁶ Vermont Natural Resources Council, *Avoiding or Defeating Takings Clause Challenges* (“[The] “functional equivalent” approach means that economic impact ordinarily should only lead to a taking if it constitutes a very significant loss—perhaps as high as 85% of the value of the property with and without the regulation.”), available at <http://vnrc.org/resources/community-planning-toolbox/land-use-law/summary-of-land-use-regulations-and-takings-law/>

interests in the properties. It is in fact possible that WSE negotiated a deal to achieve a reduced price for certain properties because they are within buffer areas. This is precisely because the regulations were in existence when the applicant purchased the property. Accordingly, this factor would likely be taken into account in considering whether the applicant may have a viable takings claim. Generally speaking, it is unfair to seek compensation for property interests for which you had no reasonable expectation of acquisition. I would argue that the applicant had no reasonable expectation of a variance, as it is a discretionary approval to develop in environmentally protected areas.

However, these concepts were not fleshed out in the public hearing on June 25.¹⁷ I was surprised to hear opinions offered that a taking would somehow occur at the instant property. These opinions were offered by a representative of the Decatur Development Authority (“DDA”) and applicant’s counsel. I am frankly not sure what theory the DDA representative was relying on when she stated a concern that if the variance was denied, the applicant would have a strong argument that a taking could occur. I sincerely hope for the sake of the City's governance the statement was backed by specific and thorough legal advice. In my experience, takings questions are seldom so clear cut, or easily resolved when the record is not complete, as is the case here. But in any event the Board should not rely on this opinion because the Board is differently situated than the DDA in jurisdiction and authority.

As to applicant’s counsel, I am concerned that the Board not misunderstand a point made about takings, which appeared to be directed solely toward individual parcels within WSE’s assemblage, where those parcels are largely within a stream buffer. Of course, individual parcels are in a different situation than the assemblage that has been created by the applicant -- as noted above, a significant factor in takings analysis is what the “denominator” is against which a potential taking is measured. Moreover, individual parcels within the assemblage may be better suited to claim hardship or (separately) takings if they were developed separately, because so much more of certain parcels are potentially impacted by stream buffer. Of course, the analysis for each parcel is site-specific and context-specific, and those lots are not now before the Board individually.¹⁸

¹⁷ Video of Board Hearing on Variance, III.B. at 0:56:00 *et seq.* (June 25, 2019) (DDA representative stating that the City has created the hardship for applicant and that “they could have a strong argument of a taking of their property”) and at 2:35 *et seq.* (applicant’s counsel stating “...you’re taking more than 50% of the land. ...”) (“these people down here in the green area, land has no value, can’t develop it, it’s a taking, it is absolutely a taking without stream buffer variances....”).

¹⁸ The applicant’s actions in assembling the current site have, in fact, diluted the potential strength of a variance claim for certain individual parcels that are largely within buffer. These landowners may be in a stronger legal position to obtain a variance for their individual parcels if they were not part of this current application. In any event, I do not see economic impacts on these landowners as a permissible criteria in the City code, that may be considered in the instant application.

In addition, the applicant has stated that it has agreed to the requests of the City to relocate Freeman Street and add a wider sidewalk along Commerce. In my view, these therefore cannot form the basis of any takings claim. And they would not be conditions imposed by this Board's decision -- so it is hard to see how they could be an impermissible regulatory taking or "exaction" by this Board.

Given the complexity of takings law and the lack of evidence in the record to demonstrate any sort of takings claim is viable at this time, I urge the board to proceed with caution in making any presumptions about potential takings here. Please, further consult with counsel if you have additional questions.

Overall, it is difficult to believe that there is no reasonable economic scenario to put over two acres of property to beneficial use in the City of Decatur.

d. An Alternatives Analysis Must be Conducted

It was stated in hearing that the applicant has not considered any designs which do not pipe Stream 1.¹⁹ In every design considered, Stream 1 was therefore proposed to be piped. This point is very significant, because since even before the involvement of the City of Decatur in applicant's plans, applicant had failed to consider less intrusive alternatives. This fact also calls into question the applicant's assertion at the City has created the applicant's alleged hardship here through the permitting process (discussed above). It appears that from the beginning, the applicant has not thoroughly explored all potential alternatives to its preferred project.

The UDO requires that at least one less intrusive alternative be presented to the board, or an explanation of why such a site plan is not possible. UDO 9.2.5.B.5.e. My review of the application did not reveal an alternative site plan, with or without an explanation of why it was not feasible or possible. And apparently, no alternative has even been considered that didn't pipe Stream 1. Based on application materials submitted to the City and publically available, the Board would appear to be relying on no more than the assertion of the applicant that this is the only feasible design, economically. The applicant has not met its burden of demonstrating -- by cognizable evidence -- that an alternative, less intrusive design is not possible.

The Board should, at bare minimum, ask the applicant to present a reasonable range of alternatives that it has actually considered. It should also include within its analysis alternatives

¹⁹ Video of Board Hearing on Variance, III.B. at 02:49, 03:15:11 (June 25, 2019) (representative of applicant stating "Let me be clear in every plan you'll see, we were piping this creek ..."). The parking deck has also been the same size throughout the planning process. *Id.* at 2:55.

which do not pipe Stream 1, in order to adequately evaluate the claim of hardship in relation to the largest environmental impact of the proposal. With that information, the Board can evaluate whether the range of alternatives was sufficient to evaluate, as required by code, “[w]hether alternative designs are possible which require less intrusion or no intrusion.” UDO 9.2.5.B.6.d.

4. The Board Must Consider Testimony from the City Manager

UDO 9.2.5.B.2 provides:

Except as provided above, the Zoning Board of Appeals shall grant no variance from any provision of this Section without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Zoning Board of Appeals. The City shall give public notice of each such public hearing in accordance with the procedures for variances in Sec. 11.2.9. The City Manager shall be present at any such variance hearings and the Board shall consider the testimony of the City Manager when granting any variance or relief from the requirements of this Section.

(emphasis supplied). The City Manager can no doubt add relevant information to the Board’s decisionmaking.

To date, it is my understanding that the City Manager has not testified at a public hearing on the variance application. The Board must consider testimony from the City Manager before taking final action on the application per UDO 9.2.5.B.2.

Conclusion

The Board has shown an admirable concern for restoration of the buffer area at Stream 2. I urge the Board to take the same approach to avoidance of impacts and mitigation at Stream 1 -- where elimination of an open-air stream and all of its buffer area is a much more serious impact.

The Board is faced with a true conundrum in this application. The applicant has scoped a project of a size that makes it difficult for the Board to meet its obligations to address and mitigate the environmental impacts of the proposed variance. And the applicant has further complicated the situation by failing to provide adequate baseline information or environmental analysis. Unfortunately, the applicant has labeled its proposal “smart growth” -- while seeking to remove almost half an acre of trees, build over a stream, and add significant climate emissions to our roadways. Applicant proposes to build no affordable housing -- this development is all market-rate units. Density can be the most environmentally friendly form of development -- but

this project plainly is not. I would prefer the City of Decatur encourage high density while preserving its remaining natural resources. Or follow the example of Seattle, which has zoned every single family lot to add two additional accessory dwelling units on-site, without parking minimums. But the Board shouldn't be swayed by preconceived and simplistic notions of pro- or anti-density. It should follow City code.

If the Board seeks to approve the variance, a great deal more analysis and mitigation must be considered to approach the standard of environmental protection required by the City Council. The Board should not feel compelled to grant this variance merely because this is the proposed project that has been designed by the applicant at this time. But I have seen vastly improved projects emerge from situations like this one, after a permit is denied. The Board has its own discretion and legal authority -- in addition to its own obligation to comply with the UDO.

Please consult, as much as you are able, with your legal counsel, with the City's Environmental Sustainability Board, with the City's engineer, and with the DDA, to further develop the record and support an appropriate decision on the variance. Without a great deal more work, or revision of the project proposal, the Board should deny the variance at this time. Many thanks for your time and consideration of these comments, and your hard work on behalf of the City of Decatur.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ash Miller', with a stylized, cursive script.

Ash Miller

Ash Miller
128 West Benson Street
Decatur, GA 30030

Attorney with experience in environmental and land use law, including permitting, compliance, entitlement analysis, and litigation. Admitted to the Bars of the State of Georgia and the State of Washington.

Professional Experience

K&L Gates, LLP, Seattle, WA

Partner (March 2015-May 2017)

Associate (June 2011-Feb. 2015)

Legal representation of government agencies, businesses, non-profit organizations, and private individuals in land use and environmental matters, with a focus on regulation of new and novel land uses and disputes arising from these emerging uses. Work included counseling of municipal and other public sector clients on energy infrastructure and environmental regulation, and private parties on real estate developments.

Experience with drafting, interpreting and applying regulations and legislation relating to land use and building services (e.g., electricity, plumbing, fire safety). Experience with the Washington State Growth Management Act (GMA), State Environmental Policy Act (SEPA), Shoreline Management Act (SMA), Model Toxics Control Act (MTCA), and federal statutes. Representative experience includes:

- Counsel city on scope of land use permitting authority and environmental impact review strategy, in connection with major proposed energy infrastructure development.
- Represent property owner in litigation over flooding damage, restoration of historic drainage flows, and related takings claims.
- Analysis and advice to property owner on zoning, critical areas, and shoreline regulation of coastal property containing salmon stream, purchased for potential residential or recreational use. Work included analysis of alternative configurations and solutions within context of existing regulations.
- Represent coalition school districts to draft and propose revisions to building and fire codes before the Washington State Building Code Council on classroom expansion requirements, such as life safety and infrastructure codes.
- Advise public transit authority on environmental review and permitting for major modification and rehabilitation of historic bridge in greater New York City metropolitan area.
- Represent non-profit recreational organization in planning and environmental review process for major urban parks system in the San Francisco Bay Area, including policy analysis and advocacy for competing park uses in major metropolitan area. Work includes briefings of federal congressional elected officials' staff to secure support for client's goals.

- Land use entitlement analysis and due diligence for proposed high-rise commercial and residential developments in Seattle.
- Represent school district in obtaining variance for addition of classroom space to high school facility.
- Represent historic church in connection with proposed demolition of landmark structure adjacent to church, resulting in preservation of historic structure.
- Represent public transportation authority on analysis of potential impacts resulting from proposed large-scale commercial development, including assessment of alternatives to mitigate potential impacts.
- Represent non-profit arts organization in land use matter involving analysis of solutions to potential non-conforming use.
- Counsel citizens group in connection with analysis of and opposition to proposed marijuana production facility, and counsel client regarding the land use and planning framework for WA I-502 uses.
- Advise public entity on applicability of 2012 federal highway legislation to transportation improvement projects, including provisions on environmental review and federal loan requirements.
- Advise public development authority in environmental due diligence for potential acquisition of land for proposed waterfront park.
- Advice to government agency on valuation of contaminated property in condemnation proceeding.

Sive, Paget & Riesel, P.C., New York, NY

Associate (September 2004-June 2011)

Represent public and private clients in broad spectrum of land use and environmental matters at largest land use and environmental law practice in New York City. Work included compliance with New York's State Environmental Quality Review Act (SEQRA), which is closely analogous to Washington State's SEPA statute. Representative matters include:

- Defend municipality in challenge to environmental review of site plan and subdivision approval, including issues of traffic mitigation, biodiversity impacts, and groundwater.
- Obtain approvals on behalf of numerous real estate developments for compliance with zoning standards for environmental performance metrics relating to hazardous materials, noise, and air quality.
- Defend challenge to environmental review and approval of retirement community resulting in dismissal of suit, on issues relating to analysis of wastewater treatment under state environmental impact review statute.
- Represent state agency in litigation seeking recovery of costs under federal Superfund law at property proposed for redevelopment as park and public library.
- Represent municipal water district in federal litigation to compel cleanup and recover costs for contaminated groundwater in public supply wells, resulting in settlement of \$2.7M.

Environmental Defense Fund, New York, NY

Media Associate (March 2000-July 2001)

Drafted press releases, op-eds, and conducted outreach to relevant media outlets to publicize programmatic work of EDF on issues of land use, climate, oceans, and public health. Monitored environmental news trends and kept program staff up to date on recent developments.

Education

New York University School of Law, New York, NY

J.D., May 2004

Honors: Robert McKay Scholar; ALI-ABA Environmental Law Scholar
Environmental Law Journal: Executive Editor (2003-2004)

Columbia University, New York, NY

B.A. in History, *cum laude*, May 1999

Honors: Departmental Honors in History; Dean's List, all semesters
Junior-year study abroad at Lady Margaret Hall, Oxford University, Oxford, England (1997-1998)

Selected Publications & Presentations

- *Coastal Zone Management and Watershed Planning*; Washington Real Property Deskbook, Vol. 5, Land Use Planning, Ch. 16 (WSBA, 4th ed., 2016)
- *FAST Act Expedites Permitting and Environmental Review for Large Infrastructure Projects*, K&L Gates Environmental and Land Use Alert (Jan. 2016)
- *Potential Vulnerabilities and Best Practices for Integrating the Legalization of Recreational Marijuana into Local Land Use and Planning Schemes*, Washington State Bar Association, Environmental and Land Use Law Section Newsletter (Aug. 2015)
- *News from the Intersection of the Growth Management Act and Water Rights*, Presented at Law Seminars International Conference on Growth Management and Land Use, Seattle, WA (Nov. 2011)
- Speaker, *Permitting and Environmental Considerations*, 18th Annual Washington Construction Law Conference, Seattle, WA (Sept. 15, 2011)
- *LEED System Expands to Include Neighborhood-Scale Developments*, Environmental News Network (May 27, 2009)
- Speaker, *Legal Issues Facing Green and Sustainable Initiatives*, Princeton Club of New York, Green Resources Forum (Feb. 2010)
- *Analysis of Climate Change Impacts in New York Under SEQRA*, 59 SYRACUSE LAW REVIEW 999 (2009) (with Mark A. Chertok)
- *Developing Regionalism: A Review of "The Regional City: Planning for the End of Sprawl,"* 11 N.Y.U. ENVIRONMENTAL LAW JOURNAL 842 (2003)

Civic & Community Activities

Friends of Shoal Creek, Decatur, GA (2019-present)

Media Center Volunteer, Oakhurst Elementary School, Decatur, GA (2017-2018)

Ravenna-Bryant Community Association, Board Member, Seattle, WA (2016-2017)

Mountains to Sound Greenway Trust, Advisory Board Member, Seattle, WA (2015-2017)

Urban Land Institute Northwest, Center for Sustainable Leadership (Oct. 2014-May 2015)

Columbia Alumni Representative Committee (2008-2017)

John Maximuk

From: Catherine Fox <cfox@foxenvironmental.net>
Sent: Wednesday, July 10, 2019 11:38 AM
To: John Maximuk
Subject: Re: FYI - good report on stream buffers from Carl Vinson
Attachments: FINAL MOD 8 - BUFFER ORDINANCE.pdf

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Hi John

The zoning meeting was very interesting, especially because everyone talked and talked about things that were not part of the ordinance. It seems like the board does not understand the ordinance. Here is a presentation from the MNGWPD that explains how the ordinance works. Please share it with the board. If the City does not follow the district ordinances, it could come back to them via problems with EPD and potential liability if anyone wanted to take the city to court over it.

I hope this is helpful. I provide these presentations to my clients and they like them.

Thanks
Catherine

On Thu, Jun 27, 2019 at 11:07 AM John Maximuk <John.Maximuk@decaturga.com> wrote:

Thank you Catherine.

JOHN MAXIMUK, AICP

Director

City of Decatur

Public Works Department

Design, Environment & Construction Division

(office) 678.553.6570

(cell) 678.710.5165

John.Maximuk@decaturga.com

2635 Talley Street, 1st Floor, Decatur, GA 30031



From: Catherine Fox <cfox@foxenvironmental.net>
Sent: Sunday, June 23, 2019 10:13 PM
To: John Maximuk <John.Maximuk@decaturga.com>
Cc: Mike and Erin Murphy <goirishgator@gmail.com>
Subject: FYI - good report on stream buffers from Carl Vinson

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

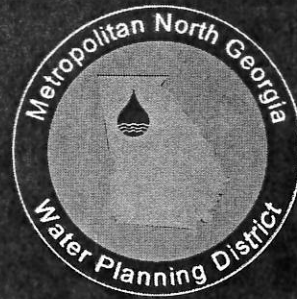
Hi John

I plan to attend the Zoning Board of Appeals Meeting on Tuesday evening. In preparing for the meeting, I found the attached report on Riparian Stream Buffer Ordinances that may be of interest to you. It is from Carl Vinson and written by two experts in the field. It contains a definition for extreme hardship that I recommend using in the Decatur Ordinance. I am also sharing this document with the MNGWPD staff as well in the hopes that it becomes a topic of discussion at a future TCC Meeting.

Thanks very much and I look forward to seeing you in action on Tuesday.

Catherine

Stream Buffer Protection Ordinance



Module Outline

1. Background
2. Key Ordinance Provisions
3. Successful Local Implementation

1. Background

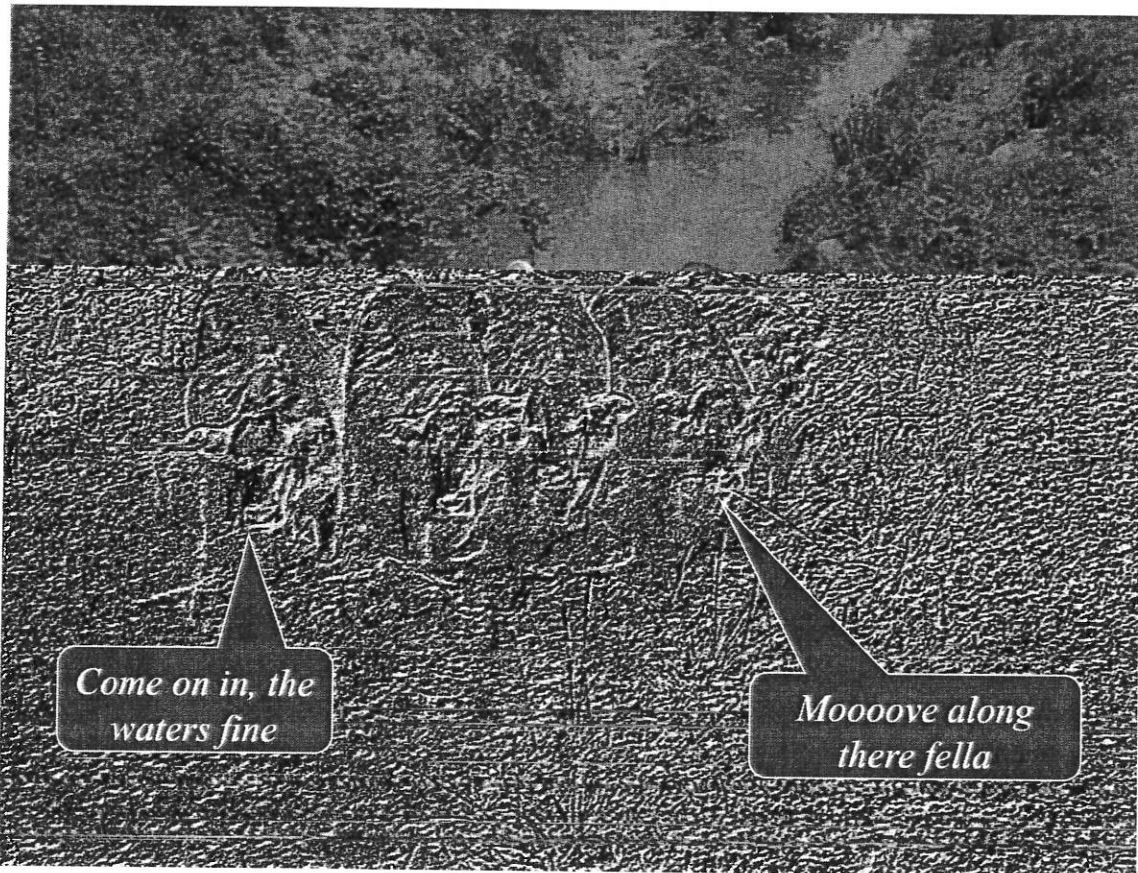
What Is A Stream Buffer?

- A natural vegetated area lying adjacent to the stream

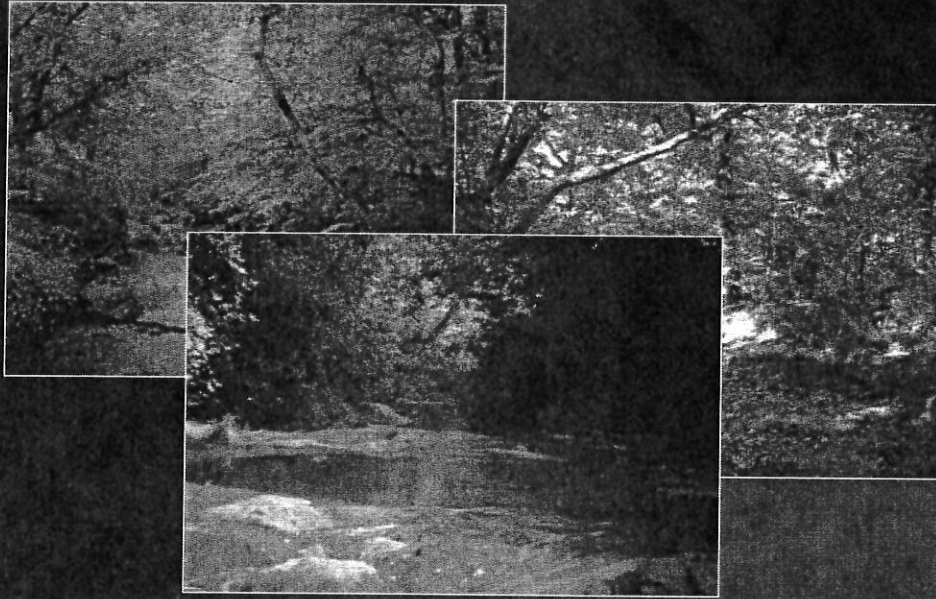


Environmental Benefits of Buffers

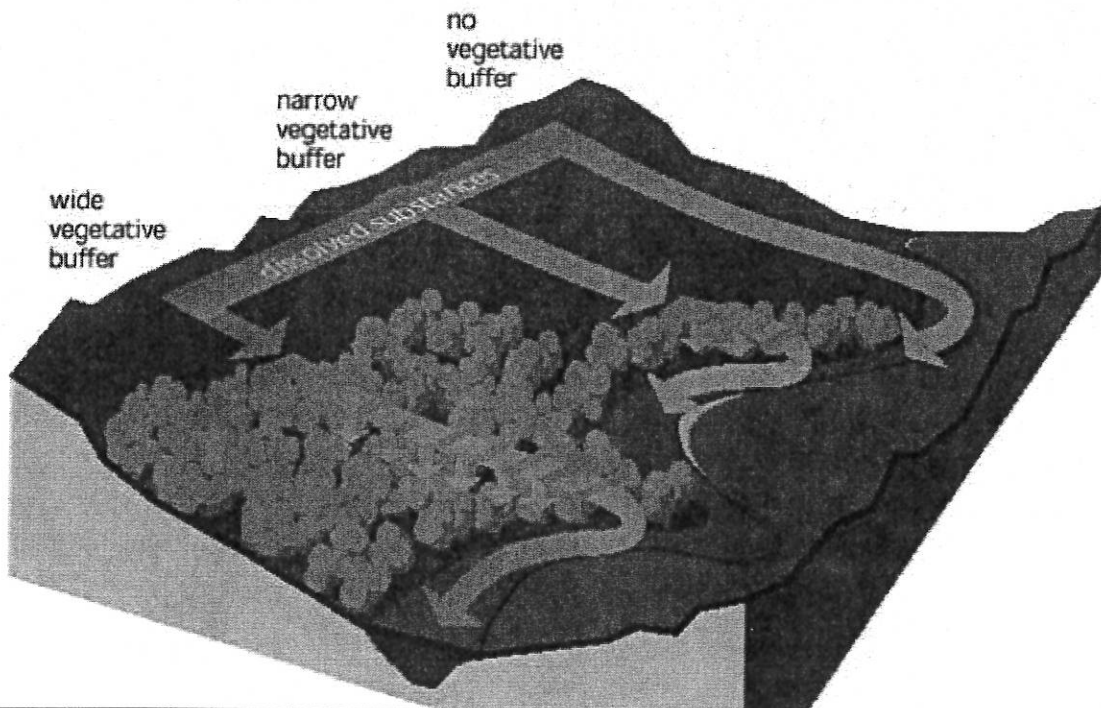
- Chemical, physical and biological integrity
- Removing pollutants
- Reducing erosion and controlling sedimentation
- Protecting and stabilizing stream banks
- Infiltration of stormwater runoff
- Maintaining base flow
- Organic matter as an aquatic food and energy source
- Tree canopy for shade and habitat
- Riparian wildlife habitat
- Scenic value and recreational opportunity
- Protection and restoration of greenspace



Riparian Stream Buffers



Buffer Function



Riparian
corridors
also make
economic
sense...



2. Key Ordinance Provisions

Economic costs/benefits of buffers

- Market Valuation
 - ✓ Cost of lost land
 - ✓ Cost of program implementation
- Non-market Valuation
 - ✓ Endangered species
 - ✓ Aesthetics
 - ✓ Land and structure value and resale
 - ✓ Recreation and tourism
 - ✓ Clean water

Costs tend to be “market” while benefits tend to be “non-market” or difficult “market” valuations

Buffers as Amenities

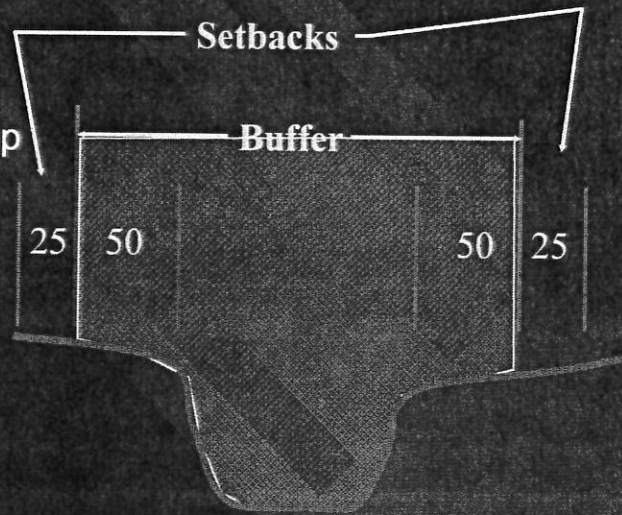


§ 4. 2 Exemptions

- General Exemptions
 - ✓ Crossings
 - ✓ Public utility intakes or outfalls
 - ✓ Access to property
 - ✓ Public access to water
 - ✓ Unpaved trails
 - ✓ Streambank restoration using native vegetation
- Public sewer easements
 - ✓ Paralleling stream
 - ✓ 25' from bank and maintenance thereof
- Existing rights-of-way
- Emergency Actions
 - ✓ Must repair all damage
- Forestry & silviculture
 - ✓ Not "incidental" to other development
 - ✓ 3 year moratorium after forestry activity ceases

§ 5.1 Buffers & Setbacks

- Buffers
 - ✓ 50' horizontal from top of bank
 - ✓ No land disturbance
- Setbacks
 - ✓ Additional 25' horizontal
 - ✓ no impervious surfaces
 - ✓ Minimize disturbance



No septic tanks or drainfields

§ 3 Definitions: Definition of Stream

- Any stream, beginning at:
 - ✓ The location of a spring, seep or groundwater outflow that sustains streamflow
 - ✓ A point in the stream channel with a drainage area of 25 acres or more
 - ✓ Where evidence suggests the presence of a stream, regardless of drainage area, local government can require verification by field studies

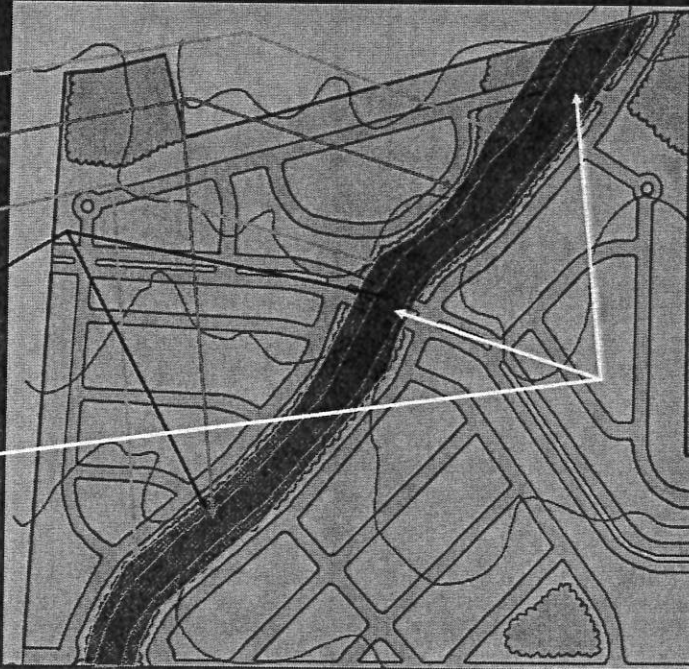
§ 4.1 Grandfathered

- Existing development and its maintenance
- On-going land disturbing activities, including:
 - ✓ Agriculture
 - ✓ Lawns and landscaping
- Land development plans submitted prior to adoption date
- Unapproved projects if part of previously approved larger land development plan - if constructed within 2 years

This does not include simply platting

§ 7 Permit Information Requirements

1. Streams
2. Buffers
3. Setbacks
4. Topography
5. Plan and description of land uses within buffer and setback



§ 10 Violations, Enforcement & Penalties

- Deemed to be a public nuisance
 - ✓ Action or inaction
- Notice of Violation
 - ✓ First step
 - ✓ Served on owner or responsible person
 - ✓ Allows for remedial action by a certain date
 - ✓ Outlines penalties
- Penalties
 - ✓ Stop work order
 - ✓ Withhold CO
 - ✓ Permit suspension, revocation or modification
 - ✓ Civil penalties – up to \$1000/day
 - ✓ Criminal penalties - \$1000/day & 60 days in jail

§ 11 - Administrative and legal appeals process

§ 5.2 Variances

- For hardship situations ONLY
- Platted prior to ordinance
- Other situations must show:
 - ✓ Shape, topography, or other characteristic prevent land development
 - ✓ Extreme hardship

§ 5. 2 Variances (cont.)

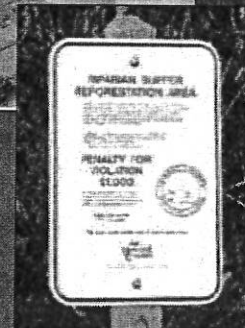
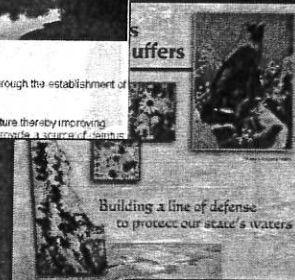
- Public hearing procedures
 - ✓ Notice
 - ✓ Signage
 - ✓ Board hearing
- Submittal procedures
 - ✓ Typically requires mitigation
- Must consider:
 - ✓ Size, shape, etc.
 - ✓ Locations of water features
 - ✓ Potential alternatives
 - ✓ Long-term impacts
 - ✓ Level of protection afforded by variance equal to buffer

Pre-platted lots do not require a public hearing

Public Education

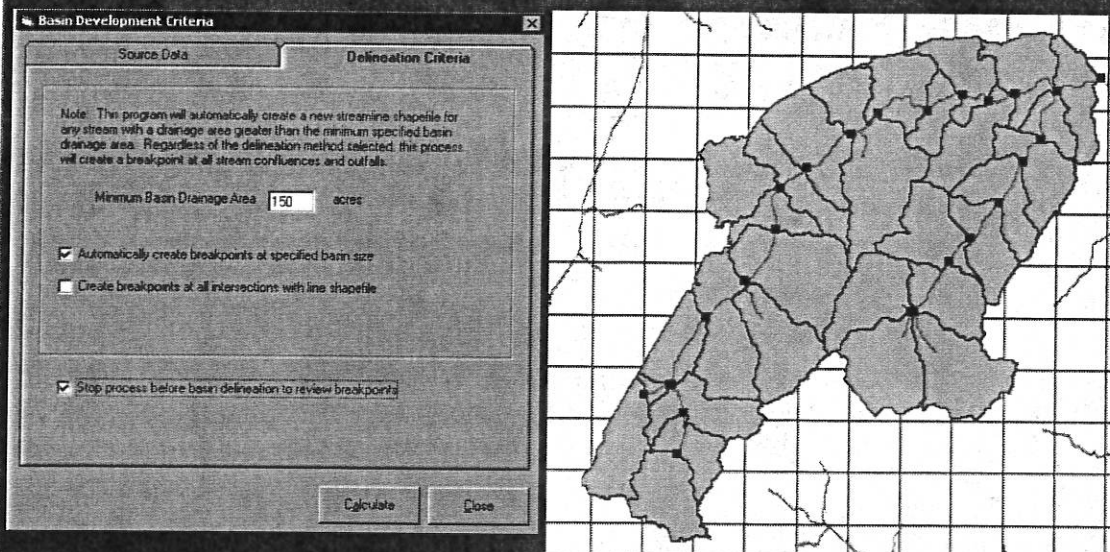
- Brochures
- Web information
- Exhibits
- Technical advice
- Signage
- Neighborhood meetings
- Maps and GIS overlays
- School education

Need to inform directly about requirements



Buffer Basin Delineation

Some off the shelf models automate the 25-acre basin identification





3. Successful Local Implementation

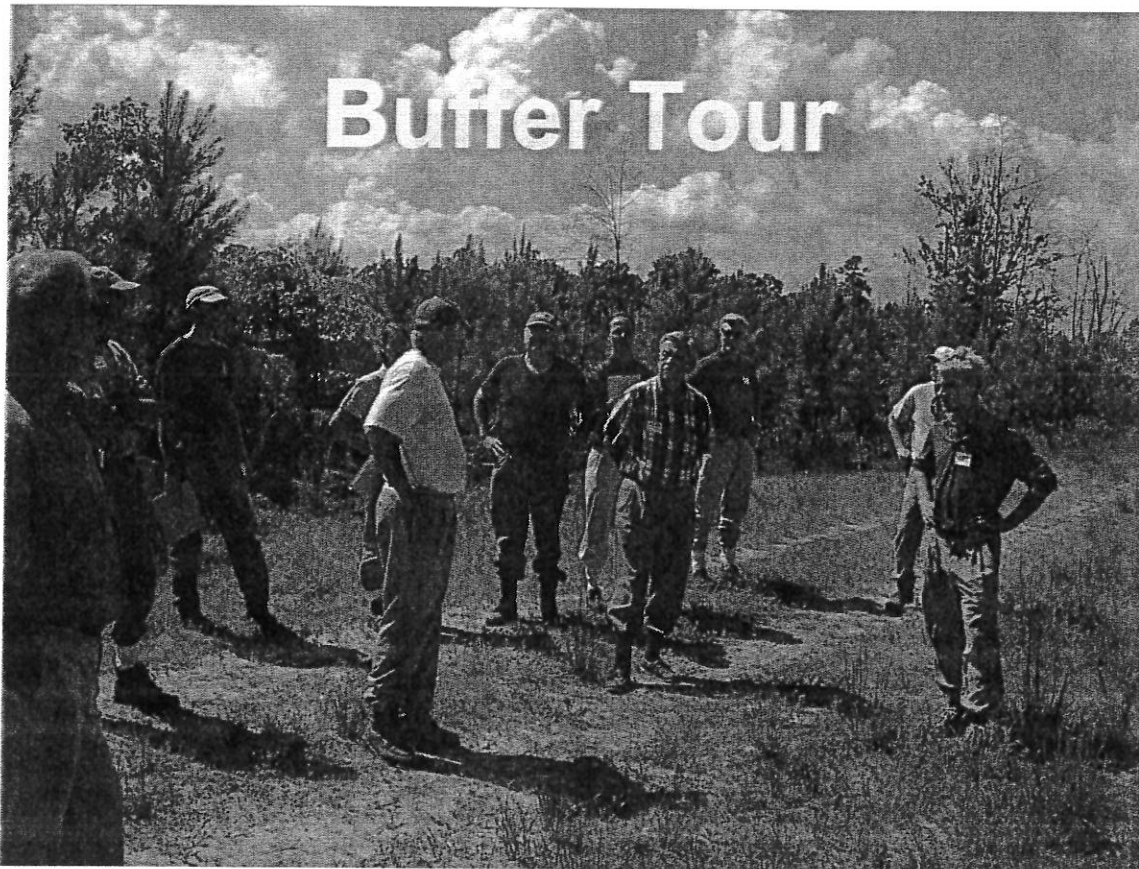
Key Elements of an Effective Buffer Program

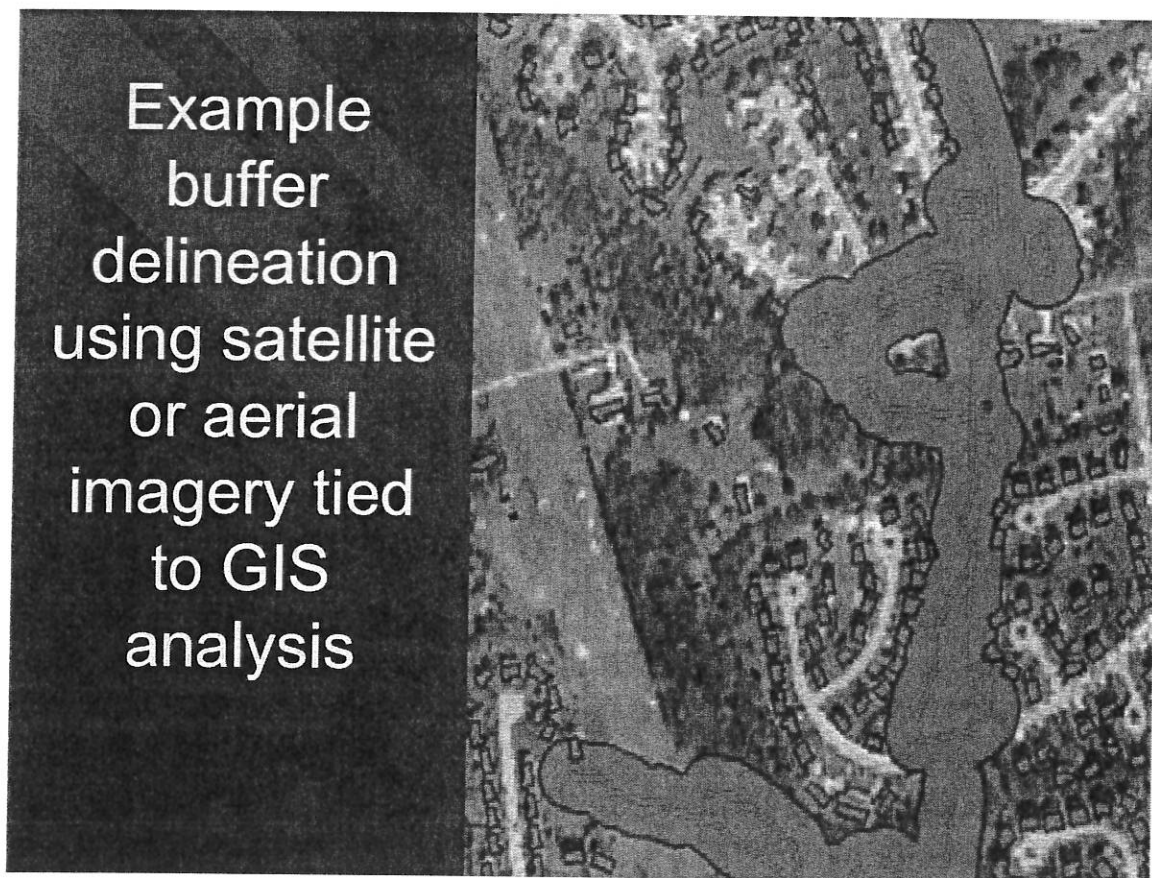
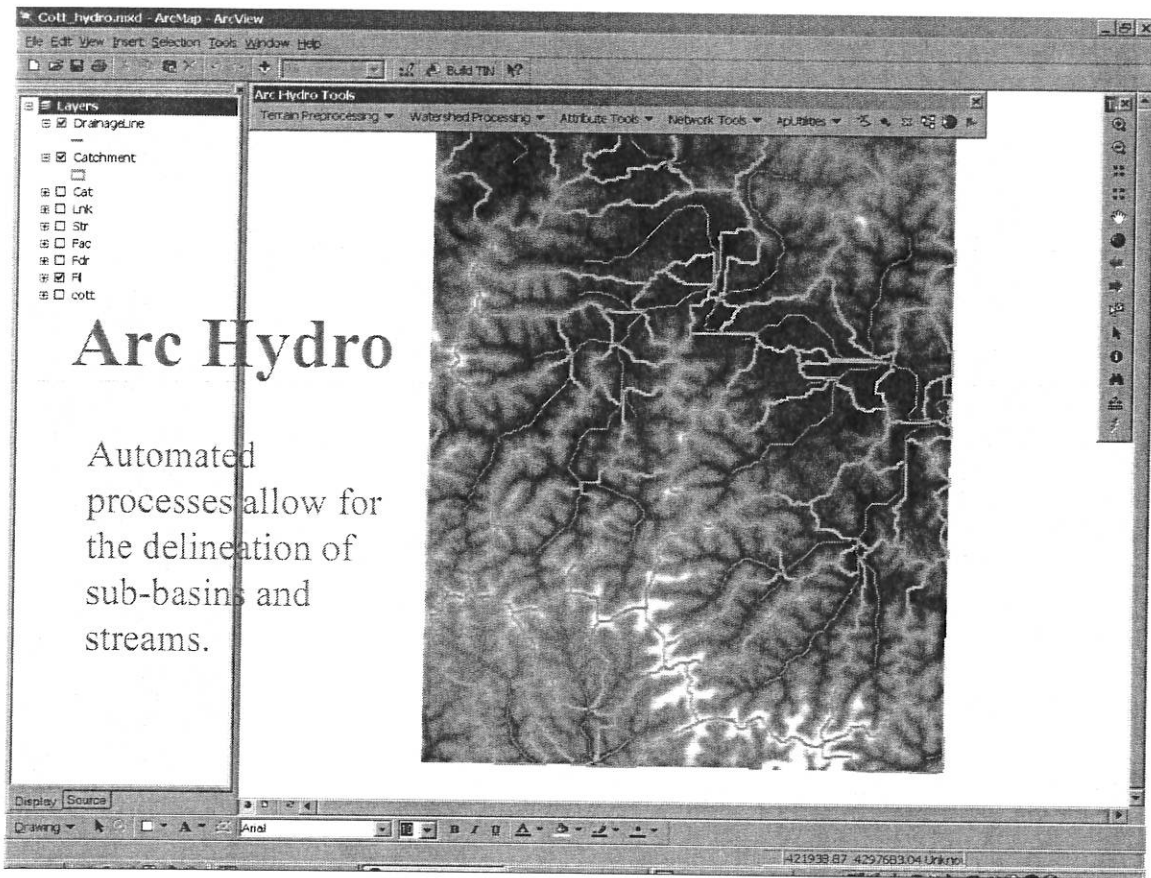
- Effective buffer establishment during construction
 - ✓ Limit demarcation
 - ✓ Two site inspections
- Clear buffer boundaries
 - ✓ Mapping at an appropriate scale
 - ✓ Database
- Restoration abilities
- Citizens education & awareness
 - ✓ Integrated methods
- Enforcement

Buffer Media Event

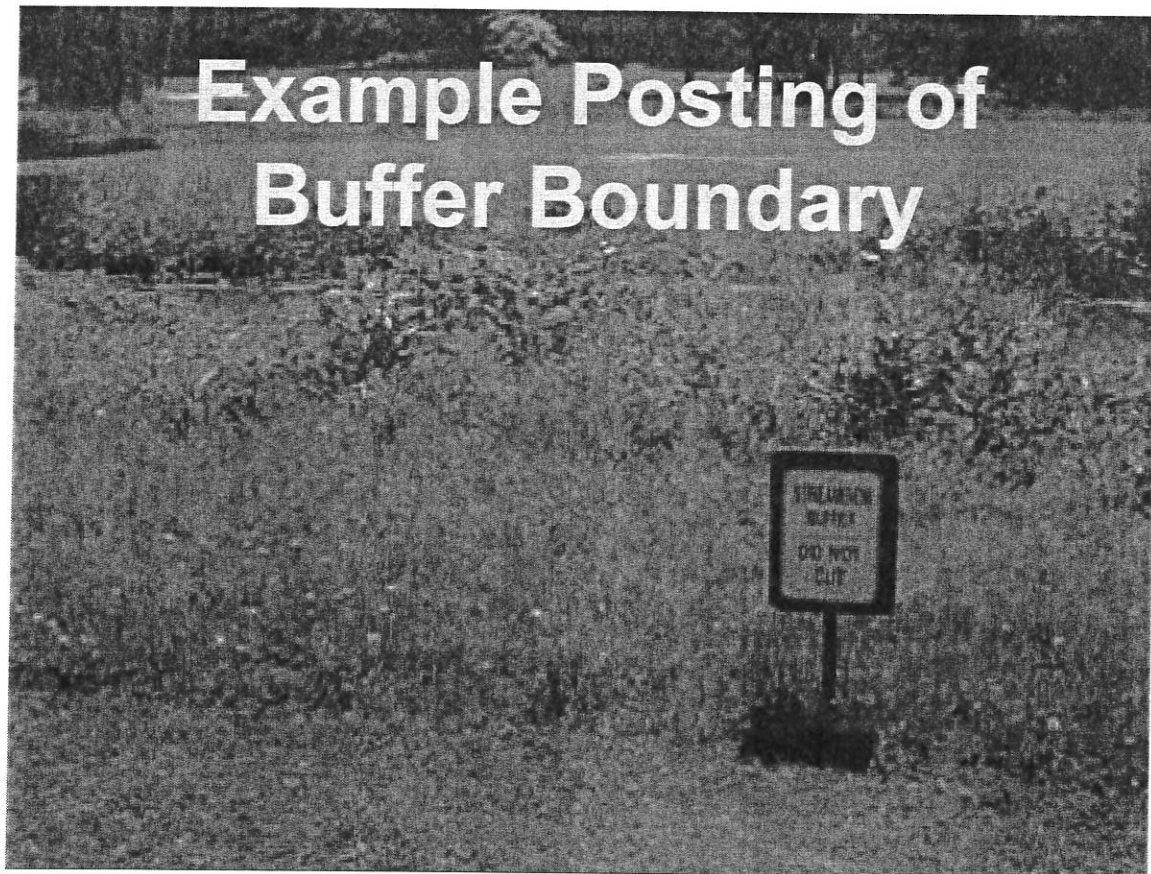
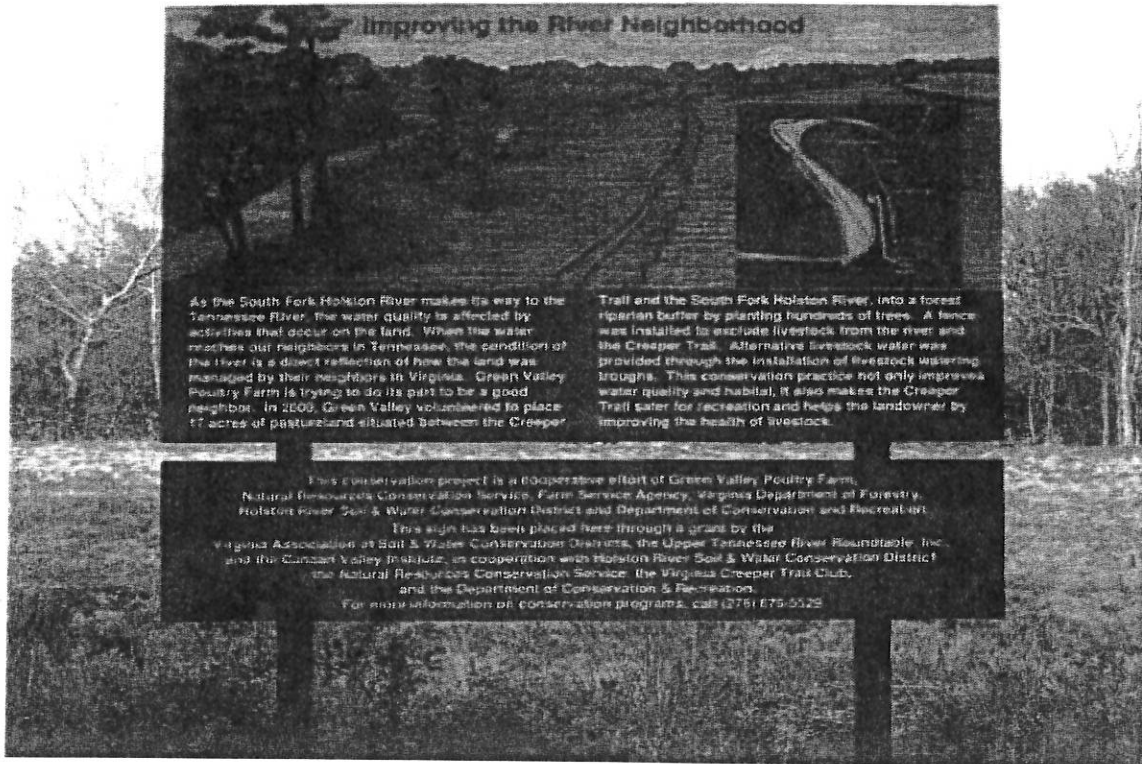


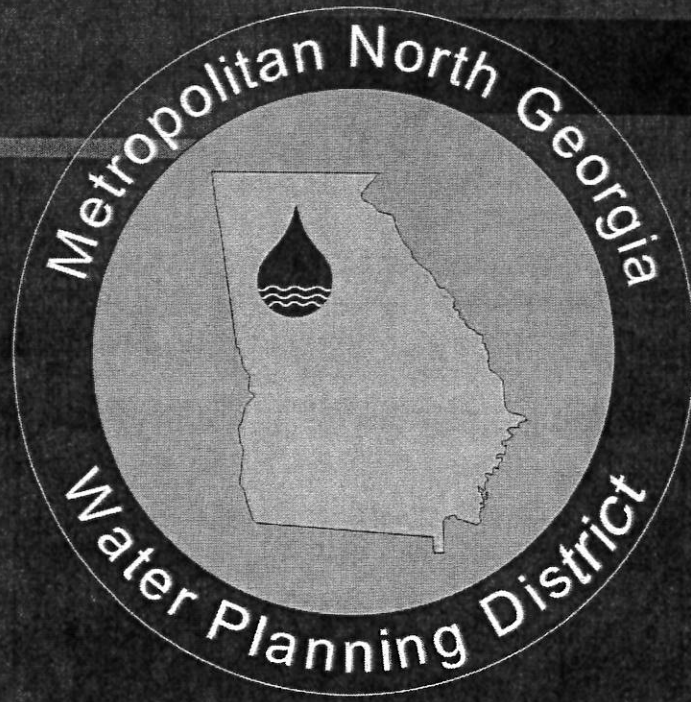
Buffer Tour





Example Signage Exhibit





John Maximuk

From: Lynne Rosner <bikelynn@gmail.com>
Sent: Wednesday, July 31, 2019 10:35 PM
To: John Maximuk
Subject: Weeks Street Proposed Development and Requested Variances
Attachments: Blackburn Variance Notes_ESB_Blackburn (1).docx; Weekes Comment Letter A Miller 070519.pdf

Importance: Low

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

To: John Maximuk, Director Design, Environment and Construction Division

Developers of the proposed Weeks Street project near the corner of Commerce and College have requested several variances to stream buffer requirements. The stream is one of the headwaters of Shoal Creek, which runs from their property, under Commerce, and behind houses on Shadowmoor and Winnona Park Elementary School. Variances would reduce the stream buffer from 75 feet to 25 feet and would pipe a long piece of the stream.

The Decatur Zoning Board of Appeals (ZBA) met on June 25th to hear the developer's requests and comments from the public. In spite of many well thought out objections from Decatur residents including 2 members of the Environmental Sustainability Board (ESB) (acting as concerned citizens) and an environmental attorney, Ash Miller, The only request from the board members was for the developers to contact property owners on the west side of the stream to see if the developers could clean up their section. We were left with the impression that however the property owners responded, the variances would be approved.

The following concerns have been expressed in letters (attached) from Steve Blackburn and Ash Miller: Extensive tree removal, storm water drainage impact, wildlife impact, loss of greenspace, stream impact, lack of affordable housing, DDA misleading statements, misuse of "extreme hardship" reason for variance when it should be "inconvenience" or "self-created hardship", and failure to follow city code. The letters go into great detail concerning these issues..

I understand that the ZBA does not need approval from the city commissioners to make a variance decision, so the only way to contest the decision seems to be directly to the ZBA. I have been informed that all communications to the ZBA must go through you and you will relay the information to the ZBA. I would appreciate it if you would forward this to the members of the board. Thank you for your attention.

Sincerely,
Lynne Rosner
125 Inman Drive

John Maximuk

From: Craig Hadley <hadleyster@gmail.com>
Sent: Thursday, August 01, 2019 1:37 PM
To: John Maximuk
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

From what I understand, the applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access. Why not make some trails here (my sons say, "why not some BMX trails!?!")

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City. Our family moved year more than a decade ago because we loved the small town feel and the high livability; with all the ruthless teardowns and development we feel that is at risk of being lost.

Thank you.
Craig Hadley

John Maximuk

From: Steven Black <steveblack@gmail.com>
Sent: Thursday, August 01, 2019 1:46 PM
To: John Maximuk
Subject: Re: Comment on Weekes Street Variance, WSE Development

Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

Steven Black
142 Ridgeland Ave

John Maximuk

From: Leigh Priestley <lapriestley@gmail.com>
Sent: Thursday, August 01, 2019 2:03 PM
To: John Maximuk
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City. As a local issuing authority, the City is required to follow the guidance used by the EPD for reviewing and approving stream buffer variances. Hopefully, the City is being diligent with the requirements that must be met by the developer. Additionally, is the city doing any analysis of the cumulative effects of all of these multi-family developments on the infrastructure, traffic, public services such as fire/police/sanitation, not to mention our over-crowded schools. There is a term - carrying capacity - that I believe the city greatly needs to research and consider. I am opposed to this high-density development.

Thank you.

--

Sincerely,

Leigh A. Priestley Violante
404-402-5804

John Maximuk

From: Shawn Mollen <shawnmollen@gmail.com>
Sent: Thursday, August 01, 2019 3:58 PM
To: John Maximuk
Subject: Re: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

John Maximuk

From: Chris Neff <chrisneff@bellsouth.net>
Sent: Thursday, August 01, 2019 4:39 PM
To: John Maximuk
Subject: Re: Comment on Weekes Street Variance, WSE Development
Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.
Christopher Neff
125 E Benson St
Decatur, GA
30030

John Maximuk

From: Tonio Andrade <toniolists@gmail.com>
Sent: Thursday, August 01, 2019 4:21 PM
To: John Maximuk
Cc: friendsofshoalcreek@gmail.com; Andrea Andrade
Subject: Comment on WSE Development's Weekes Street Variance

Categories: Blue Category, Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

We are deeply concerned about about the stream buffer variance requested by WSE Development for its Weekes Street project. WSE has not carried out the most basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur must not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access. Moreover, any new developments should minimize parking, and this one has far too much parking.

This variance isn't consistent with our City's vision for a sustainable future. Please insist on proper studies at the very least.

Thank you.

Tonio and Andrea Andrade
119 West Dearborn Circle
Decatur, GA. 30030

John Maximuk

From: Timothy Shirah <tshirah@att.net>
Sent: Friday, August 02, 2019 8:31 AM
To: John Maximuk
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Re: Comment on Weekes Street Variance, WSE Development

Dear Zoning Board of Appeals:

I am a lifelong resident of DeKalb County and live near the City of Decatur. I have enjoyed Decatur's thriving commerce and I especially enjoy its protected greenspaces. I am a supporter of Friends of Shoal Creek and Haddock Woods.

I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in Decatur.

Thank you.

Catherine Shirah

John Maximuk

From: Kevin Schuler <solospirit@live.com>
Sent: Friday, August 02, 2019 3:14 PM
To: John Maximuk
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

Kevin & Alice Schuler
122 East Benson Street

PS I'm sure you've received at least a few of these. We love our City and want to be careful with our decisions regarding what we decide to add to the City residential palette. I've lived outside Philadelphia and know what high density residential looks and feels like. I believe we are on the threshold of approaching this reality.

John Maximuk

From: scenedesign@mindspring.com
Sent: Saturday, August 03, 2019 1:26 PM
To: John Maximuk
Cc: Brian Smith
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for passive recreational access or retained as natural buffers and filters for Shoal Creek.

The recent developments in progress along S. Columbia Dr. are already impacting traffic and basic neighborhood quality of life issues. Southbound traffic now backs north of College Ave. due to the new stop sign at Talley Street. The impacts are morning and afternoon. Many residents have shifted to the Katie Kerr Dr. intersection causing more bottlenecks due to the slow changing light there. The new townhomes are in progress and will add more traffic as they become occupied. I do not agree with the lack of tree preservation on these properties or the insufficient canopy restoration on this high density development.

I oppose the development adjacent to the S. Columbia Dr./Commerce Dr. curve. Additional traffic at this point is unacceptable. There are no options to widen Columbia Dr. to accommodate the school traffic, and additional residents expected from current in progress high density developments on Columbia and College Ave.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thanks in advance for your consideration.
John Thigpen, City of Decatur resident
1169 Conway Rd
Decatur, GA 30030

This email and contact information is for the intended recipients only and may not be used, shared, traded or sold for any direct marketing or political campaign purpose.

John Maximuk

From: Michelle James <mbjames75@gmail.com>
Sent: Saturday, August 03, 2019 4:05 PM
To: John Maximuk
Subject: Weekend Street project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

John -

I am sending this email to ask that you do a comprehensive analysis of the impact such a project would have on traffic, pedestrian safety and the environment. Without such information, no one should vote in favor of the Weekes Street Project.

I would like to ask that the Zoning Board require the developer to, at a minimum, perform the following:

- * a full scale traffic analysis to determine the impact (including safety risks) of a project of this scale on the Talley Street Upper Elementary School as well as local roads
- * submit alternative site plans as required by city code when requesting a stream buffer analysis
- * environmental impact study to determine that this project is appropriately conserving streams and green space per the City of Decatur Comprehensive Plan

Please do not allow the potential tax revenue drive your decision.

Thank you for hearing my request.

Sincerely,

Michelle James
COD resident of over 12 years

John Maximuk

From: Sallyann King <sallyanncking@gmail.com>
Sent: Saturday, August 03, 2019 4:23 PM
To: John Maximuk; raymondjking@gmail.com
Subject: Weekes Street Project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear John -

I am sending this email to note that I am currently not in favor of the Weekes Street Project and ask that you do more.

The Zoning Board must require the developer to do more analysis to determine the full impact of this project. I would strongly urge that the developer be required, at a minimum, to perform the following :

- * a full scale traffic analysis to determine the impact (including safety risks) of a project of this scale on the Talley Street Upper Elementary School as well as local roads
- * submit alternative site plans as required by city code when requesting a stream buffer analysis
- * environmental impact study to determine that this project is not impacting federally protected bird species and is also appropriately conserving streams and green space per the City of Decatur Comprehensive Plan

I am asking that the Zoning Board of Appeals do its job to protect the city, it's people (including children) and it's streams and green spaces.

Thank you for hearing my request.

Best,

Sallyann and Ray King
133 Kirk Crossing Dr

John Maximuk

From: Meredith Burris <meredithmlynar@gmail.com>
Sent: Saturday, August 03, 2019 4:30 PM
To: John Maximuk
Subject: Weekes project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

John -

I am sending this email to note that I am currently not in favor of the Weekes Street Project. As a new F.AVE parent, I was stunned at how crowded our upper elementary schools already are, even with a brand new one. The current rate of growth of the city is just unsustainable if we want to keep Decatur the city we enjoy and the schools up to the high standards we've come to expect. This will not be possible with all of the unchecked apartment development we are seeing.

Re: the Weekes project specifically, the Zoning Board must require the developer to do more analysis to determine the full impact of this project. I would strongly urge that the developer be required, at a minimum, to perform the following :

- * a full scale traffic analysis to determine the impact (including safety risks) of a project of this scale on the Talley Street Upper Elementary School as well as local roads
- * submit alternative site plans as required by city code when requesting a stream buffer analysis
- * environmental impact study to determine that this project is not impacting federally protected bird species and is also appropriately conserving streams and green space per the City of Decatur Comprehensive Plan

I am asking that the Zoning Board of Appeals do its job to protect the city, it's people (including children) and it's streams and green spaces.

Thank you for hearing my request.

Thank you,
Meredith Burris
Resident

John Maximuk

From: Anna's Gmail <anna.e.jefcoat@gmail.com>
Sent: Saturday, August 03, 2019 5:01 PM
To: John Maximuk
Subject: Weekes Street Project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

John -

I am sending this email to note that I am currently not in favor of the Weekes Street Project.

The Zoning Board must require the developer to do more analysis to determine the full impact of this project. I would strongly urge that the developer be required, at a minimum, to perform the following :

- * a full scale traffic analysis to determine the impact (including safety risks) of a project of this scale on the Talley Street Upper Elementary School as well as local roads
- * submit alternative site plans as required by city code when requesting a stream buffer analysis
- * environmental impact study to determine that this project is not impacting federally protected bird species and is also appropriately conserving streams and green space per the City of Decatur Comprehensive Plan

I am asking that the Zoning Board of Appeals do its job to protect the city, it's people (including children) and it's streams and green spaces.

Thank you for hearing my request.

Anna Summerlin
156 Candler Drive
Sent from my iPhone

John Maximuk

From: R Ruffin <webalogue@gmail.com>
Sent: Sunday, August 04, 2019 10:25 AM
To: John Maximuk
Subject: Columbia and Commerce development.

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Sir,

Here are some of the reasons that this is a bad idea: 1. Roadways are already overburdened with traffic in that area. 2. The sewer and drainage system(s) is also overburdened and out of date and needs a citywide overhaul. 3. Schools are already becoming over-crowded, and the schools are a major draw for newcomers. 4. Roadways are in poor condition in general, and teachers are paid less than those who work for the city of Atlanta.

All of This means that the market for housing is more likely to implode sooner rather than later; and, it is also true that the best of the Decatur teachers are already looking for work elsewhere.

If we continue to pile people on top of one another, not only will anger and dissatisfaction grow out of control, but only those who cannot afford to move out, will remain. You will lose your tax base and what is left of Decatur neighborliness.

John Maximuk

From: steve.monroe@mindspring.com
Sent: Sunday, August 04, 2019 10:25 AM
To: John Maximuk; sswanso@emory.edu
Cc: mmcgwier@worthingse.com; steve.monroe@mindspring.com
Subject: Variance Application - WSE Development

Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

To: City of Decatur Zoning Board of Appeals
RE: Variance Application, WSE Development
Date: 4 August 2019

I would like to make a few comments regarding the stream bank setback variance application to be considered at the ZBA meeting on 12 August.

https://www.decaturga.com/sites/default/files/fileattachments/zoning_board_of_appeals/meeting/8188/zba_august_2019_agenda.pdf

I currently reside just downstream from the proposed project, adjacent to Shoal creek as it traverses the back of the playground at Winnona Park Elementary School.

I attended the community meeting on 4 June at Harmony Park during which representatives from WSE Development presented information about their proposed project

(<https://drive.google.com/file/d/1vStfAAWCVMhIDDtWha1ln7qJ4ESbroE2/view>) and representatives from Friends of Shoal Creek provided their comments (<https://www.friendsofshoalcreek.org/weekes-street-project/>). I have also reviewed the online materials.

My understanding is that the Zoning Board of Appeals have been asked to consider issues related to the stream bank setback variance, so I will comment on those issues first.

1. Habitat loss: Without a doubt, there will be some loss of habitat for birds, amphibians, and pollinators. That said, the area in question is by no means in pristine condition and is largely overrun with invasive species.
2. Water quality: According to the presentation, and based on my own experience, parts of the area in question are a designated brown field, due to contamination from the former radiator shop and other light industrial operations. The developers indicated that they would remediate the contamination as part of their site preparation. Additionally, storm water runoff is a major issue with this part of Shoal creek. The developers described an elaborate system for storm water and sediment retention, including capturing runoff from the used car lot at E. College and Commerce Dr. Overall, I believe that this project will greatly *INCREASE* the water quality in Shoal creek.

“Off Target” considerations (i.e. issues not related to the stream buffer setback):

1. Negative:
 - a. Traffic and congestion: Without a doubt, this project will increase traffic in the area. A particular concern, given the proximity to the recently opened Talley Street Upper Elementary School.
 - b. School enrollment: Impacts on school enrollment from this type of project seem particularly difficult to predict, but it won't be zero.
2. Positive

- a. Active living: My understanding is that part of the need for the variance is related to a request from the City to include a multi-use path traversing the property to connect with the improvements along Talley Street and South Columbia Drive.
- b. Tax digest: I assume, without data, that the project will increase tax revenue, including for the City Schools of Decatur.

Overall conclusion: While I share concerns with many of my neighbors about the overall impact of the project on increasing congestion within our City, I believe that the project will have a significant positive impact on the water quality in Shoal Creek. For this reason, I support the request for a stream buffer setback variance.

Steve Monroe
152 Poplar Cir
Decatur, GA 30030

John Maximuk

From: DARLENE BARRETT <decaturdarla@outlook.com>
Sent: Sunday, August 04, 2019 2:19 PM
To: John Maximuk
Subject: Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Re: Comment on Weekes Street Variance, WSE Development

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

Steven and Darlene Barrett
605 S Candler St

John Maximuk

From: virginia hawkins <thpft@aol.com>
Sent: Monday, August 05, 2019 2:00 PM
To: John Maximuk
Subject: WEEKES STREET PROJECT

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

As a 26 year resident of the city of Decatur, I write to voice my opposition to this development. The loss of the stream, trees and wildlife habitat is too great in this fragile area. I often see a Peregrin Falcon hunting there. I use these streets daily to commute and adding another 500 cars at rush hour is insane. I know you think building close to MARTA will encourage ridership, but not one person I know who has bought in these new transit friendly developments takes MARTA anywhere except maybe the airport.

Virginia Hawkins
116 Hibernia Ave
Decatur GA 30030

John Maximuk

From: Dan Chapman <danschapman@gmail.com>
Sent: Monday, August 05, 2019 2:11 PM
To: John Maximuk
Subject: Weekes St project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Hi John,

I live on Derrydown, a block or two below the proposed project. My youngest will go to Talley St. next year; he's at Winnona Park now. I attended the public hearing a month back and came away dismayed by the size of the project, as well as the lack of "green" set-asides/trade-offs. A 500-lot parking deck? I thought condo dwellers got by on one or no cars? Doesn't that work out to about 2 cars per apartment? I know the current section of Shoal Creek is abused/covered/polluted/etc, but allowing the builder to cover it completely and lose it forever seems excessive. I may have mis-interpreted this, but it seems the plans call for only one side of the remaining creek section to be restored with trees, etc. I am adamantly opposed to the chopping down of an acre of old-growth (albeit kudzu-covered) forest. I'm also adamantly opposed to the potential for even more flooding; when asked the developer couldn't give amount of impervious surface. That scared me, especially since our house flooded badly last winter from runoff down Derrydown hill.

I would hope you could reduce the project significantly, or at least ensure greater "green" remedies are put in place.

Thanks for your time...Dan

--

Dan Chapman
404-245-7211
danschapman@gmail.com

John Maximuk

From: Cenate Pruitt <cenate.pruitt@gmail.com>
Sent: Monday, August 05, 2019 2:40 PM
To: John Maximuk
Subject: Concerns about Weekes Street Project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Hi there,

As a Decatur resident with a child attending Talley Street Elementary, I just want to go on record *against* putting in 300 new apartments along a stretch of Columbia that is already overwhelmed with new traffic to and from the school.

Above and beyond that, the damage to the headwaters of Shoal Creek will be significant, as will the clearcutting of a significant amount of old growth forest.

It's too much stuff for the space, period.

Thank you.
Cenate Pruitt
510 E Ponce de Leon Ave #G

John Maximuk

From: Rebecca Rudich <rgrudich@gmail.com>
Sent: Monday, August 05, 2019 3:02 PM
To: John Maximuk
Subject: WSE Development for its Weekes Street project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

Rebecca Rudich
243 Forkner Dr, Decatur, GA 30030

John Maximuk

From: Julie Bailey <jbaileymail@gmail.com>
Sent: Monday, August 05, 2019 3:03 PM
To: John Maximuk
Subject: concerns about variance

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear John,

Hi, My name is Julie Bailey. I live on Inman Drive in the Winnona Park neighborhood. We were attracted to our neighborhood because of its incredible schools and for the opportunity for our girls to grow up surrounded by nature. This is what set the city of Decatur apart from the concrete suburbs when we decided to relocate for work two years ago.

I'm concerned about the potential variance the Weekes Street project has asked the zoning board to vote on next week.

I am absolutely not in favor of issuing a variance for Shoal Creek to be disturbed. My kids built forts around the creek. They rock hop on the creek. They chase butterflies and frogs next to the creek. For the sake of the current and future children and inhabitants of the neighborhood, I ask you to not vote in favor of this variance.

I'm also concerned about the environmental impact this development will cause. I understand the properties are valuable and will be redeveloped, but can it PLEASE be done with a minimum of disturbance to the natural environment?

I am glad we chose the city of Decatur, and I hope to be around for a long, long time to see that our city continues to develop in a responsible manner.

Thank you for your attention.

Julie Bailey

John Maximuk

From: Jennifer Madsen <jennifer.madsen@gmail.com>
Sent: Monday, August 05, 2019 3:47 PM
To: John Maximuk
Subject: Weekes Street Project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur and specifically Winnona Park neighborhood, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you,
Jennifer Madsen
105 Missionary Ct.

John Maximuk

From: Chantal Poister <cpoister@yahoo.com>
Sent: Monday, August 05, 2019 4:00 PM
To: John Maximuk
Subject: Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

To the Zoning Board of Appeals:

I am a Decatur resident, and I am writing about the stream buffer variance requested by WSE Development for its Weekes Street project. I oppose this variance and do not think it should be approved.

As far as I have learned, WSE Development has not done a tree survey, habitat characterization, impact analysis, or a thorough alternatives analysis. At a bare minimum, these studies must be completed before any variance could even be thoughtfully considered. Without these studies, no variance should be approved.

However, even should these studies be completed, Decatur does not need any further high-density development; we need to preserve our remaining green space. We need to protect and restore Shoal Creek, not place sections of it in underground pipe.

Please do not approve a variance that sets a negative precedent for environmental protection in our City. This application lacks the basics required for a variance and does not look to protect the trees or natural areas in Decatur. It is not for the overall good of our city.

Thank you for reading my message.

Sincerely,

Chantal Poister Tusher

John Maximuk

From: Cindy Langley <cbblangley@gmail.com>
Sent: Monday, August 05, 2019 5:05 PM
To: John Maximuk
Subject: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a **tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.**

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. **Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.**

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you,

Cindy Langley

Cindy Langley
404.422.2662
cbblangley@gmail.com

John Maximuk

From: Jan Heckler <janheckler@gmail.com>
Sent: Monday, August 05, 2019 5:08 PM
To: John Maximuk
Subject: Comment on Weekes St. Project

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Re: Comment on Weekes Street Variance, WSE Development

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you.

John Maximuk

From: Laird, Tracey <tlaird@agnesscott.edu>
Sent: Monday, August 05, 2019 8:31 PM
To: John Maximuk
Subject: re: Weekes Street Variance, WSE Development

Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Mr. Maximuk and the Zoning Board of Appeals:

I am a City of Decatur resident, writing to express concern regarding the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis. In addition, the city has not had time to evaluate the impact of high density development recently completed or already underway.

Shoal Creek remains a valuable green space and natural resource for our city. Its cleaning and restoration should be a top priority (particularly given its recreational use by children and pets in Winnona Park neighborhood as well as Dearborn Park). High density development does not justify placing Shoal Creek in danger. The city must not allow 280 feet of this beautiful creek to be contained in an underground pipe. Existing forested areas should be conserved and opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. please do not approve a variance that sets this adverse precedent for environmental protection in our City.

Thank you,
Tracey

--
Tracey E. W. Laird
Professor of Music
Agnes Scott College
141 E. College Avenue
Decatur, GA 30030

John Maximuk

From: Marie <mparker_pharmd@yahoo.com>
Sent: Monday, August 05, 2019 8:32 PM
To: John Maximuk
Subject: Re: Comment on Weekes Street Variance, WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The applicant has not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection in our City.

Kind Regards,
Marie

John Maximuk

From: Catherine Fox <cfox@foxenvironmental.net>
Sent: Monday, August 05, 2019 8:46 PM
To: John Maximuk
Subject: email to ZBA regarding upcoming stream buffer variance application - pls forward

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project. The hardship expressed by the applicant does not meet the requirements set forth in the ordinance. The best way to preserve a stream is by preserving the buffer. Decatur must follow its ordinance to maintain compliance with the Metro North GA Water Planning District requirements. Don't give away our City's critical and limited natural resources for the financial gain of yet another developer.

Thanks very much for your consideration.

Catherine Fox and
Paul Fahey
262 Forkner Drive
Decatur GA

John Maximuk

From: Sonali G. Saindane <sonaligokhale@yahoo.com>
Sent: Monday, August 05, 2019 9:03 PM
To: John Maximuk
Subject: Weekes Street Variance and WSE Development

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals,

I am writing to you to express my concerns about the stream buffer variance requested by WSE Development for its Weekes Street project. To my knowledge, the developer has not done any tree study or an impact study. High density development should not come at the expense of destroying green space. Further, the proposed development is very close to the new Talley Street Upper Elementary School. We don't need any more traffic or overcrowding in that area. The proposed project would add 500+ cars parked near the school.

I ask that you not approve the variance. I don't see how the proposed development benefits the people in Decatur or supports the city's vision for a sustainable future.

Thanks,

Sonali Saindane
340 Winnona Drive
Decatur

John Maximuk

From: Yinka Kerr <yinkakerr@hotmail.com>
Sent: Tuesday, August 06, 2019 5:30 AM
To: John Maximuk
Subject: No to Weekes Street project!

Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

John -

I am sending this email to note that I am currently not in favor of the Weekes Street Project.

The Zoning Board must require the developer to do more analysis to determine the full impact of this project. I would strongly urge that the developer be required, at a minimum, to perform the following :

- * a full scale traffic analysis to determine the impact (including safety risks) of a project of this scale on the Talley Street Upper Elementary School as well as local roads
- * submit alternative site plans as required by city code when requesting a stream buffer analysis
- * environmental impact study to determine that this project is not impacting federally protected bird species and is also appropriately conserving streams and green space per the City of Decatur Comprehensive Plan

I am asking that the Zoning Board of Appeals do its job to protect the city, it's people (including children) and it's streams and green spaces.

Thank you for hearing my request. Thank you,

Yinka

Sent from my iPhone

John Maximuk

From: Kate Billings <katebillings@gmail.com>
Sent: Tuesday, August 06, 2019 7:46 AM
To: John Maximuk
Subject: Weekes project

Categories: Red Category

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Mr. Maximuk,

I am writing to express my strong opposition against the proposed Weekes St project. The Talley Street school is already a ridiculous influx of traffic in an area with streets that are already too narrow and the bike process for Commerce will further increase this traffic. Our schools cannot handle more students. Our home was a huge investment and we cannot afford for Decatur to be run into the ground. Please stop this project!

Best regards,
Kate Billings
725 S Candler St.

August 6, 2019

Mr. Maximuk,

My name is Jeff Barber and my wife and I are homeowners at 223 S. Columbia drive, directly across the street from the proposed Weekes Street development known as East Decatur Station. We've been following the zoning board of appeals process from the start, attending meetings and reading online, though we have not had any direct contact with the developers.

Our concern with the developers' plan and the stream buffer variance is the proposed location of the entrance to the development off South Columbia Drive. While we haven't seen any drawings or plans, our understanding is the driveway could be placed directly over the piped portion of Shoal Creek that runs directly east from South Columbia Drive. Ostensibly this prevents the piped stream from running directly underneath any structures built on the property and allows access to the piped waterway for maintenance or emergency purposes.

As such, this entrance would sit at or near the point where Commerce Drive and South Columbia Drive come together at an intersection that is already awkward for both vehicles and pedestrians. Specifically, vehicles routinely travel more than twice the posted speed limit of 20mph despite the median installed to help control those speeds, and prevents us from making a left turn out of our driveway. With the new traffic configuration at Talley Street causing backups to College Ave, many drivers are now turning onto the Columbia Drive extension as a cut-thru to jump ahead of the line, adding more traffic to that residential street. The angled intersection at the south end makes it tempting for drivers to roll this stop sign, and I've had many close calls as a daily bike commuter just trying to get into my driveway.

However, there is hope! According to the [2015 East Decatur Master Plan](#), a traffic circle has been recommended for this intersection, and it seems this development presents the perfect opportunity to realize this vision. Again, I have not seen the proposed plans for this project but as a resident directly affected by this large development, I would ask that the developers be required to address the overall intersection in addition to their own entrance as a part of the design and approval process.

Finally, I would like to request improved transparency within the zoning board of appeals process. This is 2019, and yet meeting minutes are often posted online weeks after the meeting, and residents are unable to view any visual aids (ie plans) presented to the zoning board, either in an archived, online format or as a part of the livestream video. At the meetings, the developers literally face their poster boards toward the board members so that none of the citizens in attendance can see the plans, and they don't put them on display before or after the meeting. As such, it's nearly impossible for citizens like myself to offer informed comments on variance requests that come before the board. I suspect if I had been able to see drawings from the Weekes developers, my questions or concerns might have been addressed earlier in the process without the need to write this letter.

Thank you for your consideration.



Jeff Barber
223. S. Columbia Dr.
404-434-3658 // barber12@gmail.com

John Maximuk

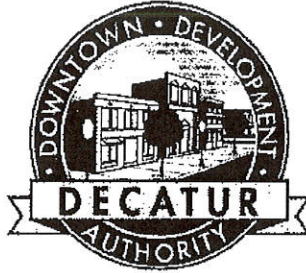
From: Ashley Howle <ashley.goldman@gmail.com>
Sent: Tuesday, August 06, 2019 12:43 PM
To: John Maximuk
Subject: No on Shoals Creek

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Please. Please. Please do not allow adding this many more apartments / cars / residents / school students to Decatur. It's overburdening the school district and they are completely bursting at the seams already. The traffic is completely insane, and our police and fire departments have enough to do with what's already here. Let the wildlife live somewhere, also. Please. This is enough already.

Respectfully,
Ashley Howle


Downtown Development Authority
of the City of Decatur
P.O. Box 220
Decatur, Georgia 30031



404/371-8386
(Fax) 404/378-2678
E-mail: info@decaturga.com
www.decaturga.com

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Chris Sciarrone, Chair 
Decatur Development Authority

CC: John Maximuk

RE: Variance Request by Worthing Properties

DATE: July 29, 2019 *rec'd 8/6/19*

The purpose of this memorandum is to clarify the role of the Decatur Development Authority as it relates to working with proposed development projects within the City of Decatur; outline our standing as an adjacent property owner of the above referenced project; and provide information on options to address specific concerns raised by ZBA members in June. First, the Decatur Development Authority was established in accordance with state law and has specific powers and responsibilities for economic development that separate it from citizen advisory boards established by the city commission. Our board is in a unique position to negotiate directly with developers to gain additional infrastructure improvements that benefit the broader community.

In the case of the Worthing project, the developer agreed to support the construction of a wider sidewalk along Commerce Drive by contributing the land and the construction cost at the request of the City. At the request of the City, the developer agreed to pay for the construction of Freeman Street and relocate it south onto the developer's property to allow for better alignment of the street extension to the east. The developer also agreed to work closely with the owner of Decatur Glassblowers at our request to cover the cost of changes to their parking lot and loading dock necessitated by the relocation and change in elevation of Freeman Street. Lastly, the developer agreed to construct a multi-purpose trail at the request of the City on their property along the eastern boundary of the site.

It is important to state that the Decatur Development Authority controls two parcels adjacent to the Worthing development site. As an adjacent property owner, we have an interest in the development of property adjacent to land we control. The DDA took the lead in negotiating with AT&T for the past decade to successfully secure a donation of 2.78 acres of land to the south of the Worthing site. The DDA also purchased a 1.2 acre site at the northeast corner of Talley Street and S. Columbia. With

control over 4 acres of land to the south of the Worthing project, the DDA has an interest and a responsibility to voice an opinion about this project.

At the June meeting of the ZBA, two points of concern were raised by members of the ZBA board that presented an opportunity for additional negotiation. First was the concern over plans to only restore the stream bank on the west side of Stream #2. The developer and the DDA made contact with the owners of 90% of the property along the eastern bank of the stream and they have agreed to grant an easement allowing the eastern bank to be restored. There is one property not controlled by these owners but conversations are underway to secure his support as well.

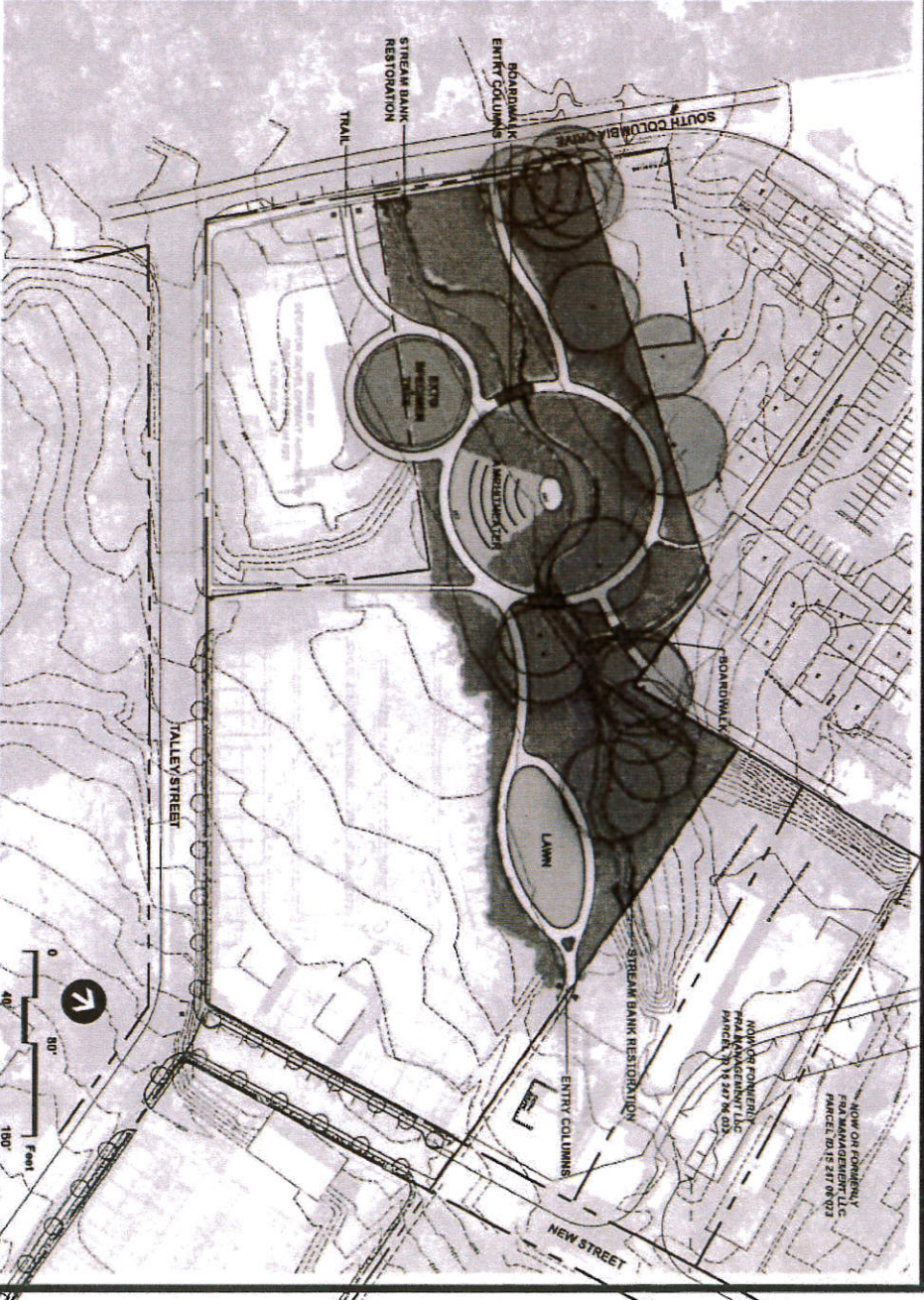
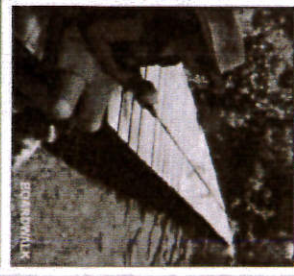
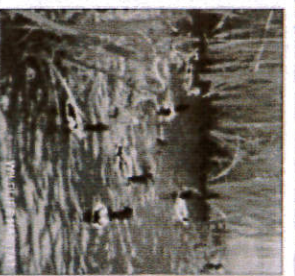
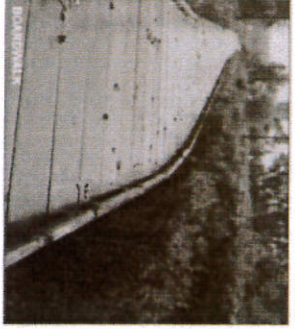
There was also discussion about the developer investing in stream improvements downstream to provide additional mitigation to offset the requested variance. The DDA has plans to create a passive park on the 2.78 acre AT&T donation to include streambank restoration, removal of invasive plant material, preservation of existing trees and the installation of a network of paths, benches and a small grassed amphitheater space to support outdoor education. A concept drawing for this park space is attached. We have asked adjacent property owners to contribute to the cost of creating this park. The stream that runs through our 2.78 acre site flows directly into Shoal Creek. Therefore improvements on this property will also have a positive impact on Shoal Creek downstream and the park space will provide useable greenspace to benefit the adjacent school and neighborhood.

In our review of the project, we considered the question of hardship and determined that the developer's ability to develop the site had been limited by the City's requests for additional land to accommodate a wider sidewalk on Commerce Drive, relocate the Freeman Street right of way and install a multi-use trail along the eastern edge of the property. In addition, we found that the storm water and water quality improvements required had a positive impact on Shoal Creek over the current condition which provides no storm water or water quality control. The additional commitment to restore the stream banks on both sides of Stream #2 will also improve Shoal Creek. Finally, we considered that the developer's ability to pipe Stream #1 is contingent upon the approval of the Georgia Environmental Protection Division.

In summary, the DDA has an interest in this project as both an adjacent property owner and as an advocate for quality development. The DDA worked to find opportunities to balance public and private interests and negotiate a project responsive to the district's master plan. The DDA board worked extensively with this developer and determined that the proposed improvements, particularly in the area of storm water management and water quality infrastructure, would be an improvement over current site conditions. The stream bank restoration of stream #2 and contributing to our efforts to create a park on our 2.78 acre site will result in additional improvements to the water quality downstream from this site.



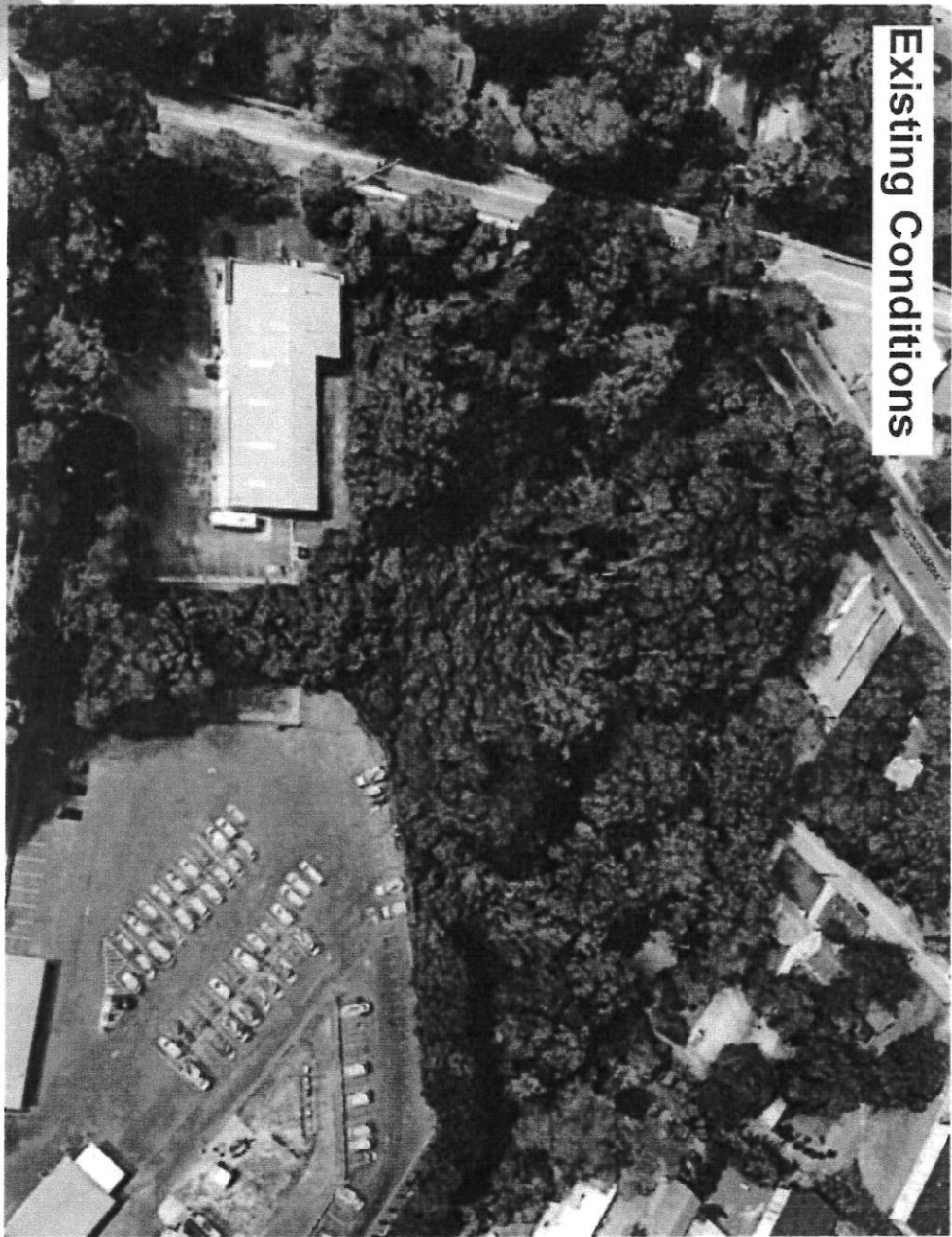
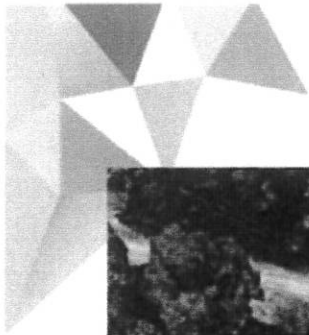
City of Decatur
 Dekalb County, Georgia
 GIS logo data from the original East Decatur conceptual design was utilized to determine existing contour elevations in the area of the pond. The contours were established using a combination of CAD file data and digitizing of PDF plans.



**EAST DECATUR TRAIL AND
 STREAM BANK RESTORATION**

ATKINS
 JULY 2019

81.

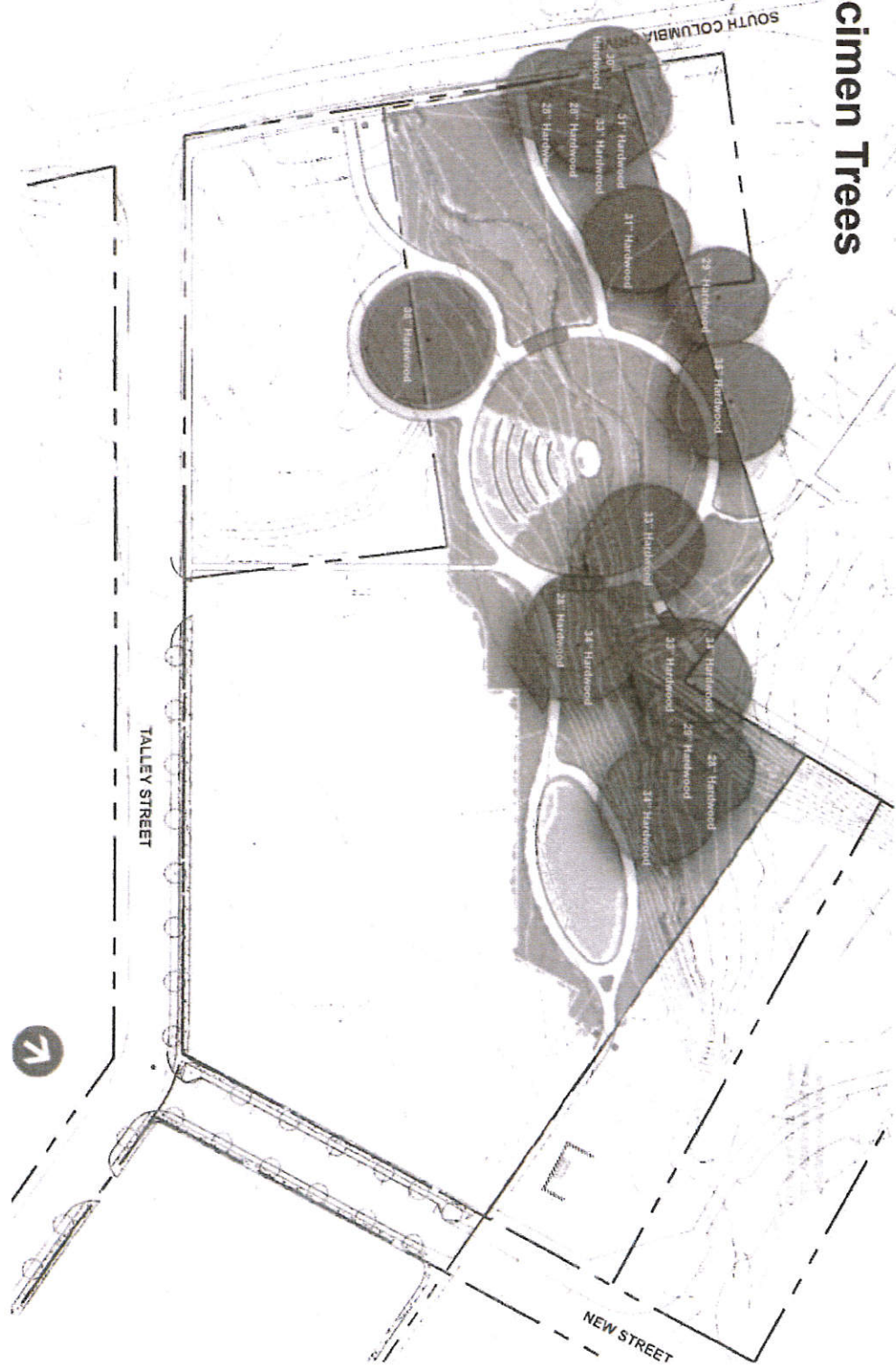


Existing Conditions

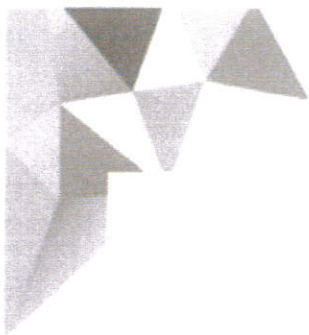


ATKINS

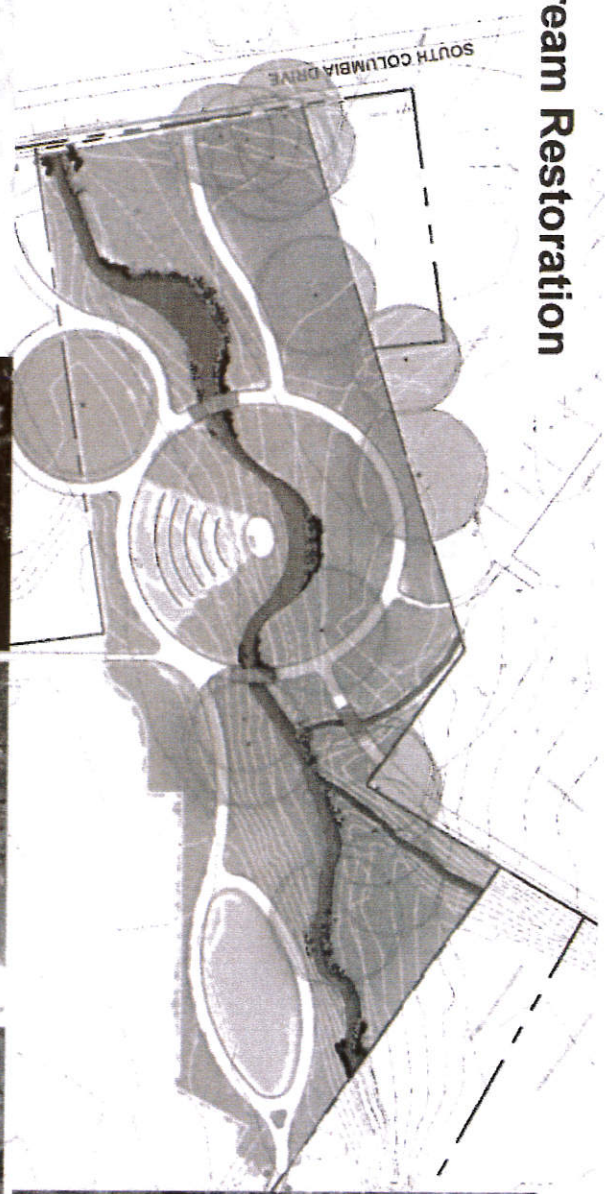
Specimen Trees



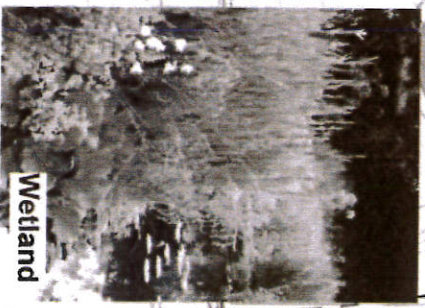
ATKINS



Stream Restoration



Boulders



Wetland



Stream Bank



Wetland



Wetland

ATKINS

Lawn Areas



Amphitheater



Specimen tree in lawn

TRAIL



LAWN

BOARDWALK

EXISTING VEGETATION

STREAM BANK RESTORATION

ENTRY COLUMNS

NEW STREET



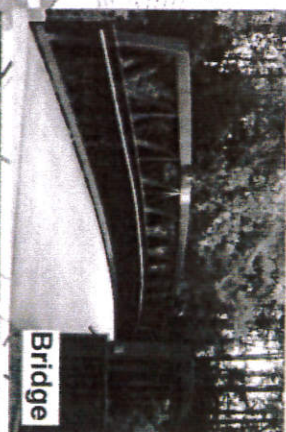
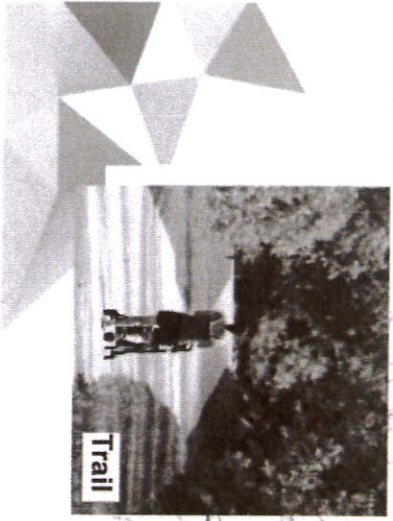
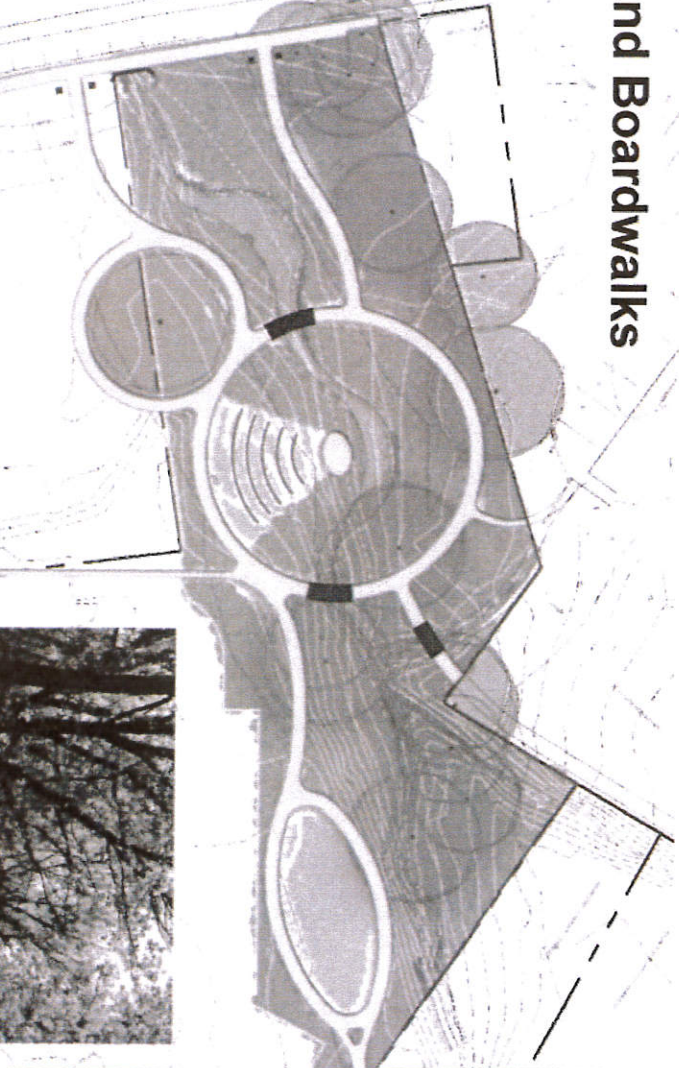
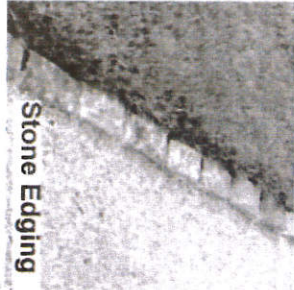
Oval Lawn



Wetland

ATKINS

Trail and Boardwalks



ATKINS

John Maximuk

From: Tricia Appleton <triciaappleton@earthlink.net>
Sent: Tuesday, August 06, 2019 3:10 PM
To: John Maximuk
Subject: Please pass on to ZBA members

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Re: Comment on Weekes Street Variance, WSE Development

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

The stream buffer variance application for this project does not meet the ordinance requirements for a hardship and thus must be denied. While I mention other concerns below, the main point is that the requirement for granting a variance has not been met. Once a precedent for not following this is set, our water supply is at great risk.

The best and most inexpensive way to protect a stream is to protect the buffer.

The applicant has also not done basic studies necessary to comply with City code, including a tree survey, habitat characterization and impact analysis, or a thorough alternatives analysis.

High-density development in Decatur should not come at the expense of our remaining green space and natural resources. We should restore Shoal Creek, not place 280 feet of it in an underground pipe. Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

Don't approve a variance that sets an adverse precedent for environmental protection in our City. Stream buffer protection is a basic requirement for the health of our community.

Thank you,

Tricia Appleton

John Maximuk

From: Kathleen Scott <kdwscott@gmail.com>
Sent: Tuesday, August 06, 2019 6:00 PM
To: John Maximuk
Subject: Re: Comment on Weekes Street Variance, WSE Development

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Thank you Mr. Maximuck!

And, thanks for your quick response.

Regards,
Kathleen Scott

On Tue, Aug 6, 2019, 5:22 PM John Maximuk <John.Maximuk@decaturga.com> wrote:
Ms. Scott

I received your letter. It will be included in the board packet.

Sent from my iPhone

On Aug 6, 2019, at 4:15 PM, Kathleen Scott <kdwscott@gmail.com> wrote:

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Dear Zoning Board of Appeals:

I am a resident of the City of Decatur, and I am writing to express my serious concerns about the stream buffer variance requested by WSE Development for its Weekes Street project.

At a minimum, the applicant should produce the results of:

1. Traffic Impact study
2. Wildlife Impact stud(ies)
3. Tree Survey and corresponding impact study
3. Flooding/floodplain impact study, and
4. Residential safety impact study

All research and reports should be provided by properly credentialed and approved 3rd parties.

Additionally, should the results of any of the studies show a negative impact of the applicant should be required to provide a mitigation plan for each item, and agree to pay for said mitigation before they are allowed to build.

Also, given the recent addition of Talley Street Upper Elementary (built due to the overcrowding in our school system) resulting in increased pedestrian traffic, car traffic congestion, and general safety concerns of the area (see this Decaturish editorial for one of many examples: <https://deaturish.com/2019/08/dear-deaturish-shadowmoor-drive-has-become-a-dangerous-road/?fbclid=IwAR3yAl7nKy45-gTqmZaM6RUtpTr992JkQeOa8bGmVIf1TMBDotO7yT4tftA>), it seems the addition of so many new people, students, and drivers would be ill advised.

High-density development in Decatur should not come at the expense of our remaining green space, natural resources, safety, or sanity. And, we should not be adding another 300 household to an already overcrowded school district. We should restore Shoal Creek, not place 280 feet of it in an underground pipe.

Existing forested areas should be conserved at minimum, and ideally opened up for public recreational access.

This variance isn't consistent with our City's vision for a sustainable future. Don't approve a variance that sets this adverse precedent for environmental protection and community safety in our City.

Thank you.

Kathleen Scott

kdwscott@gmail.com

(937) 626-9127

"You have brains in your head. You have feet in your shoes. You can steer yourself any direction you choose. You're on your own. And you know what you know. And YOU are the one who'll decide where to go..."

— Dr. Seuss

August 7, 2019

Attn.: John Maximuk @ John.Maximuk@decaturga.com

City of Decatur Zoning Board of Appeals
City Hall
509 N. McDonough St
Decatur, GA 30030

Re: WSE Development's Request for Stream Buffer Variances for the E-W and N-S Branches of Shoal Creek for 16 Parcels located on Weekes Street, Commerce Street & S. Columbia Drive.

Dear Zoning Board of Appeals,

Thank you for taking the time to review and consider my comments in advance of your public hearing on August 12, 2019 in which WSE Development ("WSE") comes before the Zoning Board of Appeals (the "Board") again seeking variances from Shoal Creek stream buffer for 16 parcels. It is my understanding WSE plans to utilize this property to construct a +/- 318 unit 4/5 level apartment building and an associated multi-level parking deck with 550 spaces and that 2 branches of Shoal Creek run roughly along the Southern and Eastern boundaries of WSE's proposed parcel assemblage on and proximate to Weekes St.

Here is a short list of my concerns:

No Alternative Site Plans Presented. During the June 25th public hearing, WSE's project manager, Michael McGuire, admitted WSE had never presented a plan to the City that did not involve piping the E-W branch of Shoal Creek ("Stream # 1") that runs close to the Southern boundary of its proposed assemblage¹. Thus, all site plans submitted to the City from the inception of the project have involved piping Stream # 1, both before and after the Decatur Development Authority's involvement and request that WSE make certain improvements for the City's benefit, i.e., wider street frontage and a sidewalk along Commerce St between College Ave and S. Columbia Dr, relocation of Freeman St to the South of its existing right of way and construction of a multi-purpose trail along the Eastern edge of the proposed assemblage.

WSE's failure to provide an alternative site plan(s) showing not piping Stream # 1 or, at bare minimum, less intrusion into the Stream # 1 buffer, seems problematic to me for at least 2 reasons under the UDO.

First, under UDO § 9.2.5B5(e), the applicant is to provide as part of its variance request, at minimum: "At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible". And, under UDO § 9.2.5B6(d), among additional factors to be considered in determining whether to issue the variance is: "Whether alternative designs are possible

¹ See 06/25/19 hearing video @2:49:47 MICHAEL/WSE: "Let's be clear in every plan you'll see, we were piping this creek ..."

which require less intrusion or no intrusion.” Early in the Board hearing on June 25th, WSE’s attorney, Linda Dunlavy, mentioned that WSE had 22 alternative site plans². Later in the hearing, the City’s civil engineer Jennings Bell indicated he had not seen even 1 alternative site plan from WSE as required by the City’s ordinance. Without providing even 1 alternative site plan that would show less or no intrusion into Stream # 1’s buffer for Mr. Bell to review and the Board to consider, WSE has not met its requirements for the grant of this variance under the UDO. Mr. McGuire also concedes that in all of WSE’s plans the parking deck was roughly the same size (in response to Board Chair Erik Pawloski’s question)³ meaning that WSE has not attempted to make any meaningful adjustments to the size of the parking deck that could be less impactful to Stream # 1, its stream buffer and associated green space. Moreover, it is difficult to understand how WSE can assert that a less intrusive plan is “not possible,” because as WSE has admitted, it has never even considered such a plan itself -- all of the plans it has analyzed involve piping the creek. In this circumstance WSE has not complied with the UDO requirements on alternatives analysis.

Second, the argument that the City/DDA created the WSE’s hardship⁴ is erroneous because even before the City/DDA requested that WSE make certain improvements for the City’s benefit, WSE already planned to pipe Stream # 1 and was seeking the same stream buffer variance in order to do so. The City/DDA has not forced WSE into Stream # 1. Rather, WSE has been seeking to pipe Stream # 1 from the inception of its project. WSE’s “hardship” is of its own creation. As a threshold requirement, UDO § 9.2.5B3(b) indicates the Board will only grant a variance in “Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.”⁵

Existing Shoal Creek Piping. I think it would be advisable to verify the amount and location of existing piping of Shoal Creek stream branches in this area and, also, when the piping occurred. Did this piping occur before enactment of the City’s stream buffer protections under the UDO or prior to greater protections/requirements under current state or federal law? There was mention during the June 25th hearing of “1000’s of feet” of existing piping on Shoal Creek in the vicinity of the proposed development as if this is good precedent and it is no big deal to pipe more of Shoal Creek. It strikes me the existence of Shoal Creek piping in this area is reason enough to seek to protect the last remaining Shoal Creek headwaters as the valuable community resource it is and try to limit further damage to Shoal Creek and its stream buffer.

No Tree Survey. At the Board’s public hearing on June 25th, Ms. Dunlavy said WSE had not done a tree survey indicating it would be “incredibly expensive” and has not quantified the loss of trees in the

² See 06/25/19 hearing video beginning @0:02:53 LINDA DUNLAVY: “...there were 22 of them ...”

³ See 06/25/19 hearing video beginning @2:55:47 MICHAEL/WSE: “ ...I would say yes, rough justice, yes, that’s correct...”

⁴ See 06/25/19 hearing video beginning @0:56:33 LYNNE MENNE/DDA: “....so we are the ones that have created the hardship ... and, and, I think they could have a strong argument of a taking of their property”

⁵ See 06/25/19 hearing video beginning @0:25:08 JENNINGS BELL/CITY: “...there were discussions about requests for alternatives that is a requirement of our ordinance to provide....but I haven’t seen those, so”

stream buffer or otherwise on the 16 properties at this time⁶. Regardless of the ideal timing, it strikes me that a tree survey is highly important in this case. For example, when one is standing at the end of Weekes St and looking in a South - Southwest direction, there appear to be roughly 25 - 40 hardwood trees, e.g., poplar, oak, hickory, ranging in age from maybe 30 – 50 years old lying in the 75' stream buffer on the South side of Stream # 1⁷. WSE has not accounted for, let alone acknowledged the existence of, this de facto green space, forest and wildlife habitat. And, it is my understanding WSE plans to remove the entirety of this hardwood forest and pave over this area to accommodate its parking deck and access to it.

Potential Traffic Impact. Further, it does not seem the potential traffic to and from the proposed development especially along Commerce St and S. Columbia Dr has been fully considered. WSE plans to create a full access driveway at the Freeman Street extension for the apartment building and a right in/right out access below the Freeman Street extension for its separate parking deck. The environmental impact of the associated traffic seems to have been largely overlooked and is significant in furthering one of the main purposes set forth in UDO § 9.2.3 for stream buffer protection which is “...to protect the public health, safety, environment and general welfare ...” Further, it is my understanding traffic signals will soon be placed at the intersections of S. Columbia and Talley St and S. Columbia and Shadowmoor St (just beyond Talley St). Talley St lies approximately 700' South of the proposed driveway for WSE's parking deck. WSE's variance application includes an A&R Engineering traffic analysis memo from January 29, 2019 that references a Pond & Co traffic study completed in October, 2018 for the City. The memo indicates that Talley Street Upper Elementary School and “future redevelopment” were taken into consideration in the noted Pond & Co study, but does not elaborate on what exactly that means⁸. If the 2 traffic signals have not been considered in the study, an updated study should be conducted along with a thorough pedestrian safety analysis.

Thank you for your time and consideration,

Caroline Grant

113 E. Benson St

⁶ See 06/25/2019 hearing video beginning @0:04:58 LINDA DUNLAVY: “we have not yet done a tree survey trees surveys are incredibly expensive ... so, um, we have not done a tree survey it is very difficult for us to quantify at this point in time what the tree loss would be”

⁷ This is a layman's view as I am not an arborist.

⁸ See pages 81 – 93 of Part 2 of WSE's application to the City of Decatur for stream buffer variance dated May 6, 2019.



friendsofshoalcreek@gmail.com
www.friendsofshoalcreek.org

August 7, 2019

Via email: john.maximuk@decaturga.com
andrea.arnold@decaturga.com
ESB Email Distribution List

City of Decatur
Attn: Zoning Board of Appeals; City Manager;
Environmental Sustainability Board
509 N. McDonough St.
Decatur, GA 30031

Re: Comments on WSE Development / Weekes Street Project Stream Buffer Variance

Dear Members of the Zoning Board of Appeals, Mrs. Arnold, and Members of the Environmental Sustainability Board:

Friends of Shoal Creek (FoSC) is a coalition of neighbors in the Oakhurst and Winnona Park neighborhoods. Our coalition has formed to protect the natural and ecological resources in the Shoal Creek watershed. FoSC submits these comments on the pending variance request submitted by WSE Development for its Weekes Street Project, seeking a departure from the City's stream buffer variance protections.

FoSC supports the protection of existing green space and natural resources in the City of Decatur. We understand that the proposed variance would result in the undergrounding of an east-west segment of Shoal Creek on site, specifically, approximately 281 feet of a tributary that forms part of the headwaters to the main branch of Shoal Creek. In addition, impervious surface would encroach upon the protected buffer area of another headwaters segment of the creek. A mature tree forest canopy in buffer area would be removed, as would additional trees to the south of the creek outside of buffer area.

FoSC supports protection and restoration of the all branches of Shoal Creek. We urge the City to consider alternatives to the Weekes Street Project which would not pipe the creek or remove the existing tree cover on the project site. Many of these trees are in protected stream buffer area, and all trees on the site serve as valuable green space and habitat. We understand the City is considering creating a passive park near the project site, and we support inclusion of the east-west segment of Shoal Creek and the tree cover to the south of the creek as part of this planned greenspace.

The east-west creek segment also presents an opportunity for increasing recreational and pedestrian connectivity. We request the City consider a creekside trail not just on the north-south creek segment, but also the east-west segment. This type of trail could further connect the Commerce/S. Columbia corridor to College Avenue and points east including the MARTA station and potential PATH linkages. Off-street creekside trails and paths are safer alternatives for pedestrians given the high level of traffic in this area.

Finally, we have concerns about the lack of sufficient environmental analysis and studies that have been done to date on the proposed project. We urge the City and developer to fully study and understand the environmental implications of its actions before a final decision is made.

We thank you for your attention to our comments, and look forward to continuing to work with the City to improve the quality of life and environmental conditions in our community.

Sincerely,

Friends of Shoal Creek

John Maximuk

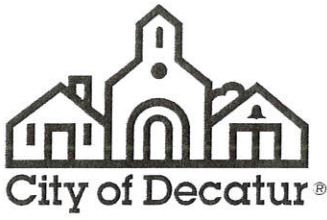
From: Sara Turbow <sara.turbow@gmail.com>
Sent: Thursday, August 08, 2019 8:05 AM
To: John Maximuk
Subject: Comments on Heights at East Decatur Apartments

CAUTION: This email originated from outside the Decatur, GA network. Please note the sender and maintain caution when opening external links/attachments.

Hello,

I am a City of Decatur resident and I have strong concerns about the proposed Heights at East Decatur apartments. It is premature to plan for a large apartment complex when Talley street has just opened, and without traffic impact or environmental impact assessments done. I can be reached at 404-251-8897 with any questions.

Thank you,
Sara Turbow



Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decaturga.com

Meeting Date: 8/12/19

Agenda Item: III-B

Zoning Board of Appeals Application Review Checklist

1. Address 172 Mead Rd
2. Application Received Date: 7/16/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month _____
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested Stream Buffers - 75 foot 9.2.5.
6. Existing Site Plan Attached? Yes No DEC Exhibit # _____
7. Proposed Site Plan Attached? Yes No DEC Exhibit # 14
8. List Other Drawings/ Renderings/ Photos- Below

- | | | |
|----|-----------------------------|----------------------------|
| a. | <u>staff report</u> | DEC Exhibit # <u>1-2.</u> |
| b. | <u>J. Bell staff report</u> | DEC Exhibit # <u>3-4.</u> |
| c. | <u>application</u> | DEC Exhibit # <u>5.</u> |
| d. | <u>narrative</u> | DEC Exhibit # <u>6-8.</u> |
| e. | <u>letters of support</u> | DEC Exhibit # <u>9-13</u> |
| f. | <u>drawings</u> | DEC Exhibit # <u>14-15</u> |
| g. | <u>photos</u> | DEC Exhibit # <u>16-17</u> |
| h. | <u>buffer map/site plan</u> | DEC Exhibit # <u>18.</u> |
| i. | <u>Letter from resident</u> | DEC Exhibit # <u>19.</u> |

Total Number of Drawing Sheets 2

9. How Many Letters of Support? 5

10. Total Number of Sheets in Application (Excluding Staff Sheets) 19

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



Subject Address: 172 Mead Rd.

Zoning Board of Appeals

August 12, 2019



Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

**Zoning Board of Appeals Staff Report
August 12, 2019**

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Chris Chattin and Danielle Chattin
Address of Property: 172 Mead Road
Present Zoning: R-60

- 1) The property is located at 172 Mead Road across from the Oakhurst Elementary School (east side of the street). The applicant demolished the existing single family dwelling and would like to construct a new single family dwelling in its place.
- 2) This request was heard and tabled at the June 25, 2019 meeting.
- 3) The applicant has applied for a variance from the 75 stream buffer requirements and front yard setback requirements in order to construct a new house on the property.
- 4) The applicant has withdrawn the request for a front yard setback variance and the 50 foot stream buffer variance following modifications to the design of the dwelling and the site.
- 5) Pursuant to the Unified Development Ordinance:
§Sec 9.2.5(A)
All land development activity subject to this Section shall meet the following requirements:

"2. An additional setback shall be maintained for 25 (also known as the 75 foot stream buffer) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback."



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Variations Requested	Existing	Proposed	Ordinance
Stream buffer requirements	N/A (former house has been demolished)	252 Square Feet of incursion into 75 foot stream buffer.	No Impervious Cover from 50' stream buffer setback to 75' stream buffer setback

- 6) A staff memo has been prepared by the Project Civil Engineer. The memo specifically addresses the stream buffer variance requests.
- 7) The following documents have been submitted for review and consideration:
 - a) staff report, 1-2
 - b) J. Bell staff report, 3-4
 - c) Application, 5
 - d) Narrative, 6-8
 - e) Letters of support, 9-13
 - f) Drawings, 14-15
 - g) Photos, 16-17
 - h) Buffer map/site plan, 18
 - i) Letter from resident, 19



Design, Environment and Construction Division

2635 Talley Street

P.O. Box 220

Decatur, Georgia 30031

404-377-6198 • Fax: 404-378-5054

engineering@decaturga.com • <http://www.decaturga.com>

MEMORANDUM

TO: Zoning Board of Appeals

FROM: Jennings Bell, E.I.T., Project Civil Engineer *RJB*

DATE: August 7, 2019

RE: 172 Mead Road – Stream Buffer Setback Area Variance Application

I have reviewed the proposed variance application dated July 16, 2019 including the Preliminary Site Plan by Land Plus Associates (Site Plan) regarding the above referenced matter and provide the following comment and recommendations for the Board's consideration:

1. The proposed development requires a variance under Section 9.2 of the Stream Buffer Protection Ordinance due to encroachment into 75 foot City Buffer Setback of the Shoal Creek West Tributary that traverses the eastern boundary of the subject property.
2. A Stream Buffer exists on the property, established by O.C.G.A. 12-7-6 in which no land disturbing activities shall be conducted, measured horizontally a distance of 25 feet from wrested vegetation.
3. A Stream Buffer exists on the property, established by City Ordinance Section 9.2.5 which shall be maintained as an undisturbed natural buffer, measured horizontally a distance of 50 feet from the top of bank.
4. A Buffer Setback exists on the property, established by City Ordinance Section 9.2.5 in which impervious surfaces are prohibited, measured horizontally a distance of 25 beyond the Stream Buffer, resulting in a total protected area extending 75 feet past the top of bank.
5. Enforcement of the requirements of Section 9.2 would prohibit the otherwise lawful use of this property by the owner.
6. Grandfather Provisions and Exemptions are not applicable in this case.
7. A stormwater management plan is not required for this development at this time, but will be required if the proposed improvements create an increase in site runoff for the developed site that exceeds 0.55 cubic feet per second of unmitigated increase in stormwater discharge. The determination on the need for a stormwater management plan cannot be made until the application files a preliminary Site Plan of the proposed improvements with Engineering for review or applies for a building permit.
8. The location of the proposed intrusion into the Stream Buffer Setback area, as shown on the Site Plan is over a developed rear yard
9. Alternative designs for the proposed structure does not appear possible to eliminate the encroachment into the Stream Buffer Setback. With the overall additions of impervious areas within the Stream Buffer Setback area draining across vegetated areas, the proposed development will permit mitigation tasks to be performed. This proposal may be as protective of the natural resources and the environment as the existing developed conditions if no further disturbance is permitted.

If the variance is granted by the Board, consideration should be given to incorporating the following conditions:

- A. The Applicant shall prepare a Site Mitigation Plan and Soil Erosion and Sediment Control Plan and make a submission, along with a Site Development application and a \$100 application fee, to the Design, Environment & Construction Division that shall incorporate the following components:
 1. The plan set shall contain a Soil Erosion and Sedimentation Control Plan prepared by a State certified professional that complies with the City and State Codes. The plan must document what Best Management Practices (BMPs) will be required along the perimeter of the area of disturbance approved by the Board to ensure the protection of the Shoal Creek West Tributary until permanent site stabilization has been established in accordance with the requirements of the Manual for Erosion and Sediment Control in Georgia. Due to the presence of State Waters, the silt fence BMP will need to be a double, not single row, as required by the State.
 2. The Mitigation Plan shall indicate that the area immediately adjacent to, and downhill of the impervious area shall be used to create an infiltration BMP sufficient to collect and retain the first inch of runoff. This BMP will be designed and sized in accordance with the Georgia Stormwater Management Manual. The plan shall contain topographic information, inlet capacity, and pipe sizing data sufficient to ensure collection, routing and infiltration.
- B. All of the proposed BMPs indicated on the Site Mitigation Plan shall be installed during the construction of the proposed structure and approved by the Design, Environment & Construction Division prior to the issuance of a Certificate of Completion
- C. The property Owner shall be responsible for the perpetual maintenance and upkeep of the water quality BMPs shown on the Site Mitigation Plan.

VARIANCE APPLICATION

Planning & Zoning

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 172 Mead Road Decatur, GA 30030
Name of applicant Chris & Danielle Chattin Phone 404.307.2376
Address 305 East Lake Drive City/state/ZIP 30030
Email chris_Chattin@hotmail.com
Name of property owner Chris & Danielle Chattin Phone 404.307.2376
Address 305 East Lake Drive City/state/ZIP 30030
Current zoning of property R-60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature

Date

7/16/19

To: City of Decatur Zoning Board of Appeals
From: Chris and Danielle Chattin, owners of 172 Mead Road;
Assistance from Chris Holden, Land Plus Associates
RE: 172 Mead Road Variance Request
Date: July 16, 2019

We respectfully submit this application for a stream buffer variance at 172 Mead Road, the property on which we would like to build our permanent home. Our request is for a variance within the 75' stream buffer to allow for a one car parking pad.

As part of this application we are proposing a storm water management plan to mitigate the parking pad. The details submitted in drawing include an infiltration basin to capture surface run off for full length of driveway to provide comprehensive water management for entire lot. (note: driveway is outside of stream buffer, but significantly sloped)

We previously applied for a 75' stream buffer variance on this property, which request was tabled. We have incorporated feedback received from the Board, as well as worked closely with the City of Decatur, to submit this revised application. We appreciate the time and input from City which improved our site plan and eliminated the need for the two other variances requested in June meeting.

Lastly, we are resubmitting this application with several letters of support, including from both of our next-door neighbors (176 Mead Road and 168 Mead Road).

1. What is the variance requested? What code requirement do you wish to vary from?

Our request is to waive the requirement of the 75' Impervious Buffer, these requirements are specifically found in Section 9.2.5

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

The property is currently zoned R-60 and has two non-conforming conditions: the lot is 50' wide versus the zoning requirement of 60', and the lot area is 7,488 sf versus the zoning requirement of 9,000 sf. These two conditions limit site layout flexibility. In addition, there is an elevation difference of

6

21' from the road down to the 25' State Buffer Line, which (as described above) creates practical difficulties for driveway parking.

In addition, the property is located directly across the street from Oakhurst Elementary School, a heavily trafficked area during school hours. There is a crosswalk intended for students directly in front of the property, thus making street parking inadvisable or impossible directly in front of the house. Alternatively, parking inside or adjacent to the crosswalk limits the visibility of school crossing guards and children, creating unwanted safety hazard.

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

The hardship resulting from the stream buffer on this property is the limited availability of feasible parking options. Off-the-street parking is necessary due to the proximity to Oakhurst Elementary School and the steep grading along the driveway. As noted, there is a crosswalk in front of the property serving the school, which further limits the availability of parking in front of the house. And, the steep topography of the site results in no suitable area for parking along the side of the house on the driveway. The current driveway has a 20% gradient which cannot be altered due to the proximity of the neighbor's driveway. With this amount of steepness, parking along the side of the house is not feasible. As we have small children, parking farther away from the house will create extraordinary and practical difficulties. We also have electric cars that require proximity to electrical sources adjacent to the house for charging.

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

The conditions that apply to this property do apply and affect other properties in the vicinity of the stream. Many of the neighboring properties have graded lawn areas very close to the stream, well within the buffer. The grading we have proposed within the 75' portion of the buffer is minimal in comparison to some of the other properties. In addition, there are no healthy trees that need to be removed from this area.

5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

The lot is approximately 150 feet in length, meaning that the stream buffer variance impacts half of the usable property. The variance is needed so that we can construct a new house that is comparable in size and character to other homes in the area and allows for off-street parking. Without the requested variance, half of the property will be unusable and possibly unsafe, with portions of the natural terrain having already been damaged.

6. Did the condition for which the variance is sought result from an action by the applicant?

No.

7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.

This request will not negatively affect the concerns above. The variance will positively affect the flow of traffic on Mead Road, a heavily congested area during school hours, by allowing for off-street parking. It also helps retain property values based upon the sizes of other comparable newer built houses.

In addition, our proposal includes a storm water infiltration basin that will help to mitigate stormwater runoff from not only the proposed parking pad, but also the entire length of the driveway. With the steepness of the driveway slope, we feel it will be best to capture runoff and pipe it to a basin that will allow of infiltration into the soil. The area for this is shown to be in the 75' buffer and in an area that has evidence of erosion. Upon completion, the area will be graded in order to correct the eroded area.

8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

We believe these existing occurrences and our proposal have no effect on the land use plan.

9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

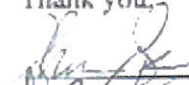

No.

8. 1/2

Dear Chattin Family,

Thank you for reaching out. You have our support for the stream-buffer variance at 172 Mead Road.

Thank you,

 Sharon Seneblyn
 Jason Blumenkrantz
176 Mead Rd

Dear Chattin Family,

Thank you for reaching out. You have our support for the stream-buffer variance at 172 Mead Road.

Thank you,

By Halley Belcore
168 Mead Rd Apt 1
Decatur, GA 30030

The Lukacses
503 W. Pharr Rd.
Decatur, GA 30030

May 8, 2019

Decatur Zoning Board of Appeals
Decatur City Hall
509 N. McDonough St.
Decatur, GA 30030

Re: Letter in Support of Chris and Danielle Chattin's Application for Stream Buffer Variance at 172 Mead Rd.

Dear Zoning Board of Appeals:

My name is Jerrod Lukacs, and my wife, Hillary, and I reside in Oakhurst, Decatur at 503 W. Pharr Rd. Together, we submit this letter in support of Chris and Danielle Chattin's application for a stream buffer variance for the home they wish to build in Oakhurst at 172 Mead Rd.

Hillary and I have had the pleasure of knowing the Chattins for over four years. Danielle and I joined the same law firm together back in 2015, and since then she and Chris have become close friends. They are wonderful people, and so Hillary and I were thrilled to learn last year that they were planning to move nearby in Oakhurst. Chris and Danielle are each distinguished professionals in their respective fields, devoted parents to their two young children, and considerate friends. Hillary and I have witnessed firsthand that they share the open-minded, community-conscious, and family-friendly values that make Decatur such an extraordinary place to live. Chris and Danielle are the type of people who would not ask for a variance unless they were positive it would not have any adverse effect on others. And we have no doubt that, if given the opportunity to build their home in Oakhurst, Chris and Danielle would invest in the community and make fantastic neighbors. For these reasons, we fully support their application for a stream buffer variance.

In conclusion, I wear a size 7 ³/₈ Atlanta Braves baseball cap; if you ever regret granting Chris and Danielle's application, I'll eat it.

Sincerely,



Jerrod & Hillary Lukacs

May 10, 2019

To Whom it May Concern, City of Decatur Zoning Board of Appeals:

As Oakhurst residents and neighbors of the Chattin family, we write to voice our support for their application for a stream buffer variance at 172 Mead Road where the Chattins would like to build their permanent home. We have known the Chattins for several years. Our children have been friends since preschool, play sports together, and are looking forward to attending Oakhurst Elementary together in the fall. The Chattins are wonderful neighbors and will be a positive addition to the Oakhurst community.

As parents of children at Oakhurst Elementary School (which is directly across the street from the Chattins' property at 172 Mead), we walk by the property every day, and would like to see it improved from its current state to a house that fits in with the rest of the street. Further, we understand that part of the Chattins' variance application is a request to pave a carport behind their home. We would support this as well, as it would free up street parking in the critical area right in front of school.

Overall, we support the Chattins' application and look forward to their continued involvement in the community.



Jennifer and Micah Lewin

335 Madison Avenue

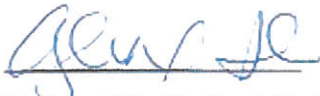
May 9, 2019

City of Decatur Zoning Board of Appeals:

We are writing to voice our support for Chris and Danielle Chattin's application for a variance at 172 Mead Road. We have known the Chattins for four years when our children were in preschool together. Today our kids play soccer together and the Chattins are our neighbors on Madison Ave. We believe the Chattins are great neighbors and will have a positive impact on our community. We support their plans to build a permanent home on 172 Mead Road, across the street from where their two young children will attend Oakhurst Elementary School.

As parents of children at Oakhurst Elementary (who walk past 172 Mead every day), we would support the improvement of the property based on the Chattins' plans. We also support the Chattins' plan to pave a car port behind their house to clear the street parking on Mead Road during congested school drop off and pick up times.

We believe the Chattins' plans are in line with the goals of the Oakhurst community and we support their stream buffer variance application.



Nathan Mihalik, Danielle Iuliano

308 Madison Avenue



Beginning of stream – notice collapsed headwall and fence and eroded stream bank.



Portion of stream behind subject property.



View of 50' undisturbed buffer, trees in background will be saved.

June 22, 2019

Dear Zoning Board Members,

Thank you for your time and careful consideration in reviewing these applications. I am writing with concerns regarding the zoning variances applications for the property on 170 Mead Road. We live down the street from this property and have enjoyed living in Decatur since 1999. I believe everyone on the street is pleased that the property has been purchased by a family (not a developer), and that the demolition of the condemned property is imminent. However, we do have concerns about how the construction of a bigger structure on that lot will adversely affect the trees on the property, the stream directly behind the property, and the resulting storm water issues that might arise as a result of grading and soil displacement.

Mead Road has lost a lot of its trees in the last five years, through both natural causes and development. Trees at 168 Mead, 140 Mead, 149 Mead, 135 Mead were taken down in the last year due to disease. Couple that with the re-development of properties on either side of the stream (on both Mead Road and Olympic Place), and we are losing our canopy more quickly than we can regain it. On 170 Mead, there are three tall oak trees of substantial size that contribute to the majority of the canopy of that lot. While the applicants vow to save some of the trees on the lot, they are not the high value trees. If you grant the variance that allows them to encroach halfway into the 50' stream buffer, will that invade the critical root zone of those "saved" trees? If you allow the impervious surface to encroach into the 75' and 50' stream buffer for off-street parking, what mitigation efforts will you require (and enforce) to ensure erosion and runoff from those surfaces do not cause more problems for neighbors living downstream? What actions will you require or the applicant to improve the creek's condition as a means of mitigating the effects of construction, and canopy and habitat loss? I hope these are questions you will carefully consider before you make a final decision.

I welcome the Chattins to the neighborhood, and am pleased that they want to join our wonderful community. I'm happy that the condemned property will finally be demolished and agree with the need for off-street parking. However, I'm worried that the level of encroachment into the stream buffer will have an overall negative impact and continue the rapid reduction in tree loss, biodiversity and natural habitat that makes Oakhurst such a wonderful place to live.

Thank you for your time.

Sincerely,

Erin Murphy
132 Mead Road

19.
ES



Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decaturga.com

Meeting Date: 8/12/19

Agenda Item: III-C

Zoning Board of Appeals Application Review Checklist

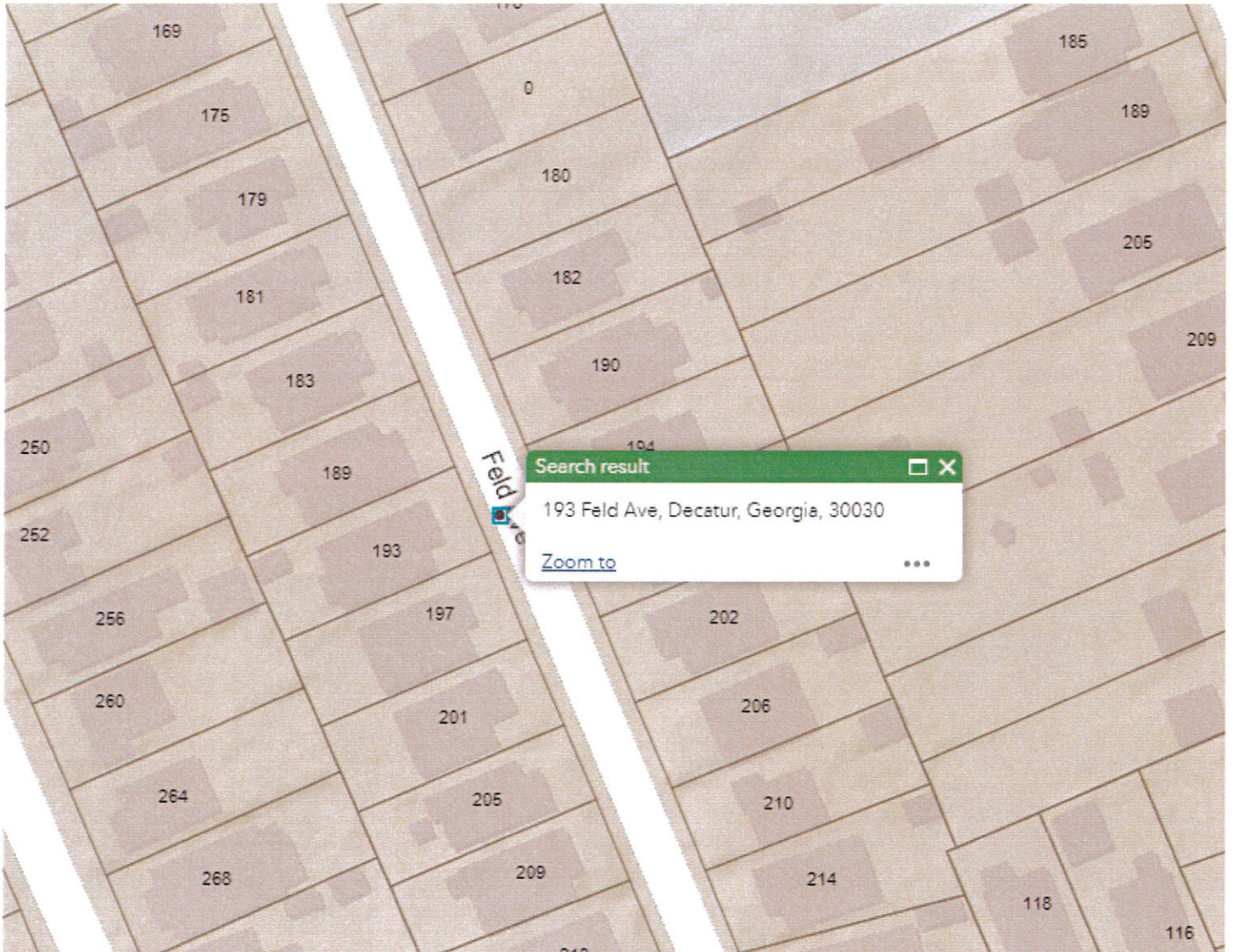
1. Address 193 Feld Avenue
2. Application Received Date: 7/9/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month _____
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested Rear Yard Setback.
6. Existing Site Plan Attached? Yes No DEC Exhibit # _____
7. Proposed Site Plan Attached? Yes No DEC Exhibit # 4
8. List Other Drawings/ Renderings/ Photos- Below
 - a. Application DEC Exhibit # 1-2
 - b. Owner Authorization DEC Exhibit # 3
 - c. Proposed Site Plan DEC Exhibit # 4
 - d. Section/Floor Plan/Elevation DEC Exhibit # 5
 - e. _____ DEC Exhibit # _____
 - f. _____ DEC Exhibit # _____
 - g. _____ DEC Exhibit # _____
 - h. _____ DEC Exhibit # _____
 - i. _____ DEC Exhibit # _____

Total Number of Drawing Sheets _____

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 5

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



Subject Address: 193 Feld Ave.

Zoning Board of Appeals

August 12, 2019



Design, Environment & Construction Division
 2635 Talley Street
 P.O. Box 220
 Decatur, Georgia 30031
 404-370-4104 • Fax: 404-378-5054
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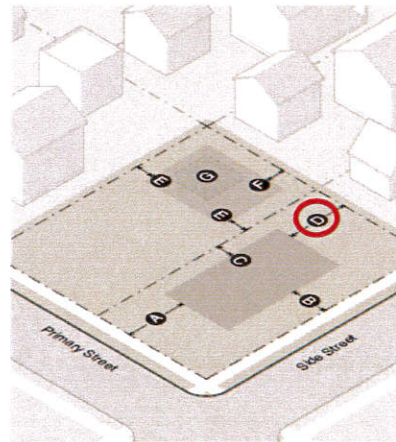
**Zoning Board of Appeals Staff Report
 August 12, 2019**

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application, which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Michelle Krahe for Owner Jim White
 Address of Property: 193 Feld Ave
 Present Zoning: R-60

- 1) The property is located at 193 Feld Ave. and is a single family residential lot approximately 50 feet wide by 122 feet deep.
- 2) The applicant proposes to construct a new deck/ screen porch onto the rear of the existing single family dwelling. The addition will encroach into the required rear yard setback.
- 3) Pursuant to the Unified Development Ordinance §Sec 3.2.4(D):

3.2.4. Building Placement



Principal Building Setbacks		
Primary street	30' min or Avg. front yard (Sec. 2.1.5.B.1.)	A
Side street	10' min	B
Side interior	10' min	C
Lot less than 60' in width	see Sec. 2.1.5.A.6.	
Lot 60' or more in width	10' min	
Rear	30' min	D



Design, Environment & Construction Division

2635 Talley Street

P.O. Box 220

Decatur, Georgia 30031

404-370-4104 • Fax: 404-378-5054

<http://www.decaturga.com>

Variance Requested	Existing	Proposed	Ordinance
Rear Yard Setback	38.5 Feet	26 Feet	30 feet

- 4) The following documents have been submitted for review and consideration:
- a) Application (1-2)
 - b) Owner Authorization (3)
 - c) Proposed Site Plan (4)
 - d) Floor Plan/ Section/ Elevation Drawing (5)

VARIANCE APPLICATION

Planning & Zoning

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 193 Feld Ave Decatur, GA 30030

Name of applicant Michelle Krahe Phone 404-664-3431

Address 193 Feld Ave City/state/ZIP Decatur GA 30030

Email mt.krahe@yahoo.com

Name of property owner Jim White Phone 404-664-3431

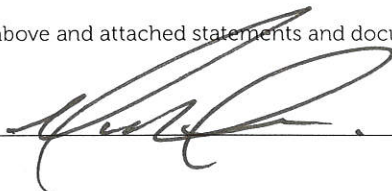
Address 193 Feld Ave City/state/ZIP Decatur GA 30030

Current zoning of property R-60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature  Date 7.9.19

received
7-9-19
\$150 paid

1. What is the variance requested? What code requirement do you wish to vary from? **We are requesting a reduction of the rear yard from 30' to 26'**

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)? **This lot is very small. R60 lots are supposed to have a minimum of 9,000 sf. This lot is only 6102 sf. At 122' long, the houses on this side of Feld Ave. are among the shallowest in Decatur. This condition makes the rear yard setback particularly challenging.**

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties? **The setback would only allow for an 8'6" screen porch. This is very small to be practical use screen porch space. The house is a small house and the clients want to maintain the original character while adding a bit more useful living area.**

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity? **Lots vary widely in Decatur, but this in the smallest range of lot sizes that are typical.**

5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant. **They are only asking to build a 12' deep screen porch, which is still a small sized porch, but one that allows for practical use.**

6. Did the condition for which the variance is sought result from an action by the applicant? **No**

7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values. **There will be no negative affect to public safety from the porch. Property values improve with these types of additions.**

8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan. **Screen porches have become common elements to houses and a great way to expand living space with minimal impact to land use. We will also be removing an existing deck in the rear corner as a part of the proposal.**

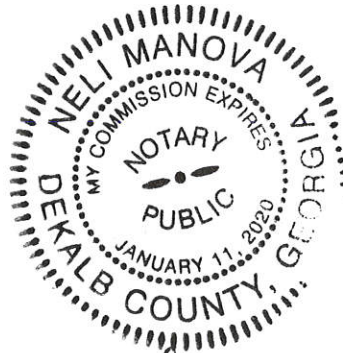
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use? **No**

7/8/2019

To City of Decatur;

I authorize Michelle Krahe to submit application for the certificate of appropriateness for Jim White and Grace Fong at 193 Feld Ave.

Thank You



Neli Manova
notary public:



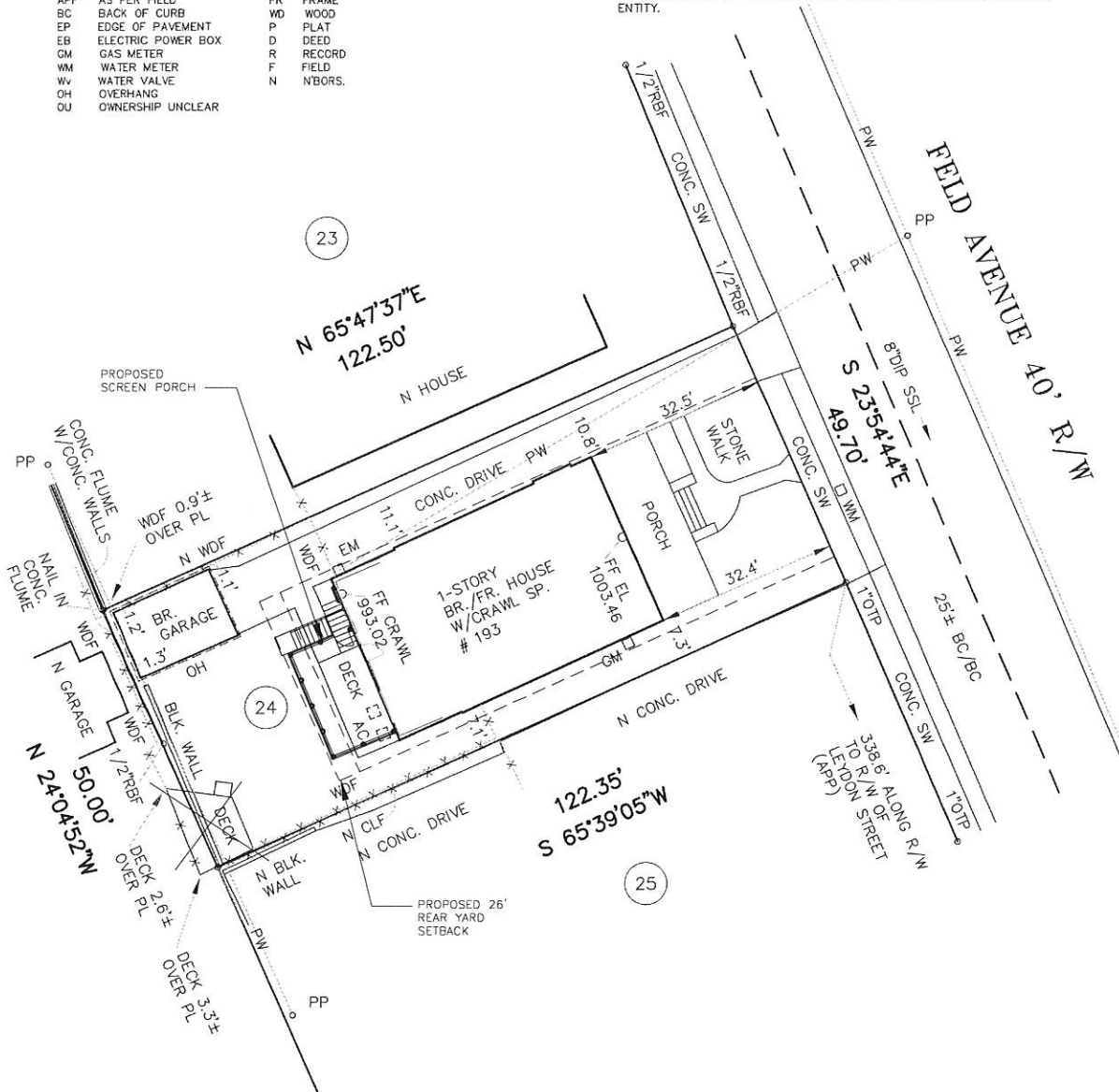


*** LEGEND ***

- | | |
|---------------------------|--------------------------|
| POB POINT OF BEGINNING | IP IRON PIN FOUND |
| LLL LAND LOT LINE | IPS IRON PIN SET |
| MH MAN HOLE | OTP OPEN TOP PIPE FOUND |
| SSL SANITARY SEWER LINE | CTP CRIMP TOP PIPE FOUND |
| CO SAN SEWER CLEANOUT | RB REINFORCING BAR SET |
| CB CATCH BASIN | RBS REINFORCING BAR SET |
| JB JUNCTION BOX | MAG MAGNETIC READING IP |
| DI DRAINAGE INLET | AI ANGLE IRON FOUND |
| YI YARD INLET | CP CALCULATED POINT |
| HW HEAD WALL | -X-X FENCE |
| PP POWER POLE | CLF CHAIN LINK FENCE |
| PW POWER LINE | WDF WOOD FENCE |
| SSE SANITARY SEWER ESMT. | WRF WIRE FENCE |
| DE DRAINAGE EASEMENT | WW WET WATER |
| UE UTILITY EASEMENT | FC FENCE CORNER |
| AE ACCESS EASEMENT | BL BUILDING LINE |
| TB TOP OF BANK | R/W RIGHT-OF-WAY |
| CMP CORRUGATED METAL PIPE | PL PROPERTY LINE |
| PCP REINFORCED CONC. PIPE | PC PROPERTY CORNER |
| APP AS PER PLAT | CL CENTER LINE |
| APD AS PER DEED | CPT CARPORT |
| APR AS PER RECORD | BR BRICK |
| APF AS PER FIELD | FR FRAME |
| BC BACK OF CURB | WD WOOD |
| EP EDGE OF PAVEMENT | P PLAT |
| EB ELECTRIC POWER BOX | D DEED |
| GM GAS METER | R RECORD |
| WM WATER METER | F FIELD |
| WV WATER VALVE | N NBORS. |
| OH OVERHANG | |
| OU OWNERSHIP UNCLEAR | |

SURVEY NOTES:

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, TELEPHONE, ELECTRIC, WATER AND SEWER, GAS COMPANIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.
2. THIS PLAT WAS PREPARED TO SHOW THE APPROXIMATE LOCATION OF THE IMPROVEMENTS AND IN NOT RECORDABLE. FENCES SHOULD NOT BE LOCATED USING SIDE DIMENSIONS FROM THE HOUSE. ALL MATTERS OF THE TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHT OF WAY PUBLIC OR PRIVATE.
3. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
4. 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 RECERTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS, ENTITY.



PROPERTY ADDRESS:
193 FELD AVENUE
DECATUR, GA 30030

PLAT PREPARED FOR:

JIM WHITE

LOT 24	BLOCK
SUBDIVISION	FIELD-REALTY-CO UNIT
LAND LOT 213	15TH DISTRICT SECTION
DEKALB COUNTY, GEORGIA	

LAND AREA:
0.140 AC
6102.72 SF

FIELD WORK DATE MAY 17, 2013	PRINTED/SIGNED MAY 20, 2013
PLAT BOOK 7 ,PAGE 14	ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED
DEED BOOK 19889 ,PAGE 637	



IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE OF 1 FOOT IN 30,000+ FEET, AN ANGULAR ERROR OF 05 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE TO 1 FOOT IN 100,000+ FEET. AN ELECTRONIC TOTAL STATION AND A 100' CHAIN WERE USED TO GATHER THE INFORMATION USED IN THE PREPARATION OF THIS PLAT. NO STATE PLANE COORDINATE MONUMENT FOUND WITHIN 500' OF THIS PROPERTY.



COORD # 20130537
COORD # 20110302
DWG # 20110302REV

SURVEY LAND EXPRESS, INC.
LAND SURVEYING SERVICES

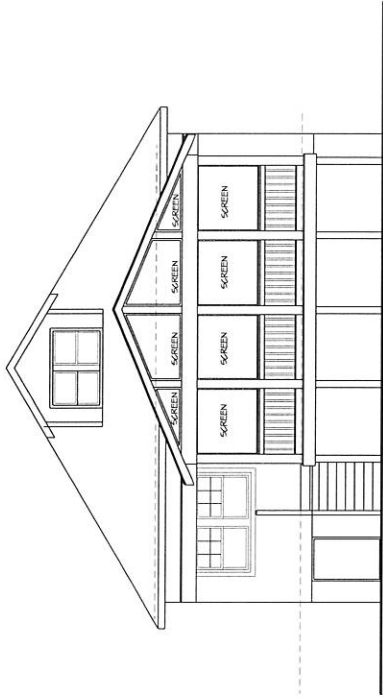
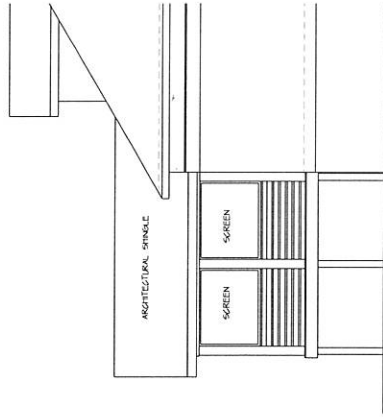
P.O. BOX 420318
ATLANTA, GA 30342
FAX 404-601-0941
TEL 404-252-5747

lk
 architect
 414 east phil
 decatur, ge
 30601
 404-864-242

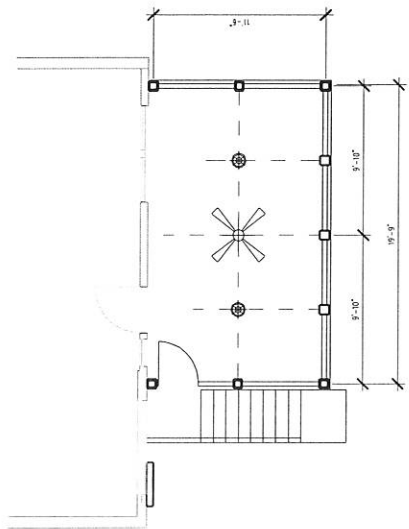
193 FELD AVE
 Decatur, Georgia

RELEASED FOR
 REVISION
 1/7/18
 MODIFICATIONS:

A1

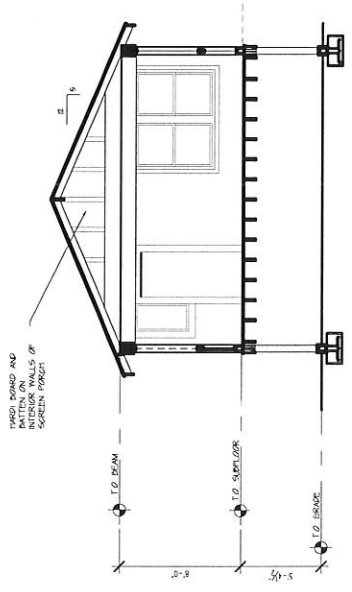


1 REAR ELEVATION
 1" = 1'-0"



2 PROPOSED PLAN
 1" = 1'-0"

GENERAL NOTE: ALL TO BE DESIGNED FOR SWING
 1. ALL EXTERIOR WALLS TO BE FINISHED WITH
 2. ALL EXTERIOR WALLS TO BE FINISHED WITH
 3. ADD ALLOWANCE FOR 4 EXTERIOR FIXTURES



3 BUILDING SECTION
 1" = 1'-0"



Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decalurqa.com

Meeting Date: 8/2/19

Agenda Item: III - D

Zoning Board of Appeals Application Review Checklist

1. Address 1018 S. Candler Road Street
2. Application Received Date: 7/9/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month —
4. Application Form Completed? Yes No Items Missing —
5. Variance(S) Requested Side yard setback
6. Existing Site Plan Attached? Yes No DEC Exhibit # 5
7. Proposed Site Plan Attached? Yes No DEC Exhibit # 5
8. List Other Drawings/ Renderings/ Photos- Below
 - a. application form DEC Exhibit # 1.
 - b. narrative DEC Exhibit # 2.
 - c. authorization DEC Exhibit # 3.
 - d. Plan and elevation drawings DEC Exhibit # 4.
 - e. Site Plan DEC Exhibit # 5.
 - f. _____ DEC Exhibit # _____
 - g. _____ DEC Exhibit # _____
 - h. _____ DEC Exhibit # _____
 - i. _____ DEC Exhibit # _____

Total Number of Drawing Sheets 2

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 5

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)

—



Subject Address: 1018 South Candler St.

Zoning Board of Appeals
August 12, 2019



Design, Environment & Construction Division
 2635 Talley Street
 P.O. Box 220
 Decatur, Georgia 30031
 404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

**Zoning Board of Appeals Staff Report
 August 12, 2019**

The Zoning Board of Appeals will meet on August 12, 2019 at 7:30PM at the Decatur City Hall, 509 N. McDonough Street.

The following staff report has been prepared for an application which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Michelle Krahe
 Address of Property: 1018 S. Candler Road
 Present Zoning: R-60

- 1) The owner has authorized Michelle Krahe to represent her for this application.
- 2) The property is located at 1018 S. Candler Street at the intersection of Park Drive and S. Candler Street (east side of Candler Street).
- 3) The applicant has applied for a side yard setback variance in order to convert an existing deck into a screened porch. The proposal will increase the overall building footprint of the property, however staff finds that the proposed increase will not exceed the current setback.
- 4) Pursuant to the Unified Development Ordinance (UDO):

Variations Requested	Existing	Proposed	Ordinance
Side setback requirements	9 feet	5 feet, 6 inches	10 feet per UDO Section, 3.2.5

- 5) The following documents have been submitted for review and consideration:
 - a) Application form, page 1
 - b) Narrative, page 2
 - c) Authorization, page 3
 - d) Plan and elevation drawings, page 4
 - e) Site plan, page 5

VARIANCE APPLICATION

Planning & Zoning

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 1018 S Candler ~~RD~~ Street Decatur, GA 30030

Name of applicant Michelle Krahe Phone _____

Address 1018 S Candler City/state/ZIP Decatur GA 30030

Email mt.krahe@yahoo.com

Name of property owner Amy Wall Phone 404-664-3431


Address 1018 S Candler City/state/ZIP Decatur GA 30030

Current zoning of property R-60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature  Date 7.9.19

received
7-9-19
\$150 paid

1. What is the variance requested? What code requirement do you wish to vary from? **We are requesting a reduction of the side yard from 9' to 5'-6"**

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)? **The existing house is over the setback and we are wanting to build in line with the house.**

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties? **Building in line with the existing roof is the most practical and aesthetically pleasing way to build the addition and connect it to the existing space.**

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity? **Many houses are over setbacks. We will not be increasing the amount of encroachment.**

5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant. **The house is on the smaller side for Decatur and they want to build a porch extension off the living space**

6. Did the condition for which the variance is sought result from an action by the applicant? **No**

7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values. **There will be no negative affect to public safety from the porch. Property values improve with these types of additions.**

8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan. **Screen porches have become common elements to houses and a great way to expand living space with minimal impact.**

9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use? **No**

7/8/2019

To City of Decatur;
I authorize Michelle Krahe to submit application for the
certificate of appropriateness for Amy Wall at 1018 S Candler St

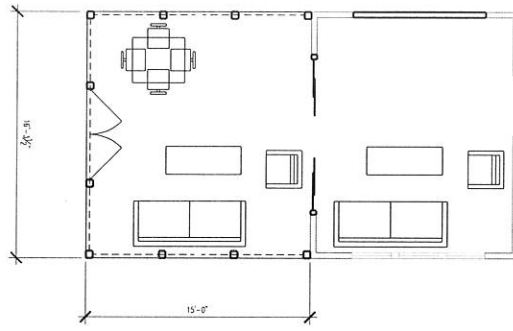
Thank You

Amy Wall
[Signature]

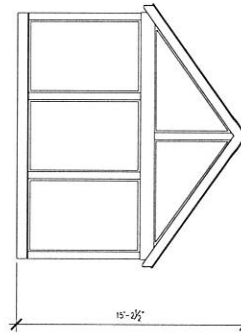


Neli Manova
notary public *[Signature]*

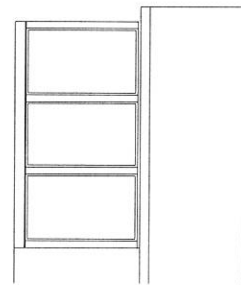
1 FLOOR PLAN



2 REAR ELEVATION



3 SIDE ELEVATION



LK
 Architec
 416 East Pina
 Decatur, GA
 30030
 404-444-3445

1018 South Candler
 Decatur, Georgia

RELEASED FOR
 CONSTRUCTION
 11/7/718
 MODIFICATIONS:

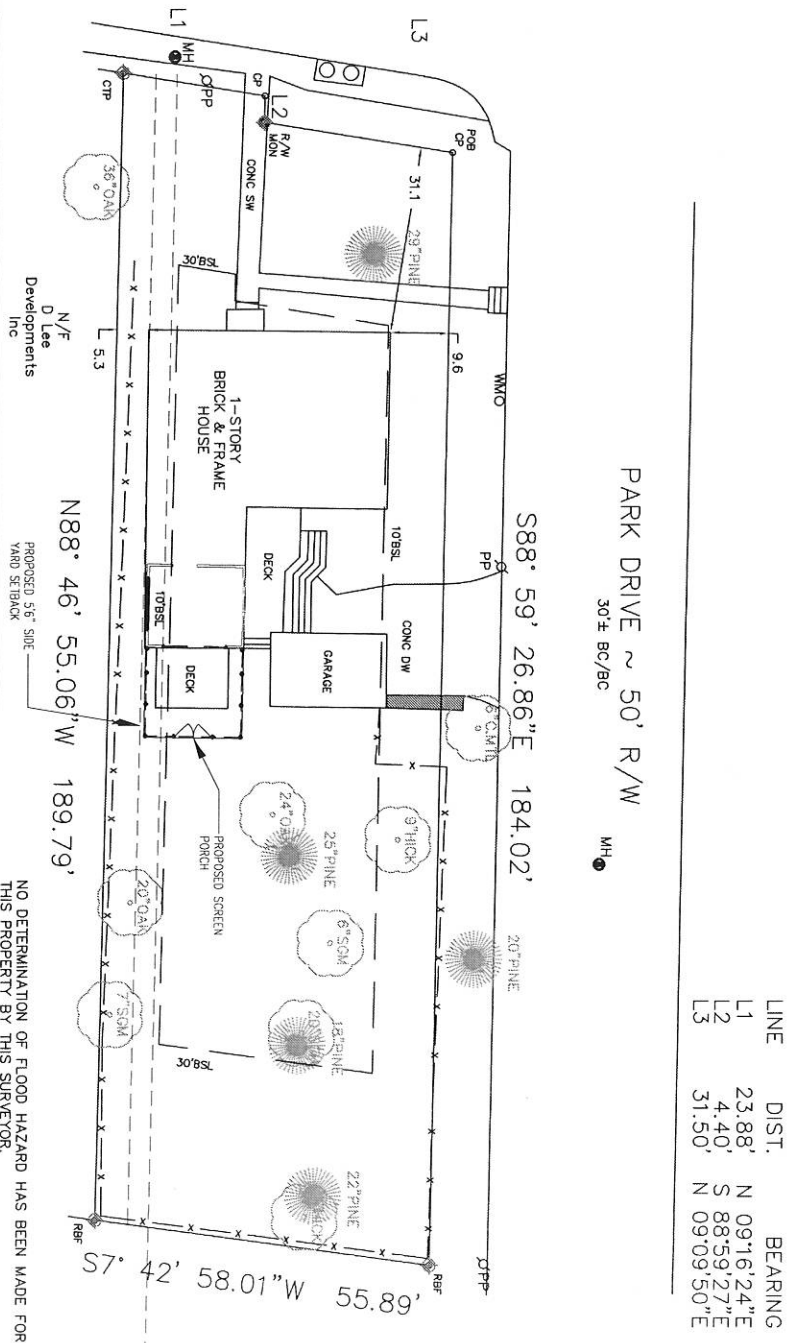
A1

ALL MATTERS OF TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHTS-OF-WAY PUBLIC OR PRIVATE. NOTE: PROPERTY LINES SHOWN ON THIS MAP/PLAT REPRESENT PHYSICAL FIELD CONDITIONS BY EVIDENCE OF APPARENT POSSESSION (IRON PINS FOUND, OLD & ESTABLISHED FENCE LINES, OLD WALL LINES, SHRUB & HEDGE LINE, HOUSE LOCATIONS, ETC.) THEY MAY DIFFER AND BE IN CONVENTION FROM EVIDENCE FOUND AT THE APPLICABLE COUNTY COURTHOUSE. THEY MAY ALSO DIFFER FROM OTHER SURVEYOR OPINIONS AND/OR NEIGHBORS SURVEYORS/PLATS. A FULL LAND TITLE REPORT OPINION ON ALL PROPERTIES, INCLUDING ADJACENT AND CONTIGUOUS PROPERTIES MAY BE NEEDED TO RESOLVE ALL POSSIBLE PROPERTY LINE DISPUTES OR DISCREPANCIES. THIS MAP/PLAT WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT, EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT AND BROKEN THIS PROPERTY. THIS MAP/PLAT IS SUBJECT TO REVISIONS AND UPDATE UPON RECEIPT OF SAID TITLE COMMITMENT. BUILDING LINES SHOWN HEREON DERIVED FROM VARIOUS ONLINE SOURCES. THEY MAY BE IN CONVENTION WITH OR DIFFER FROM INTERPRETATIONS OF GOVERNING AUTHORITIES. TREE SYMBOLS ARE NOT TO SCALE. TREE SYMBOLS REPRESENT POSITION OF TREE & ARE NOT THE CRITICAL ROOT ZONE (NOT DRIFLINE). PORTIONS OF THIS PLAN ARE SCHEMATIC IN NATURE AND HAVE NOT BEEN FIELD LOCATED BY CONVENTIONAL SURVEYING METHODS. NO RELIANCE UPON THE ACCURACIES OF THE SIZE, SHAPE NOR LOCATION OF THE PLANIMETRICS SHOWN HEREON SHALL BE AFOERDED IN ANY MANNER.

* L E G E N D *
NOTE: ALL ITEMS IN THIS LEGEND MAY NOT APPEAR ON THIS PLAT. AKA ALSO KNOWN AS APP AS PER DEED BSL BUILDING (SETBACK) LINE CIP COMPUTED POINT CIP CRIMP TOP PIPE FOUND D DEED (BOOK/PAGE) DE DRIVEWAY EP EDGE OF PAVEMENT FE FISH FLOOR ELEVATION FK HARDWOOD FENCE IPF IRON PIN FOUND L ARC LENGTH LL LAND LOT LLL LAND LOT LINE N NEIGHBORS N/NF NOW OR FORMERLY NAIL NAIL FOUND P PLAT (BOOK/PAGE) POB POINT OF BEGINNING POB POINT OF COMMENCEMENT R RADIUS LENGTH R/W RIGHT-OF-WAY RBF REINFORCING BAR FOUND RBS 1/2" REINFORCING BAR SET SW SIDEWALK SSCO SANITARY SEWER CLEANOUT SSE SANITARY SEWER EASEMENT X-X FENCE LINE WALL



SOUTH CANDLER STREET ~ VARIABLE R/W



PROPERTY ADDRESS:
1018 S Candler St
Decatur, GA 30030

LAND AREA:
10296 SF
0.236 AC

IMPERVIOUS AREA:
SW: 218 SF
PORCH: 26 SF
HOUSE: 1556 SF
SIDE/DECK: 249 SF
GARAGE: 235 SF
DW: 284 SF
REAR DECK: 120 SF
EXIST = 2688 SF = 26.1%

ZONING: R-60

SCALE 1" = 20'

PLAT PREPARED FOR:
1018 S Candler St

LOT 1 BLOCK A SUBDIVISION DEARBORN PARK
15th DISTRICT

DEKALB COUNTY, GEORGIA	FIELD DATE: 5-09-2019	SS
LOCATED IN DECATUR	DRAWN DATE: 5-09-2019	MF
REFERENCE: PLAT BOOK	PAGE 751	ALL MATTERS OF TITLE ARE EXCEPTED ~ NOT FOR RECORDING
REFERENCE: DEED BOOK	1591B, PAGE 751	

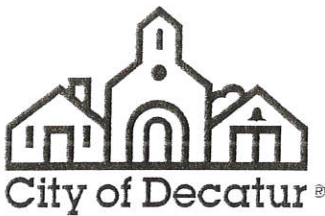
SURVEY SYSTEMS ATLANTA
2156 W Park Ct, Ste D, Stone Mt, GA 30087
COA #SF00087, info@surveysystemsatlanta.com
Cell 678-591-6064 ~ Office 404-760-0010

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

PARK DRIVE ~ 50' R/W
30'± BC/BC

LINE	DIST.	BEARING
L1	23.88'	N 09°16'24"E
L2	4.40'	S 88°59'27"E
L3	31.50'	N 09°09'50"E

NO DETERMINATION OF FLOOD HAZARD HAS BEEN MADE FOR THIS PROPERTY BY THIS SURVEYOR.



Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-373-5054
http://www.decaturga.com

Meeting Date: 8/12/19

Agenda Item: III - E

Zoning Board of Appeals Application Review Checklist

1. Address 202 Upland Road
2. Application Received Date: 7/15/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month —
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested side yard setbacks
6. Existing Site Plan Attached? Yes No DEC Exhibit # 7.
7. Proposed Site Plan Attached? Yes No DEC Exhibit # 8.
8. List Other Drawings/ Renderings/ Photos- Below

- a. application DEC Exhibit # 1.
- b. narrative letter DEC Exhibit # 2.
- c. narrative / picture DEC Exhibit # 3.-4
- d. pictures DEC Exhibit # 5-6
- e. existing site plan DEC Exhibit # 7.
- f. Proposed site plan DEC Exhibit # 8.
- g. Proposed basement plan DEC Exhibit # 9.
- h. Proposed first floor plan DEC Exhibit # 10.
- i. Proposed second floor plan DEC Exhibit # 11.

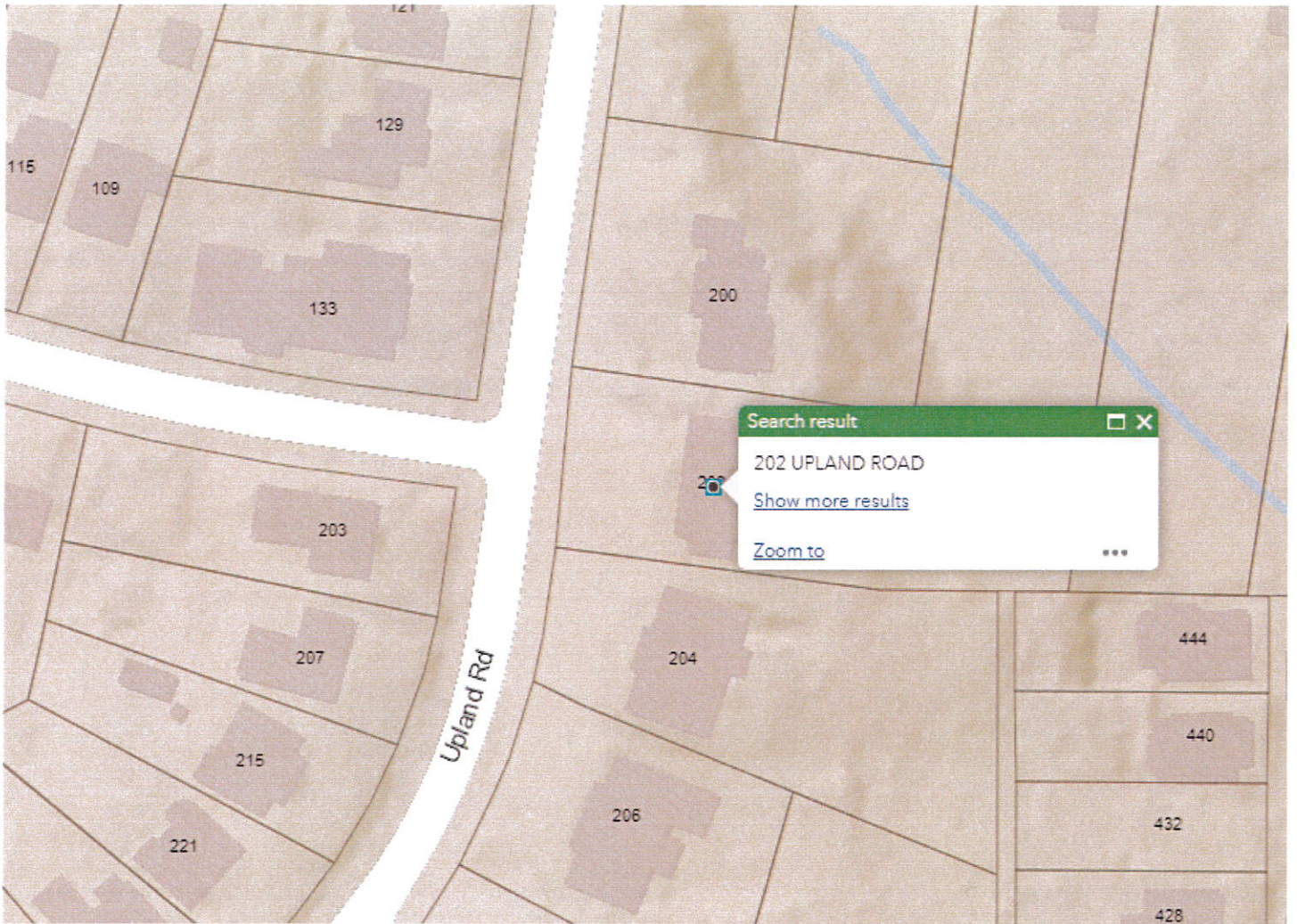
Total Number of Drawing Sheets 10

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 26

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)

- j. Proposed Roof Plan 12. m. e. + prop. rear elevations 15.
- k. existing and proposed front elevations 13. n. " " " side elev. 16.
- l. " " " side elevations 14. o. neighbor letter pics 17.



202 Upland Rd.

Zoning Board of Appeals
August 12, 2019



Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

**Zoning Board of Appeals Staff Report
August 12, 2019**

The Zoning Board of Appeals will meet on August 12, 2019 at 7:30PM at the Decatur City Hall, 509 N. McDonough Street.

The following staff report has been prepared for an application which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Gretchen and James Cobb
Address of Property: 202 Upland Road
Present Zoning: R-85

- 1) The property is located at 202 Upland Road on the east side of the street across from Parkwood Lane.
- 2) The applicant has applied for side yard setback variances in order to renovate the house. As part of the renovation, the following construction would take place:
 - a second story would be added,
 - the driveway would be relocated from the north side to the south side,
 - an addition would added to the front of the house,
 - a screened porch would be added to the back of the house, and
 - a carport would be constructed with an associated paved turnaround area.
- 3) Staff finds that the existing structure is non-conforming for side yard setbacks. The proposed construction constitutes a substantial improvement and therefore the request is properly before the board for a side yard setback variances. The proposed second story addition would not increase the non-conforming side yard setbacks.
- 4) Staff finds that the proposed addition to the front of the house would comply with UDO standards in *Section 2.1.5 B. Front Yards* because the front yard setback line drawn between the neighboring properties shall apply and the proposed construction would be located behind that line (note approximate setbacks of structures on this street vary from 49.6 feet to 78 feet).



Separately, staff finds that this proposal would increase massing. Staff also finds that under this proposal, height would also increase to 17.75 feet but not to the extent of the new second floor addition (35 feet). (Refer to page 14 of the meeting packet).

- 5) Staff finds that the proposed carport location shall require either a variance for a side yard setback or relocation to an area outside of the required 15 foot side yard setback. Staff notes that no elevation plans have been included for the proposed carport.
- 6) Pursuant to the Unified Development Ordinance:

Variations Requested	Existing	Proposed	Ordinance
Side setback requirements	14 feet, 4 inches (side yard setback on north side) 13 feet, 3 inches (side yard setback on south side)	14 feet, 4 inches (side yard setback on north side) 13 feet, 3 inches (side yard setback on south side)	15 feet per the UDO Section, 3.1.4.
General yard standards	18 inches	36 inches (overhang into the setback)	18 inches per the UDO Section 2.1.5.A. 1

- 7) The following documents have been submitted for review and consideration including a letter from the adjacent house to the south:
 - a) Application, page 1
 - b) Narrative letter, page 2
 - c) Narrative/picture, pages 3-4



Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

- d) Pictures, pages 5-6
- e) Existing site plan, page 7
- f) Proposed site plan, page 8
- g) Proposed basement plan, page 9
- h) Proposed first floor plan, page 10
- i) Proposed second floor plan, page 11
- j) Proposed roof plan, page 12
- k) Existing and proposed front elevations, page 13
- l) Existing and proposed side elevations, page 14
- m) Existing and proposed rear elevations, page 15
- n) Existing and proposed side elevations, page 16
- o) Neighbor letter and pictures, pages 17-28

VARIANCE APPLICATION

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 202 Upland Road Decatur, GA 30030
Name of applicant Gretchen and James Cobb Phone 404-694-3188
Address 249 East Lake Drive City/state/ZIP Decatur, GA 30030
Email gretchencobb@gmail.com
Name of property owner Gretchen & James Cobb Phone 404-694-3188
Address 249 East Lake Drive City/state/ZIP Decatur, GA 30030
Current zoning of property R-85

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature

[Handwritten signature: Gretchen Cobb]
[Handwritten signature: Jan W. Cobb]

Date

7/15/19
7/15/19

July 15, 2019

Dear Members of the Zoning Board:

We write in support of our application for limited variances for the property at 202 Upland Road in the City of Decatur. We are a family of six – we have four children, ages 10, 9, 6, and 5 – and we have lived in Decatur since 2008. We have owned houses on Pinecrest Avenue, Hood Circle, East Lake Drive (where we currently live), and now Upland Road. All of our children attend City of Decatur schools, and we intend to stay in Decatur for the rest of our lives. 202 Upland Road is the property that will make that possible.

For the last five years or so, we have been searching for a property within the City that fits our very specific needs. That is, we've been looking for something that feels natural and nature-bound (which the backyard of Upland Road fits perfectly), but that has a topography that will allow us to build a house that is wheelchair accessible (for our family members with mobility issues) and that will allow us to age in place. Upland Road fits these specific needs.

We do not intend to tear down the existing house. Rather, we will renovate it to include enough bedrooms and living space for our large family and to have all of the main living areas on one floor that is wheelchair accessible. We also will honor the prevailing architectural style in the Parkwood neighborhood by incorporating mid-century modern details into the home design. And that's where our variances come in.

Side-yard setbacks. The current house at 202 Upland was built in 1950, when the zoning rules required only a 7.5 foot side-yard setback. The north side of the house is currently 14'4" from the side property line, and the south side is 13'3" from the line—both well within the original 7.5' setbacks. Our renovation will not change those distances, but the current R-85 side-yard setbacks that were adopted well after the home was built are 15'. We therefore need a variance to keep the north and south sides of the house within their existing footprints.

Overhangs on the north and south sides of the house. We also need a variance for the renovated house to be architecturally consistent with the Parkwood neighborhood. A distinctive feature of mid-century modern architecture is large overhangs. In fact, there are a number of homes in Parkwood (including in the more restrictive historic district, which 202 Upland is not a part of) that have such overhangs. We would like to incorporate that feature into our home, and to do so, we need to increase the current 18" overhangs by 1'6" on both the south-side and north-sides of the house. Without overhangs like this, the renovated house will not fit in as well with the neighborhood.

* * * *

Our family is extraordinarily excited about 202 Upland. Other than these limited variances, the house we and our architect have designed fits within the R-85 zoning rules. But without these variances, we won't be able to make 202 Upland into the home in which we can spend the rest of our lives. We hope the Board will grant our application, and we would be happy to answer any questions the Board may have. Thank you very much for your service to the City and for your consideration of this request.

Very truly yours,

James Cobb & Gretchen D'Huyvetter Cobb



July 15, 2019.

Applicants:

Gretchen D'Huyvetter Cobb and James Cobb

249 East Lake Drive

Decatur, GA 30030

Address of property for variance:

202 Upland Street Decatur, GA 30030

What is the variance requested? What code requirement do you wish to vary from?

1. North side setback requirement is 15'. Proposed north side setback to be 14'-4" (to match the existing structure)
2. South side setback requirement is 15'. Proposed south side setback to be 13'-3" (to match the existing structure)
3. Per Zoning: 2.1.3.Yards A: General Yard Standards: the maximum roof overhang extension into the setback is 18". We are asking for a 1'6" extension into the setbacks on both the south side of the house and on the north side, for a total of 3 foot overhangs in those locations.

What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation?)

The original house was built within the side setback requirements when it was Unincorporated Dekalb. The original side setbacks were 7.5'. The existing house side setbacks exceeded this original setback by over 5'. The original setback would have also allowed the wider 3' overhangs.

Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

We will be renovating the existing house and to keep the existing house, we need a variance to the side setbacks. For the requested extended overhangs, this neighborhood has many mid century modern designs and we would like to add more mid century elements to the existing home. There are other houses in the neighborhood with larger overhangs, so it fits with the neighborhood style. (see enclosed photos of houses in the neighborhood.)

Are the circumstances of conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

Many of the houses in this neighborhood were built to meet the old 7.5' side setbacks. To do renovation work on many of the existing houses in the neighborhood would require variances.

Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

Granting of this variance would allow us to keep the existing house and to preserve the prevailing type of architecture found in this neighborhood.

Did the condition for which the variance is sought result from an action by the application?

No

Explain how the variance will affect the supply of light and air to adjacent property the traffic on public streets, the danger of fire, the public safety and established property values.

The variance would not affect traffic since the occupancy of the house would stay the same. The light and air to the neighbors would not be affected. There is 28'-4" distance to the neighbor on the north and 24' of distance to the neighbor on the south. This distance would not affect light or air flow or any danger of fire or public safety. The renovation of the existing house would only add value to the property values.

Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

Keeping the existing house and maintaining the character of the neighborhood, this would be in harmony of the land use.

Will the granting of the variance allow a structure or use in a district restricted against such structure or use? No

Neighborhood Homes with deeper overhangs:









Bonnie Henry
Architect

1300 CUMBERLAND RD. NE
ATLANTA, GA 30306
PHONE/FAX (404) 5249451

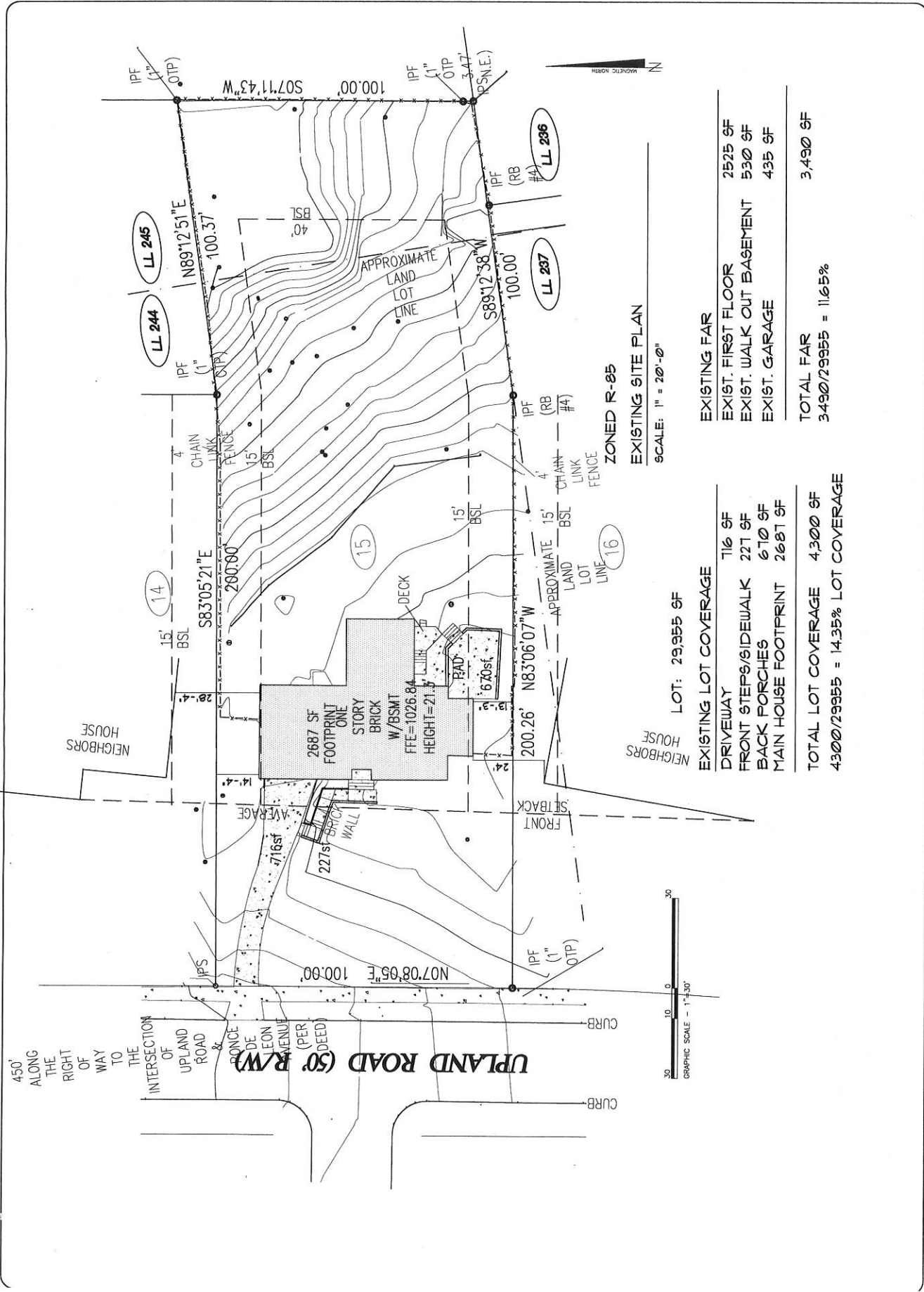
Variance for:
James Cobb & Gretchen D'Huyvetter Cobb
202 Upland Road, Decatur, GA 30030

PROJECT
1918

SUBMITTALS **DATE**
Variance Submittal 7/6/13

DRAWING TITLE
EXISTING
SITE PLAN

DRAWING REFERENCE
SITE 1





Bonnie Henry
Architect

1300 CUMBERLAND RD. NE
ATLANTA, GA 30306
PHONE/FAX (404) 872-9451

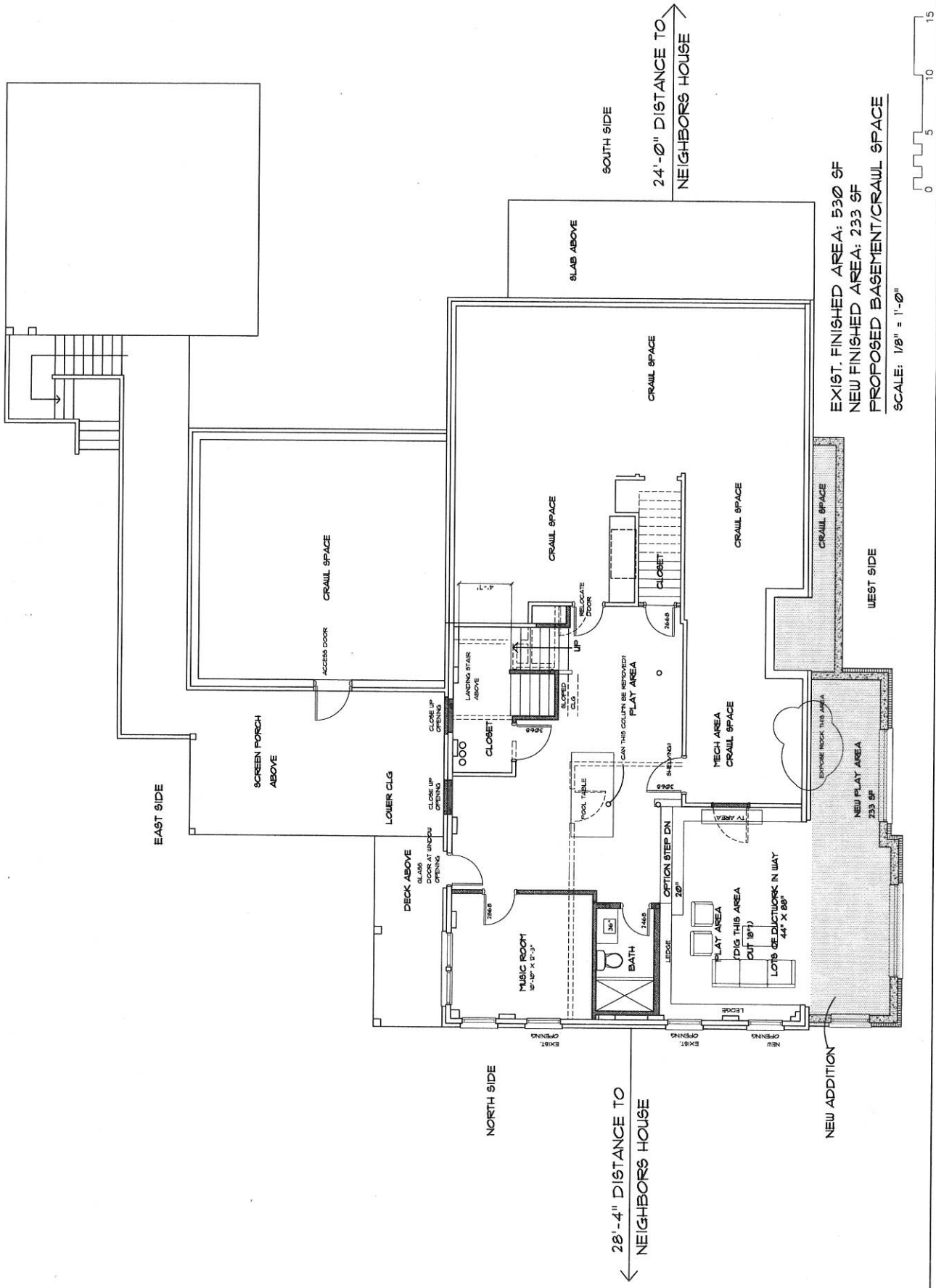
Variance for
James Cobb &
Gretchen D'Huyvetter Cobb
202 Upland Road, Decatur, GA 30030

PROJECT
1918

SUBMITTALS DATES
Variance Submittal 1/6/78

DRAWING TITLE
PROPOSED
BASEMENT PLAN
DRAWING REFERENCE

A-1



6



Bonnie Henry
Architect

1200 CLIMBURN RD. NE
ATLANTA, GA 30306
PHONE/FAX (404) 872-9151

Variance for
James Cobb &
Cretchen D'Hyvetter Cobb
202 Upland Road, Decatur, GA 30030

PROJECT
1918

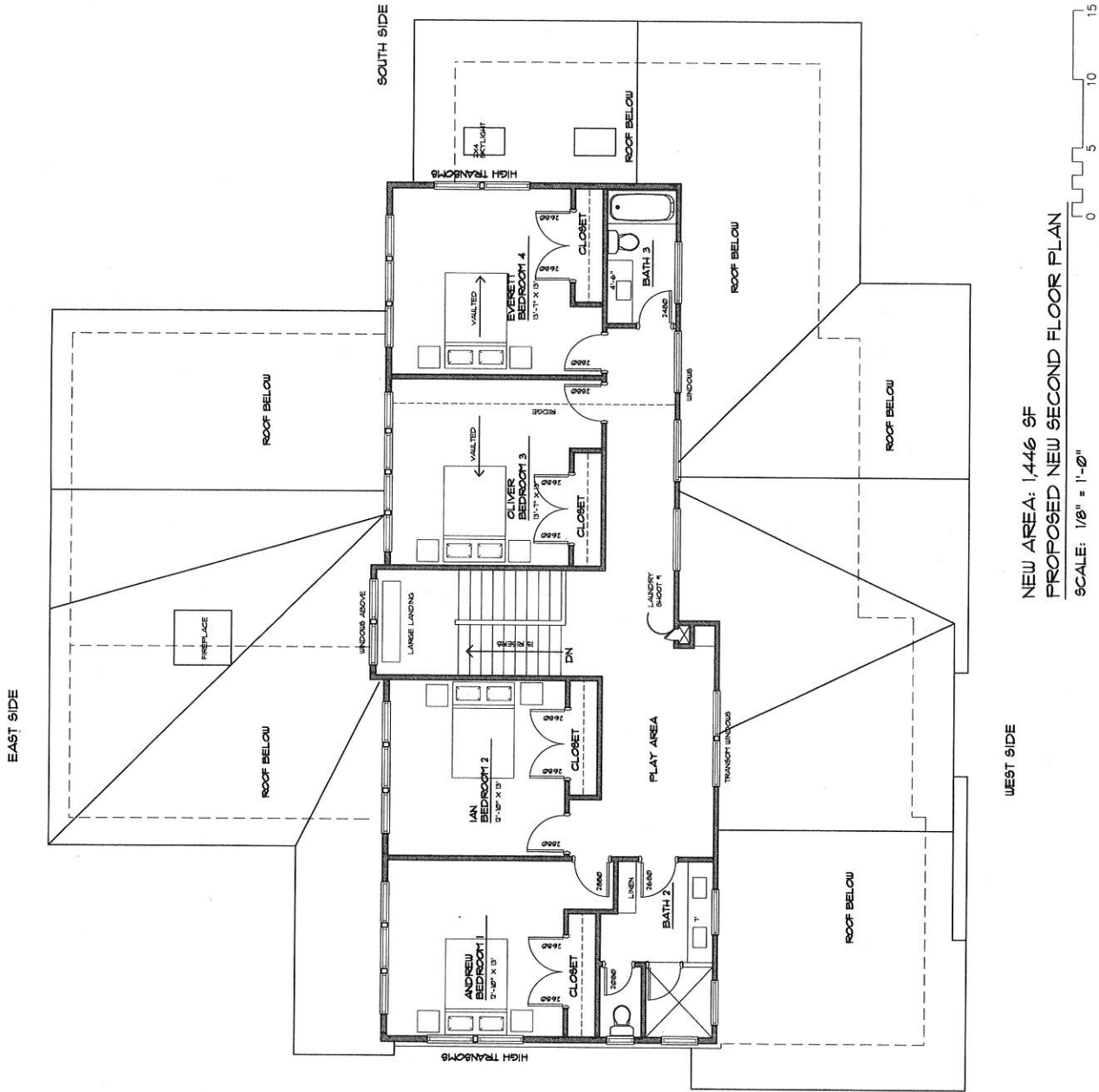
SUBMITTALS DATES
Variance Submittal 1/16/18

DRAWING TITLE

PROPOSED
SECOND FLOOR

DRAWING REFERENCE

A-3



NEW AREA: 1,446 SF
PROPOSED NEW SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"



PROPERTY SIDE VARIANCE (NORTH SIDE)



PROPERTY SIDE VARIANCE (SOUTH SIDE)

NORTH SIDE



Bonnie Henry
Architect

100 CLIMBERLAND RD. NE
ATLANTA, GA 30306
PHONE: (404) 822-0651

Variance for:
James Cobb &
Grethen D'Hyuetter Cobb
202 Upland Road, Decatur, GA 30030

PROJECT
1918

SUBMITTALS
Variance Submittal

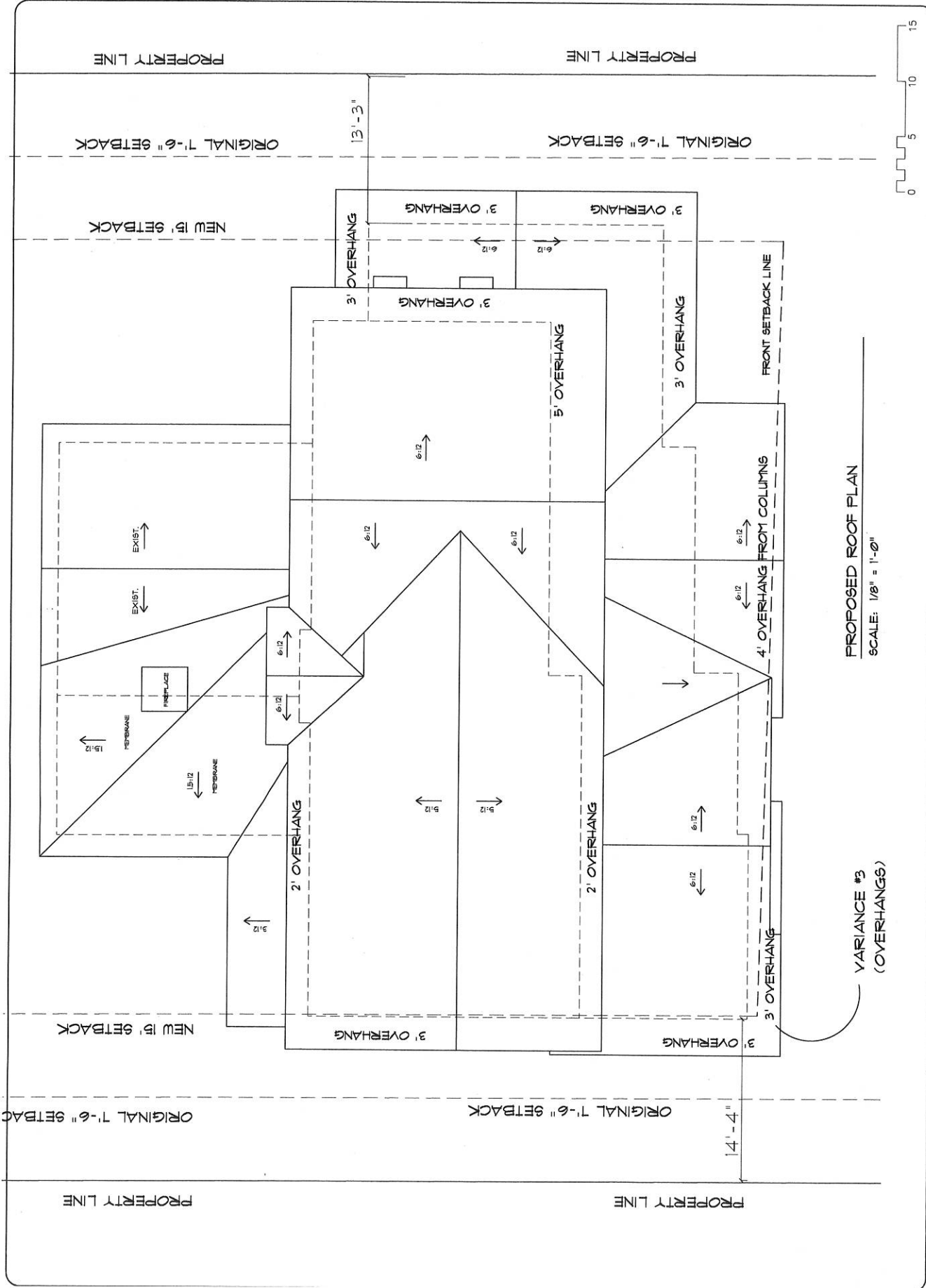
DATES
7/16/19

DRAWING TITLE

PROPOSED
ROOF PLAN

DRAWING REFERENCE

A-4



PROPOSED ROOF PLAN
SCALE: 1/8" = 1'-0"

VARIANCE #3
(OVERHANGS)



Bonnie Henry
Architect

1200 CUMBERLAND RD, NE
ATLANTA, GA 30306
PHONE/FAX (404) 872-8451

Variance for
James Cobb &
Grechen D'Huyvetter Cobb
202 Upland Road, Decatur, GA 30030

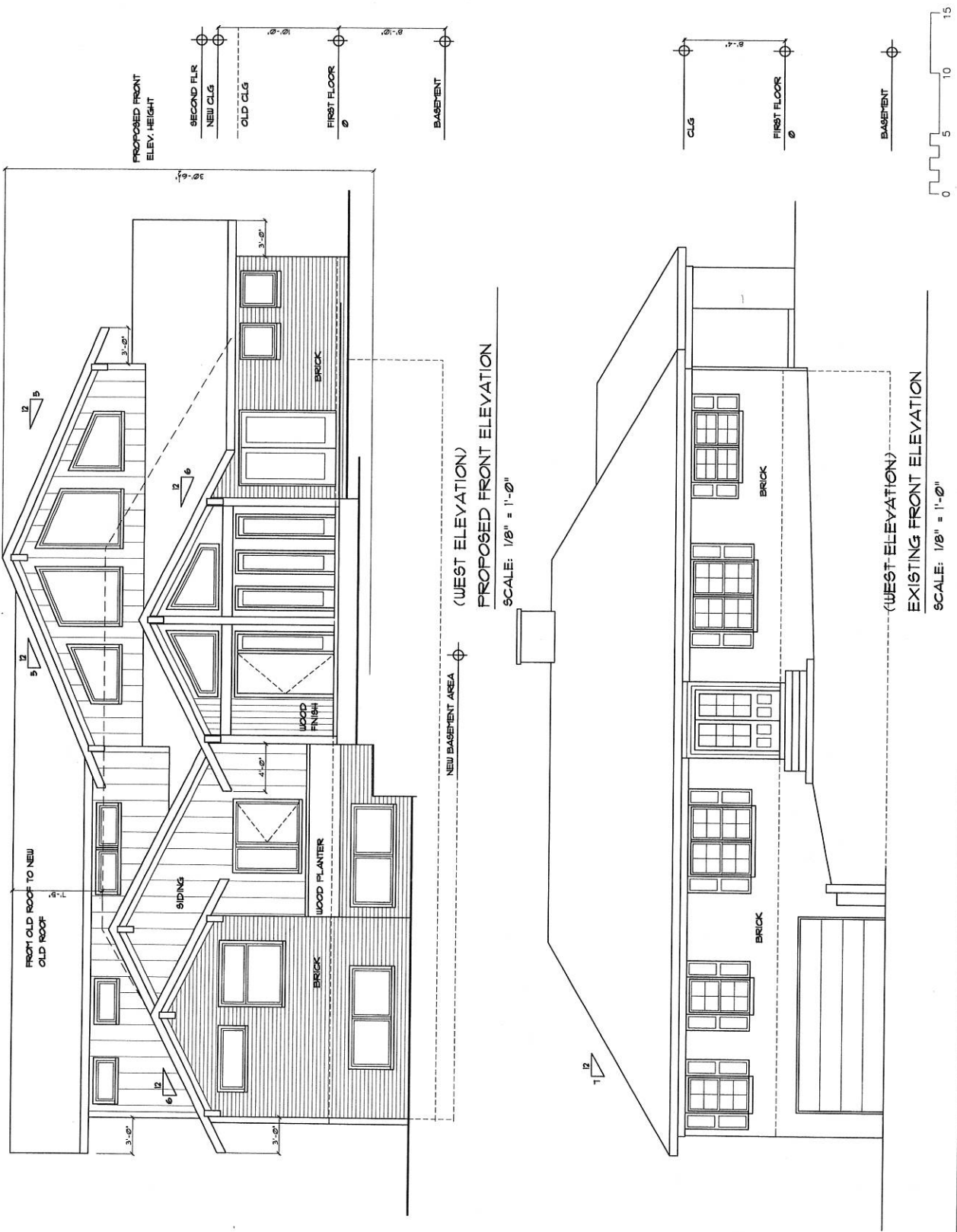
PROJECT
1918

SUBMITTALS	DATES
Variance Submittal	7/16/18

DRAWING TITLE
EXISTING &
PROPOSED
FRONT ELEVATIONS

DRAWING REFERENCE

A-5





Bonnie Henry
Architect

1000 CUMBERLAND RD., NE
ATLANTA, GA, 30306
PHONE: 404. 878. 0261

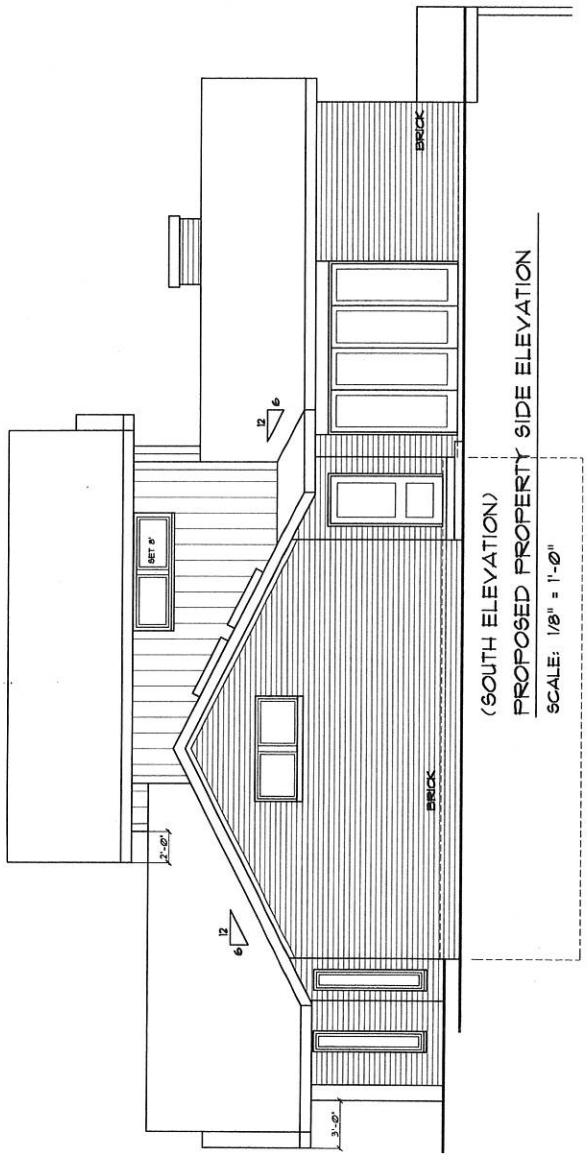
Variance for:
James Cobb &
Gretchen D'Hywetter Cobb
202 Upland Road, Decatur, GA 30030

PROJECT
1918

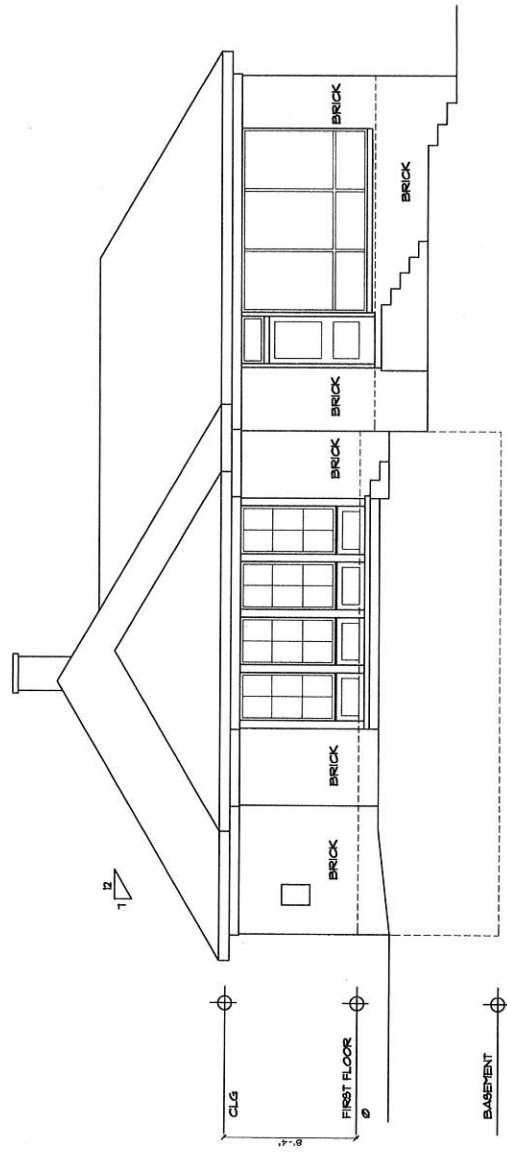
SUBMITTALS DATES
Variance Submittal 7/6/18

DRAWING TITLE
EXISTING 4
PROPOSED
PROPERTY
SIDE ELEVATION
DRAWING REFERENCE

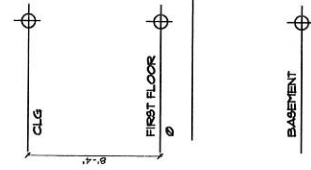
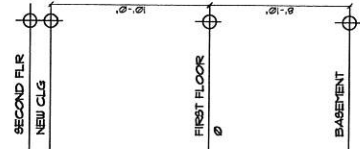
A-6



(SOUTH ELEVATION)
PROPOSED PROPERTY SIDE ELEVATION
SCALE: 1/8" = 1'-0"



EXISTING PROPERTY SIDE ELEVATION
SCALE: 1/8" = 1'-0" (SOUTH ELEVATION)





Bonnie Henry
Architect

3300 CHAMBERLAND RD. NE
ATLANTA, GA 30306
PHONE/FAX (404) 874-6451

Variance for:
**James Cobb &
Gretchen D'Hywetter Cobb**
202 Upland Road, Decatur, GA 30030

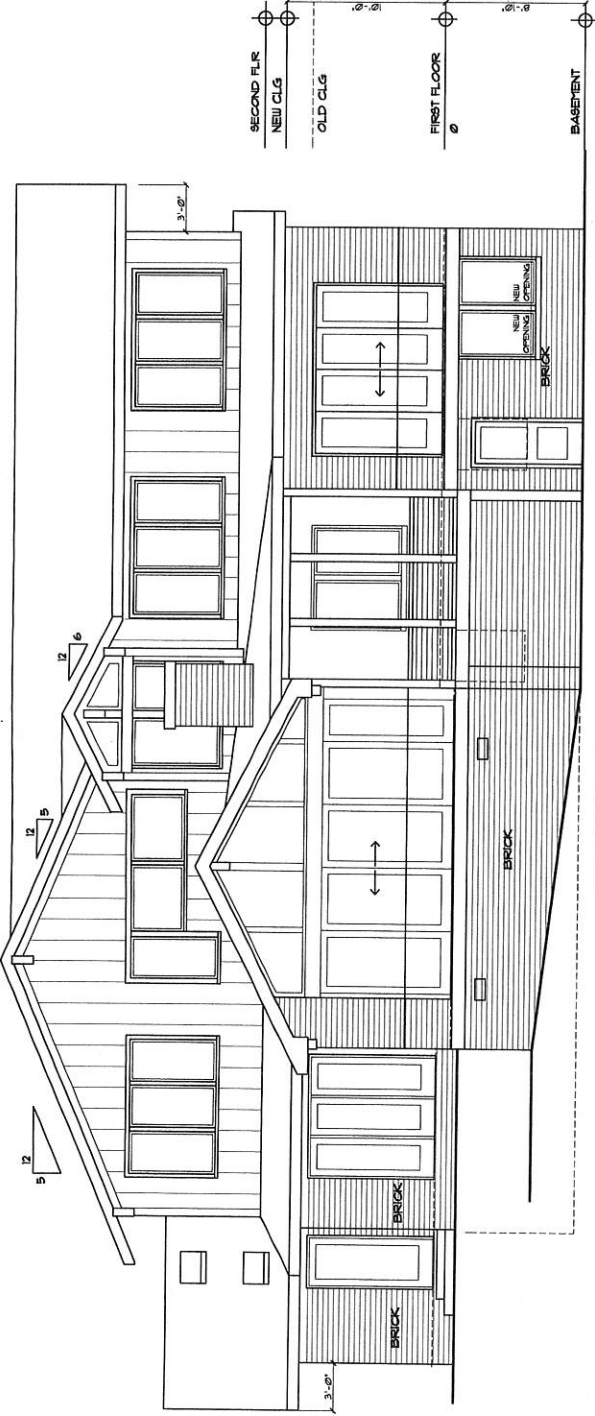
PROJECT
1918

SUBMITTALS **DATES**
Variance Submittal 7/16/19

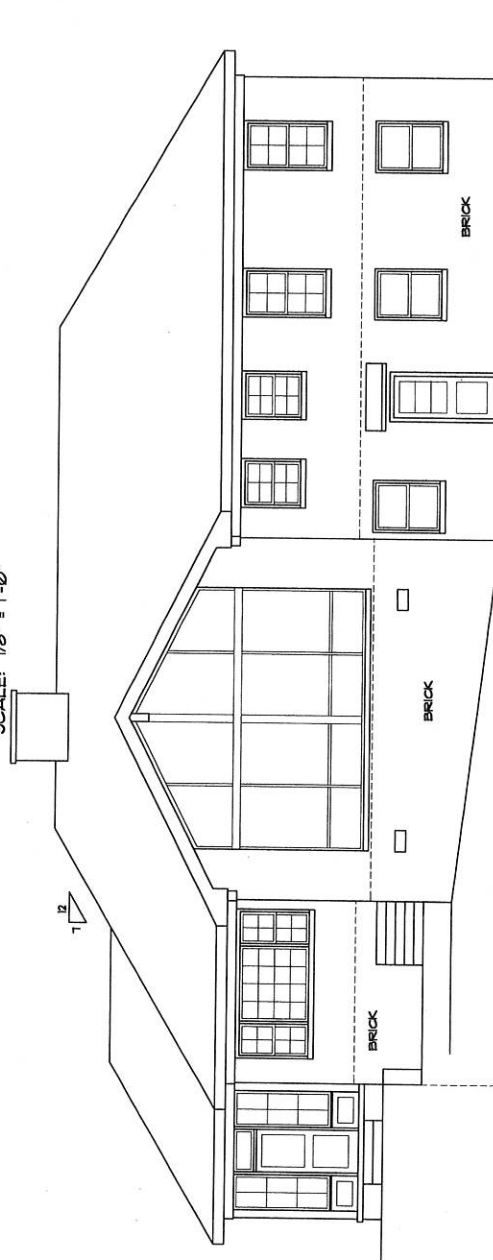
DRAWING TITLE
EXISTING &
PROPOSED
BACK ELEVATION

DRAWING REFERENCE

A-7



(EAST ELEVATION)
PROPOSED BACK ELEVATION
SCALE: 1/8" = 1'-0"



EXISTING BACK ELEVATION
(EAST ELEVATION)
SCALE: 1/8" = 1'-0"





Bonnie Henry
Architect

1200 CLAMBERLAND RD. NE
ATLANTA, GA 30306
PHONE/FAX (404) 872-9451

Variance for:
**James Cobb &
Gretchen D'Huyvetter Cobb**
202 Upland Road, Decatur, GA 30030

PROJECT
1918

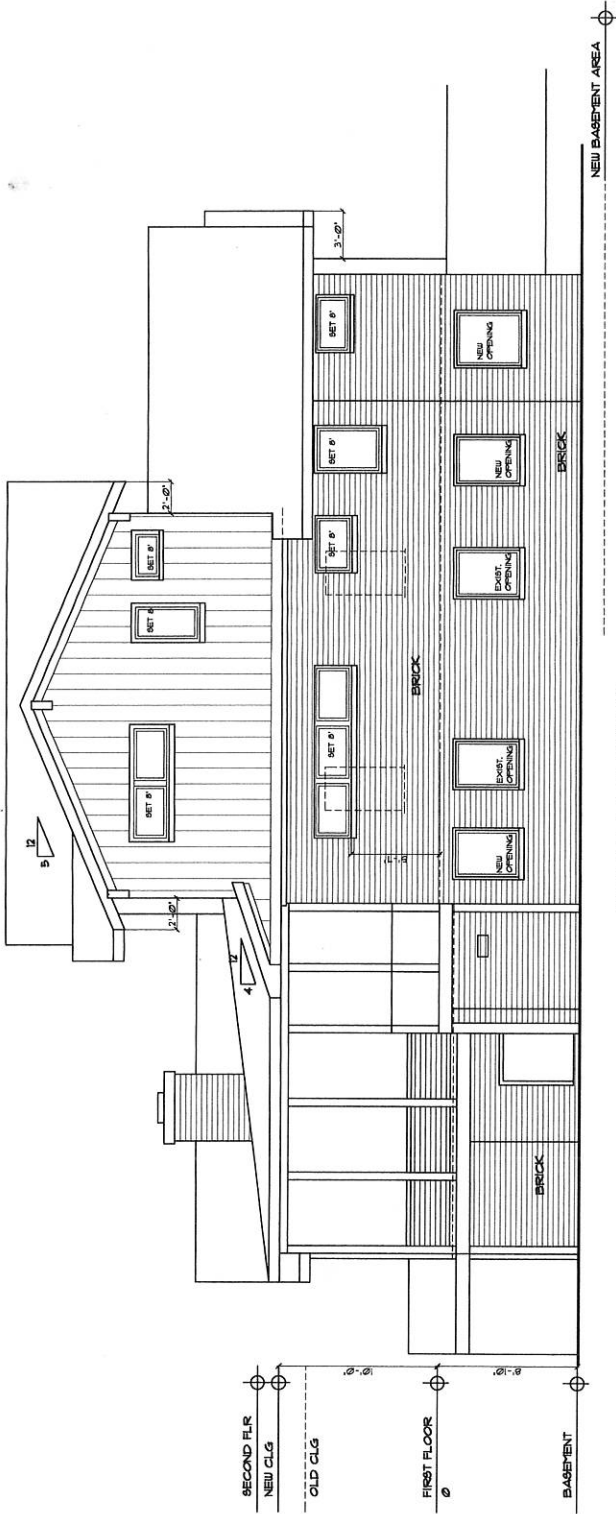
SUBMITTALS
Variance Submittal

DATES
7/6/18

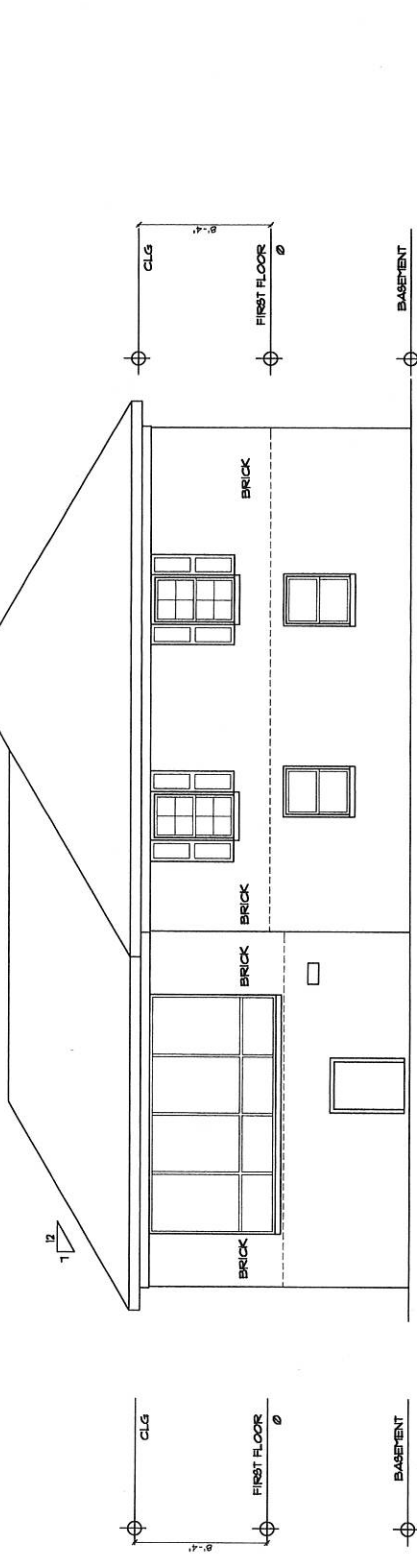
DRAWING TITLE
EXISTING 4
PROPOSED
SIDE ELEVATIONS

DRAWING REFERENCE

A-8



(NORTH ELEVATION)
PROPOSED DRIVEWAY SIDE ELEVATION
SCALE: 1/8" = 1'-0"



EXISTING DRIVEWAY SIDE ELEVATION
SCALE: 1/8" = 1'-0" (NORTH ELEVATION)



Dr. Timothy Dignam and Ms. Jennifer Hamborsky
204 Upland Road
Decatur GA 30030

John Maximuk, AICP
Director
Design, Environment and Construction Division
2635 Talley Street
Decatur GA 30031

RE: Request for Side Yard Setback Variance – 202 Upland Road

Mr. Maximuk and Members of the City of Decatur Zoning Board of Appeals (ZBA):

The owner of 202 Upland asked us to provide a letter of support for their request for a variance to side yard BSL of 15'. The owner met with us and provided copies of the architectural drawings/plans. Because we are not contractors or engineers, we need more information about the impact of the proposed site changes and construction to form an educated opinion. We feel we will bear the burden of the impact of the site changes, specifically changes to drainage and increased noise and light spill. In addition, the proposed relocation of the driveway deviates from the predominate layout of the homes on Upland, specifically driveways are placed adjacent to the neighbor's less sensitive spaces like kitchens, dining and living rooms and not next to bedrooms.

As we understand it, the property at 202 already exceeds the BSL with an outdoor patio. Current proposal is to enclose the existing outdoor patio, transition to indoor living space, and build a second floor on top of it increasing further into the BSL. At the same time, 202 wants to relocate its driveway to this same side yard and construct a rear yard carport along the side yard. The owner reports relocating the driveway from the north side of the house to the south side of the house (next to us) is necessary to facilitate entry into the home for in-laws with mobility issues. The owner also reports that removal of a large healthy oak tree and potential relocation of a large healthy maple tree are necessary.

We understand that the driveway relocation and tree removal are separate issues from the request for approval of the side yard setback variance. Yet, from our perspective, the variance and the driveway / rear carport are linked and have to be looked at together to assess the impact of the variance. Granting the variance would have the effect of placing 202's most active use (loading and unloading of a rear car port) directly adjacent to our most sensitive use (bedrooms and office) without any benefit of the buffer that the side yard BSL is intended to provide. Such placement raises a number of questions that have not been addressed by the materials provided and in conversations with the 202 owner. We have been asked to provide a letter of support, but we cannot do so on the basis of the limited information we have. **We request that our six areas of concern and questions outlined below be considered by the ZBA concurrently with the variance request.**

- I. Drainage and storm water runoff from driveway relocation
- II. Noise and light spill
- III. Impact on quality of life, specifically ability to telework
- IV. Tree removal and removal of existing vegetation between houses
- V. Property value
- VI. Fence

I. Drainage and Storm Water Runoff from Driveway Relocation

Currently, 202 and 204 Upland function independently with regard to drainage and storm water runoff, each discharging into their own rear yards. In June 2019, we installed an updated drainage system in our basement and yard to further improve drainage at 204. The design was based on 1) current topography and elevation of our lot and the neighboring lot, and 2) design of our retaining wall and walk out basement. In mid-July, we were contacted by the owner of 202 Upland to discuss support of the variance request. The proposed site changes, specifically any changes to grading or elevation needed to relocate the driveway will change drainage patterns and could result in storm water runoff diverting to our yard, requiring modifications to our recently installed drainage system. If the variance is granted, then the potential for impact to our property is increased by virtue of the fact that the buffer provided by the side yard BSL is being eliminated.

202 Upland Road	Existing	Proposed	Additional
Driveway	719 SF	1,703 SF	987 SF
Total Lot Coverage	4,300 SF	6,439 SF	2,139 SF

What happens to drainage and runoff when you replace grass with concrete? How will the addition of almost 1,000 SF of concrete and 2,100 SF of lot coverage change the drainage and storm water runoff?

If site changes/grading/elevation of driveway/concrete alter drainage pattern and water flows to our property that currently is not who is responsible for fixing and within what timeframe?

What is the "design" of the new driveway, will it follow the current slope of the lot or will it be "cut-in" like the existing driveway?

What materials will be used, what type of concrete? Is semi-permeable concrete an option?

Are there any design or material options to minimize impact or prevent problems? What if anything can we do in advance to assure that the new driveway does not cause draining issues?

II. Noise and Light Spill

The space between our bedroom windows and the current patio is approximately 25 feet and 12 feet between our house and the proposed driveway. It is difficult for us to visualize vehicles entering/exiting the proposed driveway. Significant lighting will need to be added to be able to navigate a vehicle between the homes. This lighting could be directed into our bedrooms and office and are concerned we could end up with equivalent of a street light outside of our bedrooms. The area between our homes is currently not lighted beyond lights on the outdoor patio [which are diffused by louvered blinds]. We are concerned that lighting from headlights of cars driving into and out of the driveway will be directed into our bedrooms and office. In addition to impact on sleep, there are potential health effects of exposure to light and we are concerned as our 11 year-old daughter sleeps directly below one of the affected windows. The effect of approving the variance and pushing the new driveway closer to our home without a reduced or eliminated buffer that the BSL would have provided is to exacerbate these impacts on our living and working space.

Can a chalk outline or other visual aid such as a 3-D model of the proposed driveway be done?

Is there a way to determine in advance what lighting will be necessary to navigate a vehicle between the homes? Is there a way to simulate the impact of head lights and outdoor lighting into our bedrooms and office? Is placement of outdoor lighting assessed at any point in the building/permitting process?

Fencing or landscaping plans may address some of the issues, are they available to us to review and if so, when in the process are they to us available for review?

III, Impact on Quality of Life

We have resided uneventfully next to the outdoor patio space for more than 10 years. We purchased our property with the intent that our bedrooms and office would be next to an outdoor patio. Noise disturbance and light spill are infrequent currently because 1) it is outdoor space not indoor living space, and 2) existing trees and ground vegetation provide a buffer. With the proposed 2nd story and transition to indoor living space the noise disturbance and light spill will be constant. In addition to impact on sleep, it will impact our employment and ability to telework. We will have to modify our work schedules and potentially relocate our work space to our laundry room on the other side of our home as it will be impossible to conduct conference calls or concentrate during construction. The full impact post-construction is unknown and difficult to predict pre-construction. The owner reports he and his family will not reside in the home during construction. We will be working during the hours of construction and will experience firsthand the challenges of living next to a large scale home construction project. Given this we want to be sure we address in advance any potential problems.

IV. Tree Removal and Removal of Existing Vegetation between Homes

In addition to the removal of a large healthy oak and potential relocation of a healthy maple, there is healthy ground vegetation between our homes. We are not sure if they are by definition trees (they are approximately 20 feet high) or large bushes but to us they are trees as they function as trees by providing 1) a barrier for noise and light, and 2) shade to the side of our home. We are unclear what if any changes will be made to the existing ground vegetation.

Can modifications be made to the design of the driveway to prevent removal of the large healthy oak tree in backyard and healthy maple tree in front yard?

Is the ground vegetation between our homes included in the 3 trees in 18 months removal rule, which ones are trees by definition?

V. Property Value

The proposed construction will increase the property value of 202 Upland Road. The impact on our property value is unknown. The relocation of the driveway and the additional square footage on the lot could decrease our property value as granting the variance will have the effect of placing the driveway and inside living space within the BSL buffer instead of the trees and an outdoor patio abutting the bedrooms and office now. The existing driveway configuration was deliberate and follows the convention of Upland with driveways placed adjacent to the neighbor's less sensitive spaces like kitchens, dining and living rooms and not next to bedrooms. Granting this variance will upend the status quo in this regard and shift any negative impacts of the change primarily to our property which we think is contrary to the spirit of the BSL regulations.

VI. Fence

We have a dog. The existing fencing is utile and intact.

Will the existing fence be removed during construction, and will temporary fencing be in place during construction?

If existing fence is damaged during construction who is responsible for replacement?

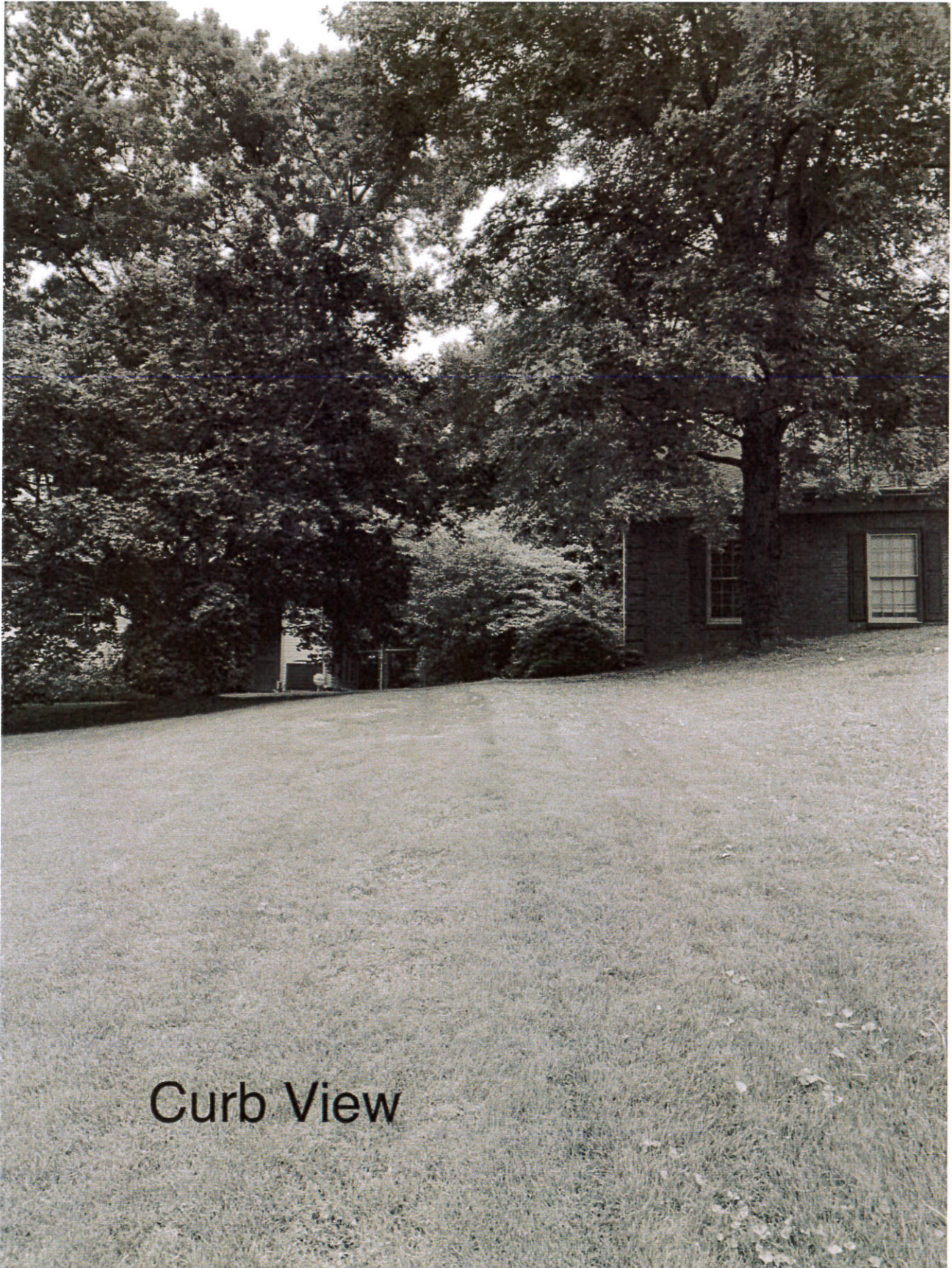
If existing fence is damaged by a vehicle entering/exiting who is responsible for replacement?

We have been city of Decatur residents since 1992 and have lived at 204 Upland Road for 10 years, prior to that we lived for 10 years on 2nd Avenue in Oakhurst. We have experienced the growth within the city and appreciate the challenges the ZBA face in balancing growth. We want to be good neighbors but we also want to preserve our existing quality of life and identify problems in advance to reach mutually beneficial solutions.

Sincerely,

/s/

Dr. Timothy Dignam and Ms. Jennifer Hamborsky



Curb View



Halfway up lawn

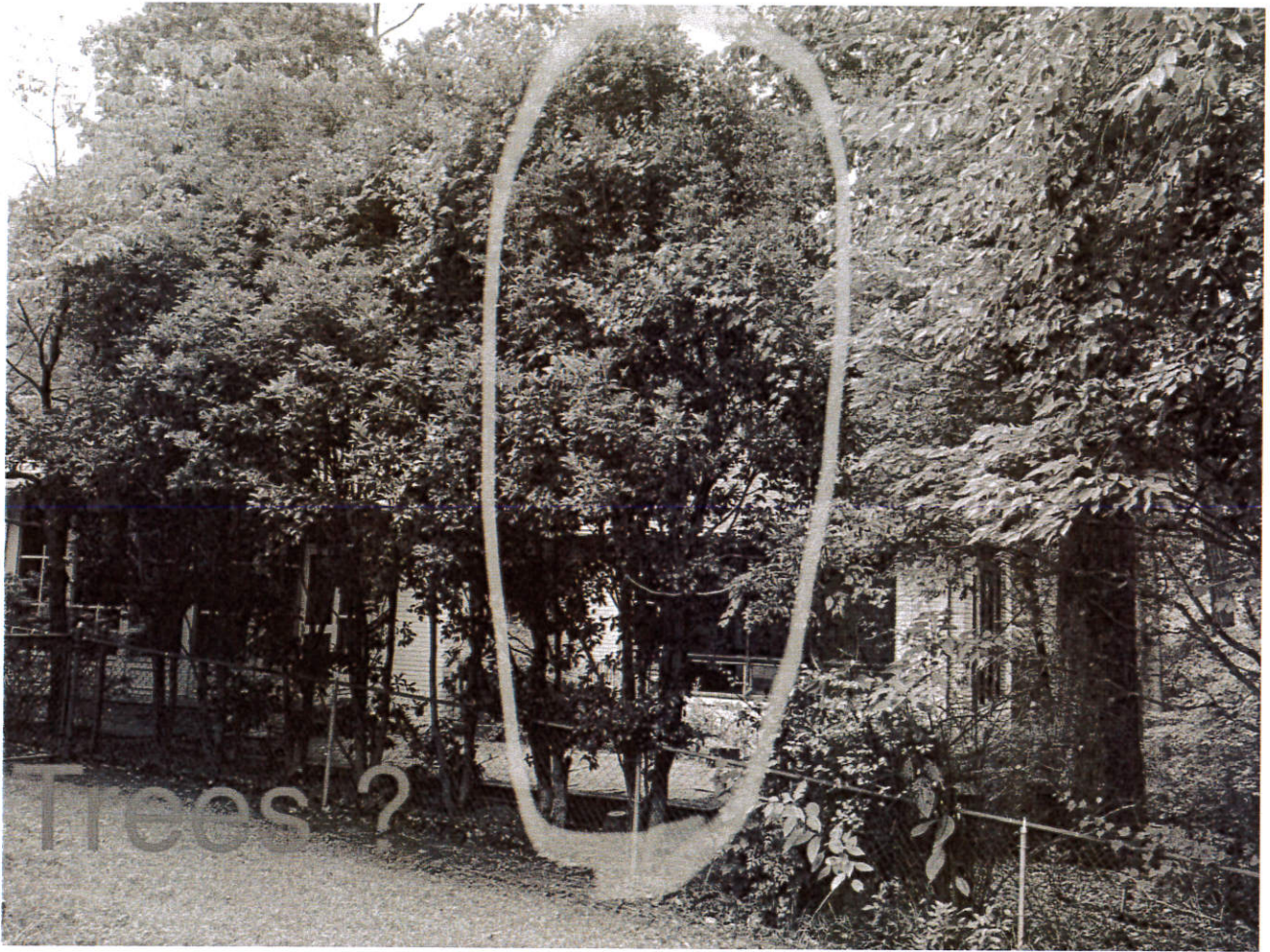


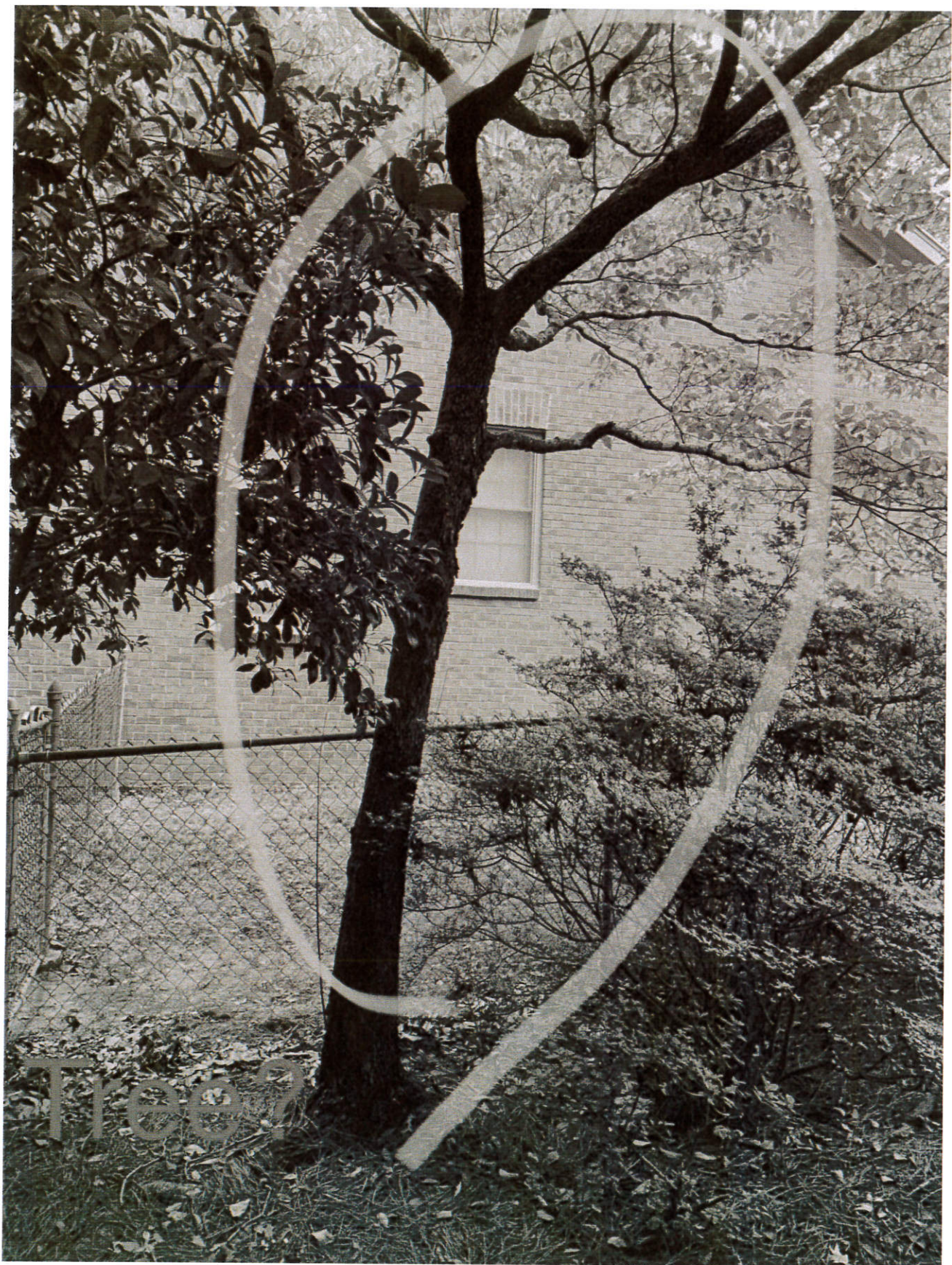
Maple gone for driveway













Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decatuqqa.com

Meeting Date: 8/2/19

Agenda Item: III - F

Zoning Board of Appeals Application Review Checklist

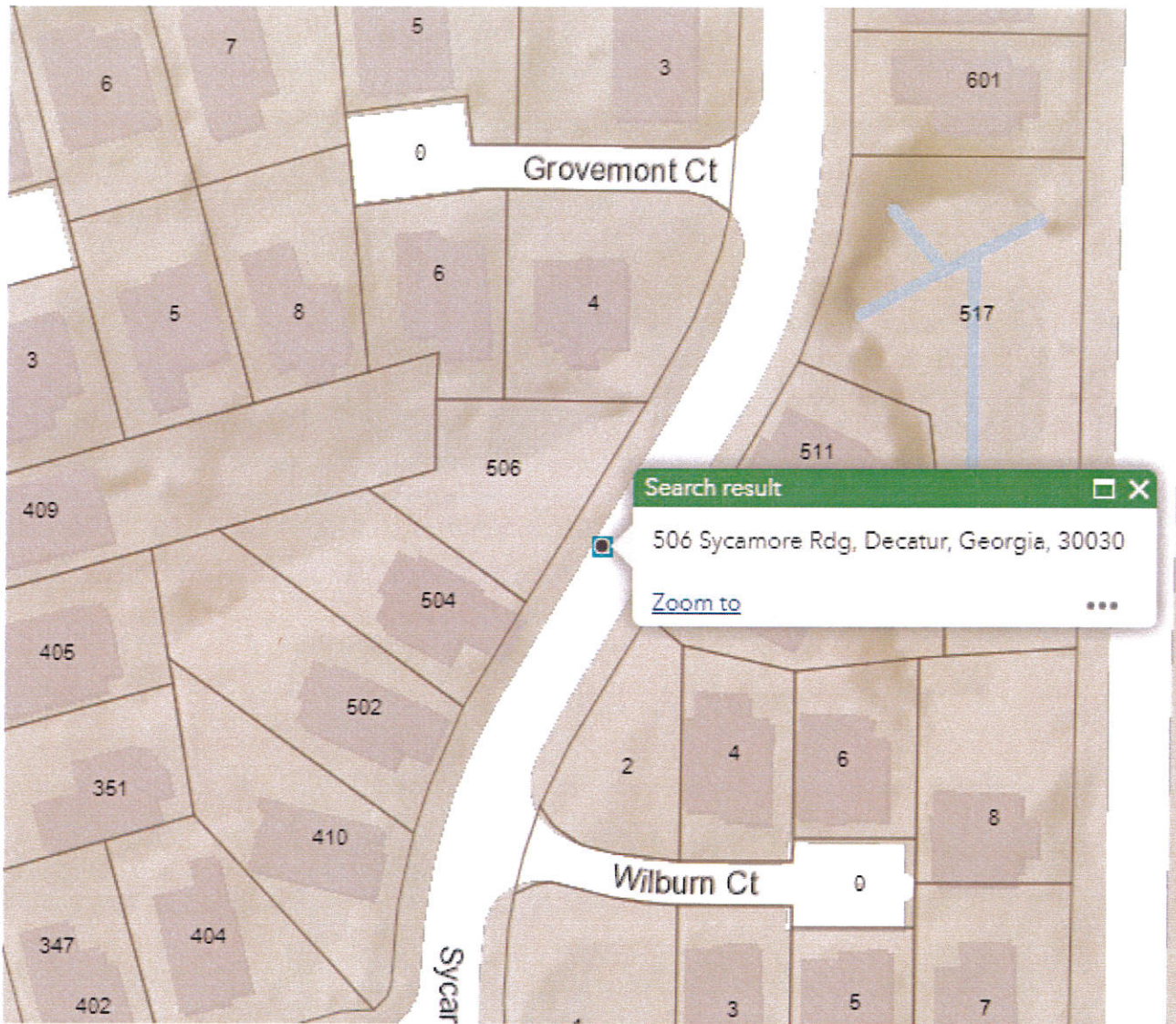
1. Address 506 and 517 Sycamore Ridge Drive
2. Application Received Date: 7/15/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month _____
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested _____
6. Existing Site Plan Attached? Yes No DEC Exhibit # _____
7. Proposed Site Plan Attached? Yes No DEC Exhibit # _____
8. List Other Drawings/ Renderings/ Photos- Below
 - a. Application DEC Exhibit # 1-4
 - b. Photos DEC Exhibit # 5
 - c. Ex. B - Site Plan DEC Exhibit # 6
 - d. Ex. C - Fence Specification DEC Exhibit # 7
 - e. _____ DEC Exhibit # _____
 - f. _____ DEC Exhibit # _____
 - g. _____ DEC Exhibit # _____
 - h. _____ DEC Exhibit # _____
 - i. _____ DEC Exhibit # _____

Total Number of Drawing Sheets 7

9. How Many Letters of Support? 0

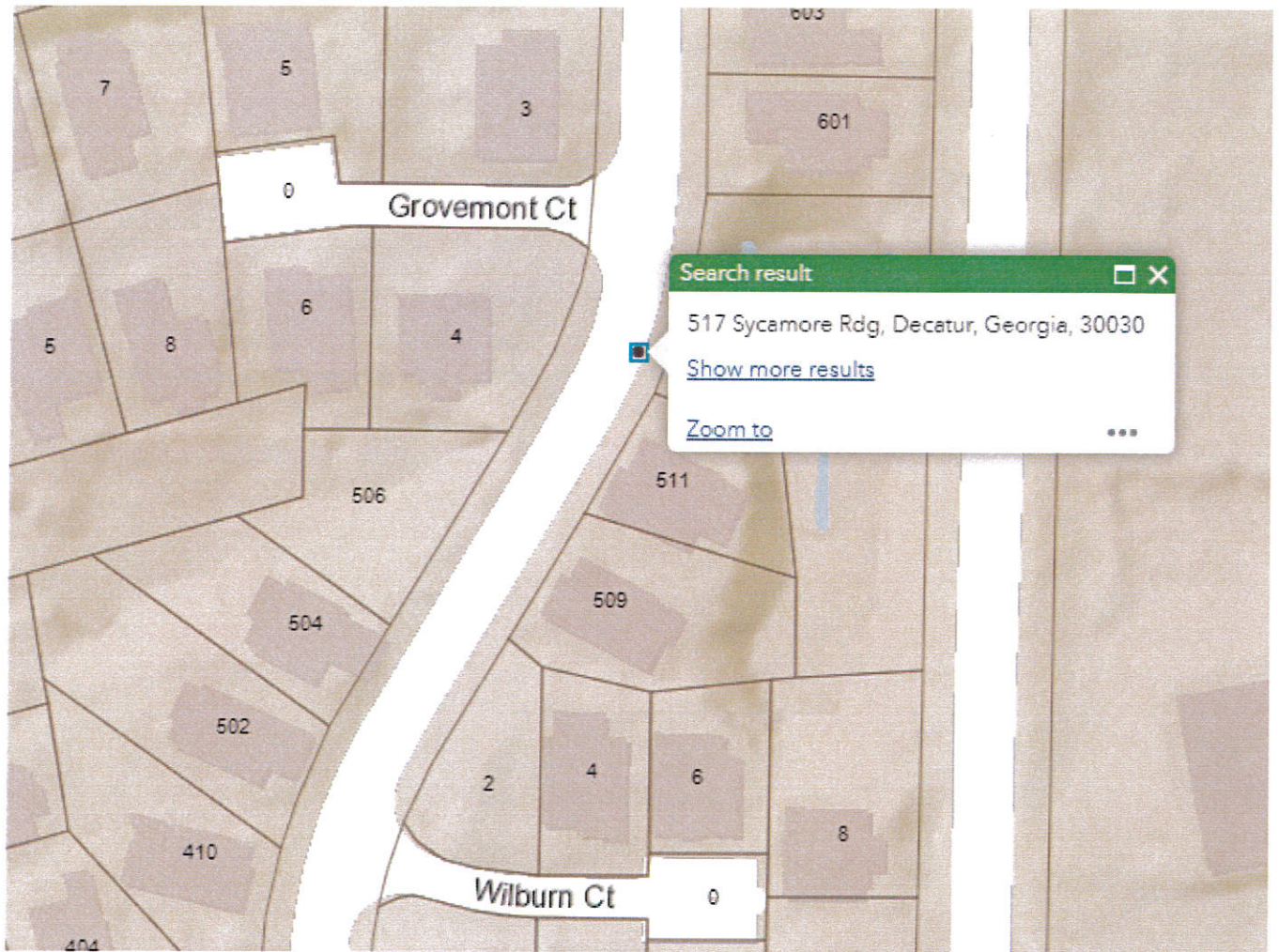
10. Total Number of Sheets in Application (Excluding Staff Sheets) 7

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



506 Sycamore Ridge Dr.

Zoning Board of Appeals
August 12, 2019



517 Sycamore Ridge Dr.

Zoning Board of Appeals

August 12, 2019



Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

Zoning Board of Appeals Staff Report August 12, 2019

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application, which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Amy Judd, President, Sycamore Ridge HOA

Address of Property: Addresses of Home Owners Association property-
506 and 517 Sycamore Ridge Drive

Present Zoning: R-60 -Planned Urban Development (P.U.D.)

- 1) The Sycamore Ridge Neighborhood is a Planned Unit Development within the R-60 zoning district.
- 2) The Home Owners Association for the neighborhood is proposing to construct a new 8 foot tall privacy fence along Winn Way to replace an existing fence.
- 3) The proposed fence fronts both Sycamore Ridge Drive, Wilburn Court, Fitzgerald Court, and Renfroe Court.

- 4) Pursuant to the Unified Development Ordinance:

§Sec 2.1.5(B)

2. Double Frontage Lots- Double frontage lots shall provide the required front yard on both streets.

And

§Sec 7.2.1(B)

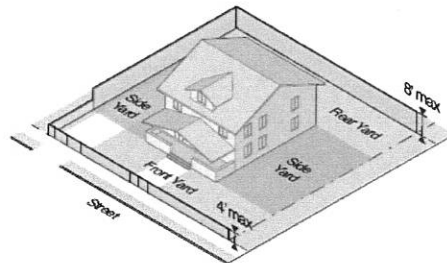
B. No wall or fence in a rear or side yard shall exceed a height of 8 feet. Where 8' fencing is allowed, it must be reduced in height to 4' on any lot line abutting a required front yard.

Sec. 7.2. Landscaping

7.2.1. Walls, Fences and Planting

Walls and fences and ornamental trees and shrubs may be located within the yards except as provided herein:

- A. No wall or fence in a front yard shall exceed height of 4 feet.
- B. No wall or fence in a rear or side yard shall exceed a height of 8 feet. Where 8' fencing is allowed, it must be reduced in height to 4' on any lot line abutting a required front yard.





Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

5) Staff finds that at the time the development was constructed, the current fence was permitted because it abutted Winn Way which was not within the City Limits. So the lots were not considered a double frontage lots. Winn Way and the adjacent properties across from Winn Way have been annexed into the City of Decatur.

Variance Requested	Existing	Proposed	Ordinance
Permit the use of an 8 foot privacy fence in a required front yard	5 Feet	8 feet	4 Feet

6) The following documents have been submitted for review and consideration:

- a) Application (1-4)
- b) Existing Photos (5)
- c) Existing Site Plan (6)
- d) Site Specifications (7)

VARIANCE APPLICATION

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 506 and 517 Sycamore Ridge Drive Decatur, GA 30030
Name of applicant Amy Judd (HOA Board President) Phone 404-229-9722
Address 606 Sycamore Ridge Drive City/state/ZIP 30030
Email amyjuddatl@gmail.com
Name of property owner Sycamore Ridge HOA Phone 404-229-9722
Address 606 Sycamore Ridge Drive City/state/ZIP 30030
Current zoning of property Residential

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature *Amy Judd* Date *7/15/19*
President, Sycamore Board

Variance Request- Sycamore Ridge HOA Fence

Q1. What is the variance requested? What code requirement do you wish to vary from?

Requesting variance from Code 2.1.5 Section B-2 Double Frontage Lots and 7.2.1 Walls, Fences and Planting.

Sycamore Ridge HOA, a Georgia Property Owner's Association, is requesting a variance from both of the zoning codes in order to replace the current fence, owned by the HOA, that surrounds approximately two thirds of the development. The fence was constructed at the time the subdivision was created and it is at the end of its useful life. The current fence is a 5' height shadowbox style wooden cedar fence with a scalloped top and gothic fence posts (See **Exhibit A**). The variance request is to replace the fence entirely and increase the fence height to 8' in height. See **Exhibit B** for the plot map of the subdivision and the current fence marked on the map. The requested variance would replace the current fence keeping the same setbacks from Winn Way. See **Exhibit C** for the proposed fence design.

Q2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

The neighborhood is a *planned development* which is unique in the City of Decatur. The property was developed as a neighborhood whereas individual houses were built from start to finish. The fence is located to the rear of the individual homeowner's properties along Winn Way. There are a few exceptions where some homes are located at the end of three cul-de-sacs where the fence is to the side of the house. There are **no houses** facing Winn Way. On the opposite side of Winn Way is a Commercial property, the Veterans Administration offices. The drawing referenced in the Code Section 7.2.1 references a front lot with a side street. It is not adjacent to a side street. In our circumstance the residential street is inside the Sycamore Ridge subdivision and Winn Way is a major traffic road, not a side street. There are no sidewalks along this side of Winn Way. Sidewalks are on the opposite side of the street along the commercial property.

The setbacks range from approximately 16 feet (at Pinehurst) to approximately 40 feet (at Coalter Way) along the Winn Way section of fencing. The topography changes in elevation from street level at the corner Pinehurst Street and Winn Way then drops below street level, then changes again to well above street level (10' – 20'+ in elevation) as it continues North along Winn Way. Beyond Coalter Way, the elevation then declines back to street level. The setback follows the homeowner's property lines at the rear of their property with the closest setback from the street being at the corner of Pinehurst Street and Winn Way.

There is heavy vegetation between the fence and Winn Way: trees including hardwood and pine ranging in size from small saplings to mature trees, dense underbrush, ivy and vines. Most of the fence, due to the heavy vegetation, is not clearly visible from the street or from the commercial property.

Q3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

This specific property, as noted earlier, does not include houses that face Winn Way. The houses are along the east side of the Sycamore Ridge development and face Sycamore Ridge Drive or one of three cul-de-sacs within the neighborhood. In addition, the commercial property on the opposite side of the road does not face Winn Way. The Veterans Administration offices faces Coalter Way. Therefore, there is no true double frontage.

Q4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

The actual community and the plot of land is peculiar in that it is a planned unit development. The development was built in the mid 1990s and was built from beginning to end, selling homes within the neighborhood with individual lots. That differs from most Decatur neighborhoods in that the majority have grown organically over many decades like Oakhurst. The Sycamore Ridge community has very specific boundaries containing 99 individual homes. The Sycamore Ridge HOA, a Georgia POA, also owns common grounds within the development including 506 and 517 Sycamore Ridge Drive as well as the perimeter fence and the square cul-de-sacs. In the immediate area towards Winn Way there are no other single-family homes. Only within the past two to three years has there been townhouses added along Coalter Way. The remaining properties along Winn Way are currently zoned commercial or are being developed into multi-tenant housing.

Q5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

The primary concern for the HOA and the neighborhood is several homes have been burglarized in the past few years. One access method has been jumping the fence from the Winn Way side. Because the fence is only 5 feet at the maximum height and is scalloped down to the fence posts (see Exhibit B), it makes an easy access point for people who want access to the neighborhood. Homeowners have complained and reported that their homes and cars have been burglarized because people are jumping the fence, gaining access to the property, committing a crime, and then jumping back across the fence.

Additionally, the opposing commercial property is unoccupied at night and during the weekends. That stretch of Winn Way is extremely dark at night. Apart from a few parking lot lights at the VA, there are no streetlights along Winn Way from Dekalb Industrial Way to the end of the fence line on Winn Way. There are no residential neighbors and thus

7/15/19

there is no physical or visual presence to serve as a crime deterrent. Because this planned development abuts a commercial property, there is no one on the other side of Winn Way to watch out for or report suspicious activity.

Q6. Did the condition for which the variance is sought result from an action by the applicant?

No.

Q7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.

The adjacent property is a very busy street and would not hinder light or air any more than trees and vegetation.

Q8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

The planned development was permitted by the City of Decatur originally. When the neighborhood was originally built, the builder went through the standard permitting processes with the City and the appropriate review processes. The entire development went through a public hearing by the city commission. The builder was permitted to build without houses facing on to Winn Way. The builder was also permitted to build the current fence along the back of the homeowner's properties.

In addition, at the time the development was built, this neighborhood was the far north east boundary of the City of Decatur. The adjacent properties across Winn Way, what is now the Veterans Administration, the surrounding townhomes, and the new development being built on Winn Way at Dekalb Industrial were NOT within the City of Decatur city limits. Those properties were in Dekalb County. The back of Sycamore Ridge was the line of the city limits. The City of Decatur did not extend beyond Sycamore Ridge to the East. The current fence was permitted and built by the original builder as it stands today.

The double frontage wasn't considered an issue at the time the fence was originally permitted and is now only subject to both zoning ordinances because the boundaries of the City of Decatur have been extended beyond Sycamore Ridge to the east. The annexation of the properties east of Sycamore Ridge into the city occurred after the fence was erected. Therefore, the fence should not be subject to the new ordinances.

Q9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

No.

7/15/19

Exhibit A

Current Fence Design:

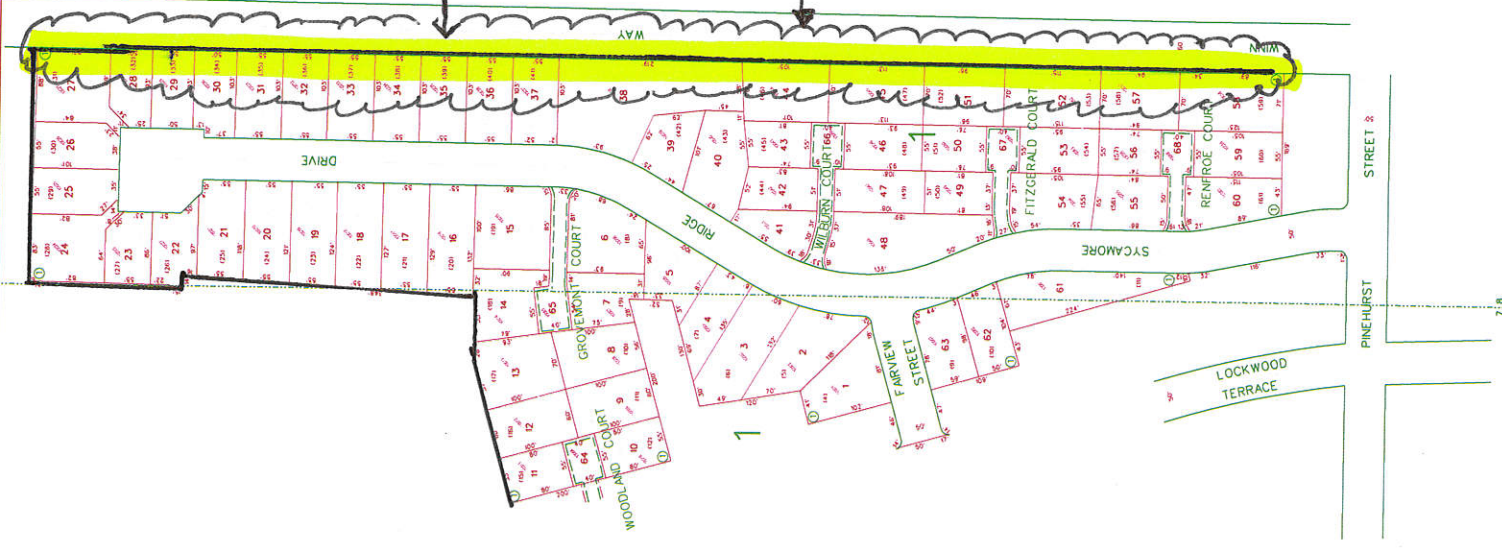
5 foot height shadow box style cedar fence with gothic posts.



① SYCAMORE RIDGE UNIT-2, 05/5

Current fence line
to be Replaced
considered for
variance

Portion of
fence "Clouded"
is considered
"Double Frontage"



LEGEND

TOPO:
PHOTO:

This map was compiled from an aerial photograph. It is to be used as a guide only. The user assumes all responsibility for the accuracy of information contained herein.

EXHIBIT B

Exhibit C

Proposed Fence Design:

8 foot height privacy fence, pressure treated pine, top notch with finished side out, facing Winn Way. Final finishes are TBD based on pricing (top cap, etc.)





Design, Environment and
Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decaturga.com

Meeting Date: 8/12/19

Agenda Item: III. 'G+H

Zoning Board of Appeals Application Review Checklist

1. Address 246 + 248 East Lake Drive
2. Application Received Date: 7/16/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month _____
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested _____

6. Existing Site Plan Attached? Yes No DEC Exhibit # 16
7. Proposed Site Plan Attached? Yes No DEC Exhibit # _____

8. List Other Drawings/ Renderings/ Photos- Below

- | | | |
|----|--------------------------------|----------------------------|
| a. | <u>Application</u> | DEC Exhibit # <u>1-6</u> |
| b. | <u>Letter of Determination</u> | DEC Exhibit # <u>7-9</u> |
| c. | <u>Quit Claim Deed</u> | DEC Exhibit # <u>10-11</u> |
| d. | <u>Warranty Deed</u> | DEC Exhibit # <u>12-13</u> |
| e. | <u>Occupancy Certificates</u> | DEC Exhibit # <u>14-15</u> |
| f. | <u>Site Survey</u> | DEC Exhibit # <u>16</u> |
| g. | <u>Owner Authorization</u> | DEC Exhibit # <u>17</u> |
| h. | _____ | DEC Exhibit # _____ |
| i. | _____ | DEC Exhibit # _____ |

Total Number of Drawing Sheets 17

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 17

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



246 & 248 East Lake Dr.

Zoning Board of Appeals
August 12, 2019



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P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

Zoning Board of Appeals Staff Report August 12, 2019

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application, which was received by the Design, Environment & Construction Division of Public Works.

Applicant: East Lake Drive, LLC c/o Lawton Jordan

Address of Property: 246-248 East Lake Drive

Present Zoning: R-60

- 1) The property located at 246-248 East Lake Drive is a previously developed property originally constructed as a duplex. At some point between 1982 and 2004 the structure was subsequently divided into 2 additional apartment units creating a 4 unit Multi-Family structure in the R-60 zoning district. No permits were issued for the renovation to add these two units
- 2) In 2019 a tree struck the structure and it was discovered by DEC staff during building permitting that the property had two undocumented apartment units based on records in the property address file.
- 3) At the request of the applicant/ owner, the Planning Director issued a Letter of Determination (included within this report) that the structure presented as a duplex is an existing legal non-conforming use because the original building pre-dated changes to City Ordinance prohibiting duplexes in single family zoning districts. The additional two units added between 1982 and 2004 creating a multi-family structure were deemed an illegal non-conforming use as they would not have been permitted even before the change to City ordinance in 1989 and is not a permitted use in section 6.2 of the UDO.
- 4) Under Section 11.3.1(B) use alone does not establish the existinence of a legal non-conforming use. However, a case out doubt is presented by the applicant based on the fact that the property was purchased by the Owner with 4 units, and the property pays 4 City sanitation fees.
- 5) The applicant is seeking a determination as to the question raised whether an illegal non-conforming use exists at this property. This determination is required under UDO section 11.3.1(C).
- 6) The ZBA must act on this determination first in order to determine if any variances are required.



7) Pursuant to the Unified Development Ordinance:

Sec. 11.3. Nonconformities

11.3.1. Nonconforming Uses

A. Continuance

A nonconforming use or building shall not be:

1. Changed to another nonconforming use;
2. Reestablished after discontinuance for 1 year;
3. Extended except in conformity with this UDO;
4. Rebuilt, altered or repaired after damage by fire, windstorm or other disaster when damage exceeds 75% of the fair market sales value of the building immediately prior to the damage.

B. Intermittent or Illegal Use

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

C. Existence of a Nonconforming Use

In case of doubt, and on a specific question raised, whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Board of Appeals after public notice and hearing and in accordance with the rules of the Board.

D. Buildings Nonconforming

A building nonconforming only as to height, area or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.

E. Nonconforming Uses Not Validated

A nonconforming use in violation of a provision of the ordinance, which this UDO amends or replaces, shall not be validated by the adoption of this UDO.

F. Discontinuance of a Nonconforming Use

All nonconforming signs, billboards, junkyards; all nonconforming uses of land where no buildings are employed in connection with such use; or where the only buildings employed are accessory or incidental to such use shall be discontinued and such nonconforming buildings or structures torn down, altered or otherwise made to conform within 2 years of the date of the adoption of this UDO.

G. Historic Structure Damage and Rebuilding

Notwithstanding the limits established in Sec. 11.3.1, above, a nonconforming use or building which is designated as a local historic property or which is listed as a contributing structure in a local Historic District may be rebuilt after damage by fire, windstorm or other disaster regardless of the extent of damage.

11.3.2. Area Modifications for Lots of Record

A. Lot Exceptions

Where a lot of record at the time of the effective date of this UDO had less area or less width than herein required for the district in which it is located, said lot may nonetheless be used for a single-family dwelling, provided that all yard and other requirements of the district are complied with.

B. Ownership of Multiple Lots

If 2 or more adjoining and vacant lots with continuous frontage are in a single ownership at any time after the adoption of this UDO and such lots individually are less than the lot width requirements for the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this UDO.



Design, Environment & Construction Division
 2635 Talley Street
 P.O. Box 220
 Decatur, Georgia 30031
 404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

Determination Requested	Question Posed	Answer(s)	Ordinance
The existence of an illegal non-conforming use	Does an existing illegal non-conforming use exist at the property?	Possible Answers: "Yes- An illegal non-conforming use exists" "No- An illegal non-conforming use does not exist"	A determination is required by the ZBA per 11.3.1

- 8) The following documents have been submitted for review and consideration:
- a) Application (1-6)
 - b) Letter of Determination by Angela Threadgill (7-9)
 - c) Quit Claim Deed (10-11)
 - d) Warranty Deed (12-13)
 - e) Certificates of Occupancy (14-15)
 - f) Site Survey (16)
 - g) Owner Authorization (17)



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Zoning Board of Appeals Staff Report August 12, 2019

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application, which was received by the Design, Environment & Construction Division of Public Works.

Applicant: East Lake Drive, LLC c/o Lawton Jordon
Address of Property: 246-248 East Lake Drive
Present Zoning: R-60

- 1) The property located at 246-248 East Lake Drive is a previously developed property originally constructed as a duplex. At some point between 1982 and 2004 the structure was subsequently divided into 2 additional apartment units creating a 4 unit Multi-Family dwelling in the R-60 zoning district. No permits were issued for the renovation to add these two units
- 2) In 2019 a tree struck the structure and it was discovered by DEC staff during building permitting that the property had two undocumented apartment units based on records in the property address file. Multi-family dwellings are not permitted in the use table in UDO Section 6.2
- 3) The applicant is seeking a variance to allow for the continued illegal non-conforming use as established by the determination given in the preceding agenda Item.
- 4) NOTE: This variance will only be considered if the proceeding determination is made by the ZBA that the structure is an illegal non-conforming use under Section 11.3.1(C)
- 5) Pursuant to the Unified Development Ordinance:

3.2.2. Building Types Allowed

- Detached House see also [Sec. 2.2.3.A.](#)
- Carriage House see also [Sec. 2.2.3.B.](#)
- Civic Building see also [Sec. 2.2.3.L.](#)



Sec. 6.2. Allowed Use Table

	R-85	R-60	R-50	RS-17	RM-18	RM-22	RM-43	PO	NMU	C-1	C-2	C-3	MU	I	Def./Std
Residential Uses															
All household living, as listed below:															
Single-family detached dwelling	P	P	P	P	P	P	P	P	--	--	--	--	--	C	6.3.1
Accessory dwelling unit (ADU)	L	L	L	--	L	L	L	L	--	--	--	--	--	--	6.3.1
Single-family attached dwelling	--	--	--	P	P	P	P	P	--	C	C	--	P	--	6.3.1
Two-family dwelling	--	--	--	--	P	P	P	P	--	--	--	--	--	C	6.3.1
Multiple-family dwelling	--	--	--	--	P	P	P	P	L	C	L	C	P	C	6.3.1
Downtown multiple dwelling	--	--	--	--	--	--	--	--	--	--	L	--	--	--	6.3.1
Home occupation	L	L	L	L	L	L	L	L	L	L	L	L	L	L	6.8.3
Live-work	--	--	--	--	--	--	--	L	L	L	L	L	L	--	6.3.1
Lifecycle dwelling	--	--	--	--	--	--	--	--	--	--	C	C	C	--	6.3.1
All group living, as listed below:															
Assisted living facility, nursing home	--	--	--	--	P	P	P	P	C	C	P	P	P	--	6.3.2
Personal care home (2-4 residents)	L	L	L	L	L	L	L	L	C	C	C	C	--	C	6.3.2
Personal care home (5-15 residents)	--	--	--	--	L	L	L	L	C	C	C	C	--	C	6.3.2
Personal care home (16-24 residents)	--	--	--	--	--	--	C	L	C	C	C	C	--	C	6.3.2
Roominghouse, boardinghouse	--	--	--	--	L	L	L	L	--	--	--	--	--	--	6.3.2
All social services	--	--	--	--	--	--	--	--	--	--	--	C	--	--	6.3.3
Public Uses															
All civic, except as listed below:	P	P	P	--	P	P	P	P	P	P	P	P	P	--	6.4.1
College, university, seminary	--	--	--	--	--	--	--	--	--	--	--	--	--	C	6.4.1
Office, governmental, civic, charitable organization	--	--	--	--	--	--	--	C	--	--	--	--	--	C	6.4.1
Place of worship	L	L	L	L	L	L	L	P	P	P	P	P	P	P	6.4.1
Police, fire, EMS station	P	P	P	P	P	P	P	P	P	P	P	P	P	C	6.4.1

Key: P = Permitted Use L = Limited Use C = Conditional Use -- = Not a Permitted Use



Variance Requested	Existing	Proposed	Ordinance
Permit the continued use of a multi-family dwelling use in an R-60 Zoning District	Multi-Family Dwelling (4 units) that has been determined by the ZBA to be an illegal non-conforming use	Maintain the Multi-Family Dwelling (4 units) use.	Multi-family dwelling not Permitted under UDO Section 6.2 – Use Table

- 6) If the ZBA chooses to approve the variance, staff recommends that the approval be conditioned to only the question of maintaining use and not as to the application of other building and fire codes contained within article 10 of the UDO

- 7) The following documents have been submitted for review and consideration:
 - a) Application (1-6)
 - b) Letter of Determination by Angela Threadgill (7-9)
 - c) Quit Claim Deed (10-11)
 - d) Warranty Deed (12-13)
 - e) Certificates of Occupancy (14-15)
 - f) Site Survey (16)
 - g) Owner Authorization (17)

VARIANCE APPLICATION

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

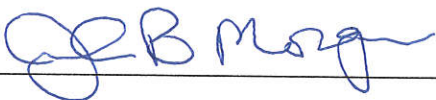
1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 246 and 248 East Lake Drive Decatur, GA 30030
Name of applicant East Lake Drive, LLC c/o Lawton Jordan Phone 404 373 9590
Address 309 Sycamore Street City/state/ZIP Decatur, GA 30030
Email ljordan@williamsteusink.com
Name of property owner East Lake Drive, LLC Phone 404 373 9590
Address 309 Sycamore Street City/state/ZIP Decatur, GA 30030
Current zoning of property R-60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature  Date 07/19/19

ADDITIONAL SUPPORTING DOCUMENTATION

In addition to this written justification, the following is attached as additional support for this Application:

1. Application for Variance;
2. Request for Letter of Determination, dated June 25, 2019
3. Letter of Determination, dated July 1, 2019
4. *Warranty Deed*, dated September 7, 2019 from Paul J. Hewitson to John B. Morgan;
5. *Quit-Claim Deed Form 120*, dated September 7, 2019 from Cheryl Ann Corrandio to John B. Morgan;
6. *Certificate of Occupancy* No. 40, dated October 5, 1982, for 246 East Lake Drive;
7. *Certificate of Occupancy* No. 41, dated October 5, 1982, for 248 East Lake Drive; and
8. Application Fee.

VARIANCE DOCUMENTATION

(1) What is the variance requested? What code requirement do you wish to vary from?

Owner seeks a variance under Article 3, Section 3.2.2 of the City of Decatur Unified Development Ordinance to allow Owner to obtain a building permit to move forward with repairs of the Property and to continue to operate the property as a quadruplex, as it has been for over fifteen (15) years.

(2) What are the special conditions relating to the specific piece of property in questions (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

The house has functioned as a quadruplex since at least September of 2004 and possibly longer. The earliest Certificates of Occupancy available show the Property as being designated 246 and 248 East Lake Drive in 1982, seven (7) years prior to the revision of the Code that provided for one and two-family homes in R-60 zoning.

(3) Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

The house has functioned as a quadruplex since at least 2004, and it is the belief of the Owner, prior to that. Upon purchase of the home, the apartment units in the basement were already in place and being leased to tenants. Strict application of the zoning ordinance to this specific piece of property would result in a nominally single-family home requiring extensive redesign and building work, resulting in a lower economic value and use. Furthermore it would deprive the City of three (3) units of workforce housing at a time when the City continues to struggle with implementing density and affordable housing.

(4) Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

The circumstances of this property are not unique. On this small section of East Lake Drive which is within easy walking distance to the East Lake Marta Station, there are at least four (4) other quadruplexes. Granting the variance would create a pathway for these properties to be repaired or worked on from time to time as needed, and would recognize well-established land use patterns in the City.

(5) Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

Failure to grant this variance would force the Owner to abandon the current use of the property as a quadruplex and instead seek to redevelop property as a single family home. This would result in a loss of economic value of the property for Owner and eliminate available housing. Given that the Property has been used for decades as multi-family housing and at least fifteen (15) years as a quadruplex, this would have a substantial detriment the Owner.

(6) Did the condition for which the variance is sought result from an action by the applicant?

The condition was not caused by applicant. The house was used as a quadruplex prior to Owner's acquisition in 2004 and the damage caused by the tree from the neighboring lot was obviously not caused by Owner. The home was used as a quadruplex when acquired by the sole member of Owner in 2004.

(7) Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.

Granting the requested variance would have no new impact on surrounding properties as the purpose of the variance sought is to allow an existing structure to be rebuilt as it has existed for decades.

(8) Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

The 2016 Comprehensive Plan City continues to envision this East Lake Drive corridor along the West side of Decatur as a residential area. Granting the Variance would not adversely impact the proposed future land use plan and would allow the property to continue in its current use and to help the City achieve the goals set forth in its Comprehensive Plan. Specifically, the Decatur 360 Comprehensive Plan identifies the need for affordable housing:

In 2008, the Affordable Housing Study was developed to proactively address the need for affordable rental and owner-occupied housing, especially for the City's service industry, institutional, and local government employees. The need for affordable housing in Decatur is crucial for ensuring demographic diversity as well as long-term sustainability and economic strength. A gap analysis was conducted as part of the study, which found that the most pressing gap in housing is for incomes between \$35,000 and \$50,000 annually. A few of the recommendations of the study include: enacting a living wage legislation, annexation, an Employer Assisted Housing Program model, a homeownership rehabilitation program, establishing a community land trust, and an inclusionary zoning policy.

(9) Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

Granting this Variance would allow a multi-family use in R-60 zoning district, however the property has been functioning as a multi-family property since at least 1982, perhaps as far back as the original construction in 1920.

July 16, 2019

Sent via Email and Hand Delivery

City of Decatur

Attn: Angela Threadgill, Planning Director

Attn: Erik Pawloski, Chair of Zoning Board of Appeals

509 N. McDonough Street

Decatur, Georgia 30030

Re: 246-248 East Lake Drive, Decatur

Dear Mr. Pawloski and Ms. Threadgill:

My name is John Morgan. I am the owner of East Lake Drive, LLC, which owns the real property and house located at 246-248 East Lake Drive, Decatur, 30030 (the "Property"). I first acquired the Property in 2004, and in 2017 transferred it to East Lake Drive, LLC. I have continuously operated the Property as a quadruplex since acquiring it in 2004, and it was also operated as a quadruplex prior to my ownership.

In April, 2019, a tree fell on the house, causing extensive damage and rendering it uninhabitable. In connection with the rebuilding, a land use issue has arisen. Brock Savage, a contractor working for me, recently submitted a letter to City's Planning, Zoning and Inspections office seeking a determination as to the status of the Property. Ms. Threadgill's July 1 response stated that there is uncertainty as to whether the Property's existing use as a quadruplex is a legal nonconforming use or is an illegal nonconforming use. Her letter advised that the Zoning Board of Appeals (the "ZBA") was the appropriate body to make this determination, and that if it was found to be an illegal non-conforming use, the owner could apply for a variance to continue such use.

I would like to restore the property to a functioning quadruplex and believe there is substantial justification for doing so. Accordingly, per Section 11.3.1.C of the City of Decatur Unified Development Ordinance (the "Code"), I am hereby requesting a hearing before the ZBA to make this determination.

Additionally, as you know, Section 11.3.1 of the Code does not permit a nonconforming use to be discontinued for more than one (1) year. Since the tree fell on this house in April of this year, the time in which to address this matter is limited, especially in light of the substantial rehabilitation work that must be done. Accordingly, while it is my belief that this is a legal nonconforming use, in the event the ZBA makes the opposite determination, I hereby request a variance to continue such use, and enclosed herewith is a completed variance application with the required attachments (including plat and filing fee).

The law firm of Williams Tesuink has assisted me in filing this request, so please communicate with them regarding this matter if helpful.

I appreciate your assistance with this matter. Please contact me with any questions.

Sincerely,



John Morgan

Enclosures

Brock Savage
522 Drexel Ave
Decatur GA 30030

City of Decatur
ATTN: Zoning Administrator
2635 Talley Street
Decatur GA 30031

To Whom,

I would like to request a Letter of Determination for the property located at 246-248 East Lake Drive, Decatur GA 30030.

The property is currently a quadruplex and was in this arrangement on 9/07/2004 when East Lake Drive LLC, John Morgan, purchased it and it is the understanding at that time that it was originally constructed in this format.

Attached is a current tax report showing it as a triplex which is incorrect.

Our effort is to bring the records and addresses into agreement so that the house can be repaired after substantial damage to the first-floor apartments.

Feel free to reach out to me with any questions or concerns.

Respectfully submitted,

Brock Savage

CC: John Morgan



July 1, 2019

Mr. Brock Savage
522 Drexel Avenue
Decatur, GA 30030

**RE: Letter of Determination
246-248 East Lake Drive, Decatur, GA**

Dear Mr. Savage:

The purpose of this letter is to provide a response to your letter submitted on 06/25/19 for zoning determination affecting the property located at 246-248 East Lake Drive Street ("subject property").

The subject property is zoned **R-60 – Single Family Residential**. The R-60 zoning district allows for uses in accordance with the use table in [Section 6.2](#) and development as provided for in [Section 3.2](#) of the Decatur Unified Development Ordinance ("UDO") effective February 1, 2015, as amended.

Based upon information provided in your letter, the subject property has been used as a multiple-family dwelling with four residential units, or a quadruplex, and has been occupied as such since 09/07/2004. You also stated it is of the understanding from the previous owner that the structure was originally constructed in the format as a multiple-family dwelling.

Disparate evidence raises questions as to whether or not the structure was originally constructed as a multiple-family dwelling with four units. According to available records retained by the City, the subject property was constructed in 1920 as a double-shotgun house type (see Historic Resources Survey sheet dated 08/01/2009, attached). A 1924 fire insurance map in Volume 7 by The Sanborn Insurance Company, with corrections through 1941, indicate the structure was built as a two-family dwelling and remained as such through at least 1941. The structure continues to be documented as a two-family dwelling, or duplex, as late as 1980, 1981, and 1982 (see Community Improvement Program property survey dated 08/06/1980, attached) (see building permit dated 04/30/1981, attached) (see certificates of occupancy dated 10/05/1982, attached). Therefore, it is likely the structure was built as a two-family dwelling.

The City has no further records that indicate the property was converted from a two-family dwelling to a multiple-family dwelling. Documents, such as a building permit or

Savage
July 1, 2019
Page 2 of 3

certificate of occupancy, pursuant to a use conversion could not be found. However, the City's 2018 records indicate the City collected sanitation fees for four units at the subject property. It is unclear how far back in time this collection fee has been assessed for the subject property.

Until 1989 the City's zoning ordinances permitted single-family and two-family dwellings uses within the R-60 zoning district; Ordinance No. O-89-04, approved 02/20/1989, amended the R-60 zoning district as such that made any use other than a single-family dwelling a non-conforming use. According to the City's zoning history during the last four decades, and possibly longer, a multiple family dwelling was not allowed in the R-60 zoning district. Therefore, it is highly unlikely that the City issued an approval for a use conversion from a two-family dwelling to a multiple-family dwelling at the subject property because it would not have been zoning compliant.

Where a use or structure violates applicable zoning regulations, the use or structure is nonconforming. In some instances, the use or structure is a legal nonconforming use or structure as it existed before the zoning ordinance took effect and was allowed to continue as a nonconforming use under new standards. In other situations, a use or structure was mistakenly or unknowingly allowed to continue under zoning regulations even though the use or structure was never allowed under any zoning regulations. These illegal nonconforming uses continue until its nonconforming status is brought to the attention of the City.

Based on evidence presented by you and available records of the City, there appears to be a question raised as to whether or not the existing use is a legal nonconforming use or an illegal nonconforming use. Pursuant to [Section 11.3.1.C](#) of the UDO, in case of doubt, and on a specific question raised, whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Board of Appeals after public notice and hearing, in accordance with the rules of the Board.

Should the Board determine the existing multiple-family dwelling use is a legal nonconforming use, it may be continue to be used in compliance with Section 11.3.1. Should the Board determine the existing multiple-family dwelling use is an illegal nonconforming use, the owner of the illegal nonconforming use or structure must then apply for a variance to continue using, or maintaining, the property in its current, nonconforming status as a multiple-family dwelling with four units. Variance requests are decided by the Zoning Board of Appeals in accordance with [Section 11.2.9](#).

Should you have any questions or further information to consider, please do not hesitate to contact me at angela.threadgill@decaturga.com.

Savage

July 1, 2019

Page 3 of 3

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the UDO. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Zoning Board of Appeals within 10 days of the date of this letter. For information regarding the appeals process, please contact John Maximuk, staff to the Zoning Board of Appeals, located at the Design, Environment and Construction Division, 2635 Talley Street, Decatur, GA, or call (404) 370-4104.

Sincerely,



Angela Threadgill

Planning Director

Acting Zoning Administrator

Attachments

Cc: Address File
John Maximuk, Director of Design Environment and Construction
Mark Ethun, Building Official

Deed Book 16677 Pg 561
Filed and Recorded Oct-07-2004 08:39am
2004-0195274
Real Estate Transfer Tax \$0.00
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

Return to:
McCalla Raymer Padrick Cobb Nichols & Clark, LLC
3060 Peachtree Road, Suite 1210
Atlanta, GA 30305
BH040982 *morgan*

QUIT-CLAIM DEED FORM 120

**STATE OF GEORGIA
FULTON COUNTY**

THIS INDENTURE, Made the 7th day of September, in the year 2004, between

CHERYL ANN CORRADO

of the County of DEKALB, and State of Georgia, as party or parties of the first part, hereinafter called Grantor, and

JOHN B. MORGAN

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH: That Grantor for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release, and forever quit-claim to Grantee all the right, title and interest claim or demand which the Grantor has or may have had in and to the following described property, to wit:

ALL that tract or parcel of land lying and being in Land Lot 212 of the 15th District of DeKalb County, Georgia, being more particularly described as follows:

BEGINNING at a 1-1/2" open top pipe found on the easterly right-of-way line of East Lake Drive (formerly Viola Avenue, a 45 foot right-of-way) 960.4 feet southerly as measured along the easterly right-of-way line of East Lake Drive from its intersection with the southerly right-of-way line of West College Avenue (also known as College Street), said point of beginning also being located at the southwest corner of Lot 32 of the subdivision hereinafter referred to; running thence along the easterly right-of-way line of East Lake Drive South 01 Degree 50 Minutes 18 Seconds West 50.00 feet to a 1/2" rebar found at the northwest corner of Lot 34 of the subdivision hereinafter referred to; running thence along the line dividing Lots 33 and 34 of the subdivision hereinafter referred to South 86 Degrees 39 Minutes 16 Seconds East 150.00 feet to a tree at the northeast corner of said Lot 34; running thence along the east line of said Lot 33 North 00 Degrees 00 Minutes 00 Seconds East 50.00 feet to a 1/2" rebar found at the southeast corner of said Lot 32; running thence along the line dividing said Lots 32 and 33 North 86 Degrees 37 Minutes 41 Seconds West 148.40 feet to the POINT OF BEGINNING; being Lot 33, Subdivision of Winter Property, as per plat recorded in Deed Book 3-C, Page 26, DeKalb County Records; and being improved property known as 246-248 East Lake Drive, according to the present system of numbering property in the City of Decatur, DeKalb County, Georgia. The above described property is more particularly shown and delineated on the survey by The Carter Group, Inc., bearing the seal of James H. Carter, G.R.L.S. #1999, dated November 12, 1996.

Deed Book 16677 Pg 562
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

with all rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

TO HAVE AND TO HOLD the said described premises unto the Grantee, so that neither the said Grantor, nor any other person or persons claiming under Grantor shall at any time claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

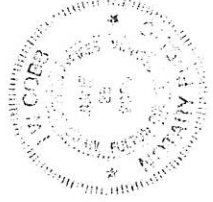
IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in the presence of:

Julie Dyer
Witness
J. W. [Signature]
Notary Public
My Commission expires:

Cheryl Corrado by
Kevin [Signature] (Seal)
Cheryl Ann Corrado Attorney in Fact

(Seal)



Deed Book 16677 Pg 563
 Filed and Recorded Oct-07-2004 08:39am
 2004-0195275
 Real Estate Transfer Tax \$270.00
Linda Carter
 Clerk of Superior Court
 DeKalb County, Georgia

WARRANTY DEED (FORM 36A)

Return to:

McCalla Raymer Padrick Cobb Nichols & Clark, LLC
 3060 Peachtree Road, Suite 1210
 Atlanta, GA 30305

moizan 34040982

WARRANTY DEED

STATE OF GEORGIA
FULTON COUNTY

THIS INDENTURE, made the 7th day of September, in the year 2004, between

PAUL J. HEWITSON

of the County of DEKALB, and State of Georgia, as party or parties of the first part, hereinafter called Grantor, and

JOHN B. MORGAN

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH: That Grantor for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION**, in hand paid at and before the sealing and delivery of these presents, the receipts whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL that tract or parcel of land lying and being in Land Lot 212 of the 15th District of DeKalb County, Georgia, being more particularly described as follows:

BEGINNING at a 1-1/2" open top pipe found on the easterly right-of-way line of East Lake Drive (formerly Viola Avenue, a 45 foot right-of-way) 960.4 feet southerly as measured along the easterly right-of-way line of East Lake Drive from its intersection with the southerly right-of-way line of West College Avenue (also known as College Street), said point of beginning also being located at the southwest corner of Lot 32 of the subdivision hereinafter referred to; running thence along the easterly right-of-way line of East Lake Drive South 01 Degree 50 Minutes 18 Seconds West 50.00 feet to a 1/2" rebar found at the northwest corner of Lot 34 of the subdivision hereinafter referred to; running thence along the line dividing Lots 33 and 34 of the subdivision hereinafter referred to South 86 Degrees 39 Minutes 16 Seconds East 150.00 feet to a tree at the northeast corner of said Lot 34; running thence along the east line of said Lot 33 North 00 Degrees 00 Minutes 00 Seconds East 50.00 feet to a 1/2" rebar found at the southeast corner of said Lot 32; running thence along the line dividing said Lots 32 and 33 North 86 Degrees 37 Minutes 41 Seconds West 148.40 feet to the POINT OF BEGINNING; being Lot 33, Subdivision of Winter Property, as per plat recorded in Deed Book 3-C, Page 26, DeKalb County Records; and being improved property known as 246-248 East Lake Drive, according to the present system of numbering property in the City of Decatur, DeKalb County, Georgia. The above described property is more particularly shown and delineated on the survey by The Carter Group, Inc., bearing the seal of James H. Carter, G.R.L.S. #1999, dated November 12, 1996.

12

CERTIFICATE OF OCCUPANCY

No. 40



Permission is hereby granted to

William C. Dixon

to occupy, to rent, or to lease for occupancy
the residence, apartment or building located at

246 East Lake Drive

This certificate will become invalid when the residence, apartment, or building becomes vacant and said residence, apartment or building shall not be reoccupied until a new certificate has been issued by the Building Official or his duly Authorized Representative. The legal occupancy of this dwelling unit is limited to one family of no more than _____ members.

Issued: October 5, 1982

By: James M. Burks

Building Official

IMPORTANT

The City of Decatur does not make any guarantee or warranty as to the condition of buildings inspected, nor does the City assume any liability in the inspection and in certification of occupancy.

CITY OF DECATUR
georgia

CERTIFICATE OF OCCUPANCY

No. 47



Permission is hereby granted to

William C. Dixon

to occupy, to rent, or to lease for occupancy
the residence, apartment or building locat-
ed at

248 East Lake Drive

This certificate will become invalid when the
residence, apartment, or building becomes
vacant and said residence, apartment or
building shall not be reoccupied until a new
certificate has been issued by the Building
Official or his duly Authorized Representa-
tive. The legal occupancy of this dwelling
unit is limited to one family of no more than

Issued: October 5, 1982

By: James M. Burks
Building Official

IMPORTANT

*The City of Decatur does not
make any guarantee or
warranty as to the condition
of buildings inspected, nor
does the City assume any
liability in the inspection
and in certification of
occupancy.*

_____ members.

CITY OF DECATUR

georgia

**NOTARIZED AUTHORIZATION BY PROPERTY OWNER
FOR REPRESENTATION**

248 East Lake Drive, Decatur, DeKalb County, Georgia 30030
Tax Parcel ID 15 212 01 069

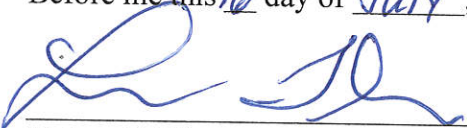
I, John Morgan, duly authorized to sign on behalf of East Lake Drive LLC, owner of the property located at 248 East Lake Drive, as shown in the records of DeKalb County, Georgia. I authorize the persons and firm named below to act as Applicant and my representative in pursuit of all matters pertaining to the property listed above, including but not limited to zoning, permitting, planning, development and appeals.

Name of Applicants: R. Lawton Jordan, Esq.
Sam Artopoeus
Name of Firm: Williams Teusink, LLC
Address: The High House
309 Sycamore Street
Decatur, Georgia 30030
Telephone No.: (404) 373-9590
Email: ljordan@williamsteusink.com



John Morgan

Sworn and subscribed
Before me this 16 day of July, 2019.



Notary Public

Commission Expiration Date: 12-15-20





Design, Environment and
Construction Division
2535 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decaturga.com

Meeting Date: 8/21/19

Agenda Item: III - I

Zoning Board of Appeals Application Review Checklist

1. Address 245 Mount Vernon Drive
2. Application Received Date: 7/16/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested average front yard setback
6. Existing Site Plan Attached? Yes No DEC Exhibit # _____
7. Proposed Site Plan Attached? Yes No DEC Exhibit # _____
8. List Other Drawings/ Renderings/ Photos- Below

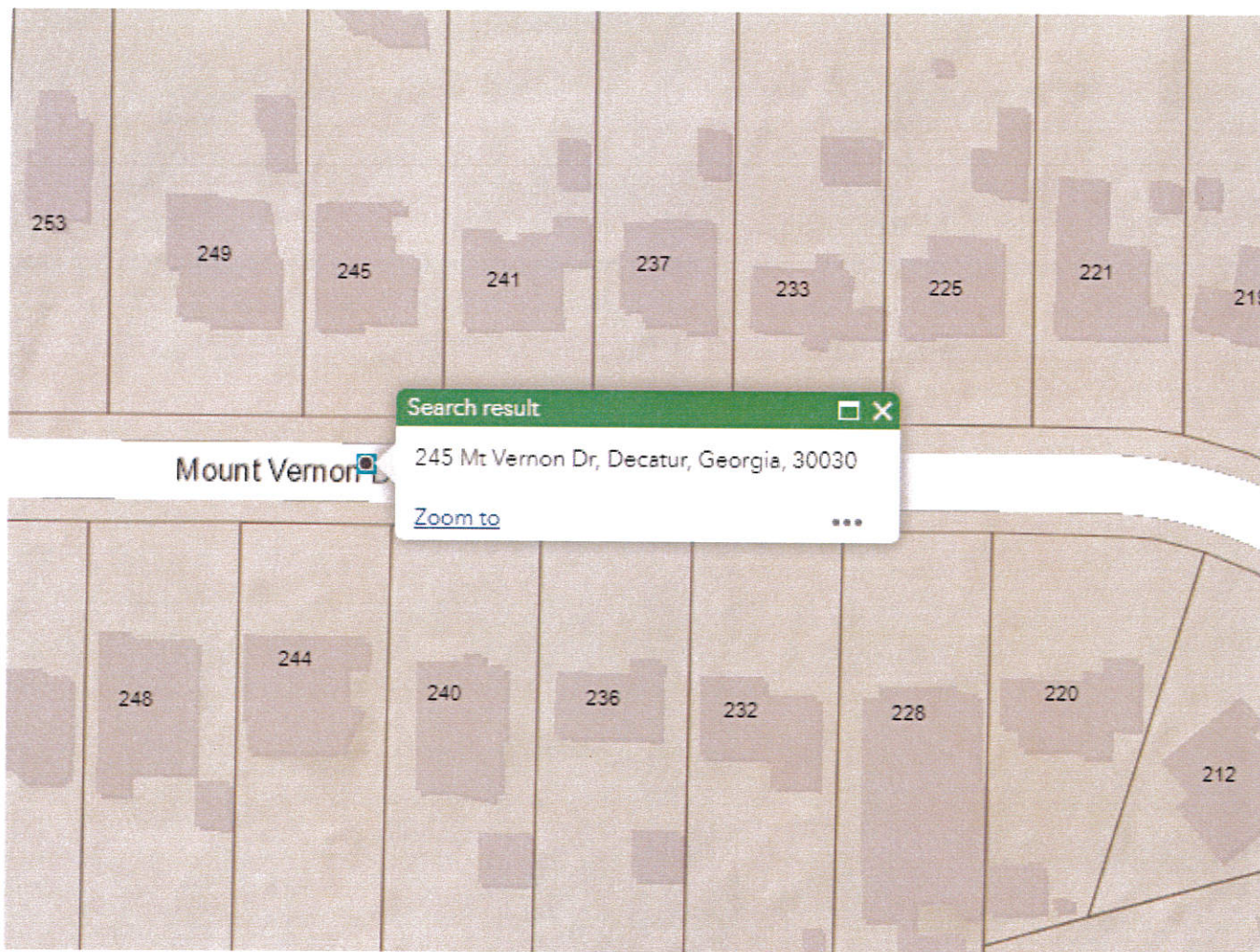
- | | | |
|----|-----------------------------|-------------------------|
| a. | <u>application</u> | DEC Exhibit # <u>1.</u> |
| b. | <u>narrative</u> | DEC Exhibit # <u>2.</u> |
| c. | <u>floor plan and porch</u> | DEC Exhibit # <u>3.</u> |
| d. | <u>front elevation</u> | DEC Exhibit # <u>4.</u> |
| e. | <u>site plan</u> | DEC Exhibit # <u>5.</u> |
| f. | _____ | DEC Exhibit # _____ |
| g. | _____ | DEC Exhibit # _____ |
| h. | _____ | DEC Exhibit # _____ |
| i. | _____ | DEC Exhibit # _____ |

Total Number of Drawing Sheets 3

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 5.

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



245 Mount Vernon Dr.

Zoning Board of Appeals

August 12, 2019



Design, Environment & Construction Division
2635 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
<http://www.decaturga.com>

**Zoning Board of Appeals Staff Report
August 12, 2019**

The Zoning Board of Appeals will meet on August 12, 2019 at 7:30PM at the Decatur City Hall, 509 N. McDonough Street.

The following staff report has been prepared for an application which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Eric and Haley Stevens

Address of Property: 245 Mount Vernon Drive

Present Zoning: R-60

- 1) The property is located at 245 Mount Vernon Drive near the northern intersection of Mount Vernon Drive and Glendale Drive.
- 2) The applicant has applied for a front yard setback in order to construct a covered front porch.
- 3) The current house has a building setback of 41 feet, 2 inches (41.2 feet) per the applicant's survey. The approximate setback of the existing front patio is 33 feet 8 inches.
- 4) The proposed porch would be located directly on top of the existing elevated patio. Staff finds that the proposed porch would not exceed the current building setback line of the existing patio or house. Staff finds that there would be no useable space above the proposed porch.



5) Per the Unified Development Ordinance:

Variations Requested	Existing	Proposed	Ordinance
Front yard setback requirements	33 feet, 8 inches	33 feet, 8 inches	41 feet (average per the UDO Section 3.2.4. and 2.1.5.B. 1)

6) The following documents have been submitted for review and consideration:

- a) Application, page 1
- b) Narrative, page 2
- c) Floor area plan, page 3
- d) Front elevation, page 4
- e) Site plan, page 5

VARIANCE APPLICATION

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 245 Mount Vernon Drive Decatur, GA 30030
Name of applicant Eric and Haley Stevens Phone 404-610-8563
Address 245 Mount Vernon Drive City/state/ZIP Decatur, GA 30030
Email ericwstevens@gmail.com
Name of property owner Eric and Haley Stevens Phone 404-610-8563
Address 245 Mount Vernon Drive City/state/ZIP Decatur, GA 30030
Current zoning of property R-60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature Date 7-16-2019

Variance Request for 245 Mount Vernon Drive, Eric and

1. What is the variance requested? What code requirement do you wish to vary from?

We are requesting a variance for the average front-yard setback of our home.

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

One of the neighbors house, 249 Mount Vernon Drive, was recently built in its current location due to 253 Mount Vernon Drive being far back. 253 Mount Vernon Drive was built far back from the street due to water issues.

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

To our knowledge, there is no reasonable, low-impact way to cover the front porch of the home without a variance.

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

Not to our knowledge, other than the above mentioned setback of 253 Mount Vernon Drive.

5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.

This variance request is in relation to a planned covered front porch to our home. Although we will not be changing the footprint of the existing home, a covered front porch aligns with the city of Decatur community spirit as well as creates a place for our family to enjoy the front of our home and neighborhood.

6. Did the condition for which the variance is sought result from an action by the applicant?

No. This issue has stemmed from initial development of the property.

7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.

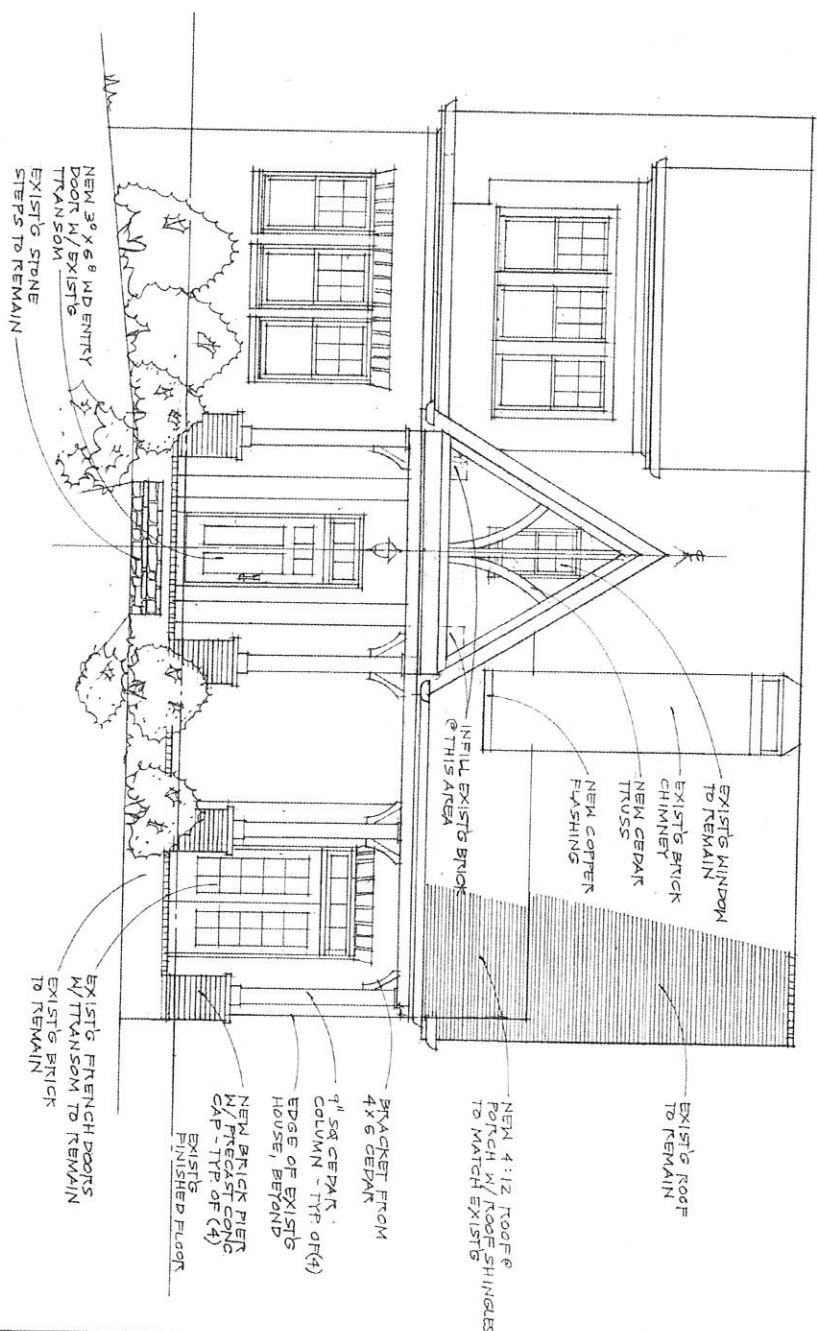
Granting of the variance would not negatively affect any of the above-named concerns. One could potentially see that the nearby property values could be improved by the addition of a covered porch to our home.

8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.

A covered front porch is in align with the community feel of Decatur and its land use plan. This change does not impact the coverage of the lot, yet provides a weather-proof space for our family to enjoy our home and our neighborhood and extends the use of our front porch during various seasons.

9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

No.



FRONT ELEVATION SCALE: 1/4" = 1'-0"

2° 46' 48" max @ 6.45%
4% @ 6.10/2°

Steps @ 6" x 11"



4.

PROPOSED RENOVATIONS FOR		John Steven Conway, R.A. ARCHITECT 307 Glenn Circle, Decatur, GA 30030 Office: 404-378-5787	REVISIONS	BY
Eric and Haley Stevens				
245 Mount Vernon Drive, Decatur, GA 30030				
Date	Scale	Drawn	Job	Sheet
				Of Sheets

GENERAL NOTES:

- 1: This Plat has been prepared without the benefit of a current title report. Easements or encumbrances may exist that are not shown on this plat.
- 2: This plat is subject to any restrictions, easements, covenants or restrictions that may exist either written or unwritten.
- 3: Underground utilities not shown hereon may exist. The Surveyor does not take responsibility for absence or presence of any such utilities.
- 4: No Geodetic monuments were found within 500 feet of this site
- 5: This Plat has been prepared for the exclusive use of the person(s) or entities named hereon.
- 6: Builder to verify pool is greater than 10' to rear or side property lines prior to construction.

ZONING: R-60

IMPERVIOUS SURFACES:

- DRIVE = 2,197 FT. SQ.
- HOUSE = 2,118 FT. SQ.
- DECK = 402 FT. SQ.
- CONCRETE WALL = 106 FT. SQ.
- POOL = 558 FT. SQ. (WATER SURFACE)
- SPA = 52 FT. SQ. (WATER SURFACE)
- COPING = 115 FT. SQ.
- STEP BRIDGE = 21 FT. SQ.
- CONCRETE = 32 FT. SQ.
- LEVEL SPREADER = 9 FT. SQ.
- PATIO = 414 FT. SQ.
- TOTAL IMPERVIOUS = 5,765 FT. SQ. (39.5%)
- TOTAL LOT = 14,588 FT. SQ.

FLOOD HAZARD NOTE: THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS DEFINED BY FIRM MAP OF CITY OF DECATUR 13089C0068H REVISED BY LOMR, EFFECTIVE DATE FEBRUARY 20, 2008

REFERENCE: PLAT OF SURVEY FOR JULIE MAAS BY JOSEPH C. KING

TOTAL AREA: 14,598 FT SQ, 0.34 AC

CALCULATED PLAT CLOSURE: 1:192,045

FIELD DATA:

TRAVERSE PRECISION: 1:10,000+ AND AN ANGULAR ERROR OF 2 SECONDS PER ANGLE AND WAS UNADJUSTED EQUIPMENT: TOPCON GPT 3005 TOTAL STATION

ASBUILT SURVEY FOR STEVENS RESIDENCE LOT 35, NORTH GLENWOOD SUBDIVISION

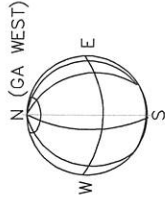
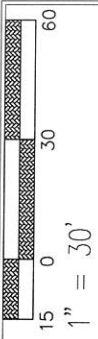
245 MOUNT VERNON DRIVE

CITY OF DECATUR, DEKALB COUNTY, GEORGIA

LAND LOT 7, DIST 18

DATE: JANUARY 24, 2013

REVISED JULY 11, 2019 (ADD FRONT ADJOINER SETBACKS)



LEGEND

- EOP EDGE OF PAVEMENT (CURB)
- PP POWER POLE
- R/W RIGHT OF WAY
- IPF IRON PIN FOUND (1/2" REBAR)
- IPFS 1/2" REBAR SET
- SW SIDE WALK
- CO CLEAN OUT (6" PVC)
- OHP OVERHEAD POWER
- FH FIRE HYDRANT
- CB CATCH BASIN

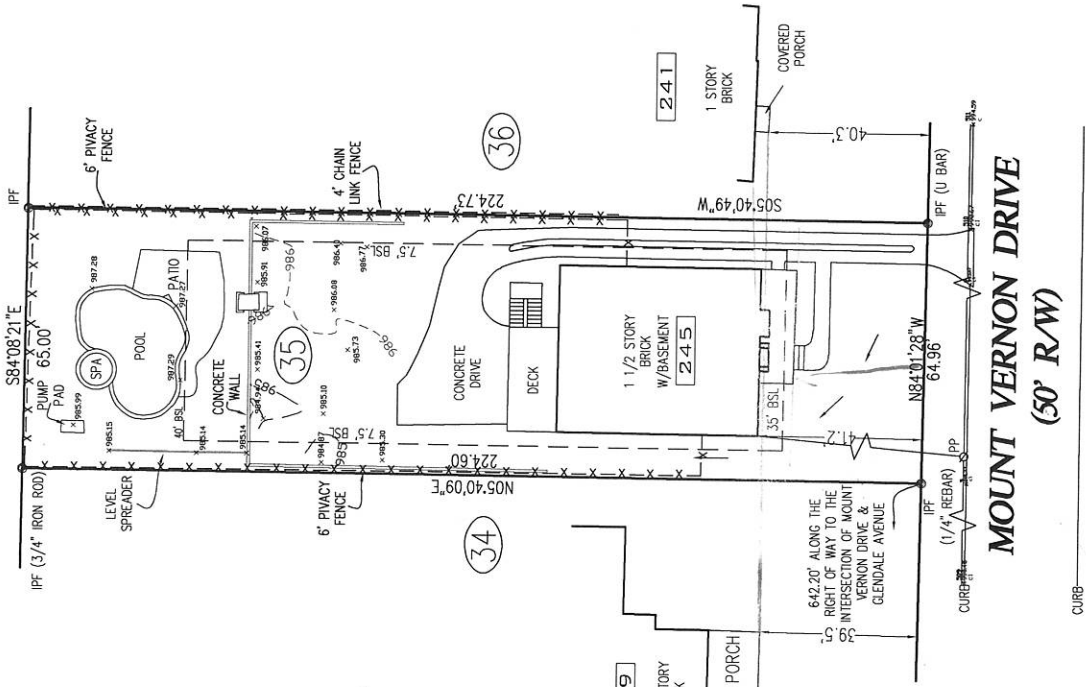


PATRICK F. CAREY, R.L.S. #3077
FOR
DEKALB SURVEYS, INC.
403. W. PONCE DE LEON
SUITE 106
DECATUR, GEORGIA 30030
404.373.9003

COPY RIGHT 2012—THIS 11 X 17 DRAWING AND REPRODUCTIONS ARE THE PROPERTY OF THE SURVEYOR AND MAY NOT BE REPRODUCED, PUBLISHED OR USED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF THIS SURVEYOR
DRAWN IN THE U.S.A.



www.dekalbsurveys.com



MOUNT VERNON DRIVE (50' R/W)

5



Design, Environment and
Construction Division
2533 Talley Street
P.O. Box 220
Decatur, Georgia 30031
404-370-4104 • Fax: 404-378-5054
http://www.decaturga.com

Meeting Date: 8/2/19

Agenda Item: III - J

Zoning Board of Appeals Application Review Checklist

1. Address 128 Jefferson Place
2. Application Received Date: 7/23/19 Receipt of Payment? Yes No
3. Is this a Re-Submittal or Revision from a Previous Meeting? Yes No Verify Previous Month _____
4. Application Form Completed? Yes No Items Missing _____
5. Variance(S) Requested Front Yard Setback.
6. Existing Site Plan Attached? Yes No DEC Exhibit # 5
7. Proposed Site Plan Attached? Yes No DEC Exhibit # 10

8. List Other Drawings/ Renderings/ Photos- Below

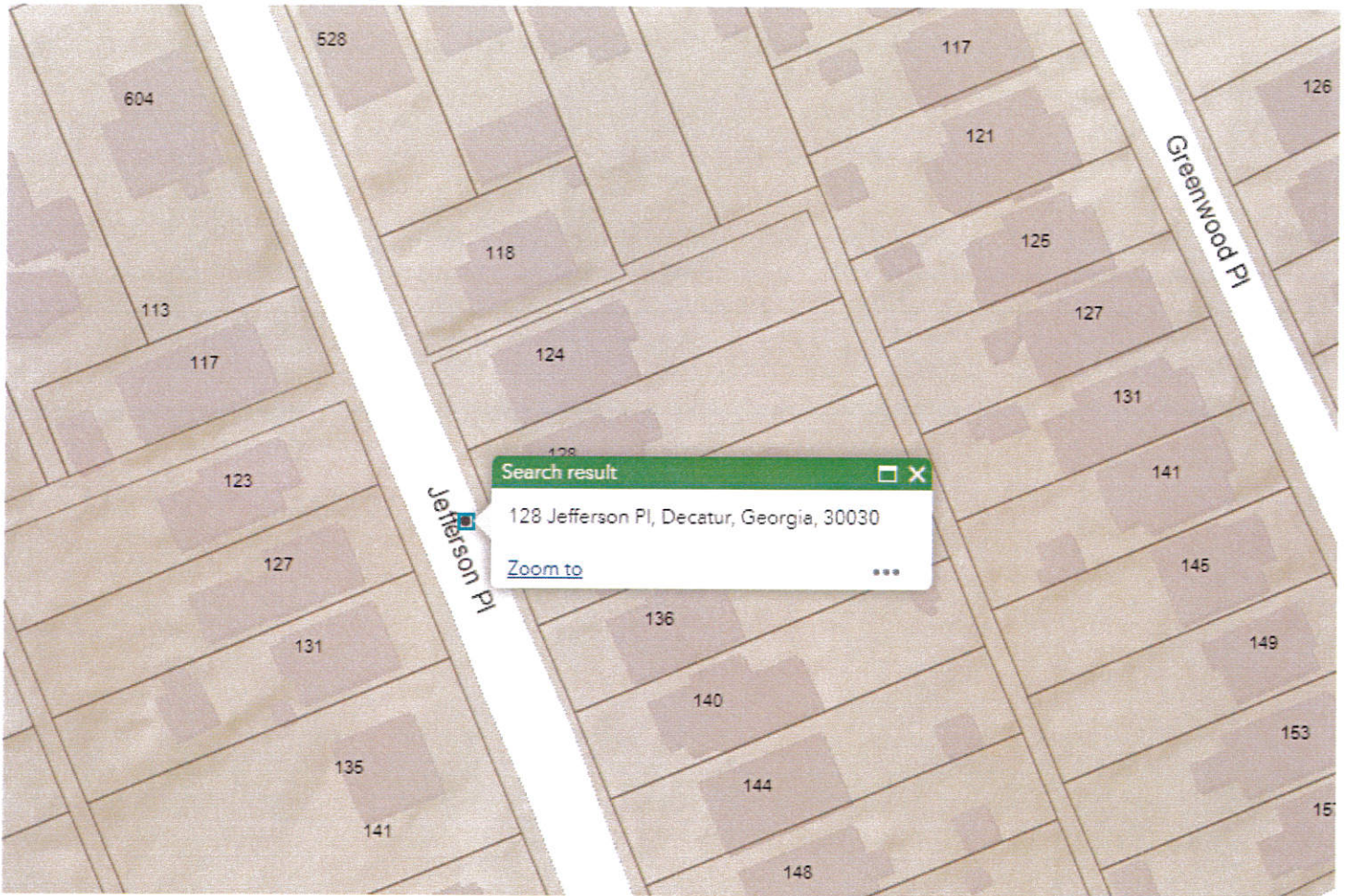
- | | | |
|----|--------------------------------------|----------------------------|
| a. | <u>Application</u> | DEC Exhibit # <u>1-3</u> |
| b. | <u>Photos</u> | DEC Exhibit # <u>4</u> |
| c. | <u>Exist. Site Plan</u> | DEC Exhibit # <u>5</u> |
| d. | <u>Floor Plans</u> | DEC Exhibit # <u>6-7</u> |
| e. | <u>Elevations</u> | DEC Exhibit # <u>8-9</u> |
| f. | <u>Proposed Site Plan</u> | DEC Exhibit # <u>10</u> |
| g. | <u>City of Decatur Setback Guide</u> | DEC Exhibit # <u>11-16</u> |
| h. | <u>Photo of Avg. Setback</u> | DEC Exhibit # <u>17</u> |
| i. | _____ | DEC Exhibit # _____ |

Total Number of Drawing Sheets 17

9. How Many Letters of Support? 0

10. Total Number of Sheets in Application (Excluding Staff Sheets) 17

11. Items Missing or Required to include in the Zoning Packet- (Call Applicant to get those items)



128 Jefferson Pl.

Zoning Board of Appeals
August 12, 2019



Zoning Board of Appeals Staff Report August 12, 2019

The Zoning Board of Appeals will meet on August 12, 2019. The following staff report has been prepared for an application, which was received by the Design, Environment & Construction Division of Public Works.

Applicant: Calvin King
Address of Property: 128 Jefferson Place
Present Zoning: R-60

- 1) The property is located at 128 Jefferson Place. is a previously developed lot approximately 50 feet wide by 212 feet deep.
- 2) The owner/ applicant is proposing to renovate the existing structure and add a full second story and garage. The renovation also proposes to construct a new porch that is considered an addition/ extension to the porch within the existing average front yard setback. Refer to sheets 8-9 for elevations of the porch changes. The project has been determined to be a substantial improvement.
- 3) Also Note: the 9.9 foot side yard setback on the right side was given an administrative adjustment by the Planning Director and requires no action
- 4) Pursuant to the Unified Development Ordinance:

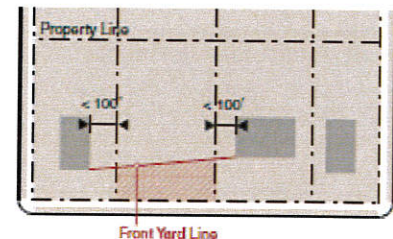
§Sec 11.3.1(A) which states:

A nonconforming use or building shall not be extended except in conformity with this UDO

And

§Sec 2.1.5(B) b. Where 40% or more of the frontage on one side of a street between two intersecting streets is developed that do not have a front yard as described above, then:

i. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings; or





Design, Environment & Construction Division

2635 Talley Street

P.O. Box 220

Decatur, Georgia 30031

404-370-4104 • Fax: 404-378-5054

<http://www.decaturga.com>

Variance Requested	Existing	Proposed	Ordinance
Front yard Setback	28.6 Feet on Left Side 28.5 Feet on the Right Side of Porch	30 Feet (reduction of 1.4 Feet on left side) Addition/ Extension of existing non-conforming setback	33 Feet on Left Side of porch 33.5 Feet on Right Side of porch Average as delineated on proposed site plan and per UDO section 2.1.5(B)1

5) The following documents have been submitted for review and consideration:

- a) Application (1-3)
- b) Photos (4)
- c) Existing Site Plan (5)
- d) Floor Plans (6-7)
- e) Elevations (8-9)
- f) Proposed Site Plan (10)
- g) City of Decatur Setback Determination guide (11-16)
- h) Photo of Average Setback line (17)

VARIANCE APPLICATION

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



Attach a survey of the property drawn to scale and showing the following information. Please provide one full-size copy of all plans, as well as one copy of all plans in an 8½" x 11" format. It is helpful to show floor plans and elevations of proposed building improvements, as well as a letter of support from adjacent property owners. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner. See the stream variance submittal checklist for additional requirements for stream variances.

1. all property lines with dimensions
2. location of buildings and other structures, creeks and easements referenced to property lines
3. north arrow, scale, lot and block numbers and land lot
4. topographic and drainage information if pertinent

Address of property 128 Jefferson Place Decatur, GA 30030

Name of applicant Calvin King Phone 615-417-9068

Address PO Box 2492 City/state/ZIP Decatur, GA 30031

Email calvin.king@gatech.edu

Name of property owner Calvin King Phone 615-417-9068

Address PO Box 2492 City/state/ZIP Decatur, GA 30031

Current zoning of property R60

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

1. What is the variance requested? What code requirement do you wish to vary from?
2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?
3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?
4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?
5. Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.
6. Did the condition for which the variance is sought result from an action by the applicant?
7. Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.
8. Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.
9. Will the granting of the variance allow a structure or use in a district restricted against such structure or use?

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

Applicant signature Calvin King Date 07/23/2019

Variance Application: 128 Jefferson Place, Decatur, GA 30030

1. What is the variance requested? What code requirement do you wish to vary from?

The variance that is being requested is a front yard setback variance. The zoning for the subject property is R60, which establishes a 30 foot front yard setback. The existing structure was constructed in 1907. According to the survey, the front porch of the subject property is constructed over the front yard setback requirement by 1.6 feet.

I have been approved to complete a 2nd story and rear addition renovation to my personal home. Although the front porch has existed for ~112 years, because the renovation is classified as a substantial renovation, based on Section 2.1.5.B.1 of the UDO, the front yard setback would be established by using the straight line method to determine average front yard setback. Consequently, approximately ~5ft of my front porch, a portion of the home's existing foundation, and the masonry front porch steps would be required to be removed.

It is important to note that the proposed front porch modification only impacts the roof line. I am not proposing to worsen the existing condition by encroaching further in to the front setback, not proposing to extend the front porch beyond the current footprint, and not proposing to add living space in the front porch area.

2. What are the special conditions relating to the specific piece of property in question (narrowness, shallowness, shape, topography, or other extraordinary and exceptional situation)?

Please see the answer to question #3.

3. Explain how the application of the zoning ordinance to this specific piece of property results in peculiar, extraordinary and practical difficulties?

The front porch and foundation have existed for over 100 years. When renovating my home, I would like to keep the existing foundation. The front porch, as it is currently constructed, sits on top of the existing foundation. Having to remove a portion of the front porch will also require me to have to remove a portion of the existing foundation and the masonry front porch steps. I am concerned that making such a substantial modification to the foundation of the property may have unintended consequences to the structural integrity of the existing foundation.

4. Are the circumstances or conditions applying to the building or land in question peculiar to the premises? Do they apply generally to other land or buildings in the vicinity?

To my understanding, because the existing structure is constructed over the R60 front yard setback by 1.6 feet and because my renovation is classified as being substantial based on the cost of the renovation project, the front yard setback is established by determining the average front yard setback. Consequently, I am being required to remove a large portion of the front porch and foundation that have been an existing in this condition for over 100 years.

A significant number of the homes in the Oakhurst community have been renovated. Some of the structures that have been renovated have the same condition as the subject property, being constructed in a setback. Because the renovation projects were not classified as substantial, I assume that those renovation projects did not require the removal of portions of the structure that were previously built in a currently established setback. I am requesting a variance for the subject property in order to be able to maintain structural integrity of the existing foundation and maintain the historic front porch character of the home that is consistent with other homes in the Oakhurst neighborhood.

5. **Explain why the granting of this variance is necessary for the preservation and enjoyment of a property right and does not merely serve as a convenience to the applicant.**

In addition to potentially damaging the structural integrity of the existing foundation, removal of a large portion of the front porch, front steps, and foundation will cause me to additional financial costs to modify a condition that has existed for over 100 years.

6. **Did the condition for which the variance is sought result from an action by the applicant?**

No.

7. **Explain how the variance will affect the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, the public safety and established property values.**

The variance will not affect on the supply of light and air to adjacent property, the traffic on public streets, the danger of fire, or the public safety. The variance approval, which would allow the front porch of the subject property to remain, would allow the size of the front porch to remain consistent with other properties in the neighborhood, which would result in a positive impact on property values.

8. **Explain how the granting of the variance will be in harmony with the general purpose and intent of the Decatur land use plan.**

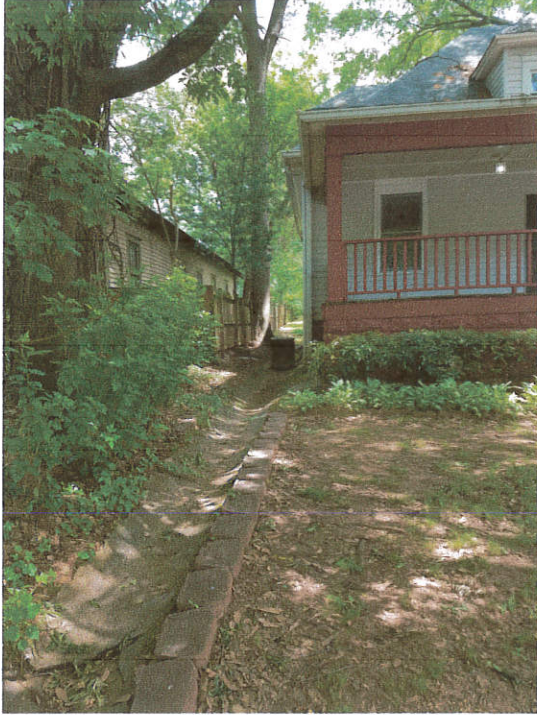
The City of Decatur emphasizes a desire to preserve the historic character of the neighborhood. In Oakhurst, larger front porches sizes are observed consistently throughout the neighborhood.

Additionally, it has been said that "front porches have gotten smaller because technology (i.e. phones, computers, and televisions) has replaced the need to socialize with neighbors". My family intends to use our front porch as a way to further build a sense of community in the City of Decatur by connecting with our neighbors and by participating in neighborhood social events like the Oakhurst Porchfest music weekend! It is my opinion that a building modification that requires me to reduce the size of the front porch by over half of its current size is not in keeping with the spirit of the historic Oakhurst neighborhood.

9. **Will the granting of the variance allow a structure or use in a district restricted against such structure or use?**

No.

128 Jefferson Place, Decatur, GA 30030: Pictures



LEGEND

- RBFB
- CRS
- CRBF
- OTF
- CTF
- ☆
- BL
- C.L.F
- R/W
- TPED
- CATV
- WM
- U/E
- (12.34'D)
- 12.34'(M)
- DE
- SSE
- HW
- JB
- CB
- P
- C/P

ZONING R-60
 MIN. LOT AREA: 9,000 (10,626)
 MIN. LOT FRONTAGE: 60' (50')

SETBACKS:
 FRONT - 30 FEET (AVG)
 SIDE - 10 FEET (<60)
 REAR - 30 FEET (ALLEY) - 15'

FRONT - 1 YARD 5'
 SIDE - 2 YARD 10'
 REAR - 15'

MAXIMUM BUILDING HEIGHT: 35 FEET
 MAXIMUM LOT COVERAGE: 40%
 MAXIMUM F.A.R.: 40%

EXISTING LOT COVERAGE:
 HOUSE - 1,377 SF
 FRONT PORCH - 217 SF
 REAR PORCH - 18 SF
 DECK/RAMP - 365 SF
 FRONT WALK - 94 SF
 FLUME - 177 SF
 DRIVEWAY - 807 SF
 TOTAL - 3,231 SF

3,231 / 10,619 = 30.42%

GENERAL NOTES
 THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 344,580 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

A NIKON - TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

FENCES SHOULD NOT BE PLACED USING SIDE DIMENSIONS FROM HOUSE OR STRUCTURE.

CERTIFICATION IS MADE TO PERSON(S) NAMED ON THIS PLAT AND IS NOT TRANSFERABLE TO OTHERS.

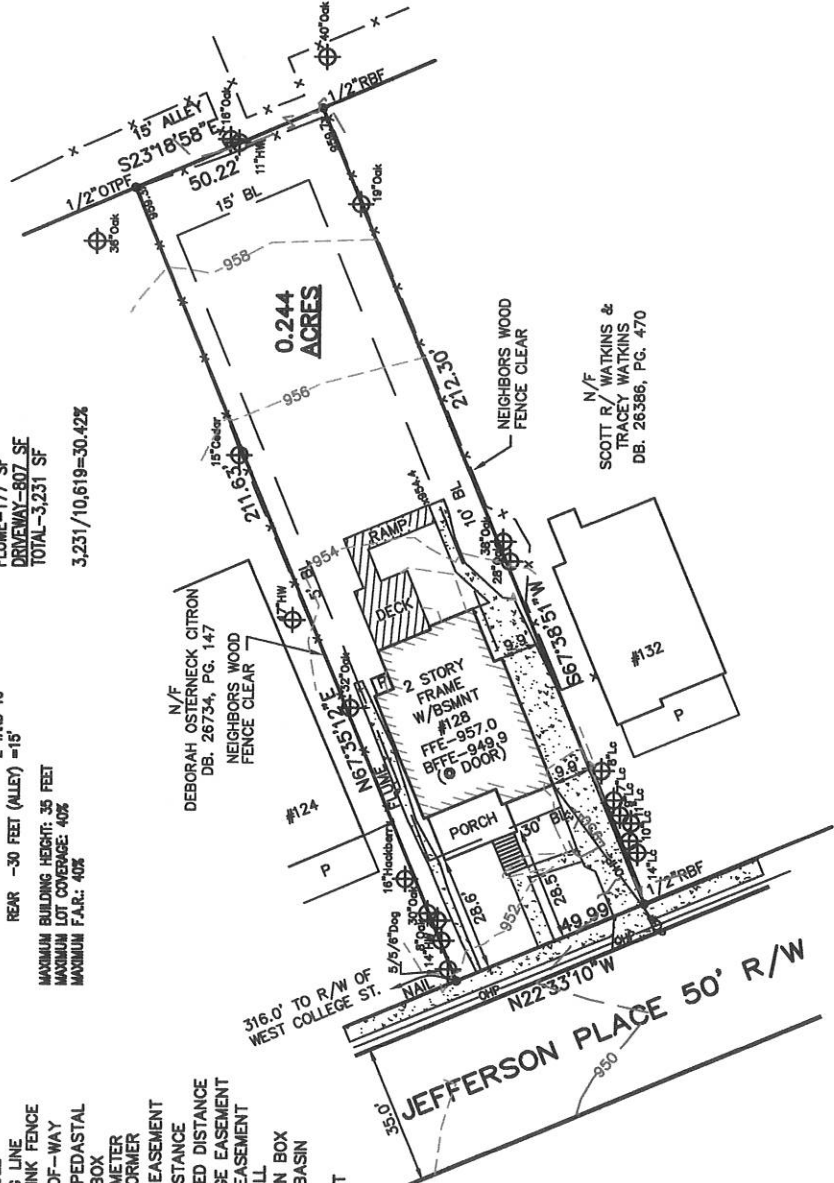
UTILITIES SHOWN ARE LOCATIONS OF GROUND IDENTIFIABLE ITEMS. ADDITIONAL UTILITIES MAY EXIST ABOVE OR BELOW GROUND. THE SURVEYOR ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THIS DATA.

THIS PROPERTY IS SUBJECT TO ALL RIGHT OF WAYS AND EASEMENTS SHOWN OR NOT SHOWN, RECORDED OR UNRECORDED.

FLOOD NOTE

BASED ON GRAPHIC DETERMINATION, THIS PROPERTY DOES NOT LIE WITHIN A FEMA/FIRM SPECIAL FLOOD HAZARD AREA PER COMMUNITY PANEL NO. 1308800058J DATED 5/16/13.

BASED ON SE BEARING PER PLAT



N/F
 SCOTT R. WATKINS &
 TRACEY WATKINS
 DB. 26586, PG. 470



IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED, AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

SCI Development Services

ENGINEERS - SURVEYORS - LAND PLANNERS
 2020 WESTSIDE COURT - STE E - SNELWILLE, GEORGIA 30078
 (770) 738-7666
 MAIL@SURVEYCONCEPTS.NET
 FAX (770) 738-4623

SURVEY FORM

CMC HOLDINGS & INVESTMENTS

LAND LOT 236 15th DISTRICT
 CITY OF DECATUR
 DEKALB COUNTY, GEORGIA
 REFERENCED IN DEED BOOK 4638, PAGE 467

PROJECT: 54079
 DWG BY: DCP
 CHKD BY: JAS
 DATE: 1/29/19
 SCALE: 1"=50'



John Knight Architecture
 1100 Hancock Drive
 Atlanta, GA 30306
 404.581.8700
 jka@johnknight.com

REVISION	ISSUED / RELEASED FOR	DATE	SCALE	SIGNATURE
	CONSTRUCTION	06.06.2019		

KING RESIDENCE

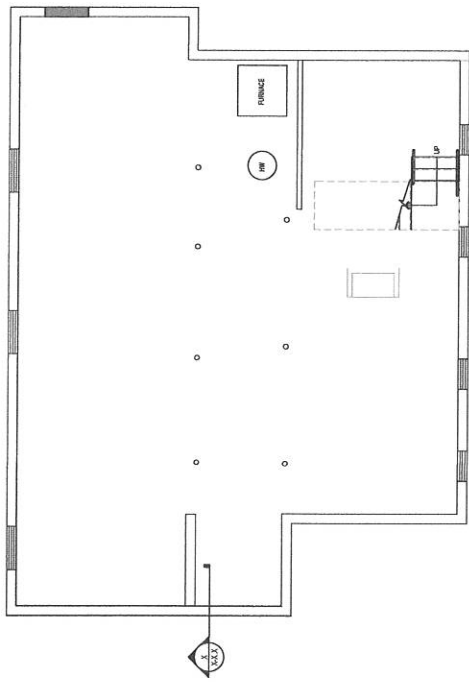
128 JEFFERSON PLACE
 DECATUR, GA 30030

DATE: 06.06.2019
 DRAWING BY: K.S.V.
 DRAWING TITLE: PROPOSED FLOOR PLANS

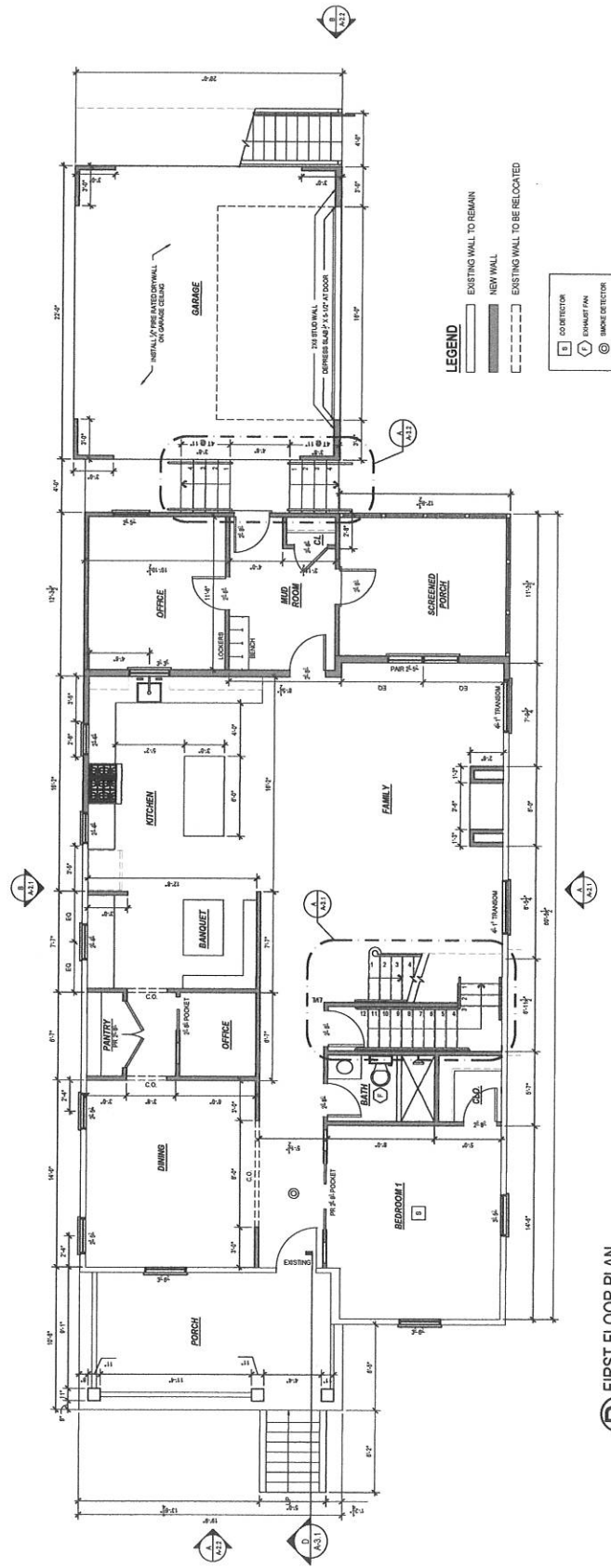
PROJECT #19-002

A-1.2

CONCEPT & PERMITS
 JOHN KNIIGHT ARCHITECTURE



A BASEMENT PLAN
 SCALE: 1/8" = 1'-0"



B FIRST FLOOR PLAN
 SCALE: 1/8" = 1'-0"



John Knight Architecture
 1180 Hancock Drive
 Atlanta, GA 30308
 404.651.8700
 jka@johnknightarch.com

REVISION	ISSUED / RELEASED FOR	DATE	SCALE SIGNATURE
	CONSTRUCTION <td>06.05.2019</td> <td> </td>	06.05.2019	

KING RESIDENCE

128 JEFFERSON PLACE
 DECATUR, GA 30030

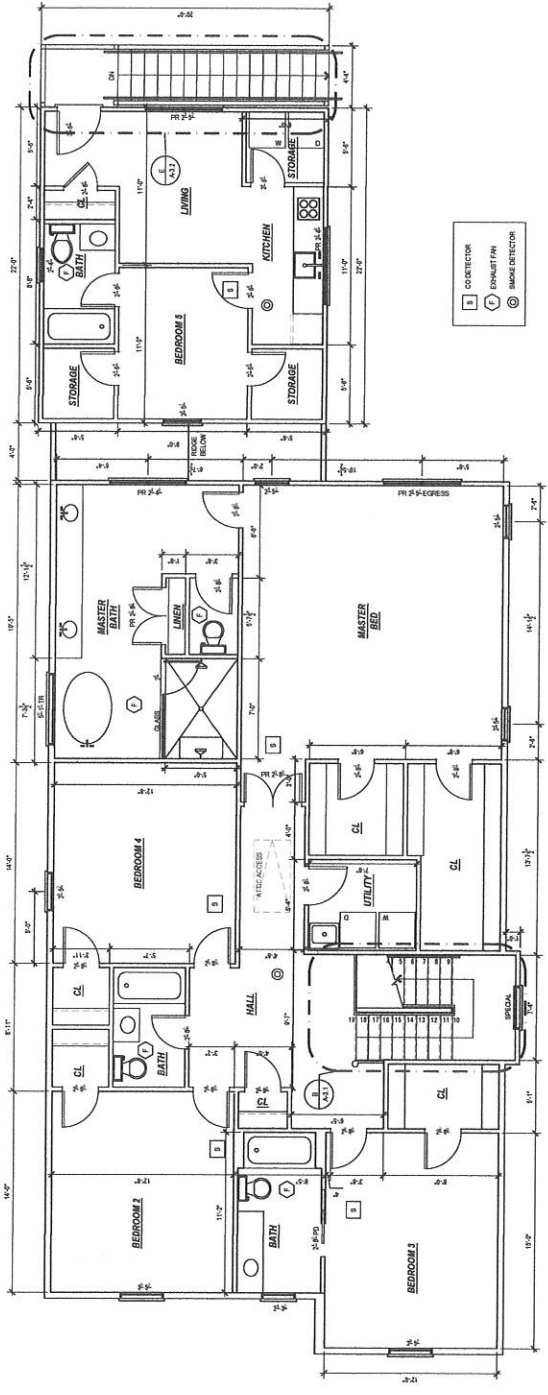
DATE: 06.05.2019
 DRAWING TITLE: KING RESIDENCE
 DRAWING NO: K-13-V

PROPOSED FLOOR PLANS

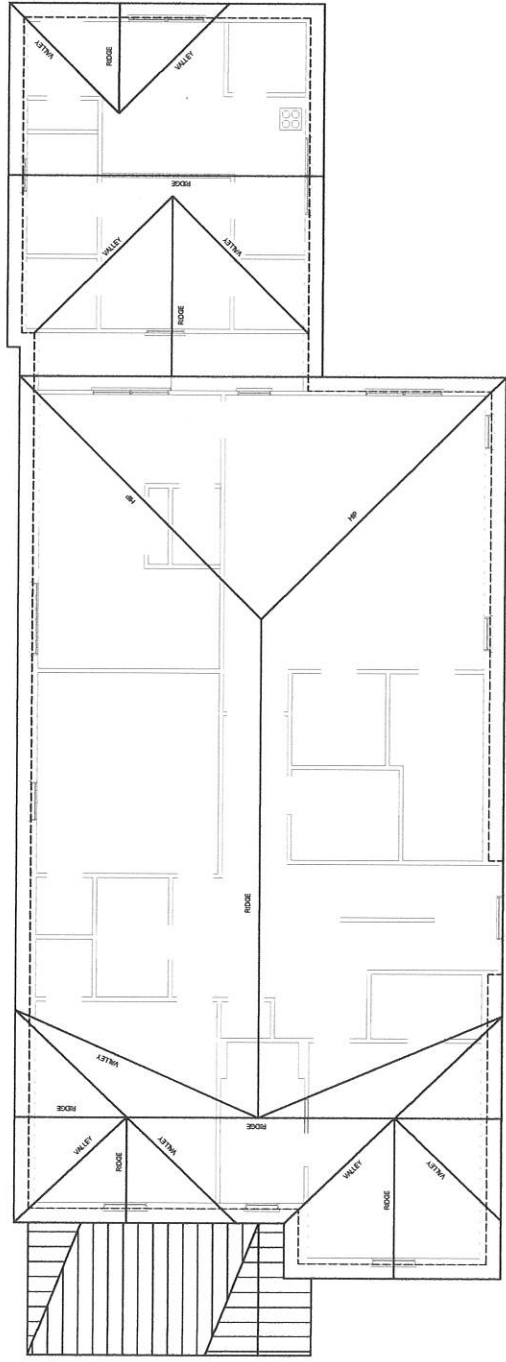
PROJECT #19-002

A-1.3

OWNER: B. J. JONES
 ARCHITECT: JOHN KNIGHT ARCHITECTURE



A SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-0"



B ROOF PLAN
 SCALE: 1/4" = 1'-0"



John Knight Architecture
 11100
 Atlanta, GA 30326
 404.831.8700
 john@johnknight.com

REVISION	DATE	ISSUED / RELEASED FOR CONSTRUCTION	SCALE & SIGNATURE
	05.06.2019		

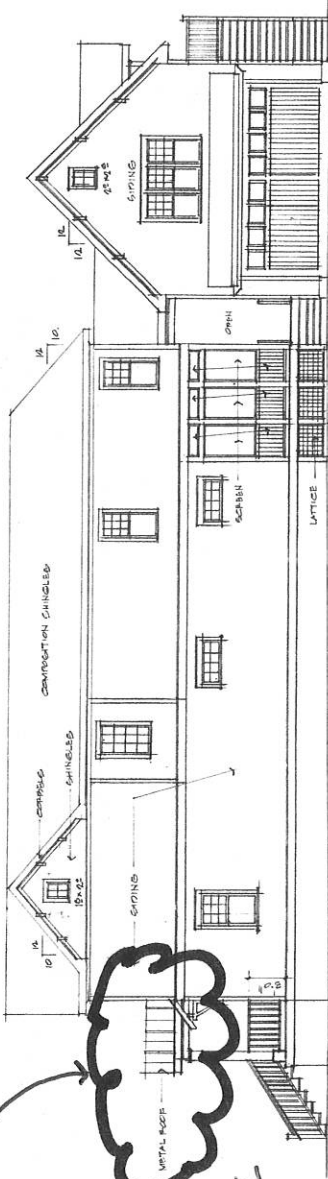
KING RESIDENCE
 128 JEFFERSON PLACE
 DECATUR, GA 30030

DATE: 05.06.2019
 DRAWN BY: K.B.W.
 DRAWING TITLE: PROPOSED EXTERIOR ELEVATIONS
 PROJECT #19-002

A-2.1

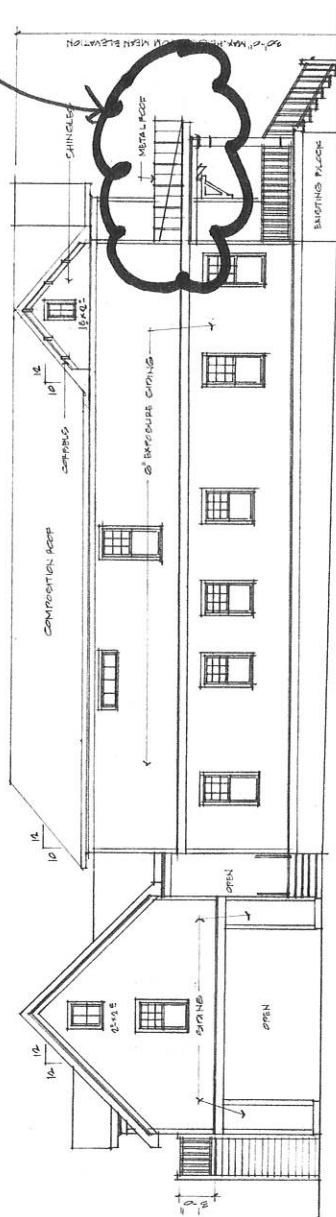
CONCEPT © 2019
 JOHN KNIGHT ARCHITECTURE

Additional
 Extension
 to Porch
 within
 FY setback



A PROPOSED SIDE ELEVATION
 SCALE: 3/16" = 1'-0"

Additional
 Extension
 to Porch
 within FY
 setback



B PROPOSED SIDE ELEVATION
 SCALE: 3/16" = 1'-0"



John Knight Architecture
1180 Hancock Drive
Atlanta, GA 30308
404.831.8700
jka@johnknightarch.com

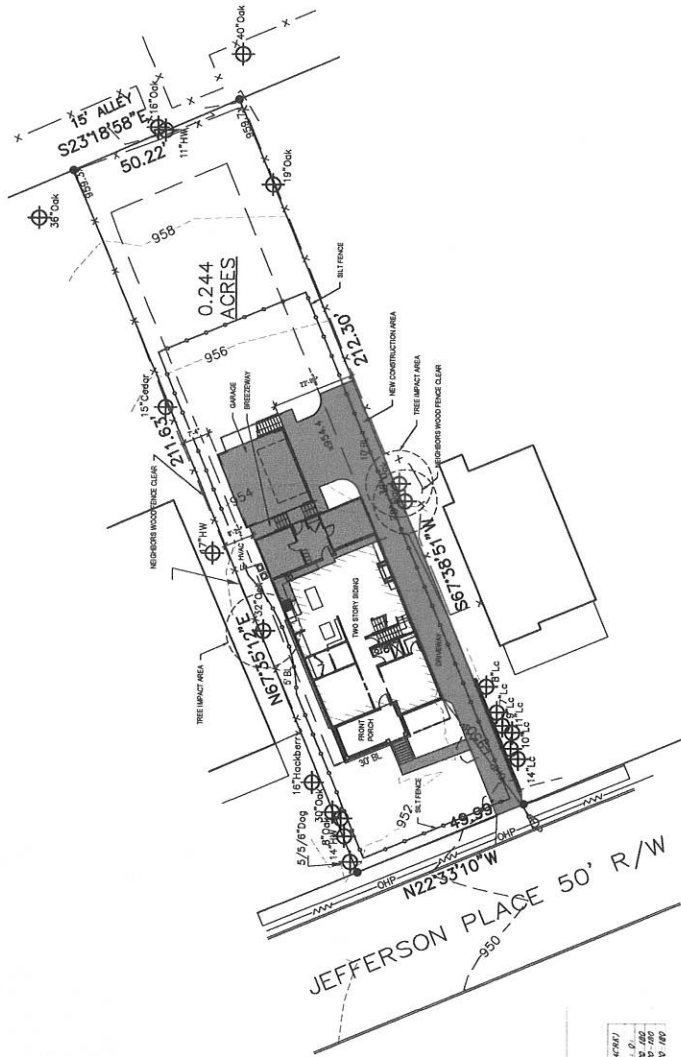
REVISION	ISSUED / RELEASED FOR	CONSTRUCTION	DATE
			08.08.2019

SEAL & SIGNATURE

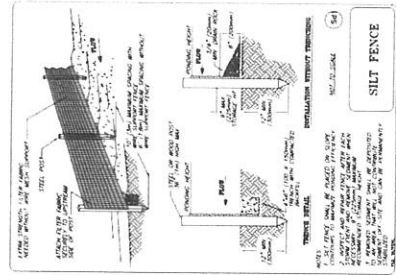
KING RESIDENCE
128 JEFFERSON PLACE
DECATUR, GA 30030

DATE: 08.08.2019
DRAWING TITLE: SITE DEVELOPMENT PLAN
PROJECT #19-002
A-0.2

COMPILED BY: JON KNOX, ARCHITECT



A SITE DEVELOPMENT PLAN
SCALE: 1/16" = 1'-0"



- SITE PLAN NOTES:**
1. ALL WORK SHALL BE PERFORMED IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS AND ORDINANCES.
 2. ALL MATERIALS SHALL BE INSTALLED IN STRICT ACCORDANCE WITH THE MANUFACTURER'S AND/OR TRADE ASSOCIATION'S RECOMMENDATIONS AND SPECIFICATIONS.
 3. INFORMATION ON THIS SITE PLAN IS BASED ON SURVEY DATED JANUARY 29, 2019 BY SCI DEVELOPMENT SERVICES.
 4. ALL GRADES SHALL BE VERIFIED ON SITE. FINAL GRADES SHALL FACILITATE DRAINAGE AWAY FROM THE BUILDING STRUCTURE.
 5. NO GRADED SLOPE SHALL EXCEED 2 HORIZONTAL: 1 VERTICAL. CUT AND FILL: NO CUT SHALL BE REMOVED FROM THIS SITE. NO FILL SHALL BE ADDED TO THIS SITE.

EROSION CONTROL NOTES

CONSTRUCTION ON THE SITE AND MAINTENANCE LEVELS DURING CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF DECATUR'S EROSION CONTROL ORDINANCES. THE CITY WILL PROVIDE THE EROSION CONTROL PLAN TO THE CITY AND THE CITY WILL BE RESPONSIBLE FOR MONITORING THE EROSION CONTROL MEASURES TO ENSURE THEY ARE MAINTAINED AS NECESSARY TO COMPLY WITH THE CITY'S EROSION CONTROL ORDINANCES. ALL SLOPES TO BE INSTALLED SHALL BE VERIFIED AND ALL SLOPES TO BE STABILIZED IMMEDIATELY AFTER GRADING. PLACE SLOPE CONTROL BARRIERS AT BASE OF ALL FILL SLOPES. ADDITIONAL EROSION CONTROL MEASURES TO BE USED BY CONTRACTOR AS REQUIRED TO PREVENT EROSION. ALL SITE CONSTRUCTION TO BE IN ACCORDANCE WITH THE CITY'S EROSION CONTROL ORDINANCES. THE SCHEDULE OF EROSION CONTROL MEASURES TO BE INSTALLED IMMEDIATELY AS CONSTRUCTION PERMITS. THE SCHEDULE OF EROSION CONTROL MEASURES TO BE INSTALLED IMMEDIATELY AS CONSTRUCTION PERMITS. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF CONSTRUCTION. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND SHALL BE REMOVED IMMEDIATELY UPON COMPLETION OF CONSTRUCTION.

GRASSING SCHEDULE (HYDROSEEDING RATES)

NO.	AREA (SQ. FT.)	HYDROSEEDING RATE (LBS. ACRES)	FERTILIZER (LBS. ACRES)
1	1,000	100	100
2	2,000	200	200
3	3,000	300	300
4	4,000	400	400
5	5,000	500	500
6	6,000	600	600
7	7,000	700	700
8	8,000	800	800
9	9,000	900	900
10	10,000	1,000	1,000

VERIFIED ON ALL 4 CORNERS. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS.

GRADING PLAN

NO WORK OF THE GRADE SHALL BE DONE WITHIN 200 FEET OF THE PROPERTY LINE. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS. VERIFY GRADES WITH THE ADJACENT PLOTS.

Determining The Front Yard Setback For a Residential Lot

Design, Environment and Construction Division
 2635 Talley Street
 P.O. Box 220
 Decatur, Georgia 30031
 404-370-4104 • Fax: 404-378-5054
<http://www.decalurga.com>

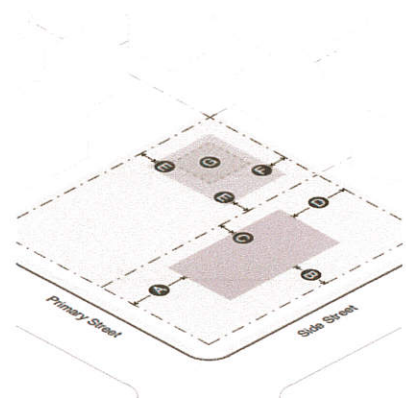


Determining the front yard setback is an important piece of information to obtain about a property if a new building, and existing building addition, or a porch is being proposed. Depending on the shape, location and

Step 1: Determine Which Front Yard Setback Standard Applies to the Property

1. Use Decatur One Map to determine the zoning designation for your property. Single Family Residential zoning districts are R-85, R-60, and R-50, and RS-17 (detached houses only).
2. Go to Article 3 of the Unified Development Ordinance and find the "Building Placement" section for the property's zoning district. See the illustration to the right.
3. In an R-60 zoning district the table states 30' min. **OR** Average Front Yard (Section 2.1.5.B.1).
4. Before determining 30' feet is the setback you must go to Section 2.1.5.B.1 of the Unified Development Ordinance to determine if the Average Front Yard Setback applies.
5. Within section 2.1.5.B.1 there are two standards that apply to existing single family neighborhoods that already have developed houses.

3.2.4. Building Placement

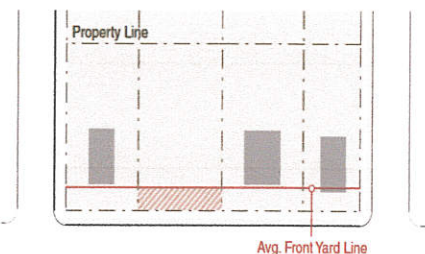


Principal Building Setbacks		
Primary street	30' min or Avg. front yard (Sec. 2.1.5.B.1)	A
Side street	10' min	B
Side interior	10' min	C
Lot less than 60' in width	see Sec. 2.1.5.A.6.	
Lot 60' or more in width	10' min	
Rear	30' min	D

Generally, the 30 foot front yard setback only applies to new houses on newly developed or previously undeveloped lots that have no other houses on the Primary Street between two side streets

a. Standard 1: "The 40% Rule"

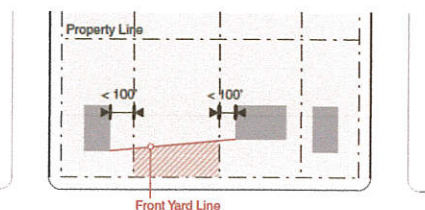
Where 40% or more of the frontage on the same side of a street between two intersecting streets is developed with buildings that have (with a variation of 5 feet or less) a front yard greater or lesser in depth than required, new buildings shall not be erected closer to the street than the average front yard established by the existing buildings. See the Illustration to the Right.



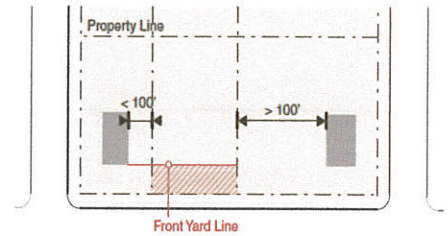
b. Standard 2: "The Straight Line Rules"

Where 40% or more of the frontage on one side of a street between two intersecting streets is developed that do not have a front yard as described above, then:

Rule 1: Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings; or



Rule 2: Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, the building may be erected as close to the street as the existing adjacent building.



6. Step 2: Calculate the Setback

- a. Check the 40% rule. The 40% Rule says that you can measure the distance from the property line to the building and determine if 40% or more of all of the houses on a block are within 40% of each other. Here's how you do this. We will use the Address 260 Winter Ave. as an example.

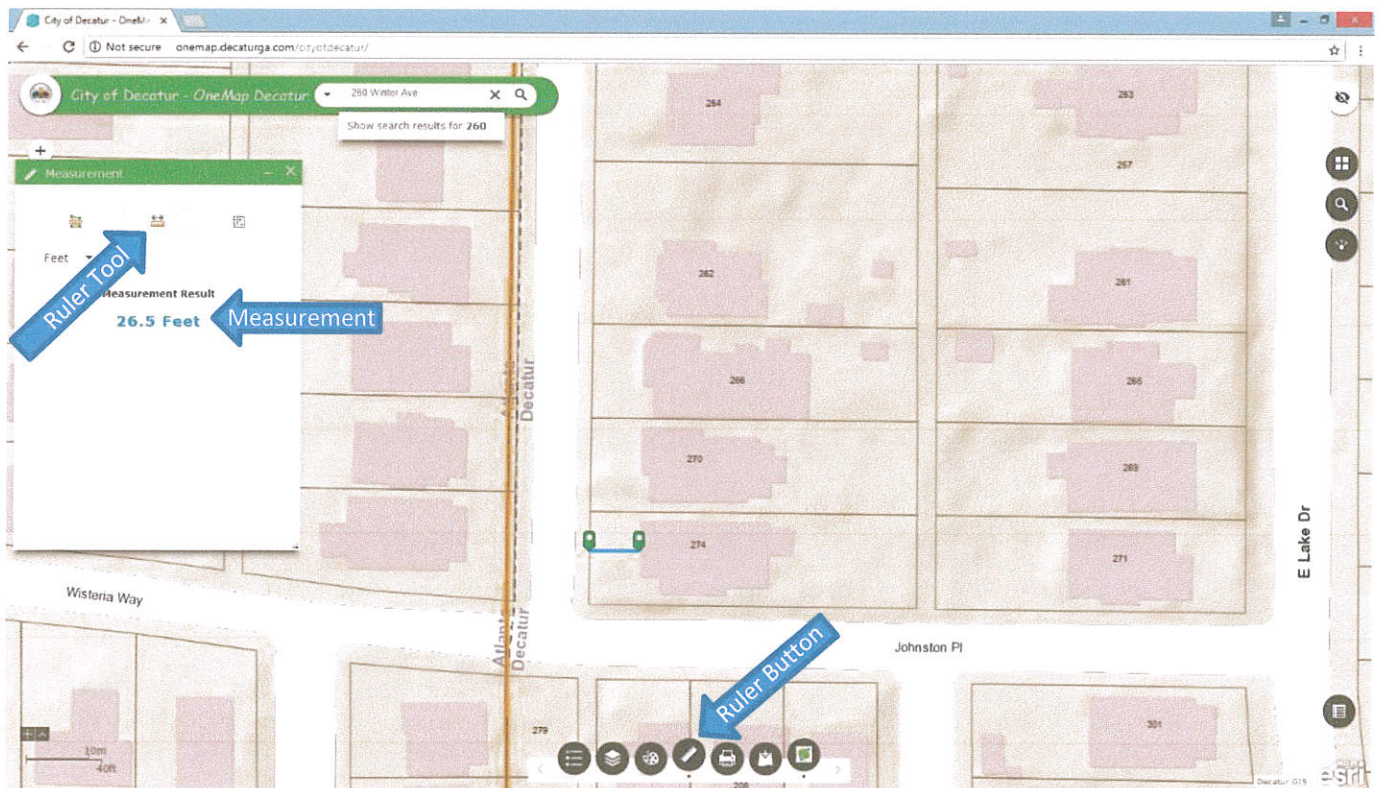
Use Decatur One Map:

1. Go to <http://onemap.decaturga.com/cityofdecatur/> and enter the property address. A map will appear showing streets and buildings.
2. Zoom in or out of the map to find the two intersecting streets that are on the same side of the street as the subject property. See Illustration below of the Decatur One Map Screen



3. On the east side of Winter Ave., there are 14 front yards between Johnston Pl and Park Pl. If 40% or more (6 houses- Round up!) have a setback within 5 Feet of each other, then the mathematical average of ALL of the houses will be the average front yard setback.

4. Next, measure the houses using the measurement tool on Decatur One Map.
 - a. Go to the "Ruler Button" on the bottom of the Map.
 - b. A Window will come up providing the measuring tools. Select the ruler Tool.
 - c. Click the pointer between the property line and the closest building point to the street.
 - d. Two green pins come up on the map and the measurement is in the window to the left of the map.
 - e. Write this measurement on and move to the next house.



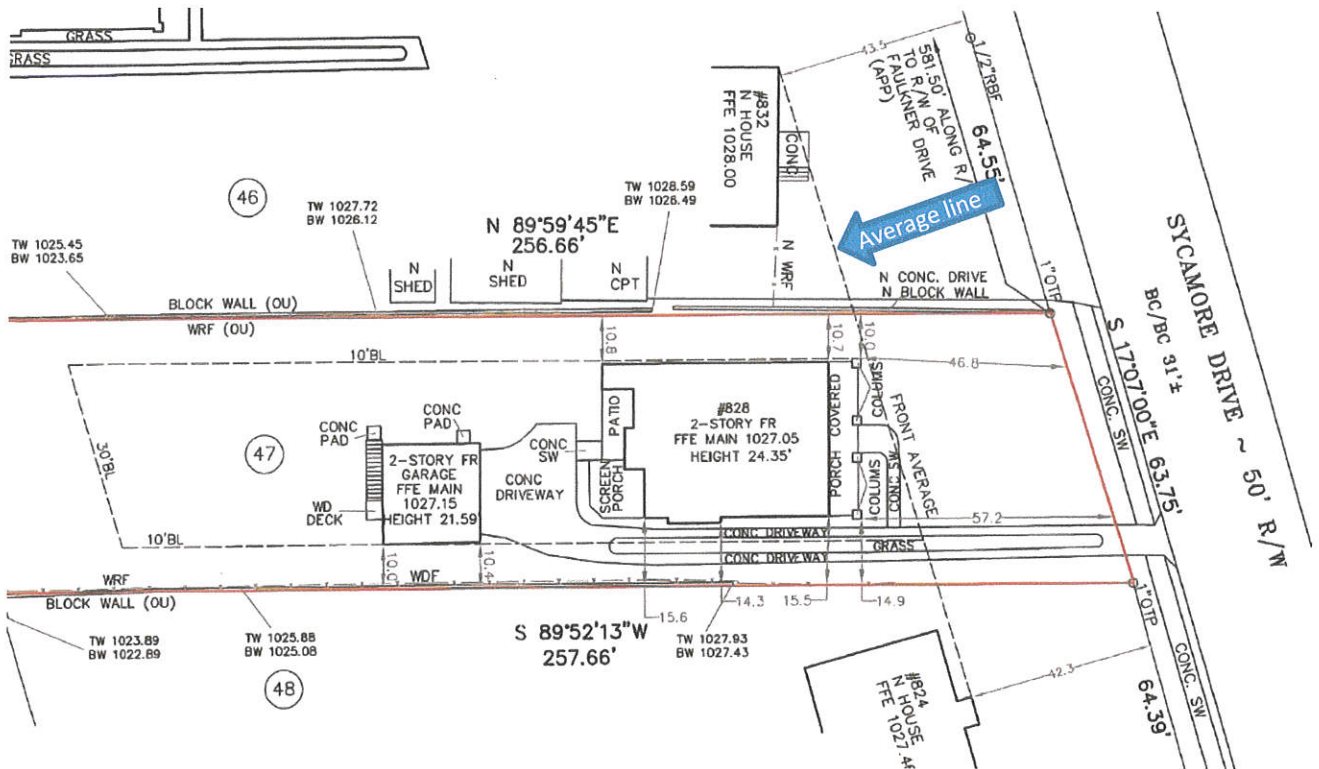
5. Create a table with all of the measurements. You will need to submit this chart with your permit drawings.

Address	Distance (Feet)	Within 5 Feet?
274 Winter Ave.	26.5	Yes
270 Winter Ave.	26.7	Yes
266 Winter Ave.	26.3	Yes
262 Winter Ave.	33.2	No
254 Winter Ave.	37.8	No
250 Winter Ave.	26.9	Yes
246 Winter Ave.	27.1	Yes
242 Winter Ave.	26.9	Yes
238 Winter Ave.	26.9	Yes
234 Winter Ave.	26.7	Yes
230 Winter Ave.	28.6	Yes
226 Winter Ave.	28.9	Yes
222 Winter Ave.	28.9	Yes
218 Winter Ave.	61	No
128 Park Pl	N/A	

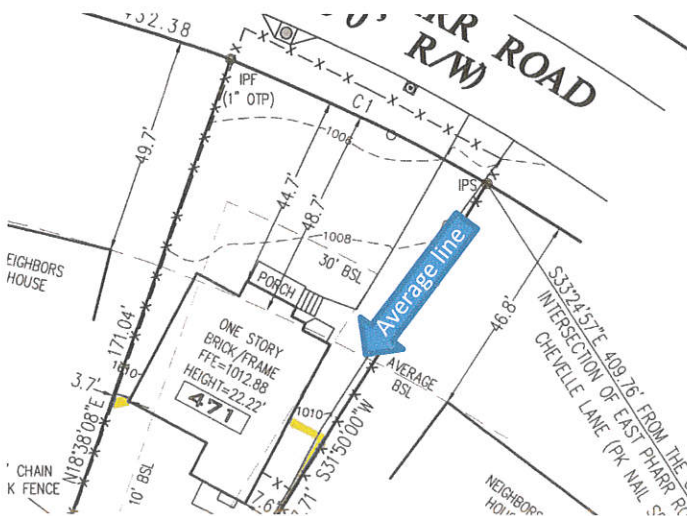
6. Determine a Range. For this property, the 5 foot range is would be between 26 Feet and 31 Feet. 11 out of 14 properties (78%) are within 5 feet of each other. **Therefore the "40% rule" would be used and not the "straight line rules".**
7. If there is less than 40% within 5 feet of the average, you can move onto part "B" below and use the "straight line rules"
8. Once you know that you have more than 40% of the front yard setbacks within 5 feet you may calculate the Average. Add up all of the distances and Divide by the total number of properties counted.
9. Record your average. In this example, the average front yard setback for the entire block would be 30.9'
- b. Apply the Straight Line rules. As mentioned above, there are two straight line rules that apply to properties, one where there are houses on either side of the subject property and one where the is a house on only one side. Because this is a more precise measurement, you will need a land survey with the adjacent houses measured in order to apply these rules.

Rule 1: Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings

- Make sure your survey has both houses on either side.
- Have the surveyor locate the closest point from the house to the street on both adjacent houses. Note that this is not always the point closest to your property.
- Connect these two points. See the Drawing Below.
- Note: If one of the adjacent buildings is the side elevation of a house on a perpendicular street, then you would use the closest point to the street on the side of that house to connect the straight lines
- All new construction must be behind this straight line



Alternate Method for Curved Streets with Converging property lines. On a curved street with side property lines that are not parallel, a straight line does not work very well. So when the street and the setback is a curve, then you calculate the mathematical average and create a parallel curve offset the numeric distance from the front property line. See the Example below.



Calculate the Average Setback on a Curve using the two neighboring houses

$$(49.7' + 46.8') / 2 = 48.7 \text{ Feet offset from the property line}$$

Proposed Addition and Porch is in Front of the Setback and must be adjusted to comply with the front yard setback.

Rule 2: Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, the building may be erected as close to the street as the existing adjacent building.

- a. When this rule is being applied, the straight line is set straight off the closest corner. This line assumes the house and the street are parallel. See the red line below
- b. However, if the street is not parallel to the house, as in the example below, then the distance from the neighbor's house is measured and a straight line is established on the subject property at the same distance as the neighboring house. This allows the house to step in parallel with the street. See the Blue Line below

