

Public Hearing: YES  NO

Department: Planning & Sustainability

**SUBJECT:**

**COMMISSION DISTRICT(S): 5 & 7**

**Application of Joseph Cooley, Esq. to amend the Future Land Use Plan from Suburban (SUB) to Light Industrial (LIND) to allow for future light industrial and/or commercial uses, at 2346 Pine Mountain Street.**

**PETITION NO: N6. LP-21-1244580 2021-2113**

**PROPOSED USE: Future light industrial and/or commercial uses.**

**LOCATION:** 2346 Pine Mountain Street, Lithonia, Ga.

**PARCEL NO. :** 16-168-01-008

**INFO. CONTACT:** Brian Brewer, Sr. Planner

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of Joseph Cooley, Esq. to amend the Future Land Use Plan from Suburban (SUB) to Light Industrial (LIND). The property is located on the east side of Pine Mountain Street, approximately 20 feet north of Pine Mountain Road, at 2346 Pine Mountain Street, Lithonia. The property has approximately 78 feet of frontage on Pine Mountain Street and contains 1.2 acres.

**RECOMMENDATION:**

**COMMUNITY COUNCIL:** Denial.

**PLANNING COMMISSION:** Pending.

**PLANNING STAFF:** Approval.

**STAFF ANALYSIS:** The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics. The Light Industrial Character Area Policies are as follows: (1) Infrastructure - Provide appropriate infrastructure support for industrial development in designated industrial areas (2) Buffer - Protect surrounding areas from the negative impacts of noise and light pollutants (3) Residential Protection - Prohibit the encroachment of industrial uses into established residential areas (4) Environmental Compatibility - Direct development to industrial districts located in areas with compatible soils drainage and other environmental characteristics (5) Zoning Compatibility - Protect existing and zoned undeveloped industrial land from unnecessary intrusion by conflicting land uses (6) Re-zoning - Minimize the rezoning of light industrial properties to residential uses (7) Future Designations - Designate specific areas through the use of zoning and other land use tools for industrial development (8) Retrofit - Develop or, where possible, retrofit property planned industrial parks with adequate water, sewer, storm water, and transportation infrastructure for all component uses at build-out (9) Location of Centers - Locate industrial centers in areas with good access to highways (10) Landscaping - Incorporate landscaping and site design to soften or shield views of buildings and parking lots, loading docks, etc. (11) Regulations Compatibility - Create and implement zoning and development regulations for industrial uses (12) Truck Routes - Designate truck routes to reduce noise, pollutants and traffic congestion in residential areas (13) Access Management - Provide access controls and management standards in compliance with the DeKalb County Transportation Plan (14) Adaptable Reuse - Convert obsolete and empty industrial buildings into multifamily and/or live-work establishments. The current future land use of

Suburban is incompatible with surrounding uses. The property's current zoning is Residential Estate (RE). A large lot, single-family residential designation. It is staff's opinion that it is unlikely that this parcel will be developed for the purpose of housing in the future. In fact, the parcel is owned by the same owner as an abutting parcel currently being used for commercial vehicle parking. The application to amend the Future Land Plan Map to Light Industrial would make the parcel consistent with Light Industrial Character Area policies and surrounding uses. For these reasons, Staff recommends "Approval".

**PLANNING COMMISSION VOTE: Pending.**

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial 8-0-0.** There was strong opposition from the community.



**DeKalb County Department of Planning & Sustainability**

**330 Ponce De Leon Avenue, Suite 300  
Decatur, GA 30030  
(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: March 02, 2021, 5:30 P.M.  
Board of Commissioners Hearing Date: March 25, 2021, 5:30 P.M.**

**STAFF ANALYSIS**

**Case No.:** LP-21-1244580 **Agenda #:** N.6  
**Location/Address:** 2346 Pine Mountain St, Lithonia, GA 30058 **Commission District:**5 Super District:7  
**Parcel IDs:** 16 168 01 008  
**Request:** Future Land Use Plan Map Amendment  
**Property Owner(s):** Mh Lithonia Holdings, LLC  
**Applicant/Agent:** Joe Cooley, Esq.  
**Acreage:** 1.2 Acres  
**Existing Land Use:** Suburban (SUB)  
**Proposed Land Use:** Light Industrial (LIND)  
**Surrounding Properties:**  
**Adjacent Zoning:** North: M (LIND) South: M/RE (SUB/LIND) East: M (LIND) West: M/RE (LIND/SUB)  
**(Adjacent Land Use):** Northeast: M (LIND) Northwest: M (LIND) Southeast: RE (SUB) Southwest: M (LIND)  
**Comprehensive Plan:**

Consistent

Inconsistent

**Proposed Density:** N/A N/A units/acre

**Existing Density:** N/A

**Proposed Units/Square Ft.:** N/A units

**Existing Units/Square Feet:** N/A

**Proposed Lot Coverage:** N/A

**Existing Lot Coverage:** N/A

**Companion Application:**

The applicant has filed a companion application (Z-21-1244581) to amend the Zoning of the parcel from Residential Estate (RE) to Industrial (M).

**STAFF RECOMMENDATION: APPROVAL**

The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics.

The Light Industrial Character Area Policies are as follows:

1. Infrastructure - Provide appropriate infrastructure support for industrial development in designated industrial areas
2. Buffer - Protect surrounding areas from the negative impacts of noise and light pollutants
3. Residential Protection - Prohibit the encroachment of industrial uses into established residential areas
4. Environmental Compatibility - Direct development to industrial districts located in areas with compatible soils drainage and other environmental characteristics
5. Zoning Compatibility - Protect existing and zoned undeveloped industrial land from unnecessary intrusion by conflicting land uses
6. Re-zoning - Minimize the rezoning of light industrial properties to residential uses
7. Future Designations - Designate specific areas through the use of zoning and other land use tools for industrial development
8. Retrofit - Develop or, where possible, retrofit property planned industrial parks with adequate water, sewer, storm water, and transportation infrastructure for all component uses at build-out
9. Location of Centers - Locate industrial centers in areas with good access to highways
10. Landscaping - Incorporate landscaping and site design to soften or shield views of buildings and parking lots, loading docks, etc.
11. Regulations Compatibility - Create and implement zoning and development regulations for industrial uses
12. Truck Routes - Designate truck routes to reduce noise, pollutants and traffic congestion in residential areas
13. Access Management - Provide access controls and management standards in compliance with the DeKalb County Transportation Plan
14. Adaptable Reuse - Convert obsolete and empty industrial buildings into multifamily and/or live-work establishments.

The current future land use of Suburban is incompatible with surrounding uses. The property's current zoning is Residential Estate (RE). A large lot, single-family residential designation. It is staff's opinion that it is unlikely that this parcel will be developed for the purpose of housing in the future. In fact, the parcel is owned by the same owner as an abutting parcel currently being used for commercial vehicle parking. The application to amend the Future Land Plan Map to Light Industrial would make the parcel consistent with Light Industrial Character Area policies and surrounding uses. For these reasons, staff recommends 'APPROVAL' of this amendment application.

**Attachments:**

1. Department and Division Comments
2. Application
3. Supplemental Analysis
4. Site Plan
5. Zoning Map
6. Land Use Plan Map
7. Aerial Photograph

<b>Case No. LP-21-1244580</b> <b>Project Name: Joe Cooley, Esq.</b>	<b>Existing FLU: Suburban (SUB)</b> <b>Proposed FLU: Light Industrial (LIND)</b>	<b>Staff Recommendation</b> <b>Approval</b>
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**Light Industrial Intent** - The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics.

**Light Industrial**

Primary Uses

- Light Industrial Uses
- Manufacturing
- Warehouse / Distribution
- Wholesale / Trade
- Automotive
- Accessory Commercial
- Educational Commercial
- Community Facilities

### Future Land Use Map for Light Industrial

**LP-21-1244580 Land Use**

0 0.0175 0.035 0.07 0.105 0.14

Date Printed: 1/31/2021

**DeKalb County GIS Disclaimer**

The maps and data combined on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County expressly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from the use of the data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data hereon provided. The maps and data are for illustrative purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific design or engineering purposes. If the content is used as a legal description, the maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.

<b>Project Description</b>	<b>Address: 2346 Pine Mountain St, Lithonia, GA 30058</b>		
	<b>Owner / Project Name: Mh Lithonia Holdings, LLC</b>		
	<b>Use</b>	<b>Square Feet (% of total dev)</b>	<b>Units (if applicable)</b>
	Residential	N/A	N/A
	Commercial	N/A	N/A
	Office	N/A	N/A
	Retail	N/A	N/A
	Entertainment	N/A	N/A
Other	N/A	N/A	
<b>Total</b>	N/A	N/A	

**DeKalb County Long Range Planning Division**  
**Supplemental Land Use Report** *(for developments in Light Industrial)*

Light Industrial Character Area Policies	Support to Staff Recommendation			Justification
	YES	NO	N/A	
1. <b>Infrastructure</b> - Provide appropriate infrastructure support for industrial development in designated industrial areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2. <b>Buffer</b> – Protect surrounding areas from the negative impacts of noise and light pollutants.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3. <b>Residential Protection</b> - Prohibit the encroachment of industrial uses into established residential areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. <b>Environmental Compatibility</b> - Direct development to industrial districts located in areas with compatible soils drainage and other environmental characteristics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. <b>Zoning Compatibility</b> - Protect existing and zoned undeveloped industrial land from unnecessary intrusion by conflicting land uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. <b>Re-zoning</b> - Minimize the rezoning of light industrial properties to residential uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. <b>Future Designations</b> - Designate specific areas through the use of zoning and other land use tools for industrial development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. <b>Retrofit</b> - Develop or, where possible, retrofit property planned industrial parks with adequate water, sewer, storm-water, and transportation infrastructure for all component uses at build-out.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. <b>Location of Centers</b> - Locate industrial centers in areas with good access to highways.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. <b>Landscaping</b> - Incorporate landscaping and site design to soften or shield views of buildings and parking lots, loading docks, etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. <b>Regulations Compatibility</b> - Create and implement zoning and development regulations for industrial uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. <b>Truck Routes</b> - Designate truck routes to reduce noise, pollutants and traffic congestion in residential areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. <b>Access Management</b> - Provide access controls and management standards in compliance with the DeKalb County Transportation Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
14. <b>Adaptable Reuse</b> - Convert obsolete and empty industrial buildings into multifamily and/or live-work establishments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

**DeKalb County Long Range Planning Division**  
**Supplemental Land Use Report (for developments in Light Industrial)**

**Impact Analysis**

*(In support of Section 27-7.3.4 of the DeKalb County Code states that the following standards and factors shall govern the review of all proposed amendments to the Official Zoning Map.)*

Questions	Compliant			Comments to support zoning proposal
	YES	NO	N/A	
A. Zoning proposal is in conformity with the policy and intent of the comprehensive plan:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
B. The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
C. The property to be affected by the zoning proposal has a reasonable economic use as currently zoned:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
D. The zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
E. There are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
F. The zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
G. The zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The zoning proposal could encourage more intrusive commercial vehicle access to the adjacent residential node.
H. The zoning proposal adversely impacts the environment or surrounding natural resources.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

**Demographic Profile**

Quality of Life Elements	Project Area (census tract)	DeKalb County (2016)	Difference (+/-)
Median Household Income	\$49,661	\$66,037	-\$16,376
Owner Occupied Housing	57%	57%	
Renter Occupied Housing	43%	43%	
Median Home Value	\$148,700	\$163,600	-\$14,900
Median Rental Costs (2 BR)		\$	
Age Distribution (majority)	25-44	25-44	

Source: ESRI



Economic Development Analysis				
(Based on the 2014 DeKalb County Economic Strategic Plan)				
Policies	Compliance with the Strategic Plan			Additional comments that justify staff recommendation
	Yes	No	N/A	
<b>Target Industry and Niches</b> <input type="checkbox"/> Click here if no Target Industry applies				
<b>Professional and Business Services (PBS)</b> Niche Markets: Entrepreneur-Enabled Businesses, E-commerce, Engineering, Creative Design, Consulting, Accounting, & Marketing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Life Sciences</b> Services, products, and activities that are broadly related to research, manufacturing and other activities focused upon or utilizing living organisms, with particular attention to activities relating to the maintenance or restoration of health. Niche Markets: Biotechnology, Bioinformatics, Proteomics, Health IT, Senior Care Services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Tourism</b> Tourism as an industry focuses on destinations, travelers, and the businesses that accommodate those travelers. Niche Markets: Cultural Tourism, Bed & Breakfast Inns, Youth Sporting Events, Dynamic Tour Packaging	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>LOGISTICS</b> The process of planning, implementing, and controlling the efficient flow of goods and services through the supply chain from producer to consumer. Distribution includes all freight carriers (air, trucking, and intermodal) and warehousing. Niche Markets: Specialized Freight Trucking, Back Office Support Services, Truck Terminals, Warehouse Distribution.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>CONSTRUCTION AND SUPPORT TRADES (CST)</b> Construction is the creation of improvement of man-made structures. It can include residential, commercial, and industrial building construction, or civil construction, which encompasses infrastructure and utilities. Niche Markets: Construction Materials Manufacturing, Contracting, Homebuilding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Advanced Manufacturing</b> - Advanced manufacturing is a category of manufacturing that utilizes innovative technologies to make better products and improve the methods to produce those products. Niche Markets: Fabricated Metals Manufacturing, Medical Equipment and Supplies, Laboratory Equipment and Supplies, Light Manufacturing and Assembly.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Improve Business Climate</b>				
<b>Business Climate Action Plan</b> 1. Optimize Incentives 2. Support Entrepreneurs & Small Businesses 3. Support Existing Businesses & Foster Expansion 4. Finalize Implementation of Development Services Overhaul 5. Strengthen the Economic Development Organization 6. Improve Marketing, Branding, and Communication for the County & DADC	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<b>Revitalize Commercial Corridors and Embrace New Employment Centers</b>				
<b>Employment Centers Action Plan.</b> Subject property / project provides the following (check all that apply):  <input type="checkbox"/> Incentivize redevelopment and build public/private partnerships <input type="checkbox"/> Secure appropriate zoning. Rezone required? ____ <input type="checkbox"/> Appropriate marketing and branding for employment centers and target industries <input type="checkbox"/> Creation of a new employment center in DeKalb County <input type="checkbox"/> Encourage clustering through target industry support programs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Click "N/A" if the property is not within an employment center.</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Northern DeKalb Employment Center Location</b> (check one): <input type="checkbox"/> The I-85 / I-285 interchange <input type="checkbox"/> Northlake Mall	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>West Central DeKalb Employment Center Location</b> (check one): <input type="checkbox"/> Intersection of Briarcliff Road North Druid Hills Road <input type="checkbox"/> Intersection of I-85 and Clairmont Road <input type="checkbox"/> Intersection of N Druid Hills Road and Lavista Road	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Southwest DeKalb Employment Center Location</b> (check one): <input type="checkbox"/> I-20/ Candler Road <input type="checkbox"/> I-20 / I-285 Interchange <input type="checkbox"/> Memorial Drive <input type="checkbox"/> Moreland Area	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>East Central DeKalb Employment Center Location</b> (check one): <input type="checkbox"/> Stone Mountain Industrial Park <input type="checkbox"/> Memorial Drive, I-285 Interchange	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Southeast DeKalb Employment Center Location</b> (check one) <input type="checkbox"/> I-285/Indian Creek MARTA Station <input type="checkbox"/> I-285 / Covington Hwy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Quality of Place Enhancements</b>				
<b>New Employment Centers and the Comprehensive Plan</b> <input type="checkbox"/> This project will initiate a land use amendment <input type="checkbox"/> The project will provide connectivity for employment centers <input type="checkbox"/> This project will create Gateways	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Game Changing / Catalytic Projects</b> <input type="checkbox"/> Consider a multi-purpose Convention Center facility <input type="checkbox"/> Consider a multi-purpose sportsplex facility	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Infrastructure and Aesthetics</b> <input type="checkbox"/> Utilization of CIDs and TADs to fund infrastructure and beautification projects, especially along South Memorial Drive. <input type="checkbox"/> Highway interchange improvements are packaged to accommodate logistics industry in Moreland area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

## DeKalb County Long Range Planning Division Supplemental Land Use Report *(for developments in Light Industrial)*

<b>Transportation Planning Analysis</b>				
<i>(Based on the DeKalb County 2014 Comprehensive Transportation Plan)</i>				
Policies	Compliant with the CTP			Additional comments that justify staff recommendation
	Yes	No	N/A	
<b>Functional Classification</b> for the project site: <input type="checkbox"/> Freeway <input type="checkbox"/> Major Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Local	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There are signs of Commercial Vehicles using this street. They should not be.
<b>Freight</b> <input checked="" type="checkbox"/> Located on a truck or sanitation route <input type="checkbox"/> Proximity of Landfill or Transfer Station <input type="checkbox"/> Located on a state route <input type="checkbox"/> Located in proximity of rail lines and / or crossings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Parcel could potentially be combined with another parcel that is on Turner Hill Rd. (a truck route)
Access Management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Complete Streets Policy</b> County / Developer will consider installing bicycle and / or pedestrian facilities, and Transit facilities.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>Design:</b> The following street design guidelines and best practices are listed on page 16 in the Appendix document of the CTP.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Application:</b> See page 16 in the Appendix document of the CTP	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Exemptions:</b> <input type="checkbox"/> Roadway corridor legally prohibits specific users (e.g. bicyclists and pedestrians on interstate) <input type="checkbox"/> Cost of providing bicycle or pedestrian facilities is excessively disproportionate to the need or probable use <input type="checkbox"/> Absence of current and future need is documented <input type="checkbox"/> Roadways not owned or operated by DeKalb County.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Performance Measures.</b> Success of complete streets include: <input type="checkbox"/> Miles of new on-street bicycle routes <input type="checkbox"/> Miles of new or reconstructed sidewalks <input type="checkbox"/> Percentage completion of bicycle and pedestrian networks as envisioned by the latest DeKalb County Comprehensive Transportation Plan <input type="checkbox"/> Increase in pedestrian and bicycle volumes along key corridors	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Human Services Transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Bicycle and Pedestrian Level of Service Goals and Connectivity</b> <input type="checkbox"/> LOS B (within an activity center) <input type="checkbox"/> LOS C (not within an activity center) <input type="checkbox"/> Existing PATH Trail	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Priority Bicycle Network</b> <input type="checkbox"/> First Tier Priority Network <input type="checkbox"/> Second Tier Priority Network <input type="checkbox"/> Existing PATH <input type="checkbox"/> Future PATH	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>MARTA and TOD</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Bus Routes</b> <input type="checkbox"/> Project is on a bus route <input type="checkbox"/> Project is near a bus route <input type="checkbox"/> Project is not close to a bus route	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Transit Stations</b> <input type="checkbox"/> Project is on a transit station site <input type="checkbox"/> Project is near a transit station <input type="checkbox"/> Project is not close to a transit station	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Priority Projects for DeKalb County</b> <input type="checkbox"/> Tier 1 <input type="checkbox"/> Tier 2 <input type="checkbox"/> Tier 3 <input type="checkbox"/> None	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If boxes are checked, list the specific projects here:



404.371.2155 (o)  
404.371.4556 (f)  
[DeKalbCountyGa.gov](http://DeKalbCountyGa.gov)

Clark Harrison Building  
330 W. Ponce de Leon Ave  
Decatur, GA 30030

Chief Executive Officer  
Michael Thurmond

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

Director  
Andrew A. Baker, AICP

**APPLICATION TO AMEND COMPREHENSIVE LAND USE PLAN  
OF DEKALB COUNTY, GEORGIA**

Application No.: \_\_\_\_\_ Date Received: \_\_\_\_\_

Applicant's Name: Joseph Cooley, Esq. (agent for owner) \_\_\_\_\_ E-Mail: cooleylandlaw@gmail.com

Applicant's Mailing Address: 243 Highland Rose Way, Sugar Hill, GA 30518 \_\_\_\_\_

Applicant's Daytime Phone #: (770) 778-4776 \_\_\_\_\_ Fax: \_\_\_\_\_

\*\*\*\*\*  
(If more than one owner, attach information for each owner as Exhibit "A")

Owner's Name: MH Lithonia Holdings LLC & Neisem Prop LLC E-Mail: mnhabif@habifproperties.com

Owner's Mailing Address 3717 Roswell Rd NE #100 Atlanta, GA 30342.

Owner's Daytime Phone # (404) 522-9358 \_\_\_\_\_ Fax: \_\_\_\_\_

**Address/Location of Subject Property:**

District(s): 16th \_\_\_\_\_ Land Lot(s): 167, 168 \_\_\_\_\_ Block(s): 01 \_\_\_\_\_ Parcel(s): 008

Acreage: 1.224 \_\_\_\_\_ Commission District(s): District 5, Super-District 7

Current Land Use Designation: SUB \_\_\_\_\_ Proposed Land Use Designation: LIND \_\_\_\_\_

Current Zoning Classification(s): RE (concurrent zoning request to M)

**PLEASE READ THE FOLLOWING BEFORE SIGNING**

- I. **This application form must be completed in its entirety. In addition, any application that lacks any of the required attachments or payment of the filing fee shall be determined to be incomplete and shall not be accepted.**
- II.
- III. Disclosure of Campaign Contributions: In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered: Have you, the applicant, made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filling of this application? \_\_\_\_\_ Yes X No
- IV.

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

- 1. The name and official position of the local government official to whom the campaign contribution was made.
- 2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

NOTARY

Joseph Cooley, Esq.  
SIGNATURE OF APPLICANT

EXPIRATION DATE / SEAL

Check One: Owner \_\_\_\_\_ Agent X \_\_\_\_\_ DATE \_\_\_\_\_

**ATTACHMENT "A"**

Application to Amend Official Zoning Map  
DeKalb County, GA

**Owners' Information**

Owner(s): **MH Lithonia Holdings LLC — Morris Habif, Managing**

Partner **E-Mail: [mnhabif@habifproperties.com](mailto:mnhabif@habifproperties.com)**

Owner's Mailing Address: **3717 Roswell Rd. NE #100, Atlanta, GA 30342**

Owner(s) Phone: **(404) 522-9358** Fax: \_\_\_\_\_

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Owner(s): **Neisem Properties LLC — Morris Habif, Managing**

Partner **E-Mail: [mnhabifnhabifproperties.com](mailto:mnhabifnhabifproperties.com)**

Owner's Mailing Address: **3717 Roswell Rd. NE #100, Atlanta, GA 30342**

Owner(s) Phone: **(404) 522-9358** Fax: \_\_\_\_\_

DEPARTMENT OF PLANNING & SUSTAINABILITY

LAND USE (FUTURE DEVELOPMENT) MAP AMENDMENT APPLICATION  
AUTHORIZATION

Completion of this form is required if the individual making the request is not the owner of the property.

DATE: 10/12/20

CHECK TYPE OF APPLICATION:

(X) LAND USE MAP AMENDMENT

(X) REZONE

( ) MINOR MODIFICATION

( ) SPECIAL LAND USE PERMIT

TO WHOM IT MAY CONCERN:

(1) / (WE), Morris Habib (mng. member of LLC)

MH Lithonia Holdings LLC & Neisem Properties LLC

being (owner) / (owners) of the property described below or attached hereby delegate authority to

Joseph Cooley, Esq. Cooley Planning and Land Use Law LLC

(Name of Applicant or Agent Representing Owner)

to file and application on (my) / (our) behalf.

Notary Public

[Signature]

Notary Public

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Owner

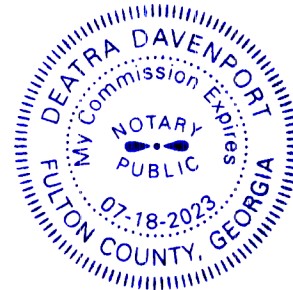
[Signature]

Owner

\_\_\_\_\_

Owner

\_\_\_\_\_



**Letter of Intent**  
**Rezoning & Land Use Change**

For

2346 Pine Mountain Street (#16 168 01 008) (Subject Property), DeKalb County, Georgia

Rezoning/Land Use Change of the Subject Property from RE (Residential Estate) to M (Light Industrial) and from SUB (Subdivision) to LIND (Light Industrial) was applied for on August 28, 2008. Staff recommendations were for approval of the Land Use Change and approval of the Rezoning with conditions; however, the Land Use Change application was denied by the DeKalb County Board of Commissioners, and the Rezoning Application was not heard. The required two-year timeframe prior to resubmitting Rezoning and Land Use Applications has expired.

The Subject Property consists of approximately 1.224 acres. It is located west of Turner Hill Road; directly north of the City of Lithonia; and approximately 0.15 miles south of the Stonecrest city limits. (*see attachments*). It is currently zoned RE. The parcel is mostly cleared with concrete and gravel areas which are visible in the attached aerial photograph. Past structures on the parcel included a dilapidated mobile home and shed, The mobile home has been antidotally described by neighboring land owners as a "crack house". The structures were demolished and the property has been vacant since.

The Subject Property is completely surrounded to the north, south, east and west with parcels zoned M. The surrounding future land use classification of the properties is primarily LIND.

The parcels immediately to the south, east and northeast also belong to the Owner. Those parcels consist of approximately 8.61 acres, are zoned M, and are designated LIND on the future land use map. The parcels were previously cleared, but remain undeveloped. The parcels have approximately 811 feet of frontage on Turner Hill Road, with direct access to Turner Hill Road via Turn Hill Road N. Combined with the Subject Property the total acreage is approximately 10.25 acres.

The Subject Property has no value as currently zoned Residential Estate and with a Suburban land use designation. By combining the Subject Property with the Owner's adjacent properties, which has direct access to Turner Hill Road, the Subject Property has possibilities for beneficial economic uses. This would ultimately be an economical benefit for the community and DeKalb County.

There was opposition to the application at the Board of Commissioners Land Use Change hearing over two years ago. Person speaking expressed a fear of an increase of illegal activities, such as prostitution and illegal drug sales, increased traffic that might be generated from future redevelopment, and change of character to the area. Some wanted to see a site development plan to know exactly what was to be built there.

As much as it may be desired, a site development plan cannot be realistically determined or prepared until such time that the parcels are consolidated with all having the same zoning and future land use designation. The character of the area surrounding the Subject Property is not Suburban as currently classified. Concept plans, site plans and review/approval of all future development plans will involve working with the community, the Planning and Sustainability Department, the Development Authority of DeKalb County (DADC), and other DeKalb County departments. Some issues, such as potential traffic impacts, cannot be properly addressed until such time as to a development concept is developed.

The Owner (Mr. Morris Habib and Habib Properties) have been consolidating and redeveloping properties in the Atlanta area for many years. He was a key participant in the redevelopment south of Five Points since 1968 and has been featured in the Atlanta Journal Constitution several times regarding the positive work he has been doing for the area. ("Another Chance of a Lifetime awaits South Downtown Area", Torpy, AJC, Oct. 4, 2018; attached). Mr. Habib has successfully consolidated parcels to encourage development and redevelopment throughout his career. His company has a substantial list of successful projects in the Atlanta area (see <https://habifproperties.com> for more detailed information).

The Applicant requests the land use designation of the "Subject Property" be changed from SUB (Suburban) to LIND (Light Industrial). This would bring the Subject Property into consistency with:

- 1) The current uses of surrounding properties and zoning all of said properties which are currently zoned M — Light Industrial;
- 2) the predominate future land use map designation of surrounding properties as LIND – Light Industrial;
- 3) the text and policies of the 2021 DeKalb County Comprehensive Plan Policy;
- 4) and the Owner's right and ability to develop his land to have an economically viable use.

We respectfully request that the DeKalb Board of Commissioners approve the concurrent Land Use and the Rezoning Applications.

Sincerely,

Joseph L. Cooley, Esq.  
Cooley Planning & Land Use Law, LLC  
Attorney for the Owner



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## DEPARTMENT OF PLANNING & SUSTAINABILITY

As per Section 27-829 of the Zoning Ordinance of DeKalb County, each applicant seeking an amendment to the official Comprehensive Plan land use maps shall provide a complete written response to each of the following standards and factors for evaluation applications for amendments to the Comprehensive Plan land use maps:

1. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;

*Yes. All adjacent properties (except one) are designated as LIND – Light Industrial Use. The one exception (parcel #16 167 08 011; 0.26 ac) is designated as SUB – Suburban, but is zoned M (manufacturing) which is consistent with other surrounding zoning. The parcel is a legal non-conforming lot and non-conforming use due to the fact that it is zoned M which does not allow residential uses. As such the small residence on the property cannot be rebuilt or expanded. All of the surrounding properties (North, East, South, and West) are currently zoned M (manufacturing).*

*Changing the Subject Property's land use designation to LIND would be consistent with current uses and other future land use designations of property in the area. The current land use designation of SUB is not suitable for the Subject Parcel and not consistent with other land uses in the area. The SUB designation and the current zoning of RE have made the property effectively unusable.*

2. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;

*No, the Subject Property is the only parcel which is not zoned M of all the properties south of Turner Hill Road North, east of Pine Mountain Street, and west of Turner Hill Road. All are zoned M, except for the Subject Property. Also, all property in the block directly west of Pine Mountain Street and the Subject Property is primarily zoned M, with four lots zoned C-1 along Rock Chapel Road, and one individual lot zoned RE. The Owner also owns the 8.5 acre tract adjacent to and south and east of the Subject Property. This application if approved would make the Subject Property's zoning and future land use designation consistent with those on his adjacent parcel and other adjacent parcels.*

3. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

*No. The Owner's adjacent property has direct access to Rock Chapel Road, which directly connects to Turner Hill Road North. That would provide access for the Subject Property. As such, there would be no excess or burdensome impact on existing streets generated by the 1.22 ac parcel. Neither schools or utilities would be negatively affected.*

4. Whether the amendment is consistent with the written policies in Comprehensive Plan Text;

*Yes. The amendment would make the Subject Property consistent with the written policies in the Comprehensive Plan. The Subject Property currently has a future land use designation of SUB (suburban). The current zoning of the Subject Property is RE (residential estate) requiring a minimum of one acre per lot.*

***The property's current land use of SUB and the zoning of RE are inconsistent with and contrary to the text of the Comprehensive Plan for all the surrounding properties. In order to have any legal use of the lot, the future land use designation and zoning classification must be changed.***

*The change in Comprehensive Plan designation and zoning as requested will make the Subject Property consistent with both.*

5. Whether there are environmental impacts or consequences resulting from the proposed change;

*No. The changes in Land Use and Zoning for the Subject Property would have no negative environmental impacts.*

*The lot was cleared years ago and the mobile home that was there demolished due to its condition. The Owner wishes to consolidate his properties to have the same land use designation and zoning of this and his adjacent properties to be mutually consistent. Any future development plans would require site development review by DeKalb County prior to any plans being approved and meeting DeKalb County development.*

6. Whether there are impacts on properties in an adjoining governmental jurisdiction cases of proposed changes near county boundary lines;

*No. The City of Lithonia city limits is across the old RR ROW. The property within the City of Lithonia is undeveloped. The City of Stonecrest is in close proximity to the north and that property is also zoned M.*

7. Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change;

*Yes, all the surrounding properties are zoned M (manufacturing). The area is no longer zoned for residential use, and any zoned M which may be used for residences would be non-conforming. There are still some older residential structures and other properties that have been converted for use as contractor's offices and businesses of the same character.*

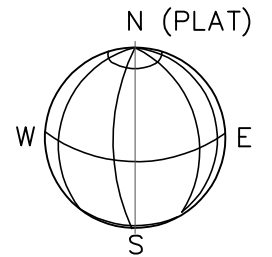
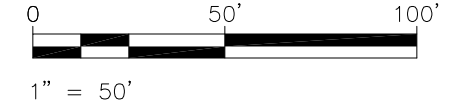
8. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

*No. The site is vacant and there are no known archaeological significant features on the site and it is not in an historic district.*

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.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon.  
 RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.



IMPERVIOUS CALCULATIONS 2346 PINE MOUNTAIN STEET	
CONC. PADS = 3,629 S.F.	
GRAVEL = 7,470 S.F.	
IMPERVIOUS TOTAL = 11,099 S.F.	
LOT COVERAGE	
11,099 S.F.	/ 79,361 S.F. = 14.0%

REFERENCE: DB 21038 PG 155  
 DB 23479 PG 198  
 DB 19014 PG 250  
 SURVEY FOR SHARON ANDERSON BY E.G. DAVIS  
 DATED 3-25-2002

FLOOD HAZARD NOTE: THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS DEFINED BY FIRM MAP OF DEKALB COUNTY, GEORGIA 13089C0178K EFFECTIVE DATE DECEMBER 8, 2016

SURVEY DATA:

TYPE OF SURVEY: RETRACEMENT  
 NORTH PROPERTY LINE IS BEARING BASIS  
 FROM SURVEY FOR SHARON ANDERSON BY E.G. DAVIS  
 DATED 3-25-2002

TOTAL AREA: 79,361 SQ FT, 1.822 AC

CALCULATED PLAT CLOSURE: 1:237,684

FIELD DATA:

DATE OF FIELD SURVEY 8-8-2018

THE CALCULATED POSITIONAL TOLERANCE BASED ON REDUNDANT LINEAR MEASUREMENTS OF OBSERVED POSITIONS WAS FOUND TO BE 0.015 FEET.

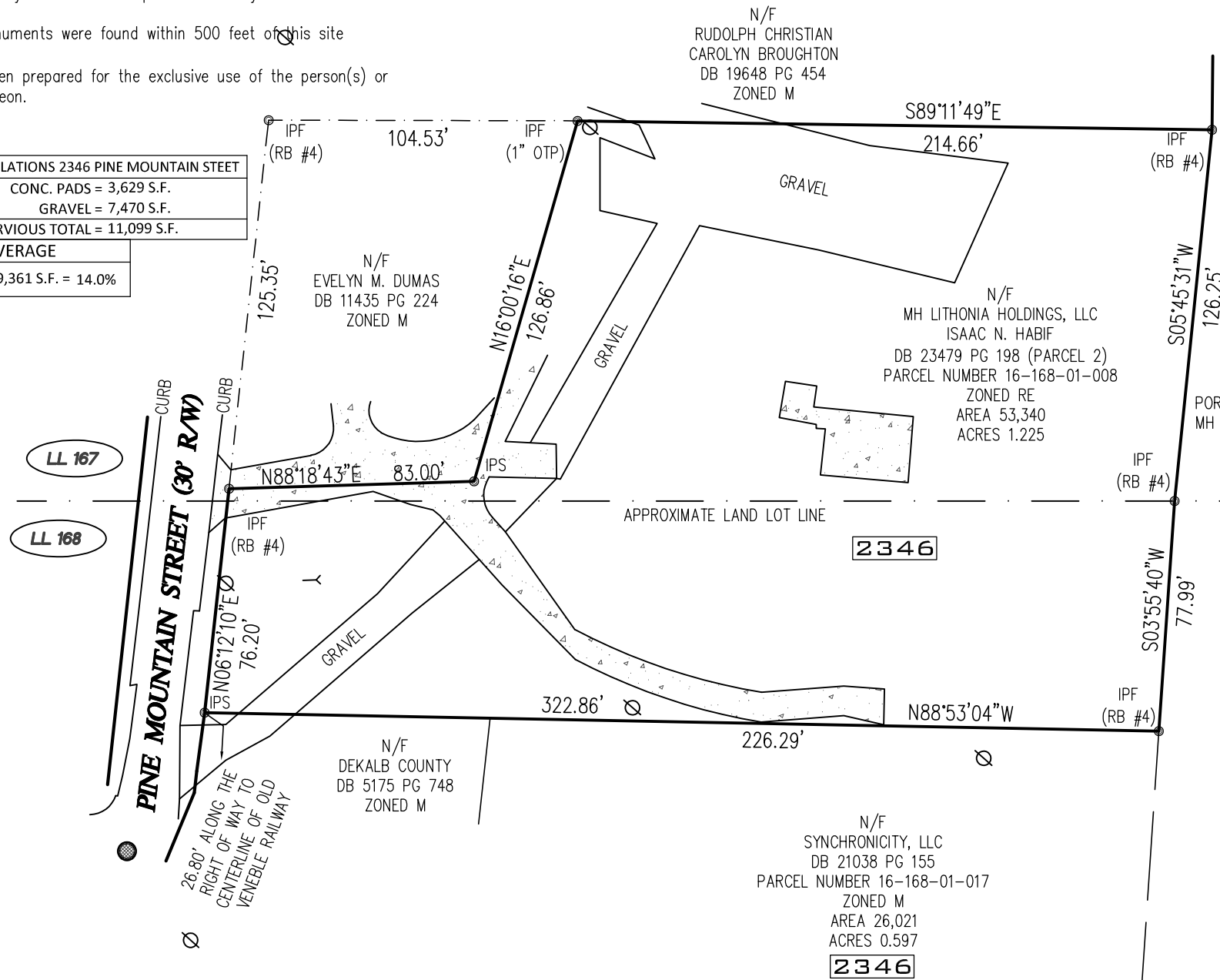
EQUIPMENT:

ELECTRONIC TOTAL STATION

SURVEY FOR  
 SHARON ANDERSON

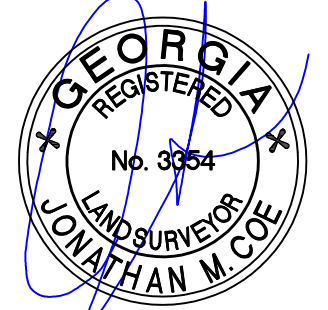
# 2346 PINE MOUNTAIN STREET

DEKALB COUNTY, GEORGIA  
 LAND LOT 167 & 168, DIST 16  
 DATE: AUGUST 23, 2018



LEGEND

- EOP EDGE OF PAVEMENT (CURB)
- PP POWER POLE
- R/W RIGHT OF WAY
- IPF IRON PIN FOUND
- IPS 1/2" REBAR SET
- SW SIDE WALK
- BOLLARD
- OHP OVERHEAD POWER
- FH FIRE HYDRANT
- CB CATCH BASIN
- MH MANHOLE
- WM WATER METER
- WV WATER VALVE
- GV GAS VALVE
- GM GAS METER
- LP LIGHT POLE
- CONCRETE PAD



FOR  
 DEKALB SURVEYS, INC.  
 407 WEST PONCE DE LEON AVENUE  
 SUITE B  
 DECATUR, GEORGIA 30030  
 404.373.9003



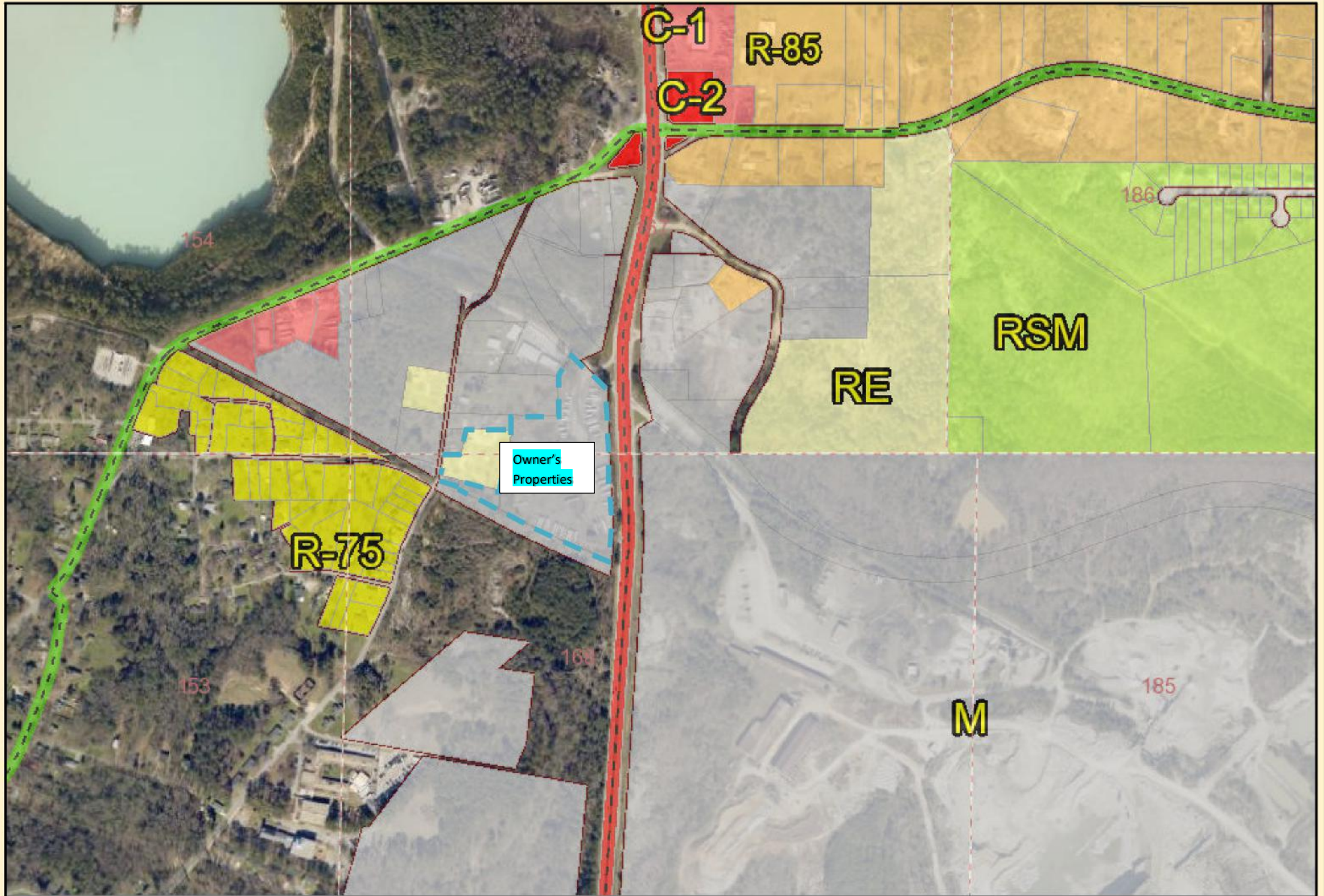
© 2018-2022: THIS 11 X 17 DRAWING AND REPRODUCTIONS ARE THE PROPERTY OF THE SURVEYOR AND MAY NOT BE REPRODUCED, PUBLISHED OR USED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF THIS SURVEYOR

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 16TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET AT A POINT WHERE THE EASTERLY RIGHT-OF-WAY LINE OF PINE MOUNTAIN STREET (HAVING A 20 FOOT RIGHT-OF-WAY) MEETS THE NORTHERLY RIGHT-OF-WAY LINE OF OLD VENABLE RAILWAY. SAID POINT IS 26.8 FEET FROM THE CENTERLINE OF SAID RAILWAY AND PINE MOUNTAIN STREET; THENCE RUN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PINE MOUNTAIN STREET NORTH 06 DEGREES 08 MINUTES 00 SECONDS EAST A DISTANCE OF 76.20 FEET TO A NAIL IN A CONCRETE DRIVE; THENCE RUN NORTH 88 DEGREES 16 MINUTES 00 SECONDS EAST A DISTANCE OF 83.00 FEET TO A POINT; THENCE RUN NORTH 16 DEGREES 01 MINUTE 53 SECONDS EAST A DISTANCE OF 126.87 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 11 MINUTES 49 SECONDS EAST A DISTANCE OF 214.53 FEET TO AN IRON PIN SET; THENCE RUN SOUTH 05 DEGREES 41 MINUTES 55 SECONDS WEST A DISTANCE OF 126.09 FEET TO A IRON PIN SET ON THE LINE DIVIDING LAND LOTS 167 AND 168; THENCE RUN SOUTH 03 DEGREES 54 MINUTES 01 SECOND WEST A DISTANCE OF 78.00 FEET TO AN IRON PIN SET; THENCE RUN NORTH 88 DEGREES 54 MINUTES 41 SECONDS WEST A DISTANCE OF 322.86 FEET TO AN IRON PIN SET AND THE POINT OF BEGINNING, CONTAINING 1.224 ACRES AS PER SURVEY PREPARED FOR SHARON ANDERSON, BY E. G. DAVIS, GEORGIA REGISTERED LAND SURVEYING NO. 2363, DATED MARCH 25, 2002.

TOGETHER WITH A PERPETUAL EIGHT (8) FOOT WIDE EASEMENT TOGETHER WITH ALL RIGHTS, AND PROVISION NECESSARY FOR THE FULL USE AND ENJOYMENT OF SAID EASEMENT, INCLUDING THE RIGHT OF INGRESS AND EGRESS, PASS AND REPASS, TO AND ACROSS SAID EASEMENT WHICH SAID EASEMENT IS MORE FULLY DESCRIBED IN THAT WARRANTY DEED FROM CHARLES C. FURGERSON TO RANDY LAMAR ANDERSON, DATED FEBRUARY 9, 1978, RECORDED IN DEED BOOK 3747, PAGE 823, DEKALB COUNTY, GEORGIA RECORDS.



Owner's  
Properties



# DeKalb County Parcel Map

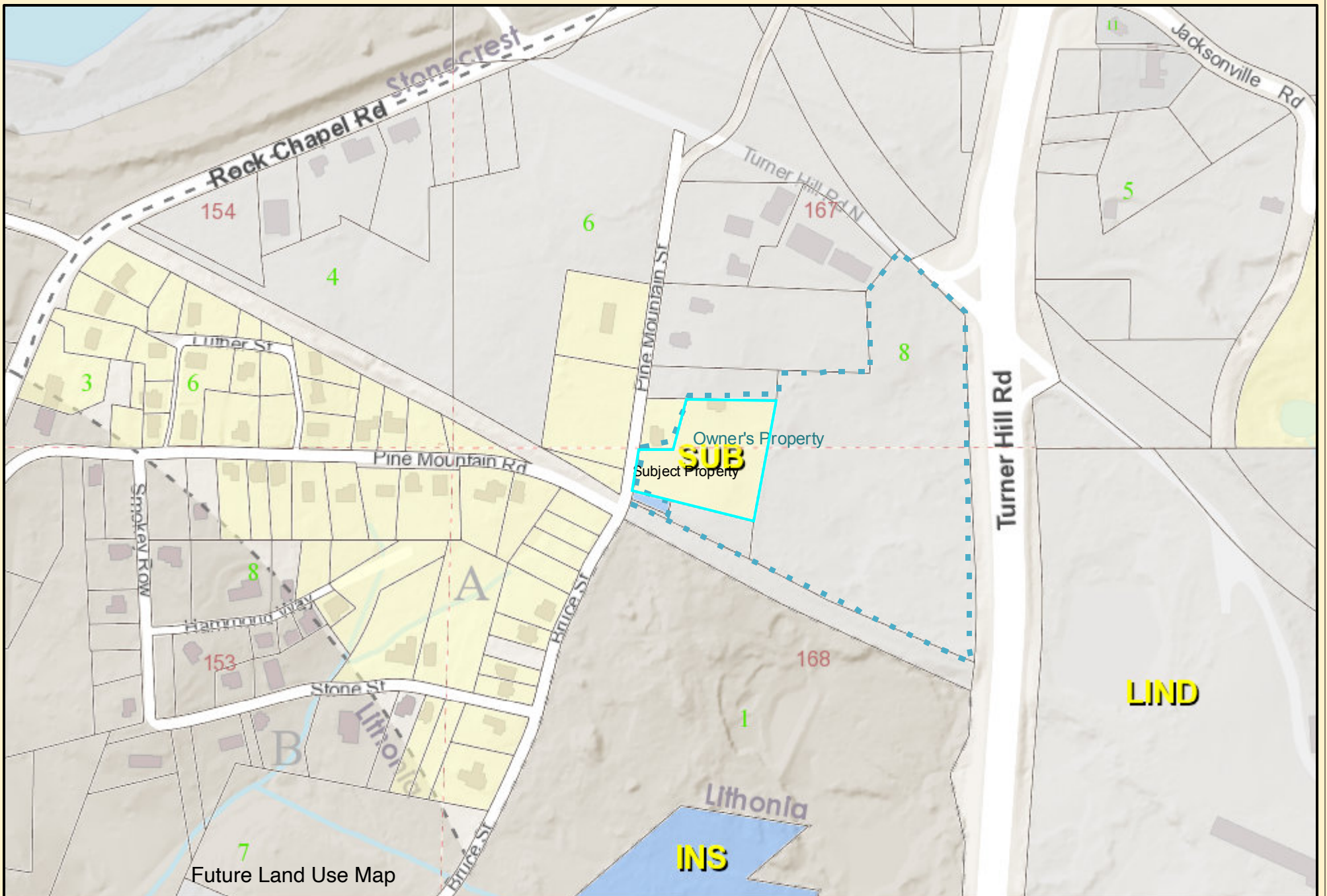


Date Printed: 10/13/2020

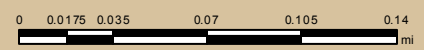


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# DeKalb County Parcel Map



Date Printed: 10/13/2020



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**2346 Pine Mountain Street**  
Aerial of 2346 Pine Mountain Street  
Parcel # 16 168 01 008

**Legend**  
📍 2346 Pine Mountain St



Google Earth  
© 2020 Google

400 ft





Joseph L. Cooley AICP RLA JD  
Attorney-at-Law  
Land Use Planning/Land Use and Zoning Law

DeKalb County Rezoning of Property and Change of Land Use at  
2346 Pine Mountain Road, DeKalb County

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Appropriateness of Application

and

Constitutional Assertions

The Applicant in order to preserve all rights of appeal and as required by Georgia law for such appeals hereby asserts the following:

*The portions of the zoning resolution of DeKalb County and comprehensive land amendment as applied to the Subject Property which classify or may classify the Subject Property so as to prohibit its development as proposed by the Applicant are and would be unconstitutional in that they would destroy the Applicant's property right without first paying fair, adequate and just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1083, Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.*

*The application of the zoning resolution and comprehensive land amendment of DeKalb County to the Subject Property that restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of the Applicant's property in violation of the Just Compensation Clause of the First Amendment to the Constitution of the United States, Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of Georgia of a983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.*



*A denial of this Application would constitute an arbitrary and capricious act by the DeKalb County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of Georgia of 1083, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.*

*A refusal by the DeKalb County Board of Commissioners to approve this Application for rezoning and comprehensive plan amendment as proposed by the Applicant would be unconstitutional and discriminate in a arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 10893 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of this Application subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the Subject Property would also constitute an arbitrary, capricious, and discriminatory act and would likewise violate the provisions of the State and Federal Constitutions set forth hereinabove.*

**PUBLIC NOTICE**  
**to**  
**Request for Rezoning of Property**

Filed by : Joseph Cooley, Cooley Planning & Land Use Law LLC (agent)  
for  
MH Lithonia Holdings, LLC and Nessim Properties, LLC (owners)

Located at: 2346 Pine Mountain Street  
Lithonia, GA 30058

Current Zoning: RE — Residential estate  
Current Future Land Use — SUB (Subdivision)

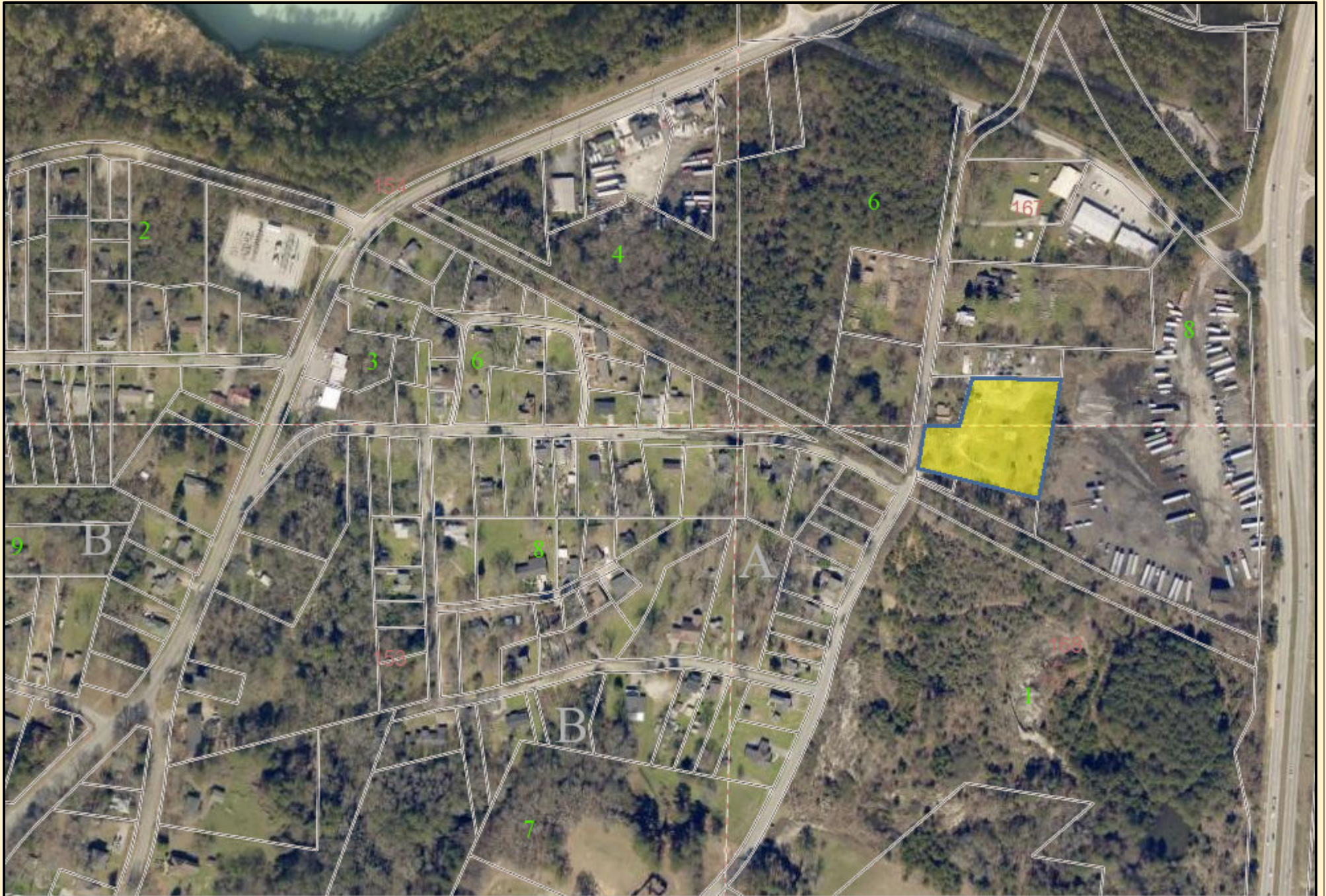
Proposed Zoning: Light Manufacturing (M)  
Proposed Future Land Use — Light Industrial  
(LIND)

Current Use: Undeveloped

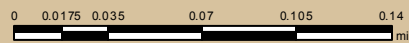
Proposed Use: Consolidation of parcels to same zoning district as all surrounding properties. Parcels currently owned by the "Owner" will be consolidated for future development and marketing. (not know at this time)

**PRE-SUBMITTAL COMMUNITY MEETING TO TAKE PLACE VIA ZOOM:**

*Date: Wednesday, Feb. 3, 2021 Zoom Mtg #273 3121 2577*



## LP-21-1244580 Aerial Map

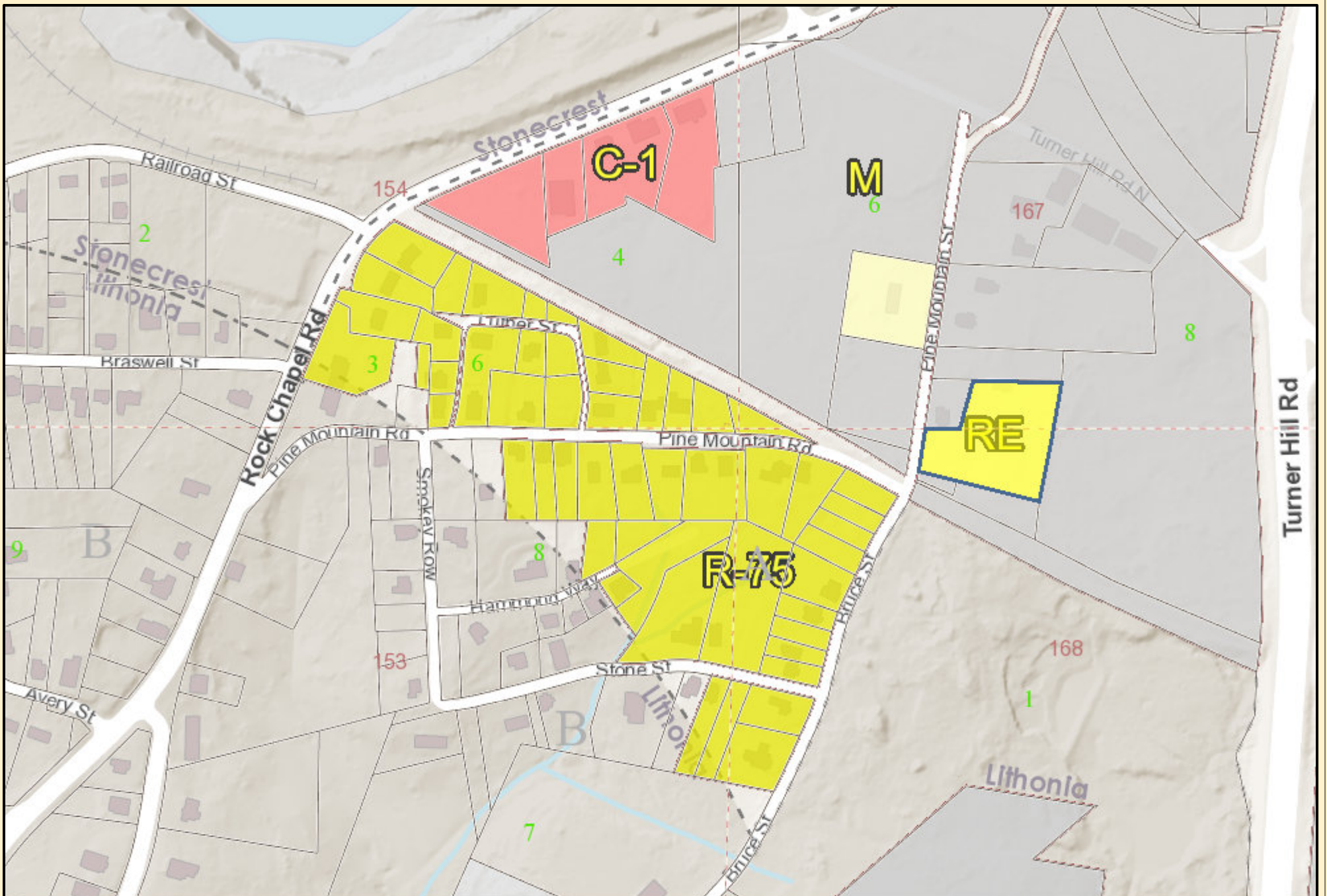


Date Printed: 1/31/2021

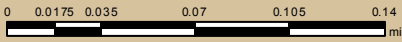


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# LP-21-1244580 Zoning

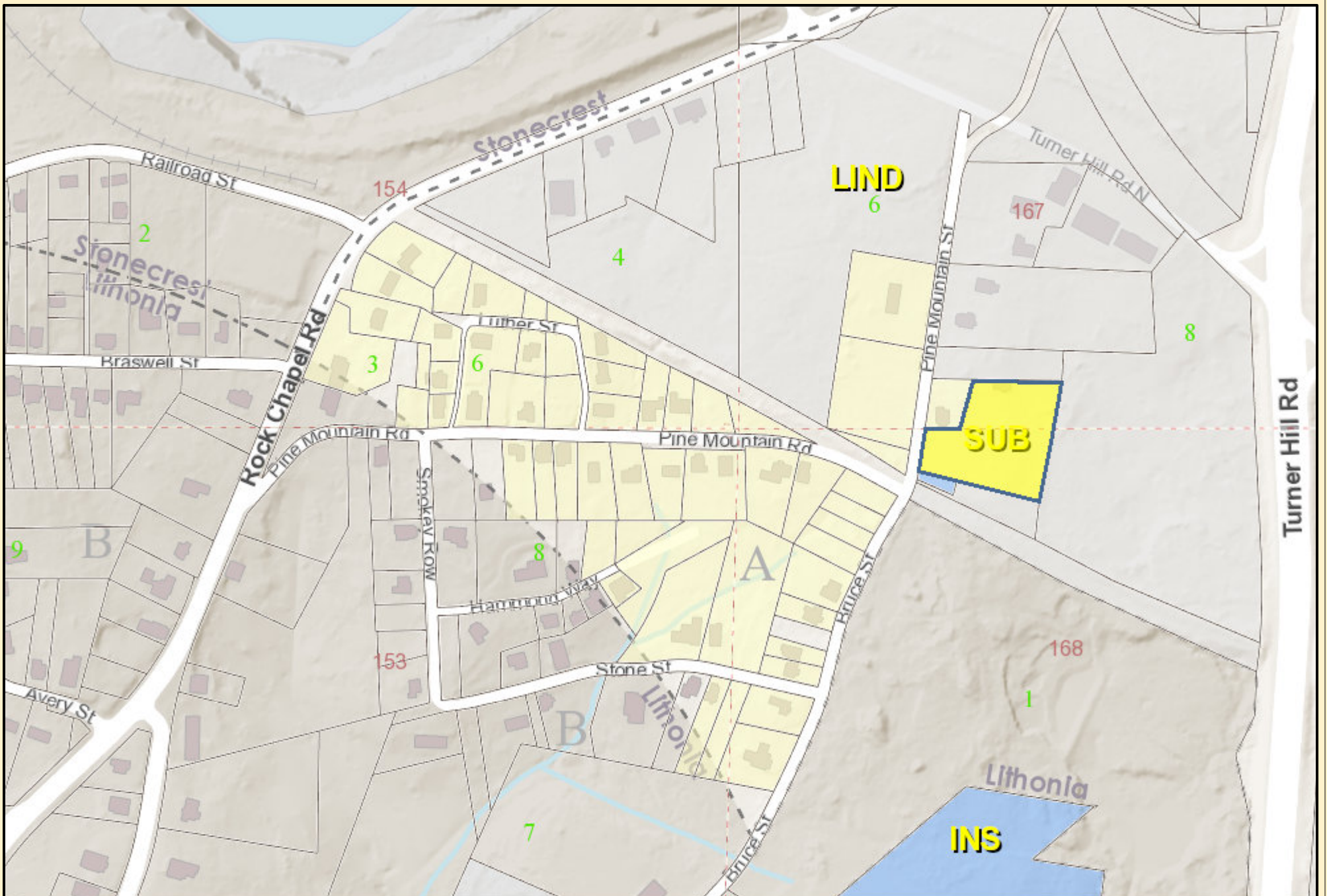


Date Printed: 1/31/2021

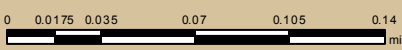


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# LP-21-1244580 Land Use



Date Printed: 1/31/2021



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# Land Use Map Amendment Application

For

2346 Pine Mountain Street  
Unincorporated DeKalb County

Application # LU-21-1244580



Cooley Planning & Land Use Law LLC

Joseph L. Cooley AICP RLA JD

Attorney-at-Law

Land Use Planning/Land Use and Zoning Law

Chief Executive Officer  
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director  
Andrew A. Baker, AICP

APPLICATION TO AMEND COMPREHENSIVE LAND USE PLAN  
OF DEKALB COUNTY, GEORGIA

Application No.: \_\_\_\_\_ Date Received: \_\_\_\_\_

Applicant's Name: Joseph Cooley, Esq. (agent for owner) E-Mail: Cooleylandlaw@gmail.com

Applicant's Mailing Address: 243 Highland Rose Way, Sugar Hill, GA 30518

Applicant's Daytime Phone #: 770-778-4776 Fax: \_\_\_\_\_

(If more than one owner, attach information for each owner as Exhibit "A")

Owner's Name: MH Lithonia Holdings LLC E-Mail: mnhabif@habifproperties.com

Owner's Mailing Address 3717 Roswell Rd NE #100 Atlanta, GA 30342

Owner's Daytime Phone # (404) 522-9342 Fax: \_\_\_\_\_

Address/Location of Subject Property:

District(s): 16 Land Lot(s): 167, 168 Block(s): 01 Parcel: 008

Acreage: 1.224 Commission District(s): District 5 & Super District 7

Current Land Use Designation: SUB Proposed Land Use Designation: LIND

Current Zoning Classification(s): RE

PLEASE READ THE FOLLOWING BEFORE SIGNING

- I. This application form must be completed in its entirety. In addition, any application that lacks any of the required attachments or payment of the filing fee shall be determined to be incomplete and shall not be accepted.
- II.
- III. Disclosure of Campaign Contributions: In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered: Have you, the applicant, made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes  No
- IV.

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

*Seeger Art*

*Joseph Cooley*

NOTARY  
01-21-2023

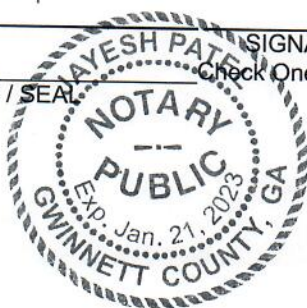
SIGNATURE OF APPLICANT

EXPIRATION DATE / SEAL

Check One: Owner

Agent

DATE



DEPARTMENT OF PLANNING & SUSTAINABILITY

LAND USE (FUTURE DEVELOPMENT) MAP AMENDMENT APPLICATION  
AUTHORIZATION

*Completion of this form is required if the individual making the request is not the owner of the property.*

DATE: 10/12/20

CHECK TYPE OF APPLICATION:

LAND USE MAP AMENDMENT

REZONE

MINOR MODIFICATION

SPECIAL LAND USE PERMIT

TO WHOM IT MAY CONCERN:

(1) / (WE), Morris Habib (mng. member of LLC)

MH Lithonia Holdings LLC & Neisem Properties LLC

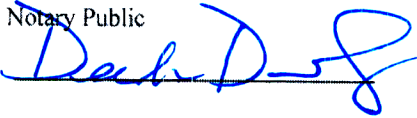
being (owner) / (owners) of the property described below or attached hereby delegate authority to

Joseph Cooley, Esq. Cooley Planning and Land Use Law LLC

(Name of Applicant or Agent Representing Owner)

to file and application on (my) / (our) behalf.

Notary Public



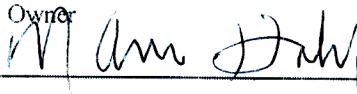
Notary Public

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Owner

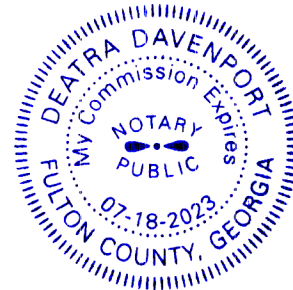


Owner

\_\_\_\_\_

Owner

\_\_\_\_\_





**ATTACHMENT "A"**

Application to Amend Official Zoning Map  
DeKalb County, GA

**Owners' Information**

Owner(s): **MH Lithonia Holdings LLC — Morris Habif, Managing**

Partner **E-Mail: [mnhabif@habifproperties.com](mailto:mnhabif@habifproperties.com)**

Owner's Mailing Address: **3717 Roswell Rd. NE #100, Atlanta, GA 30342**

Owner(s) Phone: **(404) 522-9358** Fax: \_\_\_\_\_

---

Owner(s): **Neisem Properties LLC — Morris Habif, Managing**

Partner **E-Mail: [mnhabifnhabifproperties.com](mailto:mnhabifnhabifproperties.com)**

Owner's Mailing Address: **3717 Roswell Rd. NE #100, Atlanta, GA 30342**

Owner(s) Phone: **(404) 522-9358** Fax: \_\_\_\_\_

**Letter of Intent**  
**Rezoning & Land Use Change**

For

2346 Pine Mountain Street (#16 168 01 008) (Subject Property), DeKalb County, Georgia

Rezoning/Land Use Change of the Subject Property from RE (Residential Estate) to M (Light Industrial) and from SUB (Subdivision) to LIND (Light Industrial) was applied for on August 28, 2008. Staff recommendations were for approval of the Land Use Change and approval of the Rezoning with conditions; however, the Land Use Change application was denied by the DeKalb County Board of Commissioners, and the Rezoning Application was not heard. The required two-year timeframe prior to resubmitting Rezoning and Land Use Applications has expired.

The Subject Property consists of approximately 1.224 acres. It is located west of Turner Hill Road; directly north of the City of Lithonia; and approximately 0.15 miles south of the Stonecrest city limits. (*see attachments*). It is currently zoned RE. The parcel is mostly cleared with concrete and gravel areas which are visible in the attached aerial photograph. Past structures on the parcel included a dilapidated mobile home and shed, The mobile home has been antidotally described by neighboring land owners as a "crack house". The structures were demolished and the property has been vacant since. Aerial photos of the site and surrounding area clearly show that the area, at least since 2003, has been primarily in use as light industrial uses. (see attached photos).

The Subject Property is completely surrounded to the north, south, east and west with parcels zoned M (see attachments). The surrounding future land use classification of the properties is primarily LIND.

The parcels immediately to the south, east and northeast also belong to the Owner. Those parcels consist of approximately 8.61 acres, are zoned M, and are designated LIND on the future land use map. The parcels were previously cleared, but remain undeveloped. The parcels have approximately 811 feet of frontage on Turner Hill Road, with direct access to Turner Hill Road via Turn Hill Road N. Combined with the Subject Property the total acreage is approximately 10.25 acres.

The Subject Property has no value as currently zoned Residential Estate and with a Suburban land use designation. The Subject Property with the Owner's adjacent properties has direct access to Turner Hill Road. The Subject Property has possibilities for beneficial economic uses, but not as currently zoned. This would ultimately be an economical benefit for the community and DeKalb County.

There was opposition to the application at the Board of Commissioners Land Use Change hearing over two years ago. Person speaking expressed a fear of an increase of illegal activities, such as prostitution and illegal drug sales, increased traffic that might be generated from future redevelopment, and change of character to the area. Some wanted to see a site development plan to know exactly what was to be built there. At a recent community meeting, when asked what they at the community wanted to see for the entire area in which the Subject property is located, they overwhelmingly said it should all be residential housing. This is contrary to the Comprehensive Plan and current zonings.

The character of the area surrounding the Subject Property is not Suburban as currently classified. Concept plans, site plans and review/approval of all development plans will involve working with the community, the Planning and Sustainability Department, the Development Authority of DeKalb

County (DADC), and other DeKalb County departments.

The Owner (Mr. Morris Habib and Habib Properties) have been consolidating and redeveloping properties in the Atlanta area for many years. He was a key participant in the redevelopment south of Five Points since 1968 and has been featured in the Atlanta Journal Constitution several times regarding the positive work he has been doing for the area. ("Another Chance of a Lifetime awaits South Downtown Area", Torpy, AJC, Oct. 4, 2018; attached). Mr. Habib has successfully consolidated parcels to encourage development and redevelopment throughout his career. His company has a substantial list of successful projects in the Atlanta area (see <https://habifproperties.com> for more detailed information).

The Applicant requests the land use designation of the "Subject Property" be changed from SUB (Suburban) to LIND (Light Industrial). This would bring the Subject Property into consistency with:

- 1) The current uses of surrounding properties and zoning all of said properties which are currently zoned M — Light Industrial;
- 2) the predominate future land use map designation of surrounding properties as LIND – Light Industrial;
- 3) the text and policies of the 2021 DeKalb County Comprehensive Plan Policy;
- 4) and the Owner's right and ability to develop his land to have an economically viable use.

We respectfully request that the DeKalb Board of Commissioners approve the concurrent Land Use and the Rezoning Applications.

Sincerely,  
Joseph L. Cooley, Esq.  
Cooley Planning & Land Use Law, LLC  
Attorney for Habib Properties (Owner)

---

## DEPARTMENT OF PLANNING & SUSTAINABILITY

As per Section 27-829 of the Zoning Ordinance of DeKalb County, each applicant seeking an amendment to the official Comprehensive Plan land use maps shall provide a complete written response to each of the following standards and factors for evaluation applications for amendments to the Comprehensive Plan land use maps:

1. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;

*Yes. All adjacent properties (except one) are designated as LIND – Light Industrial Use. The one exception (parcel #16 167 08 011; 0.26 ac) is designated as SUB – Suburban, but is zoned M (manufacturing) which is consistent with other surrounding zoning. The parcel is a legal non-conforming lot and non-conforming use due to the fact that it is zoned M which does not allow residential uses. As such the small residence on the property cannot be rebuilt or expanded. All of the surrounding properties (North, East, South, and West) are currently zoned M (manufacturing).*

*Changing the Subject Property's land use designation to LIND would be consistent with current uses and other future land use designations of property in the area. The current land use designation of SUB is not suitable for the Subject Parcel and not consistent with other land uses in the area. The SUB designation and the current zoning of RE have made the property effectively unusable.*

2. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;

*No, the Subject Property is the only parcel which is not zoned M of all the properties south of Turner Hill Road North, east of Pine Mountain Street, and west of Turner Hill Road. All are zoned M, except for the Subject Property. Also, all property in the block directly west of Pine Mountain Street and the Subject Property is primarily zoned M, with four lots zoned C-1 along Rock Chapel Road, and one individual lot zoned RE. The Owner also owns the 8.5 acre tract adjacent to and south and east of the Subject Property. This application if approved would make the Subject Property's zoning and future land use designation consistent with those on his adjacent parcel and other adjacent parcels.*

3. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

*No. The Owner's adjacent property has direct access to Rock Chapel Road, which directly connects to Turner Hill Road North. That would provide access for the Subject Property. As such, there would be no excess or burdensome impact on existing streets generated by the 1.22 ac parcel. Neither schools or utilities would be negatively affected.*

4. Whether the amendment is consistent with the written policies in Comprehensive Plan Text;

*Yes. The amendment would make the Subject Property consistent with the written policies in the Comprehensive Plan. The Subject Property currently has a future land use designation of SUB (suburban). The current zoning of the Subject Property is RE (residential estate) requiring a minimum of one acre per lot.*

***The property's current land use of SUB and the zoning of RE are inconsistent with and contrary to the text of the Comprehensive Plan for all the surrounding properties. In order to have any legal use of the lot, the future land use designation and zoning classification must be changed.***

*The change in Comprehensive Plan designation and zoning as requested will make the Subject Property consistent with both.*

5. Whether there are environmental impacts or consequences resulting from the proposed change;

*No. The changes in Land Use and Zoning for the Subject Property would have no negative environmental impacts.*

*The lot was cleared years ago and the mobile home that was there demolished due to its condition. The Owner wishes to consolidate his properties to have the same land use designation and zoning of this and his adjacent properties to be mutually consistent. Any future development plans would require site development review by DeKalb County prior to any plans being approved and meeting DeKalb County development.*

6. Whether there are impacts on properties in an adjoining governmental jurisdiction cases of proposed changes near county boundary lines;

*No. The City of Lithonia city limits is across the old RR ROW. The property within the City of Lithonia is undeveloped. The City of Stonecrest is in close proximity to the north and that property is also zoned M.*

7. Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change;

*Yes, all the surrounding properties are zoned M (manufacturing). The area is no longer zoned for residential use, and any zoned M which may be used for residences would be non-conforming. There are still some older residential structures and other properties that have been converted for use as contractor's offices and businesses of the same character.*

8. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

*No. The site is vacant and there are no known archaeological significant features on the site and it is not in an historic district.*

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 16TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET AT A POINT WHERE THE EASTERLY RIGHT-OF-WAY LINE OF PINE MOUNTAIN STREET (HAVING A 20 FOOT RIGHT-OF-WAY) MEETS THE NORTHERLY RIGHT-OF-WAY LINE OF OLD VENABLE RAILWAY. SAID POINT IS 26.8 FEET FROM THE CENTERLINE OF SAID RAILWAY AND PINE MOUNTAIN STREET; THENCE RUN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PINE MOUNTAIN STREET NORTH 06 DEGREES 08 MINUTES 00 SECONDS EAST A DISTANCE OF 76.20 FEET TO A NAIL IN A CONCRETE DRIVE; THENCE RUN NORTH 88 DEGREES 16 MINUTES 00 SECONDS EAST A DISTANCE OF 83.00 FEET TO A POINT; THENCE RUN NORTH 16 DEGREES 01 MINUTE 53 SECONDS EAST A DISTANCE OF 126.87 FEET TO A POINT; THENCE RUN SOUTH 89 DEGREES 11 MINUTES 49 SECONDS EAST A DISTANCE OF 214.53 FEET TO AN IRON PIN SET; THENCE RUN SOUTH 05 DEGREES 41 MINUTES SS SECONDS WEST A DISTANCE OF 126.09 FEET TO A IRON PIN SET ON THE LINE DIVIDING LAND LOTS 167 AND 168; THENCE RUN SOUTH 03 DEGREES 54 MINUTES 01 SECOND WEST A DISTANCE OF 78.00 FEET TO AN IRON PIN SET; THENCE RUN NORTH 88 DEGREES 54 MINUTES 41 SECONDS WEST A DISTANCE OF 322.86 FEET TO AN IRON PIN SET AND THE POINT OF BEGINNING, CONTAINING 1.224 ACRES AS PER SURVEY PREPARED FOR SHARON ANDERSON, BY E. G. DAVIS, GEORGIA REGISTERED LAND SURVEYING NO. 2363, DATED MARCH 25, 2002.

TOGETHER WITH A PERPETUAL EIGHT (8) FOOT WIDE EASEMENT TOGETHER WITH ALL RIGHTS, AND PROVISION NECESSARY FOR THE FULL USE AND ENJOYMENT OF SAID EASEMENT, INCLUDING THE RIGHT OF INGRESS AND EGRESS, PASS AND REPASS, TO AND ACROSS SAID EASEMENT WHICH SAID EASEMENT IS MORE FULLY DESCRIBED IN THAT WARRANTY DEED FROM CHARLES C. FURGERSON TO RANDY LAMAR ANDERSON, DATED FEBRUARY 9, 1978, RECORDED IN DEED BOCK 3747, PAGE 823, DEKALB COUNTY, GEORGIA RECORDS.

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.

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon.  
 RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

IMPERVIOUS CALCULATIONS 2346 PINE MOUNTAIN STREET	
CONC. PADS =	3,629 S.F.
GRAVEL =	7,470 S.F.
IMPERVIOUS TOTAL = 11,099 S.F.	
LOT COVERAGE	
11,099 / 79,361 S.F. =	14.0%

REFERENCE: DB 21038 PG 155  
 DB 23479 PG 198  
 DB 19014 PG 250  
 SURVEY FOR SHARON ANDERSON BY E.G. DAVIS  
 DATED 3-25-2002

FLOOD HAZARD NOTE: THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS DEFINED BY FIRM MAP OF DEKALB COUNTY, GEORGIA 13089C0178K EFFECTIVE DATE DECEMBER 8, 2016

SURVEY DATA:

TYPE OF SURVEY: RETRACEMENT  
 NORTH PROPERTY LINE IS BEARING BASIS  
 FROM SURVEY FOR SHARON ANDERSON BY E.G. DAVIS  
 DATED 3-25-2002

TOTAL AREA: 79,361 SQ FT, 1,822 AC

CALCULATED PLAT CLOSURE: 1:237,684

FIELD DATA:

DATE OF FIELD SURVEY 8-8-2018

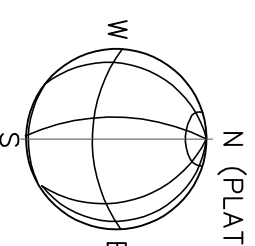
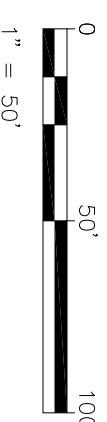
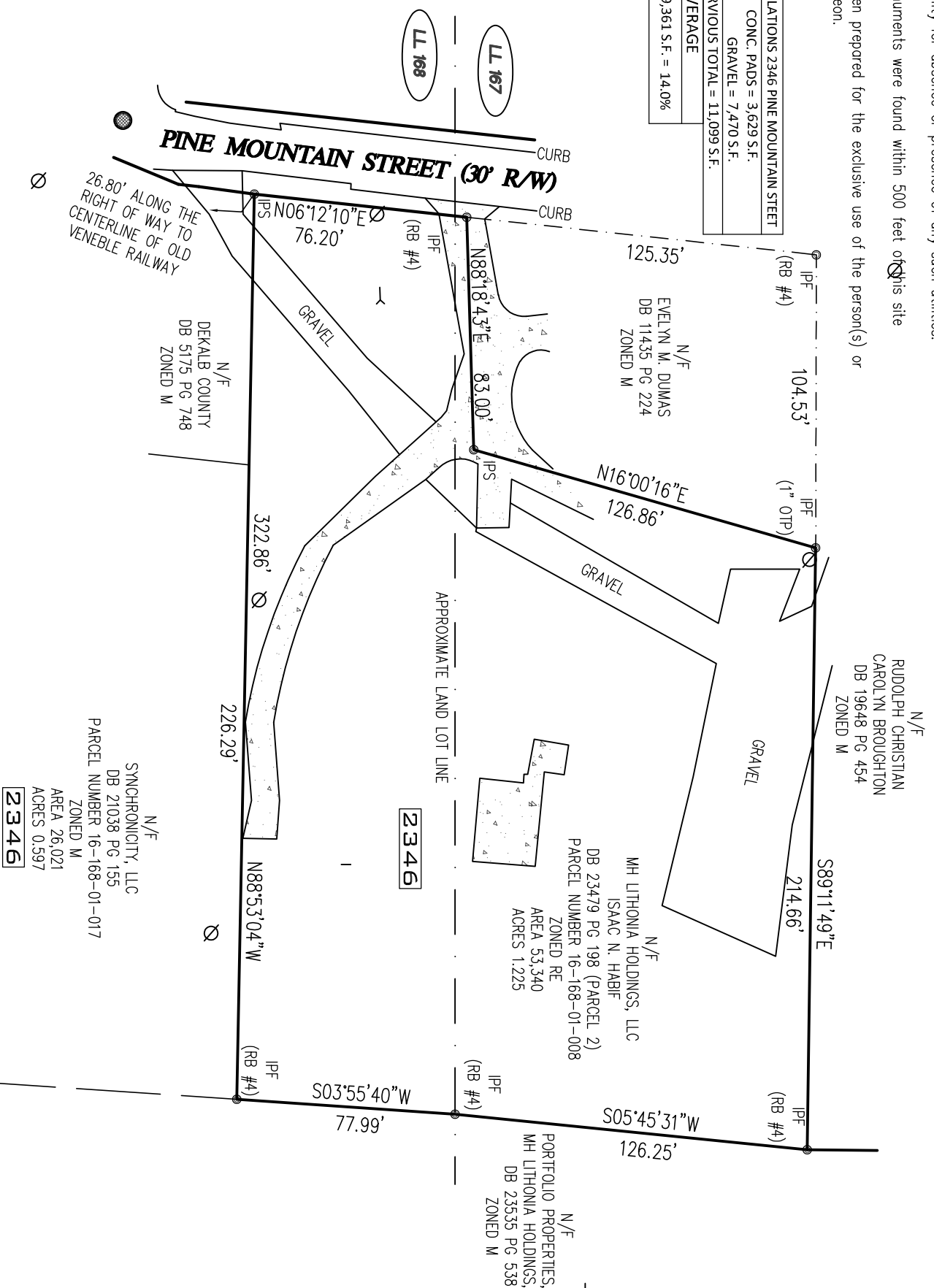
THE CALCULATED POSITIONAL TOLERANCE BASED ON REDUNDANT LINEAR MEASUREMENTS OF OBSERVED POSITIONS WAS FOUND TO BE 0.015 FEET.

EQUIPMENT:  
 ELECTRONIC TOTAL STATION

SURVEY FOR  
 SHARON ANDERSON

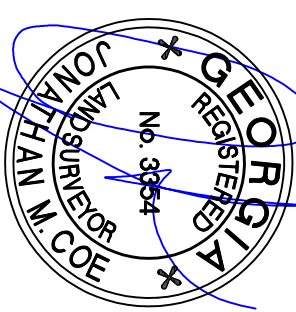
# 2346 PINE MOUNTAIN STREET

DEKALB COUNTY, GEORGIA  
 LAND LOT 167 & 168, DIST 16  
 DATE: AUGUST 23, 2018



### LEGEND

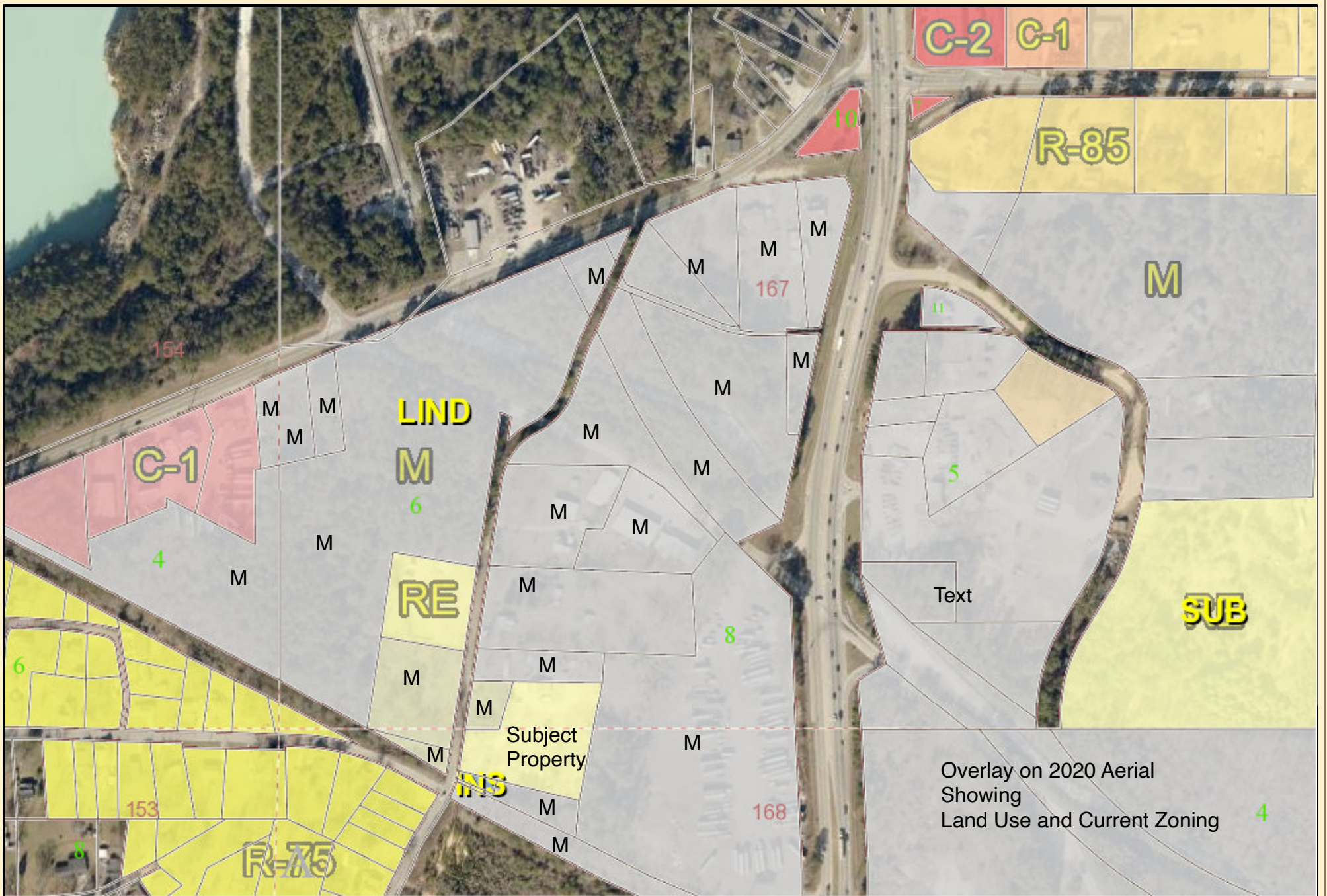
- ⊗ EOP EDGE OF PAVEMENT (CURB)
- ⊙ PP POWER POLE
- ⊖ R/W RIGHT OF WAY
- ⊙ IPF IRON PIN FOUND
- ⊙ 1/2" REBAR SET
- SW SIDE WALK
- BOLLARD
- OHP OVERHEAD POWER
- ⊙ FH FIRE HYDRANT
- ⊙ CB CATCH BASIN
- ⊙ MH MANHOLE
- ⊙ WM WATER METER
- ⊙ WW WATER VALVE
- ⊙ GV GAS VALVE
- ⊙ GM GAS METER
- ⊙ LP LIGHT POLE
- ▭ CONCRETE PAD



FOR  
 DEKALB SURVEYS, INC.  
 407 WEST PONCE DE LEON AVENUE  
 SUITE B  
 DECATUR, GEORGIA 30030  
 404.373.9003

© 2018-2022: THIS 11 X 17  
 DRAWING AND REPRODUCTIONS  
 ARE THE PROPERTY OF THE  
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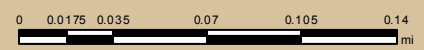
www.dekalbsurveys.com  
 COA 1086



Overlay on 2020 Aerial  
Showing  
Land Use and Current Zoning



## Zoning & Land Use Overlay of Area



Date Printed: 2/11/2021



### DeKalb County GIS Disclaimer

The maps and data, contained on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should it be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.



# 2003 area aerial



© 2003 Pictometry

03/11/2003

# 2011 aerial



© 2011 Pictometry

# Feb 2020 aerial area



© All Pictometry

02/14/2020

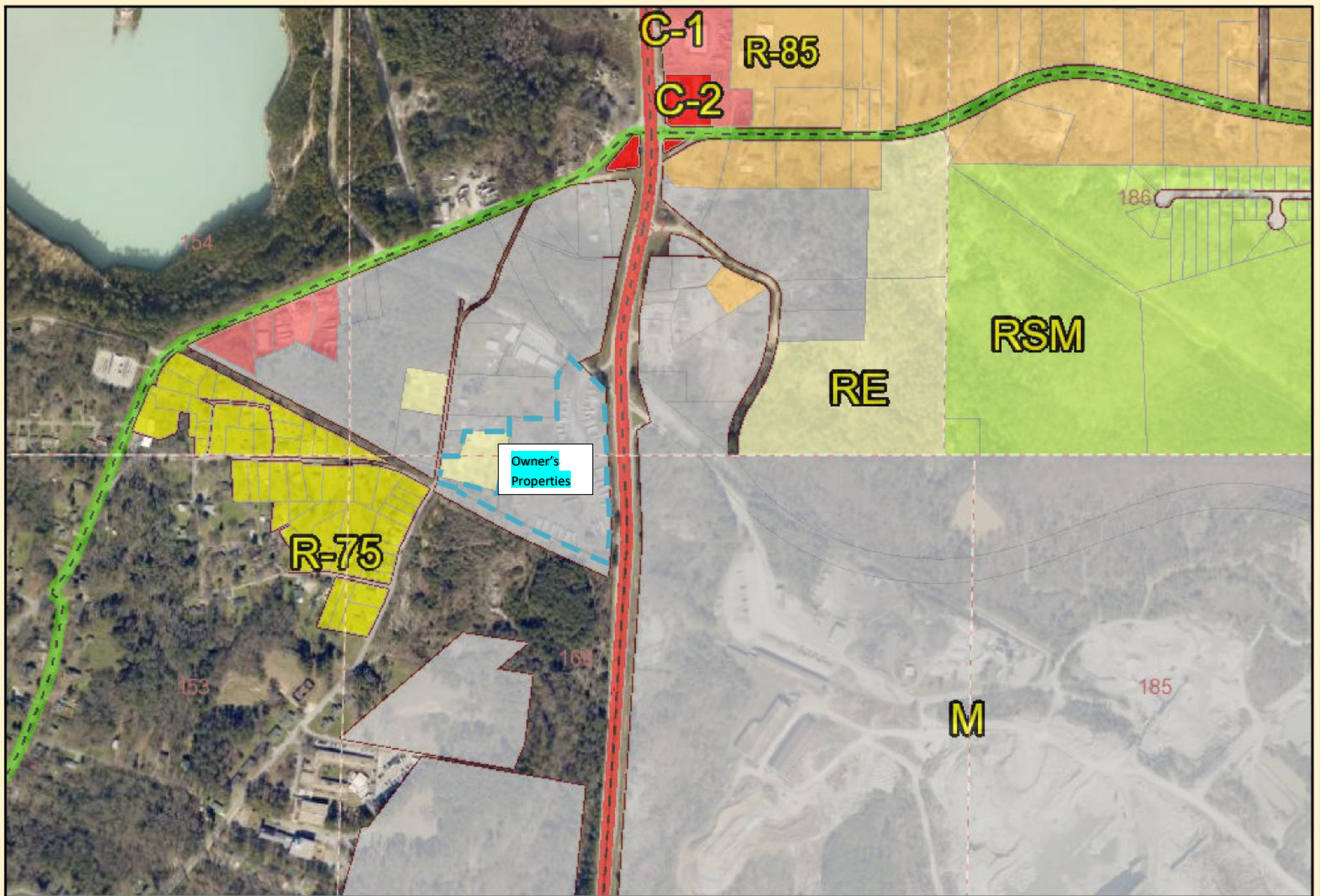
**2346 Pine Mountain Street**  
Aerial of 2346 Pine Mountain Street  
Parcel # 16 168 01 008

**Legend**  
📍 2346 Pine Mountain St



Google Earth  
© 2020 Google

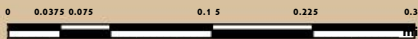
400 ft



Owner's  
Properties



# DeKalb County Parcel Map

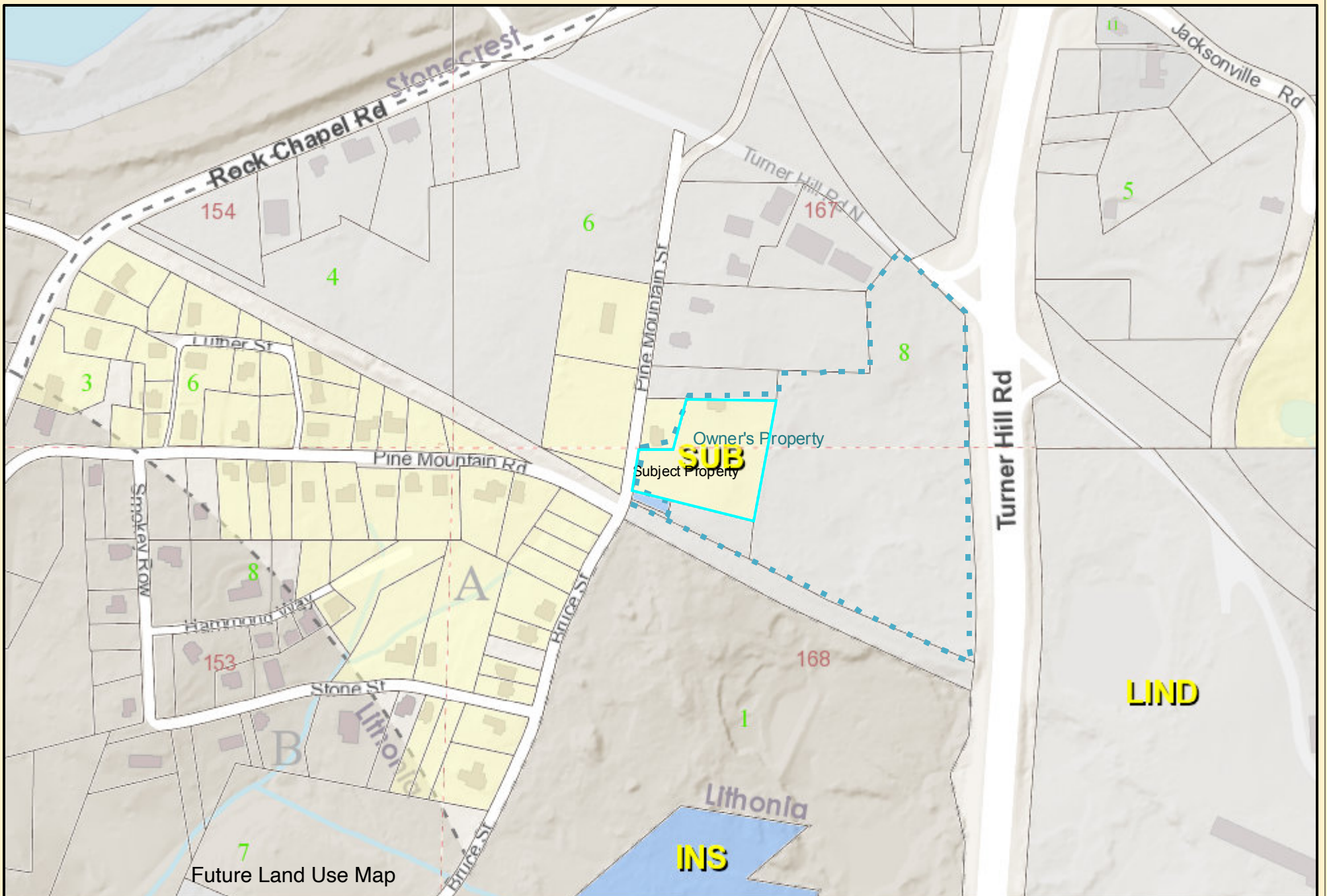


Date Printed: 10/13/2020

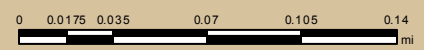


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# DeKalb County Parcel Map



Date Printed: 10/13/2020



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Joseph L. Cooley AICP RLA JD  
Attorney-at-Law  
Land Use Planning/Land Use and Zoning Law

DeKalb County Rezoning of Property and Change of Land Use at  
2346 Pine Mountain Road, DeKalb County

---

Appropriateness of Application

and

Constitutional Assertions

The Applicant in order to preserve all rights of appeal and as required by Georgia law for such appeals hereby asserts the following:

*The portions of the zoning resolution of DeKalb County and comprehensive land amendment as applied to the Subject Property which classify or may classify the Subject Property so as to prohibit its development as proposed by the Applicant are and would be unconstitutional in that they would destroy the Applicant's property right without first paying fair, adequate and just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1083, Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.*

*The application of the zoning resolution and comprehensive land amendment of DeKalb County to the Subject Property that restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of the Applicant's property in violation of the Just Compensation Clause of the First Amendment to the Constitution of the United States, Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of Georgia of a983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.*

*A denial of this Application would constitute an arbitrary and capricious act by the DeKalb County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of Georgia of 1083, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.*

*A refusal by the DeKalb County Board of Commissioners to approve this Application for rezoning and comprehensive plan amendment as proposed by the Applicant would be unconstitutional and discriminate in a arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 10893 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of this Application subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the Subject Property would also constitute an arbitrary, capricious, and discriminatory act and would likewise violate the provisions of the State and Federal Constitutions set forth hereinabove.*



Properties within 500' of 2346 Pine Mountain Street, Lithonia, GA									
Owner	Property Number	Property Street	City	ZIP	Mailing Address				Morice Status
✓ Evelyn Dumas	2338	Pine Mountain Street	Lithonia	30058	4168 Indian Forest Road	Stone Mountain	GA	30083	delivered
✓ Christian Rudolph	2328	Pine Mountain Street	Lithonia	30058	2328 Pine Mountain Street	Lithonia	GA	30058	delivered
✓ Jose Jimenez	2356	Pine Mountain Street	Lithonia	30058	1310 C Street	Elmont	NY	11003	delivered
✓ Synchronicity LLC	2346	Pine Mountain Street	Lithonia	30058	PO Box 80877	Conyers	GA	30013	delivered
✓ Lori Mccart	2312	Pine Mountain Street	Lithonia	30058	2312 Pine Mountain Street	Lithonia	GA	30058	delivered
✓ Julia Blinon Poynter	2294	Pine Mountain Street	Lithonia	30058	2294 Pine Mountain Street	Lithonia	GA	30058	delivered
✓ ARS Mechanical LLC	7195	Pine Mountain Street	Lithonia	30058	1941 Gees Mill Road	Conyers	GA	30013	delivered
✓ Doris Williams	2313	Pine Mountain Street	Lithonia	30058	2313 Pine Mountain Street	Lithonia	GA	30058	delivered
✓ Sara Lynn Anderson	2337	Pine Mountain Street	Lithonia	30058	2337 Pine Mountain Street	Lithonia	GA	30058	returned
✓ Thomas Sprating	2357	Bruce Steet	Lithonia	30058	2357 Bruce Steet	Lithonia	GA	30058	returned
✓ Tomika Nichols	2361	Bruce Steet	Lithonia	30058	2361 Bruce Steet	Lithonia	GA	30058	returned
✓ Arthur Scott	2365	Bruce Steet	Lithonia	30058	2365 Bruce Steet	Lithonia	GA	30058	returned
✓ Willie Johnson	2369	Bruce Steet	Lithonia	30058	2369 Bruce Steet	Lithonia	GA	30058	returned
✓ Gill Hahn Varon	2375	Bruce Steet	Lithonia	30058	2375 Bruce Steet	Lithonia	GA	30058	returned
✓ GSGS Atlanta LLC	2381	Bruce Steet	Lithonia	30058	922 Preserve Bluff Dr.	Buford	GA	30518	delivered
✓ Juan Carlos Garcia	2389	Bruce Steet	Lithonia	30058	2389 Bruce Steet	Lithonia	GA	30058	delivered
✓ Jerome Franklin	7098	Stone Street	Lithonia	30058	7098 Stone Street	Lithonia	GA	30058	delivered
✓ Woodie Franklin	7086	Stone Street	Lithonia	30058	7086 Stone Street	Lithonia	GA	30058	delivered
✓ Robin Elaine Fretwen	7155	Pine Mountain Road	Lithonia	30058	7155 Pine Mountain Road	Lithonia	GA	30058	delivered
✓ Claudine Anderson	7101	Pine Mountain Road	Lithonia	30058	7101 Pine Mountain Road	Lithonia	GA	30058	delivered
✓ Davidson Mineral Prop. Inc	2388	Rock Chapel Road	Lithonia	30058	3520 Piedmont Rd. Suite 410	Atlanta	GA	30305	delivered

Properties owned by MHI Lithonia Holdings LLC or Davalco County are not included on this mailing list.  
 Highlighted in yellow: Persons living at properties who came to the Pre-App Community Meeting

The meeting was held via Zoom and lasted approximately 1 hr. 10 min.

Attached is the two notices of the Zoom meeting (second containing additional information), list of property owners notified and letters that were returned.

- Property currently Zoned RE Residential Estate and is identified future land use map as SUB Suburban.
- It was rezoned with conditions to Residential Estate in 1988
  
- Mostly cleared with concrete and gravel areas.
- Many years ago, it had a trailer on the property- identified by neighbors as a crack house
- Subject Property: parcel consists of 1.22 acre zoned RE Residential Estate  
Owner owns a total of 10.45 total acres in the block formed by:
  - Turner Hill Road North to the north
  - Turner Hill Road to the east
  - Abandoned RR ROW and Lithonia City Limits to the south
  - Pine Mountain Street to the west.
- There are 11 parcels within that block:
  - 9 currently zoned M Light Manufacturing
  - 1 (subject property) is zoned RE residential estate.
  - 0.05 ac parcel at the corner of PM Street and the RR ROW zoned I Institutional - vacant
- On both sides of Pine Mountain Street there are only 2 properties zoned RE:
  - Subject Property &
  - The property at 2313 Pine Mountain Street (approx. 1 ac) (further north down on the west side) with a single family detached home with 3 other buildings.
  - All the other property on both sides of the street are currently zoned M light manufacturing. (except for 0.05 ac Dekalb County parcel)
  
- It is not developable as Residential Estate and should not be shown as being Suburban under the Land Use policies and character area characteristics of the 2036 land use plan update.
  
- The property has no economic value as currently zoned.

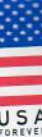
I met with members of the neighboring area on Wednesday February 3.

- They were opposed to rezoning.
- I discussed many types of uses allowed in Light Industrial zoning
- We discussed what they wanted to see and the answer was “We want to see the entire area as residential.”
- I explained the comprehensive planning process and I suggested if that is the way they feel they may about the whole area they may want to contact the BOC and the Planning & Sustainability Department to see if there would be interest in trying to have a Small Area Plan done to relook at the long range uses.
- No one would agree.

I told them I would discuss it with my Client the next day, which I did.

- He informed me that they are planning to develop the property for warehouse use and the plans will be submitted with the final application for public hearings.

243 Highland Rose Way  
Sugar Hill, GA 30518



*NMR*

Thomas Spratling  
2357 Bruce Street  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

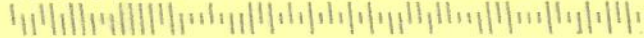
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UNABLE TO FORWARD

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NMR

BC: 30518452743 \*2091-02324-29-

30518>4527



Cooley Planning & Land Use Law  
243 Highland Rose Way  
Sugar Hill, GA 30518

*NMR*

Arthur Scott  
2365 Bruce Street  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

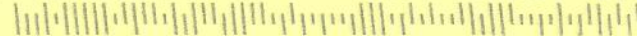
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PK1: 93522897847500

NMR

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30518>4527



Cooley Planning & Land Use L  
243 Highland Rose Way  
Sugar Hill, GA 30518

*NMR*

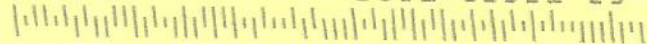
Robin Elaine Fretwen  
7155 Pine Mountain Road  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

RETURN TO SENDER  
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UNABLE TO FORWARD

NMR

BC: 30518 \*2091-02321-29-



Cooley Planning & Land Use  
243 Highland Rose Way  
Sugar Hill, GA 30518

Pop-up edge

*NMR*

Sara Lynn Anderson  
2337 Pine Mountain Street  
Lithonia, GA 30058

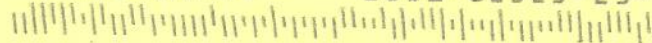
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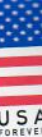
NMR

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BC: 30518452743 \*2091-02325-29-



243 Highland Rose Way  
Sugar Hill, GA 30518



*NMR*

Thomas Spratling  
2357 Bruce Street  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

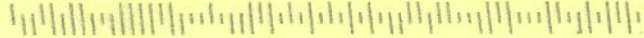
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Cooley Planning & Land Use Law  
243 Highland Rose Way  
Sugar Hill, GA 30518

*NMR*

Arthur Scott  
2365 Bruce Street  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

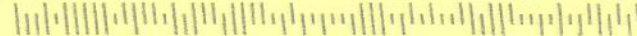
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Cooley Planning & Land Use L  
243 Highland Rose Way  
Sugar Hill, GA 30518

*NMR*

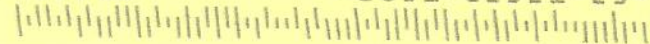
Robin Elaine Fretwen  
7155 Pine Mountain Road  
Lithonia, GA 30058

NIXIE 300 4C 1 0201/29/2

RETURN TO SENDER  
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UNABLE TO FORWARD

NMR

BC: 30518 \*2091-02321-29-



Cooley Planning & Land Use  
243 Highland Rose Way  
Sugar Hill, GA 30518

Pop-up edge

*NMR*

Sara Lynn Anderson  
2337 Pine Mountain Street  
Lithonia, GA 30058

NIXIE 300 DE 1 0001/29/2

RETURN TO SENDER  
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NMR

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BC: 30518452743 \*2091-02325-29-

