

Public Hearing: YES ☒ NO ☐

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): Commission District 02 Super District 06

Application of ArcOne Construction Company c/o Battle Law, P.C. to rezone property from R-75 (Residential Medium Lot-75) zoning district to R-60 (Residential Small Lot-60) zoning district to allow for the construction of four (4) single-family detached homes, at 1481 LaVista Road.

PETITION NO: N1-2023-0583 Z-23-1246452

PROPOSED USE: Four (4) Single-family detached townhomes.

LOCATION: 1481 LaVista Road, Atlanta, Georgia 30324

PARCEL NO. : 18-108-06-006

INFO. CONTACT: Adam Chappell, Sr. Planner

PHONE NUMBER: 404-371-2155

PURPOSE:

Application of ArcOne Construction Company c/o Battle Law, P.C. to rezone property from R-75 (Residential Medium Lot-75) zoning district to R-60 (Residential Small Lot-60) zoning district to allow for the construction of four (4) single-family detached homes. The property is located at 1481 LaVista Road in Atlanta, Georgia.

RECOMMENDATION:

COMMUNITY COUNCIL: Denial.

PLANNING COMMISSION: Two-Cycle Deferral.

PLANNING STAFF: Two-Cycle Deferral rev. 7.18.2023

STAFF ANALYSIS: The subject property, 1481 LaVista Road, is currently occupied by a single-family, detached dwelling that was constructed circa 1951 per County records. The subject property and all properties within 2,500 feet to the south and west are located within a Suburban (SUB) Character Area. Apart from several properties bordering the City of Atlanta/Fulton County (containing multifamily dwellings that were constructed primarily in the 1960's), these properties are all zoned R-75. The applicant proposes rezoning the property to the R-60 (Residential Small Lot-60) zoning district to construct up to four (4) single-family, detached dwellings. To the east of the intersection of LaVista Road and Shepherds Lane begins a series of properties that are currently zoned O-I (Office-Institutional) and MR-2 (Medium Density Residential-2). These properties comprise the western "arm" of a cluster of properties that are in the LaVista Road and Briarcliff Road Neighborhood Center (NC) Character Area, identified in the *DeKalb County 2050 Comprehensive Land Use Plan*. Two lots (1493 and 1501 LaVista Road) from O-I to MR-2 to the east of the subject property were recently rezoned with conditions, on May 26, 2022 to allow for the construction of up to twenty (20) townhome-style condominium dwelling units (Z-22- 1245477). However, these properties are adjacent to those currently developed with multifamily dwellings to the east; all are part of the LaVista Road and Briarcliff Road Neighborhood Center. Aside from a "blanket" rezoning that came with the annexation of properties by the City of Brookhaven, there is no other recent rezoning of properties west of the intersection of LaVista Road and Shepherds Lane within a 2,500-foot radius. To the north, LaVista Road serves as the dividing line between unincorporated DeKalb County and properties that were recently annexed from the County by the City of Brookhaven in 2019 According to the City's parcel map and *Zoning Ordinance*, said properties are within the City's RS-85 zoning district, which have a minimum lot width requirement of 85 feet and a minimum lot area requirement of 12,000 square feet, more than the minimum requirements of the County's R-75 district (75 feet and 10,000 square feet, respectively). With the current

proposal, the applicant uses the properties that front Shepherds Lane to the immediate south of the subject property as precedent for the creation of four (4) lots under the proposed R-60 zoning. These lots are nonconforming with respect to the required lot width of 75 feet under the current R-75 zoning; most appear to be 65 feet wide. While the applicant's proposed lots have widths that are consistent with those to the south, the lot depths are much shallower in comparison and are even smaller than the three (3) properties on the corner of LaVista Road and Woodland Hills Drive. The four (4) proposed lots would be among the smallest within 2,500 feet to the south and west with the County, and smaller than any of the RS-85 lots in the City of Brookhaven to the north. Given the presence of multiple similarly-sized lots in the vicinity, the subject property may already be economically viable in its current state. The *DeKalb County 2050 Comprehensive Land Use Plan* identifies a need to "protect existing, stable single-family neighborhoods" and to focus on "new development and density in *existing* activity centers... and high-capacity corridors". Staff concludes that the terminus of the Neighborhood Center (NC) Character Area at the intersection of LaVista Road and Shepherds Lane is an appropriate one and that more dense developments should be focused in this area, instead of increasing density to the west. In addition, there are site plan deficiencies that would further reduce the amount of buildable land should this proposal be approved. Stormwater detention facilities required by Land Development are not shown and would also need to demonstrate compliance with Section 5.6.2. of the *Zoning Ordinance*, which prohibits stormwater detention facilities from being installed on the same lots as individual dwellings. Furthermore, the site plan proposal does not appear to show correct right-of-way widths for both LaVista Road and Shepherds Lane. Per Section 5.4.3. of the *Zoning Ordinance*, new sidewalks and other streetscaping elements would be required and must be located in dedicated right-of-way; as shown on the site plan, proposed sidewalks along Shepherds Lane are incorrectly depicted as being in the front yards of the new lots. Right-of-way dedications for new subdivisions required per Section 14- 190 of the *Land Development Code* and the *Zoning Ordinance*, in combination with the provision for stormwater detention facilities, would significantly decrease the amount of buildable land on the subject parcel(s). Lastly, the proposed front yards of 20 feet appear to conflict with the existing development pattern of the existing neighborhood; per Section 5.2.1. (C) of the *Zoning Ordinance*, setback averaging may apply to the resultant properties. Combined with the additional right-of-way dedications that would be required, setback variances may ultimately be necessary, which may not meet the criteria of Section 7.5.3. of the *Zoning Ordinance*. At the District 2 Community Council meeting on June 13, 2023, members voted unanimously to recommend *Denial* of the proposal. They cited issues surrounding traffic, density, lack of stormwater facilities, and the question of potential spot zoning. At the Planning Commission meeting on July 11, 2023, discussions showed a willingness by the applicant to modify the proposal to better meet citizen, Staff, and Planning Commission concerns. The Planning Commission voted unanimously to recommend a *Two-Cycle Deferral* of the proposal to the November 2023 zoning agenda. Staff supports further dialogue with the applicant and the surrounding community; thus Planning & Sustainability also recommends a "Two-Cycle Deferral to the November 2023 zoning agenda".

PLANNING COMMISSION VOTE: Two-Cycle Deferral 9-0-0. April Atkins moved, Jon West seconded for a two-cycle deferral to the November 2023 zoning agenda.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial 10-0-0. Community Council District 2 made concerned comments regarding increased density, traffic, storm water and spot zoning of R-60.

DeKalb County Department of Planning & Sustainability

**178 Sams Street,
Decatur, GA 30030**

(404) 371-2155 / www.dekalbcountyga.gov/planning

**Planning Commission Hearing Date: Tuesday, July 11, 2023 6:00 PM
Board of Commissioners Hearing Date: Thursday, July 27, 2023 5:30 PM**

STAFF ANALYSIS

Case No.:	Z-23-1246452	Agenda #: 2023-0583
Location/Address:	1481 LaVista Road Atlanta, GA 30324	Commission District: 02 Super District: 06
Parcel ID(s):	18-108-06-006	
Request:	Rezone property from the R-75 (Residential Medium Lot-75) Zoning District to the R-60 (Residential Small Lot-60) Zoning District to allow for the construction of four (4) single-family, detached dwellings.	
Property Owner(s):	ArcOne Construction Company	
Applicant/Agent:	ArcOne Construction Company c/o Battle Law, P.C.	
Acreage:	0.62 acres	
Existing Land Use:	Residential (Single-family detached dwelling)	
Surrounding Properties:	North: RS-85 (City of Brookhaven across LaVista Road) East: OI (across Shepherds Lane) South: R-75 West: R-75	
Comprehensive Plan:	Suburban (SUB) Consistent <input checked="" type="checkbox"/> Inconsistent <input type="checkbox"/>	

Staff Recommendation: Two-Cycle Deferral.

The subject property, 1481 LaVista Road, is currently occupied by a single-family, detached dwelling that was constructed circa 1951 per County records. The subject property and all properties within 2,500 feet to the south and west are located within a Suburban (SUB) Character Area. Apart from several properties bordering the City of Atlanta/Fulton County (containing multifamily dwellings that were constructed primarily in the 1960's), these properties are all zoned R-75. The applicant proposes rezoning the property to the R-60 (Residential Small Lot-60) zoning district to construct up to four (4) single-family, detached dwellings.

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With the current proposal, the applicant uses the properties that front Shepherds Lane to the immediate south of the subject property as precedent for the creation of four (4) lots under the proposed R-60 zoning. These lots are nonconforming with respect to the required lot width of 75 feet under the current R-75 zoning; most appear to be 65 feet wide. While the applicant's proposed lots have widths that are consistent with those to the south, the lot depths are much shallower in comparison and are even smaller than the three (3) properties on the corner of LaVista Road and Woodland Hills Drive. The four (4) proposed lots would be among the smallest within 2,500 feet to the south and west with the County, and smaller than any of the RS-85 lots in the City of Brookhaven to the north. Given the presence of multiple similarly-sized lots in the vicinity, the subject property may already be economically viable in its current state. The *DeKalb County 2050 Comprehensive Land Use Plan* identifies a need to "protect existing, stable single-family neighborhoods" and to focus on "new development and density in *existing* activity centers... and high-capacity corridors". Staff concludes that the terminus of the Neighborhood Center (NC) Character Area at the intersection of LaVista Road and Shepherds Lane is an appropriate one and that more dense developments should be focused in this area, instead of increasing density to the west.

In addition, there are site plan deficiencies that would further reduce the amount of buildable land should this proposal be approved. Stormwater detention facilities required by Land Development are not shown and would also need to demonstrate compliance with Section 5.6.2. of the *Zoning Ordinance*, which prohibits stormwater detention facilities from being installed on the same lots as individual dwellings. Furthermore, the site plan proposal does not appear to show correct right-of-way widths for both LaVista Road and Shepherds Lane. Per Section 5.4.3. of the *Zoning Ordinance*, new sidewalks and other streetscaping elements would be required and must be located in dedicated right-of-way; as shown on the site plan, proposed sidewalks along Shepherds Lane are incorrectly depicted as being in the front yards of the new lots. Right-of-way dedications for new subdivisions required per Section 14-190 of the *Land Development Code* and the *Zoning Ordinance*, in combination with the provision for stormwater detention facilities, would significantly decrease the amount of buildable land on the subject parcel(s).

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At the District 2 Community Council meeting on June 13, 2023, members voted unanimously to recommend *Denial* of the proposal. They cited issues surrounding traffic, density, lack of stormwater facilities, and the question of potential spot zoning.

At the Planning Commission meeting on July 11, 2023, discussions showed a willingness by the applicant to modify the proposal to better meet citizen, Staff, and Planning Commission concerns. The Planning Commission voted unanimously to recommend a *Two-Cycle Deferral* of the proposal to the November 2023 zoning agenda. Staff supports further dialogue with the applicant and the surrounding community; thus the Planning & Sustainability also recommends a *Two-Cycle Deferral* to the November 2023 zoning agenda.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
RACHEL BRAGG RLBRAGG@DEKALBCOUNTYGA.GOV OR
JOHN REID JREID@DEKALBCOUNTYGA.GOV

**COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER**

Case No.: Z-23-1246452

Parcel I.D. #: 18 108 06 006

Address: 1481 LaVista Road

Atlanta, GA. 30324

WATER:

Size of existing water main: 6 inch (adeq~~x~~ate/inadequate)

Distance from property to nearest main: adjacent

Size of line required, if inadequate: _____

SEWER:

Outfall Servicing Project: North Fork Peachtree Creek

Is sewer adjacent to property: Yes ☒ No ☐ If no, distance to nearest line: _____

Water Treatment Facility: City of Atlanta ☒adequate ☐ inadequate

Sewage Capacity; 40 (MGPD)

Current Flow: 36 (MGPD)

COMMENTS:

Signature: _____

6/16/2023

To: Ms. Madolyn Spann, Planning Manager
Mr. John Reid, Senior Planner
From: Ryan Cira, Environmental Health Manager
Cc: Alan Gaines, Technical Services Manager
Re: Rezone Application Review

General Comments:

DeKalb County Health Regulations prohibit use of on-site sewage disposal systems for

- multiple dwellings
- food service establishments
- hotels and motels
- commercial laundries
- funeral homes
- schools
- nursing care facilities
- personal care homes with more than six (6) clients
- child or adult day care facilities with more than six (6) clients
- residential facilities containing food service establishments

If proposal will use on-site sewage disposal, please contact the Land Use Section (404) 508-7900.

Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

This office must approve any proposed food service operation or swimming pool prior to starting construction.

Public health recommends the inclusion of sidewalks to continue a preexisting sidewalk network or begin a new sidewalk network. Sidewalks can provide safe and convenient pedestrian access to a community-oriented facility and access to adjacent facilities and neighborhoods.

For a public transportation route, there shall be a 5ft. sidewalk with a buffer between the sidewalk and the road. There shall be enough space next to sidewalk for bus shelter's concrete pad installation.

Since DeKalb County is classified as a Zone 1 radon county, this office recommends the use of radon resistant construction.

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

6/16/2023

N.1

Z-23-1246452

1481 LaVista Road

☐ Amendment

- Review general comments.
- No record indicating septic.

N.2

SLUP-23-1246452

1890 Wee Kirk Road

☐ Amendment

- Review general comments.
- Septic installed 8/28/59

N.3

Z-23-1246456 / 15 068 01 066

4750 Flat Shoals Parkway

☐ Amendment

- Review general comments

N.4

SLUP-23-1246458

3038 LaVista Road nad 2998 LaVista Road

☐ Amendment

- Review general comments

Zoning Comments June 2023

NOTE: County records indicate Shepherds Lane has an existing 60-foot ROW (not 40-feet) and LaVista Road has a 70-foot ROW (not 60 feet). Verify "ROW", as this will greatly impact lot yield.

N1. 1481 LaVista Road LaVista Rd is SR 236. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). LaVista Road is classified as a minor arterial. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. A variance is required to not install the bike facilities. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.)

NOTE: County records indicate Shepherds Lane has an existing 60-foot ROW (not 40 feet) and LaVista Road has a 70-foot ROW (not 60 feet). Verify ROW as this will greatly impact lot yield.

Tract A: Driveway must be located on the southern property line, as shown on zoning plans.

Shepherds Lane is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 5-foot sidewalk. Requires pedestrian scale streetlights. (hefowler@dekalbcountyga.gov). (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.)

N2. 1890 Wee Kirk Road. No Comments.

N3. 4746 Flat Shoals Road. Property does not front public property- no comment. Interior roads private.

N4. 2998 LaVista Road. LaVista Rd is SR 236. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). LaVista Road is classified as a minor arterial. If the owner is widening to the south, they are required to install curb and gutter and sidewalk on the southern right of way of LaVista Rd. Sidewalk width is to match the current GDOT project under construction. Left turn lane is required, as shown on zoning plan. Add right turn channelization island on the northern ingress/egress access point. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. A variance is required to not install the bike facilities. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Eliminate parking spots on interior speed table.

N5. 3401 Rainbow Drive. Rainbow Drive and Columbia Drive are both classified as minor arterials. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Ensure there is pedestrian connectivity between the proposed development and the public sidewalk infrastructure. Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase.

N6. 928 Fairwind Court. No Comments.

N7. 3355, 3375, and 3395 Northeast Expressway. I-85 Frontage requires GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). Woodcock Blvd is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 6-foot sidewalk. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.). Provide necessary construction easements and right of way for the connection to the future Peachtree Creek Greenway.

N8. 3070 Clifton Springs Road. No Comments.

N9. 1193 Sherrington Drive. No Comments.

N10 & N11. 5646 Covington Highway. Covington Hwy is SR 12 and a major arterial. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Young Rd is classified as a collector road. Requires a right of way dedication of 35 from centerline OR such that all public infrastructure is within right of way, whichever greater. Please note that the multiuse path on the plan is not entirely on right of way. Requires a 5-foot landscape strip with a 10-foot multi-use path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. (hefowler@dekalbcountyga.gov). Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase.

N12. 3837 Redan Road. Must coordinate with the GDOT MMIP Express Lanes project prior to permitting. Project manager Tim Matthews TMatthews@dot.ga.gov. Redan Road is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 6-foot sidewalk. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.). Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase. Please provide a copy of the deed where the Old Redan Right of Way was abandoned to the property owner as County records show that this is right of way. This issue of ownership should be resolved prior to any zoning actions by the county.

**DeKalb County School District
Development Review Comments**

Analysis Date: 6/13/2023

Submitted to: DeKalb County

Case #: Z-23-1246452

Parcel #: 18-108-06-006

Name of Development: 1481 Lavista Rd

Location: Lavista Road at Shepherds Lane

Description: Four (4) new single-family detached homes proposed, replacing 1 building

Impact of Development: Because of the small number of units, no impact is expected.

Current Condition of Schools	Briar Vista Elementary School	Druid Hills Middle School	Druid Hills High School	Other DCSD Schools	Private Schools	Total
Capacity	528	1,170	1,395			
Portables	0	0	0			
Enrollment (Oct. 2022)	438	938	1,352			
Seats Available	90	232	43			
Utilization (%)	83.0%	80.2%	96.9%			
New students from development	0	0	0	0	0	0

New Enrollment	438	938	1,352
New Seats Available	90	232	43
New Utilization	83.0%	80.2%	96.9%

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.1106	0.0114	0.0691	0.1911
Middle	0.0267	0.0015	0.0505	0.0787
High	0.0264	0.0030	0.0609	0.0902
Total	0.1636	0.0160	0.1804	0.3601

Student Calculations				
Proposed Units	4			
Unit Type	SF			
Cluster	Druid Hills High School			

Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.44	0.05	0.28	0.77
Middle	0.11	0.01	0.20	0.32
High	0.11	0.01	0.24	0.36
Total	0.66	0.07	0.72	1.45

Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Briar Vista Elementary School	0	0	0	0
Druid Hills Middle School	0	0	0	0
Druid Hills High School	0	0	0	0
Total	0	0	0	0



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

- **Storm Water Management**

- **Flood Hazard Area/Wetlands**

- **Landscaping/Tree Preservation**

- **Tributary Buffer**



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

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MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: Z-23-1246452 Parcel I.D. #: 18-108-06-006

Address: 1481 Lavista Rd
Atlanta GA, 30324

Adjacent Roadway (s):

_____	_____
(classification)	(classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour Volume (VPH) _____	Peak Hour Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Plans and field reviewed, no problem that would interfere with Traffic flow.

Signature: Jerry White

DEPARTMENT OF PLANNING & SUSTAINABILITY

**Rezoning Application to Amend the Official Zoning Map of DeKalb
County, Georgia**

RECEIVED

By Rachel Bragg at 1:57 pm, May 02, 2023

Date Received: _____ Application No: _____

Applicant Name: ArcOne Construction Company c/o Battle Law, P.C.

Applicant E-Mail Address: mlb@battlelawpc.com

Applicant Mailing Address: 3562 Habersham at Northlake, Tucker, GA. 30084

Applicant Daytime Phone: 404-601-7616 ext. 1 Fax: _____

Owner Name: ArcOne Construction Company

If more than one owner, attach list of owners.

Owner Mailing Address: 945 North Point Drive #1042, Alpharetta, GA. 30022

Owner Daytime Phone: _____

Address of Subject Property: 1481 LaVista Road, Atlanta, GA. 30324

Parcel ID#: 18 108 06 006

Acreage: 0.7 Commission District: 2, 6

Present Zoning District(s): R-75

Proposed Zoning District: R-60

Present Land Use Designation: SUB

Proposed Land Use Designation (if applicable): N/A

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

REZONING APPLICATION CHECKLIST

Submit 4 printed, collated sets of the complete application (no staples, no binders) and a PDF version on a flash drive

_____ 1. Schedule a mandatory **Pre-Application Conference** with Planning & Sustainability staff by appointment. Obtain **Pre-Application form** (to be completed in pre-application meeting). Please call 404-371-2155 for appointment.

_____ 2. Hold a **Pre-Submittal Community Meeting** with surrounding neighborhood associations and residents. Provide documentation of the meeting (**meeting notice and sign in sheets**). Letter(s) from homeowners association(s) may also be provided.

_____ 3. Submit **Application** (Submit 4 printed, collated sets and a PDF version on a flash drive. Please assemble materials in the following order.)

_____ **A. Application form** with name and address of applicant and owner, and address of subject property;

_____ **B. Pre-submittal community meeting notice and sign-in sheet** and other documentation of meeting, if any;

_____ **C. Letter of application and impact analysis**

1. **Letter of application** identifying a) the proposed zoning classification, b) the reason for the rezoning or special use or modification request, c) the existing and proposed use of the property, d) detailed characteristics of the proposed use (e.g. floor area, height of building(s), number of units, mix of unit types, number of employees, manner and hours of operation), d)(optional) statement of conditions discussed with the neighborhood or community, if any.

2. **Impact analysis** of the anticipated impact of the proposed use and rezoning on the surrounding properties in response to the standards and factors specified in Article 7.3 of the DeKalb County Zoning Ordinance, as attached. If a Major Modification, please include previously approved conditions and Board of Commissioner meeting minutes.

_____ **D. Authorization Form**, if applicant is not the owner. Must be signed by all owners of the subject property and notarized. Authorization must contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property. Please include warranty deed, if property ownership is less than 2 years.

_____ **E. Campaign disclosure statement** (required by State law).

_____ **F. Legal boundary survey** of the subject property, (showing boundaries, structures, and improvements), prepared and sealed within the last year by a professional engineer or land surveyor registered in the State of Georgia. *(If survey shows property on opposite sides of a public street right-of-way, file a separate application for each property.)*

_____ **G. Site Plan**, printed to scale, folded, of any existing and or proposed development/redevelopment. For projects larger than 1 acre, site plan should be at least 1:50 scale. The site plan must include the following:

_____ a. complete boundaries of subject property;

_____ b. dimensioned access points and vehicular circulation drives;

_____ c. location of all existing and proposed buildings, structures, setbacks and parking;

_____ d. location of 100 year floodplain and any streams;

_____ e. notation of the total acreage or square footage of the subject property;

_____ f. landscaping, tree removal and replacement, buffer(s); and

_____ g. site plan notes of building square footages, heights, density calculations, lot coverage of impervious surfaces, parking ratios, open space calculations, and other applicable district standards.

_____ **H. Reduced Site Plan**, reduced to 8.5" x 11".

_____ **I. Written Legal Description** of metes and bounds of the subject property (can be printed on site plan or survey).

_____ **J. Building Form Information**. Elevation (line drawing or rendering), or details of proposed materials, in compliance with Article 5 of the Zoning Ordinance.

_____ **K. Completed, signed Pre-application Form** (Provided at pre-application meeting.)

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

In accordance with the Conflict of Interest in Zoning Act, OCGA Chapter 36-67A, the following questions must be answered.

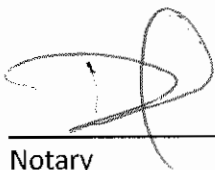
Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filling of this application?

Yes _____ No ☒ *

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 to the Board of Commissioners of DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.



Notary



 3/29/23

Signature of Applicant /Date
Check one: Owner ☒ Agent _____

May 04, 2024

Expiration Date/ Seal

*Notary seal not needed if answer is "no".

DEPARTMENT OF PLANNING & SUSTAINABILITY

AUTHORIZATION

The property owner should complete this form or a similar signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: 03/29/2023

TO WHOM IT MAY CONCERN:

(I) (WE) ArcOne Construction Company
Name of owner(s)

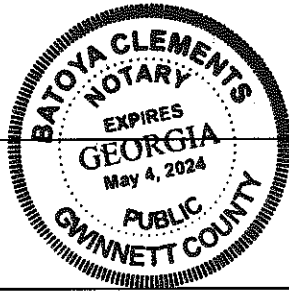
being (owner) (owners) of the subject property described below or attached hereby delegate authority to

Battle Law, P.C.
Name of Agent or Representative

to file an application on (my) (our) behalf.



Notary Public



Notary Public

Notary Public

Notary Public

ArcOne Construction Company

By: 
Owner

Owner

Owner

Owner

DEPARTMENT OF PLANNING & SUSTAINABILITY

FILING FEES

At the time of submittal, a filing fee shall accompany each application as follows:

<u>Rezoning</u>	<u>FEE</u>
RE, RLG, R-100, R-85, R-75, R-60 MHP, RNC, RSM, MR-1. M-2	\$500.00
HR-1, HR-2, HR-3 MU-1, MU-2, MU-3, MU-4, MU-5 O-L, OD, OIT, NS, C-1, C-2, M. M-2	\$750.00

If the application is a request to rezone to more than one zoning district, the higher fee will apply.

Applications for non-contiguous property (separated by a street) must be filed separately. A separate fee will be charged for each application. Applications deferred “full cycle” do not require additional fees. An application that is withdrawn and later re- filed will be treated as a new case and will require a new fee.

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

PRE-APPLICATION FORM REZONE, SPECIAL LAND USE PERMIT, MODIFICATION, AND LAND USE (Required prior to filing application: signed copy of this form must be submitted at filing)

Applicant Name: Joshua Mahoney Phone: 404-597-6807 Email: jsm@battlelawpc.com

Property Address: 1481 LaVista Road, Atlanta, GA 30324

Tax Parcel ID: 18 108 06 006 Comm. District(s): 2 & 6 Acreage: 0.62

Existing Use: Single family detached residential Proposed Use: SFD

Supplemental Regs: Overlay District: DRI:

Rezoning: Yes X No

Existing Zoning: R-75 Proposed Zoning: R-60 Square Footage/Number of Units:

Rezoning Request: Rezone from R-75 to R-60 to allow four single family detached houses.

WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION

Pre-submittal Community Meeting: Review Calendar Dates: PC: BOC:

Letter of Intent: Impact Analysis: Owner Authorization(s): Campaign Disclosure:

Zoning Conditions: Community Council Meeting: Public Notice, Signs:

Tree Survey, Conservation: Land Disturbance Permit (LDP): Sketch Plat:

Bldg. Permits: Fire Inspection: Business License: State License:

Lighting Plan: Tent Permit: Submittal Format: NO STAPLES, NO BINDERS PLEASE

Review of Site Plan

Density: Density Bonuses: Mix of Uses: Open Space:

Enhanced Open Space: Setbacks: front sides side corner rear

Lot Size: Frontage: Street Widths: Landscape Strips:

Buffers: Parking Lot Landscaping: Parking - Auto: Parking - Bicycle:

Screening: Streetscapes: Sidewalks: Fencing/Walls:

Bldg. Height: Bldg. Orientation: Bldg. Separation: Bldg. Materials:

DEPARTMENT OF PLANNING & SUSTAINABILITY

Roofs: _____ Fenestration: _____ Façade Design: _____ Garages: _____ Pedestrian Plan: _____

Perimeter Landscape Strip: _____

Possible Variances: _____ Be cautious of requesting variance if you are proposing to create new lots, new development on new lots should conform. _____

Comments: _ There is a concern about rezoning from R-75 to R60 to maximize the number of new houses without additional justification- there are no nearby R-60 lots. _____

Planner: Rachel Bragg, Zoning Administrator Date: 3/20/2023




FILING FEES


REZONING:	RE, RLG, R-100, R-85, R-75, R-60, MHP, RSM, MR-1	\$500.00
	RNC, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, MU-5	\$750.00
	OL, OD, OIT, NS, C1, C2, M, M2	\$750.00
LAND USE MAP AMENDMENT		\$500.00
SPECIAL LAND USE PERMIT		\$400.00



GRID-GA WEST

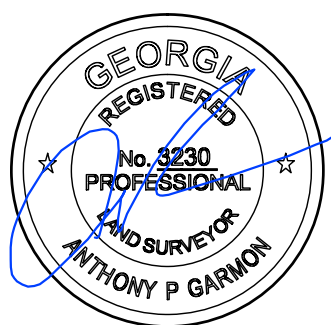
RBF=REBAR FOUND
 IPS= IRON PIN SET
 OTF=OPEN TOP PIPE FOUND
 N/F=NOW OR FORMERLY
 PL=PROPERTY LINE
 R/W=RIGHT-OF-WAY
 DB=DEED BOOK
 PG=PAGE
 CON=CONCRETE

σ =POWER POLE
 =TELEPHONE MANHOLE
 =TRAFFIC BOX
 =CLEAN OUT

 O36 = TREE
 =DIAMETER IN INCHES
 =TYPE

P=PINE
 MAG=MAGNOLIA
 HICK=HICKORY
 O=OAK
 POP=POPLAR

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 herein. 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.



ERNEST WILLIAMS

GARMON  **N**
LAND SURVEYING
1920 Railroad Street Statham Ga 30666
678-726-7582
garmonsurveying@gmail.com

DRAWING NAME:
1481 LAVISTA RD



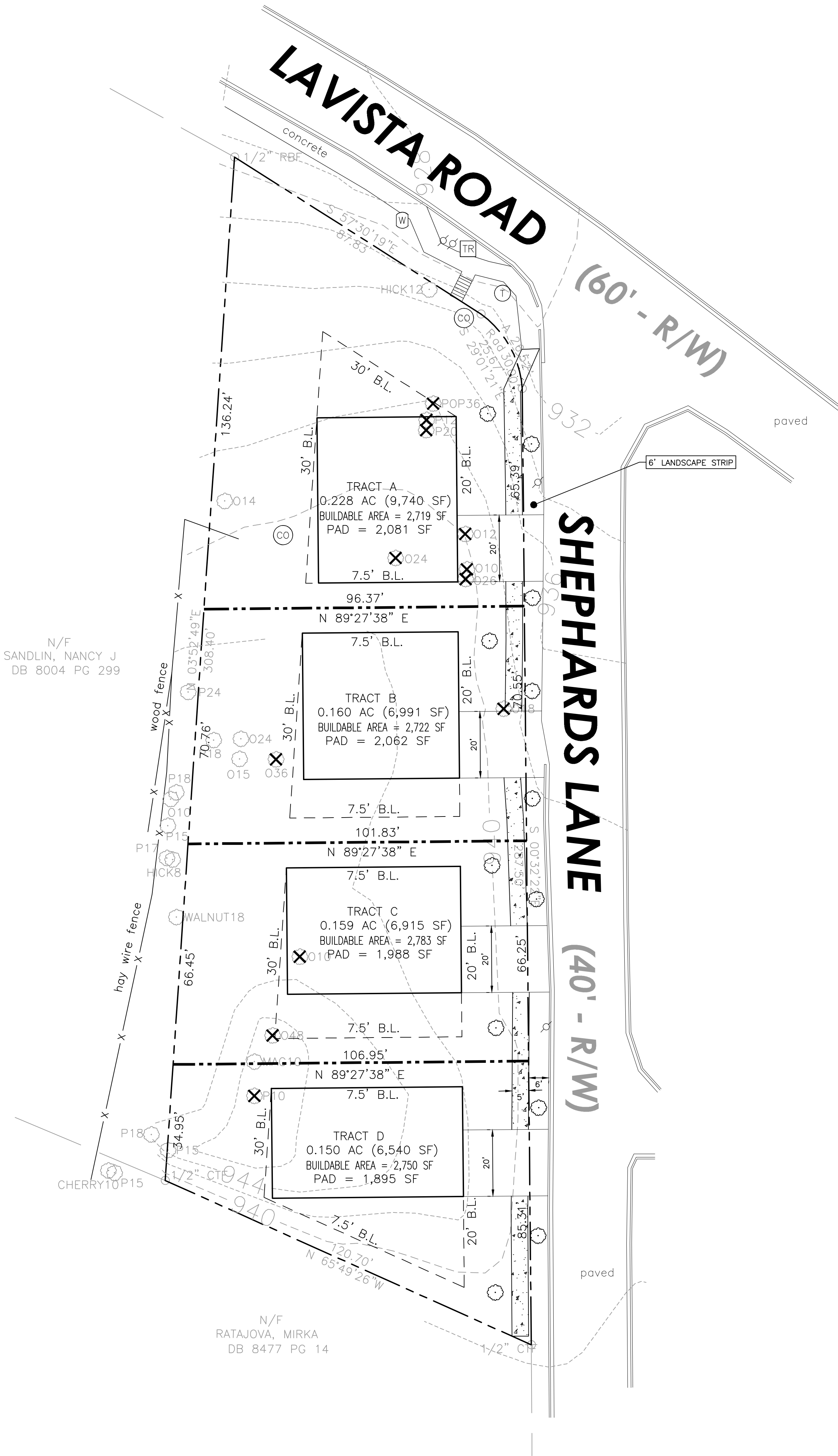
NOTES

1. ALL IRON PINS SET ARE 1/2" REBAR UNLESS STATED OTHERWISE.
2. SURVEY AND BEARING BASIS ESTABLISHED WITH GPS USING A NETWORK ADJUSTED REAL TIME KINEMATIC ROVER.
3. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS RELATIVE POSITIONAL ACCURACY OF +0.03 FEET.
4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 150,000 FEET.
5. EQUIPMENT USED IN THIS SURVEY WAS A CARLSON SURVEYOR + DATA COLLECTOR AND A TOPCON GPT 3003LW TOTAL STATION.
6. FIELD WORK COMPLETED ON MAY 22, 2019.
7. SETBACKS ARE SHOWN FROM COUNTY CODE INFORMATION. GARMON LAND SURVEYING, LLC IS NOT LIABLE FOR ANY DISCREPANCIES.

All that tract or parcel of land being in Land Lot 108 of the 18th district of DeKalb County, Georgia and being more particularly described as follows:

Beginning At The Point Of Intersection Of The Southerly Right-Of-Way Of Lavista Road (60' Right-Of-Way) and The Westerly Right-Of-Way Of Shephards Lane (40' Right-Of-Way); Thence Following The Right-Of-Way Of Shephards Lane With A Curve Turning To The Right With An Arc Length Of 26.52', With A Radius Of 30.00', With A Chord Bearing Of South 29°01'21" East, With A Chord Length Of 25.67', To A Point; Thence South 00°32'22" East A Distance Of 287.50 Feet To A Point; Thence Leaving Said Right-Of-Way North 65°49'26" West A Distance Of 120.70 Feet To A Point; Thence North 03°52'49" East A Distance Of 308.40 Feet To A Point Along The Right-Of-Way Of Lavita Road; Thence Following Said Right-Of-Way South 57°30'19" East A Distance Of 87.83 Feet To A Point; Which Is The Point Of Beginning,

Having An Area Of 30387.55 Square Feet, 0.698 Acres



FLOOD ZONE NOTE

BY GRAPHICAL PLOTTING, ACCORDING TO F.I.R.M. MAP NO. 13089C0054K, WITH AN EFFECTIVE REVISED DATE OF 8-15-2019, THIS PROPERTY LIES WITHIN ZONE "X". ZONE "X" IS NOT A SPECIAL FLOOD HAZARD ZONE INUNDATED BY THE 100-YR FLOOD.

BUILDING NOTE:

HOUSES SHOWN ON THIS PLAN ARE NOT MEANT TO REPRESENT THE FINAL FOOTPRINT OF THE HOUSES. SHAPE AND SIZE OF FOOTPRINT WILL NOT BE DETERMINED UNTIL THE TIME OF PERMITTING.

DRIVEWAY NOTE:

ALL DRIVEWAY ENTRANCES MUST BE AT LEAST FIFTY (50) FEET FROM AN INTERSECTION. THE DISTANCE IS MEASURED ALONG THE STREET FROM THE JUNCTION OF THE TWO (2) STREET CURB LINES TO THE NEAREST EDGE OF THE ENTRANCE.

TREE LEGEND:

- = EXISTING TREE TO REMAIN
- ✕ = EXISTING TREE TO BE REMOVED
- = PROPOSED TREE

TREES TO BE REMOVED:

- TRACT A:
- 36" POPLAR
 - 12" PINE
 - 20" PINE
 - 24" OAK
 - 12" OAK
 - 10" OAK
 - 26" OAK
- TRACT B:
- 18" OAK
 - 36" OAK
- TRACT C:
- 10" OAK
 - 48" OAK
- TRACT D:
- 10" PINE

LANDSCAPE NOTE:

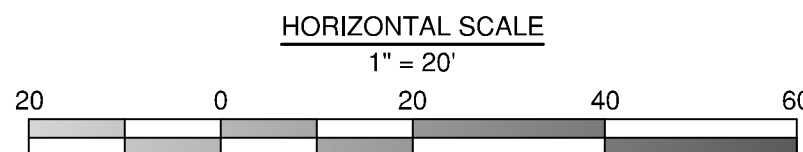
EACH SINGLE-FAMILY RESIDENTIAL LOT ON WHICH NEW DEVELOPMENT OCCURS SHALL BE PLANTED WITH A MINIMUM OF THREE (3) NEW TREES. STREET TREES ALONG THE LOT FRONTAGE SHALL COUNT TOWARDS THIS REQUIREMENT. THE SPECIES AND SPECIFICATIONS FOR THE TREES TO BE PLANTED IN COMPLIANCE WITH THIS REQUIREMENT SHALL MEET THE REQUIREMENTS OF A LIST APPROVED BY THE DEKALB COUNTY ARBORIST.

ZONING NOTES:

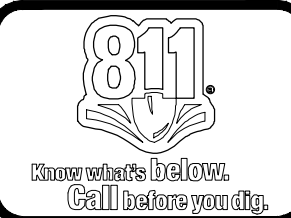
	EXISTING	PROPOSED
SITE ZONING	R75	R60
LOT AREA	0.70 AC (30,387.55 SF)	N/A
ZONING REQUIREMENTS (R60 ZONING)	REQUIRED	PROPOSED
MINIMUM LOT WIDTH	60 FT	60 FT
MINIMUM AREA	6,000 SQFT	6,540 SQFT
MINIMUM LOT WIDTH AT BUILDING LINE	60 FT	66.25 FT
MAXIMUM LOT COVERAGE	35%	35%
MINIMUM HEATED SQFT	1,200 SQFT	1,200 SQFT
MAXIMUM BUILDING HEIGHT	35 FT	35 FT
MINIMUM OPEN SPACE	20%	20%
BUILDING SETBACKS (CSD ZONING)	REQUIRED	PROPOSED
FRONT YARD SETBACK (LAVISTA ROAD)	30 FT	30 FT
FRONT YARD SETBACK (SHEPHERDS LANE)	20 FT	20 FT
SIDE YARD SETBACK	7.5 FT	7.5 FT
REAR YARD SETBACK	30 FT	30 FT
PROPOSED LOT SUMMARY	REQUIRED	PROPOSED
AVERAGE LOT AREA	N/A	7,597 SQFT
TOTAL PROPOSED LOTS	N/A	4
LOT DENSITY	N/A	4 LOTS / 0.7 AC = 5.71 LOTS/AC
TOTAL PROPOSED PARKING	2/DU	2/DU

DATA SOURCE NOTE:

THE TOPOGRAPHIC AND ELEVATION DATA SHOWN HEREON WAS OBTAINED FROM _____ AND IS NOT CERTIFIED AS CORRECT BY THIS ENGINEER. USERS OF THIS DATA DO SO AT THEIR OWN RISK.



PRELIMINARY
NOT FOR
CONSTRUCTION



ENGINEERING &
LAND SURVEYING
40 JOE KENNEDY BLVD
STATESBORO, GA 30458
(912) 488-7112 OFFICE
(912) 488-7125 FAX
NORTHWINDS III
2500 NORTHWINDS PKWY,
SUITE 350
ALPHARETTA, GA 30009
(404) 693-1618 OFFICE
www.maxred.com

NOTE TO CONTRACTOR: IF ANY DISCREPANCIES BETWEEN THE ENGINEER'S PLANS OR CONSTRUCTION STAKES AND ACTUAL SITE CONDITIONS ARISE DURING THE COURSE OF CONSTRUCTION, THE CONTRACTOR AND/OR DEVELOPER SHALL NOTIFY THE ENGINEER IMMEDIATELY. THE CONTRACTOR KNOWS OR CAN REASONABLY BE EXPECTED TO HAVE KNOWLEDGE OF ANY DISCREPANCIES AND SHALL BE RESPONSIBLE FOR REPORTING THEM TO THE ENGINEER. THE CONTRACTOR SHALL NOT BE ENTITLED TO COMPENSATION FOR ANY WORK OR EXPENSE INCURRED BY HIM, WHICH IS REQUIRED TO CORRECT ANY DISCREPANCY, UNLESS THE CONTRACTOR CAN PROVE THAT THE DISCREPANCY OR CONFLICT WHEN HE KNEW OR SHOULD HAVE KNOWN OF THE SAME, AND WHICH WOULD HAVE BEEN AVOIDED HAD HE PROMPTLY REPORTED SAID DISCREPANCY OR CONFLICT TO THE ENGINEER. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY THE ENGINEER AND ASSOCIATES. ALL RIGHTS ARE RESERVED. COPYRIGHT © 2023 BY MAXWELL-REDDICK AND ASSOCIATES

REVISIONS:

PROP. RESIDENTIAL SUBDIVISION
1481 LAVISTA ROAD
DEKALB COUNTY, GA
CONCEPT PLAN A

DESIGNED: DJB
DATE: 04/20/2023
JOB NO.: 2023-001
SCALE: AS SHOWN

DRAWING NUMBER

C1.0

SHEET NUMBER 1 of 1



Battle Law

3562 Habersham at Northlake, Bldg. J, Ste 100
Tucker, Georgia 30084

Zoom Instructions:

Go to <https://otago.zoom.us/join> and Enter the Meeting ID that you have been provided with in the appropriate field and click "Join" . To join by phone, please dial (646) 558-8656. If you are unable to attend or would like to learn more about the proposed project, please call our office at the number below.

We encourage you to come out and participate!

For More Information Contact
Jordan Battle at:
Phone: 404-601-7616 ext. 8
Fax: 404-745-0045
Email: jnb@battlelawpc.com

COMMUNITY MEETING TO DISCUSS THE REZONING OF CURRENT PROPERTY FROM R75 TO R60 ALLOW FOR FOUR SINGLE FAMILY DETACHED HOMES

Title: 1481 LaVista Rd

When: April 13th, 2023

Time: 6:00 PM Eastern (US and Canada)

Register in advance for this meeting:

<https://otago.zoom.us/join>

Meeting ID: 838 7397 8673

Password: 755696

PROPOSED LOCATION(S):

Parel Number: 18 108 06 006



Battle Law

3562 Habersham at Northlake, Bldg. J, Ste 100
Tucker, Georgia 30084

PLEASE
PLACE
STAMP
HERE

«Name»

«Address»

«City», «State» «Zip»

First Name	Last Name	Email
Cindy	Cohen	cindy6000@bellsouth.net
Bryan	Warnock	president@lindberghlavista.org
Nancy		ns1477@yahoo.com
Michael	Morrison	M@Alias Morrison.com
Sue	Sherrill	sesherrill@comcast.net
Wendy	Jacobson	wjaco02@gmail.com
Louis	Myer	Lamyer@aol.com
Doris Robinson & Isaac Cady		isaac.cady@gmail.com
Andy	Kumar	andy@arconecosntruction.com
Lawrence	Toner	elptee@gmail.com
Ryan	Jordan	Ryan.jordan@arconeconstuction.com
Perry	Nicodemus	plnicodemus@comcast.net
Ryan	Jordan	Ryan.Jordan@arconeconstruction.com









1266

1266



1107











1221







Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
For
A Rezoning from R-75 to R-60 to allow for
Four (4) Single-Family Detached Homes

of

**ArcOne Construction Company
c/o Battle Law, P.C.**

for

+/-0.7 Acres of Land
Being 1481 LaVista Road, Atlanta, GA.
DeKalb County, Georgia and
Parcel Nos. 18 108 06 006

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com



Battle Law

I. LETTER OF INTENT

ArcOne Construction Company (the “Applicant”) is seeking to develop on +/- 0.7 acres of land being Tax Parcel No(s). 18 108 06 006 having frontage on 1481 LaVista Road, Atlanta, GA (the “Subject Property”) with single-family detached homes. The Applicant is seeking a rezoning of the Subject Property from R-75 to R-60 to allow for four (4) single-family detached homes. The current land use designation for the Subject Property is Suburban.

This document serves as a statement of intent, analysis of the criteria under the DeKalb County Zoning Ordinance and contains notice of constitutional allegations as a reservation of the Applicant’s rights.

II. DEKALB COUNTY REZONING CRITERIA

1. *Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan;*

The zoning proposal is in conformity with the policy and intent of the Comprehensive Plan. The Subject Property has Suburban future land use and does not fall within an overlay. The zoning proposal seeks to rezone from R-75 to R-60 to allow for four single-family detached homes. R-75 and R-60 both allow for single-family detached homes and both are permitted zoning districts in the Suburban future land use designation. Additionally, the area immediately surrounding the Subject Property is developed with single-family detached homes, a health care facility, townhomes, and apartments. This development will serve as a suitable transition from the higher intensity uses east of the Subject Property to the lower intensity uses west and south of the Subject Property. So, the zoning proposal does not seek to introduce a new use to the area or a use that is incompatible with the Comprehensive Plan. Therefore, the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan.

2. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;*

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The zoning proposal seeks to allow four single-family detached homes. The surrounding properties are developed with single-family detached homes. Additionally, the zoning proposal seeks to rezone the Subject Property from R-75 to R-60. While the surrounding properties are zoned R-75, OI, MR-2, and R-85, the properties south of the Subject Property are sixty-two (62) feet wide on average. So, those lots are non-conforming to their R-75 zoning. In fact, they are much closer in size to R-60. Rezoning the Subject Property to R-60 would allow for the lot sizes of the new homes to be closer to the size of the existing lots to the south. Therefore, the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.



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

The property to be affected by the zoning proposal does not have a reasonable economic use as currently zoned.

4. *Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby properties;*

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. The zoning proposal will continue the suburban character of the existing neighborhood by extending the single-family detached use.

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

There are changing conditions affecting the use and development of the property which give supporting grounds for approval of the zoning proposal. Prior to the Applicant gaining possession of the Subject Property, the former owner left the Subject Property in state a of disrepair. Several neighbors have voiced their concerns about the state of the property and Code Enforcement has visited the Subject Property. The Applicant has been unable to act upon the Code Enforcement violations because they did not have control of the Subject Property. Now that the Applicant has control of the Subject Property, they are working diligently to address the Code Enforcement violations left over by the previous owner. The Applicant will be bringing the Subject Property into a much better state. This will ensure that the surrounding property owners are granted relief from any issues they are experiencing because of the state of the Subject Property. Therefore, there are changing conditions affecting the use and development of the property which give supporting grounds for approval of the zoning proposal.

6. *Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources;*

The zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources. The Subject Property is not within a historic district nor is it near one. The Applicant is not aware of any historic buildings or archaeological resources on the site.

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

The zoning proposal will not result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The zoning proposal seeks to allow four single-family detached homes. Any impact four homes have on any of the County's infrastructure or resources will be minimal. Therefore, the zoning proposal will not result in a



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use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

8. *Whether the zoning proposal adversely impacts the environment or surrounding natural resources*

The zoning proposal will not adversely impact the environment or surrounding natural resources. The zoning proposal does seek to develop four homes on land with trees. However, this development will not impact the trees any more than any other development would. Additionally, there are no other environmental or natural resources nearby to be impacted. Therefore, the zoning proposal will not adversely impact the environment or surrounding natural resources.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application for a Rezoning from R-75 to R-60 to allow for four (4) single-family detached homes be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth 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 the State of Georgia of 1983, 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 irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and



Battle Law

Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

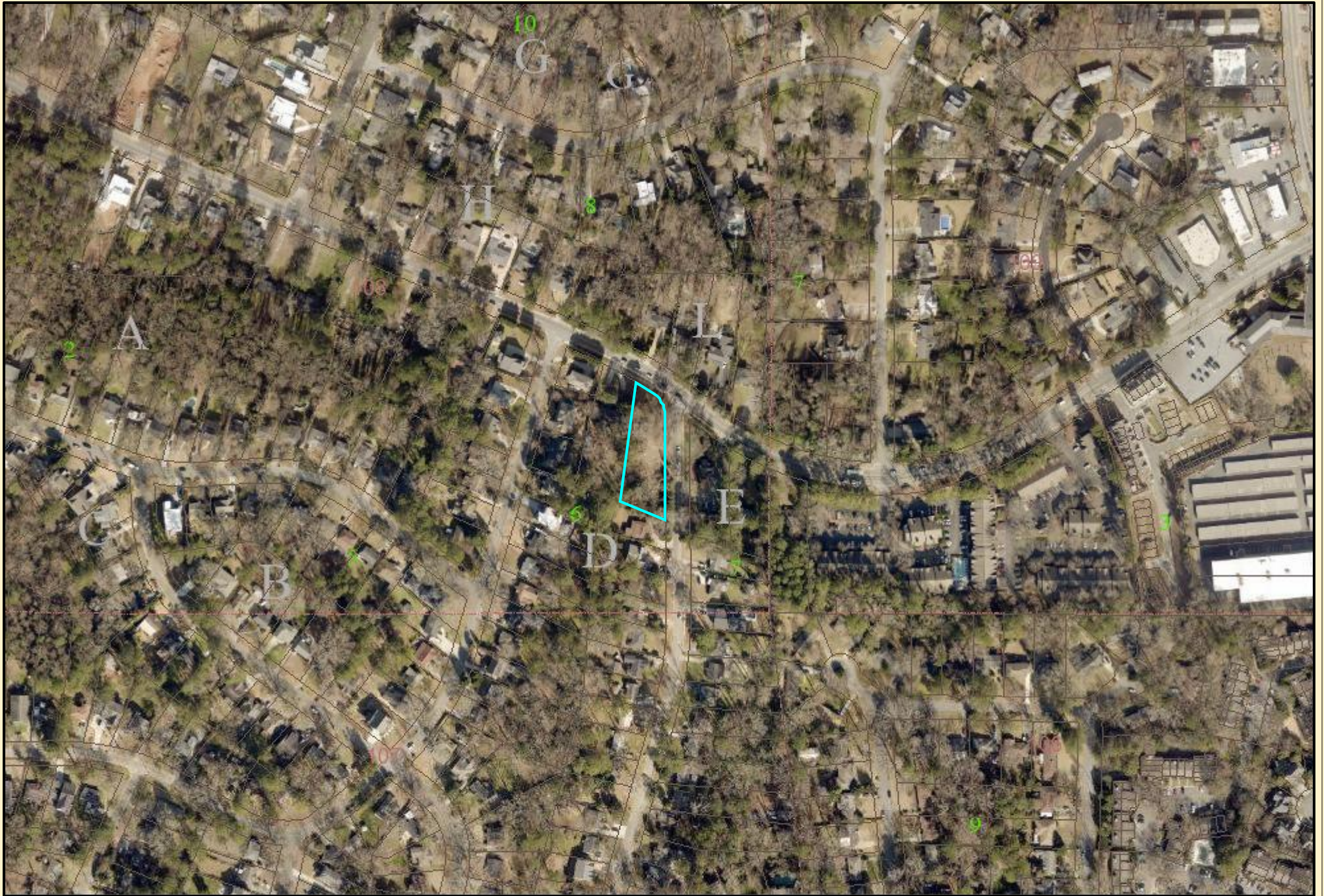
A refusal by the DeKalb County Board of Commissioners to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any Rezoning of the Property 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 Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the land use amendment and/or Rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and/or Rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of Fulton County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Michele L. Battle, Esq.
Attorney for the Applicant



DeKalb County Parcel Map

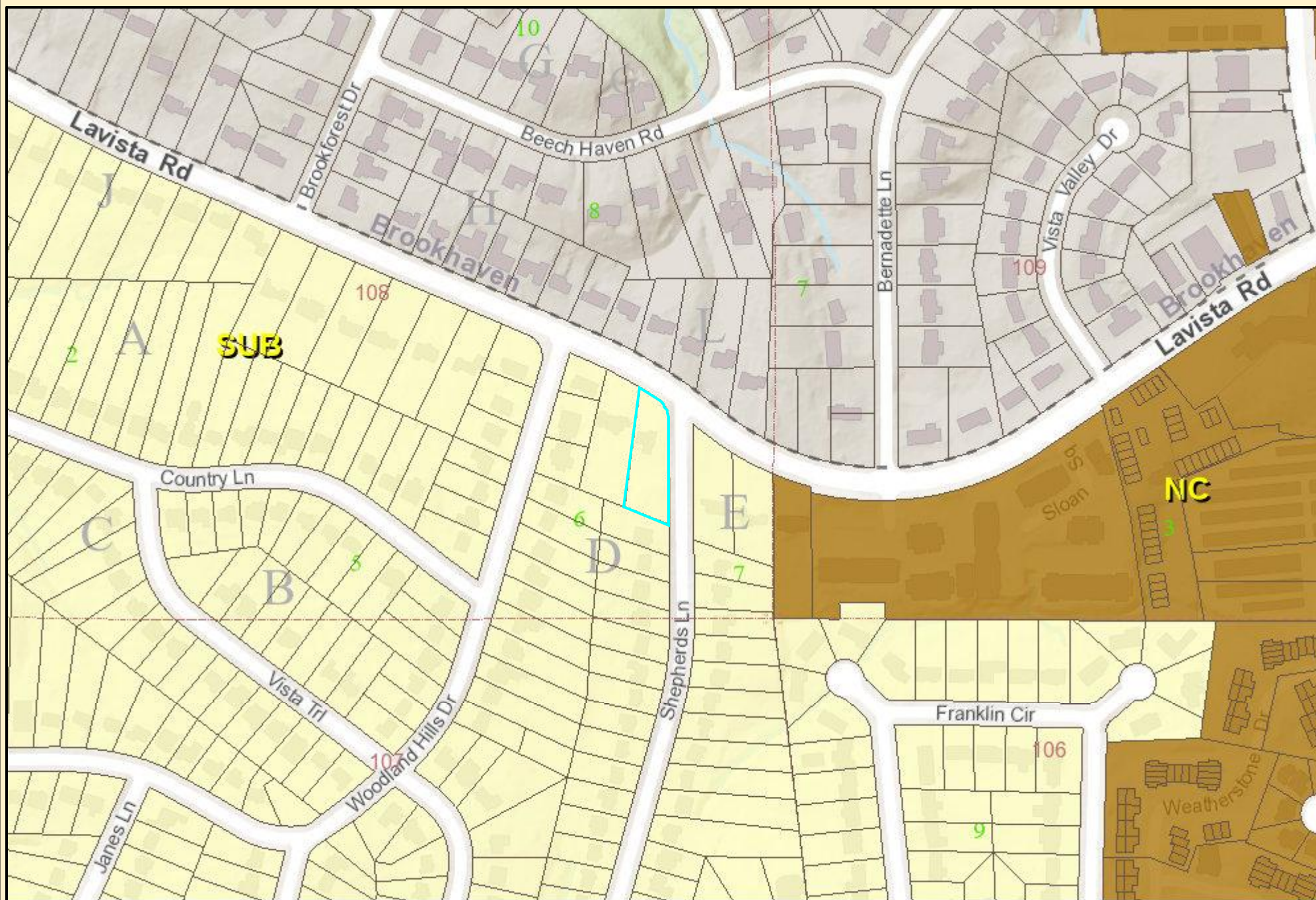
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Date Printed: 7/3/2023



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DeKalb County Parcel Map

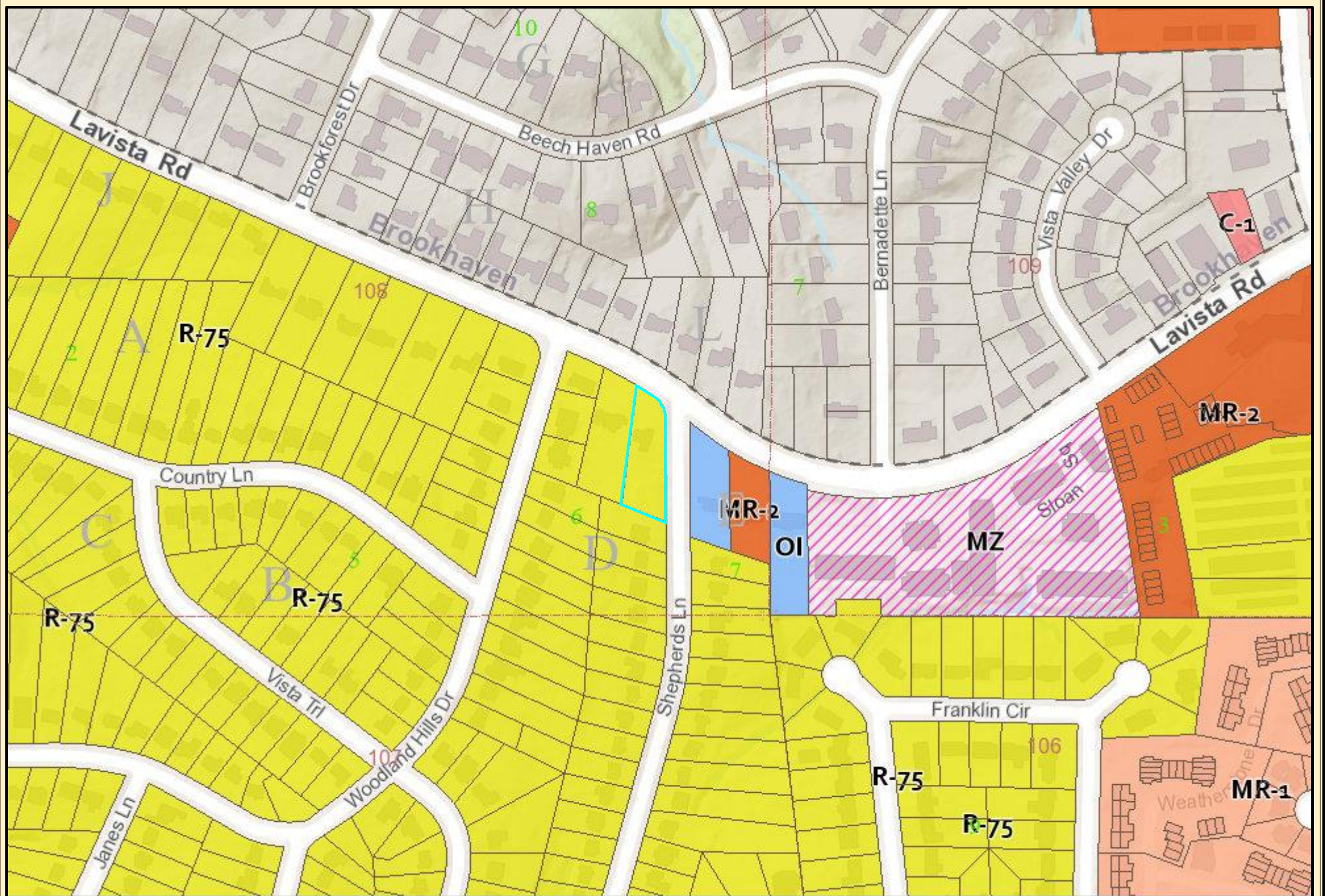
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