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APPROPRIATENESS FOR 1176 LULLWATER ROAD
12-26-2023

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Attached to this table of contents is the “Tax Map” and “July 2023 HPC Decision Form” referred to in the Statement of Support but not included in the original submittal.

Also submitted via email and the e-permitting portal today, January 5th 2024, is the yard sign posting photo and the certified copies of the Druid Hills Historic District Guidelines and Chapter 13.5 of the DeKalb County Code of Ordinances regarding Historic Preservation for the record.



Development Services Center
178 Sams Street
Decatur, GA 30030
www.dekalbcountyga.gov/planning
404-371-2155 (o); 404-371-4556 (f)

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

Application for Certificate of Appropriateness

Date Received: _____ Application No.: _____
Address of Subject Property: 1176 Lullwater Road NE, Atlanta, GA 30307
Applicant: Dunlavy Law Group, LLC E-Mail: ldunlavy@dunlavylawgroup.com
Applicant Mailing Address: 245 North Highland Ave NE, Suite 230, #905
Atlanta, GA 30307
Applicant Phone: 404-664-0895 Fax: _____

Applicant's relationship to the owner: Owner ☐ Architect: ☐ Contractor/Builder ☐ Other ☒

Owner(s): David Martin and Elizabeth Finnerty Email: bfinnerty@skylandtrail.org
Owner(s): _____ Email: _____
Owner(s) Mailing Address: 1136 Lullwater Road, Atlanta, GA. 30307
Owner(s) Telephone Number: 678-686-5930

Approximate age or date of construction of the primary structure on the property and any secondary structures affected by this project:
vacant

Nature of work (check all that apply):

New construction ☒ Demolition ☐ Addition ☐ Moving a building ☐ Other building changes ☐ New accessory building ☐ Landscaping ☐ Fence/Wall ☐ Other environmental changes ☐ Sign installation or replacement ☐ Other ☐

Description of Work:

The applicant seeks to construct one single-family detached home 72 feet from the front property line. Proposal has been modified (site plan) to meet requirements for approval of stream buffer variance (lot coverage reduced to 18.2%) and (home design) minor window and material modifications to meet conditions of prior COA. Additional information included to address Dec 5 2023 BOC COA reversal.

This form must be completed in its entirety and be accompanied by supporting documents, such as plans, list of materials, color samples, photographs, etc. All documents should be in PDF format, except for photographs, which may be in JPEG format. Email the application and supporting material to plansustain@dekalbcountyga.gov and rlbragg@dekalbcountyga.gov. An incomplete application will not be accepted.

Signature of Applicant: _____

Elizabeth Finnerty Martin

DEPARTMENT OF PLANNING & SUSTAINABILITY

Authorization of a Second Party to Apply for a Certificate of Appropriateness

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

I/ We: David Martin and Elizabeth Finnerty
being owner(s) of the property at: 1176 Lullwater Road NE, Atlanta, GA 30307
hereby delegate authority to: Dunlavy Law Group, LLC
to file an application for a certificate of appropriateness in my/our behalf.

Signature of Owner(s): Elizabeth Finnerty Martin
Date: 12/26/23 DA MH

Please review the following information

Approval of this Certificate of Appropriateness does not release the recipient from compliance with all other pertinent county, state, and federal regulations.

Before making any changes to your approved plans, contact the preservation planner (404/371- 2155). Some changes may fall within the scope of the existing approval, but others will require review by the preservation commission. If work is performed which is not in accordance with your certificate, a Stop Work Order may be issued.

If your project requires that the county issue a Certificate of Occupancy at the end of construction, an inspection may be made to verify that the work has been completed in accord with the Certificate of Appropriateness. If the work as completed is not the same as that approved in the Certificate of Appropriateness you will not receive a Certificate of Occupancy. You may also be subject to other penalties including fines and/or required demolition of the non-conforming work.

If you do not commence construction within twelve months of the date of approval, your Certificate of Appropriateness will become void and you will need to apply for a new certificate if you still intend to do the work.

STATEMENT IN SUPPORT OF
APPLICATION FOR CERTIFICATE OF APPROPRIATENESS PURSUANT TO
HISTORIC PRESERVATION ORDINANCE SECTION 13.5-11

Applicants:

DAVID MARTIN and BETH FINNERTY

Property Location:

1176 LULLWATER ROAD

(Tax Parcel I.D. 18-054-06-001)

**Request for Certificate of Appropriateness to Allow
For Construction of a New Single-Family Residence Pursuant to
The Historical Preservation Ordinance Exception Provision**

Submitted for Applicants by:

**Linda I. Dunlavy
Dunlavy Law Group, LLC
245 North Highland Avenue
Suite 230 #905
Atlanta, Georgia 30307
(404) 371-4101 Office
(404) 664-0895 Mobile
ldunlavy@dunlavylawgroup.com**

I. INTRODUCTION AND HISTORY

Subject Property.

The Subject Property is located in the local Druid Hills Historic District at 1176 Lull water Road (Tax parcel ID #18-054-06-001). The property is within the Local Historic District Character Area #1. It is on the west side of Lullwater Road between North Decatur Road and the ByWay. It is an undeveloped single family residential lot in the R-75 zoning district. David and Elizabeth lived at 1495 North Decatur Road (a property adjoining the Subject Property to the north) between 1991 and 2013. They were renters of that property until 1994 when they purchased 1495 North Decatur. Prior to their purchase, the then owner of 1495 North Decatur, R. Pierce Head, Jr., divided 1495 into two lots, thereby creating 1176 Lullwater. In so doing he was careful to create a lot that complied with development standards in effect at the time. *A copy of that survey is included herein.* This survey was recorded in the Superior Court records on September 14, 2000, in a quit claim deed between the Applicants' predecessors at Deed Book 11595, Page 404. *See included deed and recorded survey herein.* In 2006, Mr. Head decided to sell the 1176 Lullwater lot and David and Beth purchased it. They did so only after conducting some due diligence which included meeting with David Cullison, Planner who advised them that the lot was "buildable" as a recognized lot of record. *See deed included herein.* The deed was recorded in the Superior Court of DeKalb County deed records at Deed Book 19466, Page 122. They purchased the lot from their predecessor pursuant to a survey the predecessor had secured in 1994. The Tax Assessor has taxed the Applicants on this lot since their purchase in 2006 as a separate legal lot and currently values the property at \$187, 000.

1176 Lullwater is a smaller lot than others along this stretch of Lullwater. While it is 100 feet in width at the street, it is only 175 to 191 feet in depth compared with others on both sides of Lullwater which, on average, have more than 400 feet in depth. *See included tax map.* The rear of the property is traversed its entire width by state waters which, without variance, require a 75-foot buffer on either side of the stream, thereby significantly reducing available buildable area.

Procedural History.

Quite some time after purchasing the lot, the Applicants attempted to secure the necessary approvals for construction of a new residence on the Subject Property. They obtained a Certificate of Appropriateness from the HPC in July of 2021 to build a home. At that time, there was no delineated stream or buffer area on the Subject Property. There has been a series of buffer determinations made on the Subject Property over the years. On September 20, 2016, May 16, 2019, and October 2, 2020, state water determinations were made on the Subject Property by the County. Every one of them determined that because of the presence of a "sea wall" extending along the length of the stream, there was no wrested vegetation at the wall and thus no stream buffers required adjacent to the wall. However, on September 2, 2021, the County made a state waters determination wherein it found that buffering was required. *See historic state waters determination forms included with this application.* This determination was reaffirmed at the request of Applicants in January of 2023. *See attached DeKalb Report about buffered areas.*

After the state waters determination in September of 2021, the Applicants attempted to get alternative plans approved by the HPC. The first plan removed the proposed house entirely out of the designated stream buffer areas. However, the HPC denied that plan largely because the Applicants had sited the home much further forward on the lot (35-foot front yard setback) than was standard in the neighborhood (75 foot plus) and therefore was found incompatible with the setbacks in the area of influence. *See Staff report from November 2021 and Decision Form from HPC included with this application.* The Applicants tried again with a different plan in July of 2023. That application was denied by the HPC also. *See Decision form from July of 2023 finding that house was not compatible with rhythm along street.* After tweaking the plan yet again providing for encroachment into the outer 25 feet of the County stream buffer, the HPC finally approved the site plan and home design. *See approval form included with this application.* This approved plan provided for a 72-foot front yard setback, approximately 29 feet closer than the setback for the adjoining house. It also provided for a side entry garage and a driveway with a turnaround at the side. For the HPC approved plan to become a reality, the Applicants needed to secure a stream buffer variance to allow for construction and disturbance within the outer 25-foot stream buffer area. Approval of the requested stream buffer encroachment was issued on December 11, 2023. *See letter of approval attached.*

The Applicants also have a variance application pending before the ZBA. That variance requests that the proposed home be allowed an increase in front door threshold height due to topographical challenges presented on the Subject Property. Staff has recommended approval of this variance request for months but because of the pendency of other applications (namely the COA application and the stream buffer encroachment application), the ZBA has deferred action on this simple request, most recently on December 13, 2023. *See staff recommendation on variance included herein along with notice of deferral from ZBA.*

With the HPC approval of the Applicants' COA application on September 19, 2023, and the approval of the stream buffer encroachment on December 11, 2023, the Applicants only needed approval from the ZBA of their threshold height variance on December 13, however, the HPC approval was appealed to the Board of Commissioners by Katherine and George Beazley of 1165 Lullwater Road and Virginia Tate of 1166 Lullwater Road. Even though the HPC and the Planning staff had found specifically that "the proposed changes will not conflict with the guidelines and will not have substantial adverse effect on the property or district," without explanation the Board of Commissioners announced verbally that it was reversing the decision of the HPC on December 5, 2023. Applicants are now left with no choice but to seek yet another approval from the HPC, but this time under a different provision of the Historic Preservation Ordinance, that section dealing with undue hardship caused by exceptional conditions.

II. STANDARDS APPLICABLE TO CERTIFICATE OF APPROPRIATENESS CONSIDERATION AND APPROVAL

The Historic Preservation Ordinance, in relevant part, provides at Section 13.5-8(7) that:

The preservation commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in appearance would

not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district.

In reaching this conclusion, the HPC is required, *inter alia*, to determine whether the Guidelines have been met. *See Section 13.5-8(8).*

While the HPC expressly found that David and Beth's application in September of 2023 would not have a substantial adverse effect per Section 13.5-8(8) and concluded that the application met the Guidelines, this decision was summarily reversed by the Board of Commissioners. Without any explanation being provided by the Board of Commissioners, it must be assumed that it found a substantial adverse effect and a failure of the application to meet the Guidelines. As such, the standards of 13.5-8 would appear not to be the relevant standards in assessing the current application which only differs in minor ways from the one approved by the HPC in September of 2023.¹ The proper standards for evaluation of the current application would seem to be those set forth in Section 13.5-11.

Section 13.5-11 is expressly listed as an "exception" to the general standards for COA approval and provides as follows:

Where by reason of unusual circumstances, the strict application of any provision of this chapter would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, the preservation commission in passing upon applications shall have power to vary or modify strict adherence to said provisions or to interpret the meaning of said provisions so as to relieve such difficulty or hardship; provided such variance, modifications, or interpretation shall remain in harmony with the general purpose and intent of said provisions so that the architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the preservation commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue hardship shall be a situation beyond the control of the applicant, which is a problem unique to a specific property or in order to comply with this chapter, the person will violate another ordinance of DeKalb County. The burden of demonstrating the existence of the hardship by a preponderance of evidence shall be with the applicant.

Given the severe development constraints and the competing regulations governing the Applicants' property, this section would seem to be tailor made for the current situation.

¹ The current application reconfigures the driveway as required by the stream buffer encroachment approval, relocates the rain garden, and reduces impervious surfaces by a small amount. Otherwise, it is the same as that approved by the HPC on September 19, 2023.

III. APPLICATION OF STANDARDS TO CURRENT APPLICATION

The Applicants maintain that the approval of their application in September 2023 was supported by the evidence and the HPC did not abuse its discretion in granting their application. However, the Board of Commissioners disagreed. As such, Dave and Beth submit that any applicant on this property is unlikely to be able to comply with the competing set of regulations set forth in the Druid Hills Guidelines, the Historic Preservation Ordinance requirements, and the stream buffer regulations of Chapter 14 of the Code of Ordinances, while attempting to avail itself of development on this recognized buildable lot of record. If patterns of setbacks, orientation, driveway and garage location, and others requirements of the HPO are interpreted and applied as argued by Ms. Tate and the Beazleys in their appeal to the BOC, there is no way to build on 1176 Lullwater without significant encroachment into the stream buffer beyond that which was approved by the County. Alternatively, removal of the proposed new home from the stream buffer areas would result in front yard setbacks clearly in violation of the local historic district Guidelines. Dave and Beth and any future applicant, should these regulations be applied strictly and as urged by the former appellants (and implicitly by the BOC because of its reversal), are caught in a Catch 22 without relief—they allegedly have a buildable lot but one that cannot be built on. Such a hardship is expressly recognized in Section 13.5-11, above. In relevant part, that section states that, “*an undue hardship shall be a situation beyond the control of the applicant, which is a problem unique to a specific property or in order to comply with this chapter, the person will violate another ordinance of DeKalb County.*” The characteristics of the property at 1176 Lullwater are unique and were not created by Dave and Beth. The lot was created years prior to their purchase by their predecessor in interest. The delineation of state waters was made by the County years after their purchase. Moreover, to comply with the stream buffer regulations in Chapter 14 and the variance granted thereto by the County, setbacks, driveways, garages, and orientation the same as those on other larger lots unencumbered by streams on Lullwater cannot be achieved. Any applicant would need to violate one set of regulations in order to comply with another set of DeKalb County regulations. The granting of variances or exceptions (such as the one requested in the instant case) has been recognized elsewhere when competing regulations make it practically difficult or an undue hardship to comply with both sets of regulations. *See e.g. United Unions, Inc. v. District of Columbia Board of Zoning Adjustment*, 554 A. 2d. 313 (1989) (impact of parking garage on adjacent landmark building; competing regulations created hardship); *Emory University v. Levitas*, 260 Ga. 894 (1991) (height variance granted to allow university expansion to stay out of old growth forest). The same result should occur in the instant case especially because the staff and HPC have already concluded that the proposed design (with minor changes) will not have any adverse effects on the district or historical properties within it. The design proposed is in harmony with the general purpose and intent of the Historic Preservation Ordinance and the Druid Hills Guidelines and preserves the character of the district. Approval of the hardship exception allows for development of this recognized buildable lot of record and thereby does substantial justice. The application meets all the criteria set forth in Section 13.5-11.

IV. SUMMARY AND CONCLUSION

The existing proposal meets the specific requirements for a hardship exception as set for in Section 13.5-11. Based on the foregoing and for all the reasons set forth above, the Historic Preservation Commission should grant the Applicant's request for Certificates of Appropriateness to construct the proposed new home pursuant to the site plan submitted with this application.

V. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicants respectfully submit that, should the Historic Preservation Commission refuse to grant the requested Certificates of Appropriateness, such an action would be unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and a denial of due process of law under the United States Constitution and the Constitution of the State of Georgia.

Refusal to issue the requested Certificates of Appropriateness would deprive the Applicants of any alternative reasonable use and development of the Subject Property without just compensation and would be insubstantially related to the health and welfare of the public while substantially harming the Property owners.

Applicants specifically object to the standing of any party that opposes this Application for Certificates of Appropriateness.

This 26th day of December 2023.

Respectfully submitted,

Linda I. Dunlavy
Attorney for Applicants

Dunlavy Law Group, LLC
245 North Highland Avenue
Suite 230 #905
Atlanta, Georgia 30307
(404) 371-4101 Office
(404) 664-0895 Mobile
ldunlavy@dunlavylawgroup.com



Dekalb County Historic Preservation Commission

330 Ponce De Leon Avenue, Suite 300

Decatur, GA 30030

(404) 371-2155 or (404) 371-2813 (Fax)

Michael L. Thurmond
Chief Executive Officer

CERTIFICATE OF APPROPRIATENESS

September 20, 2023

Site Address: 1176 LULLWATER RD
ATLANTA, GA 30307-

Parcel ID: 18-054-06-001

Applicant: Elizabeth Finnerty c/o Battle Law, P.C.

Mailing Address: 3562 Habersham at Northlake
Tucker, GA 30324

THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS REGULARLY SCHEDULED PUBLIC MEETING ON SEPTEMBER 18, 2023, REACHED THE FOLLOWING DECISION ON THIS APPLICATION:

ACTION: Modified Approval

Build a house as shown in the architectural drawings with the modifications that the granite shown on the front and left side of the house will be replaced with brick and the small window on the right side of the front elevation will be replaced by a larger window matching the others on the façade.

DeKalb County Department of Planning and Sustainability
178 Sams Street
Decatur, GA 30030

RE: **1176 Lullwater Road** –

1. Request to reinstate expired Certificate of Appropriateness granted in July 2021 by DeKalb Co Historic Preservation Commission. The original design is modified to be 30" shorter, 30" narrower, and at a 72' setback from Lullwater Road rather than 75' as originally approved.
2. Request for Variance from DeKalb Co Zoning Code Ordinance to raise the elevation of the new home's front door threshold from 874.2' (average natural grade at 35' front setback) to 883.1' elevation. For reference, the manhole on a catch basin next to the sidewalk on the southeastern corner of the lot is at elevation 881.52', so the main floor elevation is 19 inches above that manhole.

Dear Zoning Board and Historic Preservation Commission members and staff:

We, as neighbors of 1176 Lullwater Road, have reviewed the plans and exterior elevations of this project and believe it is appropriate to the neighborhood. We ask that you support the approvals requested.

This page can be returned to the owner's mailbox at 1136 Lullwater Road on or before August 17, or you may take a photo with your phone and text it to Dave Price of Price Residential Design at 404-245-4244, or scan and email to me at dave@priceresidentialdesign.com

Thank you for your consideration,

Louis Edwards

Name

17 Aug 2023

Date

1156 Lullwater Rd

Atlanta, GA 30307

Address

Please feel free to join us at the upcoming meetings:

1. Neighbor Information Meeting -- **Thursday, August 17, 2023** at 5:30 p.m. at 1136 Lullwater Road (home of the owners, Beth Finnerty and David Martin)
2. Historic Preservation Commission Meeting – **Monday, August 21** at 6:00 p.m. via Zoom.
2. Zoning Board of Appeals Meeting -- **Wednesday, Sept. 14** at 1:00 p.m. via Zoom.

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Decatur, GA 30030

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Thank you for your consideration,

Mark S. Ferguson
Almond P. Ferguson

Name

Date

8/17/23

1135 Lullwater Road

Atlanta, GA 30307

Address

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Thank you for your consideration,

Jonathan Wegman

Name

08/17/2023

Date

1146 Lullwater Rd

Address

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178 Sams Street
Decatur, GA 30030

RE: 1176 Lullwater Road -

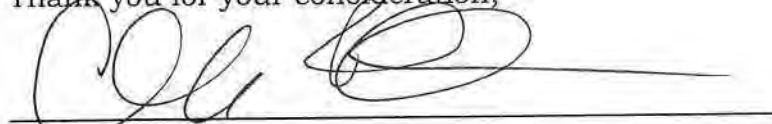
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Thank you for your consideration,


Name

8.17.23
Date

1156 Lullwater Rd NE
Atlanta GA 30307
Address

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Thank you for your consideration,

Caren Morrison
Name

8/17/2023
Date

1115 Lullwater Rd NE
Atlanta 30307
Address

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Thank you for your consideration,

Matthew & Brittany Hartnett

Name

8/15/23

Date

1125 Lullwater Rd

Atlanta, GA 30307

Address

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Decatur, GA 30030

RE: 1176 Lullwater Road -

1. Request to reinstate expired Certificate of Appropriateness granted in July 2021 by DeKalb Co Historic Preservation Commission. The original design is modified to be 30" shorter, 30" narrower, and at a 72' setback from Lullwater Road rather than 75' as originally approved.

2. Request for Variance from DeKalb Co Zoning Code Ordinance to raise the elevation of the new home's front door threshold from 874.2' (average natural grade at 35' front setback) to 883.1' elevation. For reference, the manhole on a catch basin next to the sidewalk on the southeastern corner of the lot is at elevation 881.52', so the main floor elevation is 19 inches above that manhole.

Dear Zoning Board and Historic Preservation Commission members and staff:

We, as neighbors of 1176 Lullwater Road, have reviewed the plans and exterior elevations of this project and believe it is appropriate to the neighborhood. We ask that you support the approvals requested.

This page can be returned to the owner's mailbox at 1136 Lullwater Road on or before August 17, or you may take a photo with your phone and text it to Dave Price of Price Residential Design at 404-245-4244, or scan and email to me at dave@priceresidentialdesign.com

Thank you for your consideration,

Andrea Schklor + Macairang Wan

Name

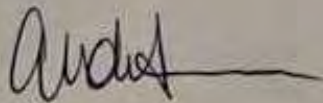
8/19/23

Date

1114 Lullwater Rd. NE

Atlanta, GA 30307

Address



Please feel free to join us at the upcoming meetings:

1. Neighbor Information Meeting -- **Thursday, August 17, 2023** at 5:30 p.m. at 1136 Lullwater Road (home of the owners, Beth Finnerty and David Martin)
2. Historic Preservation Commission Meeting -- **Monday, August 21** at 6:00 p.m. via Zoom.
2. Zoning Board of Appeals Meeting -- **Wednesday, Sept. 14** at 1:00 p.m. via Zoom.

DeKalb County Department of Planning and Sustainability
178 Sams Street
Decatur, GA 30030

RE: **1176 Lullwater Road -**

1. Request to reinstate expired Certificate of Appropriateness granted in July 2021 by DeKalb Co Historic Preservation Commission. The original design is modified to be 30" shorter, 30" narrower, and at a 72' setback from Lullwater Road rather than 75' as originally approved.

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Thank you for your consideration,

MYRA J. PALMER
Name

8/18/2023
Date

1126 LULLWATER ROAD
ATLANTA, GA 30307
Address

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DeKalb County Department of Planning and Sustainability
178 Sams Street
Decatur, GA 30030

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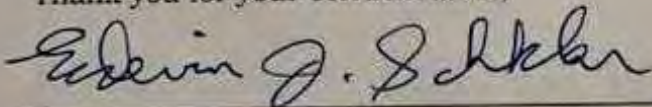
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Thank you for your consideration,



8-19-2023

Name

Date

Edwin J. Schklar

1114 Lullwater Rd. At. GA 30307

Address

Please feel free to join us at the upcoming meetings:

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LOT COVERAGE:
TOTAL IMPERVIOUS IS 3303
OF 18142 SF OR 18.2%



PRICE RESIDENTIAL DESIGN
1595 NOTTINGHAM WAY
ATLANTA, GEORGIA
30309
lavapriceresidentialdesign.com
404-245-4244

PRICE RESIDENTIAL DESIGN
LULLWATER RESIDENCE
1176 LULLWATER ROAD

LULLWATER RESIDENCE
1176 LULLWATER RD
ATLANTA, GEORGIA

EXTERIOR
ELEVATIONS

NOVEMBER 28, 2023

DUE TO THE EXISTING TOPOGRAPHY WHICH WILL REMAIN AS-IS, THE PROPOSED HOUSE WILL HAVE TWO FULL FLOORS, A BASEMENT AND ATTIC PROPOSED ON THE REAR OF THE LOT JUST AS BOTH NEIGHBORS CURRENTLY HAVE. THIS PHOTO IS THE REAR OF THE NORTHERN NEIGHBOR NEIGHBOR. THIS PHOTO IS A VIEW THAT NORMALLY BE VISIBLE FROM LULLWATER ROAD RIGHT AT THE END OF WAT BUT IS BLOCKED BY THE SAME EXISTING HEDGE ALONG THE PROPERTY LINE. THIS PHOTO WILL INCREASE THE VIEW TO OUR PROPOSED HOUSE AND BE NEIGHBORLY AND BLOCKED.



1. 446 MILLWATER, THIRD FLOOR DOWN WITH A NUMBER OF ELEMENTS WE WILL BE ENLARGING. THE SMALLER, ONE-STORY, SOLID SIDE PORCH, MASS EXTENSION IN FRONT OF THE MAIN HOUSE. THEIR PORCH IS CONDITIONED AGAIN WITH A DOOR TO THE FRONT TERRACE.

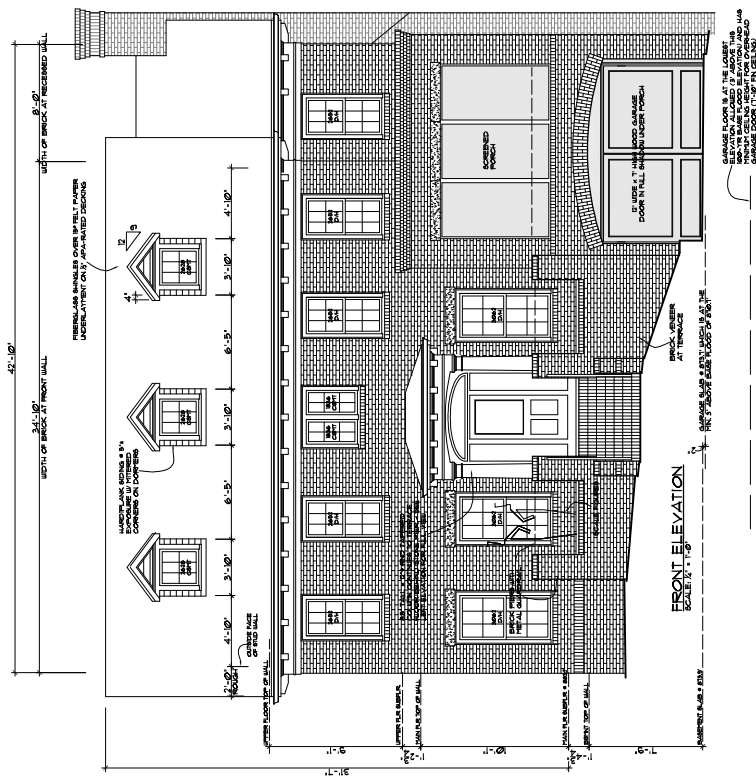
2. 2. SEGMENTED ARCHES LIKE I AM PROPOSING FOR THE OPEN VOID UNDER THE FRONT PORCH

3. BASKET LEAVE BRICK CORNER AT MAIN FLOOR LEVEL.

4. SMALL FRONT PORCH ON LARGE FRONT TERRACE INCLUDING FRONT STAIRS WITH CHEERWALL &

GENERAL NOTE: EXCEPT AS NOTED,
ALL UNDOES SHALL BE
PRINTED WOOD. SOL W/ 3/4"
UNITS (APPLIED TO GLASS), LITE PATTERN AS SHOWN.
ALL DOGS SHALL BE WOOD.

THERE WILL BE VERY LITTLE GROUND ON SITE IN ORDER TO PRESERVE EXISTING TREES. ABOUT 100 EXISTING CANOPIES WILL REMAIN AS MUCH AS POSSIBLE. SOME EXISTING TREES WILL BE REMOVED TO MAKE ROOM FOR THE NEW BUILDING. THE REMOVAL OF TREES WILL BE LIMITED TO THE MINIMUM NECESSARY TO CONSTRUCT THE BUILDING. THE REMOVAL OF TREES WILL BE LIMITED TO THE MINIMUM NECESSARY TO CONSTRUCT THE BUILDING. THE REMOVAL OF TREES WILL BE LIMITED TO THE MINIMUM NECESSARY TO CONSTRUCT THE BUILDING.



BRICK VENEER w/ SOLDIER COURSE AT PORCH HEIGHT WITH REQUIRED TIEB, ANCHORS, STRAPS ON 1st & 2nd FLS.

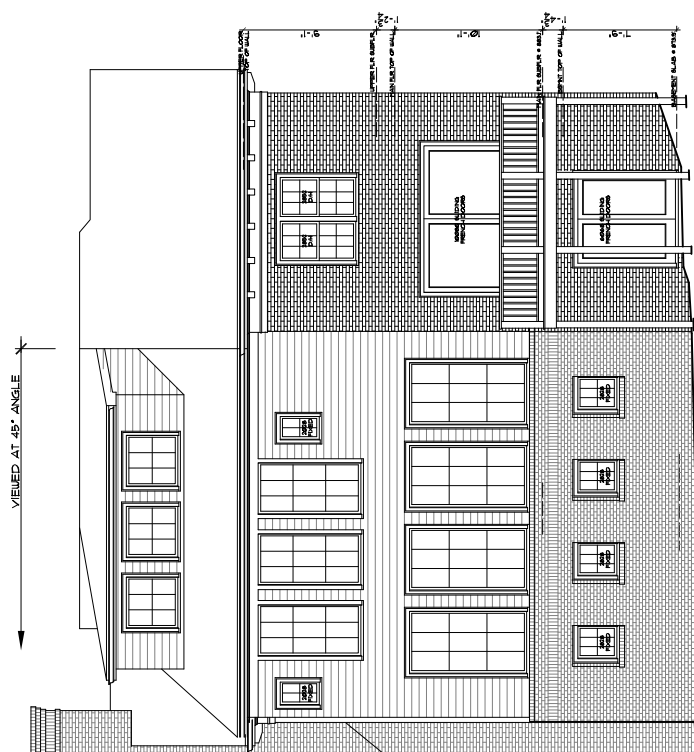
RIGHT SIDE ELEVATION

1
N'S HIGH BOULDER BORDER

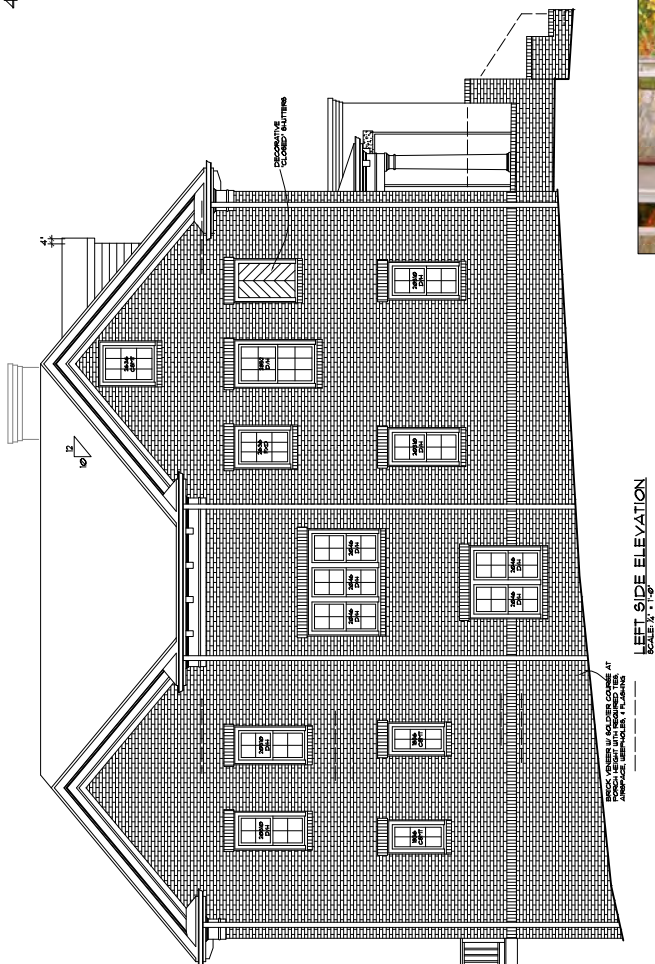
— GARAGE FLOOR IS AT THE LOWEST ELEVATION ALLOWED (3' ABOVE THIS 100-YR BASE FLOOD ELEVATION) AND HAS MINIMUM CEILING HEIGHT FOR OVERHEAD GARAGE DOOR (7'-6" FIN CEILING).

[illegible]

GENERAL NOTE: EXCEPT AS NOTED,
ALL UNIONS SHALL BE
RED WOOD, SOL. W/ 3/4"
PLUNTS (APPROX TO GLASS), LITE PATTERN AS SHOWN
ON DRS. SHALL BE GLASS.



VIEWED AT 45° ANGLE *



LEFT SIDE ELEVATION
SCALE: 1/4" = 1'-0"



AMPLE BLACK IRON 36" HIGH QUADRANT /
QUADRANT, BY MODEST FLOURISH AT NEHELA,
NO FLOURISH ON INDIVIDUAL SPINDLES FOR US
ALTHOUGH THAT IS SHOWN IN THIS EXAMPLE.

LULLWATER RESIDENCE
1176 LULLWATER RD
ATLANTA, GEORGIA

EXTERIOR ELEVATIONS

SHEET A-2

NOVEMBER 28, 2023

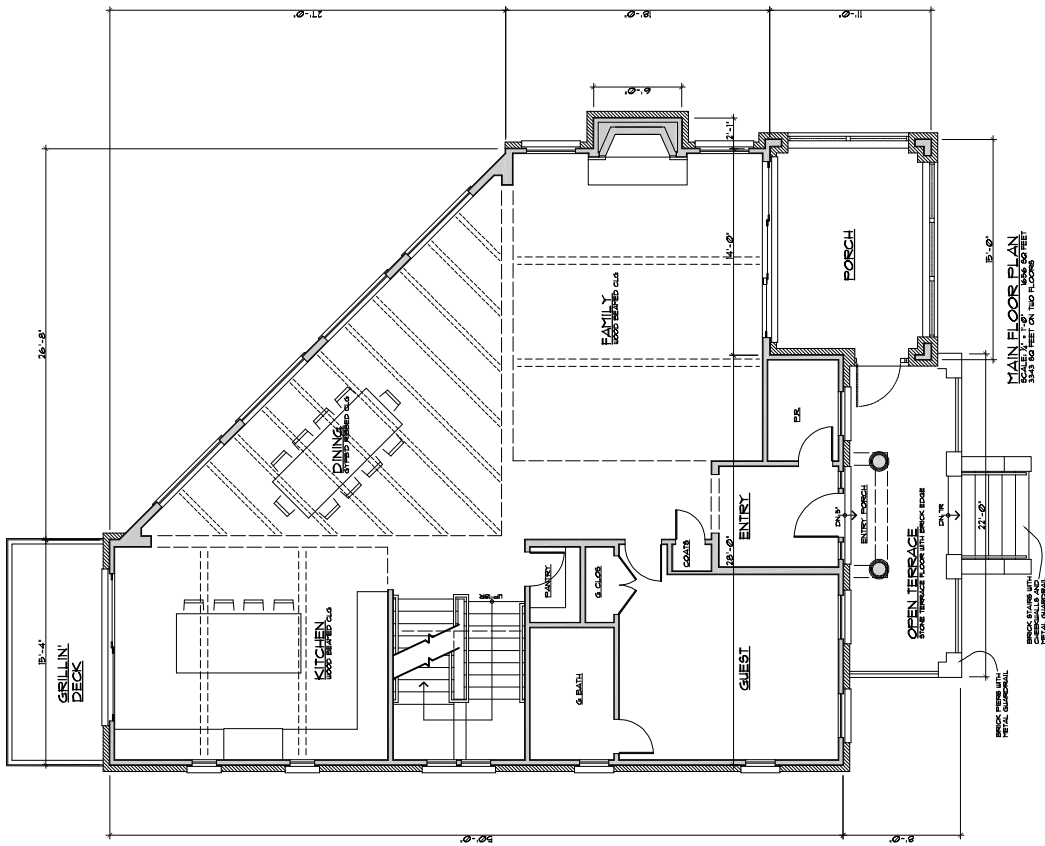
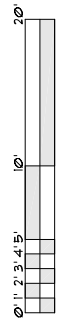


PRICE RESIDENTIAL DESIGN
1995 NOTTINGHAM WAY
ATLANTA, GEORGIA
30309
dave@pricedesign.com
404-245-4244

LULLWATER RESIDENCE
1116 LULLWATER ROAD

PRICE RESIDENTIAL DESIGN

LULLWATER RESIDENCE
1116 LULLWATER RD
ATLANTA, GEORGIA
MAIN AND UPPER
LEVEL FLOOR PLANS
SHEET A-3
NOVEMBER 28, 2023



UPPER FLOOR PLAN
SCALE: 1/8" = 1'-0"
345 SQ FEET ON TWO FLOORS

TYPICAL EXTERIOR STAIRS TO BE
CONCRETE OR BRICK FOUNDATION WALL

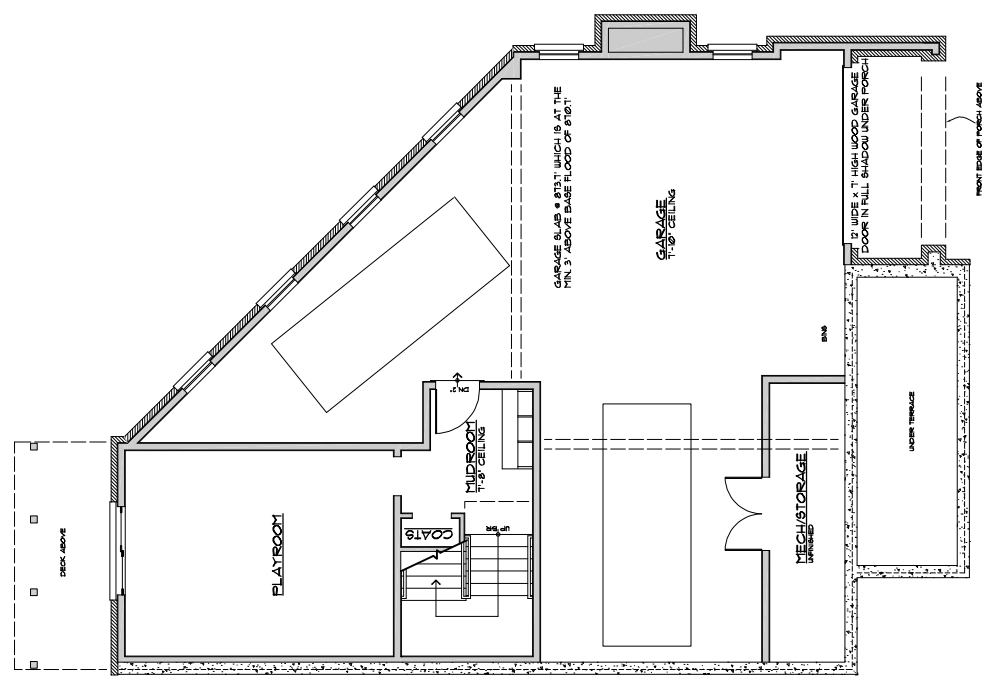
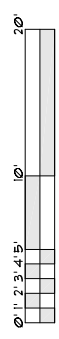


PRICE RESIDENTIAL DESIGN
1955 NOTTINGHAM WAY
ATLANTA, GEORGIA
30309
dave@pricedesign.com
404-245-4244

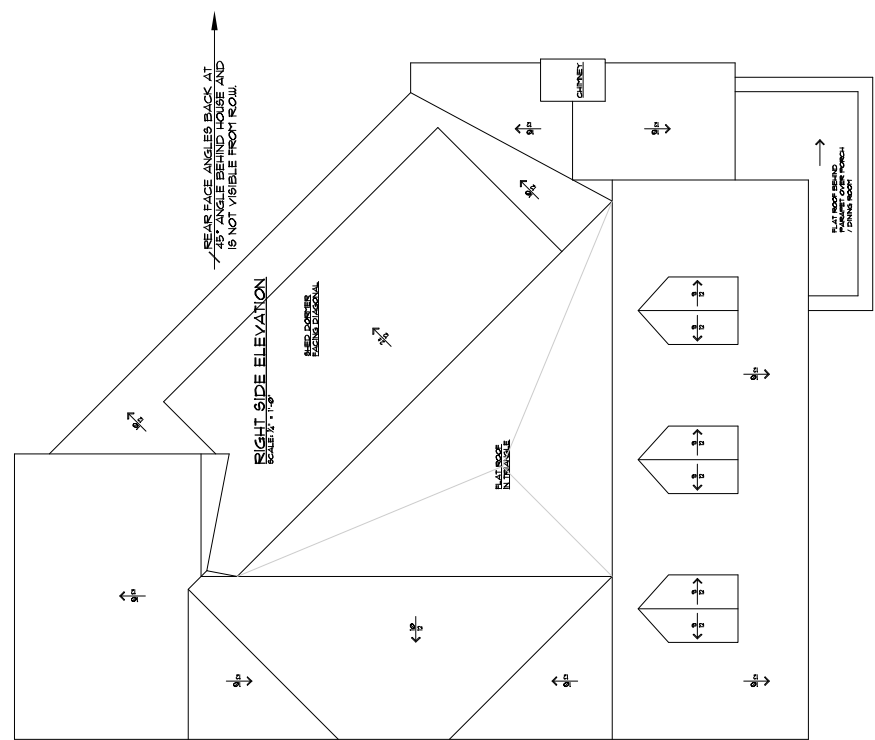
LULLWATER RESIDENCE
1176 LULLWATER ROAD

PRICE RESIDENTIAL DESIGN
1176 LULLWATER ROAD

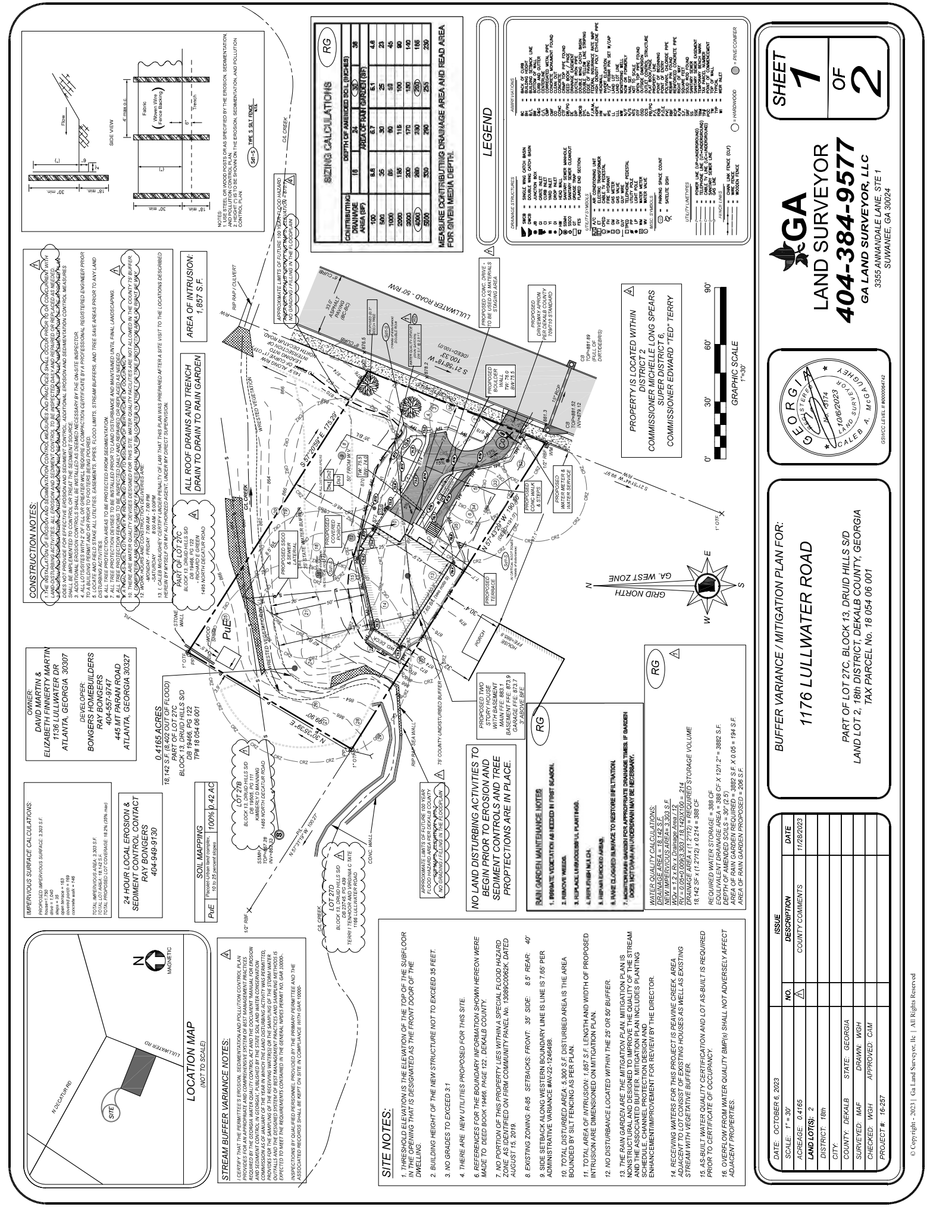
LULLWATER RESIDENCE
1176 LULLWATER RD
ATLANTA, GEORGIA
BASEMENT AND
ROOF PLANS
SHEET A-4
NOVEMBER 28, 2023



BASEMENT PLAN
SCALE: 1/8" = 1'-0"
NOTES: 1. ALL ROOMS ARE UNFINISHED.
2. ALL ROOMS ARE UNHEATED.
3. ALL ROOMS ARE UNVENTILATED.



ROOF PLAN
SCALE: 1/8" = 1'-0"
NOTES: 1. ALL ROOF ARE UNFINISHED.
2. ALL ROOF ARE UNHEATED.
3. ALL ROOF ARE UNVENTILATED.



DOH: DEAD, DISEASED, OR HAZARDOUS
IN FLOOD: TREE LOCATED IN FLOOD PLAIN
OFF SITE: TREE LOCATED OUTSIDE PARCEL BOUNDARY
NOTE: TREE NUMBERS 2, 3, 5, & 16 HAVE OVER 20%
IMPACTION AND REQUIRE AN ARBORIST PRESCRIPTION

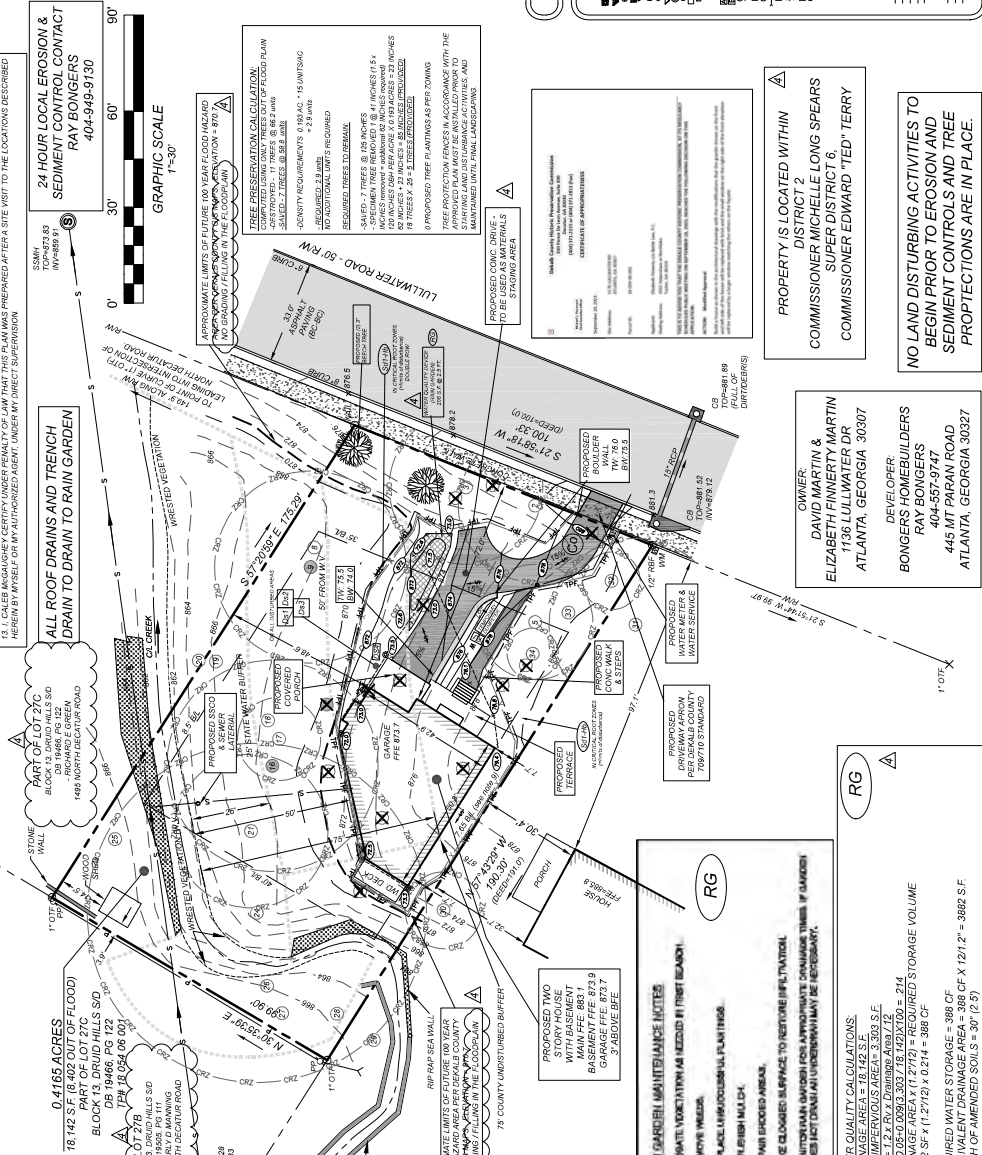
[illegible]

IDENTIFICATION THAT THE PERMITTEE'S EROSION, SEDIMENTATION AND POLLUTION CONTROL PLAN PROVIDES FOR AN APPROPRIATE AND COMPREHENSIVE SYSTEM OF BEST MANAGEMENT PRACTICES REQUIRED BY THE GEORGIA WATER QUALITY CONTROL ACT AND THE GEORGIA DEPARTMENT OF ENVIRONMENTAL CONTROL IN DOCUMENTS PUBLISHED BY THE STATE SOIL AND WATER CONSERVATION COMMISSION AS OF JANUARY 1, 1974, IN WHICH THE LAND IS LOCATED. THE PERMITTEE SHALL SUBMIT TO THE LAND DEPARTMENT, FOR THE RECEIVING WATERS OF THE SAMPLING OF THE STORM WATER OUTFALLS, AND THE DESIGNED SYSTEM OF BEST MANAGEMENT PRACTICES AND SAMPLING METHODS IS EXPECTED TO MEET THE REQUIREMENTS CONTAINED IN THE GENERAL NPODES PERMIT NO. G48 10000.

PROPOSED INTERFEROUS SURFACE: 3,303 S.F.
 house: 750
 driveway: 1,040
 steps: 35
 spot entrance: 163
 spot ramp: 169
 concrete walk: 145

TOTAL INTERFEROUS AREA: 3,303 S.F.
 TOTAL LOT AREA: 18,142 S.F.
 TOTAL PROPOSED LOT COVERAGE: 18.2% (95% max)

A map of the study area showing the location of the site relative to the NBERCA LUP RD. The site is marked with a circle and labeled 'SITE'.

[illegible][illegible]

1. THRESHOLD ELEVATION IS THE ELEVATION OF THE TOP OF THE SUBFLOOR IN THE OPENING THAT IS DESIGNATED AS THE FRONT DOOR OF THE DWELLING.
2. BUILDING HEIGHT OF THE NEW STRUCTURE NOT TO EXCEED 36 FEET.
3. CUT AND FILL SLOPES SHALL NOT EXCEED 3H: 1V ON RESIDENTIAL PROJECTS AND LOTS, AND LOTS SHALL NOT EXCEED 2H: 1V ON ALL OTHER PROJECTS.
4. THERE ARE NO NEW TRAILS PROPOSED FOR THIS SITE.
5. REFERENCES FOR THE BOUNDARY INFORMATION SHOWN HEREON WERE MADE TO DEED BOOK 1848, PAGE 122, DEKALB COUNTY, GEORGIA.
6. NO PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD AREA, AS SHOWN ON THE COMMUNITY FLOOD MAP (13068-00628), DATED AUGUST 15, 2019.
7. EXISTING ZONING: R-45
STREET: W. BUCKLEBUSH RD.
FRONT: 35'
SIDE: 6.5'
REAR: 40'
8. SUE SETBACK ALONG WESTERN BOUNDARY LINE IS LINE IS 7.65' PER ADMINISTRATIVE VARIANCE #AV-22-1246498.
9. TOTAL DISTURBED AREA: 5,300 S.F.
10. ALL ELEVATIONS ON SITE SHALL BE VERIFIED PRIOR TO CONSTRUCTION.
11. NO DISTURBANCE LOCATED WITHIN THE 24' OR 40' BUFFER

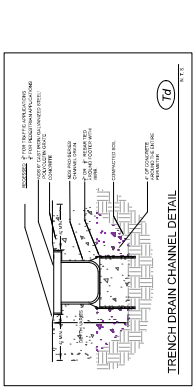
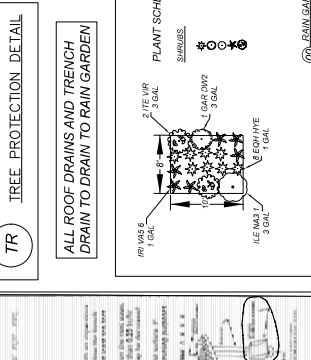
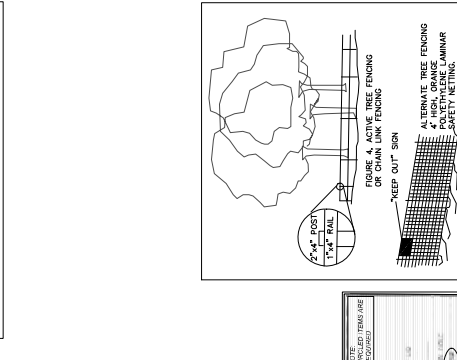
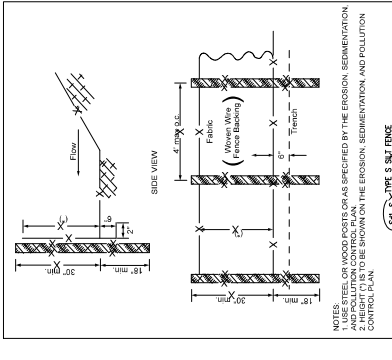
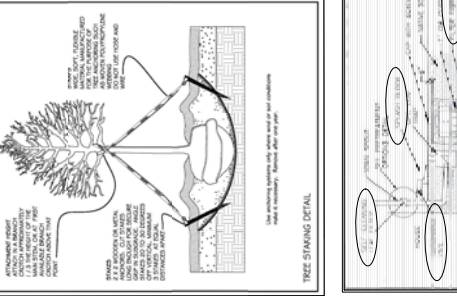
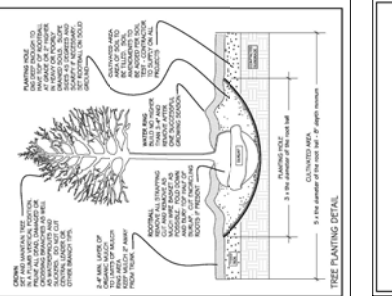
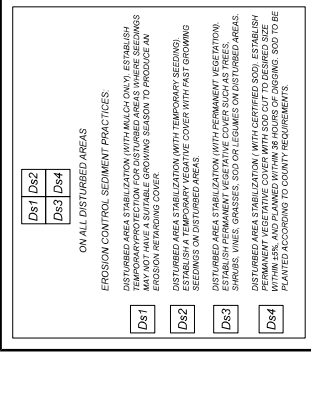
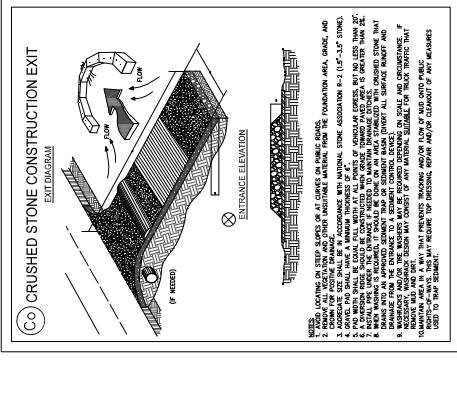
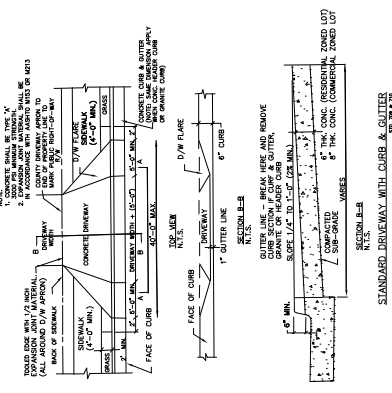
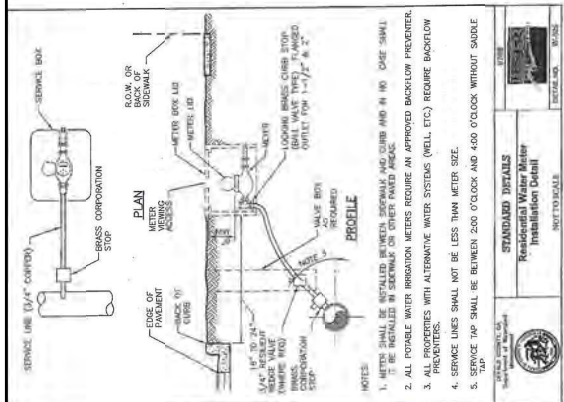
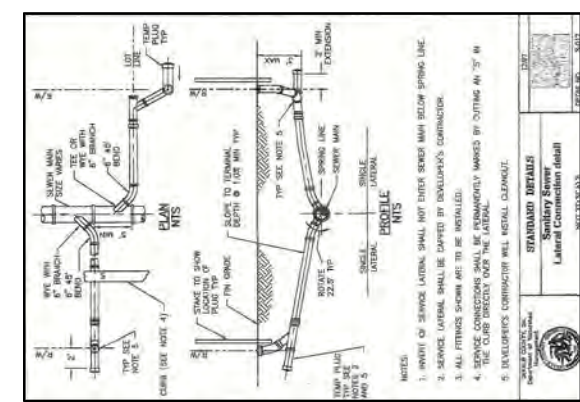
DATE: AUGUST 5, 2021		SCALE: 1"= 30'		NO.		ISSUE		DATE	
ACREAGE: 0.4165		LAND LOT(S): 2		1		ADDED STREAM BUFFERS		02/01/2023	
DISTRICT: 18th		CITY:		2		UPDATED HOUSE PLAN		05/30/2023	
COUNTY: DEKALB		STATE: GEORGIA		3		UPDATED HOUSE PLAN		10/6/2023	
SURVEYED: MAF		DRAWN: MWR		A		COUNTY COMMENTS		11/28/2023	
CHECKED: WGH		APPROVED: CAM							
PROJECT #: 16-257									

1176 LULLWATER ROAD

PART OF LOT 27C, BLOCK 13, DRUID HILLS S/D
AND LOT 2, 18th DISTRICT, DEKALB COUNTY, GEORGIA
TAX PARCEL No. 18 054 06 001



GA
LAND SURVEYOR
404-384-9577
GA LAND SURVEYOR, LLC
3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

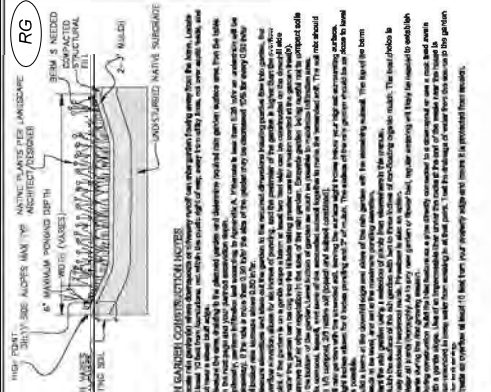


RG

SIZING CALCULATIONS

CONTRIBUTING DRAINAGE AREA (SQ FT)	DEPTH OF AMENDED SOIL (INCHES)	AREA OF PAVED PARKING (SQ FT)	PERCENT PAVED AREA
100	4.8	6.7	4.1
500	35	30	25
1000	192	115	100
2000	300	170	100
4000	360	200	100
5000	320	200	250

MEASURE CONTRIBUTING DRAINAGE AREA AND READ AREA FOR GIVEN MEDIA DEPTH.



RG

PLANT SCHEDULE - (PER 80 SF OF RAIN GARDEN)

CODE	QTY	BOTANICAL NAME/COMMON NAME	SIZE
EQ1	1	FOXTAIL GRASS	1 GAL
EQ2	1	LEONARD'S JASMINE	1 GAL
EQ3	1	LEONARD'S JASMINE	1 GAL
EQ4	1	LEONARD'S JASMINE	1 GAL
EQ5	1	LEONARD'S JASMINE	1 GAL
EQ6	1	LEONARD'S JASMINE	1 GAL
EQ7	1	LEONARD'S JASMINE	1 GAL
EQ8	1	LEONARD'S JASMINE	1 GAL
EQ9	1	LEONARD'S JASMINE	1 GAL
EQ10	1	LEONARD'S JASMINE	1 GAL

GA

LAND SURVEYOR

404-384-9577

GA LAND SURVEYOR, LLC

3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

GA

LAND SURVEYOR

404-384-9577

GA LAND SURVEYOR, LLC

3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

GA

LAND SURVEYOR

404-384-9577

GA LAND SURVEYOR, LLC

3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

GA

LAND SURVEYOR

404-384-9577

GA LAND SURVEYOR, LLC

3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

GA

LAND SURVEYOR

404-384-9577

GA LAND SURVEYOR, LLC

3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

Price Residential Design
1176 Lullwater Road photo documentation



Both adjacent houses (this is the rear of the house on North Decatur that faces the project) have two full floors with large attics and basement below because of the extreme topography.



This massive mature (camelia?) hedge will be retained for a visual buffer, though it will be pruned back.



This is one of many examples of Colonial Revival houses along this side of Lullwater Road with dormers on the roof. None of the Colonials nearby the project have a dormer, as we propose, but dormers are nonetheless common. There are only Colonial Revivals in the area of influence so we will continue that style in order to retain the directional emphasis, shape, massing, proportion, rhythm, scale/height, and the architectural features that are prevalent nearby.

DeKalb County Historic Preservation Commission

Monday, September 18, 2023- 6:00 P.M.

Staff Report

New Construction Agenda

M. 1176 Lullwater Road, Elizabeth Finnerty c/o Battle Law, P.C. Build a house. 1246598

(18 054 06 001)

This property is in the Druid Hills National Register Historic District and Character Area 1.

7-18 1176 Lullwater Road (DH), John Carpentier. Comment only on a proposed house location. 1235073 **For comment only**

7-21 1176 Lullwater Road, Price Residential Design. Build a new house on a wooded lot. 1245085 **Approved**

11-21 1176 Lullwater Road, Dave Price, Price Residential Design. Modify previously approved COA reduce the footprint of the house and to decrease the overall size. 1245291 **Denied**

7-23 1176 Lullwater Road, Elizabeth Finnerty c/o Battle Law, P.C. Build a house **Denied**

NOTE: The applicant has applied to the county for a stream buffer variance. Regardless of the HPC decision, the house will not be able to be constructed without that variance. Staff recommends the commission accept the county's determination on the stream buffer variance and not require the 75' setback set out in the Design Manual.

Summary

Applicant proposes building a new house on a previously undeveloped lot.

Staff visited the property with the designer, Dave Price. Mr. Price's letter provides a good summary of the proposal. Based on the site visit, the distances from the neighboring house and the right-of-way cited in the letter appear to be accurate.

Summary August 2023

The front façade is the similar to that which was approved in July 2021. It is 3.5 narrower and the height 1.25' shorter. The location is 7.65' from the property line as opposed to 5' in the previous application. The applicant says the nearest part of the house to the right-of-way house is 68', 7' closer than the previously approved house. The survey shows the neighboring house set back 97.1' from the ROW, resulting in the façade of the new house being 29.1 closer to the street than that of the neighboring house.

A major difference is the reduction of the left side to pull it back from the stream. A brick section runs straight back 32.5' from the front facade, then turns 45 degrees and changes material to HardiePlank. The applicant states the 45-degree wall will not be visible from the right-of-way. The left side of the house and the narrow rear walls are now brick. The roof pitch is steeper, 10:12 rather than 8:12. The windows will be wood with simulated divided lights.

The tree survey is more complete than the one submitted in 2021. Tree removal is similar as approved in in the previous application with only one additional healthy tree being removed. The tree preservation note says no new trees are to be planted but the site plan shows two beech trees, which were included in the 2021 plan.

Excerpts from the 2018 and 2021 staff reports are below.

Partial Summary July 2018

This lot was split off from the original lot (to the north) in 1993 or 1994. It has never been developed and is heavily wooded. It is much smaller than other lots in the area. There are many topographical problems with this property limiting the buildable area.

The adjacent house, 1166 Lullwater, is set back about 93' from the right-of-way. The setbacks of nearby houses on Lullwater are all more than 93', with those across the street all over 100'. The next house on the north side faces North Decatur Road and its rear is about 130' from the proposed building site.

A small stream runs across the rear of the property and diagonally away from the property on the north side. The grade on the south (left) side of the lot is the same as that of the adjacent house, but then drops off to the right and drops off steeply to the rear. A portion of the property is in the floodplain. While this limits development, it does not prohibit it. Staff recommends the commission accept the county's determination on the stream buffer variance and not require the 75' setback set out in the Design Manual.

The grade drops about 7' from the left front corner of the unbuildable area to the right front corner.

Partial Summary July 2021

1. The applicant states the proposed location would minimize grading and tree loss. The location would maximize the use of the topography, as there are few flat areas on the lot. The applicant has submitted a state water determination form that states no buffer is required, due to the concrete/brick wall along the stream. The site is 75 feet from the sidewalk in front of the lot, 5 feet from the south side property line, and more than 40 feet from the rear property line. It adheres closely to the south side property line to make the best of the topography.
2. The house would be a two-story Colonial Revival house with an attic and basement. The house would have a side gabled roof, clad in fiberglass shingles and a chimney on the exterior of the north elevation. There would be a hipped-roof dormer set into the center of the surface of the front elevation of the roof. A cornice with decorative dentils would extend from the front elevation to both side elevations. The house would be clad in brick in a running bond pattern. Granite would clad the front porch/terrace and front half of the foundation of the house. Windows would be equally spaced across the front elevation and they would have a 6/6 pattern. Those on the first floor would have decorative cast stone lintels. The window above the front entrance would be paired, six-light casement windows. The front entrance would have a hipped roof, with a dentil cornice and tapered columns.

The rear elevation has a rear projecting gabled wing, clad in cement fiber siding. The core, side-gabled portion of the house would be clad in brick in a running bond pattern. There would be a rear porch on the first floor and a screen porch extending from the basement. The majority of windows would be six-over-six, but the rear elevation also includes two-light fixed windows and four-over-four double hung windows.

The left side elevation has cement fiber siding and paired casement windows above the cornice line. It is clad in brick veneer with a soldier course at the terrace/porch height and is inset with mixture of 6/6 and 4/4 double hung windows. Above the cornice line, the right-side elevation has cement fiber siding and a 9-light casement windows. The windows are paired around the chimney, transitioning from pairs of 4/4 double hung windows on the second floor, to 6/6 double hung windows on the first floor, and 6-light fixed windows on the basement level. The front portion of the house has a mixture of double hung windows.

3. The garage projects from the basement level on the front elevation. There would be a screened front porch on top, with a flat roof. The large, screened panels would have decorative cast stone lintels. The garage would be clad with granite and the porch in brick veneer. The concrete driveway would enter the parcel at the high point of the lot, in the south east corner. It would extend to the basement level garage and include a turn around. The applicant proposes a 1.5' high wall next to the driveway due to the topographic change from the street level.
4. The materials proposed for the new construction are fiber glass shingles, cement fiber board, granite, and brick.
5. The tree plan shows 28 existing trees on the site including 8 specimen-sized trees. The applicant proposes to remove 9 trees (1,10,11,12,13,14,15,22,23) three of which are specimen trees (1,12,13). Two of the specimen trees (1 and 12) are damaged, based on the submitted documentation. Applicant also proposes to maintain an existing hedge at the sidewalk to partially buffer the house.

Recommendation

Approve. The proposed changes will not conflict with the guidelines and will not have substantial adverse effect on the property or district.

Relevant Guidelines

5.0 Design Review Objective (p45) - When making a material change to a structure that is in view from a public right-of-way, a higher standard is required to ensure that design changes are compatible with the architectural style of the structure and retain character-defining features. When a proposed material change to a structure is not in view from the public-right-way, the Preservation Commission may review the project with a less strict standard so as to allow the owner more flexibility. Such changes, however, shall not have a substantial adverse effect on the overall architectural character of the structure.

7.1 Defining the Area of Influence (p64) Guideline - In considering the appropriateness of a design for a new building or addition in a historic district, it is important to determine the area of influence. This area should be that which will be visually influenced by the building, i.e. the area in which visual relationships will occur between historic and new construction.

7.2 Recognizing the Prevailing Character of Existing Development (p65) Guideline - When looking at a series of historic buildings in the area of influence, patterns of similarities may emerge that help define the predominant physical and developmental characteristics of the area. These patterns must be identified and respected in the design of additions and new construction.

7.2.2 Directional Emphasis (p67) Guideline - A new building's directional emphasis should be consistent with dominant patterns of directional emphasis within the area of influence, if such patterns are present.

7.2.3 Shape: Roof Pitch (p68) Guideline - The roof pitch of a new building should be consistent with those of existing buildings within the area of influence, if dominant patterns are present.

- 7.2.3 Shape: Building Elements* (p68) Guideline - The principal elements and shapes used on the front facade of a new building should be compatible with those of existing buildings in the area of influence, if dominant patterns are present.
- 7.2.3 Shape: Porch Form* (p68) Guideline - The shape and size of a new porch should be consistent with those of existing historic buildings within the area of influence, if dominant patterns are present.
- 7.2.4 Massing* (p69) Guideline - The massing of a new building should be consistent with dominant massing patterns of existing buildings in the area of influence, if such patterns are present.
- 7.2.5 Proportion* (p70) Guideline - The proportions of a new building should be consistent with dominant patterns of proportion of existing buildings in the area of influence, if such patterns are present.
- 7.2.6 Rhythm* (p71) Guideline - New construction in a historic area should respect and not disrupt existing rhythmic patterns in the area of influence, if such patterns are present.
- 7.2.7 Scale/Height* (p72) Guideline - New construction in historic areas should be consistent with dominant patterns of scale within the area of influence, if such patterns are present. Additions to historic buildings should not appear to overwhelm the existing building.
- 7.2.7 Scale/Height* (p72) Guideline - A proposed new building should appear to conform to the floor-to-floor heights of existing structures if there is a dominant pattern within the established area of influence. Dominant patterns of cornice lines, string courses, and water tables can be referenced to help create a consistent appearance.
- 7.2.8 Individual Architectural Elements* (p73) Guideline - New construction and additions should be compatible and not conflict with the predominant site and architectural elements—and their design relationships—of existing properties in the area of influence.
- 7.3.2 New Construction and Subdivision Development* (p75) Guideline - To be compatible with its environment, new construction should follow established design patterns of its historic neighbors, including building orientation, setback, height, scale, and massing.
- 7.3.2 New Construction and Subdivision Development* (p75) Guideline - New construction should respect the historic character that makes the area distinctive, but it should not be a mere imitation of historic design.
- 7.3.3 Demolition and Relocation* (p75) Guideline - Historic buildings and structures should not be demolished unless they are so unsound that rehabilitation is not possible. Historic buildings should not be moved off the property or relocated on the site, nor should other buildings be moved onto the site.
- 8.2 Trees* (p78) Recommendation - The mature hardwood forest within the Druid Hills Local Historic District should be perpetuated through a district-wide replanting program. Trees should be replaced when mature trees are lost to age or damage or are removed for safety reasons. Replacement trees should be of identical or similar varieties to the original trees. A diversity of tree types is recommended to perpetuate the existing character of most tree groupings. Replacement trees of adequate size (1.5" caliper minimum) are recommended. Existing ordinances that provide for the protection and replacement of the district's tree resources should be applied to development activities within Druid Hills.
- 8.3 Protection of the Historic Watershed Design and Design Concept* (p79) - Guideline - All construction within the Druid Hills Local Historic District should follow a 75' setback requirement from the top of bank of creek corridors and drainage ways, as delineated on the official "Historic District Map."
- 9.4 Enclosures and Walls* (p90) Guideline - Fences and walls should not be built in front yard spaces and are strongly discouraged from corner lot side yard spaces. Retaining walls should only be used in situations where topography requires their use.

9.4 Enclosures and Walls (p90) Recommendation - Fences are appropriate in rear yard spaces. Rear yard fences should be coordinated with existing county codes. Suggested materials include wood and chain link. Vinyl- covered chain link fencing, typically in bronze, brown, or black, assist in making fences less obtrusive. Vines are suggested to "soften" the appearance of metal chain link fencing. If wood fencing is used, the paint color and design should be compatible with the architecture of the adjacent residence. Fence heights can range from 4' to 6' depending on the reason for the enclosure.

9.5 Parking (p90) Guideline - Parking should be addressed in a manner that does not distract from the overall character of the district. Parking to serve private residential lots should be accommodated on-site, when at all possible, using the pathway of original drives and parking. Front yard parking should not be allowed unless it is a public safety issue. When front yard parking is necessary, it should be added in a manner that does not destroy the unbroken landscaped character of the front yard spaces in Druid Hills. Rear yard spaces should be considered for expansion of parking areas.

9.5 Parking (p90) Guideline - Curb cuts should not be added or expanded in order to protect the character of the district's streets.

9.7 Residential Landscape Design (p91) Recommendation - For residential yards, created without the assistance of landscape designers, historic landscape plans for other residential lots within the district should be used for guidance. These plans can be interpreted to create a new landscape plan that is based on historic traditions. Care should be taken to select designs for yards of similar size containing houses of similar style and scale.

1125 Oak Brook Way, Atlanta, Georgia 30319
404-444-5824

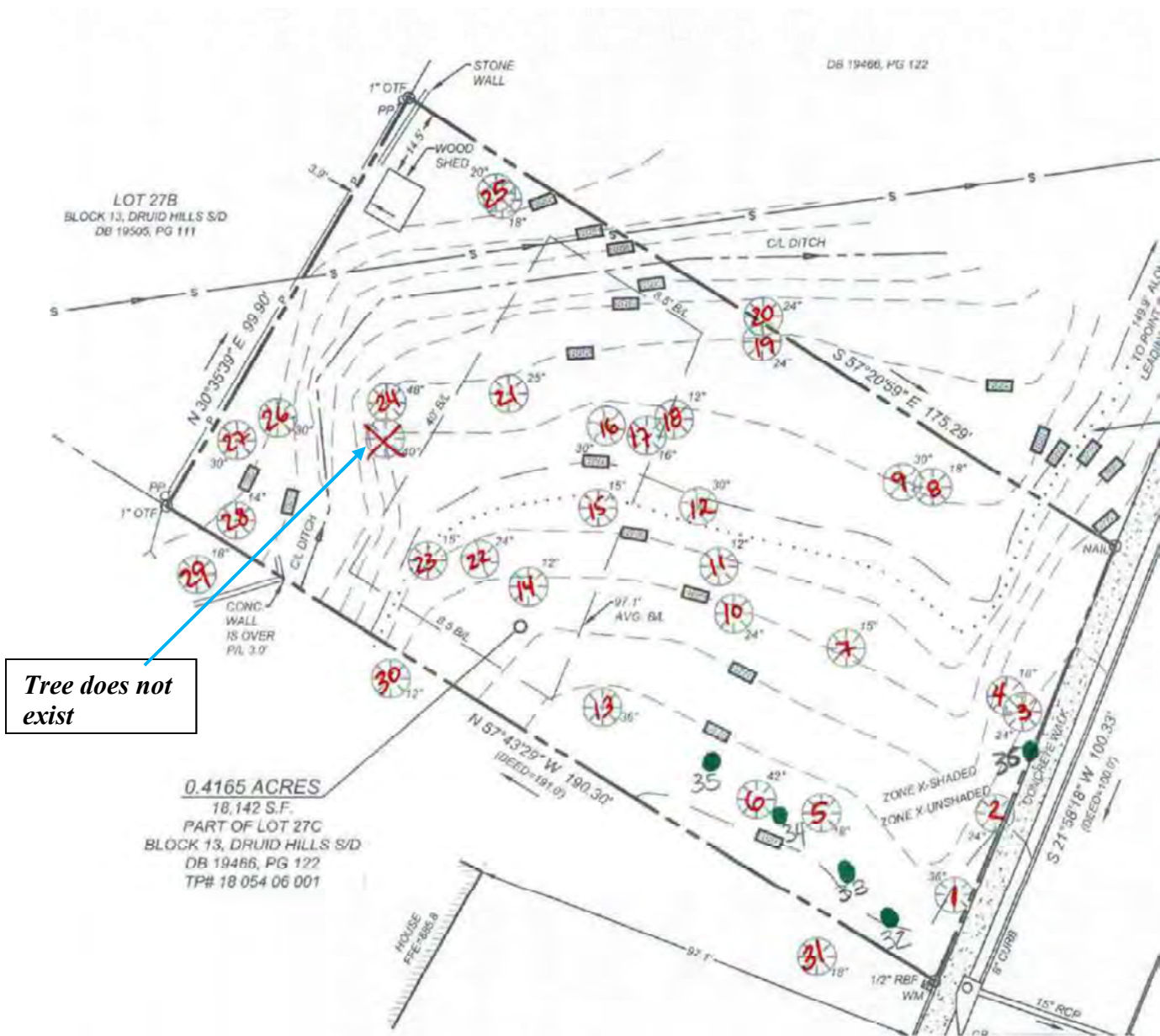
Tree Evaluation Report

1176 Lullwater Road, DeKalb County
July 6, 2021

Description of property:

This is a vacant undeveloped lot with proposed new construction. Twenty-eight trees exist on the site with three boundary trees noted. There are eight specimen-sized trees on the property and one off site.

Observations: All observations were visual and made from the ground. No invasive tests, underground or aerial inspections were performed. The site visit was conducted on July 1, 2021. Diameters were measured at breast height, 4½ feet above the ground (DBH) and current conditions noted.



HRH Trees, LLC
1125 Oak Brook Way, Atlanta, Georgia 30319
404-444-5824

PAGE 2
1176 Lullwater Road, DeKalb County

Tree #	Species	Actual DBH	Condition	Specimen	Dead	Buffer	Boundary	Target
1	Water Oak	37"	Bifurcated upper trunk, Covered in vines	Y	N	N	N	Y
2	Water Oak	24"	Covered in vines	N	N	N	N	Y
3	Ash	24"	Covered in vines	N	N	N	N	Y
4	Ash	18"	Covered in vines	N	N	N	N	Y
5	Yellow-poplar	18"	Appears Healthy	N	N	N	N	Y
6	Yellow-poplar	25"	Appears Healthy	N	N	N	N	N
7	Sweetgum	15"	Appears Healthy	N	N	N	N	N
8	Ash	19"	Appears Healthy	N	N	Y	N	N
9	Loblolly Pine	30"	Appears Healthy	Y	N	Y	N	N
10	Yellow-poplar	25"	Appears Healthy	N	N	N	N	N
11	Yellow-poplar	12"	Appears Healthy	N	N	N	N	N
12	Loblolly Pine	33"	Termites at the base, <20% LCR	Y	N	Y	N	N
13	Beech	41"	1 broken limb, Appears Healthy	Y	N	N	N	Y
14	Hardwood	12"	Appears Healthy	N	N	N	N	N
15	Hardwood	15"	Appears Healthy	N	N	N	N	N
16	Loblolly Pine	33"	Appears Healthy	Y	N	Y	N	N
17	Yellow-poplar	13"	Appears Healthy	N	N	Y	N	N
18	Hardwood	12"	Lean >20 degrees, decay in main trunk	N	N	Y	N	N
19	Yellow-poplar	31"	Appears Healthy	Y	N	N	N	N
20	Yellow-poplar	28"	Appears Healthy	N	N	N	N	N
21	Tupelo	24"	Appears Healthy	N	N	Y	N	N
22	Loblolly Pine	28"	Appears Healthy	N	N	N	N	Y
23	Yellow-poplar	15"	Appears Healthy	N	N	N	N	Y
24	Yellow-poplar	53"	Appears Healthy	Y	N	Y	N	N
25	Pecan	8"	Appears Healthy	N	N	Y	N	N
26	Yellow-poplar	24"	Roots starting to become eroded, Appears Healthy	N	N	Y	N	N
27	Yellow-poplar	30"	Appears Healthy	Y	N	Y	N	Y
28	Hardwood	10"	Appears Healthy	N	N	Y	N	N
29	Sweetgum	~18"	Appears Healthy	N	N	Y	Y	Y
30	Hardwood	12"	Appears Healthy	N	N	N	Y	Y
31	Post Oak	27"	Appears Healthy	N	N	N	Y	Y

Highlighted trees are of specimen size for DeKalb County

32	Yellow-poplar	9"	Appears Healthy, Outcompeted	N	N	N	N	N
33	Sweetgum	9"	Appears Healthy, Outcompeted	N	N	N	N	N
34	Sweetgum	8"	Appears Healthy, Outcompeted	N	N	N	N	N
35	Yellow-poplar	9"	Appears Healthy, Outcompeted	N	N	N	N	N
36	Water Oak	11"	Significant lean over street, unbalanced crown weight	N	N	N	N	Y

Trees (#32-36) not on original site plan

HRH Trees, LLC

1125 Oak Brook Way, Atlanta, Georgia 30319
404-444-5824

PAGE 3

1176 Lullwater Road, DeKalb County

Pictures (not in good condition):

Tree 1



Tree 12



Tree 18



Tree 26



PAGE 4
1176 Lullwater Road, DeKalb County

Tree 36 leaning over street



Final Notes:

Consult with the International Society of Arboriculture for specific guidelines on tree removal, pruning and planting, www.isa-arbor.com.

This letter serves as an assessment of the specified trees. I certify that all the statements in this letter are true, complete, and correct to the best of my knowledge and belief, and that they are made in good faith. All trees will fail. No arborist can state exactly when, where, or how a tree will fail. Live trees that appear healthy may fall as an "act of God" or with significant weather or environmental conditions that cannot be controlled. All recommendations made in this letter are the sole responsibility of the homeowner to address, thus assuming any risk associated with not performing such recommendations.

This information was generated by Heidi Rieckermann Harrington, Certified Arborist (ISA #NY-1074A), Certified Forester (SAF #2756), HRH Trees, LLC.

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 2 of the 18th District of DeKalb County, Georgia, being described according to survey for Phillip Clark Builders prepared by Caleb A. McGaughey, R.L.S. No. 3174, for GA Land Surveyor, dated October 25, 2016, last updated 2/1/2023, and more particularly described as follows:

Beginning at an iron pin set located on the northwesterly side of Lullwater Road (50' R/W), 149.9 feet southwesterly as measured along the right of way of Lullwater Road, from a point of curve (1" Open Top Pipe Found) where the right of way of Lullwater Road leads into North Decatur Road; running thence South 21 degrees 58 minutes 18 seconds West as measured along the right of way of Lullwater Road a distance of 100.33 feet to a ½ inch rebar found; thence leaving said Lullwater Road and running North 57 degrees 43 minutes 29 seconds West a distance of 190.30 feet to a 1 inch open top pipe found; running thence North 30 degrees 35 minutes 39 seconds East a distance of 99.90 feet to a 1 inch open top pipe found; running thence South 57 degrees 20 minutes 59 seconds East a distance of 175.29 to a iron pin located on the northwesterly side of the right of way of Lullwater Road and the point of beginning; being known as No. 1176 Lullwater Road, According to the current system of numbering in DeKalb County, Georgia.

Return to:
EDNA HAWES
MCCURDY & CANDLER
P.O. BOX 57
DECATUR, GA 30031

Deed Book 15466 Pg. 122
Filed and Recorded Dec-13-2006 08:56am
2006-0226894
Real Estate Transfer Tax \$129.00
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

EXECUTOR'S DEED—STATE OF GEORGIA, COUNTY OF DEKALB

THIS INDENTURE made this 30th day of November in the Year of our
Lord Two Thousand and Six, Between
Reuben Pierce Head, Jr.
duly constituted Executor of the Last Will and Testament of
Jeanne Stokes Head
deceased, as Grantor, and
David Martin and Elizabeth Finnerty Martin
the Grantee.

In this deed, wherever the context so requires, the masculine gender includes feminine and/or neuter and the singular number includes the plural. Wherever herein a verb, pronoun or other part of speech is used in the singular, and there be more than one Grantor or Grantee, said singular part of speech shall be deemed to read as the plural, and each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein. Wherever herein Grantor or Grantee is used, the same shall be considered to mean as well, the heirs, executors, administrators, successors, representatives and assigns of the same.

Witnesseth: That pursuant to and in conformity with the powers and authority granted in the Last Will and Testament of the deceased, duly probated in solemn form in the Probate Court of DeKalb County, Georgia, and in consideration of the sum of One Hundred Twenty Nine Thousand and no/100 Dollars (\$ 129,000.00), cash in hand paid at and before the signing and delivery of these presents, the receipt of which is hereby acknowledged, Grantor has bargained and sold and by these presents does grant, bargain, sell and convey unto the said Grantee the following described property:

(For Legal Description, see Exhibit "A" attached hereto and made a part hereof.)

This deed and the conveyance hereby made is given subject to all restrictions and easements of record, if any.

TO HAVE AND TO HOLD the said tract of land together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in any wise appertaining to the only proper use, benefit and behoof of the said Grantee in FEE SIMPLE in as full and as ample a manner as the same was possessed or enjoyed by the deceased in his lifetime.

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

(Seal)
Reuben Pierce Head, Jr.
Reuben Pierce Head, Jr.

Signed, sealed and delivered in the presence of:

(Seal)
as Executor of the Last Will and Testament of the

Witness

deceased Jeanne Stokes Head

Notary Public (Affix stamp & seal)

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 2 of the 18th District of DeKalb County, Georgia, being described according to survey prepared by Joseph C. King, Registered Land Surveyor, for Reuben Pierce Head, Jr., and more particularly described as follows:

Beginning at an iron pin set located on the northwesterly side of Lullwater Road (50' R/W), 150.0 feet southwesterly as measured along the right of way of Lullwater Road, from a point of curve where the right of way of Lullwater Road leads into North Decatur Road; running thence South 24 degrees 00 minutes West as measured along the right of way of Lullwater Road a distance of 100.0 feet to an iron pin set; running thence North 55 degrees 27 minutes 25 seconds West a distance of 191.0 feet to an iron pin set; running thence North 32 degrees 56 minutes 06 seconds a distance of 100.0 feet to an iron pin set; running thence South 54 degrees 55 minutes 21 seconds East a distance of 175.52 feet to iron pin set located on the northwesterly side of the right of way of Lullwater Road and the point of beginning; being known as No. 1176 Lullwater Road, according to the current system of numbering in DeKalb County, Georgia.

QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF DEKALB


Jeanette Rozier
Clerk of Superior Court DeKalb Cty, Ga.
I HEREBY DO THIS AND THE SAME FOR THE DEED TO BE MADE BY THE PARTIES...

THIS INDENTURE, made this 14 day of September, 2000, between REUBEN PIERCE HEAD, JR., a/k/a REUBEN P. HEAD, JR., an individual resident of the State of Georgia, County of DeKalb, of the first part, hereinafter called Grantor, and JEANNE STOKES HEAD, an individual resident of the State of Georgia, County of DeKalb, as party of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, personal representatives, successors, and assigns where the contest requires or permit).

WITNESSETH THAT:

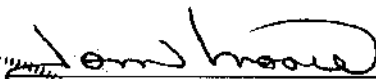
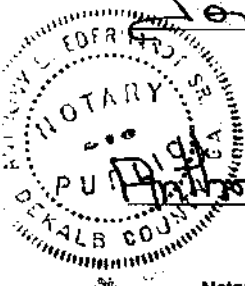
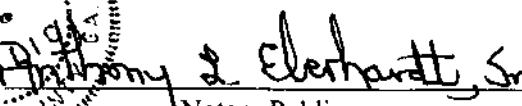
Grantor, for an in consideration of the sum of One and 00/100 Dollar (\$1.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey, and forever QUITCLAIM unto the said Grantee all of Grantor's interest in the following described property:

That unimproved property known at 1176 Lullwater Road, according to the present system of numbering houses in DeKalb County, Georgia, and being more particularly shown and described by the survey prepared by Joseph C. King, Land Surveyor, dated September 24, 1987, attached hereto as Exhibit "A".

TO HAVE AND TO HOLD the said described premises to Grantee, so that neither Grantor nor any person or persons claiming under Grantor shall at any time, by any means or ways, have, claim, or demand any right or title to said premises or appurtenances, or any rights thereof.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed the day and year first above written.

Signed, Sealed, and Delivered
In the presence of:


Witness


Notary Public
Notary Public, DeKalb County, Georgia
My Commission Expires October 31, 2000

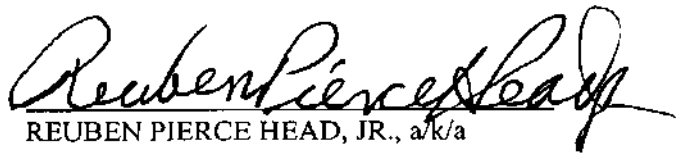
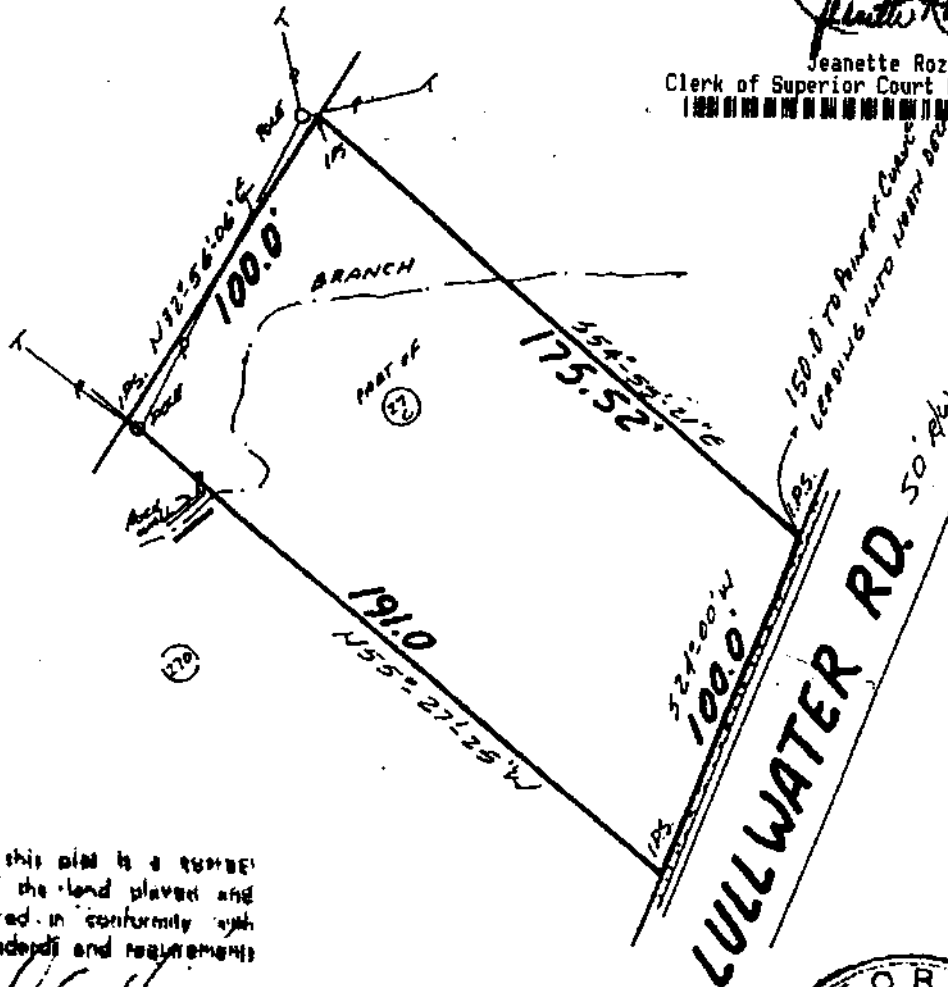

REUBEN PIERCE HEAD, JR., a/k/a
REUBEN P. HEAD, JR.

EXHIBIT "A"

Deed Book 11595 Pg 405

Jeanette Rozier
Jeanette Rozier

Clerk of Superior Court DeKalb Cty. Ga.
I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED IN MY OFFICE



In my opinion, this plan is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.

Joseph C. King
Member of the Am. Ass. of Land Surveyors



SURVEY FOR

P. PIERCE HEAD, JR.

LOT 2 DEED 212 BLOCK B DAVID HIRZ 310

AND LOT 2-18TH DISTRICT DEKALB COUNTY GEORGIA

DATE: 2-24-81 SCALE 1\"/>

Joseph C. King, Land Surveyor

229-5254

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

July 14th, 2023

Elizabeth Finnerty Martin c/o Battle Law, P.C.
3562 Habersham at Northlake
Building J. Suite 100
Tucker, Georgia 30084

RE: 1176 Lullwater Road NE, Atlanta, Georgia 30307

Application No: AV-22-1246498

Dear Elizabeth Finnerty Martin c/o Battle Law, P.C.

The purpose of this letter is to inform you that your request for an Administrative Variance to reduce the side-yard setback from 8.5-feet to 7.65-feet to develop the lot for a historic residence has been approved. The request to reduce the required setback of 8.5-feet to 7.65-feet is in accordance with Section 27-7.6.5 – Administrative Variances, Administrative Waivers.

There are extraordinary site conditions including a 25-foot state water buffer and 50-foot county stream buffer (see stream buffer variance application 1246487) and extreme change in topography from the sidewalk at the front of the lot to stream at the rear. The stream buffers run from the north-west corner to southeast side of the site leaving the buildable area hindered to a smaller section of the property in the southwest portion of the subject site. Additionally, the site is located within the Druid Hills Historic District which specifies requirements to preserve the development patterns of the Historic District. One of these regulations requires new development of a certain size and placement in relation to the street - which may also be seen as an extraordinary hardship of the site. It appears this minimal (< one (1) foot) variance request does not detract from the County's zoning goals nor does it adversely impact public safety, health, and welfare. Therefore, your request has been approved, as shown on the submitted site plan, as revised and submitted on June 5th, 2023.

Section 7.6.6 of the *Zoning Ordinance (Procedures for applications for administrative variances and administrative waivers)*, states that a sign shall be posted on the subject property within 10 calendar days, reflecting this approval. Aggrieved person(s) shall have thirty (30) calendar days from the decision date to appeal the decision to the Zoning Board of Appeals. The official approval date is June 26th, 2023 and the period for appeals concludes on July 26th, 2023.

If further assistance is required regarding this matter, please feel free to contact the Department of Planning and Sustainability at 404-371-2155.

Sincerely,

Andrea Folgherait

Andrea Folgherait
Planner, Current Planning

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

TO: Linda Dunlavy
245 N. Highland Ave, NE
Suite 230 #905
Atlanta, GA 30307

FROM: Mr. Robert Sheppard, Chief Building Official
DeKalb County Department of Planning & Sustainability
178 Sams Street, Suite A1406
Atlanta, Georgia 30030

DATE: December 11, 2023

SUBJECT: DeKalb County's Letter of Approval under the Provisions of DeKalb County ordinance Chapter 14, Article II, Section 14-44(1-5).
Lullwater Stream Buffer
Permit 1246723
1176 Lullwater Road
Atlanta, GA 30307

The DeKalb County Inspections Division of the Department of Planning & Sustainability has reviewed your stream buffer variance application for the property located at '1176 Lullwater Road'. The review was conducted to consider the potential impacts of the proposed project's encroachment on the buffers to State waters as factored within Georgia Erosion and Sedimentation Act (GESA) and Georgia's National Pollutant Discharge Elimination System (NPDES).

This review, and the variance granted, is limited to only the request(s) in the application that was submitted by you, the applicant and/or your agent, for permission to conduct land-disturbing activities within the 75-foot buffered area of the State waters where vegetation has been wrested by normal stream flow or wave action.

You are hereby authorized and granted encroachment within the outer 25 ft of the 75-foot buffer of DeKalb County, for the proposed new single-family residence, driveway and retaining wall. The total area of the encroachment is not to exceed 1857 square feet and there is to be not grading/filling in the floodplain. Impacts affecting the buffer, in this request, must be completed within 5 years of the date of this approval letter.

Please adhere to the following contingencies and conditions:

- I. All slopes must be properly protected until permanent vegetative is established.
- II. Land clearance should be kept to a minimum.
- III. All disturbed areas must be protected until permanent vegetation is established.
- IV. Double row of type "C" silt fence or approved high performance silt fence must be installed between the disturbed land area and the State water.
- V. The project must be conducted in a strict manner and in accordance with the 'approved' erosion and sedimentation control plan'.

If you have any questions, please contact Kennisha Collins, Land Development Inspections Division, at 470-829-1523.

Robert Sheppard,
Chief Building Official

Chief Executive Officer

Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director

Andrew A. Baker, AICP

STATE WATER DETERMINATION FORM

AP# 955316

FEE PAID: ☒ YES ☐ NO ☐ NO FEE APPLIED

18 054 06 001

09/02/2021

Parcel I.D. Number: _____ Date: _____

1176 LULLWATER RD, ATLANTA, GA 30307

Site Address: _____

DAVID A. AND ELIZABETH F MARTIN

Property Owner/Requested By: _____

DAVID MARTIN OWNER

Name/Title of Agent: _____

IF NOT OWNER, Requested By: _____

404 308 0071

Phone #: _____ Fax: _____

1136 LULLWATER RD. ATLANTA, GA 30307

Address: _____

Type of Water Feature: Perennial Stream Site Visited By: B. Ford

☐ River ☒ Stream ☐ Creek ☐ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? ☒ Yes ☐ No (if yes) ☒ Surface ☐ Subsurface

Is there wrested edge vegetation? ☒ Yes ☐ No

Yes, however, a small portion of south bank lacks wrested vegetation due to rock wall

Is there a defined channel? ☒ Yes ☐ No

Yes, defined channel.

Is it confined entirely on owner's property? ☐ Yes ☒ No

Stream crosses under road. Property boundary not marked in field.

Are hydric soils present? ☐ Yes ☐ No

Is wetland vegetation present? ☐ Yes ☐ No

Final Determination: ☒ State Waters

Yes

☒ Buffers Required

Yes, state and county buffers required.

☐ No State Water observed

Comments:

Former County employee Greg Hubbard classified this stream as not having a buffer on May 15, 2019, due to presence of "concrete/rock wall" and required 10' drainage easment.

As noted above, rock wall exist on a small portion of stream bank. Therefore, 10' drainage easement should be maintained along portion stream with a rock wall and state/county buffers exist on all other portions.

****This form is only good for 12 months from Date Site Visited. Date Site Visited must be within 6 months of any Land Disturbing Activity Permit Application**



DeKalb County Planning & Development Department

Burrell Ellis
Chief Executive Officer

STATE WATER DETERMINATION FORM

Parcel I.D. Number: 18-002 Date: 9-20-16

Site Address: 1176 Lullwater Rd

Name: GARY VALANTINE Title: Develop Insp. III

Property Owner/Requested By: In House: Lee Azimi: LAND DEVELOPMENT

Phone #: _____ Fax: _____

Address: _____

Type of Water Feature: CONTAINED STATE WATER / SITE VISITED BY: GARY VALANTINE

☐ River ☐ Stream ☒ Creek ☐ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? ☒ Yes ☐ No
(if yes) ☒ Surface ☐ Subsurface

Is there wretched edge vegetation? ☐ Yes ☒ No

Is there a defined channel? — SEA WALL ☒ Yes ☐ No

SEA WALL ALONG CREEK
THE LENGTH OF THE
PROPOSED WORK ZONE.

Is it confined entirely on owner's property? ☐ Yes ☒ No

Are hydric soils present? ☐ Yes ☒ No

Is wetland vegetation present? ☐ Yes ☒ No

Final Determination: ☒ State Water
☒ NO (buffers required)
☐ No State Water observed

STATE WATER CONTAINED
BY SEA WALL ALONG
PROPOSED WORK SITE.

Comments: NO BUFFER ALONG SEA WALL
PORTION OF SITE.

late Site visited: This form is only good for 12 months from Date Site Visited. Date Site 9-20-16
visited must be within 6 months of any Land Disturbing Activity Permit Application.

DeKalb County Planning & Development Department

STATE WATER DETERMINATION FORM

AP#

931464

FEE PAID: ☒ YES

☐ NO

☐ NO FEE APPLIED

Parcel I.D. Number: 18-054-06-001

Date:

Site Address: 1176 Lullwater Rd. Atl. 30307

Property Owner Name: David A & Elizabeth F Martin

Name/Title of Agent: David Martin

IF NOT OWNER, Requested By:

Phone Number: 404 308-0071

Fax:

Your Address: 1136 Lullwater Rd. Atl. GA 30307

Type of Water Feature: Stream

Site Visited By:

9/5/19 GH

☐ River ☐ Stream ☒ Creek ☐ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? (Circle) Yes or No (if yes Circle) Surface / Subsurface

Y/N

Comments

Is there wretched edge vegetation?

Is there a defined channel?

Is it confined entirely on owner's property?

Are hydric soils present?

Is wetland vegetation present?

Concrete/Rock wall along creek.

Comments

Final Determination: ☒ State Water

☐ Buffers Required

☐ No State Water Observed

STATE WATER, *NO Buffer AT wall.

Comments:

10 FT EASEMENT, For County Drainage EASEMENT.

*THIS FORM IS ONLY GOOD FOR 12 MONTHS FROM THE DATE SITE VISITED. DATE SITE VISITED MUST BE WITHIN 6 MONTHS OF ANY LAND DISTURBING ACTIVITY PERMIT APPLICATION. *GH 5-15-19

330 West Ponce de Leon Avenue, Suite 300 Decatur, Georgia 30030

Phone: 404.371.2517 Fax: 404.371.2760

Web Address: <http://www.dekalbcountyga.gov>

Email Address: planninganddevelopment@dekalbcountyga.gov

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

STATE WATER DETERMINATION FORM

AP# S.R.# 944468 and 944469

FEE PAID: ☒ YES ☐ NO ☐ NO FEE APPLIED

Parcel I.D. Number: 18 054 06 001 Date: 10/02/2020

Site Address: 1176 LULLWATER RD, ATLANTA GA 30307

Property Owner/Requested By: DAVID & ELIZABETH F. MARTIN

Name/Title of Agent: DAVID MARTIN, OWNER

IF NOT OWNER, Requested By: _____

Phone #: 404-308-0071 Fax: _____

Address: 1136 LULLWATER RD, ATLANTA, GA 30307

Type of Water Feature: Branch off of Peavine Creek Site Visited By: T. Ryder

☐ River ☐ Stream ☐ Creek ☒ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? ☐ Yes ☐ No (if yes) ☒ Surface ☐ Subsurface

Is there wretched edge vegetation? ☐ Yes ☐ No None at wall

Is there a defined channel? ☐ Yes ☒ No _____

Is it confined entirely on owner's property? ☐ Yes ☒ No _____

Are hydric soils present? ☒ Yes ☐ No _____

Is wetland vegetation present? ☐ Yes ☒ No _____

Final Determination: ☒ State Waters _____
☐ Buffers Required No buffer required
☐ No State Water observed _____

Comments: It is determined that this is a 'state' body of water, but it is encased by a concrete/bricked wall.
There is no wretched vegetation on the wall. No state buffer required. There is a 10 foot easement required for county drainage.

****This form is only good for 12 months from Date Site Visited. Date Site Visited must be within 6 months of any Land Disturbing Activity Permit Application**



178 Sams Street, 1st FL 404.371.2406 (o)
Decatur, GA 30030 678.300.5259 (c)
teryder@dekalbcountyga.gov

CHIEF EXECUTIVE OFFICER

Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

INTERIM DIRECTOR

Cedric Hudson

Date: 1/5/2023

Re: 1176 Lullwater Road

Owner: David and Elizabeth Martin

Subject: Location of Buffered Area on site

On 12/8/2022, 1176 Lullwater site was visited by me, Inspectors Pearson and McDyess, Mgr. Evans, Gamaliel Herry, Atty Josh Mahoney, David Martin (owner), and the surveyor (David ?).

The site visit was to discuss why the Planning & Sustainability department came to the decision that some areas of the property have buffers.

Attorney Mahoney, after the site visit on December 8th, 2022, this matter was turned over to Chief Building Official Marcus Robinson for final analysis and decision. CBO Robinson gathered information regarding the previous determinations made on the property, the letter from EPD Environmental Engineer Jennifer Hackney, and information from his land development team. CBO Marcus Robinson has concluded and made the final determination that the areas outlined in the attached document, **lullwater_10282022 (page 2)**, are the buffered and nonbuffered areas.

- Where there is a visible wall – then there is no buffer
- Where there is no wall - there is a buffer in place

I have also attached a map indicating the flood zone on the property.

If not in agreement Attorney Mahoney, this matter can be brought before the ZBOA (Zoning Board of Appeals) by yourself or the owner. Please contact:

Andrea Folgherait
akfolgherait@dekalbcountyga.gov
470-421-0196

Howard Johnson
hljohnson@dekalbcountyga.gov
404-275-2804

Regards,

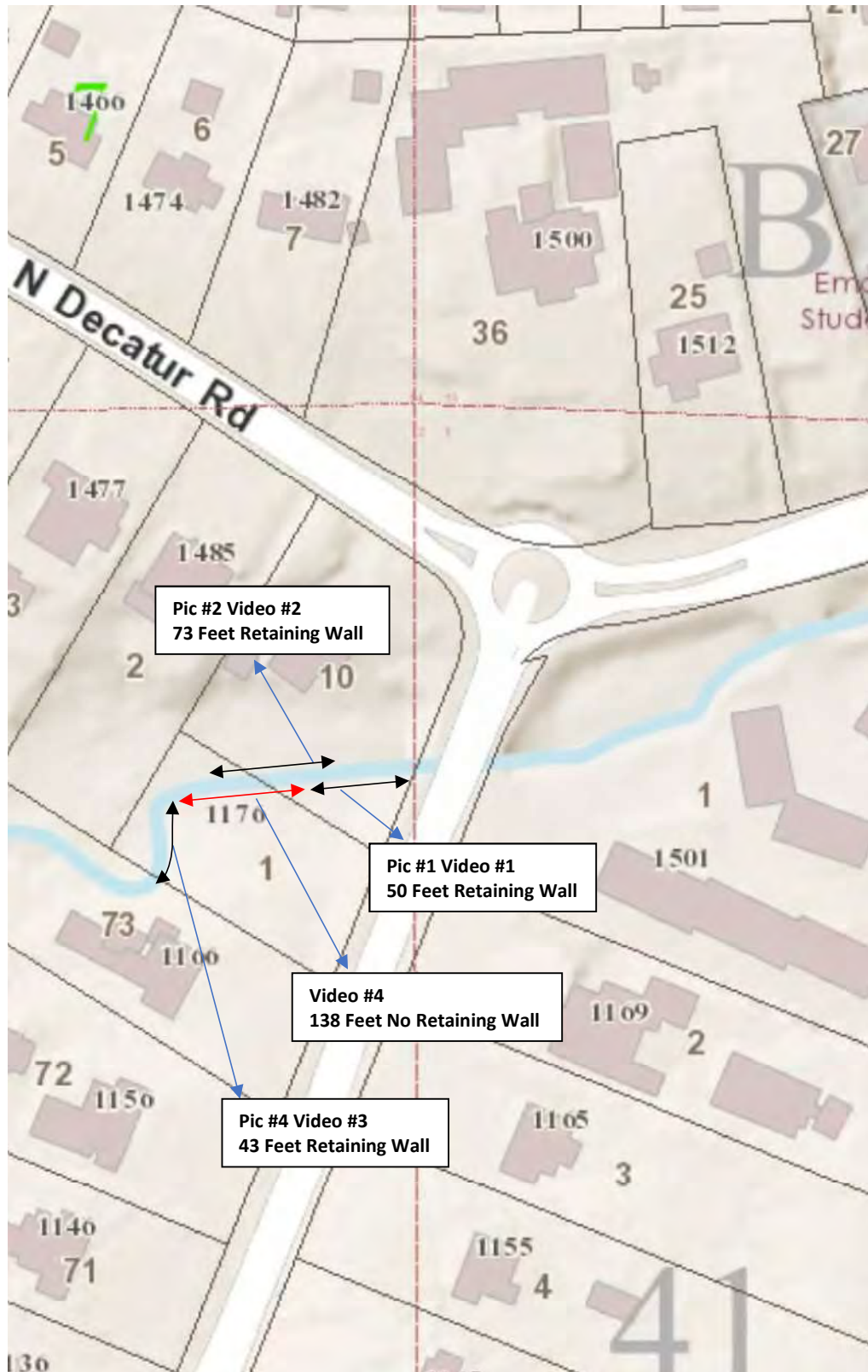
***Tscharner E. Ryder* | Environmental & Compliance Inspections Supervisor**
teryder@dekalbcountyga.gov
Dekalb County Planning and Sustainability
678-300-5259

.cc CBO Robinson
.cc Inspections Manager Adam Evans

1176 Lullwater Road



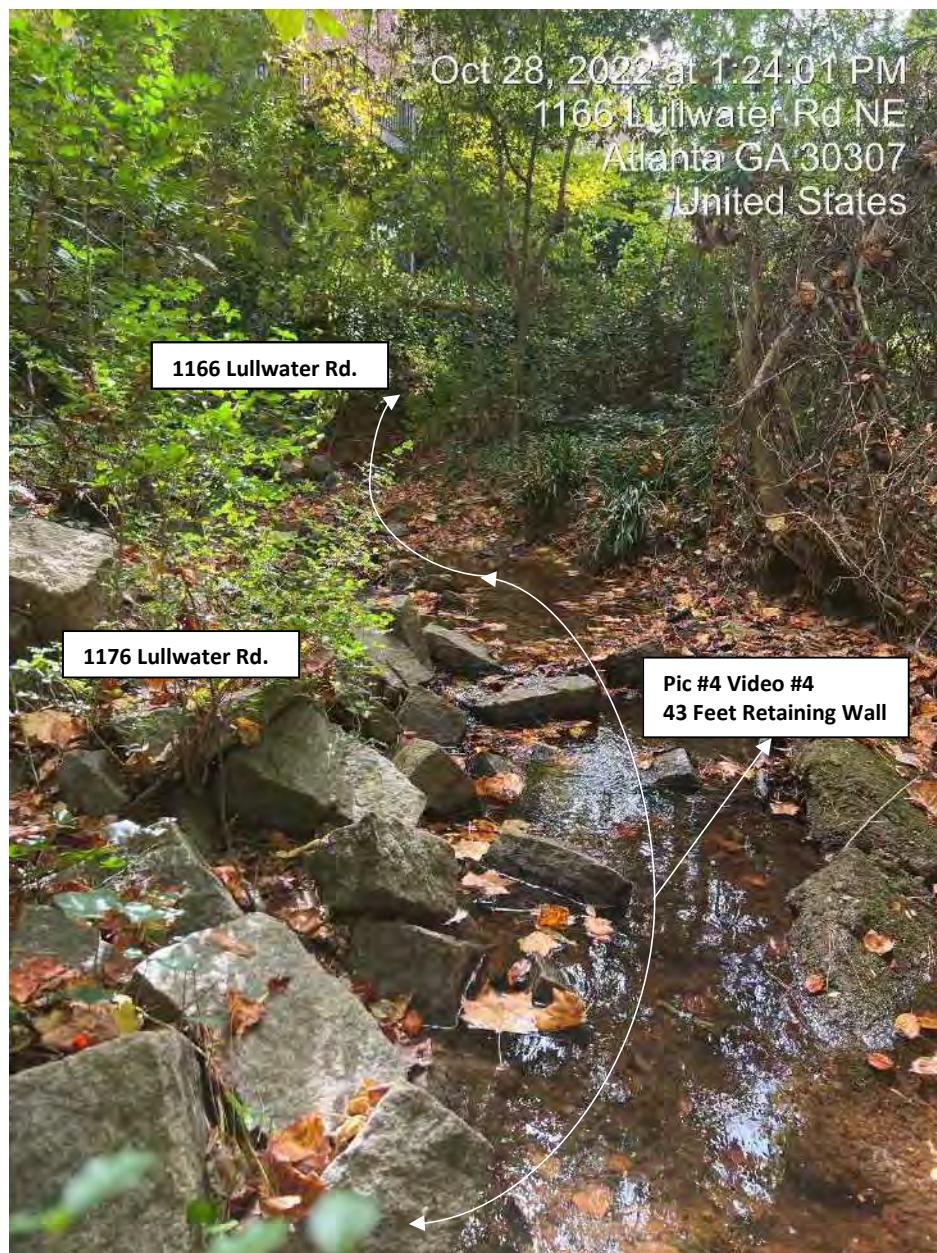
1176 Lullwater Road



←→ RETAINING WALL
↔ NO RETAINING WALL









Video Files:

1. Video # 1 50 Feet Retaining Wall
<https://youtube.com/shorts/k-yhCn4mMgc>
2. Video # 2 73 Feet Retaining Wall
<https://youtu.be/RBNYQwnD1sw>
3. Video # 3 43 Feet Retaining Wall
https://youtube.com/shorts/oOufIPhM8_Q
4. Video # 4 138 Feet No Retaining Wall
<https://youtu.be/2iBOdoRpty4>

Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ Dave Price, Price Residential Design _____

Address of Property: _____ 1176 Lullwater Rd _____

Date(s) of hearing if any: _____ November 15, 2021 _____

Case Number: _____ 1245291 _____

☐ Approved ☒ Denied ☐ Deferred

Approval: The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

☐ Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

☐ This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guideline for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings therein as guidelines. The Preservation Commission finds that all relevant guidelines have been met.

Additional pertinent factors:

Application is approved with conditions or modifications ☐/without conditions or modifications ☐

Conditions or modifications (if applicable):

Denial: The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district ☒ or, the applicant has not provided sufficient information for the Preservation Commission to approve the application ☐. Specifically, the Preservation Commission finds as follows:

The proposed new house does not comply with guidelines 5.0, 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, 7.2.7, 7.2.8, 8.2, 8.3, 9.5, and 9.7.

Deferral: The Preservation Commission has deferred action on this application for the following reasons:

The application will be re-heard by the Historic Preservation Commission at its meeting on

_____.

Date: 11/18/21

Signature: 
Chair, DeKalb County
Historic Preservation Commission

DeKalb County Historic Preservation Commission

Monday, November 15, 2021- 6:00 P.M.

Staff Report

New Construction Agenda

O. 1176 Lullwater Road, Price Residential Design. Modify previously approved COA reduce the footprint of the house and to decrease the overall size. 1245291

Undeveloped. (18 054 06 001)

This property is in the Emory Grove National Register Historic District and Emory Grove Character Area.

7-18 1176 Lullwater Road (DH), John Carpentier. Comment only on a proposed house location. 1235073 **For comment only**

7-21 1176 Lullwater Road, Price Residential Design. Build a new house on a wooded lot. 1245085 **Approved**

Summary

Background

This lot was split off from the original lot (to the north) in 1993 or 1994. It has never been developed and is heavily wooded. It is much smaller than other lots in the area but is a legal lot.

In July the HPC approved a COA for construction of a new house on this property. The main difference between that application and this one is the location of the house. The approved house was located 75' from the street right-of-way (ROW) and the proposed house will be 35' from the right-of-way. The proposed house is smaller and simpler than the plan approved in July but is otherwise generally similar.

One of the factors considered in the placement of the house in July was that state and county stream buffer would not be required. Since then, the DeKalb County Land Development Division has reassessed their decision about the buffer, determining that the "seawalls" previously believed to run along the streambank do not exist. Since there are no seawalls, the 75' stream buffer is required. The applicant, the county, and the state EPD are addressing the problem but have not come to a conclusion. This application is based on the premise that the 75' stream buffer will remain in place.

House

The house will be a two-story, side gabled, brick Colonial Revival with an attic and a basement. The basement will be above ground on the right side. Three gabled dormers will be set on the front roof slope. A cornice with dentils will extend across all four elevations.

The house will be 39' wide and 39' deep (the 38' shown on the plans is the interior measurement). The height will be 33'7" from the first-floor elevation (FFE). The first floor is shown as being 2' above grade at the right front corner and 11' 1¾" above grade at the right front corner. A 24' wide terrace will extend 9' from the front of the house and a 23' wide wooden deck will project 12' from the rear of the house. The deck will be set in 10' from the left side of the house and 5' from the right side.

Most of the house will be clad in brick, but the front terrace will be clad with granite. The front steps will be brick with granite cheek walls. A metal railing will be installed between the granite piers on the

front of the porch but is not shown in the drawing. The deck of the terrace will be seven steps above grade at the entry. The front entrance will be set on the terrace and will have a hipped roof, with a dentil cornice and tapered columns. The roof will be clad with fiberglass shingles and the gables, and the dormers will be clad with cement fiber lap siding.

All windows will be wood with simulated divided lights. Most will be double-hung sash with 6/6 or 4/4 light patterns. There will also be some casement and fixed windows, mostly on the sides and rear. The windows on the front will be spaced evenly across the façade. Those on the first floor will have decorative cast stone lintels. The window above the front entrance will be paired, six-light casement windows. The windows on the south side are grouped in an unusual pattern. A stair window is centrally located with double hung sash nearby on both sides, resulting in an "X" arrangement. Another pair of windows will be set on the ground floor near the rear

A two-car garage will be set in the right side in the exposed basement. The driveway will enter the property near the left front corner, sweep in front of the house and curve around to the garage. Part of the driveway will be supported by a stacked boulder retaining wall, rising no more than 28" above grade. A 4' wide sidewalk will run from the steps to the driveway.

The house will not be visible from rights-of-way on the rear and north, and will be partially screened by the neighbor's hedge on northeast along Lullwater Rd.

Location on the lot

The buildable area is restricted by topographical conditions. The grade on the south (left) side of the lot is the same as that of the adjacent house, but then drops off to the right and drops off steeply to the rear. A small stream runs across the rear of the property and diagonally away from the property on the north side. The 75' stream buffer extends from the top of the streambank into the property, taking in much of the otherwise buildable area. Land use in the stream buffer is limited to unpaved footpaths and utility or roadway crossings. Most of the property is also in the floodplain. While this restricts development, it does not prohibit it.

The applicant proposes that the right front (northeast) corner of the house be set back 35' from the right-of-way and the left front corner set back an another 3'-4'. The front terrace will project an additional 9' toward the street and steps will lead down from the terrace. The left rear corner will be 5' from the property line and the left front corner will be about 8'6" from the property line.

Floodplain regulations require the lowest first floor to be at least 3' above the base flood elevation and the applicant has placed the house accordingly. The basement floor cannot be lower than is shown in the drawings. The FFE at the front door will be about 4' higher than the existing elevation, placing it at about the same elevation as the road at the right front corner of the lot. The grade falls away from the street, then rises to the house site, while also falling toward the stream on the north.

Environmental

The applicant says there are 32 trees on the property, of which 13 are specimen trees. (An overstory tree is considered a specimen if it is 30" or more in diameter.) He states 13 trees will be removed, 3 of which will be specimen trees. The tree survey identifies 36 existing trees with a diameter of 8" or more. The table identifies the trees by species, diameter, and which will be removed. The largest tree to be removed is a 41" beech at the high point of the property. The applicant says two new 3"-5" diameter beech trees will be planted in the front yard. 13 out of 32 trees will be removed. (Replacement of mature trees that have been removed is not always appropriate. In this case the property is heavily wooded with a dense canopy, and it would be difficult for new plantings to thrive.)

The applicant will retain the portion of the northern neighbor's evergreen hedge along the sidewalk that extends onto this property. The applicant says shrubs will be installed along the south property line to screen the side of the house. Naturalistic plantings of native shrubs will be planted beside the sidewalk. All shrubs will be chosen from the list of native plants in the Recommended plant list in the Design Manual, and all will have a mature height between 4' and 6'.

Comparisons

Based on research conducted by staff in July, the adjacent house, 1166 Lullwater, is set back about 97' from the right-of-way. The setbacks of nearby houses on this side of Lullwater Rd are all more than 93', and those across the street are all over 100'. The next house on the north side faces North Decatur Road and its rear is about 130' from the proposed property. The rear of the proposed house will be 74'± from the right-of-way, or about 17'7" in front of the neighboring house.

The proposed house will be 39' wide. The applicant has provided an illustration showing the width of the next four houses to the right. Each of these houses are two stories tall and have one story wings on both sides. The comparative widths are shown in this table:

Address	2-story width	1-story width	Total width
1176 proposed	39'	--	39'
1166	44'	16'	60'
1156	44'	19'	63'
1146	38'	22'	60'
1136	35' to 36'	15' to 16'	50' to 52'

The distance between the proposed house and the house is next door is substantially less than the distance between the other four houses. The distance between the house next door (1166) and its neighbor is almost twice that of the proposed house and 166. Distance between houses (based on numbers taken from the applicant's illustration):

Between 1136 and 1146 – 41'

Between 1146 and 1156 – 40'8"

Between 1156 and 1166 – 53' to 54'

Between 1166 and 1176 – 27'

The FFE will be about 2' lower than that of the adjacent house, but the roof ridge will be at a similar height or slightly higher.

O. 1176 Lullwater Road, Price Residential Design
Page three

Required variances

Zoning variances will be needed to decrease the left side yard setback and to raise the threshold elevation. The rear deck projects into the stream buffer, so a stream buffer variance will be required. The driveway extends into both the stream buffer and the floodplain. A variance will be needed for the buffer and the encroachment into the floodplain will need to be reviewed for compliance with floodplain regulations.

The applicant proposes that the house be set back 5 feet from the south property line. While this was appropriate when the house was setback a similar distance as the adjacent house, it is not appropriate when the house is set forward of the adjacent house.

In a note on the site plan, the applicant says, "The HPC has the power to allow an uncommon setback in this peculiar situation due to the conflicting stream buffer ordinance creating a hardship." This is a reference to DeKalb County code section 13.5.11, which allows the commission to make exceptions in unusual circumstances or where strict adherence to the guidelines would cause undue hardship. (The full code section is quoted below the Recommendation.)

Recommendation

Deny. Knowing if there is a stream buffer is necessary before making a decision this application. Staff recommends denial for insufficient information.

Deny. Alternatively, if the commission decides to review the application on its merits, staff recommends denial. Because of its location on the lot, the house would have a substantial adverse effect on the area of influence and the historic district.

1. The house would be located 35' from the right-of-way, compared with 97' for house next door and an average of the nearby house of 93' on the same side of the street and 100' on the opposite side. The rear of the proposed house would be closer to the street than the front of the adjacent house. Because of its location beside the front yard of the adjacent house, as well as the reduced side setback and the height, the left side of the house will be fully visible across the neighbor's yard. (The 5' side setback was less of a concern when the house was 75' from the street, but set forward as proposed, the reduced setback exacerbates the visual encroachment of the house on adjoining yard.) The setback from the street does not comply with guidelines 7.2.1 *Building Orientation and Setback*, 7.2.6 *Rhythm*, and 7.3.2 *New Construction and Subdivision Development*.
2. By being similar in height to the nearby houses, the narrower footprint gives this house a vertical emphasis rather than horizontal as found on the nearby houses. This does not comply with guidelines 7.2.2 *Directional Emphasis*, 7.2.4 *Massing*, 7.2.5 *Proportion*, 7.2.6 *Rhythm*, and 7.3.2 *New Construction and Subdivision Development*.

3. Because the left side is so visible the unusual window pattern of that side is easily visible. This conflicts with the historic location of windows. This does not comply with guideline 7.2.8 *Individual Architectural Elements*.

As detailed above, the proposed house would not comply with guidelines 7.2.1, 7.2.2, 7.2.4, 7.2.5, 7.2.6, and 7.3.2 and would have a substantial adverse effect on the historic district. Staff recommends denial.

O. 1176 Lullwater Road, Price Residential Design
Page four

DeKalb County Code

Sec. 13.5-11. Exceptions.

Where by reason of unusual circumstances, the strict application of any provision of this chapter would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, the preservation commission in passing upon applications shall have power to vary or modify strict adherence to said provisions or to interpret the meaning of said provisions so as to relieve such difficulty or hardship; provided such variance, modifications, or interpretation shall remain in harmony with the general purpose and intent of said provisions so that the architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the preservation commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this chapter. An undue hardship shall be a situation beyond the control of the applicant, which is a problem unique to a specific property or in order to comply with this chapter, the person will violate another ordinance of DeKalb County. The burden of demonstrating the existence of the hardship by a preponderance of evidence shall be with the applicant.

Relevant Guidelines

- 5.0 *Design Review Objective* (p45) - When making a material change to a structure that is in view from a public right-of-way, a higher standard is required to ensure that design changes are compatible with the architectural style of the structure and retain character-defining features.
- 7.1 *Defining the Area of Influence* (p64) Guideline - In considering the appropriateness of a design for a new building or addition in a historic district, it is important to determine the area of influence. This area should be that which will be visually influenced by the building, i.e. the area in which visual relationships will occur between historic and new construction.
- 7.2 *Recognizing the Prevailing Character of Existing Development* (p65) Guideline - When looking at a series of historic buildings in the area of influence, patterns of similarities may emerge that help define the predominant physical and developmental characteristics of the area. These patterns must be identified and respected in the design of additions and new construction.
- 7.2.1 *Building Orientation and Setback* (p66) Guideline - The orientation of a new building and its site placement should appear to be consistent with dominant patterns within the area of influence, if such patterns are present.
- 7.2.2 *Directional Emphasis* (p67) Guideline - A new building's directional emphasis should be consistent with dominant patterns of directional emphasis within the area of influence, if such patterns are present.

O. 1176 Lullwater Road, Price Residential Design

Page five

- 7.2.3 *Shape: Roof Pitch* (p68) Guideline - The roof pitch of a new building should be consistent with those of existing buildings within the area of influence, if dominant patterns are present.
- 7.2.3 *Shape: Building Elements* (p68) Guideline - The principal elements and shapes used on the front facade of a new building should be compatible with those of existing buildings in the area of influence, if dominant patterns are present.
- 7.2.3 *Shape: Porch Form* (p68) Guideline - The shape and size of a new porch should be consistent with those of existing historic buildings within the area of influence, if dominant patterns are present.
- 7.2.4 *Massing* (p69) Guideline - The massing of a new building should be consistent with dominant massing patterns of existing buildings in the area of influence, if such patterns are present.
- 7.2.5 *Proportion* (p70) Guideline - The proportions of a new building should be consistent with dominant patterns of proportion of existing buildings in the area of influence, if such patterns are present.
- 7.2.6 *Rhythm* (p71) Guideline - New construction in a historic area should respect and not disrupt existing rhythmic patterns in the area of influence, if such patterns are present.
- 7.2.7 *Scale/Height* (p72) Guideline - New construction in historic areas should be consistent with dominant patterns of scale within the area of influence, if such patterns are present. Additions to historic buildings should not appear to overwhelm the existing building.
- 7.2.7 *Scale/Height* (p72) Guideline - A proposed new building should appear to conform to the floor-to-floor heights of existing structures if there is a dominant pattern within the established area of influence. Dominant patterns of cornice lines, string courses, and water tables can be referenced to help create a consistent appearance.
- 7.2.8 *Individual Architectural Elements* (p73) Guideline - New construction and additions should be compatible and not conflict with the predominant site and architectural elements—and their design relationships—of existing properties in the area of influence.
- 7.3.2 *New Construction and Subdivision Development* (p75) Guideline - To be compatible with its environment, new construction should follow established design patterns of its historic neighbors, including building orientation, setback, height, scale, and massing.
- 9.5 *Parking* (p90) Guideline - Parking should be addressed in a manner that does not distract from the overall character of the district. Parking to serve private residential lots should be accommodated on-site, when at all possible, using the pathway of original drives and parking. Front yard parking should not be allowed unless it is a public safety issue. When front yard parking is necessary, it should be added in a manner that does not destroy the unbroken landscaped character of the front yard spaces in Druid Hills. Rear yard spaces should be considered for expansion of parking areas.
- 9.5 *Parking* (p90) Guideline - Curb cuts should not be added or expanded in order to protect the character of the district's streets.
- 9.7 *Residential Landscape Design* (p91) Recommendation - For residential yards, created without the assistance of landscape designers, historic landscape plans for other residential lots within the district should be used for guidance. These plans can be interpreted to create a new landscape plan that is based on historic traditions. Care should be taken to select designs for yards of similar size containing houses of similar style and scale.

- 8.2 *Trees* (p78) Recommendation - The mature hardwood forest within the Druid Hills Local Historic District should be perpetuated through a district-wide replanting program. Trees should be replaced when mature trees are lost to age or damage or are removed for safety reasons. Replacement trees should be of identical or similar varieties to the original trees. A diversity of tree types is recommended to perpetuate the existing character of most tree groupings. Replacement trees of adequate size (1.5" caliper minimum) are recommended. Existing ordinances that provide for the protection and replacement of the district's tree resources should be applied to development activities within Druid Hills.
- 8.3 *Protection of the Historic Watershed Design and Design Concept* (p79) - Guideline - All construction within the Druid Hills Local Historic District should follow a 75' setback requirement from the top of bank of creek corridors and drainage ways, as delineated on the official "Historic District Map."

DeKalb County Government

*Manuel J. Maloof Center
1300 Commerce Drive
Decatur, Georgia 30030*



Summary

Tuesday, December 5, 2023

9:00 AM

Manuel J. Maloof Auditorium

Special Called Meeting

*Comm. Robert Patrick, Presiding Officer, District 1
Comm. Mereda Davis Johnson, Deputy Presiding Officer, District 5*

*Commissioner Robert Patrick, District 1
Commissioner Jeff Rader, District 2
Commissioner Larry Johnson, District 3
Commissioner Steve Bradshaw, District 4
Commissioner Mereda Davis Johnson, District 5
Commissioner Edward "Ted" Terry, Super District 6
Commissioner Lorraine Cochran-Johnson, Super District 7*

[2023-1451](#)**Commission District(s): All**

Board of Commissioners' 2024 Regular Business and Committee of the Whole

Meetings Calendar

Administration: Michael Thurmond, CEO, Zachary Williams, Executive Assistant/ Chief Operating Officer, Barbara Sanders-Norwood, County Clerk, Viviane Ernstes, County Attorney

Work Session**I. Committee of the Whole****A. Committee Reports****B. Decide Dekalb Update****C. Review of the Proposed Executive Agenda for December 12, 2023****D. Review of Board of Commissioners Preliminary Agenda****E. Review/ Recap of New Items for the BOC Agenda****F. Items Previously Heard****II. Special Call Meeting****2023-1558****Commission District(s): All**

To Convene a Special Called Meeting

Approved**A. Public Comments at 10:00am**

The purpose of public comment is to allow the public to voice county-related requests, concerns or opinions during the Commission meeting. Speakers will only have the opportunity for one public comment per meeting. Each speaker must complete a speaker card and present it to the clerk before the beginning of the public comment portion of the meeting. Cards turned in to the clerk from the time the general meeting is convened (generally 9 A.M.) and by the beginning of public comment portion generally following presentations on the agenda. The clerk will accept cards on a first-come, first-served basis. Prior to the clerk's call for public comment, speakers who are residents of DeKalb County shall be allowed to speak before residents of other counties are allowed to speak. Once the public comment portion of the meeting begins, speaker cards will no longer be accepted. Speakers will be allowed to speak for three minutes each and public comment shall not exceed 30 minutes in length. When the buzzer sounds to indicate that time has run out, the speaker will be expected to immediately cease speaking and to yield the podium. Those who submitted speaker cards but did not speak because of the time allotment will be allowed to speak first at the next regularly scheduled Commission meeting without regard to residence. Speakers should always talk directly into the microphone and begin by stating their name, full address and the name of any organization they represent. Abusive, profane or derogatory language, holding up signs, clapping, yelling, standing or laying in the aisles to show support for or opposition to a speaker will not be permitted, but a show of hands or quietly standing in place will be permitted to show support for or opposition to a speaker's position.

In person comments:

Julie Ralston- 1773 Ridgewood Drive Atlanta. GA 30307; Ali Abdulsamad- 1350
Green Oak NW Lawrenceville, GA 30043

B. APPEALS[2023-1306](#)**COMMISSION DISTRICT(S): 2 & 6**

Appeal of Decision of the Historic Preservation Commission at 1176 Lullwater
Road by Virginia Tate

Approved[2023-1308](#)**COMMISSION DISTRICT(S): 2 & 6**

Appeal of a Decision of the Historic Preservation Commission at 1176 Lullwater
Road by Katharine Butler & George Beazley

Approved

[2023-1330](#)**COMMISSION DISTRICT(S): 2 & 6**

Appeal of a Decision of the Historic Preservation Commission at 1780

Ridgewood Drive by Peggy Hibbert

Tabled

C. ITEMS FOR DECISION BY THE BOARD[2023-1375](#)

Commission District(s): All Districts

2024 DeKalb County Legislative Packet

Approved substitute

[2023-1451](#)

Commission District(s): All

Board of Commissioners' 2024 Regular Business and Committee of the Whole
Meetings Calendar

Tabled

[2023-1478](#)

Commission District(s): Commission District 2 and 6

DeKalb County's objection to the proposed annexation of approximately 1.72
acres of land in unincorporated DeKalb County into the City of Atlanta pursuant
to annexation via the one hundred percent (100%) method

Tabled

[2023-1448](#)

Commission District(s): All Commission Districts

Resolution to Continue an Equalized Homestead Option Sales Tax ("EHOST")
and Impose a Special Purpose Local Option Sales Tax ("SPLOST II") in
DeKalb County

Approved

[2023-1161](#)**COMMISSION DISTRICT(S): ALL DISTRICTS**

Application of the Director of Planning and Sustainability to adopt the 2024-25 Zoning Calendar. This text amendment is County-wide .

Approved Substitute

[2023-1040](#)**Commission District(s): ALL**

REN - Contract Nos.: 1309686 and 1309666 On-Call Roof Maintenance, Repair, and Replacement Services (1st Renewal of 2 Options to Renew); for use by the Departments of Facilities Management (FM), Recreation Parks and Cultural Affairs (RPCA), and Watershed Management (DWM). These contracts consist of roof maintenance, repair, and replacement services at County owned facilities. This request seeks to exercise the 1st renewal option and add DWM usage. Awarded to Hawk Construction Company, LLC, and National Building Contractors, Inc. Total Amount Not To Exceed: \$5,986,642.65.

Approved Substitute

2023-1559**Commission District(s): All**

To convene an Executive Session Meeting

Approved

2023-1560**Commission District(s): All**

To Adjourn an Executive Session Meeting

Approved

2023-1561**Commission District(s): all**

Proposed payment for proposed resolutions of claims against the DeKalb County Sheriff and certain Sheriff employees in *Norman Simmonds v. Sheriff Melody Maddox et. al*, Civil Action No. 1:22-CV-01479-VMC, pending in the U.S. District Court, Northern District of Georgia.

Approved[2023-1330](#)**COMMISSION DISTRICT(S): 2 & 6**

Appeal of a Decision of the Historic Preservation Commission at 1780 Ridgewood Drive by Peggy Hibbert

Taken off table**Approved**[2023-1451](#)**Commission District(s): All**

Board of Commissioners' 2024 Regular Business and Committee of the Whole Meetings Calendar

Taken off table**Deferred**[2023-1478](#)**Commission District(s): Commission District 2 and 6**

DeKalb County's objection to the proposed annexation of approximately 1.72 acres of land in unincorporated DeKalb County into the City of Atlanta pursuant to annexation via the one hundred percent (100%) method

Taken off table**Approved substitute**

2023-1563

Commission District(s): All

To Adjourn a Special Called Meeting

Approved



Michael L. Thurmond

Chief Executive Officer

DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability

178 Sams Street,

Decatur, GA 30030

Wednesday, September 13, 2023

Planning Department Staff Analysis



Cedric Hudson

Interim Director

D1. Case No: A-23-1246316 Parcel ID(s): 18-054-06-001

Commission District 02 Super District 06

Applicant: Elizabeth Finnerty Martin c/o Battle Law PC
3562 Habersham at Northlake
Building J. Suite 100
Tucker, GA 30084

Owner: David and Elizabeth Martin
1136 Lullwater Road
Atlanta, GA 30307

Project Name: 1176 Lullwater Road – New construction

Location: The property has approximately 100 feet of street frontage and is located on the west side of Lullwater Road.

Request: Variance from Section 27-5.2.5 (D) (2) to allow the increase in the elevation of the threshold from 874.2-feet to 883.1-feet at a property within an R-85 (Residential Medium Lot) zoning district and within the Druid Hills Historic district.

Staff Recommendation:

Approval with condition to increase the height of the threshold.

- a. Applicant must list the case number, approval date, type of variance and all conditions on any site plans submitted for this property.

STAFF FINDINGS:

Variance Analysis:

The applicant proposes to build a new house on a vacant lot within an R-85 zoning district and the Druid Hills Historic District.

1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district, as distinguished from a special privilege or convenience sought by the property owner.

There is a stream with required state (25-feet) and county (50-feet) buffers on the property. Additionally, the property slopes steeply from the road (880-feet) to the stream (862-feet) in the rear of the property. These exceptional topographic conditions suggest the strict application of the threshold elevation requirement (27-5.2.5) may deprive the owner rights and privileges enjoyed by other property owners within the R-85 zoning district.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that the requested variance to increase the threshold elevation from requirements (27-5.2.5) may not go beyond the minimum necessary to afford relief and may not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. The increase in the threshold height may be required to minimize construction, filling, and/or tree removal within the flood plain.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that granting the threshold height variance may not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district. Approving the variance would allow the property owners to build a structure largely outside of the floodplain and to avoid tree removal. The letter of intent states the new construction would have a threshold lower than the adjacent house to the south and would only be 2.4-feet higher than the elevation of the sidewalk. The proposed height increase may not disrupt the established development pattern of the street and is not likely to be easily observed.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Based on the submitted materials, it appears that the strict application of the threshold elevation requirement (27-5.2.5) may cause undue hardships as the applicant seeks to abide by the requirements relating to construction within a floodplain.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

Based on the submitted materials, it appears that the requested variance may be consistent with the spirit and purpose of this chapter. The future land use for the subject property described in the *DeKalb County Comprehensive Plan* text is Traditional Neighborhood. The plan states: *in appropriate locations encourage residential development to conform with traditional neighborhood development principles*. This application appears to conform to this development goal.

FINAL STAFF ANALYSIS:

Due to the property's exceptional topography and natural features the request to elevate the threshold may not go beyond the minimum necessary to afford relief and may not constitute a grant of special privilege inconsistent with the limitations upon other properties in the

R-85 *Zoning District* and the Druid Hills Historic Overlay District. Therefore, Staff recommends approval of a variance to the height of the threshold and denial of the side yard setback reduction.

Staff Recommendation:

Approval with condition

Applicant must list the case number, approval date, type of variance and all conditions on any site plans submitted for this property.



Battle Law

7/11/2023

VIA: EMAIL

A-23-1246316

ATTN: Rachel Bragg (rlbragg@dekalbcountyga.gov)

Zoning Administrator Bragg:

On behalf of the Applicant for the proposed side yard setback variance stream buffer Zoning Board of Appeals variance applications for property located at 1176 Lullwater Road NE, being parcel number 18-054-06-001 pertaining to petition numbers A-23-1246316, I respectfully request to withdraw these applications. However, I do not wish to withdraw any administrative variance applications pertaining to the same property and I do not wish to withdraw the pending elevation threshold variance application.

Prepared By:

Joshua Mahoney

For Battle Law, P.C.



RECEIVED

By Rachel Bragg at 4:30 pm, Feb 02, 2023

DeKalb County Department of Planning & Sustainability

Hon. Michael Thurmond
Chief Executive Officer

Andrew Baker, AICP,
Director

**ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)**

BOA No. _____

Applicant and/or
Authorized Representative Elizabeth Finnerty Martin c/o Battle Law, P.C.

Mailing Address: 3562 Habersham at Northlake, Bldg J. Suite 100

City/State/Zip Code: Tucker, GA 30084

Email: jsm@battlelawpc.com

Telephone Home: _____ Business: 404-601-7616

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: David and Elizabeth Martin

Address (Mailing): 1136 Lullwater Rd NE, Atlanta, GA 30307

Email: Bfinnerty@skylandtrail.org

Telephone Home: _____ Business: 678-686-5930

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 1176 Lullwater Rd NE City: Atlanta State: GA Zip: 30307

District(s): 18 Land Lot(s): 054 Block: 06 Parcel: 001

Zoning Classification: R-85 Commission District & Super District: 2 & 6

CIRCLE TYPE OF HEARING REQUESTED:

- ☒ VARIANCE (From Development Standards causing undue hardship upon owners of property.)
- SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)
- OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

*** PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS. ***

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____ Fee Paid: _____

**ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)**

BOA No. _____

Applicant and/or

Authorized Representative Elizabeth Finnerty Martin c/o Battle Law, P.C.

Mailing Address: 3562 Habersham at Northlake, Bldg J. Suite 100

City/State/Zip Code: Tucker, GA 30084

Email: jsm@battlelawpc.com

Telephone Home: _____ Business: 404-601-7616

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: David and Elizabeth Martin

Address (Mailing): 1136 Lullwater Rd NE, Atlanta, GA 30307

Email: Bfinnerty@skylandtrail.org

Telephone Home: (404) 308-0458 Business: 678-686-5930

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 1176 Lullwater Rd NE City: Atlanta State: GA Zip: 30307

District(s): 18 Land Lot(s): 054 Block: 06 Parcel: 001

Zoning Classification: R-85 Commission District & Super District: 2 & 6

CIRCLE TYPE OF HEARING REQUESTED:

- ☒ VARIANCE (From Development Standards causing undue hardship upon owners of property.)
- ☐ SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)
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*** PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS. ***

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____

Fee Paid: _____

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
To inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE: 2/2/2023

Applicant: Elizabeth Finnerty Martin
Signature Elizabeth Finnerty Martin

DATE: 2/2/2023

Battle Law, PC
Applicant: By: MLB
Signature Michele L. Battle, President

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 2 of the 18th District of DeKalb County, Georgia, being described according to survey for Phillip Clark Builders prepared by Caleb A. McGaughey, R.L.S. No. 3174, for GA Land Surveyor, dated October 25, 2016, last updated 2/1/2023, and more particularly described as follows:

Beginning at an iron pin set located on the northwesterly side of Lullwater Road (50' R/W), 149.9 feet southwesterly as measured along the right of way of Lullwater Road, from a point of curve (1" Open Top Pipe Found) where the right of way of Lullwater Road leads into North Decatur Road; running thence South 21 degrees 58 minutes 18 seconds West as measured along the right of way of Lullwater Road a distance of 100.33 feet to a ½ inch rebar found; thence leaving said Lullwater Road and running North 57 degrees 43 minutes 29 seconds West a distance of 190.30 feet to a 1 inch open top pipe found; running thence North 30 degrees 35 minutes 39 seconds East a distance of 99.90 feet to a 1 inch open top pipe found; running thence South 57 degrees 20 minutes 59 seconds East a distance of 175.29 to a iron pin located on the northwesterly side of the right of way of Lullwater Road and the point of beginning; being known as No. 1176 Lullwater Road, According to the current system of numbering in DeKalb County, Georgia.

Return to:
EDNA HAWES
MCCURDY & CANDLER
P.O. BOX 57
DECATUR, GA 30031

Deed Book 15466 Pg. 122
Filed and Recorded Dec-13-2006 08:56am
2006-0226894
Real Estate Transfer Tax \$129.00
Linda Carter
Clerk of Superior Court
DeKalb County, Georgia

EXECUTOR'S DEED—STATE OF GEORGIA, COUNTY OF DEKALB

THIS INDENTURE made this 30th day of November in the Year of our
Lord Two Thousand and Six, Between
Reuben Pierce Head, Jr.
duly constituted Executor of the Last Will and Testament of
Jeanne Stokes Head
deceased, as Grantor, and
David Martin and Elizabeth Finnerty Martin
the Grantee.

In this deed, wherever the context so requires, the masculine gender includes feminine and/or neuter and the singular number includes the plural. Wherever herein a verb, pronoun or other part of speech is used in the singular, and there be more than one Grantor or Grantee, said singular part of speech shall be deemed to read as the plural, and each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein. Wherever herein Grantor or Grantee is used, the same shall be considered to mean as well, the heirs, executors, administrators, successors, representatives and assigns of the same.

Witnesseth: That pursuant to and in conformity with the powers and authority granted in the Last Will and Testament of the deceased, duly probated in solemn form in the Probate Court of DeKalb County, Georgia, and in consideration of the sum of One Hundred Twenty Nine Thousand and no/100 Dollars (\$ 129,000.00), cash in hand paid at and before the signing and delivery of these presents, the receipt of which is hereby acknowledged, Grantor has bargained and sold and by these presents does grant, bargain, sell and convey unto the said Grantee the following described property:

(For Legal Description, see Exhibit "A" attached hereto and made a part hereof.)

This deed and the conveyance hereby made is given subject to all restrictions and easements of record, if any.

TO HAVE AND TO HOLD the said tract of land together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in any wise appertaining to the only proper use, benefit and behoof of the said Grantee in FEE SIMPLE in as full and as ample a manner as the same was possessed or enjoyed by the deceased in his lifetime.

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

(Seal)
Reuben Pierce Head, Jr.
Reuben Pierce Head, Jr.

Signed, sealed and delivered in the presence of:

(Seal)
as Executor of the Last Will and Testament of the

Witness

deceased Jeanne Stokes Head

Notary Public (Affix stamp & seal)

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 2 of the 18th District of DeKalb County, Georgia, being described according to survey prepared by Joseph C. King, Registered Land Surveyor, for Reuben Pierce Head, Jr., and more particularly described as follows:

Beginning at an iron pin set located on the northwesterly side of Lullwater Road (50' R/W), 150.0 feet southwesterly as measured along the right of way of Lullwater Road, from a point of curve where the right of way of Lullwater Road leads into North Decatur Road; running thence South 24 degrees 00 minutes West as measured along the right of way of Lullwater Road a distance of 100.0 feet to an iron pin set; running thence North 55 degrees 27 minutes 25 seconds West a distance of 191.0 feet to an iron pin set; running thence North 32 degrees 56 minutes 06 seconds a distance of 100.0 feet to an iron pin set; running thence South 54 degrees 55 minutes 21 seconds East a distance of 175.52 feet to iron pin set located on the northwesterly side of the right of way of Lullwater Road and the point of beginning; being known as No. 1176 Lullwater Road, according to the current system of numbering in DeKalb County, Georgia.

1. REFERENCES FOR THE BOUNDARY INFORMATION SHOWN HEREON WERE MADE TO DEED BOOK 19466, PAGE 122 OF DEKALB COUNTY RECORDS.

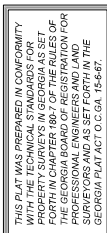
2. A PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD ZONE AS IDENTIFIED ON FIRM COMMUNITY PANEL No. 33089C0062J. DATED MAY 16, 2013.

- ON ABOVE GROUND UTILITIES SHOWN IN BASE MAP. INFORMATION ON ABOVE GROUND STRUCTURES AND INFORMATION SUPPLIED TO THE SURVEYOR, LOCATIONS OF UNDERGROUND UTILITIES OR STRUCTURES MAY EXIST. THE ADDITIONAL BURIED UTILITIES OR STRUCTURES MAY EXIST. THE SURVEYOR MAKES NO CERTIFICATIONS AS TO THE ACCURACY AND COMPLETENESS OF THE LOCATIONS SHOWN HEREIN.
- NO ABSTRACT OF TITLE, TITLE COMMITMENT, OR RESULTS OF TITLE SEARCHES WERE SUPPLIED TO THE SURVEYOR. THERE MAY BE OTHER MATTERS OF RECORD THAT AFFECT THIS PROPERTY.
- BUILDING SETBACK INFORMATION SHOWN HEREIN IS PER THE ZONING ORDINANCE FOR 16-0 ZONING CLASSIFICATION.
- THE LAST DAY OF THE FIELD SURVEY WAS PERFORMED ON 10/27/2024.
- VERTICAL INFORMATION SHOWN HEREIN WAS OBTAINED FROM A MEAN SEA LEVEL CONTOUR INTERVAL EQUALS TWO FEET.

FIELD INFORMATION FOR THIS SURVEY WAS OBTAINED WITH A TRIMBLE S-6 ROBOTIC TOTAL STATION.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURES AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 220,401 FEET.

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE OF ONE FOOT IN 261,580 FEET AND AN ANGULAR ERROR OF 0 SECOND PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

[illegible]

NOTE: SURVEY NOT VALID UNLESS
SEAL SIGNED AND DATED.

PHILLIP CLARK BUILDERS

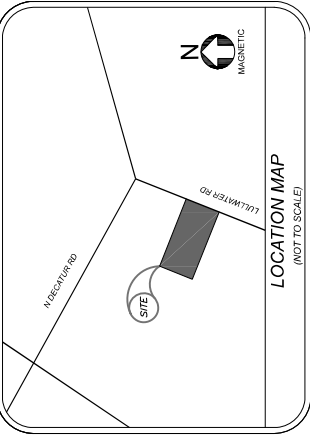
1176 LULLWATER ROAD
PART OF LOT 27C, BLOCK 13, DRUID HILLS S/D
AND LOT 2, 18th DISTRICT, DEKALB COUNTY, GEORGIA
TAX PARCEL No.18 054 06 001

DATE: OCTOBER 25, 2016	ISSUE	
SCALE: 1" = 30'	NO.	DESCRIPTION
ACREAGE: 0.1465	1	ADDED STREAM BUFFERS
LAND LOT(S): 2		
DISTRICT: 18th		
CITY:		
COUNTY: DEKALB		
SURVEYED: MAF		
DRAWN: MWR		
CHECKED: WGH		
APPROVED: C/M		
PROJECT #: 16-257		

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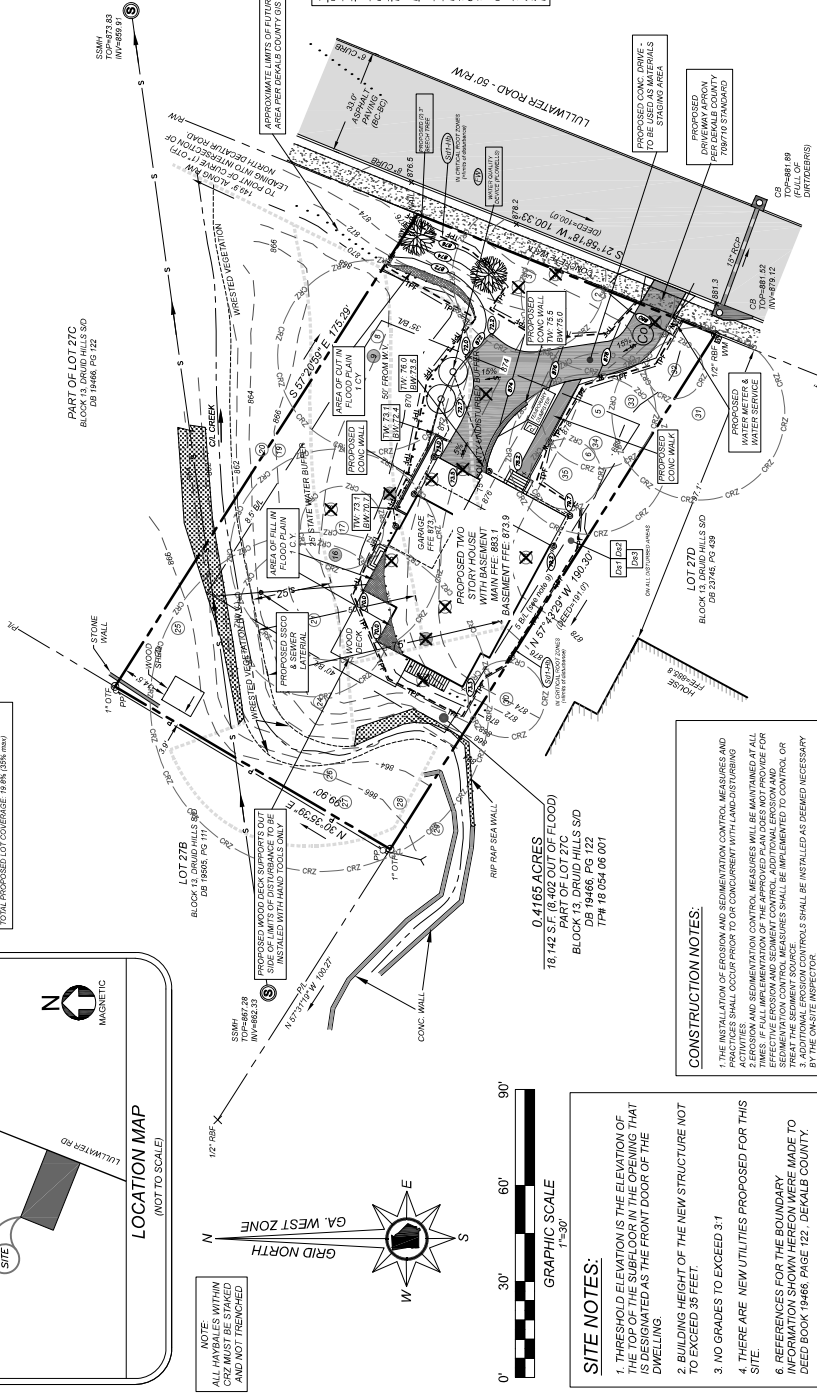
GA
LAND SURVEYOR
404-384-9577
GA LAND SURVEYOR, LLC
3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024



IMPERVIOUS SURFACE CALCULATIONS:
PROPOSED IMPERVIOUS SURFACE: 3,801 S.F.
EXISTING IMPERVIOUS SURFACE: 1,179 S.F.
TOTAL IMPERVIOUS SURFACE: 4,980 S.F.
TOTAL PROPOSED LOT COVERAGE: 19.8% (25% MAX)

24 HOUR EROSION CONTACT
RAY BONGERS
404-949-9130

TREE NOTES:
D.H. DEAD, DISEASED, OR HAZARDOUS
IN FLOOD: TREE LOCATED IN FLOOD PLAIN
OFF SITE: TREE LOCATED OUTSIDE PARCEL BOUNDARY
NOTE: TREE NUMBERS 2, 3, 5, 6, & 16 HAVE OVER 20%
IMPACT AND REQUIRE AN ARBORIST PRESCRIPTION



SITE NOTES:

- THRESHOLD ELEVATION IS THE ELEVATION OF THE TOP OF THE SUBFLOOR IN THE OPENING THAT IS DESIGNATED AS THE FRONT DOOR OF THE DWELLING.
- BUILDING HEIGHT OF THE NEW STRUCTURE NOT TO EXCEED 35 FEET.
- NO GRADES TO EXCEED 3:1
- THERE ARE NEW UTILITIES PROPOSED FOR THIS SITE.
- REFERENCES FOR THE BOUNDARY INFORMATION SHOWN HEREON WERE MADE TO DEED BOOK 19466, PAGE 122, DEKALB COUNTY.
- A PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD ZONE, AS IDENTIFIED ON FIRM COMMUNITY PANEL NO. 13089C0062K, DATED AUGUST 15, 2019.
- EXISTING ZONING: R-85
- SETBACKS:
FRONT: 35'
SIDE: 35'
REAR: 40'
- SIDE SETBACK ALONG WESTERN BOUNDARY LINE IS PROPOSED TO BE 5'.
- TOTAL DISTURBED AREA: 6,640 S.F.
- ALL ELEVATIONS ON SITE SHALL BE VERIFIED PRIOR TO CONSTRUCTION.

CONSTRUCTION NOTES:

- THE INSTALLATION OF EROSION AND SEDIMENTATION CONTROL MEASURES AND ACTIVITIES SHALL OCCUR PRIOR TO OR CONCURRENT WITH LAND-USE TURNING.
- EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION.
- EFFECTIVE EROSION AND SEDIMENT CONTROL, ADDITIONAL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE IMPLEMENTED TO CONTROL OR TREAT THE SEDIMENT SOURCE.
- ADDITIONAL EROSION CONTROLS SHALL BE INSTALLED AS DEEMED NECESSARY.
- ALL LOTSIDES WITH 2:1 OR GREATER WILL REQUIRE A COMPACTION CERTIFICATE BY A PROFESSIONAL REGISTERED ENGINEER PRIOR TO A BUILDING.
- LOCATE AND FIELD STAKE ALL UTILITIES, EASEMENTS, PREP. FLOOD LIMITS, AND EROSION CONTROL MEASURES PRIOR TO ANY LAND DISTURBING ACTIVITIES.
- ALL TREE PROTECTION AREAS TO BE PROTECTED FROM SEDIMENTATION, DISTURBANCE AND MAINTAINED UNTIL FINAL LANDSCAPING.
- ALL TREE PROTECTION FENCING TO BE INSPECTED DAILY AND REPAIRED OR REPLACED AS NEEDED.
- THESE WATER QUALITY DEVICES ARE DESIGNED FOR THIS SITE.
- A FINAL AS-BUILT LOT SURVEY IS REQUIRED PRIOR TO ISSUANCE OF PERMITS.
- DUMPSTERS AND OR TEMP. SANITARY FACILITIES SHALL NOT BE LOCATED IN THE WORK AREA.
- WORK HOURS AND CONSTRUCTION DELIVERIES ARE:
- MONDAY - FRIDAY: 7:00 AM - 7:00 PM
- SATURDAY: 7:00 AM - 7:00 PM
- SUNDAY: 7:00 AM - 7:00 PM
- J. CALER MCGAUGHEY CERTIFY UNDER PENALTY OF LAW THAT THIS PLAN WAS PREPARED BY HIMSELF OR AN EMPLOYEE OR AGENT OF HIS FIRM AND NOT BY ANOTHER AGENT OF HIS FIRM.

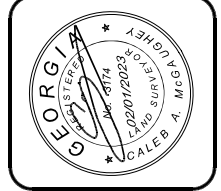
LEGEND

CHANGES TO PREVIOUS EDITIONS

- 1. CHANGES TO PREVIOUS EDITIONS
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- 99. CHANGES TO PREVIOUS EDITIONS
- 100. CHANGES TO PREVIOUS EDITIONS

SITE PLAN FOR:
1176 LULLWATER ROAD
PART OF LOT 27C, BLOCK 13, DRUID HILLS S/D
LAND LOT 2, 18th DISTRICT, DEKALB COUNTY, GEORGIA
TAX PARCEL NO. 18 054 06 001

DATE:	ISSUE	NO.	DESCRIPTION	DATE
AUGUST 5, 2021	1	1	ADDED STREAM BUFFERS	02/01/2023
SCALE: 1" = 30'				
ACREAGE: 0.4165				
LAND LOT(S): 2				
DISTRICT: 18th				
CITY:				
COUNTY: DEKALB				
STATE: GEORGIA				
SURVEYED: MAF				
DRAWN: MWR				
CHECKED: WGH				
APPROVED: CAM				
PROJECT #: 16-297				



GA LAND SURVEYOR
404-384-9577
GA LAND SURVEYOR, LLC
3355 ANNANDALE LANE, STE 1
SUWANEE, GA 30024

SHEET 1 OF 2

Price Residential Design
1595 Nottingham Way Atlanta, Georgia 30309
dave@priceresidentialdesign.com
404-245-4244

February 2, 2023

Zoning Board of Appeals
DeKalb County Planning and Sustainability Department
330 W. Ponce de Leon Avenue -- Third Floor
Decatur, GA 30030

RE: **1176 Lullwater Road** - Request for Variance from DeKalb County Zoning Ordinance Section 27-2.2.1 Dimensional Requirements to reduce the south side yard setback from 8.5' to 5' and, Section 27-5.2.5(D)(2) to increase the elevation of the dwelling threshold from 874.2' (average natural grade at 35' front setback - setback averaging does not apply on this lot) to 883.1' elevation for this vacant lot.

Dear Board members and staff:

We believe this request conforms to the criteria set forth in code and ask that the Board grant relief in this unique case.

(1) by reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.

The lot slopes steeply from south to north with a flood hazard area (Base Flood Elevation of 870.7) along the rear and northern side to create a buildable area which narrows considerably as you move towards the rear of the lot. It is a vacant conforming lot and is located in the Druid Hills Historic District and therefore new construction is limited to what is considered an appropriate size and location by the DeKalb County Historic Preservation Commission per its guidelines. The DeKalb County Tree Protection Ordinance also prohibits the removal of any trees from the flood hazard zone per Section 14-39(g)(10) with some exceptions (we must remove one pine tree infested with termites). The exceptional topography was not created by the owners and these variances are the only method of allowing a new single-family home appropriate to the Historic District.

(2) the requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

The variance does not constitute a grant of special privilege or go beyond the minimum necessary to afford relief because the HPC guidelines 7.2 require that any new home must be consistent with the other properties in the district, including having a consistent building orientation, setback, directional emphasis, shape, massing, proportion, and scale to maintain the rhythm along the streetscape. The project was approved on July 19th, 2021, by the HPC based on the attached site plan, which creates the largest possible front setback, to align as closely as possible with the neighboring property's setback while also having the same orientation (slightly skewed versus the lot line) as the neighbor. The front left corner of the house will be 7.5' from the property line so it will only get close to the 5' proposed setback at two points. The threshold elevation will simply bring us into the pattern with the other existing properties along Lullwater Road. The existing southern neighbor's threshold elevation is 885.8', ours is proposed to be 883.1', and the elevation at the existing public sidewalk at future driveway is 881.5'. The grade along Lullwater Road drops slightly as you go north so the proposed threshold is in line with the existing pattern.

(3) the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

The granting of the variance would not be detrimental to the public welfare or injurious to the surrounding properties because, while we are closer than 8.5' to the lot line, a five-foot setback will be far enough from the property line to avoid any special fire separation considerations as per IRC section R302. Also, we are to the north of our only neighbor on Lullwater Road, so there will be no loss of sunlight to the neighbor's vegetation due to the proposed construction.

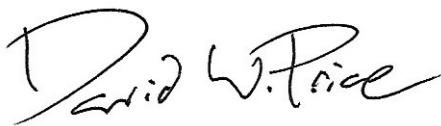
(4) the literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship.

The literal interpretation and strict application of the Zoning Ordinance would cause undue and unnecessary hardship because the flood hazard area has a BFE of 870.7, which county officials have told us we must be 3' above with our lowest floor, the garage. With a garage ceiling height lowered to the lowest possible, at 7.8', while still allowing the track of an overhead garage door, the lowest main floor threshold possible on this lot is 883.1'. This threshold elevation is consistent with the pattern along Lullwater Road. If a full 8.5' side setback is required, we would be changing either the massing/scale/proportion of the proposed and HPC-approved home or moving it closer to the street where the buildable area gets slightly wider, against HPC guideline for consistent front setback, or removing trees within the floodplain by moving the structure north, which is expressly prohibited by code except in specific exceptions. The only method of complying with the multiple layers of regulations which govern this specific lot is this request for modest relief from the Zoning Code.

(5) the requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text since the purpose of the variance process is to encourage flexibility when dealing with odd or non-conforming existing conditions which occasionally occur. Both proposed variances are modest and will allow a project consistent with the existing pattern on Lullwater Road as encouraged both by the goals of the Historic Preservation Commission and the DeKalb County Comprehensive Plan.

Thank you for your consideration,

A handwritten signature in black ink that reads "David W. Price". The signature is written in a cursive, flowing style.

David W. Price, Applicant



DeKalb County Planning & Development Department

Burrell Ellis
Chief Executive Officer

STATE WATER DETERMINATION FORM

Parcel I.D. Number: 18-002 Date: 9-20-16

Site Address: 1176 Lullwater Rd

Name: GARY VALENTINE Title: Developer Insp. III

Property Owner/Requested By: IN House: Lee Azimi: LAND DEVELOPMENT

Phone #: _____ Fax: _____

Address: _____

Type of Water Feature: CONTAINED STATE WATER / site visited By: GARY VALENTINE

☐ River ☐ Stream ☒ Creek ☐ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? ☒ Yes ☐ No
(if yes) ☒ Surface ☐ Subsurface

Is there wretched edge vegetation? ☐ Yes ☒ No

Is there a defined channel? — SEA WALL ☒ Yes ☐ No SEA WALL ALONG CREEK
THE LENGTH OF THE
PROPOSED WORK ZONE.

Is it confined entirely on owner's property? ☐ Yes ☒ No

Are hydric soils present? ☐ Yes ☒ No

Is wetland vegetation present? ☐ Yes ☒ No

Final Determination: ☒ State Water STATE WATER CONTAINED
NO (buffers required) By SEA WALL ALONG
☐ No State Water observed PROPOSED WORK SITE.

Comments: NO Buffer Along SEA WALL
Portion of site.

Date Site visited: This form is only good for 12 months from Date Site Visited. Date Site 9-20-16
visited must be within 6 months of any Land Disturbing Activity Permit Application.

DeKalb County Planning & Development Department

STATE WATER DETERMINATION FORM

AP#

931464

FEE PAID: ☒ YES

☐ NO

☐ NO FEE APPLIED

Parcel I.D. Number:

18-054-06-001

Date:

Site Address:

1176 Lullwater Rd.

Ad. 30307

Property Owner Name:

David A & Elizabeth F Martin

Name/Title of Agent:

David Martin

IF NOT OWNER, Requested By:

Phone Number:

404 308-0071

Fax:

Your Address:

1136 Lullwater Rd.

Ad. GA 30307

Type of Water Feature:

Stream

Site Visited By:

94/ Subl GH
5-15-19

☐ River ☐ Stream ☒ Creek ☐ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? (Circle) Yes or No (if yes Circle) Surface / Subsurface

Y/N

Comments

Is there wretched edge vegetation?

X

concrete/rock wall along creek.

Is there a defined channel?

X

"

"

Is it confined entirely on owner's property?

✓

Are hydric soils present?

X

Is wetland vegetation present?

✓

Comments

Final Determination:

☒ State Water

STATE WATER, *NO Buffer AT wall.

☐ Buffers Required

☐ No State Water Observed

Comments:

10 FT EASEMENT, FOR COUNTY DRAINAGE
EASEMENT.

*THIS FORM IS ONLY GOOD FOR 12 MONTHS FROM THE DATE SITE VISITED. DATE SITE VISITED MUST BE WITHIN 6 MONTHS OF ANY LAND DISTURBING ACTIVITY PERMIT APPLICATION. * GH 5-15-19

330 West Ponce de Leon Avenue, Suite 300 Decatur, Georgia 30030

Phone: 404.371.2517 Fax: 404.371.2760

Web Address: <http://www.dekalbcountyga.gov>

Email Address: planninganddevelopment@dekalbcountyga.gov

Chief Executive Officer

Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director

Andrew A. Baker, AICP

STATE WATER DETERMINATION FORM

AP# S.R.# 944468 and 944469

FEE PAID: ☒ YES ☐ NO ☐ NO FEE APPLIED

Parcel I.D. Number: 18 054 06 001 Date: 10/02/2020

Site Address: 1176 LULLWATER RD, ATLANTA GA 30307

Property Owner/Requested By: DAVID & ELIZABETH F. MARTIN

Name/Title of Agent: DAVID MARTIN, OWNER

IF NOT OWNER, Requested By: _____

Phone #: 404-308-0071 Fax: _____

Address: 1136 LULLWATER RD, ATLANTA, GA 30307

Type of Water Feature: Branch off of Peavine Creek Site Visited By: T. Ryder

☐ River ☐ Stream ☐ Creek ☒ Branch ☐ Lake ☐ Reservoir ☐ Pond ☐ Drainage System ☐ Spring ☐ Well

Is there flow? ☐ Yes ☐ No (if yes) ☒ Surface ☐ Subsurface

Is there wretched edge vegetation? ☐ Yes ☐ No None at wall

Is there a defined channel? ☐ Yes ☒ No _____

Is it confined entirely on owner's property? ☐ Yes ☒ No _____

Are hydric soils present? ☒ Yes ☐ No _____

Is wetland vegetation present? ☐ Yes ☒ No _____

Final Determination: ☒ State Waters _____
☐ Buffers Required No buffer required
☐ No State Water observed _____

Comments: It is determined that this is a 'state' body of water, but it is encased by a concrete/bricked wall.

There is no wretched vegetation on the wall. No state buffer required. There is a 10 foot easement required for county drainage.

****This form is only good for 12 months from Date Site Visited. Date Site Visited must be within 6 months of any Land Disturbing Activity Permit Application**



CERTIFICATE OF APPROPRIATENESS

July 20, 2021

Site Address: 1176 LULLWATER RD
ATLANTA, GA 30307-

Parcel ID: 18-054-06-001

Application Date:

Applicant: Dave Price

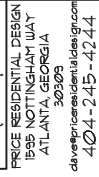
Mailing Address: 1595 Nottingham Way
Atlanta, Georgia 30309

THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS REGULARLY SCHEDULED PUBLIC MEETING ON July 19, 2021, REACHED THE FOLLOWING DECISION ON THIS APPLICATION:

ACTION: Approval

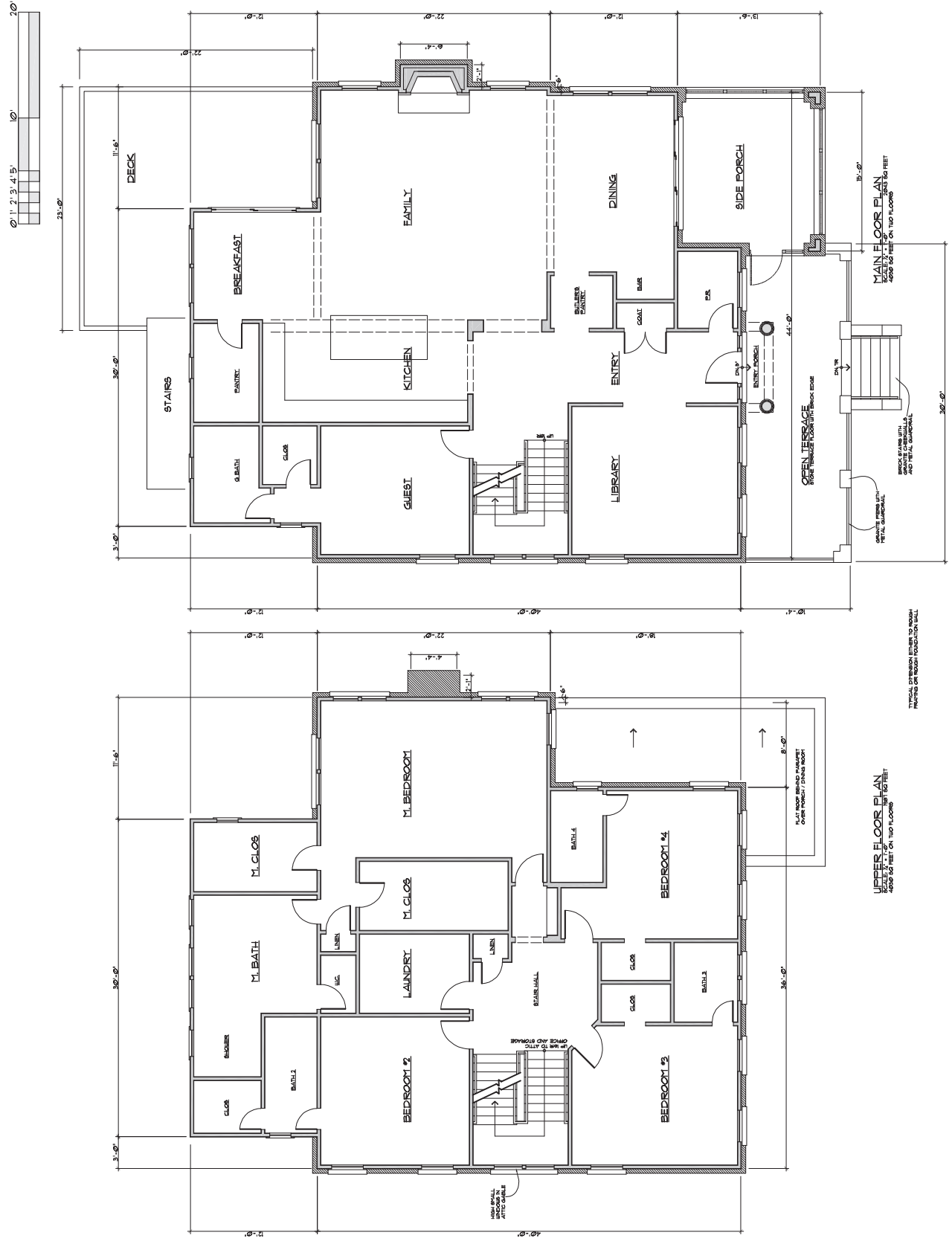
1. Build a new house on a wooded lot. The house will be a two-story Colonial Revival-style house with an attic and basement. The basement will be aboveground at the rear and right side. The house will be clad with brick, except for the granite front terrace and basement level, and cement-fiber lap siding in the gables, on the dormers and on the rear wing. The roof will be side-gabled with three gabled dormers on the front roof slope. The roof will be clad with fiberglass shingles. The front entry portion of the terrace will have a hipped roof supported by tapered columns. An arched opening on the front of the basement level will lead to a one-car garage door set back more than 8' behind the front façade. A wooden deck and screened porch will be at the rear of the house. All windows will be wood with simulated divided lights.
2. A 10'3" wide concrete driveway will enter at the southeast corner of the lot and curve across to the basement level garage. A turn-around will be installed at the curve in the driveway. The distance between the end of the turn-around and the opposite side of the driveway will be 23'. A 1.5' high boulder wall will be installed along a portion of the driveway near the house. A 4' wide walkway will run from the driveway to the front terrace.
3. Ten trees will be removed. Two 3"-5" American beech trees will be planted in the front yard. Naturalistic plantings of native shrubs will be installed beside the sidewalk and flanking the driveway near the house.
4. The south side setback of 5' will require a zoning variance from the required 8.5'. The commission notes that other county departments may require further study of the floodplain and stream buffer.

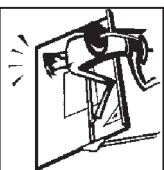
JUNE 25, 2021



LULLWATER RESIDENCE
1176 LULLWATER RD
ATLANTA, GEORGIA
MAIN AND UPPER
LEVEL FLOOR PLANS
SHEET A-3

JUNE 25, 2021



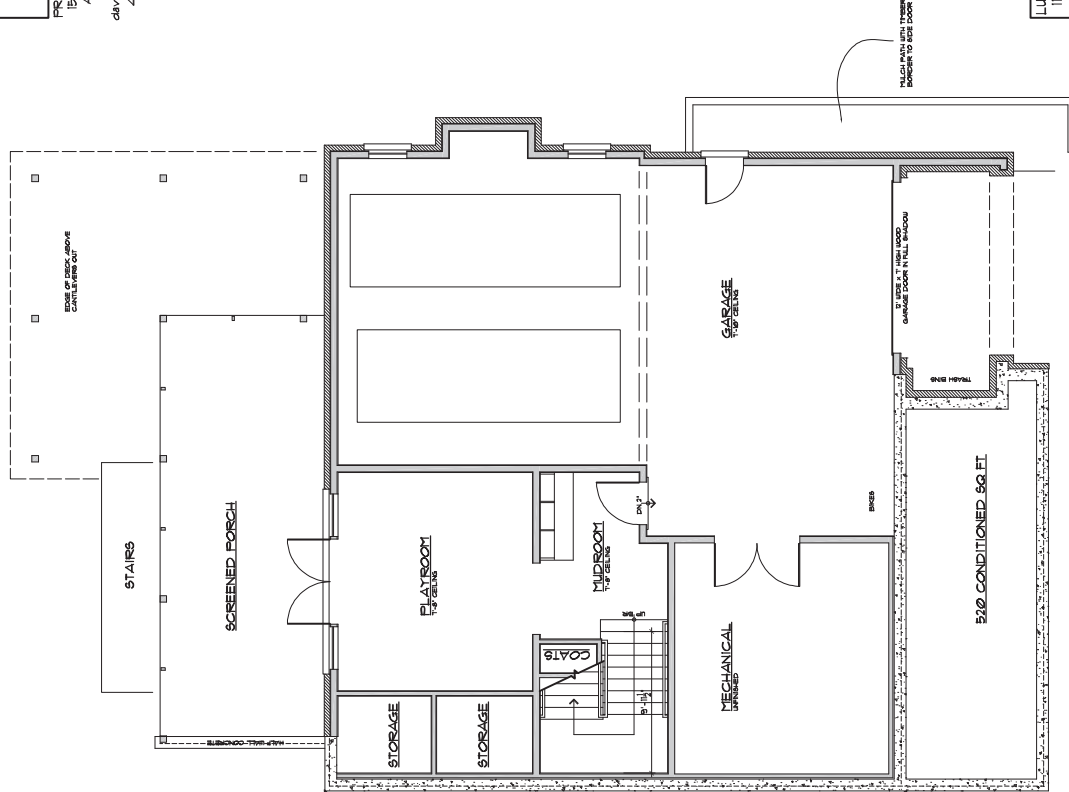
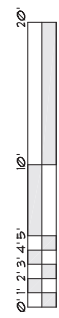


PRICE RESIDENTIAL DESIGN
1595 NOTTINGHAM WAY
ATLANTA, GEORGIA
30309
ave@priceresidentialdesign.com
404-245-4244

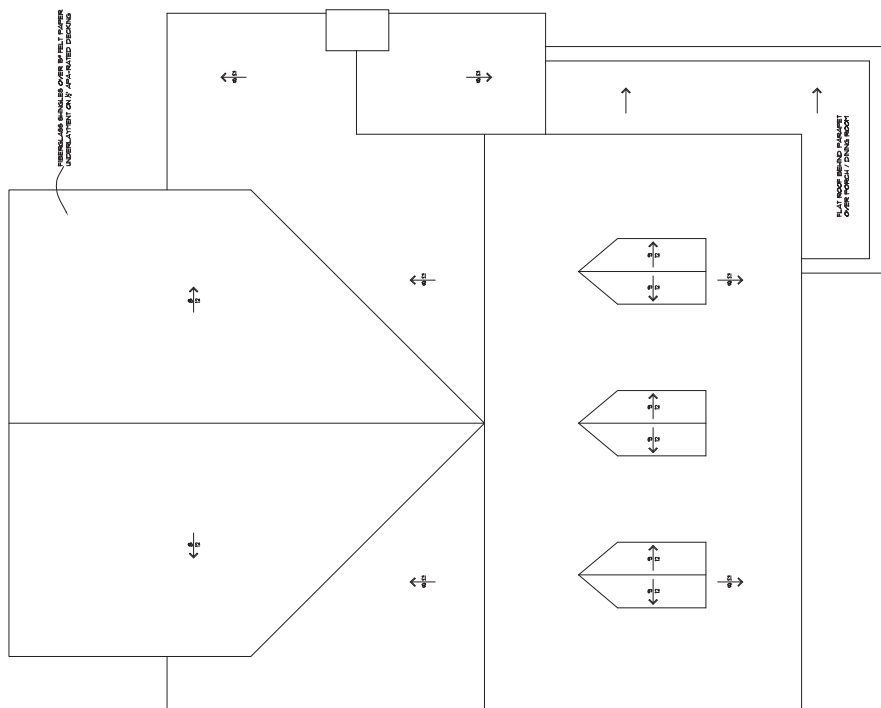
PRICE RESIDENTIAL DESIGN
LULLWATER RESIDENCE
1176 LULLWATER ROAD

LULLWATER RESIDENCE
1176 LULLWATER RD
ATLANTA, GEORGIA
BASEMENT AND
ROOF PLANS
SHEET A-4

JUNE 25, 2021

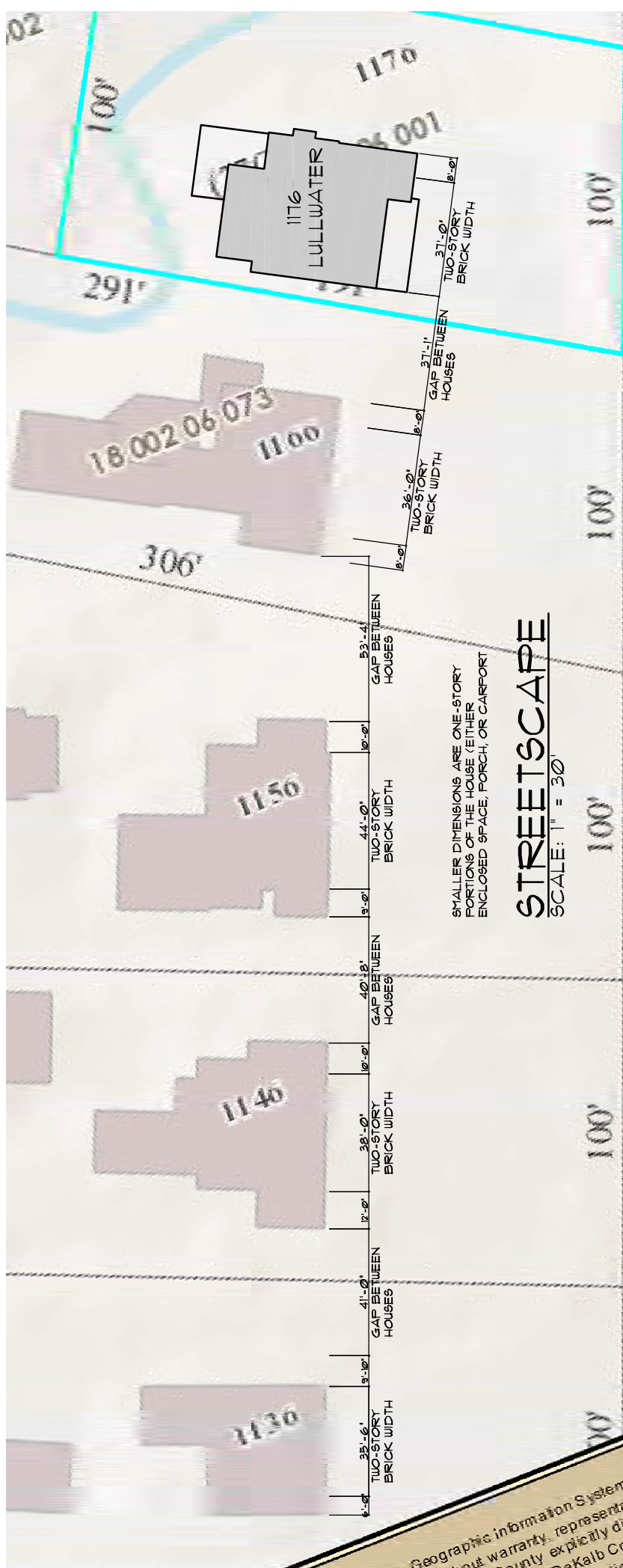


BASEMENT PLAN
SCALE: 1/4" = 1'-0" 5/8" 80 FEET HEATED
SHORT CEILING BECAUSE THRESHOLD HEIGHT
HEIGHT AND FLOOD ZONE REGULATIONS CONFLICT

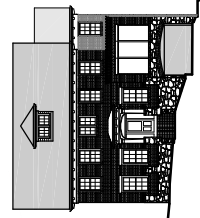


REVISION 7-19-21
REPLACED SINGLE
HIPED DORMER
THREE SMALLER
GABLED DORMERS TO
SATISFY CONDITION #2
OF HPC STAFF REPORT

ROOF PLAN
SCALE: 1/4" = 1'-0" SOME CONDITIONED SPACE
(OFFICE, STORAGE) N ATTIC - UNPLANNED



WHILE WIDTHS ARE CORRECT, ROOF HEIGHT LOOKS MUCH SHORTER THAN IN A DRAWING. THIS RIDGE IS OVER 10' ABOVE EAVE CALCULATED BY COUNTING BRICKS.



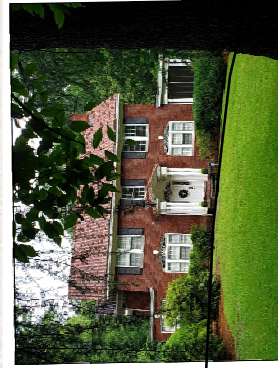
1176

FRONT WALL BRICK
HEIGHT: 18'-4"



1166

FRONT WALL BRICK
HEIGHT: 17'-4".



1156 NO WAY TO TAKE A
STRAIGHT PHOTO

FRONT WALL BRICK
HEIGHT: 17'-10"



1146

GRADE CALCULATED USING DEKALB GIS MAP INFORMATION

FRONT WALL BRICK
HEIGHT: 17'-1"
(FROM MAIN FLOOR)



1136

Geographic information System
 about warranty, representat
 county explicitly dis
 GeKalb Cor
 nor



Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
For

A Stream Buffer Variance, Side Yard Setback Variance, and Threshold Elevation Variance
pursuant to the DeKalb County Zoning Ordinance

of

ELIZABETH FINNERTY MARTIN
c/o Battle Law, P.C.

for

+/-0.41 Acres of Land
Being 1176 Lullwater Road
DeKalb County, Georgia and
Parcel Nos. 18 054 06 001

Submitted for Applicant by:

Michèle L. Battle, Esq.
Joshua S. Mahoney, 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
jsm@battlelawpc.com



Battle Law

I. LETTER OF INTENT

Elizabeth Finnerty Martin (the “Applicant”) and her husband, David Martin, own and are seeking to develop upon +/- 0.41 acres of land being Tax Parcel No. 18 054 06 001 having frontage on 1176 Lullwater Road (the “Subject Property”) with one single-family detached home. The Applicant is seeking the following three variances from the setback requirements for the Subject Property:

1. Request to allow for the encroachment of a single-family detached home into the fifty (50) foot Stream Buffer pursuant to Section 14-44.1 of the DeKalb County Land Development Ordinance according to the submitted site plan;
2. Request a Variance from DeKalb County Zoning Ordinance Section 27-2.2.1 Dimensional Requirements to reduce the south side yard setback from eight and a half (8.5) feet to five (5) feet; and
3. Request a Variance from DeKalb County Zoning Ordinance Section 27-5.2.5(D)(2) to increase the elevation of the dwelling threshold from 874.2 feet (average natural grade at thirty five (35) foot front setback – setback averaging not applying to this lot) to 883.1 feet in elevation for the Subject Property

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

II. STREAM BUFFER VARIANCE CRITERIA

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.*

By reason of exceptional site conditions not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of the rights and privileges enjoyed by other property owners in the same zoning district. This Subject Property is in the unique position of having both a stream buffer encumbering it and being in the historic Druid Hills neighborhood. The regulations that preserve the historic character of the neighborhood call for a certain placement of a home in relation to the street and governs the size a home is permitted to be. The stream buffer excludes space from being built upon. These regulations combine to create a developable envelope that significantly burdens the property owner and Applicant. Importantly, neither the property owner nor the Applicant have created the hardship as it arises only out of the fact that there is a stream on the property, and that the regulations combine in such a way to diminish the developable envelope to a space well below what a typical lot would be afforded.



Battle Law

Therefore, by reason of exceptional site conditions not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of the rights and privileges enjoyed by other property owners in the same zoning district.

B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

The variances requested does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges. The reductions requested are the absolute minimum the Applicant needs to build a home on the Subject Property.

C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the Subject Property is located. The variances requested will allow the Applicant to construct a single-family detached home in an area where other single-family detached homes currently exist.

D. The literal interpretation and strict application of the applicable provisions of or requirements of this chapter would cause undue and unnecessary hardship.

Should the County literally interpret and strictly apply the provisions or requirements of this chapter, the Applicant would experience undue and unnecessary hardship. Failure to grant the requested variances would mean the Applicant simply cannot use the Subject Property. This would clearly be an undue and unnecessary hardship, and result in the taking of the Subject Property by the County without just compensation.

E. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan. The proposed development is compatible with the Comprehensive Plan. Furthermore, the Subject Property is exactly the type of property contemplated by the DeKalb County Zoning Ordinance's section on variances. The Subject Property is uniquely and unduly burdened by the County's stream buffer and setback requirements in such a way that makes the Subject Property unusable. A failure to grant the requested variances would deprive the Applicant of the rights and privileges afforded to other property owners in similar zoning districts. Therefore, the requested variance is wholly consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.



Battle Law

III. SIDE YARD SETBACK CRITERIA

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.*

By reason of exceptional site conditions not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of the rights and privileges enjoyed by other property owners in the same zoning district. This Subject Property is in the unique position of having both a stream buffer encumbering it and being in the historic Druid Hills neighborhood. The regulations that preserve the historic character of the neighborhood call for a certain placement of a home in relation to the street and governs the size a home is permitted to be. The stream buffer excludes space from being built upon. These regulations combine to create a developable envelope that significantly burdens the property owner and Applicant. Specifically, the stream curves around the rear property in such a way that creates a stream buffer that leaves only the southern portion of the Subject Property open to development, forcing the developable envelope closer to the southern side property line. For any development on this property to take place, the side setback on the southern property line will need to be reduced to five (5) feet. The Historic Preservation Commission stated that this reduction would be necessary to accommodate the home it approved at its July 19, 2021 hearing.

Importantly, neither the property owner nor the Applicant have created the hardship as it arises only out of the fact that there is a stream on the property, and that the regulations combine in such a way to diminish the developable envelope to a space well below what a typical lot would be afforded.

Therefore, by reason of exceptional site conditions not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of the rights and privileges enjoyed by other property owners in the same zoning district.

- B. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located;*

The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. The Applicant requests a reduction of three and a half (3.5) feet from the Code requirements to avoid encroaching into the stream buffer on the northern side of the Subject Property. This is the smallest amount of variance from the Code that the Applicant could request to accomplish this.

- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.*



Battle Law

The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located. On the contrary, granting this variance will serve the public welfare by keeping development out of the stream buffer as much as possible. This will reduce the amount of stormwater runoff headed into the stream, thereby helping to preserve a delicate environmental asset for the public.

D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship; and

The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship. Specifically, strict application of this chapter would deprive the property owner and Applicant of the right to use the property in any kind of economically viable way. The developable envelope would be so small, that nothing could be developed on the Subject Property, thereby depriving the property owner and Applicant their rights to use and enjoy their property and keeping them from enjoying similar rights enjoyed by property owners in similar zoning districts.

E. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text. This variance would put the property owner and Applicant back into a position similar to other property owners in a similar zoning district. Thus, this variance is consistent with the spirit and purpose of this chapter because it affords the property owner and Applicant an equal chance to develop their property in a way that is consistent with the neighborhood.

IV. THRESHOLD ELEVATION CRITERIA

A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.

The lot slopes steeply from south to north with a flood hazard area (Base Flood Elevation of 870.7) along the rear and northern side to create a buildable area which narrows considerably as you move towards the rear of the lot. It is a vacant conforming lot and is in the Druid Hills Historic District and therefore new construction is limited to what is considered an appropriate size and location by the DeKalb County Historic Preservation Commission per its guidelines. The DeKalb County Tree Protection Ordinance also prohibits the removal of any trees from the flood hazard zone per Section 14-39(g)(10) with some exceptions (we must remove one pine tree infested with termites). The exceptional topography was not created by the owners and these variances are the only method of allowing a new single-family home appropriate to the Historic District.



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B. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

The variance does not constitute a grant of special privilege or go beyond the minimum necessary to afford relief because the HPC guidelines 7.2 require that any new home must be consistent with the other properties in the district, including having a consistent building orientation, setback, directional emphasis, shape, massing, proportion, and scale to maintain the rhythm along the streetscape. The project was approved on July 19th, 2021, by the HPC based on the attached site plan. The threshold elevation will simply bring us into the pattern with the other existing properties along Lullwater Road. The existing southern neighbor's threshold elevation is 885.8', ours is proposed to be 883.1', and the elevation at the existing public sidewalk at future driveway is 881.5'. The grade along Lullwater Road drops slightly as you go north so the proposed threshold is in line with the existing pattern.

C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

The granting of the variance would not be detrimental to the public welfare or injurious to the surrounding properties. The threshold elevation change will have no effect on the public welfare.

D. The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship.

The literal interpretation and strict application of the Zoning Ordinance would cause undue and unnecessary hardship because the flood hazard area has a BFE of 870.7, which county officials have told us we must be 3' above with our lowest floor, the garage. With a garage ceiling height lowered to the lowest possible, at 7.8', while still allowing the track of an overhead garage door, the lowest main floor threshold possible on this lot is 883.1'. This threshold elevation is consistent with the pattern along Lullwater Road.

E. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text since the purpose of the variance process is to encourage flexibility when dealing with odd or non-conforming existing conditions which occasionally occur. The proposed variance is modest and will allow a project consistent with the existing pattern on Lullwater Road as encouraged both by the goals of the Historic Preservation Commission and the DeKalb County Comprehensive Plan.



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V. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the Variance applications be approved. The Applicant welcomes any questions and feedback from the Planning Staff, or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval for this Application.

VI. 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 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 Zoning Board of Appeals 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 Variances 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



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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 Variances 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 Variances 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 Zoning Board of Appeals

Department of Planning &
Sustainability 178 Sams Street
Decatur, GA 30030



Michael L. Thurmond
Chief Executive

Cedric Hudson
Interim Director

Commission District 02 Super District 06

D3. Case No: A-23-1246316

Parcel ID: 18-054-06-001

Applicant: Elizabeth Finnerty Martin c/o Battle Law PC
3562 Habersham at Northlake
Building J. Suite 100
Tucker, GA 30084

Owner: David and Elizabeth Martin
1136 Lullwater Road
Atlanta, GA 30307

Project Name: 1176 Lullwater Road – New Construction

Location: The property has approximately 100 feet of street frontage and is located on the west side of Lullwater Road

Request: Variance from Section 27-5.2.5 (D) (2) to allow the increase in the elevation of the threshold from 874.2-feet to 883.1-feet at a property within an R-85 (Residential Medium Lot) zoning district and within the Druid Hills Historic district.

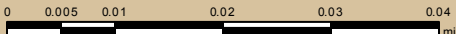
THIS IS TO ADVISE YOU THAT THE ZONING BOARD OF APPEALS AT ITS REGULARLY SCHEDULED PUBLIC HEARING ON WEDNESDAY, OCTOBER 11TH, 2023 REACHED THE FOLLOWING DECISION ON THE ABOVE REFERENCED APPLICATION:

ZBOA Action: 60-day deferral

MOTION: Mark Goldman moved to defer to December ZBA agenda. Pamela Speaks seconded. Motion carried 6-0-0



DeKalb County Parcel Map



Date Printed: 12/26/2023



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.

Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ Elizabeth Finnerty c/o Battle Law, P.C. _____

Address of Property: _____ 1176 Lullwater Rd _____

Date(s) of hearing if any: _____ July 17, 2023 _____

Case Number: _____ 1246538 _____

☐ Approved ☒ Denied ☐ Deferred

Approval: The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

☐ Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

☐ This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guideline for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings therein as guidelines. The Preservation Commission finds that all relevant guidelines have been met.

Additional pertinent factors:

Application is approved with conditions or modifications ☐ /without conditions or modifications ☐

Conditions or modifications (if applicable):

Denial: The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district ☒ or, the applicant has not provided sufficient information for the Preservation Commission to approve the application ☐. Specifically, the Preservation Commission finds as follows:

The commission determined that the construction of the house would not be in compliance with Guideline 7.2.6 and would have a substantial adverse effect on the historic district.

Deferral: The Preservation Commission has deferred action on this application for the following reasons:

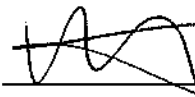
The application will be re-heard by the Historic Preservation Commission at its meeting on

_____.

Date:

7/21/2023

Signature:



Chair, DeKalb County
Historic Preservation Commission

Atlanta Fine
Homes

Sotheby's
INTERNATIONAL REALTY

404 874 0300

Peggy Hibbert

404 444 0192

UNDER CONTRACT

HISTORIC PRESERVATION COMMISSION



A Certificate of Appropriateness has been requested.

Case Number: L. 1246821

Site Location: 1176 Lullwater Road

Purpose: **Construct new house.**

CONTACT US: 404.371.2155
WEBSITE:
www.dekalbcountyga.gov/planning-and-sustainability/planning

HISTORIC PRESERVATION
COMMISSION:
Monday, January 16, 2024
@ 6:00 PM

MEETING LOCATION:
All meetings are
virtual on Zoom

