



Lorraine Cochran Johnson

Chief Executive Officer

## DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability

178 Sams Street,  
Decatur, GA 30030

Wednesday, May 14, 2025

### Planning Department Staff Analysis



Cedric Hudson

Interim Director

**D7. Case No: A-25-247396**

**Parcel ID(s): 15 171 21 025**

#### Commission District 03 Super District 07

**Applicant:** Benjamin Middlebrooks/ BYNCORP, LLC  
PO Box 2772  
McDonough, GA, 30253

**Owner:** The Maren League, LLC  
561 Ashburton Ave  
Decatur, GA, 30032

**Project Name:** 561 Ashburton Ave – 2-Story Side Yard Addition

**Location:** 561 Ashburton Ave, Decatur, GA, 30032

**Request:** Variance from Section 27-2.2.1. C.1 of the DeKalb County Zoning Ordinance to reduce the side-yard setback from 7.5' to 0' to facilitate the construction of a second-story addition of a single-family home in the R-75 (Residential Medium Lot) zoning district.

**Keynote(s):**

**Staff Recommendation:** Denial.

## **STAFF FINDINGS:**

The subject property is a single-family residential lot in the R-75 zoning district. The addition is unpermitted and is currently built onto the home. The applicant is requesting a reduction in the side yard setback to allow for the construction of a second-story addition. The applicant has cited site constraints and previous damage as justification for the variance. However, after staff visitation of the lot, there may have been a lack of evidence in the request for the variance. The property layout may demonstrate a unique condition that would necessitate the variances to the extent requested. According to Section 27-2.2.1, the side-yard setback is 7.5', with the rear-yard setback requirements at 40'.

**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.**

The property is narrower than the standard requirements in the R-75 zoning district and has a slightly sloped rear yard. The lot does not meet the requirements in lot size for the R-75 zoning district; in which this property is situated at 9000 SF compared to the 10,000 SF requirements. However, the physical conditions of the lot, including the slope and lot dimensions may be typical constraints in this area and do not create a unique hardship that distinguishes this lot from others in the zoning district. This may not support the justification for a variance due to the distinctive topographical and physical constraints of the site.

**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 applicant states the proposed variance is necessary due to site constriction and this would be the minimal variance necessary to allow for reasonable use of the property. However, allowing the addition to be constructed to a 0' setback may be excessive and may significantly impact adjacent properties. Alternative designs may exist that would require less extensive variances.

**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 variance may materially be detrimental to the public welfare or injurious to the property. It will allow the addition to be closer to the adjacent property closer than allowed and may cause a concern for safety. The structure will be visible from the street, creating potential visual impacts.

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

A strict interpretation of the zoning ordinance may result in an undue hardship for the applicant by limiting the effective use of their property as it pertains to the construction of the accessory structure. However, since the property was rebuilt within the last three years, it must adhere to the current zoning code. Given the property's topographical and orientation constraints, strictly adhering to the ordinance would render the project unfeasible, but also compliant.

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

The variance request aligns with the spirit and purpose of the DeKalb County Comprehensive Plan, which promotes responsible development while accommodating the needs of property owners within residential neighborhoods. As the property is in the Traditional Neighborhood (TN) land use, the applicant's request would align with the goals to preserve greenspace. Supplying more livable square footage contributes to the goal of increasing housing supply within the Land Use chapter of the Comprehensive Plan.

**FINAL STAFF ANALYSIS:**

The application meets some of the criteria for a setback variance as outlined in the DeKalb County Zoning Ordinance Section 27.2.2.1. While the proposed reduction in setback constitutes the proposed necessary encroachment, it would significantly alter the physical infrastructure or built environment. It would also allow the structure to be closer to their neighbors than would typically be allowed under current regulations. The intent to utilize the existing structure for an addition may be a valid rationale for the setback reduction request. The applicant has not demonstrated a unique hardship, and approval may compromise the intent of the zoning ordinance. However, it may be hard to justify their request. Therefore, staff recommends denial for the variance request.

**Staff Recommendation:** Denial.



DeKalb County  
GEORGIA

Development Services Center  
178 Sams Street  
Decatur, GA 30030  
[www.dekalbcountyga.gov/planning](http://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

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

Applicant and/or  
Authorized Representative: Benjamin Middlebrooks / BYNCORP, LLC  
Mailing Address: P.O. Box 2772  
City/State/Zip Code: McDonough, Ga 30253  
Email: byncorpmanagement@gmail.com  
Telephone Home: 470-227-5319 Business:

#### OWNER OF RECORD OF SUBJECT PROPERTY

Owner: The Maven League, LLC  
Address (Mailing): 561 Ashburnton Ave Decatur, Ga 30032  
Email: mavenleague@gmail.com Telephone Home: 404-307-6823 Business:

#### ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 561 Ashburnton Ave City: Decatur State: Ga Zip: 30032  
District(s): 3/7 Land Lot(s):  Block:  Parcel: 1517121025  
Zoning Classification: R-7S Commission District & Super District:

#### CHECK 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.\***

Email [plansustain@dekalbcountyga.gov](mailto:plansustain@dekalbcountyga.gov) with any questions.

DEPARTMENT OF PLANNING & SUSTAINABILITY  
**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: 12-31-24

Applicant  
Signature:



DATE: 12.31.24

Applicant  
Signature:



DEPARTMENT OF PLANNING & SUSTAINABILITY

**ZONING BOARD OF APPEALS APPLICATION**

**AUTHORIZATION TO REPRESENT THE PROPERTY OWNER**

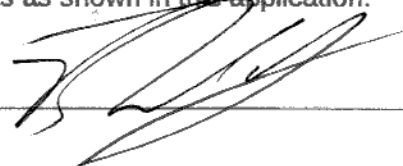
I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

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 and that I authorize the applicant/agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application.

DATE: 12.31.24

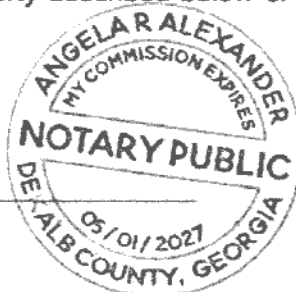
Applicant/Agent  
Signature:



TO WHOM IT MAY CONCERN:

(I)/ (WE): THE MAVEN LEAGUE, LLC C313  
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to the above signed agent/applicant.



Angela R. Alexander  
Notary Public

C313  
Owner Signature

Notary Public

Owner Signature

Notary Public

Owner Signature

DEPARTMENT OF PLANNING & SUSTAINABILITY

**ZBOA APPLICATION AUTHORIZATION**

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

DATE: 1.21.25

CHECK TYPE OF APPLICATION:

( ) ADMINISTRATIVE APPEAL

☒ VARIANCE

( ) SPECIAL EXCEPTION

TO WHOM IT MAY CONCERN:

(I) / (WE), The Maven League, LLC Cordaveious Beshon Brown  
[Name of owner(s)]

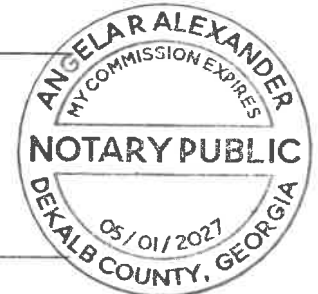
being (owner) / (owners) of the property described below or attached hereby delegate authority to

Benjamin Middlebrooks  
[Name of Applicant or Representative]

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

Angela R. Alexander  
Notary Public

X [Signature]  
Owner



\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

## LETTER OF INTENT

Subject: Variance Request For Reduction Of Side Yard Setback-Section 27-2.2.1 From 7'5 to 0

Dear Members of the Zoning Board Of Appeals,

My name is Benjamin Middlebrooks, and I am writing to formally request a variance from Section 27-2.2.1 of the Dekalb County Zoning Ordinance. My request pertains to the reduction of the side yard setback requirements from 7.5 feet to 5.0 feet for the property located at 561 Ashburton Ave Decatur, Ga 30032. The purpose of this variance is to facilitate the second story addition which will enhance the beauty of the property and increase the heated space.

### 1. PHYSICAL CONDITIONS OF THE SITE:

The property is only 65' wide (R-75). It is an unusually small lot (9000 square feet versus 10,000 for R-75. It has possible slope issues in the rear which affected rear addition.

### 2. MINIMUM VARIANCE NECESSARY:

My request is to alleviate prior damages from the prior owner of the property. As previously stated, we would have had to demolish the second story addition and move to the rear which kinda slopes creating another challenge.

### 3. PUBLIC WELFARE:

After a visit to the neighborhood, the adjacent owners welcomed the work, stating that it beautifies the neighborhood and that there are other two story structures in the neighborhood and that it does not create an eyesore.

### 4. ORDINANCE

A strict interpretation of the zoning laws, in this case, would cause hardship to the current owner as we desire to alleviate damages from the prior owner. Denial would force us to tear down the structure which would cause more hardship to the owner and surrounding neighborhood.

### 5. ALIGNMENT WITH THE SPIRIT OF THE LAW:

I FIRMLY BELIEVE THAT MY VARIANCE REQUEST ALIGNS WITH THE INTENT OF THE Suburban Character Area, as outlined in the Dekalb County Comprehensive Plan. The proposed applications aligns with the TN(Traditional Neighborhood), it provides more housing to the county and the aesthetic improvement is welcomed in the area and continues to push for higher density development.

In conclusion, I appreciate your time and consideration of my variance request. I am committed to working collaboratively to ensure that my proposed changes align with the broader goals and policies of Dekalb County. Thank you for your attention to this matter.

Sincerely, Benjamin



### NON-STORMWATER POLLUTION CONTROL BMPS

- ### ADDITIONAL CONSTRUCTION SITE BMPS

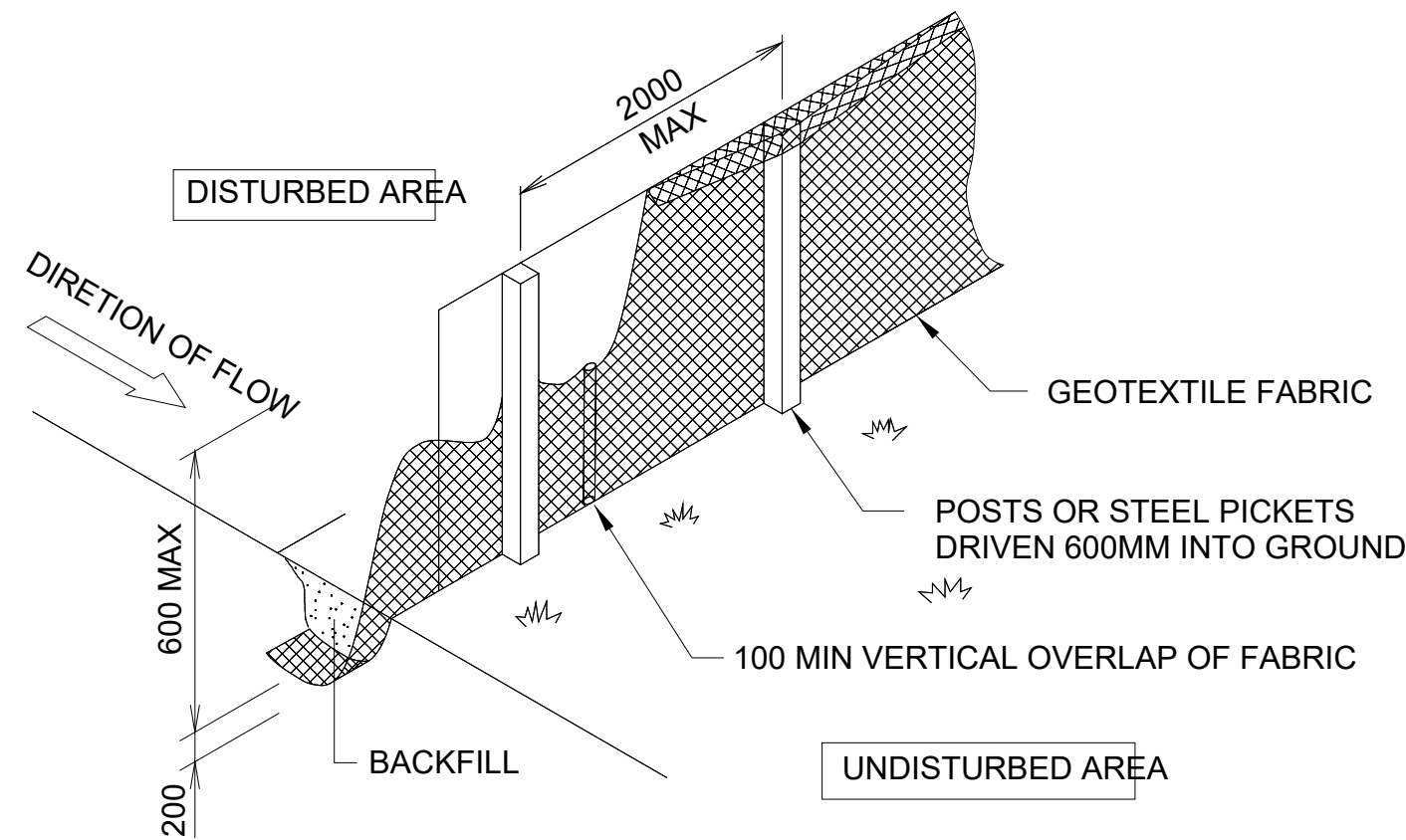
- SWEEP STREET AND/OR HARD SURFACES DAILY AND PROPERLY DISPOSE OF ALL MATERIALS
- REMOVE TEMPORARY CONTROL MEASURES WHEN NO LONGER NEEDED.
- INSTALL GUTTERS & DOWNSPOUTS AS EARLY AS POSSIBLE. CAPTURE RUNOFF TO PREVENT ADDITIONAL ONSITE EROSION E.G. SWALE, RAIN GARDEN, FRENCH DRAIN.
- IF EXISTING VEGETATION IN RIGHT OF WAY IS DISTURBED AND SOIL IS EXPOSED, INSTALL PERIMETER SEDIMENT CONTROL TO PREVENT MATERIAL FROM ENTERING ROADWAY.

**SITE NOTES:**

1. ALL CONSTRUCTION AND MATERIALS TO CONFORM TO THE LATEST STANDARDS AND SPECIFICATIONS OF CITY OF ATLANTA AND FULTON COUNTY.
2. CONSTRUCTION EXIT PAD AGGREGATE SIZE SHALL BE IN ACCORDANCE WITH A. S.T.M. 0448 SIZE #1.
3. THIS PLAN WAS PREPARED FOR PERMIT APPROVAL ONLY. ACTUAL CONSTRUCTION SHOULD BE BASED ON FIELD STAKING
4. ALL ELEVATIONS ON SITE NEED TO BE VERIFIED PRIOR TO ANY CONSTRUCTION.
5. THIS PLAN WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT, EASEMENTS AND ENCUMBRANCES MAY EXIST WHICH BENEFIT AND BURDEN THIS PROPERTY.
6. ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NAVD 1988 DATUM
7. UNDERGROUND UTILITIES ARE SHOWN AS PER PAINT MARKINGS BY OTHERS.
8. NO ADJOINING TO BE CONDUCTED IN THE RIGHT-OF-WAY, NEED QUALIFIED CONTRACTOR PERMIT
9. AT ALL POINTS ALONG THE PUBLIC RIGHT OF WAY WHERE THE EXISTING CURB HEIGHT IS LESS THAN 5 INCHES HIGH, THE EXISTING CURB SHALL BE REMOVED AND REPLACED OR RESET TO MINIMUM CITY OF ATLANTA REQUIREMENTS AND THE SIDEWALK REPLACED.
10. EXISTING SANITARY SEWER LINE TO REMAIN IN SERVICE. CONTRACTOR TO TAKE REASONABLE MEASURES TO MAINTAIN AND PROTECT EXISTING SANITARY SEWER DURING CONSTRUCTION.
11. CONTRACTOR AND OWNER MUST ENSURE UTILITIES ARE DISCONNECTED PRIOR TO ANY DEMOLITION WORK TAKING PLACE
12. DUMPSTERS AND/OR TEMPORARY SANITARY FACILITIES SHALL NOT BE LOCATED IN STREET, TREE PROTECTION AREA, OR RIGHT OF WAY.
13. IRRIGATION SYSTEMS ARE NOT ALLOWED WITHIN THE PUBLIC RIGHT-OF-WAY NOR WITHIN THE STRUCTURAL ROOF PLATE OF EXISTING TREES

**LANDSCAPE NOTES:**

1. NO HEAVY MACHINERY ALLOWED WITHIN THE CR.ZI
2. DO NOT TRENCH IN THE SILT FENCE WITHIN THE DRIP LINE OF ANY TREES (USE STAKED HAYBALES OR SANDBAGS)
3. ANY DEMOLITION OR DEBRIS REMOVAL WITHIN THE CRITICAL ROOT ZONE OF TREES WILL BE DONE BY HAND
4. NO TREES ARE TO BE DESTROYED DURING DEMOLITION. NO CUT OR FILL OF EARTH WITHIN THE CR.Z OF AN EXISTING TREE.
5. ALL TREE PROTECTION DEVICES TO BE INSTALLED PRIOR TO LAND DISTURBANCE AND MAINTAINED UNTIL FINAL LANDSCAPING.
6. ALL TREE PROTECTION FENCING TO BE INSPECTED DAILY AND REPAIRED OR REPLACED AS NEEDED. SERESTE
7. PROVISIONS FOR TREE PROTECTION ON THE SITE SHALL BE, AS A MINIMUM, IN CONFORMANCE WITH THE REQUIREMENTS OF THE LATEST EDITION OF THE CITY OF ATLANTA TREE PRESERVATION ORDINANCE, ZONING ORDINANCE AND ADMINISTRATIVE GUIDELINES PERTAINING TO TREE PROTECTION.
8. IF THE LANDSCAPE DESIGN AND PLANT MATERIAL ARE CHANGED FROM THE PERMITTED PLAN THREE G) SETS OF REVISED PLANS SHALL BE SUBMITTED TO THE CITY OF ATLANTA ARBORISTS OFFICE FOR APPROVAL, PRIOR TO ANY LANDSCAPE INSTALLATION.
9. ALL LANDSCAPING FOR EACH PHASE OF DEVELOPMENT SHALL BE COMPLETED PRIOR TO THE RECORDING OF THE FINAL PLAN FOR THAT PHASE PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY FOR THAT PHASE, OR PRIOR TO CONNECTION OF PERMANENT POWER FOR THAT PHASE.
10. CONTACT SITE INSPECTION DEPARTMENT UPON COMPLETION OF LANDSCAPE INSTALLATION.
- NO TREES TO BE PLANTED WITHIN ANY EASEMENT.



NOT TO SCALE

**GENERAL EROSION CONTROL NOTES:**

**A. THE ESCAPE OF SEDIMENT FROM THE SITE SHALL BE PREVENTED BY THE INSTALLATION OF EROSION AND SEDIMENT CONTROL MEASURES AND PRACTICES PRIOR TO, OR CONCURRENT WITH, LAND DISTURBING ACTIVITIES.**

B. EROSION AND SEDIMENT CONTROL MEASURES WILL BE MAINTAINED AT ALL TIMES. IF FULL IMPLEMENTATION OF THE APPROVED PLAN DOES NOT PROVIDE FOR EFFECTIVE EROSION CONTROL, ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IMPLEMENTED TO CONTROL OR TREAT THE SEDIMENT SOURCE.

C. DISTURBED AREAS LEFT IDLE SHALL BE STABILIZED WITH TEMPORARY VEGETATION  
AFTER 14 DAYS; AFTER 30 DAYS, PERMANENT VEGETATION SHALL BE ESTABLISHED

**D. EROSION CONTROL MEASURES WILL BE INSPECTED AT LEAST WEEKLY AND AFTER EACH RAIN, AND REPAIRED BY GENERAL CONTRACTOR**

**E. ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES WILL BE INSTALLED IF DEEMED NECESSARY BY ON-SITE INSPECTION.**

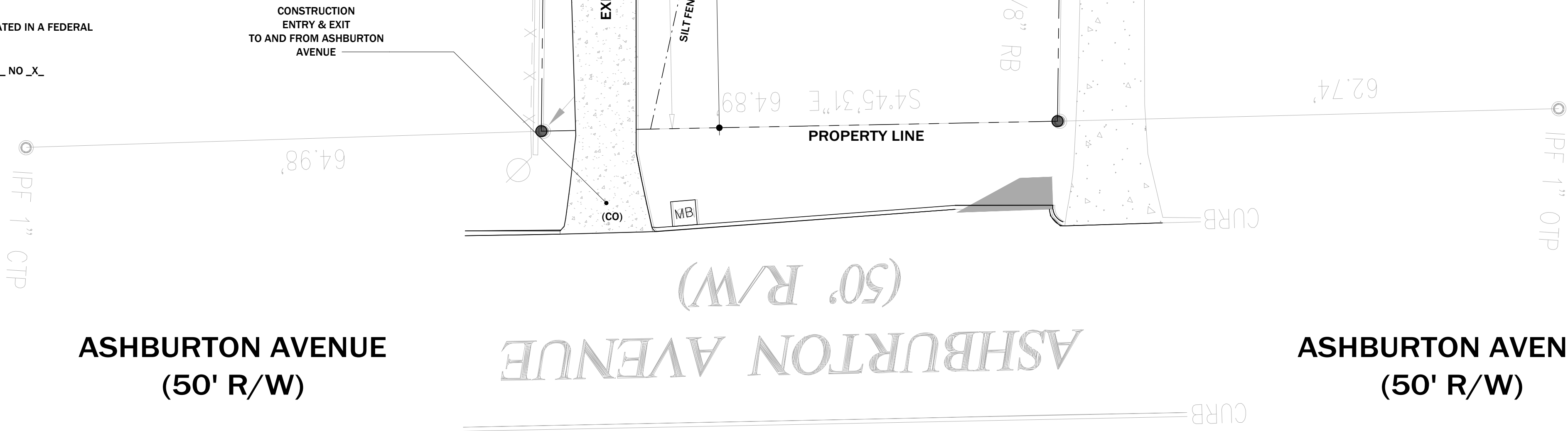
**F. SILT FENCE SHALL BE "TYPE C" AS PER THE MANUAL FOR EROSION AND SEDIMENT CONTROL IN GEORGIA, AND BE WIRE REINFORCED**

**G. NO GRADED SLOPE SHALL EXCEEDS 2h: 1v**

**FLOOD STATEMENT**

**NO PORTION OF THIS PROPERTY IS LOCATED IN A FEDERAL FLOOD AREA**

STREAM/WATERS OF THE STATE? YES\_\_\_ NO\_X



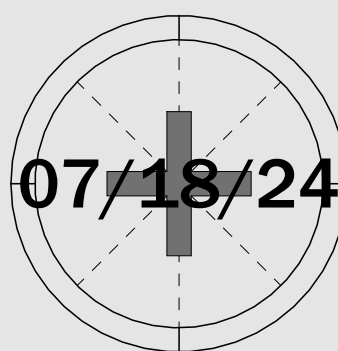
# INTERIOR TIAL RENOVATION

RESIDENTIAL

561 ASHBURTON  
AVE, Decatur, GA

561 ASHBURTON  
AVE, Decatur, GA

Project No.	19001
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## Revisions

**RELEASED FOR CONSTRUCTION**

### Note

### Project North

Scale  $1'' = 10'.0'$ ARCHITECTURAL  
SITE PLAN

# AS.1

Sheet No.

©2024

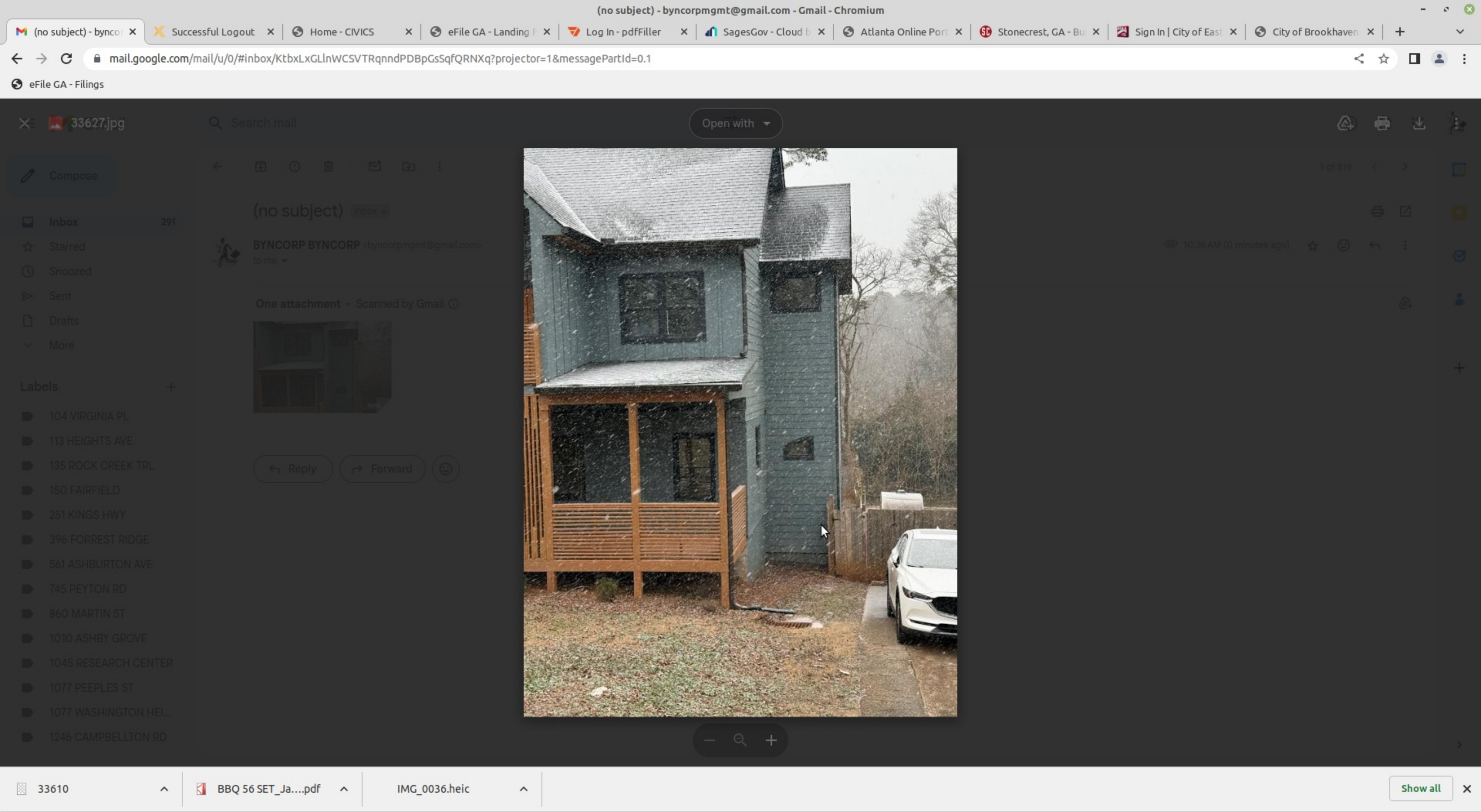
1

# ARCHITECTURAL SITE PLAN

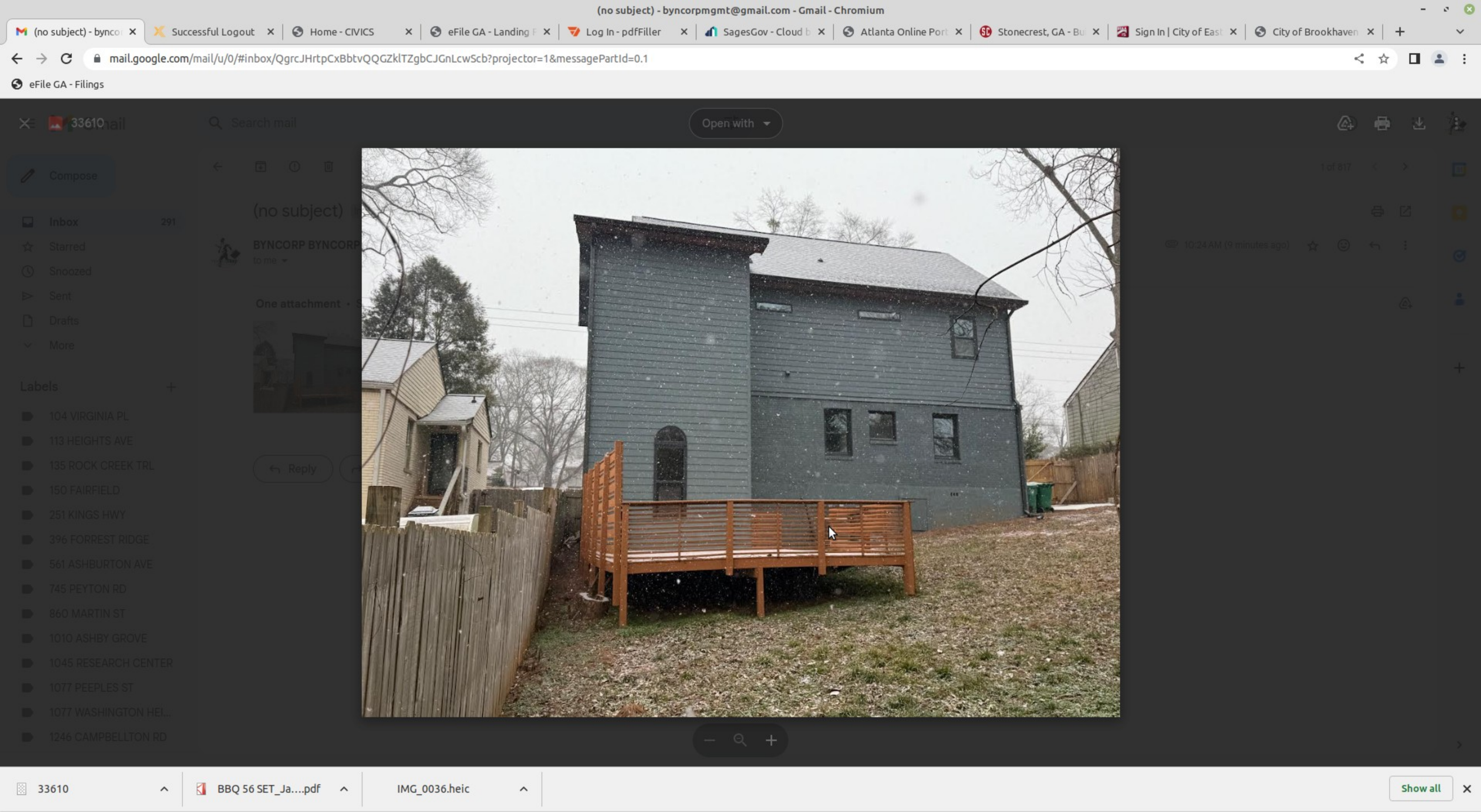
**SCALE: 1" = 10'-0"**

**ASHBURTON AVENUE**  
**(50' R/W)**











33628.jpg

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Snoozed

Sent

Drafts

More

Labels +

104 VIRGINIA PL

113 HEIGHTS AVE

135 ROCK CREEK TRL

150 FAIRFIELD

251 KINGS HWY

396 FORREST RIDGE

561 ASHBURTON AVE

745 PEYTON RD

860 MARTIN ST

1010 ASHBY GROVE


1045 RESEARCH CENTER

1077 PEEPLES ST

1077 WASHINGTON HEL...


1246 CAMPBELLTON RD

(no subject) inbox x



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