



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



DeKalb County's Response to Appeal

N1. Case No: A-25-1247480 Parcel ID(s): 15 137 03 024

Commission District 03 Super District 06

Appeal of: Appeal of an administrative determination that a proposed roadway is not a driveway or an alley within an R-75 (Residential Medium Lot-75) Zoning District.

Appellant(s): Linda Dunlavy, Dunlavy Law Group, LLC

Project Name: Kelly Lake Road Tract

Proposal: A subdivision to construct up to four (4) single-family detached dwellings.

Location: 2452 LaFortune Drive, Decatur, GA 30032

Appeal: Appeal of an administrative determination that a proposed roadway is not a driveway or an alley within an R-75 (Residential Medium Lot-75) Zoning District.

Standard: Thedecisions made by public officials are presumed to be valid and just...An appeal shall be sustained only upon an expressed finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, erroneously applied the zoning ordinance to the facts, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by any applicable laws are met. Section 27-7-5 *et seq.* Code of DeKalb County, as Revised 1988.

DeKalb County's

Position:

1. The proposed vehicular access does not meet the minimum standards to be classified as an *alley*, as defined in Section 14-195. of the *Land Development Code* or Sections 27-5.7.5. (F) and 27-9.1.3. of the *Zoning Ordinance*, and;
2. The number of lots exceed the maximum that can utilize a shared driveway, per Section 27-5.7.5. (F) and 27-9.1.3. of the *Zoning Ordinance*.

Therefore, the proposed access will be required to be public right-of-way or a private parcel distinct from the four (4) lots. The Zoning Board of Appeals should affirm the determination of the Planning & Sustainability Staff.

BACKGROUND

The appellant, AANAGA, LLC, is the owner of the subject property designated as 2452 LaFortune Drive (Tax Parcel ID 15-137-03-024). The subject property is located within the R-75 (Residential Medium Lot-75) Zoning District and is improved with a single-family detached dwelling that was constructed circa 1971. The appellant proposes developing the site with a subdivision of up to four (4) single-family detached dwellings.

The division of a property or properties into three (3) or more lots requires the submission of a Sketch Plat application per Article III of the *Land Development Code* (Chapter 14). A pre-application meeting is required prior to the official submission of an application per Section 14-87. An initial Sketch Plat pre-application meeting was held with members of Current Planning Staff on January 8, 2025. A second pre-application meeting was held on January 23, 2025, that included representatives from DeKalb County departments responsible for reviewing Sketch Plats and Land Development Permit (LDP) submissions.

The proposed lots would each meet the minimum R-75 Zoning District requirements for lot area and width. The majority of the property is encumbered by State Waters (the 25-foot State Buffer and 75-foot Undisturbed Buffer are highlighted). Several conceptual site plans were presented to Staff over the course of the pre-application meetings. Fire/Rescue Services, among other divisions, raised concerns regarding the safety and maneuverability of the means of access to the proposed lots. This feedback resulted in the current plan, titled "Site Plan for Kelly Lake Road Tract". This plan proposes one roadway that would enter the parcels off of LaFortune Drive near the northwestern corner of the subject property and would run west to east across the parcel, crossing the four (4) proposed lots before ending in Lot 4. The plans referred to this roadway as an *alley* or a *private street*. A turnaround is proposed for emergency vehicles that would be located on Lots 1 and 2.

On March 6, 2025, upon review of the *Land Development Code* (Chapter 14) and the *Zoning Ordinance* (Chapter 27), Planning Staff made the administrative determination that:

1. The proposed vehicular access does not meet the minimum standards to be classified as an *alley*, as defined in Section 14-195 of the *Land Development Code* or Sections 27-5.7.5. (F) and 27-9.1.3. of the *Zoning Ordinance*, and;
2. The number of lots exceed the maximum that can utilize a shared driveway, per Section 27-5.7.5. (F) and 27-9.1.3. of the *Zoning Ordinance*. Therefore, the proposed access would be required to be public right-of-way or a private parcel distinct from the four (4) lots.

The appellant subsequently requested reconsideration per correspondence on March 10, 2025, which clarified individual driveways would be provided to access each lot. On March 15, 2025, Staff confirmed that the administrative decision remained unchanged. An appeal of this decision was filed by the appellant on March 21, 2025.

BASIS FOR THE APPEAL

The appeal challenges that the administrative decision is an erroneous application of or misinterprets the definitions and requirements of the *Land Development Code* (Chapter 14) and *Zoning Ordinance* (Chapter 27) and:

1. Fails to make the distinction between an alley and a driveway in applying applicable code sections.
2. No code provision requires that a private alley be on an individual lot.
3. Staff does not have the authority to preclude the filing and processing of a Sketch Plat application if it provides the information required in Sections 14-88 and 14-92.
4. Ignores the variance authority vested in the Planning Commission (Section 14-64) and the Board of Commissioners' authority to waive right-of-way dedication requirements (Section 14-191).

STAFF RESPONSE TO THE APPEAL

Staff has reviewed the appeal and offers the following response:

(1 and 2) The distinction between an alley and a driveway are clearly defined in the *Land Development Code* and *Zoning Ordinance*, and both the *Land Development Code* and *Zoning Ordinance* make multiple references that require that an alley must comprise dedicated right-of-way or be a private parcel separate from lots meant for single-family detached dwellings.

Section 14-1. of the *Land Development Code* and Section 27-9.1.3. of the *Zoning Ordinance* both define an *alley* as:

A minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street

Section 14-195. (a) states that:

Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter.

The presence of State Waters on the property limits access from Kelly Lake Road. While the proposed lots each meet the minimum lot width and frontage requirements (the front yards are each along Kelly Lake Road), the only other viable means of access is as proposed off LaFortune Drive. The proposed access would serve as the primary means of vehicular access for each of the lots. The *Land Development Code* is clear that the proposed roadway would have to be built to public road standards and be dedicated as public right of way.

Section 14-195. (b) states that:

Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one (1) or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:

- 1. The paved width of an alley shall be not less than twelve (12) feet;*
- 2. Alleys shall be constructed with flush curbs;*
- 3. Buildings shall be set back at least ten (10) feet from the back of curb of an alley.*

Section 14-195. (b) and Section 14-190. require that a *private alley* has a minimum paved width of 12 feet; the minimum travel lane width for a *public alley* is 16 feet with a minimum right-of-way (ROW) of 20 feet in width. An “end-of-pavement to end-of-pavement” width of 22 feet is proposed. This pavement width is just two (2) feet shorter than the minimum requirement for a local residential street (24 feet) in Section 14-190.

The proposed access is a primary access - not a secondary access - and there is no proposed (or presumed) access for emergency vehicles on the Kelly Lake Road frontage. Therefore, according to Section 14-195. (b), the proposed access must be public.

Section 27-9.1.3. defines a *driveway* as:

A private roadway providing access for vehicles to an individual lot, parking space, garage, dwelling, or other structure.

The definition of driveway provided in this section can apply to single-family residential as well as non-residential developments. This definition is clear, however, in mentioning access “for vehicles to an **individual lot**”.

Section 27-5.7.5. (F) provides the following access *driveway*, *internal private drive*, and *alley* standards for single-family detached dwellings:

1. *Urban residences shall have vehicular access from the rear of the property from an alley or similar private drive, or may have an off-street parking area located on the side or rear of the development. Such parking area may not occupy more than thirty (30) feet of frontage and be located no more than two hundred (200) feet from the unit's entrance. The alley shall be at least twenty (20) feet in width and meet the standards of International Fire Code (IFC) 503, unless another width is approved by the director for one-way direction only.*
2. *Single-family detached residences may share a driveway serving two (2) lots, provided that the width of the driveway at the street shall not exceed the width requirements established in chapter 14 of the Code, and that the driveway width not increase for the first ten (10) feet of drive.*

The proposed dwellings are *conventional single-family detached dwellings*, not *urban single-family detached [residences]*, per Section 27-5.7.5 (A) and therefore 27-5.7.5. (F) 2 shall apply.

The *Zoning Ordinance* is clear that single-family developments are limited in having a *driveway* access no more than two (2) lots. The appellant states that "each driveway serves one lot"; this is true if the portions directly leading up to the garages as shown on the site plan are distinct from the east-west access that is referred to as both an *alley* and a *private street*. However, this access itself cannot be a driveway as it traverses and thus provides access to four (4) lots.

Section 27-9.1.3 defines a *private right-of-way* as:

Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Section 14-1. contains the following definitions for *private* and *public streets*:

Street, private: an access way similar to and having the same function as a public street, providing access to more than one (1) property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in Division 3, Part B of this chapter.

Street, public: any right-of-way set aside for public travel deeded to the county and any right-of-way that has been accepted for maintenance as a street by the county.

Per Section 14-1. a *street right-of-way line* means the dividing line between a lot, tract or parcel of land and a *street right-of-way*. For lots that front a public street, this dividing line serves as the corresponding front property line (side-corner line for corner lots) from which building setbacks are measured from. This is further supported by the definition of a *building setback line*:

*Building setback line means the minimum horizontal distance required between the public right-of-way or **the utility easement abutting a private street** and the principal building or structure on a lot or any projection thereof except projections that are authorized exceptions to building set back line requirements in Chapter 27 of the Code of DeKalb County and any zoning conditions approved by the board of commissioners pursuant thereto. **The size of the utility easement(s) for a private street shall be equal to the required size of the public right of way and shall not be any smaller in width or length than what would be required for a public right of way.***

A public alley, maintained by the County, would appear on surveys and County maps as right-of-way in the same manner as local streets, collectors, and arterials. In the case of the proposed subdivision, the southern right-of-way line of the alley, were it public, would serve as the dividing line from which the rear yard setbacks would be measured. The R-75 Zoning District requires a minimum rear yard setback of 40 feet, which, if measured from this point south of the proposed access, would significantly shift setbacks to the point that variances to reduce the rear yard setbacks for each of the lots would be required.

Sections 14-189.1. and 14-189.2. grant the Planning Commission the authority to allow for a private street if the development site is less than ten (10) acres in size; this authority would be exercised as part of the Sketch Plat review process. However, as per the definition of *building setback line*, the creation of a private street or alley still requires that building setbacks be measured from the utility easement abutting said street or alley; the size of said easement is the same size as the corresponding public right-of-way measurement in Section 14-190. Section 14-189.2. (c) states:

Street rights-of-way shall be owned by the mandatory homeowners' association as required by section 14-189.3. Street rights-of-way shall comply with all the requirements set forth in this Code, including but not limited to the requirements set forth in this chapter and in

chapter 27 of this Code. An access easement and a utility easement shall entirely overlay the rights-of-way and shall be dedicated to the county for public use. **All applicable setbacks, lot widths and lot areas shall be measured from the homeowner's association right of way.**

Furthermore, Section 14-189.1. states:

(b) *Where this chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, **such measurements or standards set forth in the district regulations and supplemental regulations of chapter 27, in this chapter or elsewhere in the Code of DeKalb County shall apply similarly for property abutting a private street where such private street has been approved by the planning commission.** Nothing in this article is intended to authorize any kind of development on a private street that would not be authorized where there was public right of way.*

(c) *Private streets within any zoning district shall not be used to satisfy the off-street parking requirements of the Code. **Private streets within any district shall be assigned names and locations.** The names of these streets shall be shown on plans required for the issuance of building and development permits as provided in this chapter and chapters 7 and 27 of the Code of DeKalb County. The geographical information services department shall approve all private street names and addresses, thereby avoiding conflicting names and addresses.*

The appellant maintains in their submitted Letter of Intent that neither the *Land Development Code* nor *Zoning Ordinance* specify that a private alley must be on a separate lot. Considering that building setbacks are measured from the boundary line of public alleys, private alleys or streets are required to be constructed to public standards, the width of access easements and utility easements for a private street shall be equal to the required public right-of-way, and lastly, that ALL private streets receive *names* and *locations*, it is the determination of the Planning and Sustainability Department that its administrative decision regarding the status of the access as currently depicted is a valid interpretation of County Codes and is not in error.

(3) Staff has not acted outside of its authority and has not in any way stopped the applicant from filing a Sketch Plat application.

The applicant may submit a Sketch Plat application at any time after the required pre-application meeting. Email correspondence from Planning Staff on March 21, 2025 (included as an attachment to this report) shows that Staff confirmed that a Sketch Plat application could be processed with a concurrent Planning Commission variance.

At the time of this analysis, an application for a Sketch Plat (P-Plat #1247506) has been submitted by the applicant.

4) Staff agrees that the Planning Commission has the authority to decide variances per Section 14-64. Section 14-191. does not apply to the proposal, as this section concerns dedication of property to the existing right-of-way with respect to Kelly Lake Road and LaFortune Drive

Email correspondence from Planning Staff on March 21, 2025, (included as an attachment to this report) clarified that an application for a Planning Commission variance could proceed. The proposed Planning Commission variance would be heard concurrently with the Sketch Plat application.

Regarding Section 14-191., the Board of Commissioners does have the ability to waive right-of-way dedications; however, this is in reference to dedications along existing portions of right-of-way meant for improvements in the right-of-way. This section does not conflict with Planning Staff's administrative decision and the response to the appeal.

CONCLUSION AND RECOMMENDATION

Staff affirms its interpretation that the east-west roadway from LaFortune Drive provides access to too many lots to be considered a shared driveway, and that the proposed alley must be built to public standards as either a public alley or as a private alley. If a public alley, the building setback would be measured from the right-of-way line. If a private alley, the setback would be measured from the boundary of the utility easement (equivalent to the width of a public right-of-way) encompassing the alley. GIS grants private street names and locations, meaning that that a private street or alley would be conveyed as a parcel separate from individual single-family lots (which has been typical with other subdivision developments).

It is the determination of the Planning and Sustainability Department that should this administrative decision be reversed, the result may set a harmful precedent for future developments. It appears the applicant's purpose in this challenge to Staff's administrative decision is that the requirement that an alley be public or a separate private parcel would alter the lot lines and the rear yard setbacks of the proposed lots, thus requiring individual variances to reduce setbacks. These variance requests would likely not meet all of the criteria for approving variances as specified in Section 27-7.5.3.

Furthermore, the Planning and Sustainability Department has not acted outside of its authority nor has hindered the submission of a Sketch Plat application or a Planning Commission variance request. Clear instructions were provided in written correspondence and any time delays subsequent to this correspondence appear to be the result of a lack of communication from the applicant.

Therefore, it is the recommendation of the Planning and Sustainability Department that the Zoning Board of Appeals (ZBA) affirms the Staff Decision.

Recommendation: Affirm Staff Decision



DeKalb County Department of Planning & Sustainability

178 Sams Street
Decatur, GA 30030

Lorraine Cochran-Johnson
Chief Executive Officer

Phone: (404) 371-2155
dekalbcountyga.gov/planning

Cedric Hudson
Interim Director



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

Applicant and/or
Authorized Representative: Linda Dunlavy, Dunlavy Law Group, LLC

Mailing Address: 245 North Highland Avenue, NE, Suite 230 #905

City/State/Zip Code: Atlanta GA 30307

Email: ldunlavy@dunlavylawgroup.com

Telephone Home: 404-664-0895 (cell) Business: 404-371-4101

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: AANAGA, LLC

Mailing Address: 1541 Peachcrest Road Decatur GA 30032

Email: anastasiyaarina@icloud.com Telephone: 954-594-4351 Business:

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 2452 LaFortune Drive and 2724 Kelly Lake I City: Decatur State: GA Zip:

District(s): 15 Land Lot(s): 137 Block: 03 Parcel: 24

Zoning Classification: R-75 Commission District & Super District: 3 and 7

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 with any questions.

DEPARTMENT OF PLANNING & SUSTAINABILITY



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.

03/18/25

DATE:

SIGNATURE:



DEPARTMENT OF PLANNING & SUSTAINABILITY

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.

3-20-2025

DATE:

Anastasiya Arina

APPLICANT/AGENT SIGNATURE

TO WHOM IT MAY CONCERN:

(I) / (WE): Anastasiya Arina of AANGA, LLC

Name of Owner(s)

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

Kimberly Castro

Notary Public

Anastasiya Arina

Owner Signature





Linda I. Dunlavy
Dunlavy Law Group, LLC
245 N. Highland Avenue, NE, Suite 230, #905
Atlanta, GA 30307
Tel: 404-371-4101
ldunlavy@dunlavylawgroup.com | www.dunlavylawgroup.com

March 21, 2025

Members of the Zoning Board of Appeals
c/o Luke Carter
DeKalb County Planning & Sustainability
178 Sams Street
Decatur, GA 30030

**RE: Interpretation of Permissibility of Alleyway for Proposed Minor (4-lot)
Subdivision with Challenging Topography**

Dear Mr. Carter :

I represent AANAGA, LLC, Appellant and the owner of property located at 2452 LaFortune Drive and 2724 Kelly Lake Road zoned R-75 (Subject Property). Recently, AANAGA, through counsel, sought feedback from the DeKalb County Planning and Sustainability Department (“Department”) prior to the filing of a sketch plat application for the Subject Property concerning the viability and compliance of, among other matters, the proposal for a shared alley to the rear of the Subject Property. On January 23, 2025, a pre-application meeting for sketch plat, per Section 14-87 of the Subdivision Code, was conducted on line for the proposed subdivision by Adam Chappell, Senior Planner with the Department. During this meeting a variety of concerns were expressed regarding the proposed alley. Based on these concerns, the Appellant revised the plan and contacted Adam Chappell on February 24, 2025, to determine whether a new preapplication meeting would be required. Mr. Chappell responded indicating that he needed to see the pdated plans before filing of the application because “the pre-application process is there to filter out applications that may or may not be feasible. Per the last meeting, they (sic) did not appear to meet multiple departments’ requirements”. Counsel for the Applicant provided the revised site plan to Mr. Chappell but was ultimately advised that the proposed alley did not appear to meet requirements because it was not “its own parcel or dedicated to the County as public ROW”. A virtual meeting was conducted again with Mr. Chappell to discuss the issue on March 4, 2025. At this meeting Mr. Chappell reiterated his position that the proposed alley needs to be on its own lot or be dedicated to the public. Counsel for the applicant advised Mr. Chappell that per his direction she had discussed the alley with DeKalb County Transportation and was advised by Patrice Keeter that she did not want the alley dedicated to the public and would support a waiver of this requirement. Mr. Chappell indicated that the Board of Commissioners may ultimately be permitted to waive the requirement per

Section 14-191 of the Code but he was not sure of the process and the Applicant should consult with land development about the waiver process. Counsel for the Applicant immediately contacted Commissioners Terry and Massiah to determine their willingness to consider a waiver. Commissioner Terry indicated he had no objections to such a waiver. Commissioner Massiah has yet to respond. However, in the meantime, Mr. Chappell issued an administrative decision concerning the alley and effectively advised counsel that a sketch plat application would not be accepted or processed on this basis.

On March 6, 2025, Adam Chappell, , emailed counsel for the Appellant a “staff determination” wherein he determined that the proposed alley “**does not** meet the standards of an alley as defined in Section 9.1.3. of the Zoning Ordinance”. On March 10, counsel for the Appellant submitted a revised site plan clarifying that each lot would have an individual driveway off the alley and asked that Mr. Chappell reconsider his decision. A copy of counsel’s email to Mr. Chappell is included with this appeal. On March 15, Mr. Chappell stated that his decision on the issue was final. A copy of that email is also enclosed. Appellant and its legal counsel are of the opinion that Mr. Chappell’s decision erroneously applied the Zoning Ordinance to the facts, exceeded his authority, and acted in an arbitrary manner.

This letter serves as notice that my client is appealing the decision of Mr. Chappell to the Zoning Board of Appeals. Documents previously submitted to Mr. Chappell in support of the appeal are submitted in conjunction with the requisite appeals forms. The documents submitted in support of the appeal are as follows:

- A copy of the proposed sketch plat for the minor subdivision proposed.
- A copy of the administrative determination made by Adam Chappell via email on March 6, 2025.
- A copy of AANAGA’s counsel email dated March 10, 2025, requesting reconsideration along with a copy of the clarified sketch plat showing individual driveways for each lot.
- Mr. Chappell’s email of March 15 indicating that his decision was unchanged by the additional information provided by counsel on March 10.
- A copy of the email exchange with Mr. Chappell between February 24-26.
- Aerial photos, a tax map, topographic map , and flood plain map depicting the Subject Property.
- DeKalb County Code of Ordinances Section 14-191, 14-195, 14-64, 14-84, 14-87, 14-93, 14-94, Section 27-9.1.3 definitions, 27-5.7.5, 27-7.5.2.

Applicable Zoning Code Provisions

Per Section 7.5.2 C, on behalf of AANAGA, LLC, I submit that the decision rendered on the proposed alley’s compliance with applicable zoning codes was an erroneous decision insofar as Mr. Chappell erroneously applied the Zoning Ordinance to the facts, that his decision effectively precluding application for sketch plat exceed his authority, and he acted in an arbitrary manner.

Mr. Chappell, in his administrative determination, cites the following code section in support of his decision (although not in the sections' entirety):

Sec. 14-195. Alleys.

- (a) Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter.*
- (b) Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one (1) or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:
 - (1) The paved width of an alley shall be not less than twelve (12) feet;*
 - (2) Alleys shall be constructed with flush curbs;*
 - (3) Buildings shall be set back at least ten (10) feet from the back of curb of an alley.**

Mr. Chappell further cites Zoning Ordinance definitions in an effort to support his decision in Section 9.1.3 as follows:

Alley: A minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Encroachment: A building or some portion of it, or a wall or fence, which extends beyond the land of the owner and illegally intrudes upon land of an adjoining owner, a street or an alley.

Private right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Public right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Right-of-way line: The limit of publicly owned land or easement encompassing a street or alley.

Finally, Mr. Chappell states that Section 5.7.5. (F)(2), supports his adverse decision. That section applies to "driveways," not "alleys", and states, in relevant part, that:

Single-family detached residences may share a driveway serving two (2) lots, provided that the width of the driveway at the street shall not exceed the width requirements established in chapter 14 of the Code, and that the driveway width not increase for the first ten (10) feet of drive.

Section 14-191 (e)(not cited by Mr. Chappell) provides in relevant part that:

The board of commissioners, after considering all related factors, may authorize deviations from this section as follows:

Right-of-way dedication may be waived or modified if:

Existing use of property is not to be substantially changed as a result of proposed development or construction;

Existing government construction plans for the roadway indicate lesser right-of-way would be required for dedication; or

The adjoining frontage is developed and the predominate existing right-of-way meets county standards.

Section 14-64 (also not cited by Mr. Chappell or seemingly considered) provides, in relevant part:

- (a) *The planning commission shall hear and decide applications for variances from the strict application of Division 3 of Article III of this Chapter 14, known as the subdivision regulations of DeKalb County, where strict application of any regulation enacted in Division 3 of Article III would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in DeKalb County; thus, variances from the requirements of Division 3 of Article III shall be authorized only upon the planning commission making all of the following findings:*
- (1) *By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of Division 3 of Article III would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;*
 - (2) *By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;*
 - (3) *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;*
 - (4) *The requested 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; and*
 - (5) *The requested variance will not in any manner vary the provisions of Chapter 27, the DeKalb County Comprehensive Plan or the zoning map of DeKalb County.*

Section 14-87 of the Subdivision Code provides as follows:

Before filing the sketch plat for a subdivision for review and approval, the applicant shall meet with the planning director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services, including schools. The planning director may advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the

zoning ordinance. This conference will also allow county officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

Section 14-93 (a) provides with respect to sketch plat applications, in relevant part that:

An application shall be accepted when it fully complies with the requirements of sections 14-88 through 14-92.

Section 14-94 sets forth the process for sketch plat review and, among other things, allows for the referral of a sketch plat to the Planning Commission per subsection (d) even if the planning director takes the position that revisions are necessary.

Basis for Reversal of Administrative Decision

The foregoing decision of Mr. Chappell is an erroneous application of the Zoning Ordinance and Subdivision Codes to the facts of this matter for several reasons: 1) No code provision requires that a private alley be on an individual lot; 2) he failed to make the distinction between a “driveway” and an “alley” in applying the Zoning Ordinance; 3) While Section 14-87 of the Subdivision Code provides for a pre-application meeting with staff, it does not give staff the authority to preclude the filing of a sketch plat application if the proposed sketch plat provides the information required in Sections 14-88 to 14-92; and 4) Mr. Chappell’s decision was arbitrary because it completely ignored the provisions concerning Planning Commission authority to grant variances, per Section 14-64, as part of the sketch plat process and the potential for a Board of Commissioner’s waiver of the public dedication requirement per Section 14-191.

No code provision requires that a private alley be on an individual lot

Mr. Chappell specifically states that definitions within the Zoning Ordinance “support the **notion** of an alley as a distinct entity (as opposed to being permitted to run across multiple properties)” (emphasis added). However, the Zoning Ordinance definitions he cites are largely irrelevant and inapplicable to the instant matter. They simply do not support his “notion” that an alley must be on a separate lot. More is needed than a “notion”. Due process requires more.

Throughout verbal discussions with Mr. Chappell concerning this matter he took the position that an alley had to be on a separate lot per the Zoning Ordinance. In spite of repeated requests for a code provision so stating, none has been provided or found. “the notion” that an alley should be on an individual lot is simply not supported by or provided for in the Zoning Ordinance. For example, Mr. Chappell seems to claim that the proposed alley constitutes an “encroachment” under the ordinance. An encroachment is defined as follows: A building or some portion of it, or a wall or fence, which extends beyond the land of the owner and illegally intrudes upon land of an adjoining owner, a street or an alley. While the proposed alley clearly extends beyond the individual lot boundaries, it is not an “encroachment” if accompanied by reciprocal easements allowing for such—which is the intention here. It would not be “illegal” with a recorded easement document in place. Moreover, the examples of encroachments are a building, wall or fence—which an alley is not.

“Driveway” and “alley” are different improvements

Chappell concludes that : “A singular driveway cannot access the four lots as shown on your site plan; it would have to be a public alley per Section 14-195 of the Land Development Code.” No individual driveway depicted on the sketch plat violates this provision. Each

driveway serves one lot and does not exceed the width requirements set forth.

Staff does not have the authority to preclude the filing and processing of a sketch plat application if it provides the information required in Sections 14-88 to 14-92.

While Section 14-88 provides for a conference with staff prior to the filing of a sketch plat application, it does not authorize staff to preclude the filing of an application where there is a disagreement as to code interpretation. So long as the application provides the information required in Sections 14-88 through 14-92, per Section 14-93(a) the application must be accepted and processed. This is required even where variances to regulations are sought.

The Planning Commission has authority to grant variances, per Section 14-64 , as part of the sketch plat process and the Board of Commissioner's can waive of the public dedication requirement per Section 14-191.

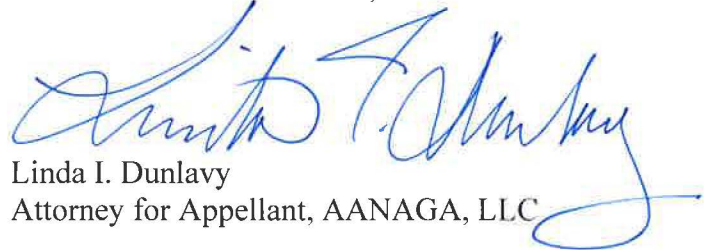
Section 14-64 specifically gives the Planning Commission the authority to grant variances to Division 3 of the Development Code (which specifically includes the public alley dedication provided for in Section 14-195(a)) if the application meets certain criteria. The Applicant advised Mr. Chappell of its intent to seek needed variances and/or seek a waiver per Section 14-191(f) which seems to provide authority for the Board of Commissioners to waive public dedication of roadways where certain factors exist. To deny Applicant this right exceeds Mr. Chappell's authority.

Conclusion

Based on the foregoing, AANAGA requests that this appeal be transmitted to the Zoning Board of Appeals and that the ZBA reverse the administrative decision of March 6, 2025, and specifically find that AANAGA has a right to file a sketch plat application for processing wherein it can seek any needed variances from Division 3 of the Subdivision Code before the Planning Commission.

Sincerely,

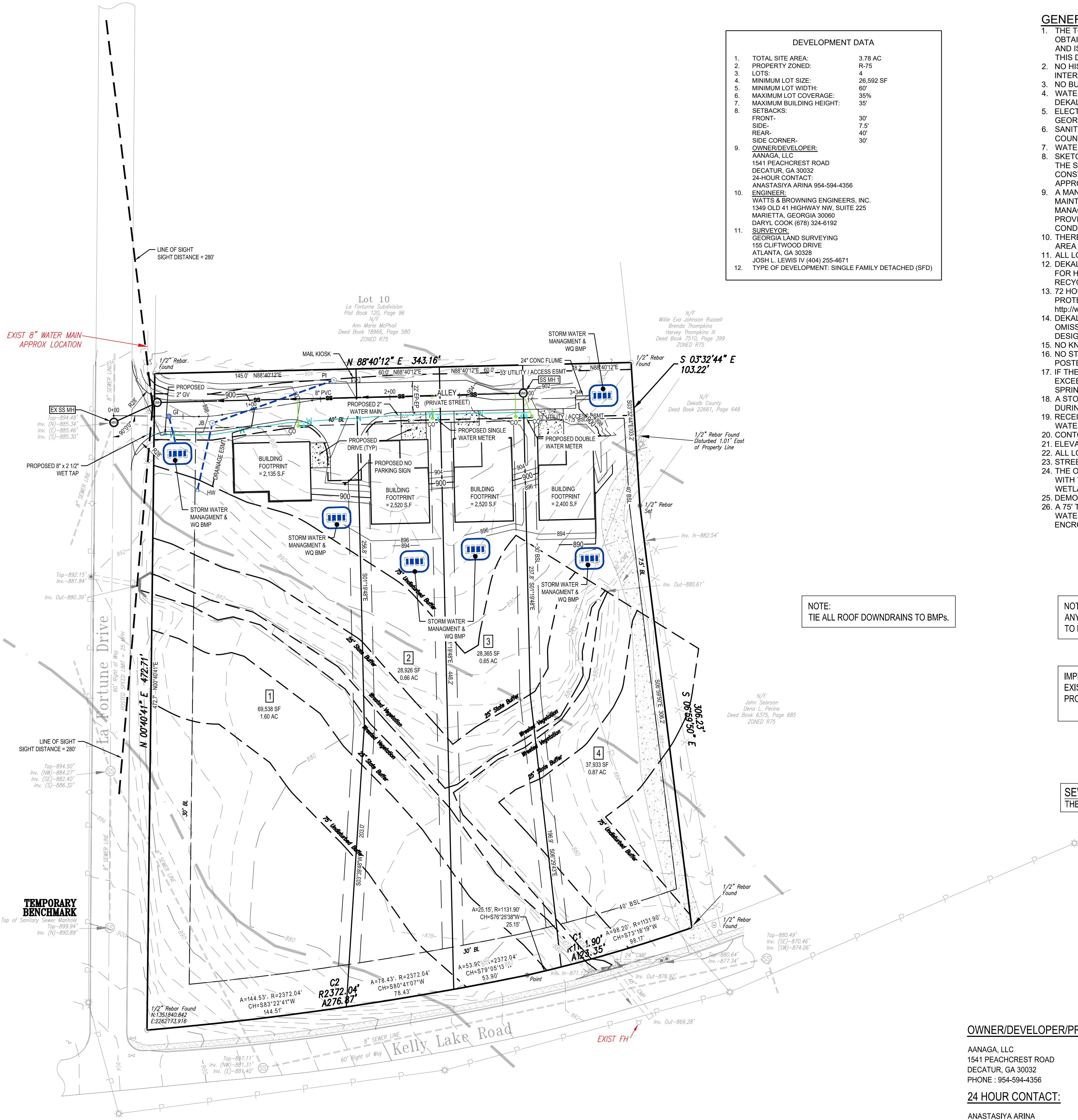
DUNLAVY LAW GROUP, LLC



Linda I. Dunlavy
Attorney for Appellant, AANAGA, LLC

Enclosures

cc: Adam Chappell
Rachel Bragg
Anastasiya Arina
Darryl Cook



DEVELOPMENT DATA	
1. TOTAL SITE AREA:	3.78 AC
2. PROPERTY ZONED:	R-75
3. LOTS:	4
4. MINIMUM LOT SIZE:	26,592 SF
5. MINIMUM LOT WIDTH:	60'
6. MAXIMUM LOT COVERAGE:	35%
7. MAXIMUM BUILDING HEIGHT:	35'
8. SETBACKS:	
FRONT-	30'
SIDE-	7.5'
REAR-	40'
SIDE CORNER-	30'
OWNER/DEVELOPER:	
ANAGA, LLC	
1541 PEACHCHEST ROAD	
DECATUR, GA 30032	
24-HOUR CONTACT:	
ANASTASIYA ARINA 954-594-4356	
ENGINEER:	
WATTS & BROWNING ENGINEERS, INC.	
1349 OLD 41 HIGHWAY NW, SUITE 225	
MARIETTA, GEORGIA 30060	
DARYL COOK (678) 324-6192	
SURVEYOR:	
GEORGIA LAND SURVEYING	
155 CLIFTWOOD DRIVE	
ATLANTA, GA 30328	
JOSH L. LEWIS IV (404) 255-4671	
TYPE OF DEVELOPMENT: SINGLE FAMILY DETACHED (SFD)	

- GENERAL NOTES:**
- THE TOPOGRAPHIC AND ELEVATION DATA SHOWN HEREON WAS OBTAINED FROM GEORGIA LAND SURVEYING, CO., DATED 01/06/2021 AND IS NOT CERTIFIED AS CORRECT BY THE ENGINEER. USERS OF THIS DATA DO SO AT THEIR OWN RISK.
 - NO HISTORIC FEATURES HAVE BEEN FOUND ONSITE. CONTOUR INTERVAL IS 2'.
 - NO BURY PITS ARE KNOWN TO EXIST OR ARE PROPOSED.
 - WATER & FIRE SERVICES WILL BE PUBLICLY MAINTAINED BY DEKALB COUNTY, VIA EASEMENTS.
 - ELECTRIC SERVICE WILL BE UNDERGROUND AND PROVIDED BY GEORGIA POWER.
 - SANITARY SEWER SERVICES WILL BE PROVIDED BY DEKALB COUNTY. NO SEPTIC TANKS ARE PROPOSED.
 - WATER SERVICE WILL BE PROVIDED BY DEKALB COUNTY.
 - SKETCH PLAT APPROVAL DOES NOT CONSTITUTE APPROVAL OF THE STORM DRAINAGE OR SANITARY SEWER SYSTEMS. NO CONSTRUCTION SHALL BEGIN UNTIL CONSTRUCTION PLANS ARE APPROVED AND A DEVELOPMENT PERMIT IS OBTAINED.
 - A MANDATORY HOME OWNERS ASSOCIATION IS REQUIRED FOR MAINTENANCE OF ACCESS DRIVES, UTILITIES, AND STORM MANAGEMENT FACILITIES WITHIN COMMON AREAS AND TO PROVIDE A DECLARATION OF PROTECTIVE COVENANTS AND CONDITIONS ADDRESSING MAINTENANCE RESPONSIBILITY.
 - THERE ARE SPECIMEN TREES LOCATED WITHIN THE PROPOSED AREA OF DISTURBANCE.
 - ALL LOTS TO BE INDIVIDUALLY METERED (WATER).
 - DEKALB COUNTY SANITATION DEPARTMENT WILL BE RESPONSIBLE FOR HANDLING HOUSEHOLD WASTE, YARD DEBRIS AND RECYCLABLE MATERIAL.
 - 72 HOURS NOTICE IS REQUIRED TO GEORGIA 811 UTILITY PROTECTION CENTER BEFORE ANY PLANNED DIGGING, <http://www.georgia811.com>
 - DEKALB COUNTY IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS BY ENGINEERS OR OTHER DESIGN PROFESSIONALS ON DESIGN OR COUNTY CODE REQUIREMENTS FOR THIS PROJECT.
 - NO KNOWN PERMITS ARE ACTIVE FOR THIS SITE.
 - NO STREET PARKING SHALL BE ALLOWED, AND SIGNAGE SHALL BE POSTED.
 - IF THE ROAD WIDTHS ARE LESS THAN 26' WITH BUILDING HEIGHTS EXCEEDING 35 FEET, THEN THE BUILDING SHALL INCLUDE FIRE SPRINKLER SYSTEMS. NFPA 13D ARE ACCEPTABLE.
 - A STORM WATER BMP IS PROPOSED AND WILL BE DESIGNED DURING LDP PERMITTING.
 - RECEIVING WATERS: DOLESS CREEK. DISTANCE TO RECEIVING WATERS = ON SITE.
 - CONTOUR INTERVALS: 2'.
 - ELEVATIONS ARE BASED ON NAVD 88.
 - ALL LOTS CONFORM TO THE CURRENT ZONING.
 - STREET LIGHTS PER DEKALB COUNTY REQUIREMENTS.
 - THE OWNER OF THE PROPERTY IS RESPONSIBLE FOR COMPLIANCE WITH THE CORPS OF ENGINEERS REQUIREMENTS REGARDING WETLANDS.
 - DEMOLITION IS NEEDED.
 - A 75' TRIBUTARY BUFFER WILL BE MAINTAINED ON ALL STATE WATERS THAT ARE NOT APPROVED FOR A BUFFER ENCROACHMENT VARIANCE BY DEKALB COUNTY OR GA EPD.

NOTE:
TIE ALL ROOF DOWNDRAINS TO BMPs.

NOTE:
ANY EXISTING SEPTIC TANKS AND / OR DRAINFIELDS ARE TO BE REMOVED PER DEKALB COUNTY'S REQUIREMENTS.

IMPERVIOUS COMPUTATION:
EXISTING OVERALL = 23,152 SF.
PROPOSED OVERALL INCLUDING EXISTING TO REMAIN = 25,040SF

SEWER NOTE:
THERE IS EXISTING SEWER ALONG LA FORTUNE DRIVE.

OWNER/DEVELOPER/PRIMARY PERMITTEE:

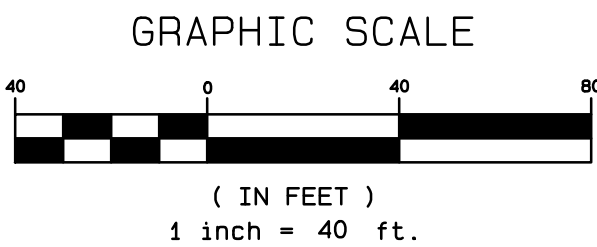
ANAGA, LLC
1541 PEACHCHEST ROAD
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PHONE : 954-594-4356

24 HOUR CONTACT:

ANASTASIYA ARINA
PHONE: 954-594-4356

ENGINEER:

WATTS & BROWNING ENGINEERS, INC.
1349 OLD 41 HWY NW, SUITE 225
MARIETTA, GA 30060
PHONE: (678) 324-6192
FAX: (770) 694-6870
CONTACT: DARYL COOK



SITE PLAN
FOR
KELLY LAKE ROAD TRACT
LAND LOT 137 ~ 15TH DISTRICT
DEKALB COUNTY, GEORGIA



GSWCC LEVEL 1 CERTIFICATION NO. 31908
EXPIRES: Value

REVISIONS			
NO.	DATE	BY	DESCRIPTION
1	TBD	TBD	1st SUBMITTAL



SCALE:	1" = 40'
DESIGNED BY:	ZK
DRAWN BY:	ZK
CHECKED BY:	DRC
INITIAL ISSUE DATE:	TBD
JOB NUMBER:	250205

SHEET NUMBER:
SP-3

NOTE: ABOVE GROUND UTILITY LOCATIONS WERE OBTAINED FROM FIELD OBSERVATIONS BY OTHERS. WATTS & BROWNING ENGINEERS HAS NOT RESEARCHED UNDERGROUND UTILITY LOCATIONS. INFORMATION SHOWN HEREON REGARDING THE EXISTENCE, SIZE, TYPE AND LOCATION OF UNDERGROUND UTILITIES IS BASED ON MARKINGS IN THE FIELD AND INFORMATION FURNISHED TO US BY OTHERS AND WATTS & BROWNING ENGINEERS IS UNABLE TO CERTIFY TO THE ACCURACY OR COMPLETENESS OF THIS INFORMATION. INDICATED LOCATIONS SHOULD BE CONFIRMED IN THE FIELD WITH THE UTILITY COMPANIES PRIOR TO PROCEEDING WITH PLANNING, DESIGN OR CONSTRUCTION.



From: [Chappell, Adam W](#)
To: [Linda Dunlavy](#); [Bragg, Rachel L](#); [Keeter, Patrece](#)
Subject: Staff Determination of Kelly Road Tract Preliminary Site Plan
Date: Thursday, March 6, 2025 12:45:26 PM
Attachments: [image001.png](#)

Good Morning/Afternoon, all,

Pursuant to our meeting held to discuss your proposed Sketch Plat, the Planning and Sustainability Department has determined that the proposed access for the four (4) single-family detached dwellings **does not** meet the standards of an alley as defined in Section 9.1.3. of the Zoning Ordinance:

Alley: A minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Other definitions in Section 9.1.3. support the notion of an alley as a distinct entity (as opposed to being permitted to run across multiple properties); for example:

Encroachment: A building or some portion of it, or a wall or fence, which extends beyond the land of the owner and illegally intrudes upon land of an adjoining owner, a street or an alley.

Private right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Public right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Right-of-way line: The limit of publicly owned land or easement encompassing a street or alley.

See Section 5.7.5. (F)(2), which states:

2. Single-family detached residences may share a driveway serving two (2) lots, provided that the width of the driveway at the street shall not exceed the width requirements established in [chapter 14](#) of the Code, and that the driveway width not increase for the first ten (10) feet of drive.

A singular driveway cannot access the four lots as shown on your site plan; it would have to be a public alley per Section 14-195 of the Land Development Code:

Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter.

If you wish to contest this determination, you may file an appeal to the Zoning Board of Appeals (ZBA). Lucas Carter handles ZBA-related inquiries, and you may reach out to him at ljcarter@dekalbcountyga.gov.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability

Current Planning Division | 178 Sams Street | Decatur, GA 30030

Email: awchappell@dekalbcountyga.gov

Website: www.dekalbcountyga.gov

Phone: 470-618-2642



From: [Linda Dunlavy](#)
To: [Chappell, Adam W](#); [Bragg, Rachel L](#); [Keeter, Patrece](#)
Cc: [Arina](#); dcook@wbengr.com
Subject: RE: Staff Determination of Kelly Road Tract Preliminary Site Plan
Date: Monday, March 10, 2025 4:05:00 PM
Attachments: [Revised sketch plat 3-7-25.pdf](#)
[image001.png](#)

Adam:

Please see attached plat—this is being provided because the previous plat did not make it clear that each residence has an individual driveway off the alley to the proposed garage. Hopefully, that is more clear than the previous rendering. Additionally, see my comments below. Based on the attached and the foregoing I ask that you reconsider your position and thereby obviate the need for an appeal to the ZBA.

From: Chappell, Adam W <awchappell@dekalbcountyga.gov>
Sent: Thursday, March 6, 2025 12:45 PM
To: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>; Bragg, Rachel L. <RLBragg@dekalbcountyga.gov>; Keeter, Patrece <pgkeeter@dekalbcountyga.gov>
Subject: Staff Determination of Kelly Road Tract Preliminary Site Plan

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Other definitions in Section 9.1.3. support the notion of an alley as a distinct entity (as opposed to being permitted to run across multiple properties); for example:

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Private right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity. It would be our intention that the alley be private. As indicated previously I shared the concept with Patrice Ketter who indicated that she

would not want this to be a public alley as Transportation does not want to accept responsibility for its maintenance.

Public right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity. We propose to seek a waiver from the BOC pursuant to 14-191 (e) to waive any public dedication of the alley requirement.

Right-of-way line: The limit of publicly owned land or easement encompassing a street or alley.

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A singular driveway cannot access the four lots as shown on your site plan; it would have to be a public alley per Section 14-195 of the Land Development Code: [see comments above](#).

Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter. We would ask for a waiver of this requirement which it appears is within the authority of the BOC to grant per Section 14-191 (e).

If you wish to contest this determination, you may file an appeal to the Zoning Board of Appeals (ZBA). Lucas Carter handles ZBA-related inquiries, and you may reach out to him at ljcarter@dekalbcountyga.gov. to avoid the expenditure of staff and applicant time with an appeal, I ask that you reconsider this decision in light of the revised plat attached and the comments above.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability

Current Planning Division | 178 Sams Street | Decatur, GA 30030

Email: awchappell@dekalbcountyga.gov

Website: www.dekalbcountyga.gov

Phone: 470-618-2642



From: [Chappell, Adam W](#)
To: [Linda Dunlavy](#); [Bragg, Rachel L](#); [Keeter, Patrece](#)
Cc: [Arina](#); dcook@wbengr.com
Subject: RE: Staff Determination of Kelly Road Tract Preliminary Site Plan
Date: Friday, March 14, 2025 12:16:18 PM
Attachments: [image001.png](#)

Good Morning/Afternoon, Ms. Dunlavy,

Our determination regarding the alley is final.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability
Current Planning Division | 178 Sams Street | Decatur, GA 30030
Email: awchappell@dekalbcountyga.gov
Website: www.dekalbcountyga.gov
Phone: 470-618-2642



From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Monday, March 10, 2025 4:05 PM
To: Chappell, Adam W <awchappell@dekalbcountyga.gov>; Bragg, Rachel L. <RLBragg@dekalbcountyga.gov>; Keeter, Patrece <pgkeeter@dekalbcountyga.gov>
Cc: Arina <anastasiyaarina@icloud.com>; dcook@wbengr.com
Subject: RE: Staff Determination of Kelly Road Tract Preliminary Site Plan

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From: Chappell, Adam W <awchappell@dekalbcountyga.gov>
Sent: Thursday, March 6, 2025 12:45 PM
To: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>; Bragg, Rachel L. <RLBragg@dekalbcountyga.gov>; Keeter, Patrece <pgkeeter@dekalbcountyga.gov>
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If you wish to contest this determination, you may file an appeal to the Zoning Board of Appeals (ZBA). Lucas Carter handles ZBA-related inquiries, and you may reach out to him at

ljcarter@dekalbcountyga.gov . to avoid the expenditure of staff and applicant time with an appeal, I ask that you reconsider this decision in light of the revised plat attached and the comments above.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability

Current Planning Division | 178 Sams Street | Decatur, GA 30030

Email: awchappell@dekalbcountyga.gov

Website: www.dekalbcountyga.gov

Phone: 470-618-2642



From: [Chappell, Adam W](#)
To: [Linda Dunlavy](#)
Cc: dcook@wbengr.com
Subject: RE: Sketch Plat Pre APP
Date: Wednesday, February 26, 2025 1:47:51 PM
Attachments: [image001.png](#)

Good Morning/Afternoon, Linda,

I don't see how the alley (private street?) works here, as this goes across the four proposed properties. Alley access would have to be its own parcel or dedicated to the County as public ROW.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability
Current Planning Division | 178 Sams Street | Decatur, GA 30030

Email: awchappell@dekalbcountyga.gov

Website: www.dekalbcountyga.gov

Phone: 470-618-2642



From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Monday, February 24, 2025 12:59 PM
To: Chappell, Adam W <awchappell@dekalbcountyga.gov>
Cc: dcook@wbengr.com
Subject: RE: Sketch Plat Pre APP

Adam:

Here is proposed sketch plat. Based on department comments several changes have been made. We are in the process of getting a tree survey. We will likely need some variances but otherwise believe should be compliant which, btw, I thought was the whole point of circulating plat to the various departments once application filed. Please confirm that we can go ahead and file once we get the tree survey done. Thanks,

Linda

From: Chappell, Adam W <awchappell@dekalbcountyga.gov>
Sent: Monday, February 24, 2025 11:47 AM
To: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Subject: RE: Sketch Plat Pre APP

Good Morning/Afternoon, Ms. Dunlavy,

I need to see your updated plans before you submit.

The pre-application process is there to filter out applications that may or may not be feasible. Per our last meeting, they did not appear to meet multiple departments' requirements.

Adam W. Chappell, AICP

Senior Planner – Zoning Review and Public Meetings

DeKalb County Government | Planning and Sustainability

Current Planning Division | 178 Sams Street | Decatur, GA 30030

Email: awchappell@dekalbcountyga.gov

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From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>

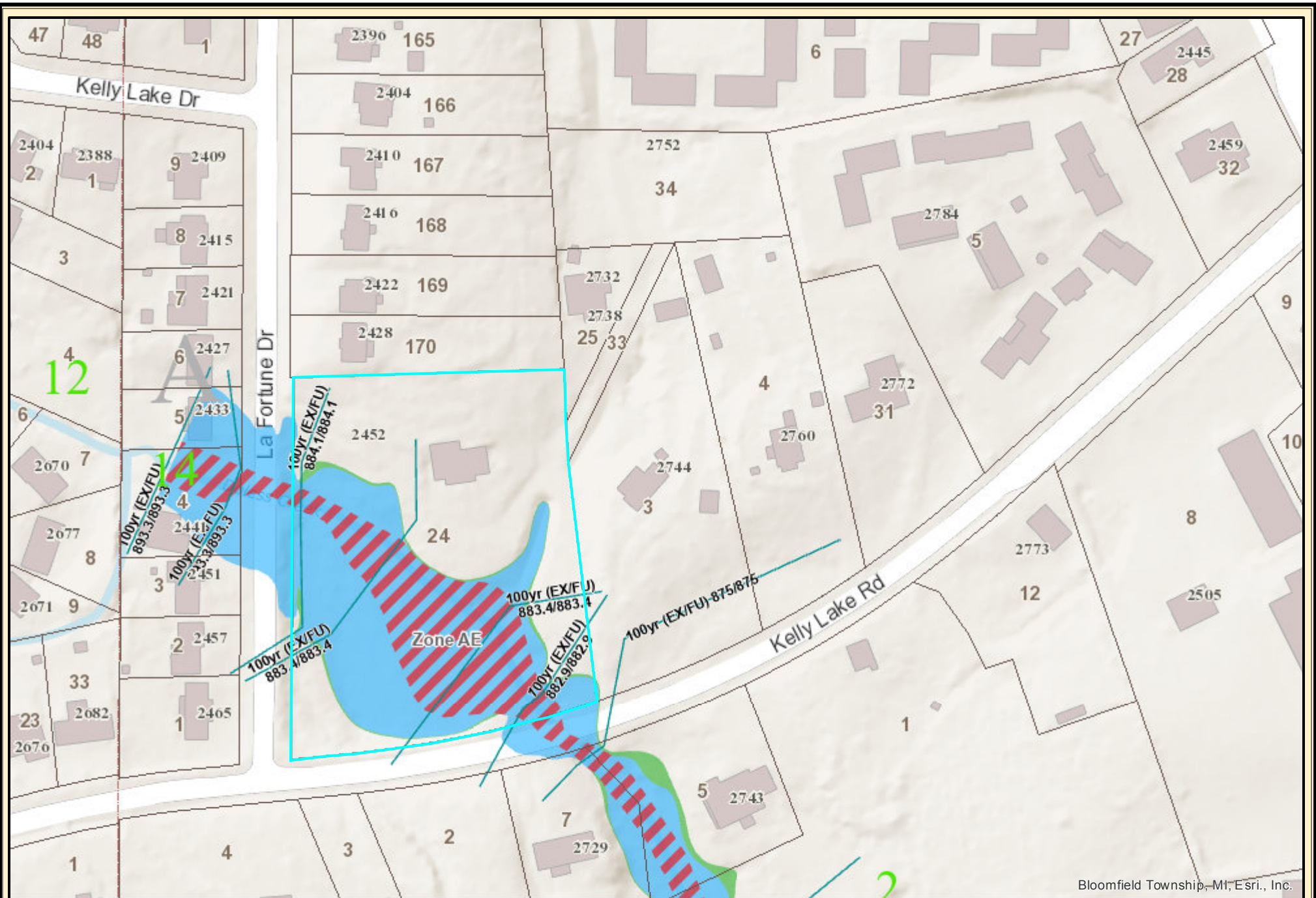
Sent: Monday, February 24, 2025 11:09 AM

To: Chappell, Adam W <awchappell@dekalbcountyga.gov>

Subject: Sketch Plat Pre APP

Adam:

On January 23, we had a conference call with you and other departments to discuss the sketch plat application for the property at the corner of Kelly Lake Road and LaFortune Drive. Does that count as our preapplication meeting prior to filing the sketch plat such that we do not need another meeting before we file the application??? Please advise.



Bloomfield Township, MI, Esri., Inc.



DeKalb County Parcel Map

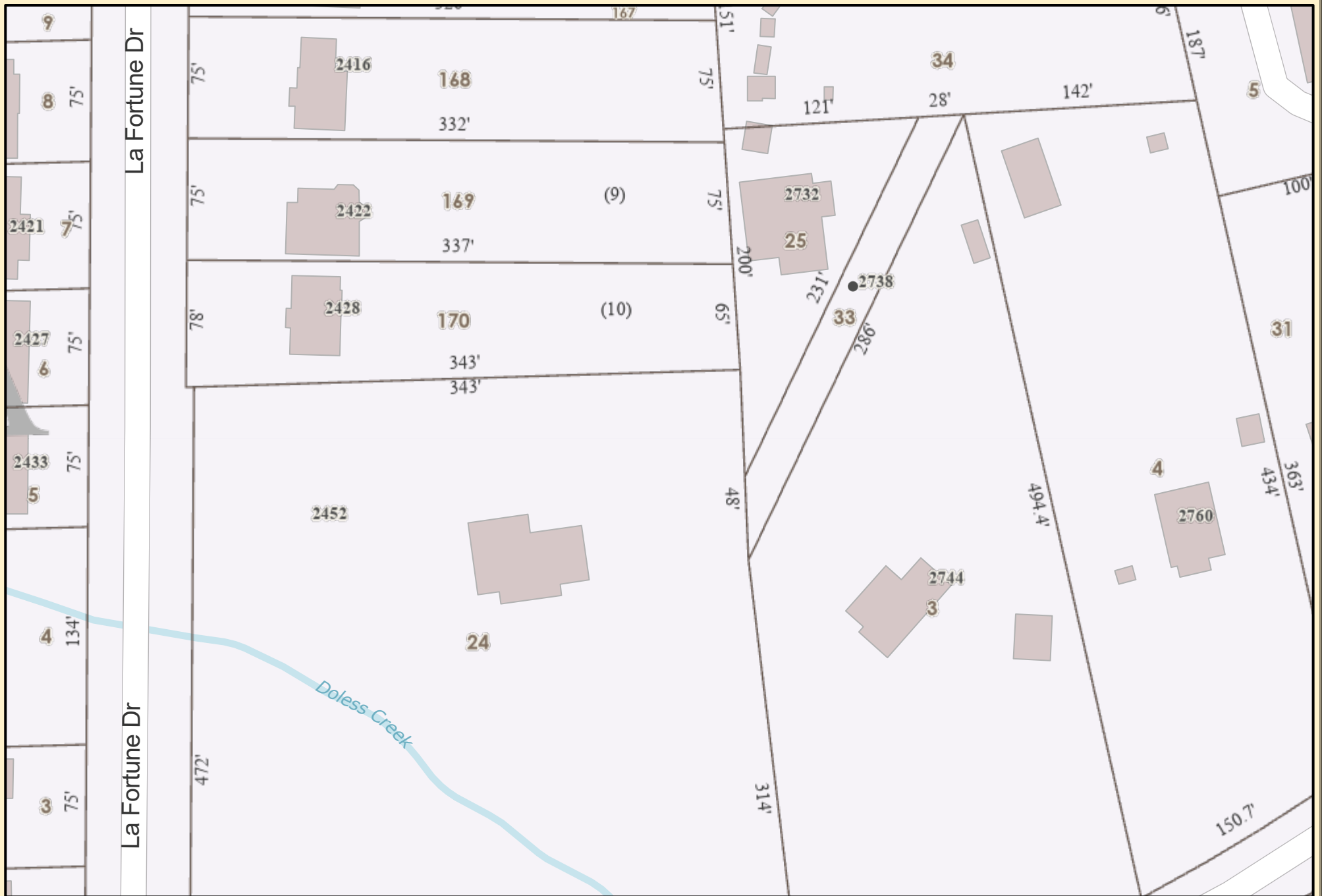
0 0.0075 0.015 0.03 0.045 0.06
mi

Date Printed: 8/28/2023



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.



DeKalb County Parcel Map

0 0.00475 0.0095 0.019 0.0285 0.038
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Date Printed: 1/29/2025

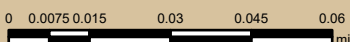


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DeKalb County Parcel Map

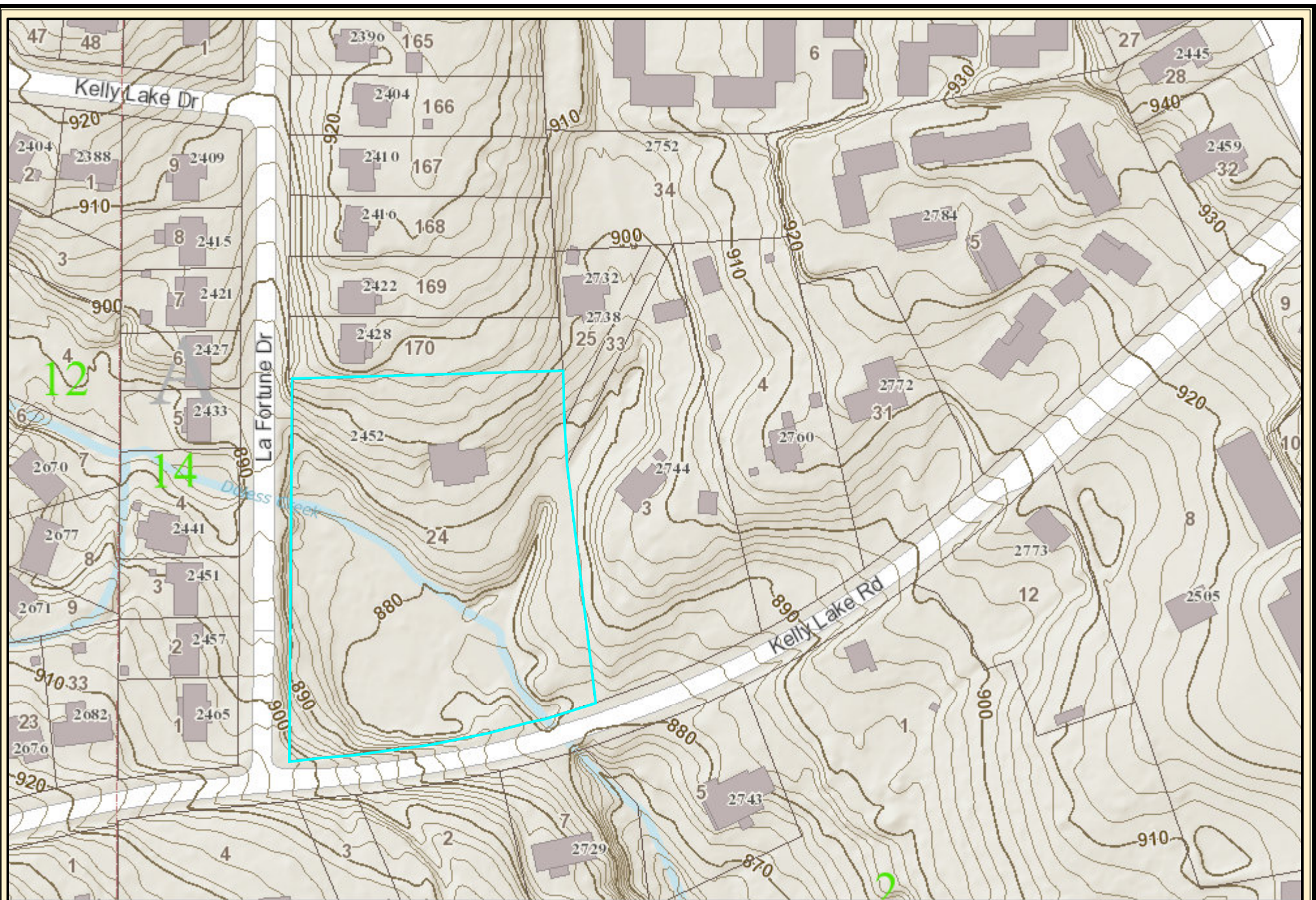


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DeKalb County Parcel Map

0 0.0075 0.015 0.03 0.045 0.06
mi

Date Printed: 8/28/2023



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Sec. 14-87. Conference with county officials.

Before filing the sketch plat for a subdivision for review and approval, the applicant shall meet with the planning director to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services, including schools. The planning director may advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow county officials to discuss with the applicant the necessary regulations that will properly accomplish the project.

(Ord. No. 30-02, Pt. II, 7-9-02)

Sec. 14-93. Official acceptance of application and sketch plat.

- (a) The planning department shall give written notice to the applicant within seven (7) days from the date the sketch plat and application are submitted whether the sketch plat application is accepted for review and the official date of such official acceptance. An application shall be accepted when it fully complies with the requirements of sections 14-88 through 14-92.
- (b) If the application and sketch plat are not accepted, the planning director shall inform the applicant of the deficiencies and request the applicant to resubmit the application and sketch plat with the additional information.

(Ord. No. 30-02, Pt. II, 7-9-02)

Sec. 14-191. - Improvements, right-of-way dedication.

- (a) All proposed new streets shall be designed and built according to one of the standards listed in section 14-190 and as shown in the DeKalb County Standards for Construction and Design.
- (b) Where a proposed subdivision or project requiring a land development permit has frontage on an existing public street, right-of-way shall be dedicated along that frontage so as to meet the standards of that street's classification in the county thoroughfare plan. The right-of-way shall be improved wherever required as further provided in this section. For existing streets on which a proposed subdivision or project requiring a land development permit has frontage, the applicant shall:
 - (1) Dedicate a minimum of fifty (50) percent of the required right-of-way width as measured from the centerline of the existing street right-of-way;
 - (2) Install all required sidewalks, street trees, streetlights, and place utilities according to the standards in section 14-190; and
 - (3) Provide a minimum of fifty (50) percent of the roadway pavement required in section 14-190 and install it to the right-of-way centerline.
- (c) Land reserved for any road purposes may not be counted in satisfying yard or area requirements on the DeKalb County Zoning Ordinance where the land is to be dedicated to the public in fee simple or an easement associated with the road is granted to the county.
- (d) Right-of-way dedication and road widening shall extend for the full length of road frontage of the property under development and shall conform the standards in these regulations. Flares at pavement ends may be required to extend beyond property under development.
- (e) The board of commissioners, after considering all related factors, may authorize deviations from this section as follows:
 - (1) Right-of-way dedication may be waived or modified if:
 - a. Existing use of property is not to be substantially changed as a result of proposed development or construction;
 - b. Existing government construction plans for the roadway indicate lesser right-of-way would be required for dedication; or
 - c. The adjoining frontage is developed and the predominate existing right-of-way meets county standards.
 - (2) Road improvements may be waived or modified if:
 - a. Existing use of property not to be substantially changed (i.e., traffic generation and ingress/egress would remain the same);

- b. Governmental construction plans for the road indicate a pavement width less than county standards (only the planned pavement width shall be required);
 - c. No more than five (5) percent of average daily traffic generation would occur between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m., on weekdays;
 - d. The existing road meets current county standards; or
 - e. Widening would create a hazard to traffic, pedestrians, or bicyclists along the thoroughfare.
- (3) The applicant may, with written concurrence of the development director and the county attorney, provide payment to the county in lieu of road improvements when:
- a. Road improvements by state or local action are scheduled within twenty-four (24) months;
 - b. Existing utility companies' improvements are situated so as to require their removal or relocation before road improvements should be accomplished;
 - c. Improvements would be economically unfeasible or would cause unreasonable land development hardships because of topography, soils, bridges, grades, etc., and delay of improvements would not adversely impact the county's road system; and
 - d. Payment for road improvements shall be in accordance with a schedule adopted by the board of commissioners in January of each year and based on current street construction costs for the required section.

(Ord. No. 30-02, Pt. II, 7-9-02)

Sec. 14-195. Alleys.

- (a) Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter.
- (b) Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one (1) or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:
 - (1) The paved width of an alley shall be not less than twelve (12) feet;
 - (2) Alleys shall be constructed with flush curbs;
 - (3) Buildings shall be set back at least ten (10) feet from the back of curb of an alley.

(Ord. No. 30-02, Pt. II, 7-9-02)

Sec. 14-64. Power and duty of planning commission to hear variances, criteria to be used in deciding variances, and appeals.

- (a) The planning commission shall hear and decide applications for variances from the strict application of Division 3 of Article III of this Chapter 14, known as the subdivision regulations of DeKalb County, where strict application of any regulation enacted in Division 3 of Article III would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in DeKalb County; thus, variances from the requirements of Division 3 of Article III shall be authorized only upon the planning commission making all of the following findings:
- (1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of Division 3 of Article III would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;
 - (2) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;
 - (3) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;
 - (4) The requested 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; and
 - (5) The requested variance will not in any manner vary the provisions of Chapter 27, the DeKalb County Comprehensive Plan or the zoning map of DeKalb County.
- (b) No variance shall be granted by the planning commission to:
- (1) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the board of commissioners;
 - (2) Increase the density allowed on the property; or
 - (3) Vary the requirements set forth in sections 14-256 through 14-260.
- (c) Applications for variances must be submitted in writing to the planning director along with the application for sketch plat approval or if a variance becomes necessary after the planning commission has approved the sketch plat, within thirty (30) days of discovery of the condition(s) requiring such a variance from the preliminary plat. Applications shall contain all those materials and documents required by the planning director or the development director that are necessary to demonstrate the necessity for the variance and compliance with the requirements of this Code. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.
- (d) When the variance application is first considered by the planning commission, the development director and the planning director shall provide the planning commission with written findings of fact and a recommendation for approval or disapproval of the variance.
- (e) Applications for variances that accompany the application for sketch plat approval shall be heard by the planning commission contemporaneously with the public hearing on the sketch plat.
- (f) Applications for variances from the preliminary plat shall be heard at a public hearing by the planning commission at the next meeting of the planning commission held after the filing of a complete application

for variance from the preliminary plat. All land development activity associated with a proposed variance from a preliminary plat shall cease until a final decision on the variance is made by the planning commission. Land development activity that is not related to the proposed variance may continue unabated.

- (g) All decisions by the planning commission approving or disapproving a variance must be issued in writing and must provide the grounds for the decision of the planning commission. The planning commission shall issue a final decision on a variance submitted with the application for a sketch plat at the same time that it issues the final decision approving or disapproving the sketch plat. The planning commission shall issue a final decision on a variance from the preliminary plat within fifty (50) days after the first meeting at which the planning commission considers the variance. If a final decision is not made on a subdivision plat variance in accordance with the time constraints set forth in this section, the variance shall stand disapproved.
- (h) Appeals of variances that accompany applications for sketch plat approval shall be made by writ of certiorari to the superior court of the county. Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within one thousand five hundred (1,500) feet of the nearest property line of the proposed subdivision) aggrieved by a variance decision of the planning commission affecting a preliminary plat, may appeal such decision by filing a petition for writ of certiorari to the superior court of the county.

(Ord. No. 30-02, Pt. II, 7-9-02; Ord. No. 01-04, Pt. I, 4-13-04)

Sec. 14-94. Referral of sketch plat for review.

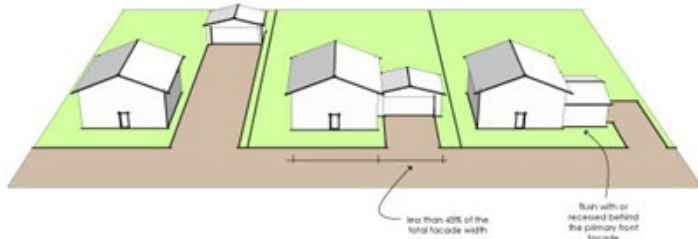
- (a) Upon official acceptance of the application and the sketch plat, the planning director shall provide copies of the sketch plat to the development department, the public works divisions of water and sewer, roads and drainage, transportation, and sanitation, police department, the department of parks and recreation, the geographic information system department, economic development department, the board of education, and any other department the planning director determines should be consulted for the particularities of the proposed subdivision. Each such department and receiving entity shall review the sketch plat and shall make comments and recommendations regarding any required changes necessary to comply with all applicable regulations. Each department shall return its annotated copy of the sketch plat and written comments and recommendations to the planning director within fourteen (14) days from the date of receipt.
- (b) Once the planning director has received each department's comments and recommendations, the planning director shall either notify the applicant that the sketch plat has been referred to the planning commission with a recommendation by staff for approval or notify the applicant that revisions to the sketch plat are required. Such initial notification shall be given within thirty-five (35) days of the official acceptance of the application and the sketch plat.
- (c) In the event that any revisions to the sketch plat are required, the applicant may submit a revised sketch plat to the planning director and if the applicant submits a revised sketch plat, the planning director shall have fourteen (14) days to review the revisions and determine whether such revisions are sufficient for a recommendation of approval and referral to the planning commission. If the revisions are insufficient, the planning director shall notify the applicant that further revisions to the sketch plat are required and for each set of revisions submitted by the applicant the planning director shall have fourteen (14) days for review as described in this section.
- (d) If a sketch plat is not referred to the planning commission within one hundred eighty (180) days of the official acceptance of the application, the application and sketch plat shall be considered withdrawn without further action by the county. At any time during this one hundred eighty-day period, the applicant may refuse to make further revisions and request that the planning director refer the sketch plat to the planning commission for approval or disapproval at a public hearing. The applicant must request such a referral in writing to the planning director that must be received during this one hundred eighty-day period. The planning director, without an applicant's request, is also authorized to refer the sketch plat to the planning commission for approval or disapproval at a public hearing. If the referral is based upon the applicant's request, the planning director shall refer the sketch plat to the planning commission to be considered at the next appropriately advertised and scheduled meeting of the planning commission. However, in any referral the planning director is authorized to recommend approval or disapproval. The planning director shall recommend approval if the application and sketch plat conform to all requested revisions, the requirements of this Code and state law and shall recommend disapproval if the application and sketch plat do not conform to all requested revisions, the requirements of this Code or state law.

(Ord. No. 30-02, Pt. II, 7-9-02)

Sec. 5.7.5. Detached houses.

- A. This section shall apply to the following housing types:
 - 1. *Conventional single-family detached.* A development with one (1) dwelling unit per lot of record with private yards on all four (4) sides.
 - 2. *Urban single-family detached.* A development with single-family detached dwelling units located on small lots. Urban single-family (Urban-SF) residential buildings share similar configurations to townhouse developments; however, they are detached and may have lot lines that coincide with the building envelope, provided that a yard area is provided in the dimensions required by the zoning district.
- B. *Dimensional and use requirements.* Minimum lot size, width, and setbacks shall meet the dimensional requirements set forth for the applicable base zoning district in article 2.
- C. *Orientation.*
 - 1. Lots along the perimeter of a development of single family detached residences shall be oriented so that dwellings front internal local streets instead of a thoroughfare. Lots with rear yards abutting a thoroughfare shall provide a ten-foot no access easement and: a twenty-foot landscape strip, a six-foot-high decorative fence, or a five-foot-high landscaped berm to screen the rear view of houses from the thoroughfare.
 - 2. Street frontage requirements in section 14-258 of the Code shall not apply to individual lots within an urban type residential development provided the overall site complies with minimum street frontage requirements and an alley or private drive provides access directly to a public street.
- D. Each dwelling unit shall be metered for water individually.
- E. An easement for water and sewer shall be required and subject to the approval of the watershed division of the public works department.
- F. Access driveway, internal private drive and alley standards.
 - 1. Urban residences shall have vehicular access from the rear of the property from an alley or similar private drive, or may have an off-street parking area located on the side or rear of the development. Such parking area may not occupy more than thirty (30) feet of frontage and be located no more than two hundred (200) feet from the unit's entrance. The alley shall be at least twenty (20) feet in width and meet the standards of International Fire Code (IFC) 503, unless another width is approved by the director for one-way direction only.
 - 2. Single-family detached residences may share a driveway serving two (2) lots, provided that the width of the driveway at the street shall not exceed the width requirements established in chapter 14 of the Code, and that the driveway width not increase for the first ten (10) feet of drive.
- G. Urban single-family dwellings may gain access through private drives that meet the standards of section 5.6.7C.4.
- H. Driveways shall not exceed ten (10) feet between garage door and sidewalk.
- I. Conventional, single-family, detached residences shall follow the size requirements set forth in article 2.
- J. *Architectural variability.*
 - 1. Residential subdivisions of three (3) or more lots intended for conventional single-family detached residences shall include distinctly different front façade designs within each phase of the development.

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- "Distinctly different" shall mean that each front façade must differ from adjacent buildings' front façades in at least four (4) of the following six (6) ways:
- a. The use of different primary exterior materials;
 - b. Variation in the width or height of the front façade by four (4) feet or more;
 - c. Variation of the type, placement or size of windows and doors on the front façades;
 - d. Variations in rooflines, including the use of dormers and changes in the orientation of rooflines;
 - e. Variation in the location and proportion of front porches; and
 - f. Variation in the location or proportion of garages and garage doors.
2. No conventional single-family detached residence shall be of the same front façade design as any other conventional single-family detached residence along the same block face within eight (8) lots of the subject residence. Mirror images of the same configuration are not permitted on the same block face.
 3. No single front façade design may be used for more than twenty-five (25) percent of the total units of any single phase of a conventional single-family detached residence subdivision.
 4. This subsection shall not apply to single family cottage homes.
- K. *Porches and stoops.* Any porch shall have minimum dimensions of four (4) feet by eight (8) feet for porches, and any stoop shall have minimum dimensions of four (4) feet by four (4) feet. Porches and stoops shall be no closer than two (2) feet from a utility easement.
- L. *Façades.* Any conventional single-family detached residence with a front façade width of forty (40) feet or more shall incorporate wall offsets in the form of projections or recesses in the front façade plane. Wall offsets shall have a minimum depth or projection of two (2) feet so that no single wall plane exceeds twenty-five (25) feet in width.
- M. *Roof and overhangs.* Conventional single-family detached residences shall incorporate the following standards:
1. Roofs covering the main body of the structure shall be symmetrical gables, hip-style, or mono-pitch (shed) style.
 2. Mono-pitch roofs shall have a minimum pitch of 4:12, and all other roofs covering the main body of a detached house shall have a minimum roof pitch of 6:12.
 3. Overhanging eaves shall extend at least twelve (12) inches beyond the exterior wall.
 4. To the maximum extent practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear façades or configured to have a minimal visual impact as seen from an adjacent street.
- N. *Garages.* The following standards shall apply:
1. Street-facing garage façades shall not comprise more than forty-five (45) percent of the total width of the conventional single family detached residence's front façade. Street-facing garages shall be at least two (2) feet behind the primary front façade plane of a conventional single-family detached residence.



Acceptable garage configurations

- O. Clubhouse/pool amenity areas, greens, playgrounds, pocket parks, neighborhood parks, or detention facilities designed to serve as amenities shall meet dimensional requirements in the base zoning district (article 2) and the standards of article 5, division 5, open space standards.

(Ord. No. 15-06, 8-25-2015; Ord. No. 2022-2270, § Pt. I, 12-12-2023)

Sec. 7.5.2. Appeals of decisions of administrative officials.

- A. *General power.* The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of this zoning ordinance or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. Administrative officials must make final decisions covered by this section within one hundred eighty (180) days of receipt of all necessary information to make such decision. A failure to act prior to the passage of one hundred eighty (180) days shall not be construed to be a final order, requirement or decision within the meaning of this division. If a decision is not made by the one hundred eighty-first day, the requested decision is deemed denied, and becomes appealable. All such appeals shall be heard and decided following the notice requirements of section 7.2.4, and pursuant to the following criteria and procedural requirements.
- B. *Appeals of decisions of administrative officials.* Appeals of decisions of administrative officials may be filed by (1) any person aggrieved by; (2) any elected member of the DeKalb County Governing Authority affected by; or (3) an owner of property within two hundred fifty (250) feet of the nearest property line of the property that is the subject of any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this zoning ordinance, or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. by filing with the secretary of the zoning board of appeals an application for appeal, specifying the grounds thereof, within fifteen (15) days after the action was taken by the official that is the subject of the appeal.
- C. *Appeal stays all legal proceedings.* An appeal of a decision of an administrative official stays all legal proceedings in furtherance of the action or decision appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life or property. In such a case, legal proceedings shall be stayed only pursuant to a restraining order granted by a court of competent jurisdiction directed to the officer from whom the appeal is taken and on due cause shown.
- D. *Appeal stays land disturbance or construction activity in certain situations.* If the action or decision appealed from permits land disturbance or construction activity to commence or continue on residentially zoned property, the appeal stays the land disturbance or construction activity until the zoning board of appeals issues a decision on the appeal. Thereafter, land disturbance or construction activity in such cases shall only be stayed by an order from a court of competent jurisdiction. In all cases involving non-residentially zoned property, the appeal to the zoning board of appeals does not stay land disturbance or construction activity; such activity shall only be stayed by an order from a court of competent jurisdiction.
- E. *[Order granted by court.]* Thereafter, in such situations land disturbance or construction activity shall only be stayed by an order granted by a court of competent jurisdiction.
- F. *Time of hearing.* The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of section 7.2.4 as well as written notice to the appellant. Any party may appear at the hearing in person, by an agent, by an attorney, or by the submission of written documentation.
- G. *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal and shall issue a written decision explaining the reasons for its decision. The zoning board of appeals shall decide the appeal within a reasonable time, but in no event more than sixty (60) days from the date of the hearing. An appeal shall be sustained only upon an expressed finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, erroneously applied the zoning ordinance to the facts, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order,

requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by any applicable laws are met.

(Ord. No. 15-06, 8-25-2015)

Sec. 9.1.3. Defined terms.

ADA: The Americans with Disabilities Act.

"A" weighted sound level: The sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Activity center: A character area designated by the comprehensive plan as a regional center, town center, or neighborhood center. In the workforce housing regulations, this means an unincorporated area of the county in which it has been determined from objective empirical data that the convergence of economic, educational, healthcare-related or research activity creates a hub of significant employment opportunities. In unincorporated DeKalb County, such areas are designated as activity centers on the future development plan and map as part of the 2050 Comprehensive Plan. They are also further defined in the 2050 Comprehensive Plan as neighborhood, town and regional centers.

Abandonment: The relinquishment, discontinuance and cessation of a use, other than as a result of government action, for any continuous period of time as may be provided in this chapter.

Abutting: Having property or district lines in common. This does not include property separated by a road or right-of way.

Accessory building: A building detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use.

Accessory dwelling unit: See Dwelling unit, accessory.

Accessory equipment: See section 4.2.57.B.

Accessory structure: A structure detached from the principal building and located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use. Compare with Building, primary.

Accessory use: A use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use. See article 4 for supplemental regulations.

Active recreation: Leisure activities, usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term "active recreation" includes, but is not limited to, swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

Activity center: A character area designated by the comprehensive plan as a regional center, town center, or neighborhood center.

Adaptive reuse: Buildings and sites constructed and developed originally for one (1) use but converted to or repurposed for a use not traditionally occupying the building or development form. For example, the conversion of former hospital or school buildings to residential use, or the conversion of an historic single-family home to office use.

Adjoining property: A property that touches or is directly across a street, easement or right-of-way (other than an interstate, principal arterial, urban freeway/expressway or urban principal arterial) from the subject property.

Adult day care center: An establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of seven (7) or more adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational and social activities for said persons.

Adult day care facility: An establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of six (6) or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational, cultural and social activities for said persons.

Adult entertainment establishment: Any one (1) or any combination of the following:

Adult bookstore: An establishment having a substantial or significant portion of its stock in trade, books, printed materials, magazines or other periodicals or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its total floor space, devoted to the sale or consisting of said printed material or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business: An establishment other than those expressly specified in this section, where employees or patrons expose specified anatomical areas or engage in specified sexual activities.

Adult mini-motion picture theater: An enclosed building, or enclosed or semi-enclosed room or booth within an enclosed building, with a capacity of less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas for observation by patrons therein.

Adult motion picture arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater: An enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult video store: An establishment having a substantial or significant portion of its stock in trade, videotapes, movies, CD ROMS, or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its net sales from said videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Erotic entertainment/dance establishment: A nightclub, theater or other establishment which features live performances by dancers, entertainers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. These establishments are also regulated pursuant to chapter 4, section 4-104 of the Code of DeKalb County.

Escort bureau, introduction services: Any business, agency or persons who, for fee, commission, hire, reward, profit or other consideration furnishes or offers to furnish names of persons or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusements, or who may consort with others about any place of public resort or within any private quarters.

Lingerie modeling studio: An establishment wherein a patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling lingerie or similar undergarments.

Adult service facility: A commercial establishment in which the patron directly or indirectly is charged a fee to engage in private, personal contact with employees, patrons, or personnel primarily for entertainment purposes, using steam rooms or other devices or equipment provided by the establishment, and that is not otherwise regulated as an adult entertainment establishment or massage establishment.

Affordable housing: Housing that has a sale price or rental amount that is within the means of a household that may occupy middle, moderate, or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, together constitute no more than twenty-eight (28) percent of such gross annual household income for a household of the size which may occupy the unit in question. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than thirty (30) percent of such gross annual income for a household of the size that may occupy the unit in question.

Aggrieved person: A person who either (a) is the applicant or the owner of property that is the subject of an application or a decision by a county administrative official; or (b) has a substantial interest in an action appealed from and that is in danger of suffering special damage or injury not common to all property owners similarly situated. For the sole purpose of appealing a final decision of the DeKalb County Zoning Board of Appeals to DeKalb County Superior Court the term "aggrieved person" shall also mean a member of the governing authority of DeKalb County, as that term is defined by section 1 of the Organizational Act of DeKalb County, in whose district the subject property is located and whose substantial interest is his/her responsibility to insure faithful administration of the law.

Agricultural activities: Activities performed in order to cultivate the soil, produce crops, or raise livestock.

Agricultural produce stand: A temporary building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs, or plants and may include accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and home-made handicrafts.

Alcohol outlet: A retail establishment that sells beer, malt beverages, hard cider and/or wine for off-site consumption. This includes grocery stores and retail stores less than twelve thousand (12,000) square feet that may sell beer, malt beverages, hard cider and/or wine for off-site consumption, as well as other products.

All-weather material: A hard surface, dust-free material, capable of withstanding normal weather conditions during ordinary use without substantial deterioration. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather material.

Alley: A minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Alternative energy production: An energy production site or facility that is dedicated to the commercial production of electricity by means of wind, solar, biomass, grease, oil, or other non-petroleum energy source.

Alternative fuel vehicle: A vehicle that runs on a fuel other than "traditional" petroleum fuels (petrol or diesel) including: biodiesel, denatured alcohol, electricity, hydrogen, methanol, mixtures containing up to eighty-five (85) percent methanol or denatured ethanol, natural gas, and propane (liquefied petroleum gas).

Amateur radio service: Radio communication services, including amateur satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in title 47, Code of Federal Regulations, Part 97 and regulated there under.

Amateur radio service antenna structure: A tower and antenna for radio transmission and reception which is maintained by a licensed amateur radio operator as an accessory structure.

Ambulance service facility: A privately owned facility for the dispatch, storage, and maintenance of emergency care vehicles.

Amenity: A natural or man-made feature that enhances a particular property, increasing aesthetics and desirability to the owner or community.

AMI: Area median income, which is a statistic used by the United States Department of Housing and Urban Development (HUD) to determine the eligibility of applicants that fall within the middle range of income in a defined geographic boundary.

Amplified sound reproduction device: Any device capable of producing, reproducing or emitting sounds by means of any loudspeaker or amplifier.

Amusement park: An outdoor recreation facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Animal: Any vertebrate member of the animal kingdom, excluding humans.

Animal hospital: A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use of an animal hospital as a kennel shall be limited to short-term boarding and shall be only incidental to such hospital use.

Animal shelter/rescue center: A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public organization or by an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other non-profit organization devoted to the welfare, protection, and humane treatment of animals.

ANSI: The American National Standards Institute.

Antenna: See section 4.2.57.B.

Antique shop: A place offering antiques for sale. An antique, for purposes of this chapter, shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least thirty (30) years old.

Apartment: See Dwelling, multifamily.

Apartment unit: One (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing four (4) or more dwelling units.

Apiary: A place where beehives of honey bees are kept.

Apiculture: See Beekeeping.

Apparel store: A retail store where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery, and millinery shops.

Appeal: A review authorized by this chapter of any final order, requirement, or decision of the planning director or designee that is based on or made in the enforcement of this chapter.

Applicant: A person who acts in his or her own behalf or as the agent of a property owner, who seeks a zoning decision, or who seeks a decision regarding a permit or approval by the director of planning.

Arcade: An area contiguous to a street or plaza that is open and unobstructed to a height of not less than twelve (12) feet and that is accessible to the public at all times.

Archaeological resource: Any material remains of past human culture or activities which are of archaeological interest, including, but not limited to the following: basketry, bottles, carvings, graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations of this chapter, unless found in archaeological context. No item shall be deemed to be an

archaeological resource under the regulations of this chapter unless such item is at least two hundred (200) years of age.

Art, private: A work or collection, usually displayed in a gallery or curated space, that is owned by a private individual or entity.

Art, public: Any visual work of art located so as to be visible in a public, county-owned area; on the exterior of any county-owned facility; within any county owned facility in areas designated as public areas, lobbies, or public assembly areas; or on non-county property if the work of art is installed or financed, either wholly or in part, with county funds or grants procured by the county. Such public art shall not contain characteristics of an advertising sign.

Art gallery: An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This definition does not include libraries, museums, or non-commercial art galleries.

Articulated façade: A building elevation that faces a street and that is constructed with a variety of surfaces, materials, colors, projections, recesses, or similar features.

Asphalt manufacturing: An industrial facility used for the production of asphalt, concrete, or asphalt or concrete products that are used in building or construction, and that includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises, or the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

Assembly hall: A meeting place at which civic, educational, political, religious, or social groups assemble regularly or occasionally; including but not limited to schools, churches, theaters, auditoriums, funeral homes, stadiums, and similar places of assembly.

Assisted living facility: A multi-family structure whose occupants are fifty-five (55) years of age or older, or where each unit is occupied by at least one (1) person who is fifty-five (55) years of age, and where occupants receive assistance with daily living activities.

Atrium: An open hall lighted from above, into which rooms open at one (1) or more levels.

Attic: An open space at the top of a house just below the roof; often used for storage.

Authorized (permitted) use: Any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

Automobile: A self-propelled, free-moving vehicle, which is licensed by the appropriate state agency as a passenger vehicle. For the purpose of this chapter, the term "automobile" shall include motorcycles, scooters, small trucks used for daily passenger trips, sports utility vehicles (SUVs), and similar passenger vehicles or any vehicle classified by the Georgia Department of Driving Services as a Class "C" vehicle.

Automobile and truck rental and leasing: A business that rents or leases automobile or light trucks, and may store the automobiles and trucks on the same site as the business office.

Automobile brokerage: The business of providing services for the purchase or leasing of a vehicle, whether non-commercial or commercial and including trailers and R.V.s. The brokered vehicles are not stored on the same lot as that on which the business office is located. A vehicle brokerage may find the desired vehicle, negotiate the price or lease contract, manage paperwork associated with the sale or lease, or secure financing for the sale or lease of the vehicle.

Automobile dealership: See Automobile sales.

Automobile mall: A single location that provides sales space and centralized services for a number of automobile dealers and may include related services as auto insurance dealers and credit institutions that provide financing opportunities.

Automobile manufacture: A facility engaged in the manufacture of passenger cars, light trucks, and/or light commercial vehicles.

Automobile parts or tire store: A building that is used for the retail sale of new or used parts or tires for non-commercial vehicles. This term does not include outdoor storage yards.

Automobile recovery and storage: A facility that provides temporary outdoor storage of Class "C" passenger vehicles and motorcycles that are intended to be claimed by the titleholders or their agents. Such storage includes vehicles that have been towed, or that will be transported to a repair shop or will be subject to an insurance adjustment after an accident. See Vehicle storage and Tow service.

Automobile rental and leasing: A business that rents or leases automobiles.

Automobile repair and maintenance, major: A business that services passenger vehicles including the dismantling and repair of engines, transmissions, carburetors, drive shafts, and similar major vehicle parts, the provision of collision repair services including body frame straightening and body part replacement, or the painting or re-painting of passenger vehicles and motorcycles. Major automobile repair establishments may also perform minor automobile repairs.

Automobile repair and maintenance, minor: A business that repairs, replaces, or services tires, ignitions, hoses, spark plugs, and other minor vehicle parts as part of the regular upkeep of passenger vehicles and motorcycles, and may perform regular maintenance such as brake repair and replacement, lubrication, or replacement of small or incidental automobile parts. Minor automobile repair and maintenance may also, as an accessory function, include automobile detailing, including the application of paint protectors, the cleaning or polishing of a vehicles interior, exteriors, or engine, and the installation of aftermarket parts and accessories such as tinting, alarms, sound systems, spoilers, sunroofs or headlight covers. Minor automobile repair and maintenance does not include the dismantling and repair of engines, transmissions, or drive shafts, the provision of collision repair services including body frame straightening and body part replacement, or the painting or re-painting of passenger vehicles. Minor automobile repair does not include automobile car washes where vehicles are washed and/or waxed either by hand or by mechanical equipment.

Automobile sales: A business establishment that engages in the retail sale or the leasing of new or used automobiles, small passenger trucks, motorcycles, or other passenger vehicles. Such merchandise may be stored on the same lot as that on which the business office is located. An automobile sales dealership may be located in an automobile mall. See Automobile mall, Automobile brokerage.

Automobile service station: A building, structure, or land used primarily for the sale of automotive fuels such as gasoline. This term includes the following accessory uses: convenience stores; the sale of incidental vehicle parts and fluids such as motor oil, coolant, windshield wipers, seat or floor pads; and minor automobile repair as defined in this chapter.

Automobile upholstery shop: A building in which automobile seats are re-covered or re-upholstered. For the purposes of regulating home occupations, an automobile upholstery shop shall be considered to be major automobile repair.

Automobile wash/wax service: A building, structure, or land that is used for the washing, waxing, cleaning, or detailing of automobiles as defined in this article. The service may be enclosed in a building or conducted outdoors, includes mobile wash/wax service, and may be a principal or accessory use.

Automobile wrecking yard: See Salvage yard.

Awning: A roof-like cover, usually of canvas or plastic, which can fold, collapse and retract, extended over or before places like storefront, window, door or deck as a shelter from the sun, rain, or wind.

Balcony: A horizontal flat surface that projects from the wall of a building, is enclosed by a parapet or railing, and is entirely supported by the building.

Bank: A facility for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

Barber shop: An establishment or place of business within which the practice of barbering is engaged in or carried on by one (1) or more barbers.

Basement: A space having one-half (0.5) or more of its floor-to-ceiling height below the average finished grade of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6.5) feet.

Beauty salon: A commercial building, residence, or other building or place where hair cutting or styling or cosmetology is offered or practiced on a regular basis for compensation. This term includes the training of apprentices under the regulation of such training by the appropriate licensing board.

Bed and breakfast: Accessory use of a single-family detached dwelling by the homeowner who resides in the dwelling, to provide sleeping accommodations to customers. Breakfast may also be provided to the customers at no extra cost. For the purpose of this definition, the term "customer" means a person who pays for the sleeping accommodations for fewer than thirty (30) consecutive days.

Bedroom: A private room planned and intended for sleeping, separated from other rooms by a door, accessible to a bathroom without crossing another bedroom, and having a closet.

Beekeeping: The maintenance of honey bee colonies, commonly in hives, by humans.

Beer growler: An alcohol outlet that pours beer from a tap into reusable containers for off-site consumption. This definition does not include distilled liquor sales.

Beer or malt beverage: Any alcoholic beverage obtained by fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing up to fourteen (14) percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Bench, tiered wall: The horizontal area between two retaining walls.

Best management practices (BMP): Activities, procedures, structures or devices, systems of regulations and activities, or other measures that prevent or reduce pollution of the waters of the United States. BMPs are intended to: a) control soil loss, protect natural features such as trees, and reduce water quality degradation; b) control drainage from outside storage of materials; c) minimize adverse impacts to surface and groundwater flow and circulation patterns, and to the chemical, physical, and biological characteristics of streams and wetlands; and d) control industrial plant site runoff, spillage, leaks, sludge or waste disposal.

Blight: A state or result of being blighted or deteriorated; dilapidation or decay. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare such as inadequate public or community services, vacant land with debris, litter, lack of utilities, accumulation of trash and junk or general disrepair including but not limited to peeling paint, broken windows, deteriorating wood. Also see chapter 18, article III of the Code.

Block: An area of land bounded by a street, or by a combination of streets and public parks, cemeteries, railroad right-of-way, exterior boundaries of a subdivision, shorelines of waterways, or corporate boundaries. In cases where the platting is incomplete or disconnected, the director of planning may delineate the outline of the block.

Blockface: That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Board of commissioners: The seven-member legislative branch of DeKalb County.

Boarding house: A building containing one (1) or more lodging units but not more than twenty (20) lodging units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to

the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

Borrow pit: A pit from which sand, gravel or other construction material is taken for use as fill in at another location.

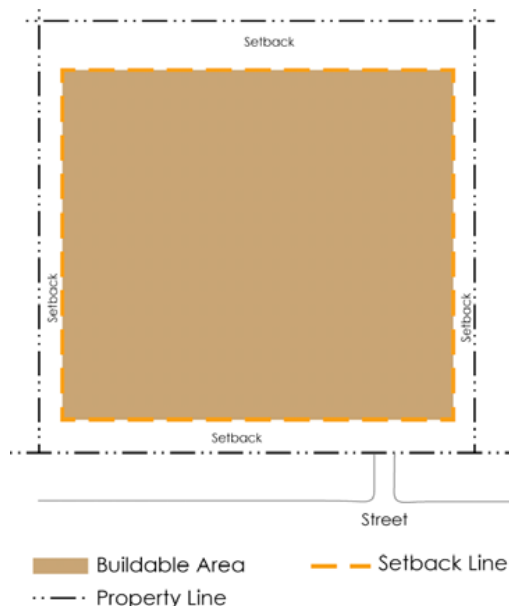
Boutique hotel in the Emory Village Overlay District: A hotel having a maximum of sixteen (16) guest rooms and with no guest rooms located on the sidewalk level.

Brewpub: A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises in compliance with applicable state and federal laws. Such establishments may also include restaurants as an accessory use. See also Light malt beverage manufacturing.

Broker: A party that mediates between a buyer and a seller.

Buffer: That portion of a lot set aside for open space and/or visual screening purposes, pursuant to a condition or conditions imposed by the board of commissioners in the enactment of a conditional zoning ordinance or special land use permit or by the zoning board of appeals in the grant of a variance, to separate different use districts, or to separate uses on one (1) property from uses on another property of the same use district or a different use district. Any such buffer shall not be graded or otherwise disturbed, and all trees and other vegetation shall remain, provided that additional trees and other plant material may be added to such landscaped buffer.

Buildable area: The area of a lot remaining after all setback requirements, including buffers, have been met.



Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building, accessory: See Accessory building.

Building coverage: The maximum area of the lot that is permitted to be covered by buildings, including principal structures, structured parking and roofed accessory structures. For the purposes of this chapter, building

coverage does not include wooden decks, stone walkway and patios set without grout, and pervious, permeable, or porous pavements.

Building entrance feature: An architecturally designed element for entrances and exits of the building.

Building footprint: The outline of the total area covered by a building's perimeter at the ground level.

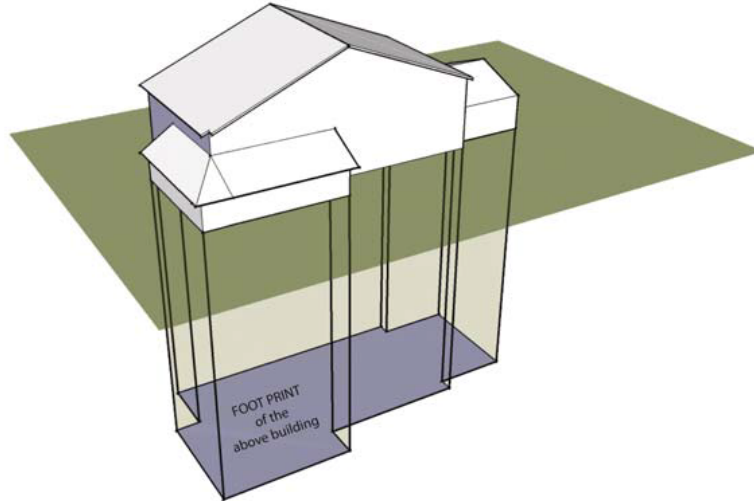


Figure 9.2 Illustration of Building Footprint

Building form: A design term that refers to the shape and/or configuration of a building and the space created by the building. Attributes of building form may include: the building relationship to the street, sidewalk, and/or other buildings and uses; the general usage of floors (office, residential, retail) which influence form; height, and/or; physical elements of the building (such as stoops, porches, entrances, materials, window coverage).

Building frontage: The maximum width of a building measured in a straight line parallel with the abutting street or fronts upon a public street, a customer parking area, or pedestrian mall, and has one (1) or more entrances to the main part of the building or store.

Building height (as to all structures with the exception of single-family detached dwellings): The vertical distance from the average finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. See article 5.

Building height (as to single-family detached dwellings): The vertical distance from the front-door threshold of the proposed residential structure to the highest point of the roof of the structure. See article 5.

Building mass: The overall visual impact of a structure's volume; a combination of height and width, and the relationship of the heights and widths of the building's components.

Building materials supply establishment: A facility for the sales of materials used in the construction of a building such as cement, brick, steel, etc.

Building, primary or principal: A structure in which is conducted the principal use of the lot on which it is located.

Building scale: The relationships of the size of the parts of a structure to one another and to humans.

Building width: The distance from the exterior face of the building siding as measured from side to side.

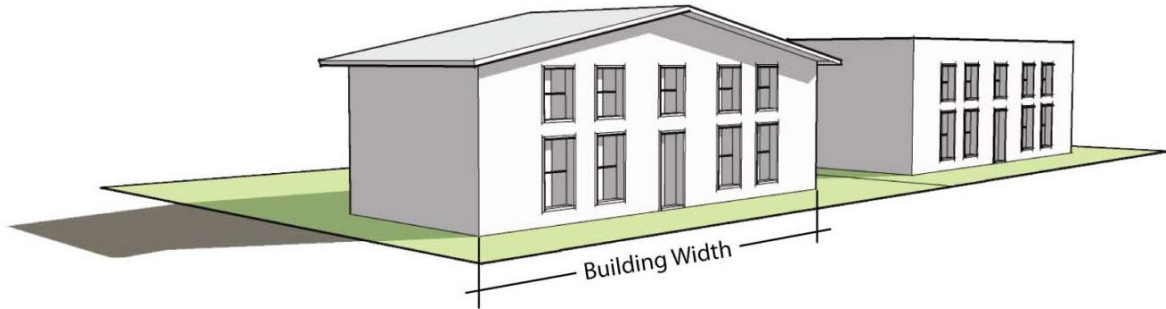


Figure 9.3 Illustration of Building Width

Build-to-line in the Emory Village Overlay District: The line generally parallel to the front lot line as established in Table A: of the Emory Village Overlay District.

Bulkhead: A structural panel just below display windows on storefronts. Bulkheads can be both supportive and decorative in design. Bulkheads from the 19th century are often of wood construction with rectangular raised panels while those of the 20th century may be of wood, brick, tile, or marble construction.

Bury pit: A place where construction waste or refuse caused by the dismantling of a building or structure is dumped and covered with soil.

Bus rapid transit (BRT): A permanent, integrated transit system that uses buses or specialized vehicles on roadways or dedicated lanes to transport passengers to their destinations.

Business service establishment: An entity primarily engaged in rendering services to businesses on a fee or contract basis, including the following and similar services: advertising and mailing; building maintenance; employment services; management and consulting services; protective services; commercial research; development and testing; photo finishing; and personal supply services.

Business vehicle: Vehicle, or heavy construction equipment, or trailer used to transport passengers or property in furtherance of a commercial enterprise. Business vehicle may include, but is not limited to: pick-up trucks with exterior equipment storage, passenger vans, passenger vehicles with or without logos or advertisements identifying the commercial enterprise, ambulances, limousines, taxi cabs, tow trucks, earthmoving machinery such as bobcats and bulldozers, dump trucks, flatbed trucks, box vans, any vehicle with a trailer attached to it, tractors, "dually" trucks (pick-up trucks with four (4) wheels on the rear axle), heavy construction equipment, and semi-tractor cabs whether or not a trailer is attached.

"C" weighted sound level: The sound level reported in units of dB(C) as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Campus style development: A development type which is primarily characterized by having several separate buildings on one (1) site, unified through design and landscape elements.

Canopy: A protective roof-like covering, often of canvas, mounted on a frame over a walkway or door.

Canopy tree: A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

Car wash: A facility for washing, waxing, and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Car wash, self-service: A car wash wherein operating functions are performed entirely by an operator owner with the use of washing, waxing, and drying equipment supplemented with manual detailing by the operator owner.

Cat: A feline that has reached the age of six (6) months.

Catering establishment: An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

Cellar: A space having less than one-half (0.5) or more of its floor-to-ceiling height below the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six-and-one-half (6.5) feet.

Cemetery: Property used for the interring of the dead. See Georgia cemetery regulations.

Chapel: See Place of worship.

Check cashing facility: A person, business or establishment licensed by the State of Georgia pursuant to O.C.G.A. § 7-1-700 et seq. that for compensation engages, as a principal use, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing facility" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company.

Child caring institution: A building(s) in which housing, meals, and twenty-four-hour continuous watchful oversight for children under the age of eighteen (18) are provided and which facility is licensed or permitted as a child caring institution by the State of Georgia. The term "child caring institution" shall not include a "child day care center or facility."

Child caring institution, community: A child caring institution that offers care to seven (7) or more children.

Child caring institution, group: A child caring institution that offers care to between four (4) and six (6) children.

Child day care center: An establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven (7) or more children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody.

Child day care facility: An establishment operated by any person with or without compensation providing for the care, supervision, and protection of six (6) or fewer children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody. For the purpose of computing the number of children within the child day care facility, all children who are related by blood, marriage, adoption or guardianship to the person or persons operating the facility shall be included.

Church: See Place of worship.

Cistern: An underground reservoir or tank for storing rainwater.

Clinic, health services: A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity or physical condition, including but not limited to a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, nursing home, intermediate care facility, outpatient laboratory, or central services facility serving one or more such institutions.

Club, private: A group of people organized for a common purpose to pursue common goals, interests, or activities and characterized by definite membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws, such as country clubs and golf clubs, but excluding places of worship, personal service facilities, adult entertainment establishments, and adult service facilities which shall be defined and regulated as otherwise provided herein. Private club shall also mean, where the context requires, the premises and structures owned or occupied by members of such group within which the activities of the private club are conducted.

Clubhouse: A structure in which the activities of a private club are conducted.

Cluster housing development: A development that permits a reduction in lot area provided there is no increase in overall density of development, and in which all remaining land area is perpetually and properly protected, maintained and preserved as undivided open space or recreational or environmentally sensitive areas.

Code: The Code of DeKalb County, as revised, 1988.

Coliseum: A large building with tiers of seats for spectators at sporting or other recreational events.

Collector street: A street or road designated as a collector street in the DeKalb County Transportation and Thoroughfare Plan.

College: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This shall also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

Collocation: See section 4.2.57.B.

Colonnade: A series of columns placed at regular intervals, usually supporting a roof.

Columbarium: A structure with niches for the placement of cinerary urns.

Commercial district: Any parcel of land which is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O-I, O-I-T, C-2, NS, and C-1.

Commercial parking garage/structure: A covered or sheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

Commercial parking lot: An uncovered or unsheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

Commercial solid waste: All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

Common open space: Open space designed for common use by all property owners in the development.

Common ownership: Ownership as recognized by law of real property by one (1) or more persons, their parents, brothers, sisters, children over the age of eighteen (18), spouses or any association, firm, corporation or partnership in which such person or spouse is a corporate officer, partner or is a stockholder with an ownership interest of ten (10) or more percent.

Community garden: See Urban garden.

Community living arrangement: See Personal care home.

Compact design: The design of a structure and or development that encourages efficient land use and the preservation of open space, usually via building more vertically, and by minimizing surface parking.

Compatible (as used in article 2, purpose and intent for each established district): Land development that is consistent with existing, identified physical elements in proximity to that land development, such as architectural style, building mass, building scale, land uses, and landscape architecture.

Complainant: Any person who has registered a noise or code complaint with an authorized enforcement agency that he or she is the recipient of noise or nuisance on a protected property category. A complainant must have an interest in the protected property as an owner, tenant, or employee.

Complete or complete application: When used in conjunction with an application under this zoning ordinance, the term "complete" shall mean containing all of the required elements, information, fees, approvals or other materials as set forth in this zoning ordinance, other applicable provisions of the Code of DeKalb County as Revised 1988, state law, and in the most recent checklist previously issued by the director of planning.

Composting: The controlled biological decomposition of organic matter into a stable, odor-free humus.

Comprehensive plan: The DeKalb County Comprehensive Plan adopted by the board of commissioners as it may be amended from time to time, which divides the unincorporated areas of the county into land use categories and which constitutes the official policy of the county regarding long-term planning and use of land.

Concert hall: An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for concerts, spectator sports, entertainment events, expositions, and other public gatherings. Typical uses and structures include concerts, conventions, exhibition halls, sports arenas, and amphitheaters.

Conditional approval: The imposition of special requirements, whether expressed in written form or as a site plan or other graphic representation, made a requirement of development permission associated with a particular parcel or parcels of land and imposed in accordance with the terms of this chapter.

Condominium: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis in compliance with Georgia Law.

Condominium unit: A unit intended for any type of use with individual ownership, as defined in the Georgia Condominium Act, together with the undivided interest in the common elements appertaining to that unit.

Connectivity ratio: A ratio of links to nodes in any subdivision.

1. The connectivity ratio shall be the number of street links divided by the number of nodes or end links, including cul-de-sac heads.
2. A link shall be any portion of a street, other than an alley, defined by a node at either end. Stub-outs to adjacent property shall be considered links. For the purpose of determining the number of links in a development, boulevards, median-divided roadways, and divided entrances shall be treated the same as conventional two-way roadways.
3. A node shall be the terminus of a street or the intersection of two (2) or more streets. Any curve or bend of a street that exceeds seventy-five (75) degrees shall receive credit as a node. Any curve or bend of a street that does not exceed seventy-five (75) degrees shall not be considered a node. A divided entrance shall only count once.

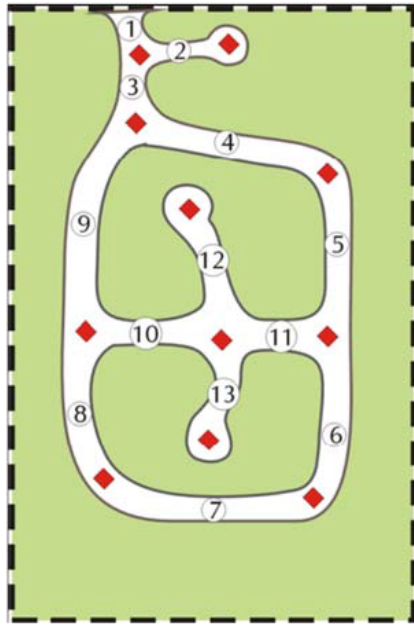


Figure 9.4 Example 1: Does not meet ratio

$$(13 \text{ links} / 11 \text{ nodes} = 1.18)$$

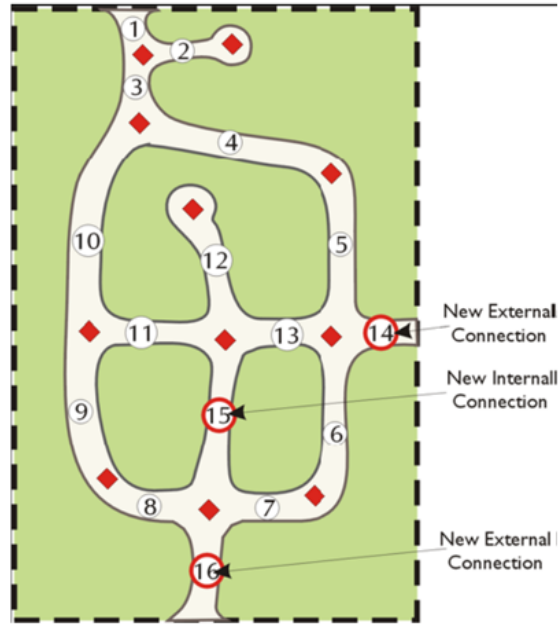


Figure 9.5 Example 2: Modified to meet ratio

$$(16 \text{ links} / 11 \text{ nodes} = 1.45)$$

Conservation area: Any area designated as containing physical features of natural, historical, social, cultural, architectural, or aesthetic significance to be restored to or retained in its original state or enhanced to promote existing natural habitat.

Conservation easement: A restriction or limitation on the use of real property which is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use.

Construction: Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

Continuing care retirement community: A residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units as defined herein. Such facilities generally provide support services, such as meals, laundry, housekeeping, transportation, and social and recreational activities.

Continuous sound: Any sound with duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.

Contractor, general: A contractor or builder engaged in the construction of buildings like residences or commercial structures.

Contractor, heavy construction: A contractor or builder engaged in the heavy construction activities such as paving, highway construction, landscaping, and utility construction.

Contractor, special trade: Industries in the special trade contractors subsector engage in specialized construction activities, such as plumbing, painting, and electrical work.

Convalescent home: A nursing care facility.

Convenience store: Any retail establishment offering for sale items such as household items, newspapers and magazines, prepackaged food products, sandwiches and other freshly prepared foods, and beverages, for off-site consumption. When a convenience store sells unopened alcoholic beverages, it is also considered to be an alcohol outlet. A convenience store may also include accessory fuel pumps.

Convent: A building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of women who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

Cornice: Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

Corridor: A broad geographical band that follows a general directional flow connecting major sources of trips that may contain a number of streets, highways, and transit route alignments.

Cottage development: Small detached dwelling units arranged on a single site whereby the dwelling units are arranged so that each unit faces a common open space.

County: DeKalb County, Georgia, a political subdivision of the State of Georgia. When appropriate to the context, the term "county" also includes authorized officers, employees and agents thereof.

County solid waste: Any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single family, duplex, and multifamily residences, hotel and motels, picnic grounds and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

County solid waste disposal facility: Any facility or location where the final deposition of any amount of county solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, county solid waste landfills and county solid waste thermal treatment technology facilities.

County solid waste landfill: A disposal facility where any amount of county solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludge, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

Cremation: The reduction of a dead human body or a dead animal body to residue by intense heat.

Crematorium: A location containing properly installed, certified apparatus intended for use in the act of cremation. Crematoriums do not include establishments where incinerators are used to dispose of toxic or hazardous materials, infectious materials or narcotics.

Cultural facility: A building or structure that is primarily used for meetings, classes, exhibits, individual study, referral services, informational and entertainment presentations, and other similar programs oriented around the customs and interests of a specific group of people, including but not limited to an immigrant, ethnic, or national minority group, or the heritage of defined geographic region. Movies, theater performances and similar entertainment may occur in a cultural facility, but the purpose of the cultural facility is not to provide a venue solely for such entertainment. A cultural facility may be programmed, managed, or operated by a public, private, or non-profit entity.

Curb cut: A curb break, or a place or way provided for the purpose of gaining vehicular access between a street and abutting property.

Dairy: A commercial establishment for the manufacture, processing, or sale of dairy products.

Dance school: A school where classes in dance are taught to four (4) or more persons at a time.

Day: Unless otherwise stated, day or days refer to calendar days.

Day spa: See Health spa.

Decay resistant wood: Wood harvested from tree species that are known to have extractives in the heartwood which are toxic to fungi.

Decibel (dB): The unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero (0) decibels), i.e., the average threshold of hearing for a person with very good hearing.

Deciduous tree: A tree that loses all of its leaves for part of the year.

Deficiencies: Exterior conditions or signs of neglect within a conservation subdivision and within the Stonecrest Area Overlay District that contributes to nuisances, hazards, or unkempt appearances, such as, but not limited to: uncut or overgrown grass or weeds, peeling paint, severe corrosion, or wood rot; accumulation of trash or debris; fallen, dead, dying, damaged, or diseased trees or shrubbery; severe erosion; stagnant pools of water; broken inoperable, or severely damaged benches, seating, paving, walls, fences, gates, signs, fountains or other structures, furnishings or equipment which is intended for decoration or use by the public. This definition shall only be applicable to the Stonecrest Area Overlay District regulations and the conservation subdivision regulations.

Demolition: Any dismantling, destruction or removal of buildings, structures, or roadways whether man-made or natural occurring both above and below ground.

Demolition of an infill building: The destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

Density: The number of dwelling units per gross acreage of land.

Density bonus: A density increase over the otherwise maximum allowed residential density as permitted as an incentive for offering workforce housing to public, private and non-profit sector eligible employees who earn qualifying moderate annual incomes.

Dental clinic: See Office, dental.

Department of community affairs (DCA): The state department that provides a variety of community development programs to help the state's communities realize their growth and development goals.

Department store: A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited, and sold directly to the customer for whom the goods and services are furnished.

Deterioration: A condition of a building or a portion of a building characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay, neglect, lack of maintenance, or excessive use.

Developer: A person, firm, corporation, partnership, agency, or other legal entity that proposes to divide, subdivide, or construct improvements on real property.

Development permit: Any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the unincorporated limits of the county.

Development for residential use: Any development including residential units, whether attached or detached, single-family or multi-family, for rent or for sale, held as fee simple or other form of ownership.

Development of regional impact (DRI): A large-scale development that is likely to have regional effects beyond the local government jurisdiction in which it is located and meets the DCA requirements for review.

Director of planning: The Director of the Department of Planning and Sustainability of DeKalb County, or his/her designee.

Director of public works: The Director of the Public Works Department of DeKalb County, or his/her designee.

Dispatch office: An office used exclusively for the communication and dispatch of taxis, ambulances, limousines and similar vehicles, with no fleet parking or storage allowed.

Disposal facility: Any facility or location where the final deposition of solid waste occurs including, but is not limited to, landfills and solid waste thermal treatment technology facilities.

Dog: A canine that has reached the age of six (6) months.

Dog day care: Any premises containing four (4) or more dogs, where dogs are dropped off and picked up daily between the hours of 7:00 a.m. and 7:00 p.m. for temporary care on site and where they may be groomed, trained, exercised, and socialized, but are not kept or boarded overnight, bred, sold, or let for hire. Use as a kennel shall be limited to short-term boarding and shall be only incidental to such dog day care. See Kennel, commercial.

Dog grooming: The hygienic care and cleaning of a dog, as well as enhancement of a dog's physical appearance.

Dormitory: A building intended or used principally for sleeping accommodations where such building is related to an educational or public institution, including religious institutions, and located on the campus of that institution.

Dripline: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drive-in theater: An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures on a paid admission basis to patrons seated in automobiles.

Drive-through facility: A business establishment so developed that its retail or service character includes a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Drive-through restaurant: A retail establishment where food and/or drinks are prepared and may be consumed by customers within the principal building, or may be ordered and picked up from an exterior service window that serves customers while in their automobiles. The term "drive-through restaurant" includes restaurants that serve customers at an exterior walk-up service window.

Driveway: A private roadway providing access for vehicles to an individual lot, parking space, garage, dwelling, or other structure.

Dry cleaning agency: An establishment or agency maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

Dry cleaning plant: An establishment for dry cleaning or laundry where the operation, equipment and machinery is on site.

Durable materials: Materials that can resist wear, tear and decay from use, time and other conditions like weather.

Dwelling, mobile home: See Mobile home.

Dwelling, multi-family: See Dwelling unit, multi-family.

Dwelling, single-family: A building designed for and containing one (1) dwelling unit.

Dwelling, single-family attached: A dwelling unit located in a building in which multiple units are attached by a common party wall.

Dwelling, single-family detached: A dwelling unit on an individual lot unattached to another dwelling unit.

Dwelling, single-family detached condominiums in the Residential Neighborhood Conservation District: Single family detached dwelling units which are owned under the condominium form of ownership such that there are no individual lots associated with the units and the common areas are held in common ownership by a condominium association.

Dwelling, three-family or triplex: A building designed for and containing three (3) dwelling units.

Dwelling, two-family or duplex: A building designed for and containing two (2) dwelling units.

Dwelling, urban single-family: Residential buildings that share similar configuration to townhouse developments; however, they may be attached or detached and may have lot lines that coincide with the building envelope.

Dwelling unit: One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Dwelling unit, accessory: A dwelling unit located on the same lot as a single-family dwelling, either within or attached to the single-family dwelling, or detached, and is a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities.

Dwelling unit, efficiency or studio: A self-contained residential unit consisting of not more than one (1) room together with a private bath and kitchen facilities.

Dwelling unit, single-family, cottage: A detached dwelling unit that is one (1) to two (2) stories (not to exceed twenty-two (22) feet) in height; no greater than one thousand two hundred (1,200) square feet; and arranged or clustered around a commonly shared open space.

Dwelling unit, multi-family: One (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained residential unit in a building containing four (4) or more dwelling units.

Dyeworks: A facility or workshop where the process of applying a comparatively permanent color to fiber, yarn or fabric takes place.

Edifice: A building or a structure, especially one (1) of imposing appearance or size, which has a roof and walls and stands permanently in one (1) place.

Elevation: An architectural term referring to the view of a building seen from one (1) side; it is a flat representation of one (1) façade. This is the most common view used to describe the external appearance of a building. Each elevation is labeled in relation to the yard it faces (front, rear or side).

Elevation height: Above sea level or ground level. See Grade, existing.

Eligible employees: For a workforce housing project, people who earn between sixty (60) percent and one hundred twenty (120) percent of the county's median household income and work in DeKalb County.

Emergency work: Any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

Emory Village Regulating Plan in the Emory Village Overlay District: The document entitled "Emory Village Regulating Plan" prepared for the Alliance to Improve Emory Village by Tunnell-Spangler-Walsh & Associates, dated March 23, 2007, and incorporated herein by this reference.

Emory Village Revitalization Plan in the Emory Village Overlay District: The plan prepared for the Alliance to Improve Emory Village by Peter Drey & Company, dated September 25, 2002.

Employment center: A defined geographical area that contains job clusters and is the focal point for targeted local and regional labor force activities to produce goods and services.

Enclosed area: Surrounded by a fence or walls, sheltered by a structure with a roof and no side walls, but not located within a building.

Encroachment: A building or some portion of it, or a wall or fence, which extends beyond the land of the owner and illegally intrudes upon land of an adjoining owner, a street or an alley.

Environmental contamination: A presence of hazardous substance(s) in the environment. From the public health perspective, environmental contamination is addressed when it potentially affects the health and quality of people living or working nearby.

Exceptional topographical restrictions: The physical condition of a lot or parcel, determined by the contours of the land itself, which may inhibit or alter the compliant status of an existing or proposed structure.

Explosive manufacture or storage: The manufacture or storage of any chemical compound mixture or device, the primary and common purpose of which is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

Exterior insulation and finishing system (EIFS): A type of building exterior wall cladding system that provides exterior walls with an insulated finished surface and waterproofing in an integrated composite material system.

Extraneous sound: A sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation.

Façade: One exterior side of a building, usually, but not always, the front. In this chapter and the design standards, it may be synonymous with architectural elevation. In architecture, the façade of a building is often the most important from a design standpoint, as the façade elements of wall face, parapet, fascia, fenestration, and canopy establish the architectural aesthetic of a building creating the public realm.

Façade, primary: Refers to the exterior building wall considered the front and features the main entrance to the building. Synonymous with front façade.

Fair market value: The price a property would likely bring if offered for sale in the marketplace.

Fairgrounds: An area of land use including but not limited to: agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters. Fairgrounds do not include racetracks or motorized contests of speed.

Family: One (1) or more individual(s) related by blood, marriage, adoption, or legal guardianship, or not more than three (3) unrelated individuals, who live together in a single dwelling unit and who function as a single housekeeping unit, have established ties and familiarity with each other, jointly use common areas, interact with each other, and share meals, household activities, expenses and responsibilities. This definition shall include three (3) or fewer mentally handicapped, developmentally disabled persons, and other handicapped persons, as defined in the Fair Housing Act, 42 U.S.C. § 3601 et seq., living as a housekeeping unit and otherwise meeting the definition of "family" herein. For the purposes of calculating the number of persons who live in a dwelling, family members who are related by blood or legal status shall count as one (1) person.

Family day care home: A private residence in which a business, registered by the State of Georgia, is operated by any person who receives pay for supervision and care for fewer than twenty-four (24) hours per day, not more than six (6) persons who are not residents in the same private residence. For purposes of this zoning ordinance, a family day care home may be operated as a home occupation, subject to the requirements of this zoning ordinance.

Family-oriented entertainment venues: Places of entertainment intended to serve families.

Farm equipment and supplies sales establishment: Establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching.

Farmer's market: A market, usually held out-of-doors, in public spaces, where farmers and other vendors can sell produce or value added products.

Farming, active: The growing of crops, plants, and trees. The term also includes the maintaining of horses, livestock, or poultry for the residents' needs or use, and the sale of agricultural products grown on the premises.

Fascia: A type of roof trim mounted on exposed rafter ends or top of exterior walls to create a layer between the edge of the roof and the outside.

Fat rendering: Any processing of animal byproducts into more useful materials, or more narrowly to the rendering of whole animal fatty tissue into purified fats like lard or tallow.

Fee simple: Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance. Fee simple ownership includes the land immediately underneath a unit, and may or may not include land in front of and behind a building.

Fee simple condominium declaration: An official affidavit filed with DeKalb County attesting to the fact that the owner of a condominium development that was the subject of a site development plan approved prior to August 31, 2012, no longer intends to sell units in the subject development as condominiums and will offer for sale such units as fee simple condominium units and that otherwise the development shall conform to a previously approved condominium development plan consisting of the same units along with the same related facilities on the same tract of land as the previously approved condominium development.

Fee simple condominium development: A development where the owner of a unit possesses fee simple interest to the exterior walls and roof of the unit, as well as fee simple interest to the land lying immediately beneath the unit and coincident with the external walls of such unit as depicted on a recorded final plat. A fee simple condominium unit must be a part of an approved development in which all other land consists of privately owned common areas, utilities, streets, parking, stormwater management, landscaping and other facilities that are owned by all unit owners on a proportional, undivided basis in compliance with Georgia law and subject to a mandatory property owners association organized in accordance with Georgia law.

Fence: A structure designed to provide separation and security constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the director of planning.

Fenestration: The arrangement, proportioning, and design of windows and doors in a building.

Fertilizer manufacture: The manufacture and storage of organic and chemical fertilizer, including manure and sludge processing.

Fitness center: Building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee but specifically excluding adult service facilities. Accessory uses which support the principal use can include therapy treatments such as massage, meditation and other healing arts. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

Flea market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floodplain: Land within the special flood hazard area (SFHA) or covered by the "future-conditions" flood as defined in chapter 14 of the DeKalb County Code.

Floodway: The channel of a stream, river, or other watercourse and the adjacent areas that must be reserved in order to discharge the special flood hazard area (SFHA) flood without cumulatively increasing the water surface elevation more than a designated height.

Floor area: The gross heated horizontal areas of the floors of a building, exclusive of open porches and garages, measured from the interior face of the exterior walls of the building. For non-residential construction, net floor area is measured as the usable, heated floor space and gross floor area is measured as the total floor space.

Floor area of accessory building: The gross horizontal areas of the floors of an accessory building, measured from the exterior faces of the exterior walls of the accessory building.

Floor area ratio (FAR): The relationship between the amount of gross floor area permitted in a building (or buildings) and the area of the lot on which the building stands. FAR is computed by dividing the gross floor area of a building or buildings by the total area of the lot. For purposes of this calculation, parking areas or structures shall not be included in floor area.

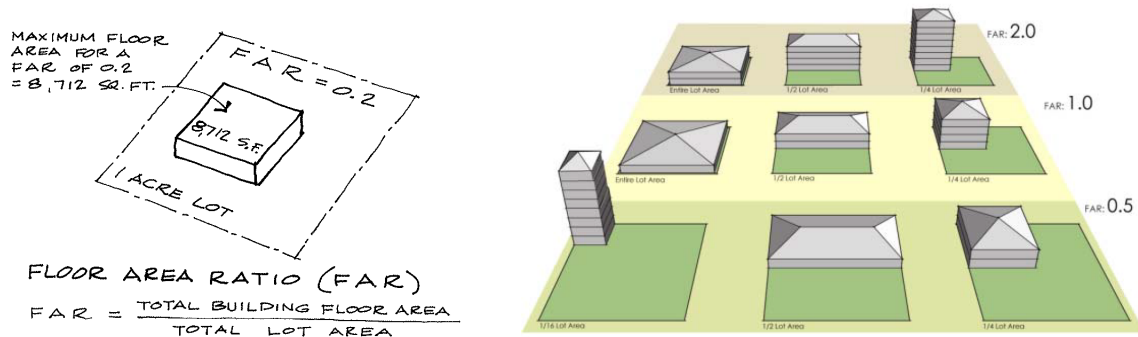


Figure 9.6 Illustration of Floor Area Ratio (FAR)

Florist: An enclosed retail business whose principal activity is the selling of plants which were grown off-site.

Forestry: Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

Fortunetelling: Fortunetelling shall include all forms of foretelling, including, but not limited to, palm reading, casting of horoscopes, and tea leaf reading.

Fraternal organization: A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings and formal written membership requirements. See also Club.

Fraternity house: A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an institution of higher learning.

Freestanding wall: A wall or an upright structure of masonry, wood, plaster, or other building material standing on its own foundation and not attached to any part of a building.

Freeway: A multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes which permits access only at designated interchanges and is so designated in the comprehensive plan.

Freight service: An establishment primarily engaged in undertaking the transportation of goods and people for the compensation, and which may in turn make use of other transportation establishments in effecting delivery. This definition includes parking lots for overnight truck storage, and such establishments as commercial distribution services, freight forwarding services, and freight agencies.

Frequency: The time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz), also referred to as "pitch."

Frontage, lot: The horizontal distance for which the boundary line of a lot and a street right-of-way line are coincident.

Front façade: See Façade, primary.

Fuel and ice dealers, manufactures and wholesaler: An establishment primarily engaged in the sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas, bottled or in bulk, as a principal use.

Funeral home: A building used for the preparation of deceased humans for burial or cremation and display of the deceased and rituals connected therewith before burial or cremation, including the storage of caskets, funeral urns, funeral vehicles, and other funeral supplies, and where allowed by use standards, crematoriums. See Crematorium.

Furniture sales and showroom: A retail trade establishment primarily engaged in the sale and exhibition of furniture or home decoration items.

Garage: A part of a residential building or a separate structure on the same lot as the residence designed to be used for the parking and storage of vehicles that belong to the residents or visitors of the building.

Garage, parking: See Parking garage or Parking structure.

Gas regulator station: An assemblage of equipment which reduces, regulates, and meters natural gas pressure in the transmission line, holder, main, pressure vessel, or the compressor station piping. This may include auxiliary equipment such as valves, control instruments, or control lines as well as piping.

General business office: Any building or part of a building in which one (1) or more persons are employed in the management or direction of an agency, business or organization, but excludes such uses as retail sales, manufacturing, assembly or storage of goods, or assembly and amusement.

Gift shop: A retail store where items such as art, antiques, jewelry, books, and notions are sold.

Glue manufacture: The manufacturing of glue, epoxy, sealant or other adhesives.

Go-cart: A small low motor vehicle, with four (4) wheels and an open framework, used for racing.

Go-cart concession: A place, usually sheltered, where patrons can purchase snacks or food accessory to go-cart racing.

Go-cart track: A track or network of tracks used for the racing of go-carts.

Golf course: A tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, green, fairways, and hazards. A golf course may include a clubhouse, restrooms, driving range and shelters as accessory uses.

Grade, average finished. The average level of the finished surface of the ground adjacent to the exterior walls of the building determined by dividing the sum of the elevation of the highest point and the elevation of the lowest point by two (2).

Grade, existing: The elevation of the ground surface before development.

Grade, finished: The final grade of the ground surface after development.

Grassed playing fields: Reasonably flat and undeveloped recreation areas intended for a variety of informal recreational uses, including but not limited to: walking, kite-flying, flying disc-throwing, and recreational games of soccer, softball, or cricket. In the creation of grassed playing fields, minimal grading may be used; however, specimen trees may not be damaged or removed. Grassed playing fields may not include recreation areas with amenities for a particular sport, such as baseball diamonds or golf courses.

Gravel pit: An open land area where sand, gravel, and rock fragment are mined or excavated for sale or off-site use. Gravel pit includes sifting, crushing, and washing as part of the primary operation. To excavate the rock, blasting also may be necessary.

Grazing land, pasture land: Any open land area used to pasture livestock in which suitable forage is maintained over eighty (80) percent of the area at all times of the year.

Greenhouse, commercial: A retail or wholesale business whose principal activity is the selling of plants grown on the site and having outside storage, growing, or display.

Greenspace: Undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development, which is not a part of an individual residential lot.

Grid pattern: A continuous web of streets in which most streets terminate at other streets to form multiple vehicular and pedestrian connections. Streets are to be laid out with primarily linear features, but the grid may be broken by circles, ovals, diagonals, and natural curves to add visual interest.

Grocery store: A store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers other home care and personal care products, and which is substantially larger and carries a broader range of merchandise than convenience stores.

Ground cover: Small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation, that normally cover the ground and include trees of less than six (6) inches caliper.

Group homes: See Child caring institution, Personal care homes, Transitional housing facility.

Gym: See Fitness center.

Hardscape: The inanimate elements of landscaping, especially any masonry work or woodwork. For instance, stone walls, concrete or brick patios, tile paths, wooden decks and wooden arbors would all be considered part of the hardscape.

Hardship: A condition of significant practical difficulty in developing a lot because of physical problems relating solely to the size, shape or topography of the lot in question, which are not economic difficulties and which are not self-imposed.

Hardware store: A facility of thirty thousand (30,000) or less square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, garden supplies, and cutlery.

Health spa: A nurturing, safe, clean commercial establishment, which employs professional, licensed therapists whose services include massage and body or facial treatments. Private treatment rooms are provided for each client receiving a personal service. Massage treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the massage and therapeutic treatment services. Full service hair salons, make-up consultation and application and manicure and pedicure services may be provided as additional services.

Heavy industrial: See Industrial, heavy.

Heavy manufacturing: See Industrial, heavy.

Heavy vehicle repair: Major or minor repair of non-passenger vehicles that are classified by the Georgia Department of Driving Services as a Class E, F, or Commercial vehicle.

Heliport: An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

High-rise building or structure: A building of any type of construction or occupancy having floors used for human occupancy located more than fifty-five (55) feet above the lowest floor level having building access of three (3) stories or greater unless otherwise defined by individual zoning or overlay district.

High-rise in the I-20 Corridor Overlay District: A building in the I-20 Corridor Overlay District that is nine (9) or more stories in height.

High-rise in the Stonecrest Area Overlay District: A building in the Stonecrest Area Overlay District that is eleven (11) or more stories in height.

Historic: A building, structure, site, property or district identified as historic by the DeKalb County Historic Preservation Commission, the DeKalb County Historic Resources Survey, the Comprehensive Plan, by listing on the Georgia or National Register of Historic Places, by listing as a National Historic Landmark, or determined potentially eligible for listing in the National Register of Historic Places as a result of review under Section 106 of the National Historic Preservation Act, as amended.

Hobby, toy and game store: A retail establishment for sale and exhibition of items related to hobbies such as arts and crafts materials, toys, or items related to games.

Home improvement center: A facility greater than thirty thousand (30,000) square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, garden supplies, and cutlery.

Home occupation: An occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of this chapter. Home occupation does not include "private educational use" as defined in this chapter.

Home stay bed and breakfast residence: A single-family dwelling in which is provided not more than two (2) rooms for not more than four (4) people for overnight rental and a morning meal to transient persons for compensation on a nightly basis by the occupant of said dwelling.

Hospice: Any facility that provides coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.

Hospital: An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

Hotel/motel: An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities. See also Boutique hotel in the Emory Village Overlay District.

Hotel/motel, extended stay: Any building containing six (6) or more guest rooms rented or leased for sleeping purposes for periods less than one (1) month, but in excess of one (1) week, and that contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves, and ovens.

Household pet: A domestic animal that is customarily kept for pleasure rather than utility or profit and that is normally kept within a residence for personal use and enjoyment including domestic dogs, domestic cats, domestic potbellied pigs, canaries, parrots, parakeets, domestic tropical birds, hamsters, guinea pigs, lizards and turtles. Household pet does not include livestock, poultry, and snakes, nor does it include hybrids of animals normally found in the wild.

Impervious surface: A surface that either prevents or retards the entry of surface water into the soil mantle and causes surface water to run off in greater quantities or at an increased flow rate when compared to natural, undeveloped soil mantle. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, pavement graveled areas, packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface waters. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces. See Lot coverage for exemptions.

Impulsive sound: A single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second characterized with an abrupt onset and rapid decay.

INCE: The Institute of Noise Control Engineering.

Income limit: For a workforce housing project, the maximum amount of annual income a household can earn to qualify to be eligible to participate in the program.

Industrial district: Any parcel of land which is zoned for industrial use including property used for light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills. Such districts include M and M-2 districts.

Industrial, heavy: The building or premises where the following or similar operations are conducted: processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise, or equipment, including the wholesale or distribution of said goods, merchandise, or equipment when not conducted wholly within a building or other enclosed structure or when such operations generate measurable dust, vibrations, odor, glare or emissions beyond the property on which said building or structure is located.

Industrial, light: The following or similar operations: processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise, or equipment, other than light malt beverages, including the wholesale or distribution of said goods, merchandise, or equipment, when conducted wholly within a building or other enclosed structure, and when such operations generate no measurable dust, vibrations, odor, glare or emissions beyond the property on which said building or structure is located.

Industrial solid waste: Solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste as defined herein. Such wastes include, but are not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Industrialized building: Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation-site without disassembly, damage to, or destruction thereof.

Infill building: Any building built or proposed to be built on an infill lot.

Infill development: A development surrounded by or in close proximity to areas that are substantially or fully developed.

Infill lot:

A vacant lot of record in an infill overlay zoning district created by the demolition of an existing residential structure for the replacement of that structure with new construction;

Any lot intended for use as a site for a single family dwelling that is created by act of subdivision which, at the time of final plat approval, is in whole or in part within the boundaries of a residential infill overlay district; or

Any lot within a residential infill overlay district that, at the time it is zoned, has no principal building and which is subsequently proposed as a site for a single family dwelling.

Infill lot (in the Sagamore Hills Overlay District): A conforming lot of record or nonconforming lot of record in a residential zoning district on which the demolition of an existing residential building has occurred or is proposed.

Intermediate care home: A facility which admits residents on medical referral; it maintains the services and facilities for institutional care and has an agreement with a physician or dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the Georgia Department of Human Resources or state agency as may have jurisdiction. The term "intermediate care" means the provision of food, including special diets when required, shelter, laundry and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate licensed supervision. Intermediate care does not normally include providing care for bed-ridden patients except on an emergency or temporary basis.

Intermodal freight terminal: An industrial establishment in which freight is transferred in containers from truck to railroad cars for transportation.

Inter-parcel access: A physical way or means to facilitate movement of pedestrians and/or vehicles between adjacent lots (that is, "lot-to-lot access") without generating additional turning movements on a public street.

Jewelry repair shop: Establishment primarily engaged in the provision of jewelry repair services to individuals.

Job clusters: In the workforce housing regulations, areas of the county where there are more than eight (8) jobs per acre or equivalent to five thousand one hundred twenty (5,120) jobs per square mile but in excess of the regional average for the southeastern United States.

Junk vehicle: Any vehicle that is in such a state of disrepair as to be inoperable and does not bear a current license plate.

Junkyard: Any lot or lot and building(s) in combination which is utilized for the parking, storage or disassembling of junk vehicles; storage, bailing or otherwise dealing in bones, animal hides, scrap iron and other metals, used paper, used cloth, used plumbing fixtures, old refrigerators and other old household appliances, and used brick, wood or other building materials. These uses shall be considered junkyards whether or not all or parts of these operations are conducted inside a building or in conjunction with, in addition to or accessory to other uses of the premises.

Keeping of chickens: The breeding, boarding, and caring of chickens for personal or agriculture use, or raised for sale and profit.

Keeping of livestock: The breeding, boarding and caring of livestock for personal or agricultural use, or raised for sale and profit.

Keeping of pigeons: The breeding, boarding, and caring of pigeons for personal or agriculture use, or raised for sale and profit.

Kennel, breeding: A kennel where no more than ten (10) dogs, registered with a nationally recognized registration organization, over the age of six (6) months are owned, kept or harbored for the purpose of breeding purebred or pedigreed dogs, provided, however, this definition shall not apply to zoos or to animal hospitals operated by a veterinarian, duly licensed under the law.

Kennel, commercial: An establishment for the boarding, caring for and keeping of dogs over the age of six (6) months other than a breeding kennel or a noncommercial kennel.

Kennel, noncommercial: An establishment for the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs over the age of six (6) months, not for commercial purposes.

Kidney dialysis center: An establishment where a process of dialysis, an artificial process of getting rid of waste and unwanted water from blood, is carried out for the patients whose kidneys have been damaged or lost kidney function.

Kindergarten: An establishment operated by any person wherein compensation is paid for providing for the care, supervision, instruction, and protection of seven (7) or more children who are under the age of seven (7)

years for less than twenty-four (24) hours per day, without transfer of legal custody. For the purpose of this zoning ordinance, a kindergarten school is considered to be a child day care center or facility.

Kiosk: A freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

Kitchenette: A small, compact apartment kitchen, often part of another room utilized for different activities.

Kitchen facilities: A room used to prepare food containing, at a minimum, a sink and a stove or oven.

Laboratories (medical/dental): A facility offering diagnostic or pathological testing and analysis of diagnostic tests related to medical or dental care industry.

Land use: A description of how land is occupied or utilized.

Landfill: An area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

Landscape area: An area set aside from structures and parking which is developed with natural materials (i.e., lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and street furniture.

Landscape business: A business whose primary operation is the sale and installation of organic and inorganic material, plants, pine straw and other limited accessory products for the landscape industry and the storage and use of associated landscape vehicles and equipment.

Landscape strip: A strip intended to be planted with trees, shrubs, or other vegetation. Same as landscape zone.

Landscaped space: The areas of a parking lot which are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features which are located within such parking lot and which are generally accessible to patrons or the general public during normal business hours.

Large-scale retail: A singular retail or wholesale user who occupies no less than sixty thousand (60,000) square feet of gross floor area.

Late-night establishment: Any establishment licensed to dispense alcoholic beverages for consumption on the premises where such establishment is open for use by patrons beyond 12:30 a.m.

Laundry: A facility used or intended to use for washing and drying of clothes and fabrics.

Laundry, coin operated: A self-service laundry facility where clothes are washed and dried by washing and drying machines that require coins to operate.

Laundry pick-up station: A facility where clothes and linens are dropped off for laundry or dry cleaning and where clothes and linen are picked up once they are cleaned. These facilities do not perform dry cleaning on site. See Dry cleaning agency.

Leachate collection system: A system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

Leasing office: A facility where commercial or residential spaces available for renting are exhibited, or where documents related to the lease agreements are prepared. This facility may also be used to collect rent or used by occupants to report needs of services or other support.

Library: A public facility, a room or building, for the exhibition and use, but not sale of literary, scientific, historical, musical, artistic or reference materials.

Light industrial: See Light manufacturing establishment.

Light malt beverage manufacturer: A malt beverage manufacturer licensed as a brewpub per O.C.G.A. § 3-5-36 or licensed as a brewery per O.C.G.A. § 3-5-24. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy for this use. See also Brewpub.

Light manufacturing: See Industrial, light.

Liner building: A specialized building, parallel to the street, which is designed to conceal areas like a parking lot, parking deck or loading docks.

Liquor store: See Alcohol outlet.

Live-work unit: A structure or portion of a structure that combines residential living space with an integrated work space used principally by the occupant of the unit.

Livestock: Domestic animals and fowl customarily kept on a farm including horses, mules, donkeys, cows, cattle, sheep, goats, ducks, geese and turkeys.

Lodge: A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities. This definition shall not include fraternities or sororities. (See also fraternal organization.)

Lodging unit: One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with sleeping, and bathroom facilities provided within the lodging unit for the exclusive use of a single family maintaining a household.

Lot: A portion or parcel of land intended as a unit for transfer of ownership or for development or both, intended to be devoted to a common use or occupied by a building or group of buildings devoted to a common use, and having principal frontage on a public road or an approved private road or drive.

Lot area: The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, buildable area of: See Buildable area.

Lot, conforming: A designated parcel, tract, or area of land which meets the lot area, lot width and street frontage requirements of this chapter.

Lot, contiguous (as used in section 8.1.4): Lots adjoining the rear or either side of the lot(s).

Lot, corner: A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street.

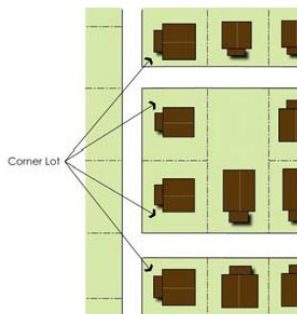


Figure 9.7 Corner Lots

Lot coverage: That portion of a lot that is covered by buildings, structures, driveways or parking areas, and any other impervious surface. For purposes of calculating lot coverage, wooden decks, stone walkways and patios set without grout, or pervious, permeable, or porous pavements shall be considered pervious.

Lot, double-frontage: A lot that abuts two (2) parallel streets or that abuts two (2) streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

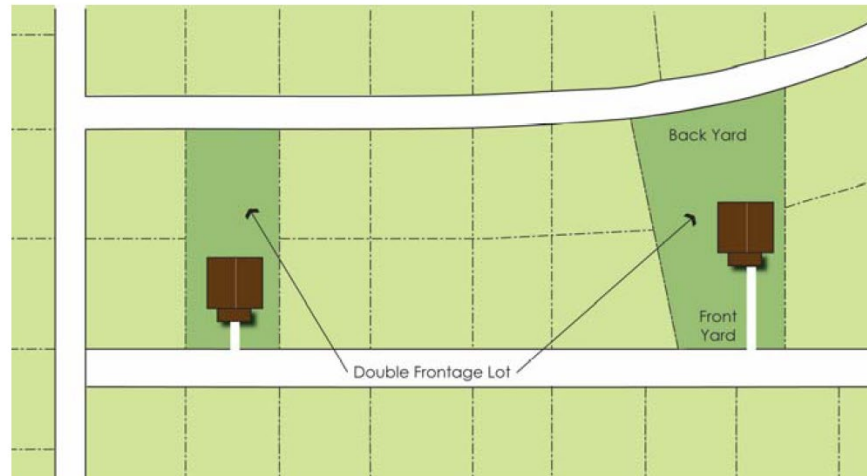


Figure 9.8 Double Frontage Lots

Lot, flag: A tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot. A flag lot may also be referred to as a panhandle lot.

Lot, interior: A lot, other than a corner lot, abutting only one (1) street.

Lot, irregular: A lot of such a shape or configuration that technically meets the area, frontage, and width to depth requirements of this ordinance but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography or other natural land features.

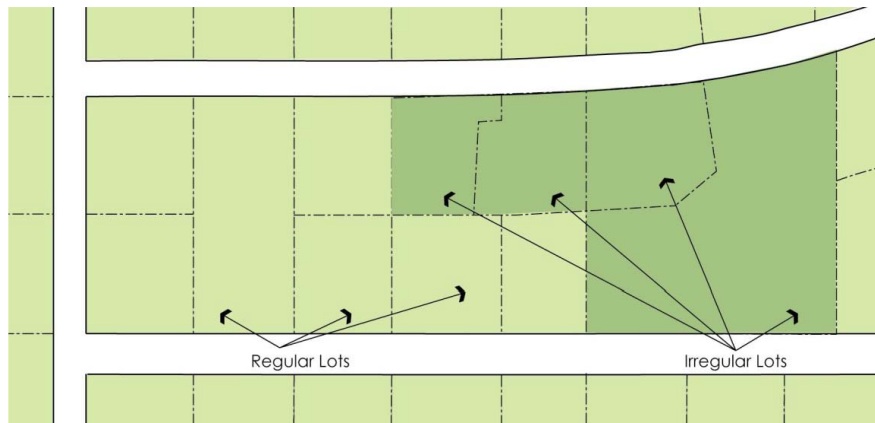


Figure 9.9 Irregular lots

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Clerk of Superior Court of DeKalb County, Georgia, or a parcel of land described by metes and bounds, the plat or description of which has been recorded in said office.

Lot of record, nonconforming: A designated parcel, tract, or area of land legally existing at the time of the enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter.

Lot remnant: Any portion or portions of a lot not suitable for building because of its size and remaining after the transfer of other portions of said lot to adjoining lots.

Lot, substandard: A designated parcel, tract, or area of land created after the time of enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public or private street frontage and access requirements of this chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.

Lot width: The horizontal distance measured at the building line between the side lines of a lot, measured at right angles along a straight line parallel to the street, or in case of a curvilinear street, parallel to the chord of the arc.

Low-rise in the I-20 Corridor Overlay District: A building in the I-20 Corridor Overlay district that is one (1) to four (4) stories in height.

Low-rise in the Stonecrest Area Overlay District: A building in the Stonecrest Area Overlay district that is one (1) to three (3) stories in height.

Lumber supply establishment: A facility for manufacturing, processing, and sales uses involving the milling of forest products to produce rough and finished lumber and other wood materials for use in other manufacturing, craft, or construction processes.

Mail room: A room in an office which mail and package shipments are prepared and deliveries accepted.

Major automobile repair and maintenance shop: See Automobile repair, major.

Major intersection: The intersection of a major arterial street with a major or minor arterial street.

Major modification: See section 4.2.57.B.

Major modification to zoning conditions: See article 7.

Major thoroughfare: A street, road or highway shown as a major thoroughfare in the DeKalb County Transportation and Thoroughfare Plan.

Manufactured home, class I: A single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development, or a single family dwelling unit that, if constructed prior to applicability of such standards and insignia requirements, was constructed in conformity with the Georgia State Standards in effect on the date of manufacture.

Manufactured home, class II: A single-family dwelling unit meeting the requirements of a Manufactured Home Class I and, in addition, bears the insignia of the Southern Standard Building Code Congress International.

Manufacturing, heavy: See Industrial, heavy.

Manufacturing, light: See Industrial, light.

Market units or market-rate units: For a workforce housing project, dwelling units that are not restricted to those prices or rents deemed affordable to qualified workforce households.

Massage establishment: Any business properly licensed under section 15-266 of the Code of DeKalb County that is established for profit and employs one (1) or more massage therapists, operates or maintains for profit one (1) or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages, within the meaning of said section 15-266. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

Materials recovery facility: A handling facility that provides for the extraction of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

Mausoleum: A building containing above-ground tombs.

Meat processing: A building where live animals are killed and processed; and/or a building where meat, poultry, or eggs are cooked, smoked, or otherwise processed or packed but does not include a butcher shop or rendering plant.

Medium and high density residential zoning districts. Any of the following zoning districts: R-SM, MR-1, MR-2, HR-1, HR-2, and HR-3.

Mid-rise in the I-20 Corridor Overlay District: A building in the I-20 Corridor Overlay district that is five (5) to eight (8) stories in height.

Mid-rise in the Stonecrest Area Overlay District: A building in the Stonecrest Area Overlay district that is four (4) to ten (10) stories in height.

Mine:

1. A cavity in the earth from which minerals and ores are extracted; and
2. The act of removing minerals and ores from the earth.

Mineral extraction and processing: Extraction and processing of metallic and nonmetallic minerals or materials, including rock crushing, screening, and the accessory storage of explosives.

Miniature golf course: A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Mining: Extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term mining includes quarrying; ground-water diversion; soil removal; milling, such as crushing, screening, washing, and floatation; and other preparation customarily done at the mine site as part of a mining activity.

Minor automobile repair and maintenance shop: See Automobile repair, minor.

Minor modification to zoning conditions: See article 7.

Minor thoroughfare: A street, road or highway shown as a minor thoroughfare in the DeKalb County Transportation and Thoroughfare Plan.

Mixed-use building or development: A development which incorporates a variety (two (2) or more) of land uses, buildings or structures, that can include both primary residential uses and primary nonresidential uses which are part of the same development. Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational or public open space, in a compact urban setting that encourages pedestrian oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.

Mixed-use zoning districts: Any of the following zoning districts: MU-1, MU-2, MU-3, MU-4, and MU-5.

Mobile home : A structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (320) or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; and manufactured prior to June 15, 1976.

Mobile home lot: A parcel of land, approved pursuant to the subdivision requirements of chapter 14 of the Code, in a mobile home park which is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile home park: A parcel of land which has been planned and improved pursuant to the requirement of this chapter and chapter 14 of the Code for the placement of mobile homes for non-transient use.

Mobile home sales: Exhibition and sale of mobile homes.

Mobile home stand: That part of a mobile home lot which has been reserved for the placement of a mobile home for non-transient use.

Modular home: A factory-manufactured single family dwelling which is constructed in one (1) or more sections and complies with the definition of "industrialized building."

Monastery: A building or buildings used as both a place of worship and as a residence, operated as a single housekeeping unit, solely by and for a group of men who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order.

Monitoring agency: For a workforce housing project, DeKalb County Community Development.

Monopole: See section 4.2.57.B.

Mortuary: An establishment in which the deceased are prepared for burial or cremation. The facility may include a crematory, a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings or display of funeral equipment.

Mosque: See Place of worship.

Motel: See Hotel.

Motel in the Scottdale Area Compatible Use Overlay District: A building:

1. In which lodging or board and lodging are provided for at least twenty-one (21) transient guests for compensation;
2. With an office supervised by a person in charge at all hours; and
3. Where ingress and egress to and from all rooms is not made from a lobby or an office but may be made directly from outdoors, a street, or a parking lot.

Muffler: A sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion machine where such a device is part of the normal configuration of the equipment.

Multi-family dwelling: See Dwelling unit, multi-family.

Multi-family dwelling, supportive living: Four (4) or more dwelling units in a single building or group of buildings which are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous twenty-four-hour watchful oversight, and which does not require licensure as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.

Multi-use property: Any distinct parcel of land that is being used for more than one (1) land use purpose.

Museum: A building or structure that is primarily used as a repository for a collection of art or natural, scientific, or literary objects, and is intended and designed so that members of the public may view the collection, with or without an admission charge, and which may include as an accessory use the sale of goods to the public or educational activities.

Natural state: That condition that arises from or is found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

Nature preserve: An area or a site with environmental resources intended to be preserved and remain in a predominately natural or undeveloped state to provide resource protection and possible opportunities for passive recreation and environmental education for present and future generations in their natural state.

Neighborhood: An area of the county within which residents share a commonality of interests including distinct physical design and street layout patterns, a shared developmental history, distinct housing types, or

boundaries defined by physical barriers such as major roads and railroads or natural features such as creeks or rivers.

Neighborhood residual sound level: That measured value that represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are not of a relatively short duration, although they are not necessarily continuous.

New construction on an infill lot: The replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable square footage in the building, structure or addition.

News dealer: A person who sells newspapers and magazines as a retailer.

News stand: A temporary structure, manned by a vendor that sells newspapers, magazines, and other periodicals.

Nightclub: A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment is allowed, where music may be live, disc-jockey, karaoke, and/or non-acoustic.

Node: A concentration of population, retail, and employment within a well-defined area that has a diverse mix of land uses and a pedestrian and transit orientation.

Noise control officer: A county employee or agent who has received noise enforcement training and is currently certified in noise enforcement.

Noise sensitive facility: Any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to schools, hospitals, and places of worship.

Nonconforming characteristic(s) of building or structure: A building or structure, legally existing on the effective date of this chapter, but which fails to comply with one (1) or more of the district or general non-use development regulations adopted under the terms of this chapter which are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.

Nonconforming use of land: A use of land, legally existing on the effective date of this chapter, but which is not an authorized use under the terms of this chapter in the district in which such land is located.

Nonconforming use of land and building(s), or nonconforming use of land and structure(s): A use of land and building(s) or land and structure(s), in combination, legally existing on the effective date of this chapter, but which is not an authorized use of land and building(s) or land and structure(s), in combination, under the terms of this chapter in the district in which such use is located.

Nonconforming use requiring special exception or special land use permit: A use of land, or land and building(s) or structure(s) in combination, legally existing on the effective date of this chapter, but which is not an authorized use under the terms of this chapter in the district in which such use is located but is permitted only upon approval of a special exception or special land use permit by the appropriate body.

Nonresidential development: All commercial, office, institutional, industrial and similar lands and uses.

Non-residential zoning district: Any of the following zoning districts: NS, C-1, C-2, O-I-T, O-I, O-D, M and M-2.

Non-transient lodging accommodations: Long-term or permanent sleeping accommodations offered to persons as a residence, domicile, or settled place of abode.

Notice of offering: Documentation to be provided to the monitoring agency to include the date on which the applicant will be ready to begin marketing to eligible persons and setting forth the number of units offered for sale and/or for lease, the bedroom mix, the floor area for each unit type, a description of the amenities offered in each

unit and a statement of the availability of each unit for sale, including information regarding any mortgage financing available to buyers of the designated unit as well as a vicinity map of the offering, a copy of the approved development, subdivision or site plan, as appropriate, and such other information or documents as the monitoring agency requests.

Nursery, plant: An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Nursing care facility: An establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services, where such services have been ordered by and under the direction of a physician and the staff includes a licensed nurse on duty continuously with a minimum of one (1) full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs. The term includes convalescent homes with continuous nursing care, extended care facilities, skilled nursing homes and intermediate care nursing homes.

Nursing home: A facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has an agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the general medical and dental supervision of the patients; and complies with rules and regulations of the Georgia Department of Human Resources or state agency with jurisdiction as may be reorganized.

Office, dental: A building used exclusively by dentists and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Office, medical: A building or floor used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Office, professional: An office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like.

Office park: A large tract of land that has been planned, developed, and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Office supply store: A facility established where office supplies, furniture and technology regularly used in offices are exhibited and sold.

Office use in the Emory Village Overlay District: All uses currently authorized in article 3, division 24 that are not expressly prohibited in that district.

Official zoning map or maps: The zoning map(s) of DeKalb County which are adopted with and incorporated by reference as a part of this chapter and amendments to the official zoning map are synonymous with and commonly referred to as rezonings..

One-part commercial block style: A single-story building that has a flat roof, a façade that is rectangular in shape, and in which the fenestration in the façade is equal to seventy-five (75) percent of the width of the front façade of the building.

Open space: A portion of a development project or lot that is intended to be free of buildings or parking lots. Open space may be in its natural state or improved with recreation amenities.

Open space, clubhouse or pool amenity area: An open space that can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include

swimming pools, group activity rooms, outdoor eating areas, and/or exercise stations, and must meet all applicable building and health codes.

Open space, enhanced: A planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership, provided that all residents of the development in which the open space is located shall have a right to enter and use the open space. Such enhanced open spaces may include walkways, patios, recreational amenities, picnic pavilions, gazebos and water features. See article 5 for types of open space functions considered "enhanced."

Open space, green: An informal area for passive use bound by streets or front facing lots, typically between five hundred (500) square feet and one (1) acre, which is small, civic, surrounded by buildings, natural in its details, and may be used to protect specimen trees and provide for conservation functions.

Open space, greenway: An open space that typically follows natural or constructed features such as streams or roads and is designed to incorporate natural settings such as creeks and significant stands of trees, and is used for transportation, recreation, and environmental protection. Greenways are natural (i.e., informally planted) in their details except along rights-of-way, and may contain irregular topography.

Open space, neighborhood park: An open space designed for active or passive recreation use.

Open space, playground or tot lot: An open space that provides play areas for toddlers and children as well as open shelter and benches, which is located in a neighborhood, or as part of a larger neighborhood or community park and urban center, including retail shopping areas.

Open space, plaza: An open space paved in brick or another type of impervious surface that provides passive recreation use adjacent to a civic or commercial building.

Open space, pocket park: An open space that provides active recreational facilities, most often in an urban area that is surrounded by commercial buildings or houses on small lots, and is typically less than one-quarter (¼) of an acre.

Open space, square: An open space used to emphasize important places, intersections, or centers, bounded by streets or front-facing lots, typically between five hundred (500) square feet and one (1) acre.

Operator: A person who conducts a home occupation, has majority ownership interest in the home occupation, lives full-time in the dwelling on the subject property, and is responsible for strategic decision and day to day operation of the home occupation.

Ordinary maintenance: See section 4.2.57.B.

Ornamental metal: Any metalwork that serves as adornment and/or non-structural purposes during construction of a building.

Outdoor advertising service: A service to provide advertisements visible in the outdoors such as billboards.

Outdoor amusement enterprise: Any outdoor place that is maintained or operated for provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range, or miniature golf course. This use does not include a stadium or coliseum.

Outdoor display: An outdoor arrangement of items or products for sale, typically not in a fixed location capable of rearrangement, designed for advertising or identifying a business, product or service.

Outdoor manufacturing: A facility established for manufacturing activities that takes place outside an enclosed building.

Outdoor storage: The keeping, in an unenclosed area, of any goods, material, or merchandise associated with a land use. Storage does not include the parking of any vehicles or outdoor display of merchandise. This term includes outdoor work areas. See Vehicle storage yard.

Outdoor theater: An outdoor open space where dramatic, operatic, motion picture, or other performance, for admission to which entrance money is required takes place.

Overstory tree: Any self-supporting woody plant of a species that normally achieves an overall height at maturity of thirty (30) feet or more.

Package store: A retail establishment that sells distilled spirits for off-site consumption.

Parapet: That portion of a wall that extends above the roof line.

Parcel: See Lot.

Parking or park: The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading of property or passengers.

Parking, valet: Parking of vehicles by an attendant provided by the establishment for which the parking is provided.

Parking aisle: An area within a parking facility intended to provide ingress and egress to parking spaces.

Parking bay: The clear space containing one (1) or two (2) rows of parking stalls and a parking aisle.

Parking garage: A covered or sheltered structure designed, constructed and used for the parking of motor vehicles.

Parking lot: Any area designed for temporary storage of motor vehicles by the motoring public in normal operating condition, whether for a fee or as a free service.

Parking space: A paved area of not less than one hundred twenty (120) square feet (small car space) or not less than one hundred fifty-three (153) square feet (large car space) space with dimensions of not less than eight (8) feet wide by fifteen (15) feet deep (small cars) or eight (8) feet six (6) inches wide by eighteen (18) feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.

Parking structure: A structure or portion thereof composed of one (1) or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

Pasture land: See Grazing land.

Path: A paved or structurally improved walkway that provides access to areas within a development.

Paved: A structurally improved surface supporting the intended or allowed uses of traffic. An area may be covered by asphalt, concrete, permeable pavement or permeable pavement system that is acceptable to the director of planning. For the purposes of a driveway for the parking of automobile(s), two (2) paved tire tracks with an unpaved area between them shall be considered paved.

Pavement, permeable: Pavement materials including pervious asphalt and concrete, interlocking pavers, modular pavers, and open-celled paving or similar materials that allow the infiltration of water below the pavement surface. Pavement must support the expected loading and traffic.

Pawn shop: Any entity engaged in whole or in part in the business of lending money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or in the business of purchasing tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this paragraph. Includes title pawn.

Pedestrian oriented: A density, layout and infrastructure that encourages walking and biking within a subdivision or development, including short setbacks, front porches, sidewalks, and bike paths.

Pedestrian zone in the Northlake Overlay District: That portion of a sidewalk area that offers a clear and unobstructed pathway which provides a safe travel lane for pedestrians within the public right-of-way.

Permitted use: Any use which can be undertaken without approval by the designated authority of a special land use permit, special exception, or special administrative permit which is required by the terms of this chapter.

Personal assistance services: Assistance to an individual with, or supervision of self-administration of, medication, ambulation, and transfer from location to location, and/or essential activities of daily living, such as eating, bathing, grooming, dressing, and toileting.

Personal care home: A building(s) in which housing, meals, personal assistance services, and twenty-four-hour continuous watchful oversight for adults are provided and which facility is licensed or permitted as a personal care home by the State of Georgia. The term "personal care home" shall not include a "child care institution," "transitional housing," a "rehabilitation housing facility," a "rooming house," or a "boarding house." "Personal care home" includes a "community living arrangement," which is an establishment licensed by the State of Georgia and providing a residence for adults receiving care for mental health, development disabilities, and/or addictive diseases.

Personal care home, community: A personal care home that offers care to seven (7) or more persons.

Personal care home, group: A personal care home that offers care to between four (4) and six (6) persons.

Personal services establishment: An establishment primarily engaged in providing services involving the care of a person or providing personal goods where the sale at retail of such goods, merchandise, or articles is only accessory to the provision of such services, including barber shops, beauty shops, tailor shops, laundry shops, dry cleaning shops, shoe repair shops, and similar uses, but specifically excluding adult service facilities and adult entertainment establishments.

Pervious area: An area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground.

Pervious pavers: A range of sustainable materials and techniques for permeable pavements with a base and sub-base that allow the movement of stormwater through the surface.

Pet: See Household pet.

Pet cemetery: Property used for the interring of dead domestic animals.

Pet shop: A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and livestock.

Pharmacy (retail): A place where drugs and medicines are legally prepared and dispensed and which is licensed by the state.

Phased development: A development project that is constructed in increments, each stage being capable of meeting the regulations of this chapter independently of the other stages.

Physical therapy facility: A facility where service of developing, maintaining, and restoring maximum movement and functional ability is provided to individuals.

Pitch of roof lines: The ratio of the rise to the run of a roof.

Place of worship: A lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The term shall also include any of the following accessory uses and buildings: schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, child day care center, kindergarten, parsonage, rectory or convent and columbarium.

Plainly audible: Any sound that can be detected by a person using his or her unaided hearing faculties.

Planned industrial center: An industrial development planned with multiple buildings for industrial users.

Planning director: See director of planning.

Plant material: Material derived from plants.

Planting strip: A strip of land intended to contain plant materials for the purpose of creating visual and physical separation between uses or activities.

Plat:

1. A map representing a tract of land, showing the boundaries and location of individual properties and streets;
2. A map of a subdivision or a site plan.

Pervious surface: An area that allows water to enter the soil mantle at a natural rate of flow. Compare with Impervious surface.

Porch, enclosed: A porch attached to the main building, which is covered by a roof.

Porch, open: A porch that is not covered by a roof.

Portable storage container: Any non-motorized vehicle, trailer or fully enclosed container intended for the temporary storage of items until relocated to another location or a long-term storage facility. Storage containers include but are not limited to PODS, Pack-Rats and similar containers.

Porte-cochere: A porch or a structure attached to a residence and erected over a driveway, not exceeding one (1) story in height and open on two (2) or more sides.

Post office: A public facility that contains service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

Poultry: Domestic fowl including chickens, duck, turkeys and geese raised for food (either meat or eggs) or profit.

Primary building: See Building, primary or principal. Compare with Accessory structure.

Primary conservation area: That portion of a site in the R-NC (Neighborhood Conservation) District for which application is made for cluster housing development which consists of areas that are unbuildable due to the presence of wetlands, floodplains, steep slopes, or other similar environmental conditions.

Primary material: The building material comprising the acceptable, dominant portion of a building exterior façade, as defined by standards within this ordinance. Compare with Secondary material.

Primary street: A street with access control, channelized intersections, and restricted parking that collects and distributes traffic to and from minor arterials.

Principal structure: The building in which the principal use of the lot is located.

Principal use: The primary or predominant use of any lot.

Printing and publishing establishments: An establishment providing printing, blueprinting, photocopying, engraving, binding, or related services.

Printing and publishing establishments (limited): A printing establishment providing convenience mailing, photocopying and accessory retail-oriented services, not exceeding five thousand (5,000) square feet of floor area.

Priority open space in the Emory Village Overlay District: Those areas indicated as "priority open space parking credit zone" on the Emory Village Regulating Plan.

Private ambulance service: A privately-owned facility for the dispatch, storage and maintenance of emergency medical care vehicles; transportation via ambulance; the provision of out-of-hospital emergency medical care to a patient from or in an ambulance; the trip to the site of a patient for the purpose of providing transport or out-of-hospital emergency medical care; the trip to or from any point in response to a medical emergency dispatch from the 9-1-1 Center.

Private club: See Club, private.

Private drive: A drive or road on privately owned property, by an individual or a group of owners who share the use and maintain the road without assistance from a government agency. A private drive has not been transferred to a governing entity. An easement of use on the private drive or road shall permit use by the public. A private drive is allowed to be exempt from the public street regulations of chapter 14 of the Code, but shall meet dimensional requirements established in article 5.

Private educational use: The instruction, teaching or tutoring of students by an occupant of a residential dwelling as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes. No articles or products shall be sold on the premises other than by telephone. Such instruction, teaching or tutoring shall be limited to a maximum of three (3) students at a time, excluding children residing in the dwelling, and shall be limited to the hours of 9:00 a.m. to 9:00 p.m. Such private educational use shall be allowed as a permitted use in all districts where home occupations are allowed but private educational uses shall be subject to the supplemental regulations in article 4.

Private industry solid waste disposal facility: A disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

Private restrictive covenants: Private restrictions on the use of land or structures imposed by private contract, such as subdivision covenants.

Private right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

Private road: See Private drive.

Private street: An access way similar to and having the same function as a public street, providing access to more than one (1) property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in the Code.

Produce: Products from farms and gardens such as fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, yogurt, cheese and other dairy products), and seafood.

Production, field crops: Establishment for commercial agricultural field and orchard uses including production of field crops; may also include associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.

Production, fruits, tree nuts, and vegetables: Establishment for commercial agricultural field and orchard uses including production of fruits, tree nuts and vegetables.

Productive urban landscape: A landscape that integrates some elements of traditional landscaping (like organized planting patterns and areas to sit, eat, and play), and creatively incorporates elements of the natural world (like biodiversity, pollinator habitats, etc.), and plants that provide us with food (like vegetables, berries, and fruit trees).

Prohibited uses: Anything not expressly permitted within this zoning ordinance or by resolution. Examples may include structures, land uses, materials, or development control parameters.

Public art: See Art, public.

Public right-of-way: Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public space in the I-20 Corridor Overlay District: Space located on the exterior of buildings in the I-20 Corridor Overlay District that is available and accessible to the general public. Public space may include, but is not limited to, natural areas, green space, open space, riparian zones, lakes and pools, paths, multipurpose trails, outdoor recreation areas, lawns, landscape strips and other improved landscaped areas, common areas, plazas, terraces, patios, observation decks, fountains, sidewalks, transitional buffer zones and other outdoor public amenities. Space provided as result of the pedestrian circulation requirement shall be credited to the requirement for public space. Such public space is required at ground level, and buildings may not occupy such public space above a height of one (1) story. Exterior public spaces shall not include areas used for vehicles, except for incidental service, maintenance or appropriate emergency access only.

Public space in the Stonecrest Area Overlay District: Space located on the exterior of buildings in the Stonecrest Area Overlay District that is available and accessible to the general public. Public space may include, but is not limited to, natural areas, greenspace, open space, riparian zones, lakes and ponds, paths, multipurpose trails, outdoor recreation areas, lawns, landscape strips and other improved landscaped areas, common areas, plazas, terraces, patios, observation decks, fountains, sidewalks, transitional buffer zones and other outdoor public amenities. Space provided as result of the pedestrian circulation requirement shall be credited to the requirement for public space. Such public space is required at ground level, and buildings may occupy such space above a height of one (1) story. Exterior spaces shall not include areas used for vehicles, except for incidental service, maintenance or appropriate emergency access only.

Public uses: Land or structures owned by a federal, state or local government, including but not limited to a board of education, and used by said government for a necessary governmental function.

Qualified household: A household meeting the income restrictions established to be eligible for workforce housing units.

Quarry: A mine where rock, ore, stone, or similar materials are excavated for sale or for off-site use. Quarry includes rock crushing, asphalt plants, the production of dimension stone, and similar activities.

Quick copy and printing store: A facility established for the reproduction and printing of written or graphic materials on a custom order basis for individuals or businesses.

Rainwater harvesting: Gathering, or accumulating and storing, of rainwater from roof, ground or other catchments in order to reduce or avoid use of water from mains or from water sources like lakes and rivers.

Recovered materials: Those materials which have a known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

Recovered materials center: A facility in which materials that would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Recovered materials processing: Activity of preparing source-separated recoverable materials, such as newspapers, glassware, and metal cans, including collecting, storing, flattening, crushing, or bundling prior to shipment to others who will use those materials to manufacture new products. The materials are stored on-site in bins or trailers for shipment to market. "Processing" shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting, or cleaning.

Recreation: The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife.

Recreation, active: See Active recreation.

Recreation, indoor: A commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center, assembly hall, athletic and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool, tennis court.

Recreation, outdoor: A recreational land use conducted outside of a building, including athletic fields; miniature golf, skateboard park; swimming, bathing, wading and other therapeutic facilities; tennis, handball, basketball courts, batting cages, trampoline facilities.

Recreation, passive: Recreation that involves existing natural resources and has a minimal impact on the existing condition of the resources.

Recreation club: A not-for-profit association of people organized for the purpose of providing recreation facilities and programs and characterized by certain membership qualifications, payment of fees and dues, and a charter or bylaws. Recreation club shall also mean, where the context requires, the premises and structures owned or occupied by members of such association within which the activities of the recreation club are conducted.

Recreational vehicle: Any vehicle, whether or not motorized, that is intended for personal recreational use and not intended for daily transportation. Such vehicles may include, but are not limited to Class A and C motor homes, campervans, bus conversions, boats, military surplus vehicle, all-terrain vehicles (ATVs), and similar vehicles intended for recreational purposes. Pick-up trucks with a fully enclosed bed that are used for daily transportation do not qualify as recreational vehicles.

Recreational vehicle park: A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included.

Recreational vehicle/boat sales and service: A facility established for the exhibition, sale, and repair of recreational vehicles/boats.

Recycling collection point: A neighborhood drop-off point for the temporary storage of recyclables.

Recycling plant: See Recovered material center or processing.

Rehabilitation housing facility: An establishment primarily engaged in inpatient care of a specialized nature with staff to provide diagnosis and/or treatment.

Repair, small household appliance: A business established to provide a service of repairing small household appliances like microwaves, etc.

Replacement: See section 4.2.57.B.

Research and training facilities: Any facility owned by a private party, institution or government where research and training activities related to various fields like science, arts, etc. are conducted.

Residence hall: See Dormitory.

Residential component: The primarily residential portion of a development that may contain a mix of single family detached, single family attached and multi-family dwelling units and may include small scale, non-residential uses.

Residential zoning district: Any of the following zoning districts: RE, R-LG, R-100, R-85, R-75, R-60, MHP, R-NC, R-SM, MR-1, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, and MU-5.

Residential use: The occupation of a building and land for human habitation.

Restaurant: An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Restaurant, drive-through: An establishment where food and drink are prepared which may be consumed within the principal building or which may be ordered and picked up from a service window for off-site consumption.

Retail: The sale of goods, wares or merchandises directly to the end-consumer.

Retail use in the Emory Village Overlay District: All uses currently authorized in article 4 that are not expressly prohibited in that district.

Retail warehouse/wholesale: An establishment exceeding seventy thousand (70,000) square feet of gross floor area and offering a full range of general merchandise to the public, and may include gasoline.

Retaining wall: A structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

Riding stable: A building where horses and ponies are sheltered, fed, or kept.

Right-of-way line: The limit of publicly owned land or easement encompassing a street or alley.

Rooming house: See Boarding house.

Salvage yard: Land and/or buildings used for the dismantling, cutting up, compressing or other processing of waste items or materials, such as scrap, paper, metal, tires, large household appliances, such as washing machines or refrigerators, automobiles or other vehicles, or inoperable machinery. Salvaged materials may be stored outdoors or in a building and may be sold wholesale or retail. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. This term includes junk yards.

Sand pit: A surface mine or excavation used for the removal of sand, gravel, or fill dirt for sale or for use off-site.

Satellite television antenna: An apparatus capable of receiving but not transmitting television, radio, or cable communications from a central device transmitting said communications.

Sawmill: A facility where logs or cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Sawmill, temporary or portable: A facility where sawing related machines are installed on the site temporarily to run as sawmill, but which can be moved by removing and reinstalling the machines to some other site.

School, elementary: Public, private or parochial school offering education for first through fifth grade.

School, high: Public, private or parochial school for the ninth through twelfth grades.

School, middle: Public, private or parochial school offering education for sixth through eighth grade.

School, parochial: School run by a church or parish and engages in religious education in addition to the conventional education.

School, private: Any building or group of buildings, the use of which meets state requirements for elementary, middle, or high school education and which use does not secure the major part of its funding from any governmental agency.

School, public: A building or group of buildings used for educational purposes, which meets state requirements for elementary, middle, or high school education, and that is funded by a government agency.

School, specialty: A school specializing in teaching martial arts, dance, music, visual arts and similar fields.

School, vocational: A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills or specialized curriculum for special needs individuals or the arts. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone.

Screening fence: An opaque structure designed to provide a visual barrier constructed of materials including wood, chain link with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the director of planning.

Secondary conservation area: That portion of a site for which application is made for cluster housing development which consists of those areas of land which are outside the primary conservation area but which are environmentally sensitive, historically or culturally significant, scenic, or which possess other unusual attributes that merit conservation.

Secondary material: Complimentary building material allowed by zoning standards. Compare with Primary material.

Secondhand store: A facility for retail or consignment sales of previously used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. This classification does not include secondhand motor vehicles, parts, or accessories.

Self-service car wash: See Car wash, self-service.

Self-storage/mini: (also known as mini warehouse): A single-story commercial structure with exterior access to individual storage units, typically with metal pull-down doors, and within a compound that may also allow vehicle storage (rental trucks, pleasure boats and recreational vehicles, ("RVs") only) and provide moving truck rentals.

Self-storage/multi: (also known as secured storage): A multi-story climate controlled commercial structure, with interior access to individual storage units that are not visible from the exterior of the structure, and does not allow outside storage of any kind.

Semi-nude: The exposure of one (1) or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

Senior housing: A multiple-family building or detached dwelling unit, or a combination of both housing types, which is occupied by at least one (1) person who is fifty-five (55) years of age or older per dwelling unit. Also called Senior Living.

Senior living: See Senior housing.

Service area: An outdoor work area associated with a commercial use, including work areas where goods and products are assembled, constructed, or repaired but not permanently stored.

Service organization: A voluntary non-profit service club or organization where members meet regularly to perform charitable works or raise money for charitable works.

Service use in the Emory Village Overlay District: All uses currently authorized in article 3, division 24 that are not expressly prohibited in that district.

Setback: The minimum horizontal distance required between the property line and the principal building or structure on a lot or any projection thereof except the projections allowed pursuant to article 5.

Sexually-oriented business: See Adult entertainment establishment.

Shared parking: Parking shared by two (2) or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. The number of parking spaces in a shared parking facility is less than the combined total of the required minimum number of spaces for each individual use.

Shelter for homeless persons: A building or buildings in which is provided overnight housing and sleeping accommodations for one (1) or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services. Compare with Transitional housing facility.

Shoe repair: An establishment where shoes and boots are repaired remodeled or rebuilt by skilled shoe repairers. The establishment may also mend items like handbags and luggage.

Shopping center: A group of at least two (2) commercial establishments typically planned, constructed, and managed as a single entity, with on-site parking for customers and employees, and with delivery of goods separate from customer access.

Shrub: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. It may be deciduous or evergreen.

Sidewalk: A hard surface, ADA compliant, clear pathway that does not include any street furniture.

Sidewalk level in the Emory Village Overlay District: A building story having a finished floor within one (1) vertical foot above or below the adjacent build-to-line and a minimum depth of thirty (30) feet, excluding parking levels.

Sight triangle: A triangular area of visibility required on a corner of a roadway intersection to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks, and bicycle paths.

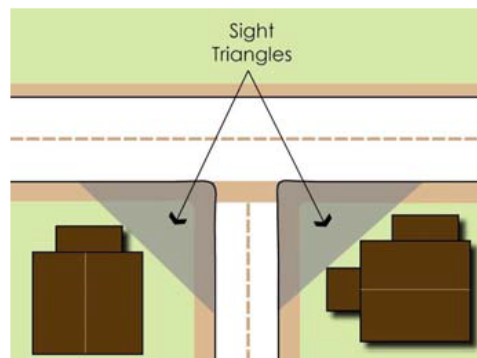


Figure 9.10 Sight Triangles

Single-family attached: See Dwelling unit, single-family attached.

Single-family zoning district: Any of the following zoning districts: RE, R-LG, R-100, R-85, R-75, R-60, MHP, and R-N(c)

Site: The lot, area of a lot, or assemblage of lots subject to development.

Site plan: That plan required to acquire a development, construction or building permit which shows the means by which the developer will conform to applicable provisions of this chapter and other applicable ordinances.

Small-box discount retail store means a retail store characterized by the following: Sixteen thousand (16,000) square feet or less in size; offers, for sale, a variety of convenience shopping goods (e.g. household products, cleaning supplies, paper goods, plasticware, health/beauty products, party supplies, toys, prepackaged food, novelty items, seasonal goods, impulse products, etc.); continuously offers its inventory for sale at a price lower than traditional retail stores; and a limited service environment. "Small box discount retail store" does not mean a retail store that contains a pharmacy, sells gasoline or diesel fuel, or primarily sells specialty food items including meats, seafood, cheese, or oils and vinegars.

Soldier course: A course of upright bricks with their narrow faces showing on the wall surface.

Solid waste: Any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 State. 923).

Solid waste handling: The storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

Solid waste handling facility: A facility primarily used for the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

Solid waste thermal treatment technology facility: Any solid waste handling facility, the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

Solid waste transfer facility: A facility or site at which temporary storage and transfer of solid waste from one (1) vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A solid waste transfer facility is an intermediary point between the location(s) of waste generation (e.g., households, businesses, industries) and the site(s) of ultimate processing or disposal.

Sorority house: A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an institution of higher learning.

Sound level meter: An instrument that conforms to ANSI S1.4-1983 or its successors.

Special administrative permit: A written authorization granted by the director of planning for a use of land pursuant to an application which that official is authorized to decide, in cases where a permit is required, pursuant to the procedures and criteria contained in article 7.

Special events facility: A building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests. This definition shall not include places of worship.

Special exception: The approval by the zoning board of appeals of an application which that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article 7 of this chapter.

Special land use permit: The approval of a use of land that the board of commissioners is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in article 7 of this chapter.

Special permit: A special administrative permit, special exception, or special land use permit.

Specialty store: A store, usually retail, that exhibits and sells specific or specialized types of items or brand. For example, a specialty store may sell cellular phones or organic food, or video games exclusively.

Specified anatomical areas shall include any of the following:

1. Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or
2. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

Specified sexual activities shall include any of the following:

1. Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism;
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
4. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being;
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

Sporting goods store: A store that exclusively exhibits and sells items related to sports including, but not limited to, instruments, gears, shoes, and clothes.

Stadium: A structure with tiers of seats rising around a field or court, intended to be used primarily for the viewing of athletic events. The structure may also be used for entertainment and other public gathering purposes, such as conventions, circuses, or concerts.

State: The State of Georgia.

Steady tonal quality: Sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three (3) dBA.

Stealth telecommunications facility: See section 4.2.57.B.

Stepback: A step-like recession in the profile of a building, whereby the exterior wall surface of each successive story is located farther towards the interior of the building than the exterior wall of the story below it. Stepbacks may result from the transitional height plane requirement. See Transitional height plane.

Stoop: A small porch, platform, or staircase leading to the entrance of a house or building.

Storage building: Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

Stormwater management facility: Those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, shall be classified as a story.

Street furniture zone in the Northlake Overlay District: That portion of a sidewalk area that is intended to enhance that street's physical character and used by pedestrians, such as benches, trash receptacles, kiosks and newspaper racks.

Street, public: Any right-of-way set aside for public travel deeded to the county and any right-of-way which has been accepted for maintenance as a street by the county.

Street right-of-way line: The dividing line between a lot, tract or parcel of land and a street right-of-way.

Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. This does not include telephone poles and utility boxes.

Structure, accessory: See Accessory structure.

Subdivision: As defined in chapter 14 of the Code.

Subdivision, major: All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new street, public or private.

Subdivision, minor: A division of land into not more than four (4) lots, provided:

1. A minor subdivision does not require the construction of any public improvements including street, sidewalks, sewer or water lines and street trees.
2. All lots and any remaining tract shall be consistent with all applicable requirements of this zoning ordinance, including lot size, setbacks, frontage on a public road, width to depth ratio, and lot width.
3. At the time of filing of a subdivision plat, the property owner shall be required to show all possible lots which are permitted to be created through minor subdivision provisions of this zoning ordinance.
4. All driveway permits shall be subject to the review of the DeKalb County Department of Transportation and Development or the State of Georgia Department of Transportation.

Supplemental zone: The additional sidewalk area other than the required sidewalk used to support outdoor dining or other amenities.

Support structure(s): See section 4.2.57.B.

Supportive living: A non-institutional, independent group living environment that integrates shelter and service needs of functionally impaired and/or socially isolated elders who do not need institutional supervision and/or intensive health care.

Sustainable development: A development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Synagogue: See Place of worship.

Tandem parking: A parking space within a group of two (2) or more parking spaces arranged one (1) behind the other such that the space nearest the street serves as the only means of access to the other space(s).

Tattoo parlors and piercing studios: An establishment whose principal business activity, is the practice of one (1) or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Taxi stand: A reserved area where taxis or cabs are parked.

Telecommunications antenna: See section 4.2.57.B.

Telecommunications facility/tower: See section 4.2.57.B.

Telecommunications tower: See section 4.2.57.B.

Telecommunications tower or antenna height: See section 4.2.57.B.

Telephone exchange building: A building used exclusively for the transmission and exchange of telephone messages. The term shall not include wireless telecommunication towers or antennas.

Temple: See Place of worship.

Temporary outdoor sales or event, seasonal: Outdoor sales of products associated with seasons, holidays and agricultural seasons.

Temporary produce stand: A temporary vending structure used for the sale and/or display of seasonal produce.

Tennis courts, play and recreation areas, community: A public or private facility for the playing of tennis, swimming, or other type of outdoor recreation, including related retail sales and an accessory restaurant. This term does not include amenities for a subdivision or other form of housing.

Theater: A structure used for dramatic, operatic, dance, or music performances, or the rehearsal and presentation of other similar performing arts events, or for motion pictures, for which an admission fee is charged. Such establishments may include related services such as food and beverage sales and other concessions.

Threshold: The top of the subfloor in the opening that is designated as the front door of a dwelling.

Thrift store: A for-profit or non-profit business or organization that engages or specializes in the sale or resale of previously owned or used goods. This term includes antique shops, consignment stores, and secondhand stores.

Tire retreading and recapping: Businesses that primarily repair and retread automotive tires.

Total sound level: That measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

Tow service: Establishment that provides for the removal and temporary storage of vehicles, but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles. See also Automobile recovery and storage.

Townhouse: One (1) of a group of three (3) or more single-family dwelling units, attached side-by-side by a common wall. See Dwelling, single-family.

Townhouse, stacked: Multi-family building with the appearance of a townhouse (side-by-side attached), but which has multiple dwelling units whereby a unit is located above or below another.

Trailer: Any non-motorized vehicle or wheeled attachment designed to be towable, including, but not limited to landscape utility trailers, horse trailers, storage trailers, campers, recreational vehicle trailers designed for temporary living quarters while traveling or camping, fifth-wheel trailers, pop-up campers, transport trailers, and boat trailers.

Transit: The conveyance of persons or goods from one (1) place to another by means of a local, public transportation system.

Transit oriented development (TOD): Moderate and high-density mixed-use development which is located along transit routes and encourages pedestrian use of public transportation.

Transitional buffer zone: A natural or planted buffer area between two (2) different land uses which is intended to provide protection between said land uses and which meets the criteria for said buffer specified in article 5.

Transitional height plane: A geometric plane that establishes the maximum permitted height of a building in a district that allows a greater density than that of an adjoining lower-density residential district. The transitional height plane shall begin at a point thirty-five (35) feet above setback or transitional buffer line, whichever is furthest from the property line, then extend at an upward angle of forty-five (45) degrees over the lot of the building.

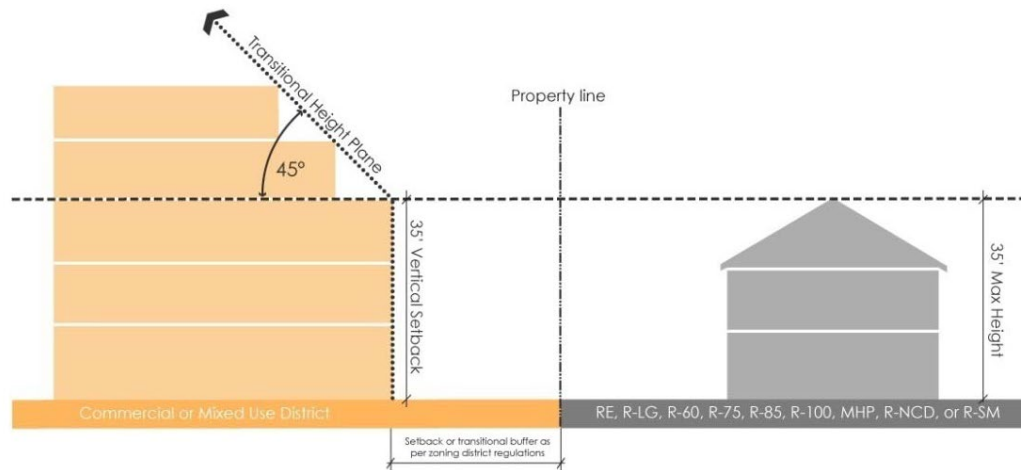


Figure 9.11 Transitional Height Plane

Transitional housing facility: A building or buildings in which is provided long-term but no permanent living accommodations for more than six (6) persons who have no permanent residence and are in need of long-term housing assistance. Compare with Homeless shelter.

Transparent material: Any material which allows light to be transmitted and objects to be seen clearly and with definition.

Transportation equipment and storage or maintenance (vehicle): Any building, premises or land in which or upon which is the storage or maintenance of motor freight vehicles or equipment, without services provided, such as those provided by a truck stop. Compare with Truck terminal.

Tree: Any living, self-supporting, woody perennial plant which has a trunk caliper of two (2) inches or more measured at a point six (6) inches above the ground and which normally attains a height of at least ten (10) feet at maturity usually with one (1) main stem or trunk and many branches.

Tree canopy: The area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

Truck stop: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into such commercial vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Truck terminal: An area and building where vehicles load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Turnaround: A space, as in a driveway, permitting the turning around of a vehicle.

Two-part commercial block style: A building of two (2) stories or greater in height that has a flat roof and is characterized by a horizontal division of the building façade into two (2) distinct zones. These zones may be similar in design but shall be clearly separated from one another. The ground floor level of the building shall contain fenestration equal to seventy-five (75) percent of the width of the front façade of the building.

Universal barrier: A type of root barrier for street trees.

Understory tree: A deciduous or evergreen tree which attains a mature height of no greater than thirty (30) feet.

University: See College.

Upper stories in the Emory Village Overlay District: All stories located above the sidewalk level.

Urban garden: A lot, or any portion thereof, managed and maintained by a person or group of persons, for growing and harvesting, farming, community gardening, community-supported agriculture, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for beautification, education, recreation, community or personal use, consumption, sale, or donation. An urban garden may be a principal or accessory use on lots including, but not limited to, those owned by individuals, non-profit organizations, and public or private institutions like universities, colleges, school districts, hospitals, and faith communities. This definition excludes gardens accessory to an individual's residence.

Usable satellite signals: Satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

Usable open space: See Open space, usable.

Use: The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Utility: Any public or private agency that provides for the generation, transmission or distribution of electricity, gas, water, stormwater, wastewater, communication, transportation, or other similar service, excluding those utilities that are public uses.

Valet: See Parking, valet.

Value added products: Prepared farm products such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or other prepared foods.

Van service: A commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination.

Variance: Permission to depart from the requirements of this chapter pursuant to the requirements of article 7.

Vehicle storage yard: A building or land that is used principally for long-term parking of any class of passenger or non-passenger vehicles, including but not limited to automobile fleets associated with commercial business, delivery trucks or other commercial vehicles, or associated with government operations such as school buses, postal delivery trucks, or sanitation trucks. The term "vehicle storage yard" includes off-site parking of commercial vehicles such as those used in light or heavy landscaping or construction, but does not include transportation vehicle such as semi-tractor trailers. A vehicle storage yard may include minor repair of the vehicles as an accessory use. Compare with Auto recovery and storage.

Vehicle trip: A vehicular movement either to or from the subject property by any vehicle used in a home occupation, any vehicle associated with a home occupation, or any customer or client vehicle.

Vehicular use area: Any portion of a site or a property, paved or unpaved, designed to receive or accommodate vehicular traffic, including the driving, parking, temporary storage, loading, or unloading of any vehicle.

Veterinary clinic: See Animal hospital.

Videotape sales and rental store: An establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes, or other electronic media. Sales of film, video tapes, laser discs, CD-ROMs, and electronic merchandise associated with VCRs, video cameras and electronic games are permitted accessory uses.

Viewshed: The total visible area from an identified observation position or positions.

Village center: The central shopping or gathering place within a traditional neighborhood which contains commercial uses and open space and which may contain public space.

Village open space in the Emory Village Overlay District: That portion of the Emory Village Overlay District, whether on public or private property, which is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, which is accessible to all persons occupying a building on the lot and is not a part of the roof of any portion of any building specifically excluding areas for vehicular use, including, but not limited to driveways and parking lots. Priority village open space that appears on the Emory Village Regulating Plan, dated March 23, 2007, is included within this definition.

Wall: A structure used as a solid retaining, screening, or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials.

Wall plane: An area of a wall between a wall offset and another wall offset or a corner.

Wall, wing: An architectural feature that is a continuation of a building wall projecting beyond the exterior walls of the building.

Waste to energy facility: A solid waste handling facility that provides for the extraction and utilization of energy from county solid waste through a process of combustion.

Weekday: The time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

Weekend: The time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

Wetlands: An area of land meeting the definition of "wetlands" set forth in 33 C.F.R. Part 328.3(b) of the Code of Federal Regulations, as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

Wind turbine: A turbine, a rotating machine which mounted on a tower, is used to capture energy from the wind to produce electricity.

Wine store in the Emory Village Overlay District: A specialty store selling fortified and fermented wine, malt beverages and related paraphernalia, including food and related reading material.

Workforce housing: For-sale housing that is affordable to those households earning eighty (80) percent of median household income for the Atlanta Metropolitan Statistical Area (MSA) as determined by the current fiscal year HUD income limit table at the time the building is built.

Workforce housing unit ("WHU"): A dwelling unit that a household earning between sixty (60) percent and one hundred twenty (120) percent of the county's median household income, as determined by the most recent census from the American Community Survey, is eligible to purchase or lease.

Workforce housing program applicant: Any person, firm, partnership, association, or any other entity that seeks county permits and approvals, or the agent of such person or entity.

Xeriscape: A landscape designed and maintained with the principles that promote good horticultural practices and efficient use of water and is characterized by the use of vegetation that is drought-tolerant or of low water use in character.

Yard: That area of a lot between the principal building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard sale: The temporary residential sale of tangible personal property, such as but not limited to, household items, clothing, tools, toys, recreational equipment, or other used or secondhand items normally found in and

about the home. This definition includes the terms estate sale, if held outside, garage sale, basement sale, carport sale, moving sale, or rummage sale. This temporary use may be conducted by an individual, multiple persons, churches, social civic or charitable organizations, a neighborhood group, church or civic association.

Yard, corner side: An open-space area of a corner lot between the exterior side lot line and the required exterior side building setback line, extending between the front building setback line and the rear building setback line.

Yard, front: An area extending across the total width of a lot between the front lot line and the building. With respect to limitations within the front yard, there can only be one (1) front yard.

Yard, interior side: A yard extending between the front and rear yards and being that area between the side lot line, where the side lot line is coincidental with the side or rear lot line of an adjacent lot, and that line or lines established by the side wall or walls of the principal structure.

Yard, rear: A yard extending across the total width of a lot between side lot lines and being that area between the rear lot line and that line or lines established by the rear wall or walls of the principal structure projected to intersect the side lot lines.

Yard, side: A yard extending between the front and rear yards and being that area between the side lot lines and the principal structure.

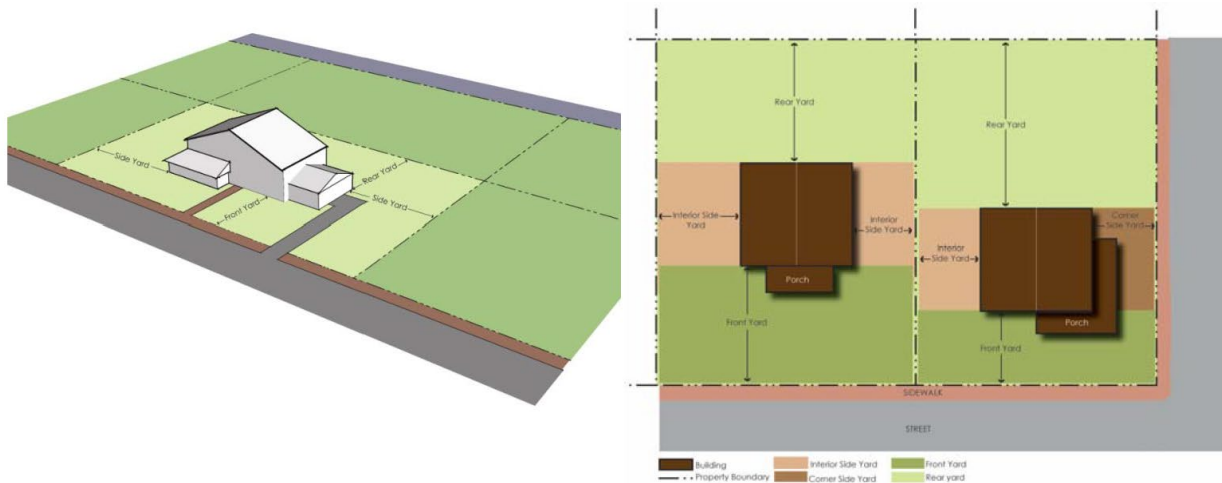


Figure 9.12 Illustration of Yard

Zero lot line: When location of a building in such manner that one (1) or more of building's exterior wall is allowed to rest directly on the lot line or property boundary.

Zoning decision: Final legislative action by a local government which results in:

1. The adoption of a zoning ordinance;
2. The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
3. The adoption of any amendment to a zoning ordinance which rezones the property from one zoning classification to another;
4. The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality;
5. The grant of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by Georgia law; or

6. Denial of the aforementioned ordinances or permits.

(Ord. No. 15-06, 8-25-2015; Ord. No. 17-01, Pt. I, 5-23-2017; Ord. No. 17-07, Pt. I, 12-12-2017; Ord. No. 2020-1184, Pt. I, 3-25-2021; Ord. No. 2020-1543, Pt. I, 12-20-2022; Ord. No. 2023-0185, § Pt. I, 8-22-2023; Ord. No. 2022-2270, § Pt. I, 12-12-2023)