



DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 300

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov

Planning Commission Hearing Date: May 01, 2018, 6:30 P.M.

Board of Commissioners Hearing Date: May 22, 2018, 6:30 P.M.

STAFF ANALYSIS

Case No.: 2018-1856/ CZ-18-22135 **Agenda #:** N.4

Location/Address: The south side of Memorial Drive, east of the intersection of Memorial Drive and South Howard Street at 2029 Memorial Drive, Atlanta, Georgia. **Commission District:** 3 **Super District:** 6

Parcel ID: 15-179-11-001

Request: To request a Major Modification to approved conditions of zoning for townhouse, condominiums or row homes pursuant to CZ-05-79 in an MR-2 (Medium Density-Residential-2) District, to decrease the percentage of required workforce housing units within the development from 25% to 15% and to delete the restriction that no more than ten (10%) percent of the units may be rented at any given time.

Property Owners: Sinocoin RE, LLC

Applicant/Agent: Sinocoin RE, LLC/ The Galloway Law Group, LLC

Acreage: 5.3 Acres

Existing Land Use: Under construction for townhouse development

Surrounding Properties: Single-Family detached & attached residences
The Element at Kirkwood Apartments
Stanton Grove Missionary Church & Shy Temple Christian Methodist Church

Adjacent & Surrounding Zoning: North & East: Residential (City of Atlanta)
East: MR-2 (Medium Density-Residential-2) District
West & South: R-75 (Residential Medium Lot) District

Comprehensive Plan: Neighborhood Center Consistent X

Proposed Units: 75	Existing : Townhomes Under Construction
Proposed Lot Coverage: < 85%	Existing Lot Coverage: N/A

SUBJECT SITE & ZONING HISTORY

The subject site is 2029 Memorial Drive. Consisting of approximately 5.3 acres, it is located east of South Howard Street. Zoned MR-2 (Medium Density-Residential-2) District pursuant to CZ-05-79, the site is currently under development pursuant to the following conditions:

1. The development shall consist of no more than seventy-five units.
2. The development may consist of the following: loft condominiums, townhouses, or row homes, which have facades that look like the townhomes but contain individual condominium units. The loft condominium building shall be no higher than four stories and shall be oriented to the street with parking underground and to the rear. The rezoning of the development will not be specific to a site plan.
3. At least twenty-five percent (25%) of the residences shall be marked as work force housing. Workforce housing is defined as a home that is affordable to households whose gross income is between 102% and 120% of the county's medium income or less. The sale price of the home shall follow the HUD formula of three (3) times gross income. For example, the median income of DeKalb County according to the 1999 census was \$49,117. A work force household would earn between 102% and 120% of \$49,000 or less, which is between \$50,099 and \$58,940. An affordable home for this household would cost between \$150,297 and \$176,821.
4. The work force housing shall contain a mixture of one-and two-bedroom units.
5. There shall be no vinyl or aluminum siding used within the development. All exteriors shall be brick, stucco, stone or other masonry, "Hardi-Plank" clapboards, cedar shake or shingles, or some combination of these materials. The design of the front facades shall vary such that two adjacent homes will not be the same.
6. There shall be a mandatory homeowners' association to own and control all common areas.
7. The covenants for the Property shall prohibit more than ten percent of the lot owners from being rental units at any given time. A lot may be rented only in the event of an emergency and no individual lot or house may be rented for more than twelve (12) months during any thirty-six (36) month period.
8. The Owner of each workforce housing residence must certify that they will reside in their workforce housing unit as their primary residence during the first twelve (12) months from the time of the initial sale of housing units, unless the Owner can demonstrate that their unit is eligible to be rental property under other provisions in these conditions.
9. All utilities shall be underground.
10. The Developer shall install sidewalks and streetlights within the development.
11. The Development shall contain at least fifty (50) percent open space with walking trails.
12. The Developer shall make available a sewer connection at the western side of the property so that the Stanton Grove Missionary Baptist Church may connect to the sewer system at a later date. The Developer shall not be required to pay any of the costs associated with connecting the Stanton Grove Missionary Baptists Church to the sewer system.

MODIFICATION REQUESTS

Pursuant to the submitted letter of application, a modification is requested to amend the approved conditions as follows:

Proposed Revised Condition 3

3. At least ~~twenty-five percent (25%)~~ **fifteen percent (15%)** of the residences shall be marked as work force housing. Work force housing is defined as a home that is affordable to households whose gross income is between 102% and 120% of the county's medium income or less. The sale price of the home shall follow the HUD formula of three (3) times gross income. For example, the median income of DeKalb County according to the 1999 census was \$49,117. A workforce household would earn between 102% and 120% of \$49,000 or less, which is between \$50,099 and \$58,940. An affordable home for this household would cost between \$150,297 and \$176,821.

The applicant requests to change the percentage of reserved workforce housing units from 25% to 15%.

Documentation submitted with the application states that the medium income for DeKalb County has risen since the condition was approved and that more families should be able to afford to live in the area.

STAFF ANALYSIS

The fact of medium income rising does not necessarily impact the percentage of workforce housing units needed within the proposed development. In fact, since the approval of this rezoning case in November of 2005, the County defines workforce housing at a lower percentage of income (80%) than required by the condition in 2005 (120%).

Sec. 9.1.3

Workforce housing: For-sale housing that is affordable to those households earning (80) percent of the 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.

This standard gives clear direction for determining affordability. Further, the will of the Legislative Body regarding the original zoning granted much higher density based upon several factors at the time, including the public good of providing more choices of housing affordability as a positive offset to the impact of more units on the site.

Delete Condition 7

7. ~~The covenants for the Property shall prohibit more than ten percent of the lot owners from being rental units at any given time. A lot may be rented only in the event of an emergency and no individual lot or house may be rented for more than twelve (12) months during any thirty-six (36) month period.~~ **(Deleted per CZ-18-22135)**

The applicant states in the letter of intent that since this property was rezoned, market conditions have changed which necessitates variety in housing options. The removal of this condition will not alter the intent of the rezoning conditions, both in design and unit types. Therefore, the applicant requests that the condition should be deleted.

STAFF ANALYSIS

The applicant implies that current market and economic trends support the modification requests. However, the property was conditioned to encourage home ownership rather than rental property with conditions that include workforce housing units for affordability by DeKalb County Residents. Deleting a percentage for rental units may result in a decrease of homeownership within the development.

Section 27-7.3.5 of the Zoning Ordinance, “Standards and factors governing review of proposed amendments to the official zoning map” states that the following standards and factors shall govern the review of all proposed amendments to the Official Zoning Map.

- A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.** The modification request is inconsistent with the following housing policy of the 2035 Comprehensive Plan: Utilize the zoning code to provide a variety of housing opportunities and choices to better accommodate the needs of residents.
- B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.** The modification request does not affect adjacent and nearby properties. The site is currently under development for residential use which is compatible with adjacent and nearby residential developed properties in the area.
- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.** The modification request does not affect the current approved MR-2(Medium Density-Residential-2) zoning District on the site.
- D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:** The modification request does not adversely affect the use or usability of adjacent or nearby residential properties.
- E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.** DeKalb County supports workforce housing units through its 2035 Comprehensive Plan. Housing policies support the inclusion of workforce housing units in appropriate areas of the county.
- F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.** It appears that the modification request does not affect historic buildings, sites, districts, or archaeological resources located on the property or in the surrounding area.
- G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.** The modification request to change the number of workforce housing units and rental units on the site has no impact on traffic, utilities or schools in the area.
- H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.** The modification request does not appear to adversely impact the environment or surrounding natural resources.

STAFF RECOMMENDATION: DENIAL. The applicant has not provided sufficient evidence to reduce the amount of workforce housing units or delete the percentage of rental units for the proposed development. The applicant benefits from the original rezoning that granted much greater density on the site than the surrounding character area would support (i.e. single family detached). The greater density was predicated upon the public good of delivering work force housing, a need which has not changed. The request is inconsistent with 2035 Comprehensive Plan Policies: Utilize the zoning code to provide a variety of housing opportunities and choices to better

accommodate the needs of residents. Therefore, the Department of Planning and Sustainability recommends **DENIAL** of modification request per application CZ-18-22135.

Attachments:

1. Department and Division Comments
2. Application
3. Site Plan
4. Zoning Map & Land Use Map
5. Aerial Photograph/Site Photographs



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

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

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.

Transportation Comments

N1. Midway Road is classified as a collector road (requires 35 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Beech Drive is classified as a local road (requires 27.5 feet right of way dedication from centerline, 5 foot sidewalk, and street lights). Verify that street offsets meet Section 14-200 (6) of the Land Development Code. Verify that intersection and stopping sight distance (per AASHTO) are met.

N2. Moreland Ave is a state route. GDOT review and permits are required. Moreland Ave is classified as a major arterial (requires 50 foot right of way dedication from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Bailey St is a minor arterial (requires 40 foot right of way dedication from centerline, bike lanes or multiuse path, 6 foot sidewalk, and street lights). Restrict parking along frontage of Bailey Street. Relocate existing access point farther from the intersection of Moreland Ave. Only one access point allowed on Bailey Street.

N3. Midway Road is classified as a collector road (requires 35 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Tocoma Way is classified as a local road (requires 27.5 feet of right of way dedication from centerline, 5 foot sidewalks and street lights). Locate driveway on lot 5 away from sharp curve. Extend sidewalks to the intersection of Tocoma Way and Midway Road on Tocoma Way for Midway Elem School access.

N4. ROW is within the City of Atlanta. COA review and permits required. No additional comments.

N5. Mountain Drive is a state route. GDOT review and approval is required. Verify sight distance (per AASHTO standards) for vehicles exiting the site. Mountain Drive is classified as a collector (requires 35 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Verify that site driveway meets offset requirements in code section 14-200 (6). Verify length of queuing area for turn lanes is adequate at the intersection of access point and Mountain Dr. Code section 14-200 (5) requires 3 access points for 271 units. Extend sidewalks to existing sidewalks to the south near the intersection of Mountain Drive at Memorial Drive.

N6. Valley Brook Road is classified as a minor arterial (requires 40 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Verify sight distance (stopping and intersection) for road near Judylyn Drive. If sight distance is not met, turn lanes or other improvements are required. Private alley may end in a turn around. If the interior streets are planned to be public, public alleys must connect to public streets and local roads require a 55 foot right of way, 6 foot sidewalk and streetlights. It appears that part of the proposed development is located on the existing Ford Place right of way. This will need to be corrected or the right of way abandoned.

N7. No comments.

N8. Parcel 15—62-02-005 is located within the Hidden Hills overlay district. The overlay requirements trump the zoning and land development codes. In areas where the overlay is silent, the zoning then the land development code is applied. Panola Road is a major arterial (requires 50 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Limit access point to right in/right out on Panola Road due to vehicle paths crossing multiple lanes, including 2 left turn lanes for the intersection of Panola Road at Redan Road. Redan Road is classified as a minor arterial (requires 40 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights).

N9. Pleasant Hill Road is classified as a minor arterial requires 40 feet from centerline, bike lanes or multiuse path, 6 foot sidewalk and street lights). Per code section 14- 200 (5) 214 units requires 3 access points. Verify that intersection and stopping sight distance (per AASHTO) are met prior to submitting for a land development permit.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

N5

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:

PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: 2018-18561
CZ-18-22135 Parcel I.D. #: 15-179-11-001

Address: 2029
MEMORIAL DR
ATLANTA, GA.

Adjacent Roadway (s):

_____	_____
(classification)	(classification)

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

Please provide additional information relating to the following statement.

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

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

COMMENTS:

PLANS AND FIELD REVIEWED. NO problem that would
INTERFERE with TRAFFIC FLOW.

Signature: Georg White



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER mmalexander@dekalbcountyga.gov OR JOHN REID jreid@DEKALBCOUNTYGA.GOV

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

Case No.: CZ-18-22135

Parcel I.D. #: 15-179-11-001

Address: 2029 Memorial Drive
Atlanta, GA.

WATER:

Size of existing water main: 6" C.I. Water Main (adequate/inadequate)

Distance from property to nearest main: Approximately 476 feet from Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Sugar Creek Basin

Is sewer adjacent to property: Yes (X) No (_) If no, distance to nearest line: _____

Water Treatment Facility: Snapfinger Creek WTF () adequate () inadequate

Sewage Capacity: * (MGPD)

Current Flow: 21.77 (MGPD)

COMMENTS:

* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

Signature: _____



4/16/2018

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

General Comments:

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

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

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

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

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

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

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

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

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

4/16/2018

N.1

Z-18-22025 2018-1854 15-218-13-061

3446 Midway Road, Decatur, GA

☐ Amendment

- Please see general comments.
- Agenda that does not include N1 SLUP 18 22129. It has been removed from the agenda and the agenda has been re-numbered.

N.2

SLUP-18-22123

2428 Moreland Avenue, Atlanta, GA

☐ Amendment

- Please see general comments.
- Agenda that does not include N1 SLUP 18 22129. It has been removed from the agenda and the agenda has been re-numbered

N.3

Z-18-22128 2018-1911 15-218-13-005,15-218-13-006,15-218-13-007,15-218-13-008

3392,3298,3402 and 3408 Midway Road, Decatur, GA

☐ Amendment

- Please see general comments.
- Septic system installed on properties 3392 on 10/27/95 ,3402 on 04/11/75 and 3408 on 8/18/82.

N.4

CZ-18-22135 2018-1856 15-179-11-001

2029 Memorial Drive, Atlanta, GA

☐ Amendment

- Please see general comments.



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

DEPARTMENT OF PLANNING & SUSTAINABILITY

MAJOR MODIFICATION APPLICATION

22135

Existing Conditional Zoning No.: **Z-05-79**

APPLICANT NAME: Sinocoin RE, LLC c/o The Galloway Law Group, LLC

Daytime Phone#: **(404) 965-3680** Fax #: **(404) 965-3670** E-mail: **laurel@glawgp.com, jordan@glawgp.com**

Mailing Address: 3500 Lenox Road NE, Suite 760, Atlanta, GA 30326

OWNER NAME: Sinocoin RE, LLC c/o The Galloway Law Group, LLC

one owner, attach contact information for each owner)

(If more than

Daytime Phone#: (404) 965-3680 Fax #: (404) 965-3670 E-mail: laurel@glawgp.com, jordan@glawgp.com

Mailing Address: 3500 Lenox Road NE, Suite 760, Atlanta, GA 30326

SUBJECT PROPERTY ADDRESS OR LOCATION: 2029 Memorial Drive

DeKalb County, GA, 30317

District(s): 15 Land Lot(s): 179 Block(s): 11 Parcel(s): 001

Acreage or Square Feet: **approx. 5.3** Commission District(s): **3, 6** Existing Zoning: **MR-2**

I hereby authorize the staff of the Planning and Development Department to inspect the property that is the subject of this application.

Have you, the applicant, made a campaign contribution of \$250.00 or more to a DeKalb County government official within the two year period that precedes the date on which you are filing this application?

Yes ☒ No If "yes", see page 4. (Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A)

Owner: _____ Agent: _____
(Check One)

Signature of Applicant:

Printed Name of Applicant: Thomas Tsui for Sinocoin RE, LLC Major Modification Application

Feb. 9, 2018

PUBLIC NOTICE

Request for Modification of Zoning Conditions

Applicant: Sinocoin RE, LLC

Property: 2029 Memorial Drive, Atlanta, GA 30317

Current Use – Townhomes

Proposed Use – Townhomes

The Applicant is developing townhomes and seeks a zoning modification of one condition of the 2005 rezoning of the property that requires covenants for the property limiting the units that can be rented to no more than 10 percent at a given time.

You are invited to a pre-submittal community meeting:

Wednesday, Feb. 28, 2018 at 6:30 PM
Bessie Branham Recreation Center
2051 Delano Drive NE
Atlanta, GA 30317

If you are unable to attend this meeting but would like more information, please contact The Galloway Law Group, LLC, at (404) 965-3680.

MEETING SIGN-IN SHEET

Project: Sinocoin RE, LLC - 2029 Memorial Dr.

Meeting Date: Feb. 28, 2018, 6:30pm

Facilitator: The Galloway Law Group, LLC

Location: Bessie Branham Recreation Center
2051 Delano Dr., Atlanta

[illegible]

LETTER OF APPLICATION
APPLICATION FOR MAJOR MODIFICATION
DEKALB COUNTY, GEORGIA

Sinocoin RE, LLC (the “Applicant”), owns the property at 2029 Memorial Drive (Tax Parcel Identification Number 15 179 11 001), which consists of approximately 4.96 acres and includes internally subdivided tax parcels (the “Property”). The DeKalb County Board of Commissioners rezoned the Property in 2005 to allow condominiums and townhomes subject to twelve (12) conditions at a time when the Property was under different ownership. See CZ-05-79 (enclosed as **Exhibit A**). The Applicant recently purchased the Property out of foreclosure and now seeks Modification of two of these conditions. First, in light of a redesigned Site Plan that increases the number of units from sixty-two (62) to seventy-five (75), the Applicant requests that the Board of Commissioners modify Condition No. 3 to require fifteen (15) percent, rather than twenty-five (25) percent, of the total units be reserved as “work force housing”, as that term is defined in Condition No. 3 and further clarified by the letter acknowledged by the DeKalb County Zoning Administrator on January 9, 2016 (enclosed as **Exhibit B**). Second, the Applicant requests that the Board of Commissioners remove Condition No. 7, which imposes a restriction that no more than ten (10) percent of the units may be rented at any given time.

The Property was rezoned in 2005 to allow “loft condominiums, townhomes, or row homes”. CZ-05-79 at Cond. No. 2. At the time, it was envisioned that the work force housing would be provided in a condominium building. However, in the nearly thirteen years since the rezoning, the national economic recession and recovery have altered real estate development financing, and the Atlanta metropolitan area has experienced tremendous growth that necessitates both variety in housing options in DeKalb County and an update to the Property’s zoning. As shown on the enclosed Site Plan, the Applicant is proposing a residential development consisting of fee simple townhomes or row homes that meets the intent of the rezoning conditions, both in design and in mix of unit types. The requested modifications, if approved, will not alter this intent, and are necessary for the development’s economic feasibility. Accordingly, the Applicant respectfully asks that the Board of Commissioners of DeKalb County approve the Major Modification as requested.

DEKALB COUNTY

ITEM NO.

BOARD OF COMMISSIONERS**ZONING AGENDA / MINUTES****MEETING DATE:** November 22, 2005**HEARING TYPE**
PUBLIC HEARING**ACTION TYPE**
ORDINANCE**SUBJECT:** Rezone – Patronis Properties, Inc.**COMMISSION DISTRICTS:** 3 & 6**DEPARTMENT:** Planning**PUBLIC HEARING:** YES ☐ NO ☒**ATTACHMENT:** ☒ YES ☐ No**INFORMATION CONTACT:** Sabrina Freeney/Kevin Hunter**PAGES:** 25**PHONE NUMBER:** (404) 371-2155

Deferred from 10/25/05 & 11/8/05 for decision only.

PURPOSE:**Z-05-79**

Application of Patronis Properties, Inc to rezone property located on the southwest side of Memorial Drive, 427 feet east of South Howard Street from R-75 to RM-75. The property has frontage of 338 feet on Memorial Drive and contains 4.96 acres.

Subject Property: 15-179**RECOMMENDATION(S):****PLANNING DEPARTMENT:**

DENIAL. The proposed zoning change to the RM-75 district (allow for a maximum of 18 units per acre) as currently submitted would unduly impact the adjacent single-family residential community. While some form of higher density development might be appropriate on this property given the adjacent medium-high density property is zoned RM-75-zoned property to the east, the submitted site plan is substandard and does not meet the minimum requirements for the district regulation proposed. The plan proposed would adversely affect the existing use or usability of adjacent or nearby property to the south by locating a four (4) story multi-family residential building adjacent to existing single family residential development, encroach into the 75 foot stream buffer, the transitional buffer and required setbacks. The plan depicts only one point of access instead of two, according to the Development Department. As such, the land use plan amendment and associated zoning change request to the RM-75 district as currently submitted would unduly impact the adjacent single-family residential community. Therefore, it is the recommendation of the Planning Department that the application be "Denied".

PLANNING COMMISSION:

Approval.

COMMUNITY COUNCIL:


Deferral.

**FOR USE BY COM
MISSION OFFICE/CLERK ONLY**

ACTION: H10

MOTION was made by Commissioner Larry Johnson, seconded by Commissioner Hank Johnson, and passed 4-0-3, to approve with conditions submitted by Commissioner Larry Johnson, the rezoning application of Patronis Properties, Inc. Commissioners Stokes and Walldorff were out of the room and not voting and Commissioner Boyer was absent and not voting.

ADOPTED: NOV 22 2005
(DATE)


PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS

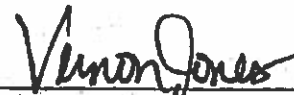
CERTIFIED: NOV 22 2005
(DATE)


CLERK
DEKALB COUNTY BOARD
OF COMMISSIONERS

FOR USE BY CHIEF EXECUTIVE OFFICER ONLY

APPROVED: DEC 08 2005

VETOED: _____


CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

VETO STATEMENT ATTACHED: _____

MINUTES:

No one spoke in support or opposition of the application; decision only.

	FOR	AGAINST	ABSTAIN	ABSENT
DISTRICT 1 - ELAINE BOYER				X
DISTRICT 2 - GALE WALLDORFF				X
DISTRICT 3 - LARRY JOHNSON	X			
DISTRICT 4 - BURRELL ELLIS	X			
DISTRICT 5 - HANK JOHNSON	X			
DISTRICT 6 - KATHIE GANNON	X			
DISTRICT 7 - CONNIE STOKES				X

CONN. Larry Johnson
ITEM NO. M10 11, 22, 05
CLERK'S OFFICE
(Sgt. Larry Johnson)

**Rezoning Application Z-05-79 and L.P-05-41
Patrons Properties, Inc.
Zoning Conditions**

1. The development shall consist of no more than seventy-five units.
2. The development may consist of the following: loft condominiums, townhomes, or row homes, which have facades that look like the townhomes but contain individual condominium units. The loft condominium building shall be no higher than four stories and shall be oriented to the street with parking underground and to the rear. The rezoning of the development will not be specific to a site plan.
3. At least twenty-five percent (25%) of the residences shall be marketed as work force housing. Work force housing is defined as a home that is affordable to households whose gross income is between 102% and 120% of the county's median income or less. The sale price of the home shall follow the HUD formula of three (3) times gross income. For example, the median income of DeKalb County according to the 1999 census was \$49,117. A work force household would earn between 102% and 120% of \$49,000 or less, which is between \$50,099 and \$58,940. An affordable home for this household would cost between \$150,297 and \$176,821.
4. The work force housing shall contain a mixture of one- and two-bedroom units.
5. There shall be no vinyl or aluminum siding used within the development. All exteriors shall be brick, stucco, stone or other masonry, "Hardi- Plank" clapboards, cedar shake or shingles, or some combination of these materials. The design of the front facades shall vary such that two adjacent homes will not be the same.
6. There shall be a mandatory homeowners' association to own and control all common areas.
7. The covenants for the Property shall prohibit more than ten percent of the lot owners from being rental units at any given time. A lot may be rented only in the event of an emergency and no individual lot or house may be rented for more than twelve (12) months during any thirty-six (36) month period.
8. The Owner of each workforce housing residence must certify that they will reside in their workforce housing unit as their primary residence during the first twelve (12) months from the time of the initial sale of the housing units, unless the Owner can demonstrate that their unit is eligible to be rental property under other provisions in these conditions.
9. All utilities shall be underground.
10. The Developer shall install sidewalks and streetlights within the development.
11. The Development shall contain at least fifty (50) percent open space with walking trails.

12. The Developer shall make available a sewer connection at the western side of the property so that the Stanton Grove Missionary Baptist Church may connect to the sewer system at a later date. The Developer shall not be required to pay any of the costs associated with connecting the Stanton Grove Missionary Baptist Church to the sewer system.

November 18, 2005 109789

Laurel
David

THE
GALLOWAY
LAW GROUP

3500 Lenox Road, N.E., Suite 760 | Atlanta, GA 30326
M 770-337-1883 | D 404-965-3669 | D 404-965-3680
Partner | laurel@glawgp.com

December 22, 2016

Via Email

Ms. Marian B. Eisenberg
Zoning Administrator
DeKalb County Dept. of Planning & Sustainability
330 W. Ponce de Leon Ave., 3rd Floor
Decatur, GA 30030-3221

Re: 2029 Memorial Drive, CZ-05-79

Dear Marian,

I hope the office move went well and things are getting back to normal. Thank you for meeting with us regarding the zoning conditions for 2029 Memorial Drive. I am writing to confirm the interpretation of Zoning Condition #3 that we discussed at the meeting.

Zoning Condition #3 states: "At least twenty-five percent (25%) of the residences shall be marketed as work force housing. Work force housing is defined as a home that is affordable to households whose gross income is between 102% and 120% of the county's median income or less. The sale price of the home shall follow the HUD formula of three (3) times gross income. For example, the median income of DeKalb County according to the 1999 census was \$49,117. A work force household would earn between 102% and 120% of \$49,000 or less, which is between \$50,099 and \$58,940. An affordable home for this household would cost between \$150,297 and \$176,821." A copy of the approval is attached for your reference.

I have also attached a copy of HUD's median income calculation for fiscal year 2016, which indicates that DeKalb County's median income is now \$67,500. Based on this information and using the above formula, a work force household would earn between 102% and 120% of \$67,500, or less, which is between \$68,850 and \$81,000. An affordable home for this household would cost between \$206,550 and \$243,000. Zillow.com that the median price of homes currently listed in the 30317 zip code is \$350,000 and predicts they will rise 9.0% within the next year. Clearly homes that will be offered between \$206,550 and \$243,000 will be accessible to families who would otherwise not be able to afford to live in this area.

We appreciate your time to discuss the zoning condition and would ask that you confirm

THE GALLOWAY LAW GROUP, LLC

Ms. Marian B. Eisenberg
DeKalb County Dept. of Planning & Sustainability
December 22, 2016
Page 2


our understanding of the above for our records by signing this letter in the space provided below.
Please do not hesitate to call me if you have any questions or need anything further.

THE GALLOWAY LAW GROUP, LLC


Laurel A. David

LAD/mo

Acknowledged and agreed to this 9 day of January 2016.

By: 
As: Ms. Marian B. Eisenberg
Zoning Administrator
DeKalb County Dept. of Planning & Sustainability



FY 2016 INCOME LIMITS DOCUMENTATION SYSTEM

[HUD.gov](#) [HUD User Home](#) [Data Sets](#) [Fair Market Rents](#) [Section 8 Income Limits](#) [MTSP Income Limits](#) [HUD LIHTC Database](#)

FY 2016 Income Limits Summary

FY 2016 Income Limit Area	Median Income <input type="button" value="Explanation"/>	FY 2016 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
DeKalb County	\$67,500	Very Low (50%) Income Limits (\$) <input type="button" value="Explanation"/>	23,650	27,000	30,400	33,750	36,450	39,150	41,850	44,550
		Extremely Low Income Limits (\$)* <input type="button" value="Explanation"/>	14,200	16,200	20,160	24,300	28,440	32,580	36,730	40,890
		Low (80%) Income Limits (\$) <input type="button" value="Explanation"/>	37,800	43,200	48,600	54,000	58,350	62,650	67,000	71,300

Selecting any of the buttons labeled "Explanation" will display detailed calculation steps for each of the various parameters.

**IMPACT ANALYSIS
APPLICATION FOR MAJOR MODIFICATION
DEKALB COUNTY, GEORGIA**

Sinocoin RE, LLC (the “Applicant”), owns the property at 2029 Memorial Drive (Tax Parcel Identification Number 15 179 11 001), which consists of approximately 4.96 acres and includes internally subdivided tax parcels (the “Property”). The DeKalb County Board of Commissioners rezoned the Property in 2005 to allow condominiums and townhomes subject to twelve (12) conditions at a time when the Property was under different ownership. See CZ-05-79. The Applicant recently purchased the Property out of foreclosure and now seeks Modification of two of these conditions, as described in the Letter of Application, due to significant changes that the local real estate development market has experienced in the thirteen years since the rezoning.

The Applicant respectfully asks that the Board of Commissioners approve this Major Modification, as the Applicant’s requests are consistent with the standards and factors established at Section 7.3.5. of the Zoning Ordinance governing review of proposed amendments to the official zoning map of DeKalb County:

1. MAJOR MODIFICATION TO MODIFY CONDITION NO. 3 TO REQUIRE FIFTEEN (15) PERCENT OF THE TOTAL UNITS BE RESERVED AS “WORK FORCE HOUSING”.

a. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The provision of affordable housing is a goal that appears frequently in the 2035 Comprehensive Plan. More than a decade before the Comprehensive Plan was adopted, the 2005 rezoning mandated that twenty-five (25) percent of the units be reserved for “work force housing”, as that term is defined in Condition No. 3 of the 2005 rezoning and further clarified by the letter that the DeKalb County Zoning Administrator acknowledged on January 9, 2016 (see Letter of Application). At the time of the rezoning, it was envisioned that the work force housing would be provided in a condominium building. However, in the thirteen years since the rezoning, dramatic economic forces have reshaped the real estate development industry and

altered real estate financing. As a result, the development's viability requires the Applicant to build all fee simple townhomes or row homes and to respond to market calls for smaller units. The high percentage of the work force housing reservation is burdensome to put into practice with these types of units under present market conditions. However, the Applicant still proposes reserving 15 percent of all units as work force housing. Not only would this lower percentage bring the work force housing requirement into line with neighboring City of Atlanta, as described below, but it would result in the creation of twelve (12) work force housing units.

b. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The Board of Commissioners has already approved "loft condominiums, townhomes, and row homes" as suitable uses for the Property and favored the reservation of a percentage of the units as work force housing. CZ-05-79 at Cond. Nos. 2, 3. The Applicant likewise proposes to develop the residential uses that were approved and to reserve a substantial number of the units as work force housing. As such, the proposed use is suitable for the Property.

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

The Property is zoned to allow loft condominiums, townhomes, and row homes, which together constitute a reasonable economic use of the Property. The Applicant does not propose a different use for the Property, but the development's viability depends on balancing numerous financial aspects of the project. Reserving 15 percent of the units for work force housing fulfills the intent of the original zoning condition and supports the viability of the development.

d. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

Reserving 15 percent of the units as work force housing rather than 25 percent will not adversely affect the existing use or usability of adjacent or nearby property or properties.

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

In the time since the 2005 rezoning, affordable housing has taken new priority in DeKalb County and much of the metropolitan Atlanta area. The City of Atlanta recently adopted affordable housing legislation for for-rent residential developments that requires the reservation

of ten (10) or fifteen (15) percent of multifamily units as affordable housing, depending on the median income of the occupants. The Applicant is not developing multifamily units, and the City of Atlanta does not impose affordable housing requirements on for-sale condominium or townhome developments. However, the Applicant is committed to providing a percentage of work force housing, and the proposed 15 percent figure is both in line with the ratios used in neighboring City of Atlanta and better suited for a development of the scale and the for-sale type that is proposed at the Property.

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

The DeKalb County Comprehensive Plan does not appear to indicate the existence of any natural or cultural resources, historic districts or areas, or nationally and locally registered historic sites in the area. The Applicant is not aware of any historic buildings, sites, districts or archaeological resources on the site or located in the immediate vicinity.

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

If approved, this Modification will not result in a use that will cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

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

Reducing the percentage of units reserved for work force housing from 25 percent to 15 percent will not adversely affect the environment or surrounding natural resources.

2. MAJOR MODIFICATION TO REMOVE CONDITION NO. 7, WHICH IMPOSES A RESTRICTION THAT NO MORE THAN TEN (10) PERCENT OF THE UNITS MAY BE RENTED AT ANY GIVEN TIME.

a. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

Variety in housing options has long been a principle of DeKalb County's comprehensive plans, and rental housing plays an important role in safeguarding that variety. The 2005 rezoning's limitation restricting the total number of units that may be rented out by their owners

at a given time is inconsistent with this principle and should be removed. Because all units will be developed for sale, those units that may ultimately be rented out by their owners will be developed to the same quality standards as those that are occupied by their owners.

b. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

The Board of Commissioners has already approved “loft condominiums, townhomes, and row homes” as suitable uses for the Property. CZ-05-79 at Cond. Nos. 2. The ability of owners to rent the proposed townhomes or row homes does not change the suitability of the approved residential uses for the Property.

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

The Property is zoned to allow loft condominiums, townhomes, and row homes, which together constitute a reasonable economic use of the Property. The Applicant does not propose a different use for the Property, but the existing limitation on the number of units that may be rented is burdensome and may diminish the units’ appeal in the for-sale residential market.

d. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

As loft condominiums, townhomes, and row homes have already been approved for the Property, the proposed Modification removing the rental limitation will not adversely affect the existing use or usability of adjacent or nearby properties.

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

The residential real estate climate has changed greatly since the condition limiting the number of units that could be rented was imposed in 2005, as described above. Within this new climate is the ongoing demand for affordable housing options in DeKalb County. Together, these conditions give supporting grounds for approval of the requested Modification, as flexibility in housing occupancy benefits both owners and those who seek to rent. As well, it is not confirmed that a local government has authority in Georgia to enforce a rental restriction. A zoning condition restricting a property owner’s right to use his or her property must be both reasonable and necessary to promote and protect the health, safety, and welfare of the general

public. Recent economic events demonstrate that flexibility in real estate ownership models is necessary to preserve the economic stability both of individuals and of communities.

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

The DeKalb County Comprehensive Plan does not appear to indicate the existence of any natural or cultural resources, historic districts or areas, or nationally and locally registered historic sites in the area. The Applicant is not aware of any historic buildings, sites, districts or archaeological resources on the site or located in the immediate vicinity.

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

If approved, this Modification allowing more of the townhome or row home units to be rented will not change the approved use, and thus will not result in a use that will cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

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

Allowing the townhome or row home units to be rented by their owners will not adversely affect the environment or surrounding natural resources.

As these modifications are consistent with the foregoing standards and factors governing review of proposed amendments to the official zoning map of DeKalb County, the Applicant respectfully asks that the Board of Commissioners approve this Major Modification as requested.

Sincerely,

THE GALLOWAY LAW GROUP, LLC

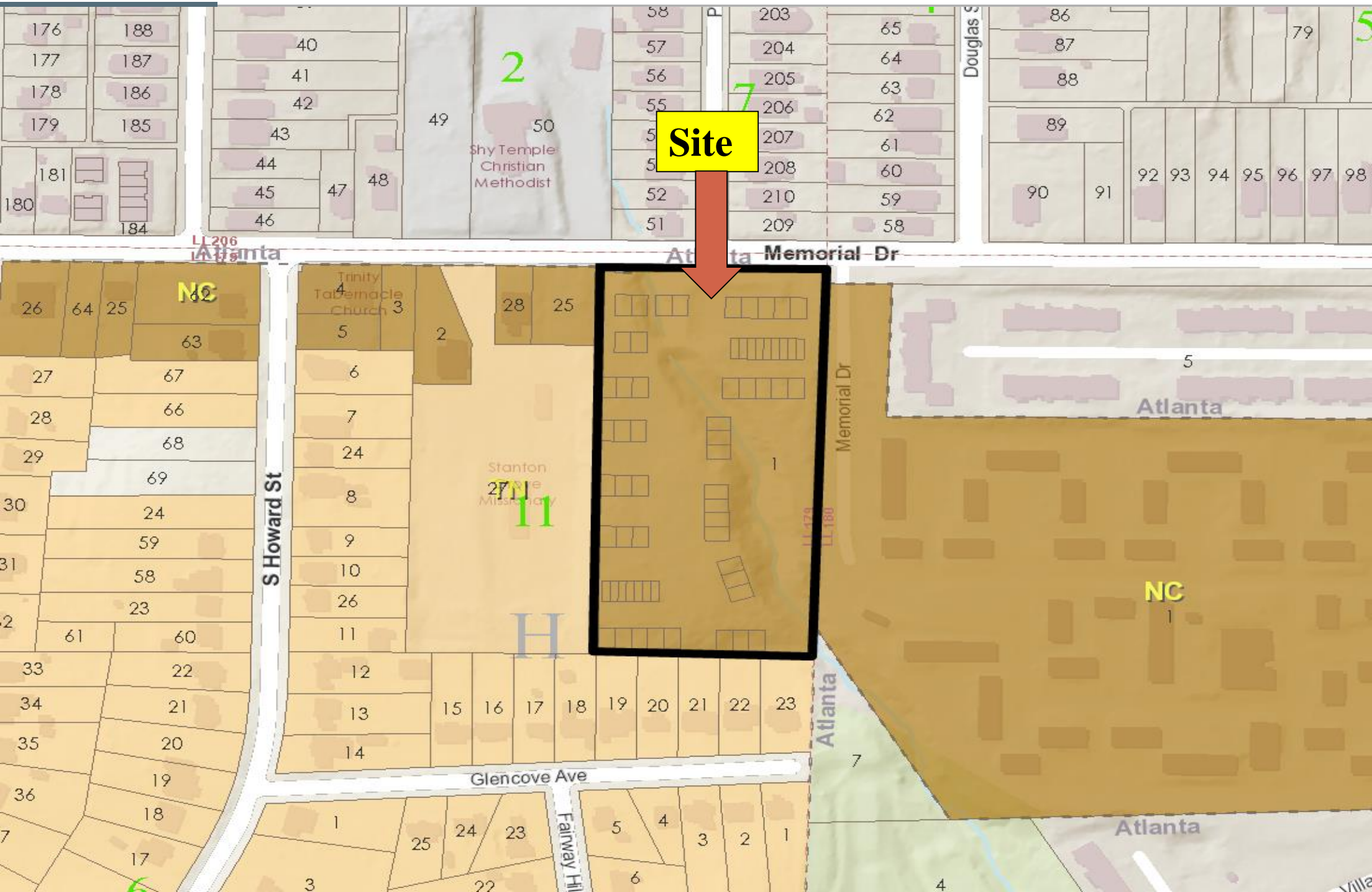


Laurel David

Jordan Edwards

Attorneys for the Applicant

3500 Lenox Road, NE, Suite 760
Atlanta, Georgia, 30326
(404) 965-3680





The Element at
Kirkwood Apts.

Stanton Grove
Missionary Church

S. Howard St.

Memorial Drive

Memorial Drive

Douglas St.

Palatka St

Atlanta City Limits



Townhouse Development
Under Construction