

**Public Hearing:** YES  NO

**Department:** Planning & Sustainability

**SUBJECT:**

**COMMISSION DISTRICT(S):** 4 & 6

**Application of Lennar Corporation c/o Battle Law P.C. to rezone properties from R-85 (Single-Family Residential) District to RSM (Small Lot Residential Mix) District to construct up to 63 urban single-family homes at a density of 5.2 units per acre, at 4549 Erskine Road and 1247 Oakmont Drive.**

**PETITION NO:** N6. Z-20-1244238 2020-1171

**PROPOSED USE:** 63-Urban single-family homes.

**LOCATION:** 4549 Erskine Road and 1247 Oakmont Drive.

**PARCEL NO. :** 18-121-02-001, 18-121-12-007

**INFO. CONTACT:** John Reid, Sr. Planner

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of Lennar Corporation c/o Battle Law P.C. to rezone properties from R-85 (Single-Family Residential) District to RSM (Small Lot Residential Mix) District to construct up to 63 urban single-family homes at a density of 5.2 units per acre. The property is located on the south side of Erskine Road, the west side of Oakmont Drive, and the northeastern terminus of Oakmont Drive, approximately 430 feet west of Rays Road at 4549 Erskine Road and 1247 Oakmont Drive in Clarkston, Georgia. The property has approximately 288 feet of frontage along Erskine Road and 250 feet of frontage along Oakmont Drive and contains 12.11 acres.

**RECOMMENDATION:**

**COMMUNITY COUNCIL:** Full cycle deferral.

**PLANNING COMMISSION:** Pending.

**PLANNING STAFF:** Full Cycle Deferral.

**STAFF ANALYSIS:** The proposed rezoning request is not consistent with the policies and strategies of the Suburban Character Area to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns (Suburban Policy #1). The proposed urban single-family homes with buildings located close together (within four feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. While RSM zoning is located in the general area (approximately two tenths of a mile to the west (Country Address Subdivision) and three tenths of a mile to the east (Joshua Crossing Subdivision and others), those RSM zoned subdivisions contain traditional suburban single-family homes at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of urban single-family homes in an area intended to be developed with traditional suburban single-family detached homes. The applicant has submitted a request for "Full Cycle Deferral" (see attached email from applicant) to allow sufficient time to revise the site plan and rezoning application to consider a more traditional single-family detached site design (with buildings at least ten feet away from each other) that would be more compatible with the surrounding R-85 single-family residential development pattern. Therefore, it is the recommendation of the Planning and Sustainability Department that the rezoning application be "Deferred, Full Cycle".

**PLANNING COMMISSION VOTE: Pending.**

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: Full Cycle Deferral 11-0-0.** The Council recommended Full Cycle Deferral at the applicant's request. Issues discussed included traffic congestion/safety concerns, drainage impacts and if the proposed detention could be redesigned to be underground, zoning and land use consistency of RSM and Urban Detached Townhomes with surrounding properties, property value impacts, validity of proposed density bonuses, security issues for neighbors relating to the proposed multi-use trail connecting Oakmont Drive to Erskine Road, adequate lighting of area, sufficiency of sewer capacity, and rental caps on the proposed units.

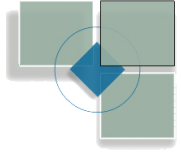


**DeKalb County Department of Planning & Sustainability**

**330 Ponce De Leon Avenue, Suite 500**

**Decatur, GA 30030**

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



Michael Thurmond  
Chief Executive Officer

**Planning Commission Hearing Date: November 5, 2020**  
**Board of Commissioners Hearing Date: November 19, 2020**

**STAFF ANALYSIS**

**Case No.:** Z-20-1244238 **Agenda #:** N-6

**Location/Address:** The south side of Erskine Road, the west side of Oakmont Drive, and the northeastern terminus of Oakmont Drive, approximately 430 feet west of Rays Road at 4549 Erskine Road and 1247 Oakmont Drive in Clarkston, Georgia. **Commission District: 4 Super District: 6**

**Parcel ID:** 18-121-02-001, 18-121-12-007

**Request:** To rezone properties from R-85 (Residential Medium Lot-85) District to RSM (Small Lot Residential Mix) District to construct up to 63 urban single-family dwellings at a density of 5.2 units per acre.

**Property Owner:** Erskine Park, LLC

**Applicant/Agent:** Battle Law, P.C.

**Acreage:** 12.11

**Existing Land Use:** Vacant land

**Surrounding Properties:** Single-family homes

**Adjacent Zoning:** **North:** R-85 **South:** R-85 **East:** R-85 **West:** R85

**Comprehensive Plan:** SUB (Suburban) **Consistent**  **Inconsistent**

**Proposed Density:** 5.2 units per acre **Existing Density:** NA

**Proposed Units/Square Ft.:** 63 urban single-family units **Existing Units/Square Feet:** Vacant land

**Proposed Lot Coverage:** NA **Existing Lot Coverage:** NA

**Staff Recommendation: FULL CYCLE DEFERRAL**

The proposed rezoning request is not consistent with the policies and strategies of the Suburban Character Area to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns (Suburban Policy #1). The proposed urban single-family homes with buildings located close together (within four

feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. While RSM zoning is located in the general area (approximately two tenths of a mile to the west (Country Address Subdivision) and three tenths of a mile to the east (Joshua Crossing Subdivision and others), those RSM zoned subdivisions contain traditional suburban single-family homes at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of urban single-family homes in an area intended to be developed with traditional suburban single-family detached homes. The applicant has submitted a request for “Full Cycle Deferral” (see attached email from applicant) to allow sufficient time to revise the site plan and rezoning application to consider a more traditional single-family detached site design (with buildings at least ten feet away from each other) that would be more compatible with the surrounding R-85 single-family residential development pattern. Therefore, it is the recommendation of the Planning and Sustainability Department that the rezoning application be “Deferred, Full Cycle”.

### **ZONING HISTORY**

The subject property has been zoned R-85 (Single-Family Residential) since the initial adoption of the DeKalb County Zoning Ordinance in 1956.

### **PROJECT ANALYSIS**

The subject property comprises 12.11 acres on the south side of Erskine Road, the west side of Oakmont Drive, and the northeastern terminus of Oakmont Drive, approximately 430 feet west of Rays Road at 4549 Erskine Road and 1247 Oakmont Drive in Clarkston, Georgia. The site contains vacant land and is moderately flat off of Erskine Road. The site slopes moderately upward at the south end of the property near Oakmont Drive. The site currently has an abundance of mature trees and vegetation.

The applicant is proposing to allow 63 urban single-family homes at a density of 5.2 units per acre. The *Zoning Ordinance* allows a base density of up to four units per acre. To achieve a density of 5.2 units per acre as the applicant proposes, the *Zoning Ordinance* requires the provision of density bonuses. The applicant is proposing public art at the northeast side of the subdivision entrance off Erskine Road, and also an eight-foot wide pedestrian trail to connect the new subdivision to the Stone Mountain Trail Greenway as density bonuses. Based on the submitted conceptual elevations, the proposed urban detached single-family homes will be two stories tall. The applicant indicates the building materials will consist of a combination of brick, hardi-plank, board and batten, and cementitious siding.

The property has frontage along Erskine Road, a two-lane minor-arterial road with curb and gutter but no sidewalks. Sidewalks are proposed along both sides of the new public road, as well as along Erskine Road. The proposed homes will access a new public road which will be publicly accessible to Erskine Road. The Transportation Department has indicated that the applicant needs to verify intersection sight distance for existing vehicles and stopping sight distance for left vehicular turns into the development. Please see the Transportation Department comments attached to the report for additional requirements.

Surrounding uses include traditional suburban single-family homes located at least ten feet away from each other within R-85 zoned subdivisions, with 80 to 95-foot wide lots and 12,000 square foot min lot sizes at densities between 2.4 and 2.6 dwelling units per acre. RSM-zoned single-family homes are located in the general area approximately 0.2 (two tenths) of a mile to the west (Country Address Subdivision) and 0.3 (three tenths) of a mile to the east (Joshua Crossing Subdivision and others) with minimum lot sizes of approximately 4,056 square feet.

The proposed rezoning request is not consistent with the policies and strategies of the Suburban Character Area to protect stable neighborhoods from incompatible development that could alter established single-family residential development

patterns (Suburban Policy #1). The proposed urban single-family homes with buildings located close together (within four feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. While RSM zoning is located in the general area (approximately two tenths of a mile to the west (Country Address Subdivision) and three tenths of a mile to the east (Joshua Crossing Subdivision and others), those RSM zoned subdivisions contain traditional suburban single-family homes at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of urban “townhomes” in an area intended to be developed with traditional suburban single-family detached homes. The applicant has submitted a request for “Full Cycle Deferral” (see attached email from applicant) to allow sufficient time to revise the site plan and rezoning application to consider a more traditional single-family detached site design with buildings at least ten feet away from each other that would be more compatible with the surrounding R-85 single-family residential development pattern. Therefore, it is the recommendation of the Planning and Sustainability Department that the rezoning application be “deferred, full cycle”.

**Supplemental Requirements:** There are no supplemental regulations in the *Zoning Ordinance* for urban, detached, single-family homes .

**Compliance with District Standards:**

STANDARD	RSM REQUIREMENT	EXISTING/PROPOSED	COMPLIANCE
MAX DENSITY	4-8 units per acre	5.2 units per acre (Density bonus for public art and tying into Stone Mountain Trail Greenway	Yes
LOT WIDTH	25 feet per lot	25 ft	Yes
LOT AREA	1,000 s.f.	Information not provided on site plan.	Non-compliance will necessitate variances
MAX. LOT COVERAGE	70%	Information not provided on site plan	Non-compliance will necessitate variances.

PERIMTER LOT COMPATIBILITY	Proposed Lots abutting existing subdivisions must provide lot widths and lot sizes that are no larger than 80% of the lots in the adjacent existing subdivisions.	For lots 18 through 21 on southeast portion of site which directly abut existing residential lots, perimeter lot compatibility applies but is not provided.	Non-compliance will necessitate variances
FRONT SETBACK	20 feet	15 feet	No. Non-compliance requires variances.
REAR SETBACK	15 ft.	20 ft	Yes
SIDE SETBACK	0 ft with at least 3 feet between buildings	0 ft ( <i>30 ft between buildings</i> )	Yes
BUILDING MATERIALS	All building facades facing a public street shall consist of at least 80% brick, stone, glass, decorative concrete, fiber cement siding, or hard coat stucco, or combination thereof.	Information not provided	Non-compliance will necessitate variances.
MAX. BLDG. HEIGHT	3 stories/45 feet	2 stories	Yes
MIN UNIT SIZE	1,100 s.f. (Urban Single-Family Detached)	1,200 s.f.	Yes
MIN OPEN SPACE	20%	25%	Yes
TRANSITIONAL BUFFER	20 ft along north, west, and south property lines	20-ft wide buffer	No—20-ft wide buffer provided along perimeter of site, but along eastern property line the buffer is located within lot lines which is prohibited. Non-compliance will necessitate variances.

PARKING	Min. 126 spaces (2 spaces per dwelling unit ) Max. 252 spaces (4 spaces per dwelling unit)	262 spaces (includes 10 guest parking spaces)	No—Exceeds maximum parking requirement. Will necessitate variances.
LANDSCAPING	Each single-family lot on which new development shall occur shall be planted with three new trees.	Information not provided	Non-compliance will necessitate variances.
SIDEWALKS AND STREETSCAPING	5-ft. sidewalk and 6-ft landscape strip along proposed public roads in subdivision, street trees 30 ft on center	Sidewalks are proposed along internal roads, however width is not shown. No landscape strip or street tree plantings are shown.	No. Non-compliance will necessitate variances.
STREET LIGHTS AND PEDESTRIAN LIGHTS	Street lights along the proposed new roads in subdivision shall be at 100 ft on center.	Information not provided	Non-compliance will necessitate a variance.
SIDEWALKS AND STREETSCAPING ALONG ERSKINE ROAD	6 ft wide sidewalk and 10 ft landscape strip, street trees 50 ft on center	8 foot wide pedestrian trail provided. No street trees or landscape strip shown.	Yes for sidewalk. Other information not provided. Non-compliance will necessitate variances.
DECATORTIVE FENCES	Must provide decorative fence and buffer along Erskine Road as required by Sec. 5.4.7.B of the Zoning Ordinance	No information provided.	Non-compliance will necessitate variances.

## LAND USE AND ZONING ANALYSIS

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 zoning maps.

**A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:**

The proposed rezoning request is not consistent with the policies and strategies of the Suburban Character Area to protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns (Suburban Policy #1). The proposed urban single-family homes with buildings located close together (within four feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of urban single-family homes in an area intended to be developed with traditional suburban single-family detached homes.

**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 proposed urban single-family homes with buildings located close together (within four feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of more urban style homes in an area intended to be developed with traditional suburban single-family detached homes.

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

It appears that the property may have a reasonable economic use as currently zoned R-85 which allows single-family detached residential development.

**D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:**

The proposed urban single-family homes with buildings located close together (within four feet of each other) are not compatible with the traditional suburban single-family detached homes in the adjacent and surrounding R-85 zoned subdivisions which contain homes located at least ten feet away from each other. Permitting the proposed request at this location would allow the encroachment of urban homes in an area intended to be developed with traditional suburban single-family detached homes.

**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 subject property falls within a SUB (Suburban) character area which calls for protecting established



residential neighborhoods (SUB Policy #1).

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

Based on the submitted information, no historic buildings, sites, districts, or archaeological resources are located on the subject 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:***

There has been no indication from reviewing departments and agencies that the proposal could cause excessive use of existing streets, transportation facilities, utilities, or schools. The Transportation Department has indicated that the applicant needs to verify intersection sight distance for Erskine Road for existing vehicles and stopping sight distance for when a car is waiting to turn left into the development. The applicant will need to obtain a sewer capacity letter from the Department of Watershed Management to verify if sewer capacity is available.

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

The proposed development is not expected to have unusual impacts on the natural environment.

**Planning and Sustainability Department Recommendation: FULL CYCLE DEFERAL**

**Attachments:**

1. Public Works Department Comments
  - a. Land Development Division
  - b. Traffic Engineering Division
2. Watershed Management Department Comments
3. Board of Health Comments
4. Board of Education Comments
5. Application
6. Site Plan
7. Zoning Map
8. Aerial Photograph
9. Photographs

October 19, 2020

VIA E-MAIL

DeKalb County Planning and Sustainability  
330 W. Ponce De Leon Ave., 3<sup>rd</sup> Fl.  
Decatur, GA 30030

RE: Rezoning Application Z-20-1244238 – Full Cycle Deferral Request

To Whom It May Concern:

The Applicant is hereby requesting a full cycle deferral of the above referenced Application in order to allow for the Applicant to address issues raised by staff and the community. Feel free to contact us with any concerns regarding this request.

Sincerely,



Michèle L. Battle

24 HOUR CONTACT:  
**JEFF ANTHONY**  
878-414-5188



GENERAL	
TOTAL SITE AREA	877 ACRES
AREA OF SITE TO BE MAINTAINED	537 ACRES
OVERLAP WITH OTHER PROJECTS	11.66 ACRES
ZONING	
EXISTING ZONING	R-85
PROPOSED ZONING	R-85 (CONFORMS TO EXISTING ZONING)
DEVELOPMENT	
PROPOSED DENSITY	14 UNITS/ACRE
MAXIMUM DENSITY	14 UNITS/ACRE
MINIMUM DENSITY	14 UNITS/ACRE
MAXIMUM FLOOR AREA	14 UNITS/ACRE
MINIMUM FLOOR AREA	14 UNITS/ACRE
MAXIMUM HEIGHT	14 UNITS/ACRE
MINIMUM HEIGHT	14 UNITS/ACRE
MAXIMUM SETBACK	14 UNITS/ACRE
MINIMUM SETBACK	14 UNITS/ACRE
MAXIMUM LOT AREA	14 UNITS/ACRE
MINIMUM LOT AREA	14 UNITS/ACRE
MAXIMUM FRONT YARD SETBACK	14 UNITS/ACRE
MINIMUM FRONT YARD SETBACK	14 UNITS/ACRE
MAXIMUM SIDE YARD SETBACK	14 UNITS/ACRE
MINIMUM SIDE YARD SETBACK	14 UNITS/ACRE
MAXIMUM REAR YARD SETBACK	14 UNITS/ACRE
MINIMUM REAR YARD SETBACK	14 UNITS/ACRE
MAXIMUM OVERALL SETBACK	14 UNITS/ACRE
MINIMUM OVERALL SETBACK	14 UNITS/ACRE
MAXIMUM OPEN SPACE	14 UNITS/ACRE
MINIMUM OPEN SPACE	14 UNITS/ACRE
MAXIMUM OPEN SPACE PERCENTAGE	14 UNITS/ACRE
MINIMUM OPEN SPACE PERCENTAGE	14 UNITS/ACRE
MAXIMUM TOTAL SQUARE FOOTAGE	14 UNITS/ACRE
MINIMUM TOTAL SQUARE FOOTAGE	14 UNITS/ACRE
DENSITY BONUS NOTES:	
1. DENSITY BONUS PROVIDED BY PUBLIC BENEFITS CONNECTION TO THE RAILROAD STATION, NEW OPEN SPACE PROVIDED IN THE FRONT YARD AND SIDE YARD SETBACKS. 2. PUBLIC ART PLACES IN FRONT YARD SIDE OF LOT (MAXIMUM 10% OF SITE). 3. PUBLIC ART PLACES IN FRONT YARD SIDE OF LOT (MAXIMUM 10% OF SITE).	
TOTAL DENSITY BONUS CREDIT: 14 DENSITY CREDITS	

**OAKMONT DRIVE at ERKSINE ROAD**  
A MASTER PLANNED RESIDENTIAL DEVELOPMENT

FOR THE  
**LENNAR GEORGIA**  
1000 W. CANTON ROAD, SUITE 200  
MARIETTA, GEORGIA 30067  
PHONE: 770-427-3388

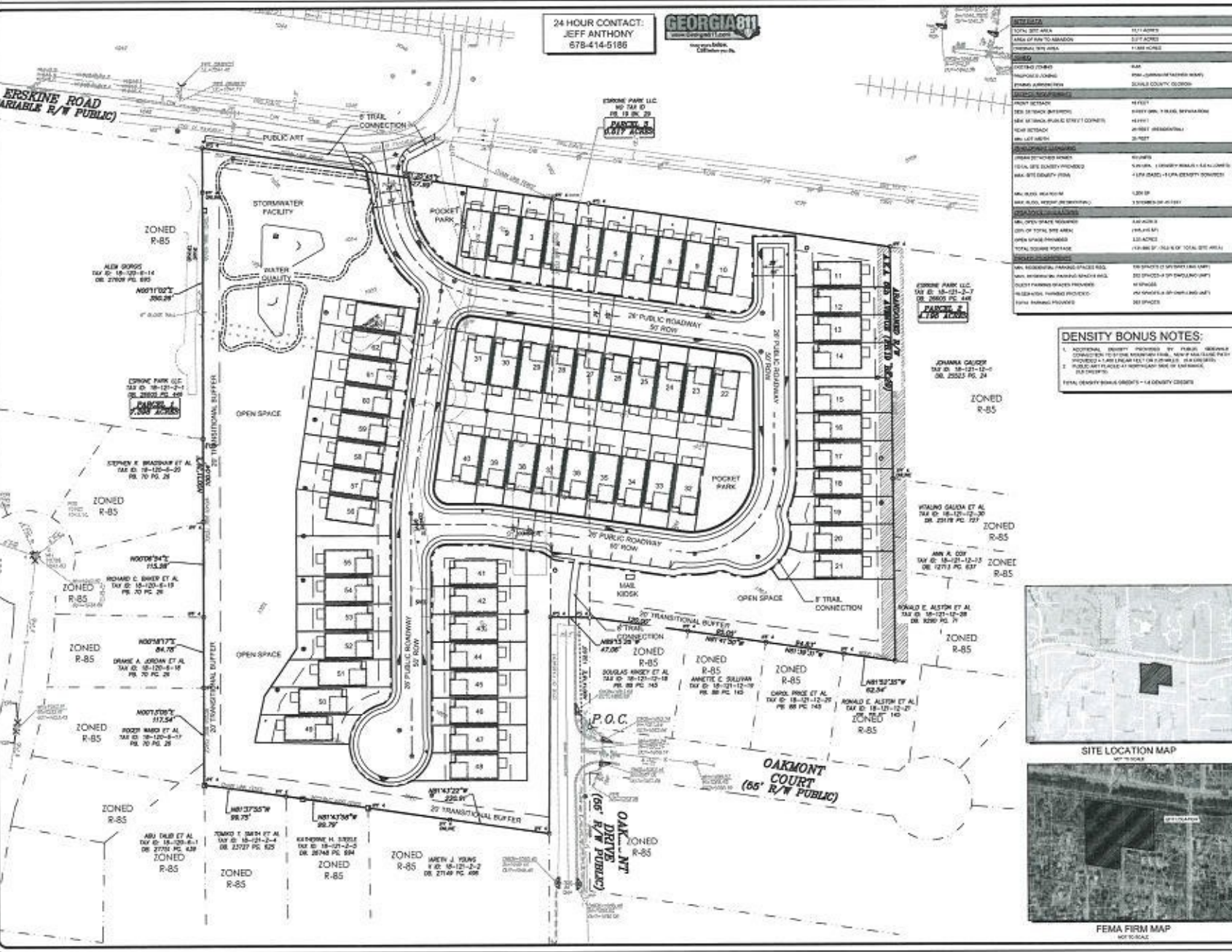
**PLANNERS AND ENGINEERS COLLABORATIVE**  
SITE PLAN, ARCHITECTURAL, AND STRUCTURAL & CIVIL ENGINEERING BLAND BARRETT  
1000 W. CANTON ROAD, SUITE 200  
MARIETTA, GEORGIA 30067  
PHONE: 770-427-3388

**"WE PROVIDE SOLUTIONS"**

**DENSITY BONUS NOTES:**

- DENSITY BONUS PROVIDED BY PUBLIC BENEFITS CONNECTION TO THE RAILROAD STATION, NEW OPEN SPACE PROVIDED IN THE FRONT YARD AND SIDE YARD SETBACKS.
- PUBLIC ART PLACES IN FRONT YARD SIDE OF LOT (MAXIMUM 10% OF SITE).
- PUBLIC ART PLACES IN FRONT YARD SIDE OF LOT (MAXIMUM 10% OF SITE).

TOTAL DENSITY BONUS CREDIT: 14 DENSITY CREDITS



**REVISIONS:**

NO.	DATE	BY	DESCRIPTION



**ZONING MASTER PLAN**

SCALE: 1" = 50'

DATE: AUGUST 11, 2020

PROJECT: 20121.00

THIS SEAL IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.

JEFF ANTHONY, PROFESSIONAL ENGINEER, LICENSE NO. 10424, STATE OF GEORGIA

# TRANSPORTATION


Zoning Comments 10/19/2020

N1. No Comment

N2. No Comment

N3. Review, coordination and approval of GDOT MMIP Project Manager required prior to permitting at [TMatthews@dot.ga.gov](mailto:TMatthews@dot.ga.gov). Redan Road is classified at a minor arterial. Please note infrastructure requirements in Chapter 5 of the Zoning Code (5.4.3, pages 5-14 & 5-15) and Chapter 14, Section 190 of the Land Development Code. Please note that Elder Lane is a private road. Access easements will be required prior to permitting. With 230 proposed units, the land development code (Section 14-200 (5)) requires 3 access points. Please note that this parcel is within the Indian Creek Overlay District.

N4 & N5. GDOT review, coordination and approval required prior to permitting at [Juhatch@dot.ga.gov](mailto:Juhatch@dot.ga.gov). Memorial Drive is classified as a major arterial. Collingwood Drive is classified as a local residential road. Please note infrastructure requirements in Chapter 5 of the Zoning Code (5.4.3, pages 5-14 & 5-15) and Chapter 14, Section 190 of the Land Development Code.

 N6. Site designer to verify intersection sight distance for existing vehicles and stopping sight distance for when a car is waiting to turn left into the development. (Does the through vehicle have enough sight distance to stop in time for a car waiting to turn left into the development?) Erskine Road is classified as a collector road. Oakmont Drive is classified as a local residential road. Please note infrastructure requirements in Chapter 5 of the Zoning Code (5.4.3, pages 5-14 & 5-15) and Chapter 14, Section 190 of the Land Development Code. Add a 10 foot sidewalk along the frontage of Erskine Road to connect to the Atlanta- Stone Mountain Multiuse Path, in lieu of a bike lane. Has any consideration been given to add a vehicular connection to Oakmont Drive? Infrastructure upgrades are also required on the frontage of Oakmont Drive. Owner will have to proceed with a right of way abandonment or swap to make proposed plan work.

N7. Ludovie Road is classified as a local residential road. This property falls within the Northlake Overlay District Tier 2. Please note infrastructure requirements in Chapter 5 of the Zoning Code (5.4.3, pages 5-14 & 5-15) and Chapter 14, Section 190 of the Land Development Code.

N8. Wesley Chapel Road is classified as a minor arterial. Please note infrastructure requirements in Chapter 5 of the Zoning Code (5.4.3, pages 5-14 & 5-15) and Chapter 14, Section 190 of the Land Development Code. Replace existing sidewalk along the frontages.



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](mailto:mmalexander@dekalbcountyga.gov) OR JOHN REID [jreid@DEKALBCOUNTYGA.GOV](mailto:jreid@DEKALBCOUNTYGA.GOV)

COMMENTS FORM:  
PUBLIC WORKS WATER AND SEWER

Case No.: Z-20-1244238

Parcel I.D. #: 18-121-02-001, 18-121-12-007

Address: 4549 Erskine Road and 1247 Oakmont Drive  
Clarkston, Georgia

WATER:

Size of existing water main: 6" DI, 8" DI, & 48" DI Water Main (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A  
MUST UTILIZE 8" DI WATERLINE. MJO

SEWER:

Outfall Servicing Project: Indian Creek Basin

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

Water Treatment Facility: Snappinger 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.

THIS AREA IS CAPACITY RESTRICTED.

SEWER ACTION PLAN WILL BE REQUIRED. MJO

Signature: 



## 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. Recommend Low Impact Development features/ Green Infrastructure be included in the proposed site design to protect as much as practicable the statewaters and special flood hazard areas. It is recommended that the discharge from the stormwater management facility from the development be connected to an existing storm sewer structure to prevent properties downstream from experiencing an increased volume of runoff after construction and also ensure that the downstream conveyance structure(s) is adequately sized to accommodate the additional runoff volume

- **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. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist

- **Tributary Buffer**

State water buffer was not 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.

Board of Health

10/19/2020

To: 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 Operations, Tourist Accommodations, Body Art Studios, Swimming Pools and Water Parks 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. Recommendation: Provide trash can with liner at each bus stop with bench and monitor for proper removal of waste.

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



## Board of Health

- N.1 SLUP-20-1244121 2020-1166/16-060-03-039  
5797 Marbut Road, Lithonia, GA 30058  
- Please review general comments.
- N.2 SLUP-20-1244230 2020-1166/16-060-03-039  
1880 Singer Way, Lithonia, GA 30058  
- Please review general comments.
- N.3 Z-20-1244231 2020-1167/15-228-01-003; 15-228-01-005;  
15-228-01-093; 15-288-01-094  
1014 Elder Lane, Stone Mountain, GA 30083  
- Please review general comments.
- N.4 SLUP-20-1344236 2020-1169/18-012-13-001,18-012-13-002,18-012-13-003,18-012-  
13-004,18-012-13-005,18-012-13-006,18-012-13-007,18-012-13-008,18-012-13-009,18-  
012-13-010,18-012-13-011,18-012-13-013,18-012-13-015,18-012-13-020,18-012-13-021  
4775 Memorial Drive, Decatur, Georgia, GA 30032  
- Septic installed on nearby property 4738 Memorial Drive, Decatur, GA on this date  
of 08/10/1963.  
- Please review general comments.
- N.5 SLUP-20-1244237 2020-1170/18-012-13-001,18-012-13-002,18-012-13-003,18-012-  
13-004,18-012-13-005,18-012-13-006,18-012-13-007,18-012-13-008,18-012-13-009,18-  
012-13-010,18-012-13-011,18-012-13-013,18-012-13-015,18-012-13-020,18-012-13-021  
4775 Memorial Drive, Decatur, GA 30032  
- Septic installed on nearby property 4738 Memorial Drive, Decatur, GA on this date  
of 08/10/1963.  
- Please review general comments.
- ~~X~~ N.6 Z-20-1244238 2020-117/18-121-02-001,18-121-12-007  
4549 Erskine Road, Clarkston, Georgia 30021  
- Septic system installed on nearby property 4479 Erskine Road, Clarkston, Georgia  
30021  
- Please review general comments.
- N.7 SLUP-20-1244241 2020-1172/18-191-01-010  
1896 Ludovie Lane, Decatur, Georgia  
- Please review general comments.

**DeKalb County School District  
Development Review Comments**

Analysis Date: 10/16/2020

Submitted to: DeKalb County

Case #: Z-20-1244238

Parcel #: 18-121-02-001, 18-121-12-007

Name of Development: Erskine Road Townhouses

Location: 4549 Erskine Road

Description: New development with 63 detached townhomes

Impact of Development: When fully constructed, this development would be expected to generate 13 students: 2 at Jolly ES, 1 at Freedom MS, 0 at Clarkston HS, 8 at other DCSD schools, and 2 at private schools. Enrollment at Jolly ES and Clarkston HS is already about capacity, but the impact of this development is expected to be minimal.

<b>Current Condition of Schools</b>	<b>Jolly ES</b>	<b>Freedom MS</b>	<b>Clarkston HS</b>	<b>Other DCSD Schools</b>	<b>Private Schools</b>	<b>Total</b>
Capacity	675	1,258	1,196			
Portables	3	0	15			
Enrollment (Fcast. Oct. 2020)	754	1,163	1,493			
Seats Available	-79	95	-297			
Utilization (%)	111.7%	92.4%	124.8%			

<b>New students from development</b>	2	1	0	8	2	13
--------------------------------------	---	---	---	---	---	----

New Enrollment	756	1,164	1,493
New Seats Available	-81	94	-297
New Utilization	112.0%	92.5%	124.8%

<b>Yield Rates</b>	<b>Attend Home School</b>	<b>Attend other DCSD School</b>	<b>Private School</b>	<b>Total</b>
Elementary	0.0339	0.0847	0.0169	0.1356
Middle	0.0169	0.0339	0.0169	0.0678
High	0.0000	0.0169	0.0000	0.0169
<b>Total</b>	<b>0.0508</b>	<b>0.1356</b>	<b>0.0339</b>	<b>0.2203</b>
<b>Student Calculations</b>				
<b>Proposed Units</b>	63			
<b>Unit Type</b>	TH			
<b>Cluster</b>	Clarkston HS			
<b>Units x Yield</b>	<b>Attend Home School</b>	<b>Attend other DCSD School</b>	<b>Private School</b>	<b>Total</b>
Elementary	2.14	5.34	1.07	8.55
Middle	1.07	2.14	1.07	4.28
High	0.00	1.07	0.00	1.07
<b>Total</b>	<b>3.21</b>	<b>8.55</b>	<b>2.14</b>	<b>13.90</b>
<b>Anticipated Students</b>	<b>Attend Home School</b>	<b>Attend other DCSD School</b>	<b>Private School</b>	<b>Total</b>
Jolly ES	2	5	1	8
Freedom MS	1	2	1	4
Clarkston HS	0	1	0	1
<b>Total</b>	<b>3</b>	<b>8</b>	<b>2</b>	<b>13</b>



DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM

N-6

**NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE ALEXANDER [mmalexander@dekalbcountyga.gov](mailto:mmalexander@dekalbcountyga.gov) AND/OR LASONDRA HILL [lahill@dekalbcountyga.gov](mailto:lahill@dekalbcountyga.gov)**

COMMENTS FORM:  
**PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: 2-20-1244238 Parcel I.D. #: 18-121-02-001

Address: 4549  
Erskine Rd  
Clarkston, 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.

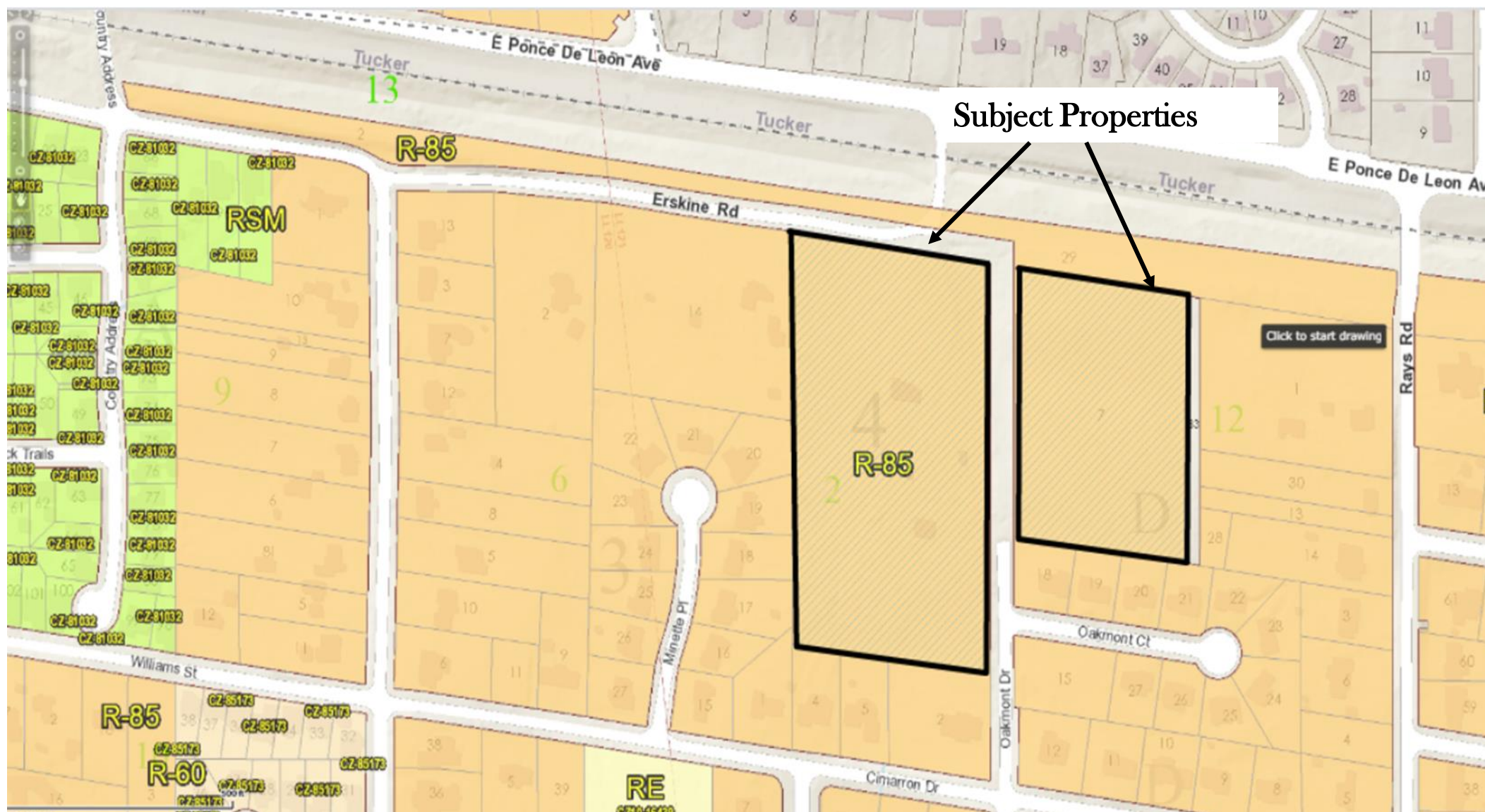
According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7<sup>TH</sup> Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula,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

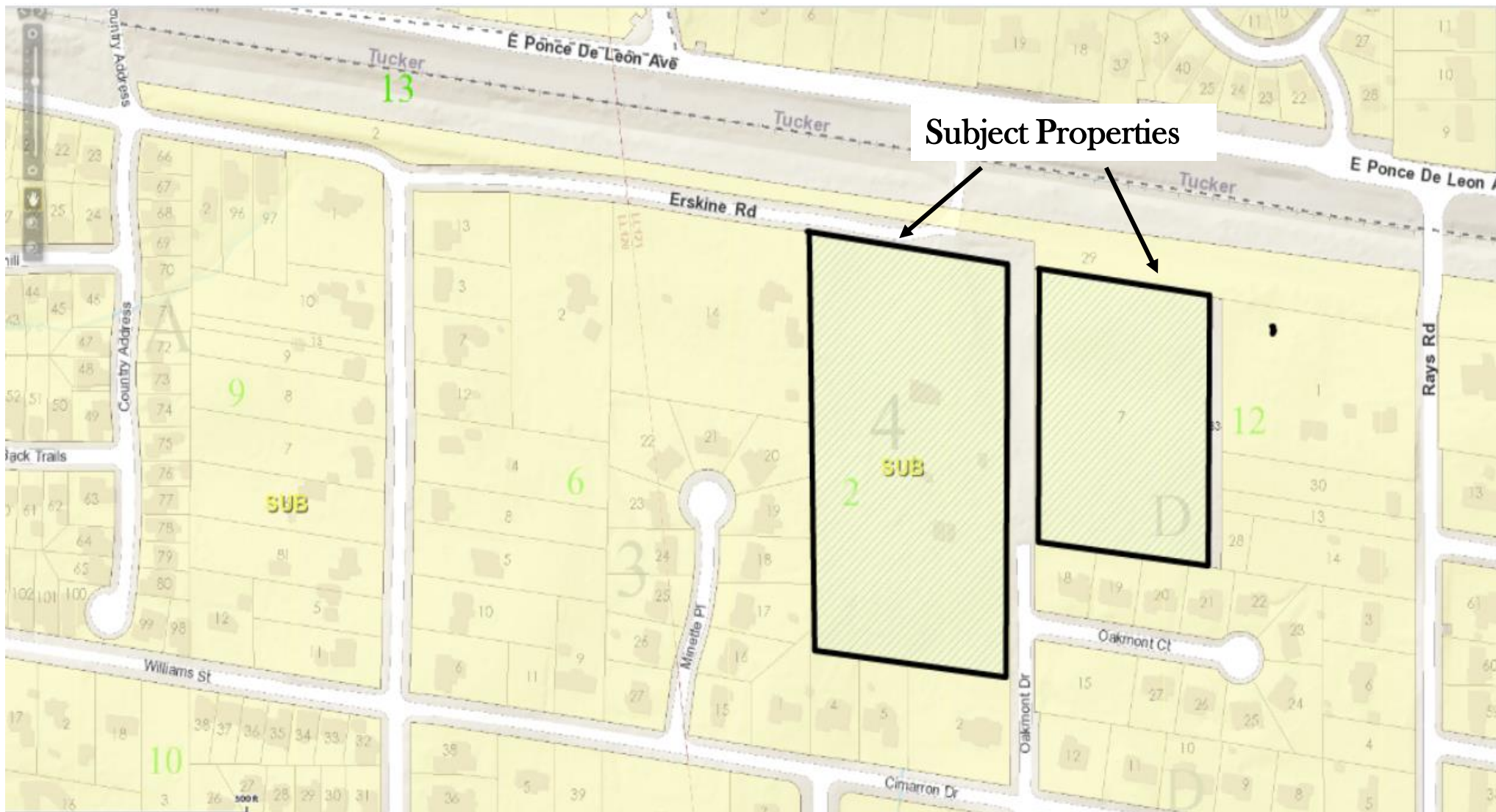
COMMENTS:

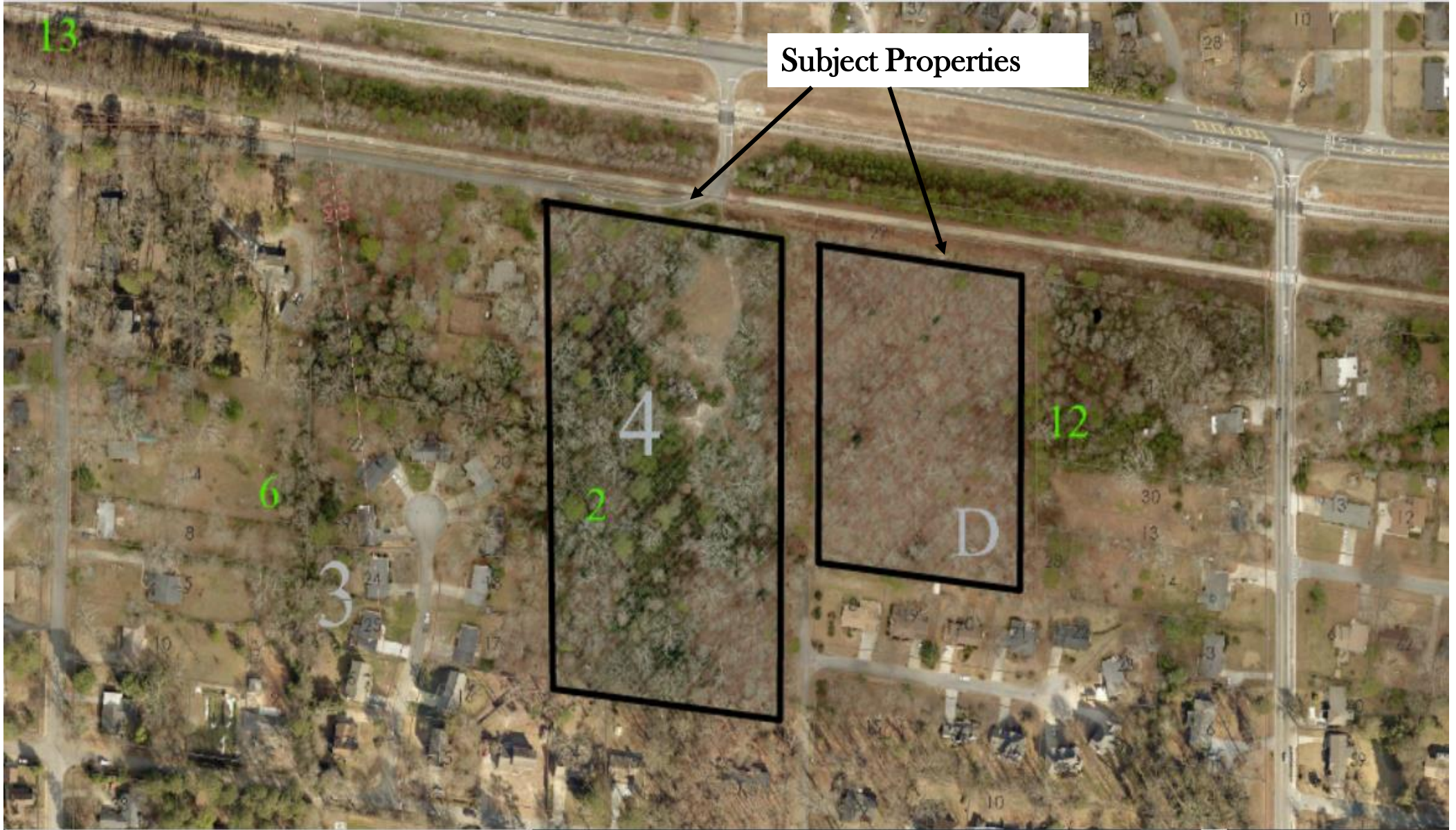
Field and plans reviewed. No problem  
found that would disrupt traffic flow

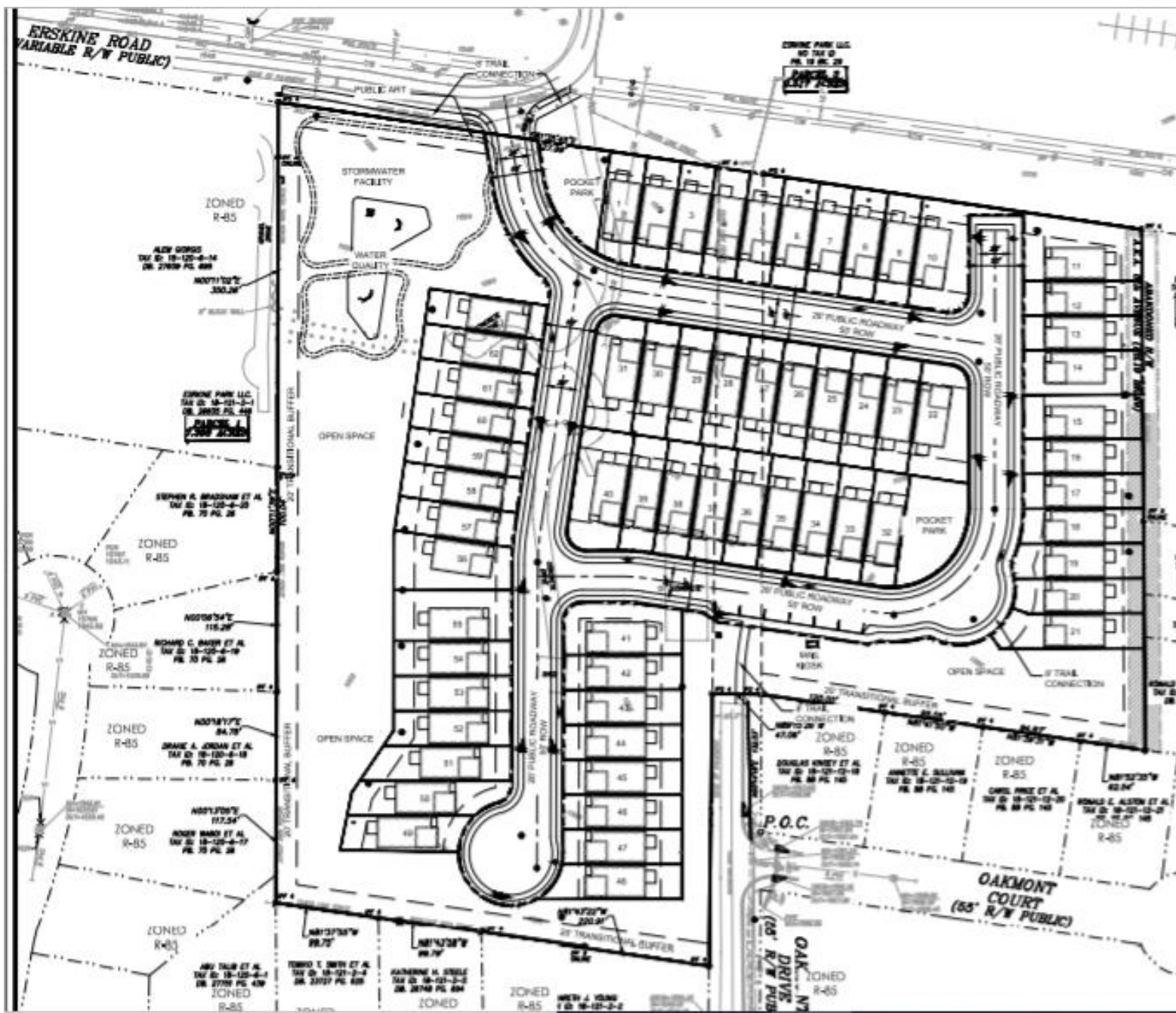
Signature: [Signature] David M. Ross















BOSTON B

COLUMBIA B

BOSTON C

COLUMBIA C

ATLANTA C

APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

Z/CZ No. \_\_\_\_\_ Filing Fee: \_\_\_\_\_

Date Received: \_\_\_\_\_ Application No.: \_\_\_\_\_

Applicant: Lennar Corporation c/o Battle Law, P.C. E-Mail: mlb@battlelawpc.com

Applicant Mailing Address: One West Court Square, Ste. 750 Decatur, GA 30030

Applicant Phone: 404.601.7616 Fax: 404.745.0045

Owner(s): Erskine Park, LLC E-Mail: \_\_\_\_\_ (If more than one owner, attach as Exhibit 'A')

Owner's Mailing Address: P.O. Box 2201, Silverthorne, Summit, CO 80498

Owner(s) Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address/Location of Subject Property: 4549 Erskine Road & 1247 Oakmont Drive, Clarkston, GA 30021

District(s): 18 Land Lot(s): 121 Block: 02 & 12 Parcel(s): 001 & 007

Acreage: 12.11 Commission District(s): 4 & 6

Present Zoning Category: R-85 Proposed Zoning Category: RSM

Present Land Use Category: SUB

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted.

Disclosure of Campaign Contributions

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

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes No

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

- 1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the...



# DeKalb County Department of Planning & Sustainability



Michael L. Thurmond  
Chief Executive Officer

Andrew A. Baker, AICP  
Director

## APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

Z/CZ No. \_\_\_\_\_  
Filing Fee: \_\_\_\_\_

Date Received: \_\_\_\_\_ Application No.: \_\_\_\_\_

Applicant: Lennar Corporation c/o Battle Law, P.C. E-Mail: mlb@battlelawpc.com

Applicant Mailing Address: One West Court Square, Ste. 750 Decatur, GA 30030

Applicant Phone: 404.601.7616 Fax: 404.745.0045

Owner(s): Erskine Park, LLC E-Mail: \_\_\_\_\_  
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: P.O. Box 2201, Silverthorne, Summit, CO 80498

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Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? \_\_\_\_\_ Yes X No

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing;

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

NOTARY

EXPIRATION DATE / SEAL

SIGNATURE OF APPLICANT / DATE

Check One: Owner \_\_\_\_\_ Agent X

330 West Ponce de Leon Avenue - Suites 100-500 - Decatur, Georgia - 30030  
[voice] 404.371.2155 - [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007  
Web Address: <http://www.dekalbcountyga.gov/planning>  
Email Address: [planninganddevelopment@dekalbcountyga.gov](mailto:planninganddevelopment@dekalbcountyga.gov)



404.371.2155 (o)  
404.371.4556 (f)  
DeKalbCountyGa.gov

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

Chief Executive Officer  
Michael Thurmond

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

Director  
Andrew A. Baker, AICP

**REZONE APPLICATION AUTHORIZATION**

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

DATE: \_\_\_\_\_

CHECK TYPE OF APPLICATION:

- LAND USE PLAN
- REZONE
- MINOR MODIFICATION

TO WHOM IT MAY CONCERN:

( I ) ( WE ), \_\_\_\_\_ Erskine Park, LLC  
(Name of owner(s))

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

\_\_\_\_\_ Lennar Corporation c/o Battle Law, P.C.  
(Name of Applicant or Agent Representing Owner)

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

*Gabrielle C. Opie*  
Notary Public



*Marie Devine*  
dotloop verified  
09/01/20 5:54 PM EDT  
RE1N-PYES-KOT6-FSS1

Owner

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

Owner

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

Owner

Chief Executive Officer  
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director  
Andrew A. Baker, AICP

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

Applicant Name: Lennar/c/o Battle Law PC\_\_\_ Phone: 404.601.7616\_\_\_\_\_ Email:  
mlb@battlelawpc.com\_\_\_\_\_

Property Address: 4549 Erskine Road and 1247 Oakmont Drive, Clarkston, Georgia

Tax Parcel ID: 18 121 02 001, 18 121 12 007

Comm. District(s): 4 & 6 \_\_\_\_\_ Acreage: \_\_12.11 acres\_\_\_\_\_

Existing Use: \_Residential \_\_\_\_\_

Proposed Use: 63 Single-family detached urban townhomes at 5.2 units per acre with density bonus\_\_\_\_\_

Supplemental Regs: NA\_\_\_\_\_ Overlay District: NA\_\_ DRI: No \_\_\_\_\_

**Rezoning:** Yes  No \_\_\_\_\_

Existing Zoning: \_\_\_\_\_R85\_\_\_\_\_ Proposed Zoning: RSM\_\_\_\_\_

Square Footage/Number of Units: \_\_\_\_\_

Rezoning Request: R85 to RSM for Development of Urban detached Townhomes Community

**Land Use Plan Amendment:** Yes \_\_\_ No

Existing Land Use: \_\_\_\_\_SUB\_\_\_\_\_ Proposed Land Use: \_\_\_\_\_NA\_\_\_\_\_ Consistent   
Inconsistent \_\_\_\_\_

**Special Land Use Permit:** Yes \_\_\_ No  Article Number(s) 27-\_\_\_\_\_

Special Land Use Request(s)

NA\_\_\_\_\_

**Major Modification:** NO

Existing Case Number(s): \_\_\_\_\_NA\_\_\_\_\_

Condition(s) to be modified:

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

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**WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION**

Pre-submittal Community Meeting:  Review Calendar Dates:  PC:  BOC:  
 Letter of Intent:  Impact Analysis:  Owner Authorization(s):  Campaign  
Disclosure:  Zoning Conditions:  Community Council Meeting:  Public  
Notice, Signs:  Tree Survey, Conservation:  Land Disturbance Permit (LDP):  
 Sketch Plat:  Bldg. Permits: \_\_\_\_\_ Fire Inspection: \_\_\_\_\_ Business License:  
 State License:  Lighting Plan:  Tent Permit: \_\_\_\_\_ Submittal Format:

NO STAPLES, NO BINDERS PLEASE

**Review of Site Plan**

Density:  Density Bonuses:  Mix of Uses:  na  Open Space:   
Enhanced Open Space:  Setbacks: front  na  sides  na  side corner  na  rear  
 Lot Size: \_\_\_\_\_ Frontage:  Street Widths: \_\_\_\_\_ Landscape Strips:   
Buffers: \_\_\_\_\_ Parking Lot Landscaping:  NA  Parking - Auto: \_\_\_\_\_ Parking - Bicycle:  
\_\_\_\_\_ Screening: \_\_\_\_\_ Streetscapes: \_\_\_\_\_ Sidewalks: \_\_\_\_\_ Fencing/Walls: \_\_\_\_\_ Bldg.  
Height: \_\_\_\_\_ Bldg. Orientation: \_\_\_\_\_ Bldg. Separation: \_\_\_\_\_ Bldg. Materials: \_\_\_\_\_ Roofs: \_\_\_\_\_  
Fenestration: \_\_\_\_\_ Façade Design: \_\_\_\_\_ Garages: \_\_\_\_\_ Pedestrian Plan: \_\_\_\_\_ Perimeter Landscape  
Strip: \_\_\_\_\_

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Comments: Check traffic capacity of Erskine Road, will be reviewed by County Traffic Engineer. Need to provide justification for RSM zoning in R-85 area, and provide justification for compatibility of proposed two story structures on small lots in midst of larger lot single-family detached community in surrounding area. If providing single-family detached, the perimeter lot compatibility standards of Article 5.2.3 may apply since proposing more than 20 lots; however applicant contends that this is not applicable because these are “urban”

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

detached and not single-family detached, and the proposed lots are not directly adjacent to the existing perimeter lots. Streetscape requirements required along frontage of Erskine. Landscaping of 3 trees per single-family lot required by Article 5. Applicant has provided 20 foot buffer around the perimeter as required by zoning ordinance. Applicant is encouraged to provide conceptual elevations to show compliance with Building materials requirements in Article 5. Applicant will be abandoning part of Oakmont drive. Applicant will be using public art for a portion of density bonus—location to be determined, may be on or off-site. Applicant already has pre-community Zoom meeting scheduled prior to September 2nd deadline.

Planner: John Reid Date 8/12/2020

Filing Fees

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

**STATEMENT OF INTENT AND**  
**IMPACT ANALYSIS**

and

Other Material Required by  
DeKalb County Zoning Ordinance  
for the  
Application for Rezoning

of

**Lennar Georgia, Inc.**

for

12.11± acres of land located at  
**4549 Erskine Park and 1247 Oakmont Drive**  
**Land Lot 121 of the 18<sup>th</sup> District, DeKalb County, GA**

Submitted for Applicant by:

Michèle L. Battle, Esq.  
Battle Law, P.C.  
One West Court Square, Suite 750  
Decatur, Georgia 30030  
Phone: (404) 601-7616  
Fax: (404) 745-0045  
Email: [mlb@battlelawpc.com](mailto:mlb@battlelawpc.com)



## **I. STATEMENT OF INTENT**

The Applicant, Lennar Georgia, Inc. is seeking to rezone the properties located at 4549 Erskine Park and 1247 Oakmont Drive, along with the unopened portion of Oakmont Drive which cuts through the property (collectively, the Subject Property”), to be rezoned from R-85 to RSM for the development of a 63 unit urban detached townhome community, at a density of 5.20 units per acre. The Subject Property has a land use designation of Suburban. In order to achieve the density bonus of 1.2 units per acre, the Applicant will be providing the following:

1. Public sidewalk connection to Stone Mountain Trail with a new 8 ft multi-use path of 1,480 linear feet or .28 miles (0.8 density credits) as shown on the submitted site plan.
2. Public art. (.8 density credits).

This document is submitted both as a Statement of Intent regarding this Application, a preservation of the Applicant’s constitutional rights, and the Impact Analysis of this Application as required by the DeKalb County Zoning Ordinance. A surveyed plat and conceptual site plan of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

## **II. IMPACT ANALYSIS**

- (a) Suitability of use: The proposed rezoning will allow for the development of residential lots at a density that is suitable for the area considering the existing uses and zoning classifications in the area, which are all for residential development. The proposed urban detached townhome community will allow for a product that is attractive to young professionals and empty nesters who have a desire to live near the Stone Mountain Trail, with easy access to Highway 78, and within a short distance of Stone Mountain Park.

- (b) Effect on adjacent property: The proposed development will have a positive impact on the surrounding community. First, it will provide for new homes owners in the area, on a underdeveloped lot. Second, the anticipated price points on the homes be equal to or greater than the surrounding home values, which will help support the existing home values in the area. Third, the Applicant will be making improvements to access to Stone Mountain Trail which will benefit the surrounding community.
- (c) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed rezoning will not cause excessive use of streets, transportation facilities, or utilities in the area.
- (d) Economic use of current zoning: The Subject Property has no use as currently zoned R-85. The current owner of the Subject Property has been marketing the property for sale since 2013. To date no prospective purchaser has been willing to develop the Subject Property as current zoned. Due to the increase in construction costs, along with the extensive improvements now required by Dekalb County for residential subdivisions, including, internal sidewalks, street trees, street lights, open space requirements, right of way dedication together with public streetscape requirements, detention requirements, and new home design requirements, the cost of development would far exceed the current density allowed on the Subject Property. Additionally, the current market supports smaller lot development.
- (e) Effect on historic building, sites, etc. The approval of this Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.

(f) Compatibility with Comprehensive Land Use Plan. The Subject Property has a land use designation of Suburban which supports the RSM zoning district.

**IV. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the Land use Amendment Application at issue be approved. Please note that the Applicant's Notice of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 3<sup>rd</sup> day of September, 2020.

Respectfully submitted,



---

Michèle L. Battle, Esq.  
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF  
CONSTITUTIONAL RIGHTS

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

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the DeKalb County Board of Commissioners to rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

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

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


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

Campaign Contribution Disclosure Statements

**CAMPAIGN CONTRIBUTIONS DISCLOSURE STATEMENT**

Pursuant to the provisions of 36 O.C.G.A. 67(A), please find below a list of those contributions made by Michèle L. Battle or Battle Law, P.C. in the past two years, aggregating \$250.00 or more, to local government officials who will consider this application.

<b>NAME OF GOV'T OFFICIAL</b>	<b>OFFICIAL POSITION</b>	<b>AMOUNT OF CONTRIBUTION</b>
Kathie Gannon	Commissioner	\$350
Mereda Davis Johnson	Commissioner	\$500
Larry Johnson	Commissioner	\$700
Lorraine Cochran-Johnson	Commissioner	\$250

By:   
Printed Name: Michèle Battle

**ERSKINE ROAD  
VARIABLE R/W PUBLIC)**

1042

1044

x1045.9  
x1045.9  
x1046.0

x1046.2  
x1046.2

x1046.1  
x1046.3  
x1046.4

PIPE (BURIED)  
I.E.=1044.40

PIPE (BURIED)  
I.E.=1044.73

BIKE ROUTE

1048

8' TRAIL  
CONNEC  
OW

MO  
1048

MO

PP  
1046.4

OW

1048

PP

MB

EDGE OF PAVEMENT

19.8'

PUBLIC ART

CHAIN LINK FENCE

EDGE C

IPS 4

MO

1050

IPF 4  
ONLINE

STORMWATER  
FACILITY

ZONED  
R-85

1054

ALEM GIORGIS  
TAX ID: 18-120-6-14  
DB. 27609 PG. 695

N00°11'02"E  
350.26'

8" BLOCK WALL

GRAVEL  
DRIVE

WOVEN WIRE FENCE

1056

WATER  
QUALITY

1060

CONCRETE  
DRIVE  
63



8' TRAIL CONNECTION

STORMWATER FACILITY

WATER QUALITY

POCKET PARK

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

OPEN SPACE

20' TRANSITIONAL BUFFER

- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40

POCKET PARK

OPEN SPACE

20' TRANSITIONAL BUFFER

- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49
- 50
- 51
- 52
- 53
- 54
- 55
- 56
- 57
- 58
- 59
- 60
- 61
- 62
- 63

MAIL KIOSK

OPEN SPACE

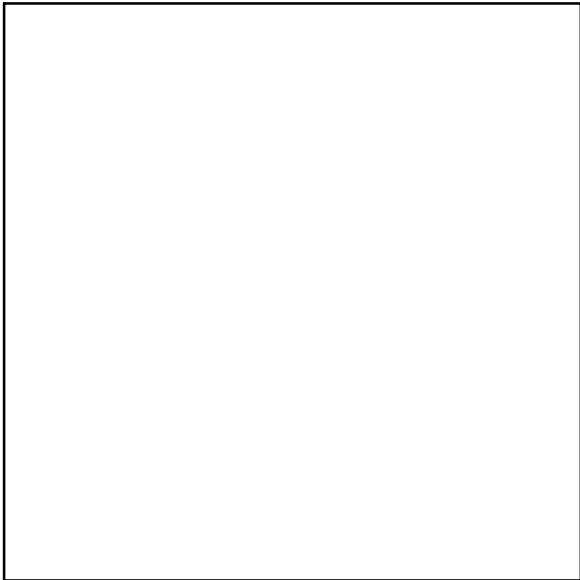
8' TRAIL CONNECTION

20' TRANSITIONAL BUFFER

8' TRAIL CONNECTION



*COUNTY CLERK*



*LEGAL DESCRIPTION*

ALL THAT TRACT OR PART  
District, DeKalb County, G

TO FIND THE POINT OF BEGINNING  
of the northerly Right-of-Way  
the easterly R/W of Oakridge  
minutes 18 seconds East  
89 degrees 15 minutes 26  
said point being THE TRACT  
minutes 34 seconds West  
North 81 degrees 43 min  
pin found; thence North  
99.79' to a #4 iron pin  
West a distance of 99.73  
minutes 05 seconds East  
North 00 degrees 18 min  
pin found; thence North  
115.28' to a #4 iron pin  
East a distance of 100.0  
11 minutes 02 seconds E  
South 81 degrees 35 min  
pin found; thence South  
504.90' to a #4 iron pin

Said tract having an area

*NOTES*

1. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THIS SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION SUPPLIED AND TO THE SURVEYOR'S BEST KNOWLEDGE ARE APPROXIMATELY AS SHOWN. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

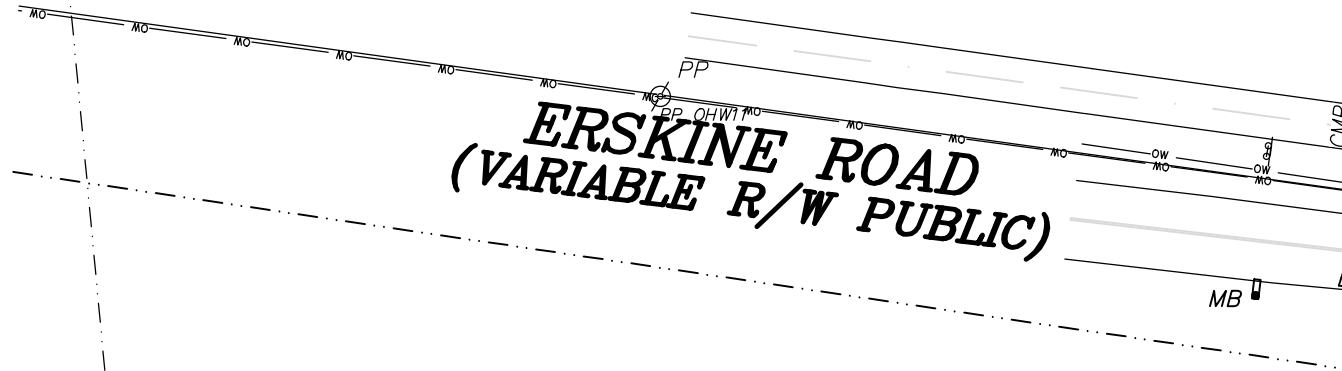
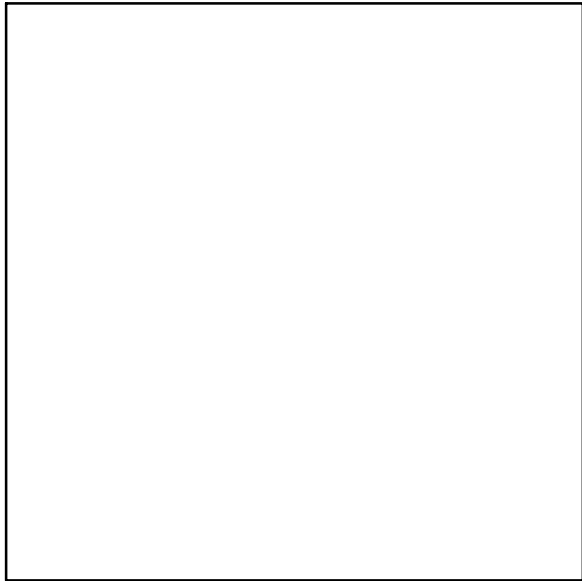
2. I HAVE EXAMINED THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR DEKALB COUNTY, GEORGIA AND INCORPORATED AREAS, COMMUNITY PANEL NUMBER 13089C0078K, EFFECTIVE DATE AUGUST 15, 2019 AND FOUND THE PROPERTY SHOWN HEREON TO FALL WITHIN A DESIGNATED FLOOD ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD.

3. THE ORTHOMETRIC HEIGHTS (ELEVATIONS AND CONTOURS) SHOWN HEREON WERE DETERMINED BY GPS OBSERVATIONS AND WERE ADJUSTED BY PLANNERS AND

*LEGAL DESCRIPTION*

ALL THAT TRACT OR PART  
District, DeKalb County, G

COUNTY CLERK



ALEM GIORGIS  
TAX ID: 18-120-6-14  
DB. 27609 PG. 695

N00°11'02"E  
350.26'

### LEGAL DESCRIPTION PARCEL 1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 121 of the 18th District, Dekalb County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, COMMENCE at a point located at the intersection of the northerly Right-of-Way (R/W) line of Oakmont Court (55' R/W public) and the easterly R/W of Oakmont Drive (55' R/W public); thence North 00 degrees 14 minutes 18 seconds East a distance of 132.03' to a #4 iron pin set; thence North 89 degrees 15 minutes 26 seconds West a distance of 47.06' to a #4 iron pin set; said point being THE TRUE POINT OF BEGINNING., thence South 00 degrees 44 minutes 34 seconds West a distance of 261.19' to a #4 iron pin found; thence North 81 degrees 43 minutes 22 seconds West a distance of 220.91' to a #4 iron pin found; thence North 81 degrees 43 minutes 58 seconds West a distance of 99.79' to a #4 iron pin found; thence North 81 degrees 37 minutes 55 seconds West a distance of 99.75' to a #4 iron pin found; thence North 00 degrees 13 minutes 05 seconds East a distance of 117.54' to a #4 iron pin found; thence North 00 degrees 18 minutes 17 seconds East a distance of 84.78' to a #4 iron pin found; thence North 00 degrees 06 minutes 54 seconds East a distance of 115.28' to a #4 iron pin found; thence North 00 degrees 11 minutes 39 seconds East a distance of 100.04' to a #6 open top pipe found; thence North 00 degrees 11 minutes 02 seconds East a distance of 350.26' to a #4 iron pin set; thence South 81 degrees 35 minutes 45 seconds East a distance of 427.99' to a #4 iron pin found; thence South 00 degrees 44 minutes 34 seconds West a distance of 504.90' to a #4 iron pin set; and THE TRUE POINT OF BEGINNING.

Said tract having an area of 7.398 acres.

### LEGAL DESCRIPTION PARCEL 2

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 121 of the 18th District, Dekalb County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, COMMENCE at a point located at the intersection of the northerly Right-of-Way (R/W) line of Oakmont Court (55' R/W public) and the easterly R/W of Oakmont Drive (55' R/W public); thence North 00 degrees 14 minutes 18 seconds East a distance of 132.03' to a #4 iron pin set; said point being THE TRUE POINT OF BEGINNING., thence North 00 degrees 14 minutes 18 seconds East a distance of 499.10' to a #4 iron pin set; thence South 81 degrees 40 minutes 48 seconds East a distance of 367.12' to a #4 iron pin found; thence South 00 degrees 22 minutes 00 seconds East a distance of 499.67' to a point; thence North 81 degrees 52 minutes 35 seconds West a distance of 62.54' to a #4 iron pin found; thence North 81 degrees 39 minutes 31 seconds West a distance of 94.83' to a #4 iron pin found; thence North 81 degrees 41 minutes 50 seconds West a distance of 95.05' to a #4 iron pin found; thence North 81 degrees 40 minutes 41 seconds West a distance of 120.00' to a #4 iron pin set; and THE TRUE POINT OF BEGINNING.

Said tract having an area of 4.195 acres.

### LEGAL DESCRIPTION PARCEL 3

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 121 of the 18th District, Dekalb County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, COMMENCE at a point located at the intersection of the northerly Right-of-Way (R/W) line of Oakmont Court (55' R/W public) and the easterly R/W of Oakmont Drive (55' R/W public); thence North 00 degrees 14 minutes 18 seconds East a distance of 132.03' to a #4 iron pin set; said point being THE TRUE POINT OF BEGINNING., thence North 89 degrees 15 minutes 26 seconds West a distance of 47.06' to a #4 iron pin set; thence North 00 degrees 44 minutes 34 seconds East a distance of 504.90' to a #4 iron pin found; thence South 81 degrees 29 minutes 09 seconds East a distance of 43.06' to a #4 iron pin set; thence South 00 degrees 14 minutes 18 seconds West a distance of 499.10' to a #4 iron pin set; and THE TRUE POINT OF BEGINNING.

Said tract having an area of 0.517 acres.

# LENNAR®



**BOSTON B**

**COLUMBIA B**

**BOSTON C**

**COLUMBIA C**

**ATLANTA**

# LENNAR®

ATLANTA DIVISION  
1000 HOLCOMB WOODS PKWY BLDG 400 SUITE 450 ROSWELL GA 30076