



DeKalb County Department of Planning & Sustainability

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Decatur, GA 30030

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Michael Thurmond
Chief Executive Officer

Planning Commission Hearing Date: March 3, 2020, 6:30 P.M

Board of Commissioners Hearing Date: May 28, 2020, 5:30 P.M.

STAFF ANALYSIS

Case No.: Z-20-1243755 **Agenda #:** N6

Location/Address: 879 & 895 Porter Road **Commission District:** 04 **Super District:** 06

Parcel ID: 15-229-04-022 & 15-229-04-061

Request: To rezone properties from R-75 (Residential Medium Lot - 75) to RSM (Residential Small Lot Mix) to develop a 70-unit luxury townhome community at a density of six units per acre.

Property Owner/Agent: Edward Davis, Administrator of Estate of Gus Davis

Applicant/Agent: Core Development Group, LLC c/o Battle Law, P.C.

Acreage: 11.8 acres

Existing Land Use: The site is undeveloped with mature shrubbery, trees, and vegetation

Surrounding Properties & Adjacent Zoning: North of the subject properties on Porter Road is an undeveloped parcel on R-75 (Residential Medium Lot) zoned property which has the MATRA rail line running east and west along the center of the property. Further east is the location of the *Mount Pleasant Baptist Church* on R-75 (Residential Medium Lot) zoned property, as well as multi-family housing on MR-2 (Residential Medium Lot) zoned property. Directly south of the subject properties are single-family detached homes on R-75 (Residential Medium Lot) zoned properties. West of the subject properties is an undeveloped parcel that is zoned R-75 (Residential Medium lot) which has a creek that runs east and west along the center property as well as the MARTA rail line that runs east and west of the northern edge of the property. Also, located west of the subject properties are multi-family housing on MR-2 (Residential Medium Lot) zoned property.

Comprehensive Plan: SUB **Consistent** **Inconsistent**

Proposed Density: Six (6) units per acre	Existing Density: Undeveloped Parcels
Proposed Units/Square Ft.: 70 single family attached homes (townhomes)	Existing Units/Square Feet: Undeveloped Parcels
Proposed Lot Coverage: N/A	Existing Lot Coverage: Undeveloped Parcels

SUBJECT PROPERTIES

Both properties combined are approximately 11.8 acres and have approximately 1,397 feet of street frontage along Porter Road. The properties are currently undeveloped with mature shrubbery, trees, and vegetation. To the north of the subject properties on Porter Road is an undeveloped parcel on R-75 (Residential Medium Lot) zoned property that has the MATRA rail line running east and west along the center of the property. Further east is the location of the *Mount Pleasant Baptist Church* on R-75 (Residential Medium Lot) zoned property, as well as multi-family housing on MR-2 (Residential Medium Lot) zoned property. Directly south of the subject properties are single-family detached homes on R-75 (Residential Medium Lot) zoned properties. West of the subject properties is an undeveloped parcel that is zoned R-75 (Residential Medium lot) which has a creek that runs east and west along the center property as well as the MARTA rail line that runs east and west of the northern edge of the property. Also, located west of the subject properties are multi-family housing on MR-2 (Residential Medium Lot) zoned property.

ZONING HISTORY

Both properties have always been zoned R-75 (Residential Medium Lot) and undeveloped.

ZONING ANALYSIS

The site is currently zoned R-75 (Residential Medium Lot). The proposed RSM (Residential Small Lot Mix) zoning district is appropriate for the site given its consistency with the 2035 Comprehensive Future Land Use Map which designates this site within the Suburban (SUB) Character Area. The intent of the Suburban (SUB) Character Area is to recognize areas in the DeKalb County that have been developed in traditional suburban land use patterns while encouraging new development to increased connectivity and accessibility.

Per section 27-2.12.1(A)(B) of the DeKalb County Zoning ordinance, the intent of the RSM (Residential Small Lot Mix) zoning district is to provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options, and to provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods. The proposed RSM zoning district is compatible with adjacent and surrounding uses of the subject properties.

PROJECT ANALYSIS

Per the submitted application and site plan, the applicant is requesting to rezone the both properties from R-75 (Residential Medium Lot -75) District to RSM (Small Lot Residential Mix) District as well as combine both properties to allow for the development of a 70-unit luxury townhome community at a density of six units per acre.

The proposed density is a result from a density bonus based on the eligibility and calculations shown in section 27-2.12.5-Table 2.5 of the DeKalb County zoning ordinance. The initial density requires the applicant to provide a maximum of four units per acre per the RSM (Small Lot Residential Mix) zoning district. Based on the proposed density bonus, the

applicant will be able to increase the base max from four units per acre to six units per acre since an additional 20% of enhanced open space is provided.

Based on the submitted plans and elevations, the proposed 70 townhomes will be front loaded from the proposed right-of-way. The applicant will provide 280 parking spaces (four spaces per unit- two in garage and two in driveway). The proposed townhomes will be designed with French country style garages, front porches, and detail landscaping on each townhome. Other architectural features will include screen porches, outdoor fireplaces, sunrooms, and offsets at the rear on each proposed townhome. The proposed exterior building materials will consist of brick, stone, shake shingle, stucco, and an architectural shingle roofing. There will only be one access into the development from Porter Road. The applicant will provide a six-foot sidewalk and a 10-foot landscape strip with acorn streetlights along the entire frontage of the development that will extend north to the intersection of Kensington Road and Porter Road.

The proposed development will consist of several amenities such as a pocket park that will be located north of the proposed entrance, a park space/walking trails directly south of the proposed entrance, and a dog park that will be placed adjacent to units 51-54.

IMPACT ANALYSIS

Section 27-7.3.4 of the DeKalb County Code 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 2035 Comprehensive Plan designates the subject site within the Suburban (SUB) Character Area. The Suburban (SUB) Character Area is identified as areas with low pedestrian orientation, limited transit access, scattered civic buildings, and curvilinear street patterns. The proposed rezoning and development is compatible with the policy and intent of the 2035 Comprehensive Plan.

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 rezoning to the RSM (Small Lot Residential Mix) District will allow for the development of 70 luxury attached townhomes at a proposed density of six (6) units per acre and will be compatible with adjacent and surrounding uses of the subject properties.

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

The subject properties are both oddly shaped, and sloped approximately 60 feet from the front of the properties to the creek at the northern edge. The topography of the site provides a challenge in developing the site into similar traditional style R-75 lots.

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

The rezoning request to the RSM (Small Lot Residential Mix) District should not adversely affect the use or usability of adjacent and/or nearby residential properties along Porter Road.

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 site is surrounded by residential zoned properties. The proposed rezoning to RSM and development of 70 townhomes is consistent with the Suburban (SUB) Character Area policies identified by the 2035 Comprehensive Plan.

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

There are no known historic buildings, sites, districts or archeological resources that would be adversely affected by the rezoning request to the RSM District.

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 DeKalb County Public Works—Roads and Drainage Division did not see any concerns.

Per the DeKalb County Department of Public Works – Transportation Division requires that the applicant improve the curves along the frontage of Porter Road and bring Porter Road up to county standards along the entire frontage in order to obtain permit. Also, the applicant will be required to provide a signed and sealed sight distance calculations (stopping and intersection) for the access point onto Porter Road based on AASHTO sight distance guidelines.

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

The request for RSM zoning on the site should not adversely impact the environment or surrounding natural resources. The applicant will be required to go through the Land Disturbance Permitting (LDP) process to ensure the tree preservation standards and storm water management standards requirements are met.

COMPLIANCE WITH DISTRICT STANDARDS PER TABLE 2.4:

Property zoned for RSM (Small Lot Residential Mix) must comply with minimum development standards per Article 2 – Table 2.4 Medium and High-Density Residential Zoning Districts Dimensional Requirements of the DeKalb County Zoning Ordinance.

RSM STANDARD	REQUIREMENT	PROPOSED	COMPLIANCE
LOT WIDTH (M)	25 feet	1,397 feet	YES
LOT AREA (M)	1,000 SQUARE FEET	514,008 square feet (11.8 acres)	YES
LOT COVERAGE	70% (MAXIMUM)	N/A	N/A
MINIMUM UNIT SIZE	1,200 SQUARE FEET	1,200 SQUARE FEET	YES
DWELLING UNITS PER ACRE	4 – 8	6	YES
FRONT BUILDING SETBACK	10	20 Feet	YES
SIDE BUILDING SETBACK	N/A	N/A	N/A
REAR SETBACK	10 FEET	15 FEET	YES
HEIGHT	3 STORIES OR 45 FEET	3 STORIES OR 45 FEET	YES
PARKING – ARTICLE 6	1 PER 2,500 SF (MIN)	250 SPACES	YES

	1 PER 500 SF (MAX)		
OPEN SPACE	MINIMUM 20%	35%	YES

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

The proposed request to rezone properties from R-75 (Residential Medium Lot) District to RSM (Small Lot Residential Mix) District to construct 70 luxury attached townhomes at a proposed density of six units per acre is compatible with the surrounding and adjacent properties. The request to allow for the development of 70 luxury attached townhomes is compatible with the Suburban (SUB) Character Area in the 2035 Comprehensive Land Use Plan and the following policies: *Residential Protection, Greenspace, Sense of Place, Street Character, and Architecture*. Therefore, it is the recommendation of Planning and Sustainability Department that the rezoning from R-75 (Residential Medium Lot) District to RSM (Small Lot Residential Mix) District be APPROVED along with the staff’s recommended conditions:

1. The proposed development shall not exceed 70 attached townhomes and shall be developed in accordance per the site plan dated August, 2019 and submitted on January 2, 2020.
2. All proposed townhomes must be front loaded and must provide four (4) parking spaces per unit- two (2) in garage and two (2) in driveway. Units will be a minimum of 25 feet wide and shall not exceed 35 feet in height measured from the front-door threshold of the structure to the highest point of the roof of the structure.
3. All proposed exterior building materials shall be a combination and variation of brick, stone, shake shingle, or fiber cement siding and a shingle roof is required on each townhome.
4. Along the entire frontage of the development on Porter Road beginning at the intersection of Kensington Road frontage, the applicant shall install curb and gutter, two-foot wide landscape strip planted with small shrubs not to exceed 30 inches in height, a five-foot wide sidewalk, a two-foot wide grass strip for street lighting (fixtures as specified by DeKalb Public Works), and four-foot wide landscape strip for street trees as defined in the zoning ordinance planted 30’ off center as approved by the County Arborist.
5. All proposed internal ROWs/streets within the proposed development shall comply with all streetscape requirements per section 27-5.4.3—Streetscape elements and dimensions of the DeKalb County Zoning ordinance.
6. All proposed townhomes shall have French country style garages, front porches, and landscaping on each lot. In addition, the townhomes shall have architectural features such as screen porches, outdoor fireplaces, sunrooms, and offsets at the rear of each proposed townhome, consistent with the description provided in “Porter Reserve”, attached herein as Exhibit A.
7. The proposed entrance shall be design in accordance with the submitted rendering dated May 15, 2002 and received February 19, 2020. The applicant will submit a landscape plan for approval by the County Arborist and for review by the District Commissioners. The two courtyard space shown on the site plan shall be graded and landscaped. In areas where informal gatherings will take place including the pocket park and dog park pet waste stations shall be installed. The stormwater detention facility shall be landscaped to appear as a visual amenity.
8. The maintenance of the proposed pocket park, park space/walking trails, and dog park shall be maintained by the homeowners association (HOA).
9. Condition per the DeKalb County Department of Public Works – Transportation Division, the applicant shall improve the frontage of Porter Road and shall bring Porter Road up to County standards along the entire frontage in order to obtain permit. The applicant shall dedicate 27.5 feet of right-of-way (ROW) from centerline or such that all public infrastructure (sidewalks, streetlights, etc.) are on right of way. Street lights are required with payment to Georgia Power and signed petition prior to final plat approval. Also, the applicant shall provide signed and sealed sight distance calculations (stopping and intersection) for the access point onto Porter Road based on AASHTO sight distance guidelines. The applicant shall confirm the sight distance prior to certificate of occupancy.

10. Condition per the DeKalb County Department of Public Works—Water and Sewer Division, the existing six inch polyvinyl chloride (PVC) waterline long Porter Road shall be upgraded to an eight inch ductile iron pipe (DIP) from Kensington Road along the frontage of the property.
11. Condition per the DeKalb County Department of Planning and Sustainability – Land Development Division, the applicant shall comply with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances section 14-40 for Stormwater Management, and section 14-42 for Storm Water Quality Control to include Runoff Reduction Volume. The applicant shall use Volume Three of the Georgia Stormwater Management Manual for best maintenance practices. The applicant shall use the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Point Precipitation Data set specific to the site. Also, the applicant shall include Low Impact Development features/Green Infrastructure in the proposed site design to protect the state waters and special flood hazard areas.

Attachments:

- 1. Department and Division Comments**
- 2. Application**
- 3. Site Plan**
- 4. Zoning Map and 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.. 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.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area **was** 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** 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.



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.: Z-20-1243755

Parcel I.D. #: 15-229-04-022 & 15-229-04-061

Address: 879 & 893 Porter Road

Decatur, Georgia

WATER:

Size of existing water main: 6" PVC Water Main (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Indian Creek Basin

Is sewer adjacent to property: Yes () No (X) If no, distance to nearest line: Approximately 99 feet Northwest of property

Water Treatment Facility: Snarfinger 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.

- * THE EXISTING 6" PVC WATERLINE ALONG PORTER RD WILL BE REQUIRED TO BE UPGRADED TO 8" DIP FROM KINSINGTON RD ALONG FRONTAGE OF PROPERTY.
- * THIS AREA HAS SEWER CAPACITY ISSUES AT THIS TIME. MJO

Signature: 



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. 2-1243755
Filing Fee:

Date Received: Application No.:

Applicant: Core Development Group, LLC c/o Battle Law, P.C.E-Mail: mib@battlelawpc.com

Applicant Mailing Address: One West Court Sq., Suite 750

Applicant Phone: 404-601-7616 Fax: 404-745-0045

Owner(s): Edward Davis, Administrator for Estate of Gus Davis E-Mail: letterimage@gmail.com
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: 907 Porter Road, Decatur, GA 30032

Owner(s) Phone: 404-513-7617 Fax:

Address/Location of Subject Property: 879 & 895 Porter Road, Decatur, GA 30032

District(s): 15 Land Lot(s): 229 Block: 04 Parcel(s): 022 & 061

Acreage: 11.8 acres Commission District(s): 4 & 6

Present Zoning Category: R-75 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 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.

Signature of Heather Lyn Bryan, Notary Public, dated 9/2/21. Applicant signature and date: 10/20/19

Check One: Owner Agent X

330 West Ponce de Leon Avenue, Suite 400-500 - Decatur, Georgia - 30030
[voice] 404.371.1155 - [Planning Fax] (404) 371-3556 [Development Fax] (404) 371-3007
Web Address: http://www.dekalbcountyga.gov/planning
E-mail Address: planning@dekalbcountyga.gov

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: October 30, 2019

CHECK TYPE OF APPLICATION:

- () LAND USE PLAN
- (X) REZONE
- () MINOR MODIFICATION

TO WHOM IT MAY CONCERN:

(I) (WE), Edward Davis, As Administrator for the Estate of Augustus Davis
(Name of owner(s))

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

Battle Law, P.C. and Core Development Group, LLC
(Name of Applicant or Agent Representing Owner)

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

[Signature]
Notary Public



Edward Davis
Owner

Notary Public

Owner

Notary Public

Owner

STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

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

of

Core Development Group, LLC
c/o Battle Law, P.C.

for

11.8± acres of land located at
879 & 895 Porter Road

From R-75 to RSM

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

I. STATEMENT OF INTENT

The Applicant, Core Development Group, LLC, is seeking to rezone 879 and 895 Porter Road (the "Subject Property") for the development of a 70-unit luxury townhomes community. The total aggregate acreage is 11.8 acres of property, the Subject Property is zoned R-75 and the Land Use Designation is Suburban. The Application is applying to rezone the Subject Property from R-75 to RMS for the development of 70 townhome units at a density of 6 units per acre, based on 50% density bonus for meeting 35% open space.

The Porter Road community lies immediately adjacent to the eastern boundary of the Regional Center Land Use District near the Kensington MARTA Station. As development around the MARTA Station continues to flourish, Porter Road is the next step in the area for redevelopment as Porter Road is awash with lots that are owned by land owners with multiple lots that are underdeveloped. Some is this is due to the historic significance of Porter Road, and the families who lived on Porter Road from slavery through Reconstruction to current modern-day times. Frank Henry Porter, was one of the first African American's to own land in DeKalb County, and many of his descendants still call Porter Road home. In fact, a portion of the original plantation house is still standing. Bookending Porter Road on the south side is an old slave cemetery, and on the north end of Porter Road, directly across the street from the Subject Property is Mt. Pleasant Baptist Church built in 1849, which is the oldest African American Church in DeKalb County. Porter Road is rich with history, and it is the Applicant's desire to contribute to the continued growth and development of the community in a positive manner.

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 permit uses that are suitable in view of the uses and developments adjacent and nearby the Subject Property. The Subject Property is an unique piece of property. First it is abutted to the north by multiple tracts of land owned by MARTA through which the rail line between the Kensington MARTA Station and the South Indian Creek MARTA Station are located. West of the Subject Property is the Oak Tree Village Apartment Complex which is zoned MR-2, East of the Subject Property is a small tract of undevelopable land owned by Mt. Pleasant Baptist Church, along with the Church its self on the East side of Porter Road, adjacent to which is the rear end of the Langley Apartment complex, zoned MR-2. The Subject Property is basically surrounded by multi-family and non-residential uses. It is the Applicant's contention that the proposed rezoning provides for a suitable transition between these uses, while not compromising the desires of the community to have single family detached development within the interior of Porter Road until you reach the townhome community on the southern portion of Porter Road at Covington Highway.
- (b) Effect on adjacent property: The proposed development will have a positive impact on the surrounding community, and on Porter Road. First, in order to achieve its density bonus the Applicant will be improving the curb appeal of the area by extending its right of way streetscaping from the corner of Kensington Road and Porter Road through the Subject Property. This will be a significant upgrade for the community, as will allow for sidewalks,

as well as decorative pedestrian scale lighting to be placed along the street which will can be continued down Porter Road as other future development finds its way to Porter Road. After discussions with the community, the front entrance into the community will be lushly landscaped with a monument signage which will also set a tone and standard for future development along Porter Road.

It is anticipated that the proposed units will have an initial sales price of \$300K based upon recent sales of new units in the area. This significant increase in the current value of the Subject Property will only benefit the surrounding properties.

(c) Economic use of current zoning: The Subject Property has no use as currently zoned. Due to the significant topographical challenges of the site, the cost for development per lot for a single family detached product is simply not economically feasible. The Subject Property is traversed by a creek on the Northern end and drops 60 ft from the front of the property to the creek. Additionally, the property is oddly shaped, which makes it more difficult to layout. It is believed that this is the primary reason why there haven't been any offers to develop the Subject Property for single family detached homes for these reasons,

(d) 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. Porter Road is a local street. The problem with travel along Porter Road is due to DeKalb County personnel using the street as a cut-through to Covington Highway. Consequently, concerns have been raised by the community regarding site distance and the impact of having addition cars on the street that have to contend with the County's employees racing through Porter Road.

- (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. All of the improvements on the Subject Property have been removed by the current owner who owns at least two additional tracts of land in the area. The proposed rezoning of the Subject Property will have no impact on the historic designations being sought for the Church or for cemetery or the other housing improvements in the area. Additionally, the Application desires to work with the community to improve the visibility of Porter Road is a place of historic significant for DeKalb County.
- (f) Compatibility with Comprehensive Land Use Plan. The Subject Property has a land use designation of Suburban. The proposed rezoning to RSM is appropriate for infill development, particular based upon what is surrounding and abutting the Subject Property.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application. 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 ^{30th} day of October, 2019.

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.

N6

Z-20-1243755

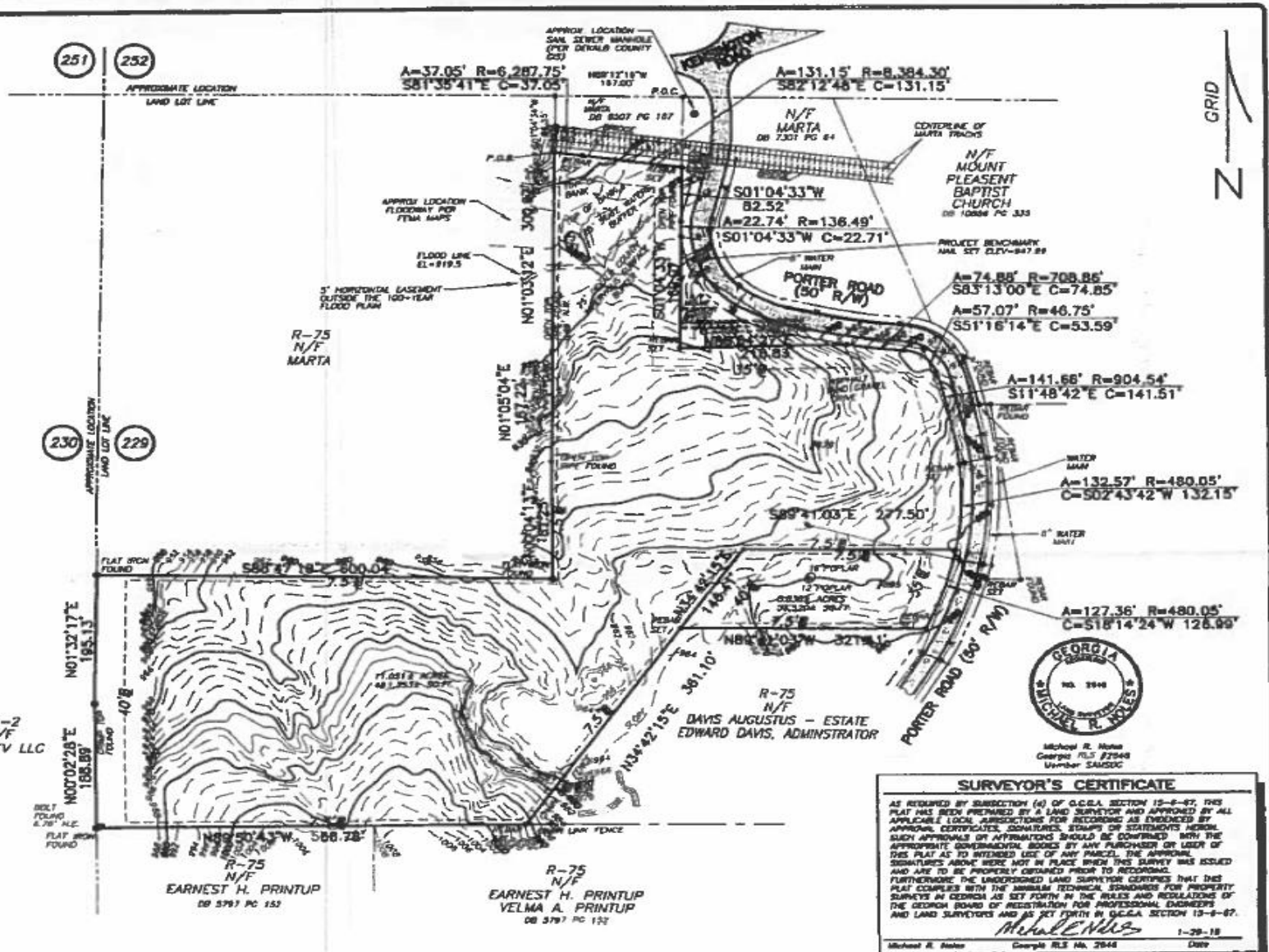
Existing Survey

201808201-PL-00001-00-00
 Filed and Recorded: 2/20/2018 4:46:00 PM
 Recording Fee: \$24.00
 Prepared By:
 04-4712114

RESERVED FOR CLERK OF SUPERIOR COURT

- LEGEND**
- DENOTES BUILDING LINE
 - DENOTES PROPERTY LINE
 - DENOTES FRONT-OF-WAY
 - DENOTES CENTERLINE
 - DENOTES BACK OF CURB
 - DENOTES CUTTER
 - DENOTES EDGE OF PAVING
 - DENOTES TOP OF WALL
 - DENOTES BOTTOM OF WALL
 - DENOTES REINFORCED CONCRETE PIPE
 - DENOTES CORRUGATED METAL PIPE
 - DENOTES POWER POLE
 - DENOTES LIGHT POLE
 - DENOTES SPLIT WIRE
 - DENOTES POWER LINE
 - DENOTES POWER METER
 - DENOTES POWER BOX
 - DENOTES FIBER OPTIC
 - DENOTES AIR CONDITIONER
 - DENOTES TELEPHONE BOX
 - DENOTES GAS METER
 - DENOTES GAS VALVE
 - DENOTES GAS LINE MARKER
 - DENOTES WATER METER
 - DENOTES WATER VALVE
 - DENOTES FIRE HYDRANT
 - DENOTES MONITORING WELL
 - DENOTES HEADWALL
 - DENOTES JUNCTION BOX
 - DENOTES DRAIN WALK
 - DENOTES SANITARY SEWER LINE
 - DENOTES SANITARY SEWER MANHOLE
 - DENOTES CLEAR CUT
 - DENOTES POINT OF BEGINNING
 - DENOTES POINT OF COMMENCEMENT

ZONING INFORMATION
 DEKALB COUNTY R-75
 MINIMUM LOT WIDTH: 75 FEET
 MINIMUM LOT AREA: 10,000 SQUARE FEET
 FRONT SETBACK (SIGNAL THROFARE): 45 FT
 FRONT SETBACK (SIGNAL THROFARE): 35 FT
 FRONT SETBACK (COLLECTOR ST): 30 FT
 MINIMUM SIDE SETBACK: 7.5 FEET
 MINIMUM REAR SETBACK: 40 FEET
 MAXIMUM LOT COVERAGE: 35%
 MINIMUM FLOOR AREA: 1,000 SQUARE FEET
 MAXIMUM BUILDING HEIGHT: 35 FEET
 MUST BE APPROVED BY DEKALB COUNTY ZONING
 PRIOR TO CONSTRUCTION



SURVEYOR'S CERTIFICATE

AS REQUIRED BY SUBSECTION (4) OF O.C.G.A. SECTION 15-8-87, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, COMMENTS, STAMPS OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNING AGENCIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. THE APPROVAL SIGNATURES ABOVE WERE NOT IN PLACE WHEN THIS SURVEY WAS ISSUED AND ARE TO BE PROPERLY OBTAINED PRIOR TO RECORDING. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-8-87.

Michael R. Natus
 Georgia RLS No. 2948
 Member SANSOC

1-29-18
 Date

NO.	REVISIONS	DATE
1	ADDRESS COUNTY COMMENTS	10-12-18
2	REVISE PROPERTY LINES	11-13-18
3	REVISE PROPERTY LINES	1-29-19
4	ADDRESS COUNTY COMMENTS	1-29-19
5	ADD CONTOURS PER DEKALB COUNTY GIS	1-29-19

McClung Surveying

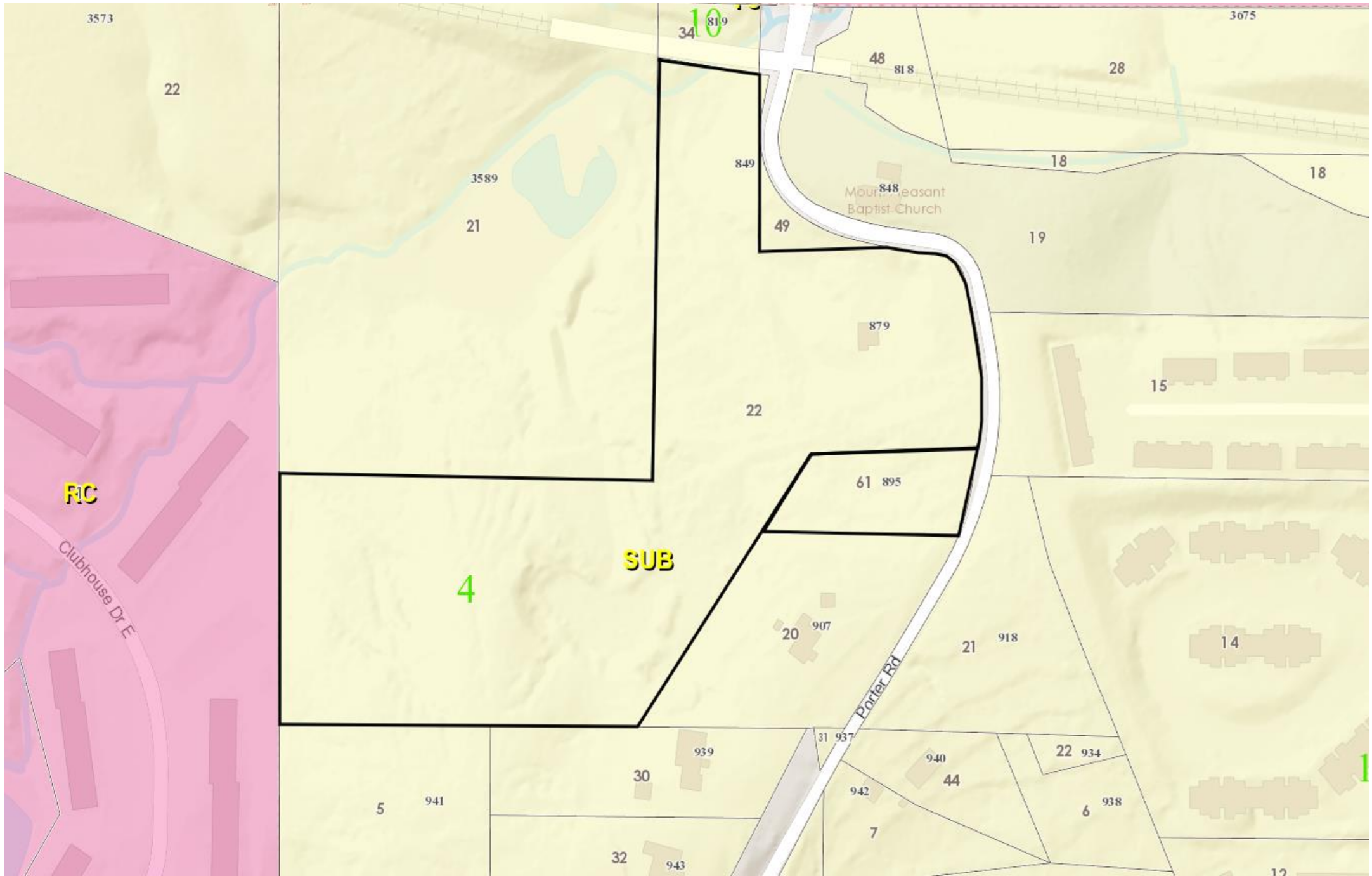
McClung Surveying Services, Inc.
 4813 South Cobb Drive Suite 300
 Smyrna, Georgia 30080 (770) 434-5383
 www.mcclungsurveying.com Certificate of Authorization #01000703

PROPOSED CONDITIONS
 DAVIS AUGUSTUS - ESTATE
 EDWARD DAVIS, ADMINISTRATOR

679 & 895 PORTER ROAD
 DECATUR, GEORGIA

LOT DIMENSION PLAT FOR
 879 SEPARATION

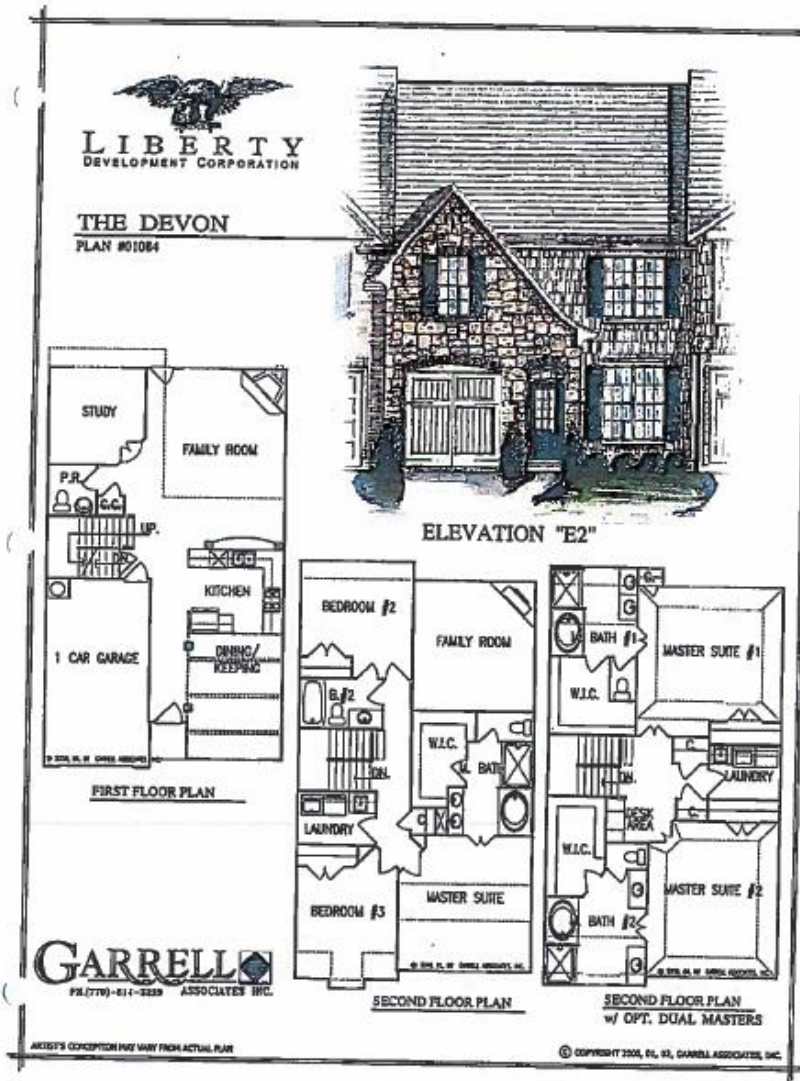
LAND LOT 229
 15TH DISTRICT
 DEKALB COUNTY
 GEORGIA
 PLAT PREPARED: 9-15-18
 FIELD: 8-8-18 SCALE: 1"=100'
 JOB#248418-REC

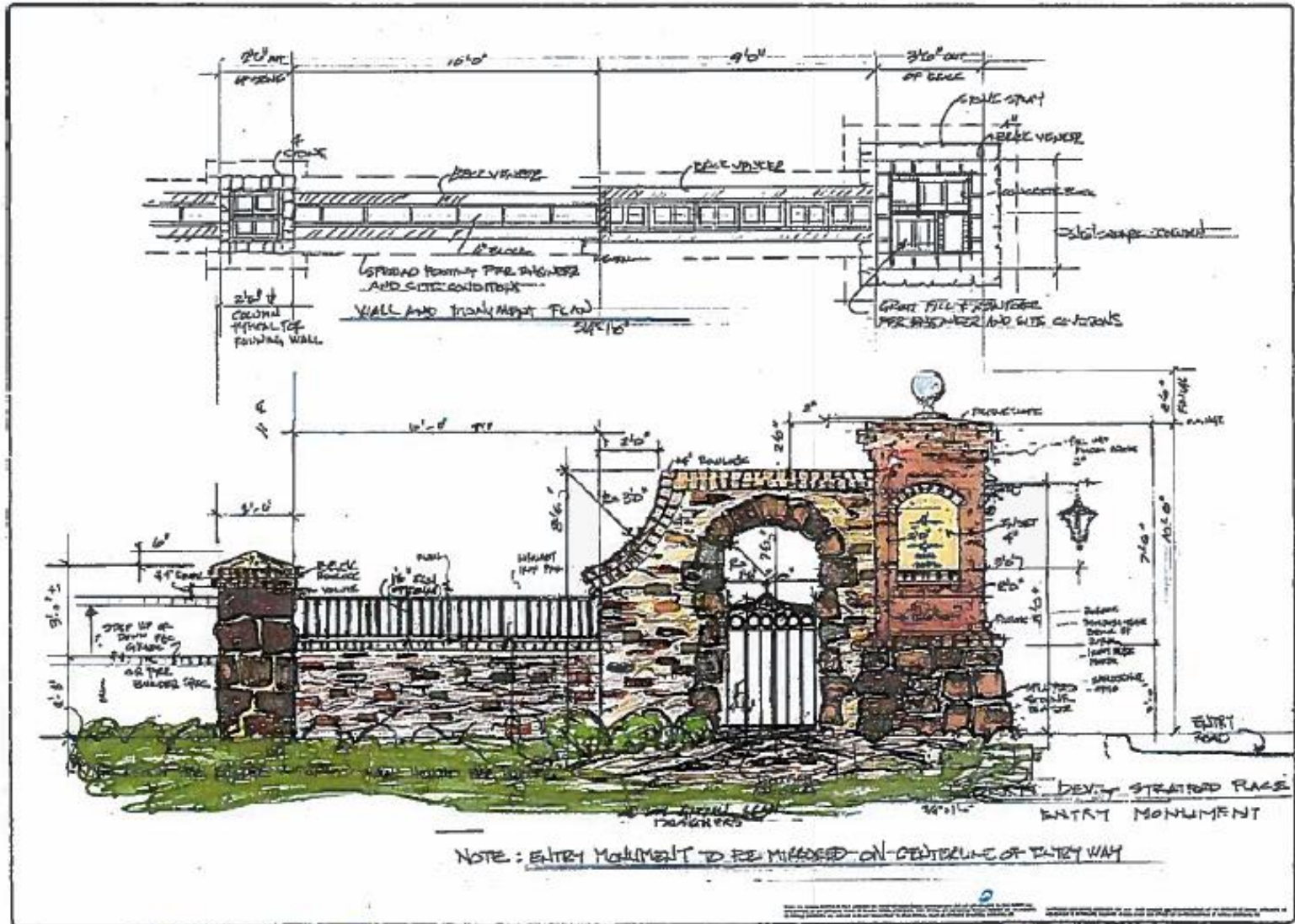












LIBERTY DEVELOPMENT

CARBELL
ARCHITECTS

ENTRANCE RESIDENTIAL WALL DETAIL
STRATFORD PLACE SUBDIVISION

02/11/20

NO. 001 REV. 002

DATE: 02/11/20

BY: [Signature]