

**RECOMMENDED CONDITIONS
CZ-17-21421**

1. Development of the property shall be consistent with the revised conceptual site plan titled, "Residential Site Plan for Brockbuilt Homes", prepared by GA Land Surveyor, LLC, dated July 12, 2017.
2. The proposed deck on the rear of the house shall be screened from view from the adjoining property to the southeast by replacing any trees removed during construction with evergreen trees planted 8 feet on center, subject to approval by the County Arborist.
3. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.
4. Any retaining wall located next to a property used for or zoned for residential purposes, when said retaining wall exceeds 12 feet in height, must be approved by variance to the Zoning Board of Appeals.
5. The restriction imposed in 1933 by the Board of Commissioners to reduce the number of lots from 7 to 6 in this subdivision is deleted so as to recognize the existence of Lot 7 (1158 McConnell Drive), allow the formal platting of Lot 7, and allow the construction of a single-family residential building on Lot 7.
6. Builder shall construct the underground detention system as depicted on the revised site plan dated July 12, 2017 in association with the construction of the single family residential building.
7. Impervious surfaces on this site shall be substantially similar to those shown on the revised site plan dated July 12, 2017 (total = 4,396 SF) but shall not under any circumstances equal or exceed 5,000 square feet, excluding the existing road.
8. The exterior façade materials of the single family residential building will be comparable to those depicted on the sample elevations in the rezoning application.
9. Builder shall adhere to or exceed the current DeKalb County stormwater and green infrastructure ordinances related to the issuance of a building permit for the construction of a single residence. This condition applies to the construction of the single family residential building and its building permit, not development or land disturbance plans.

**24 HOUR EROSION CONTACT
ADAM BROCK
404-557-2523**

**NOTE:
THERE ARE NO NEW UNDERGROUND UTILITIES
PROPOSED FOR THIS SITE PLAN. ALL EXISTING
UNDERGROUND UTILITIES WILL BE USED.**

- SITE NOTES:**
- THRESHOLD ELEVATION IS THE ELEVATION OF THE TOP OF THE SUBFLOOR IN THE OPENING THAT IS DESIGNATED AS THE FRONT DOOR OF THE DWELLING.
 - BUILDING HEIGHT OF THE NEW STRUCTURE NOT TO EXCEED 28 FEET.
 - NO GRADES TO EXCEED 3:1
 - THERE ARE NO NEW UTILITIES PROPOSED FOR THIS SITE. ALL EXISTING ARE TO BE USED
 - REFERENCES FOR THE BOUNDARY INFORMATION SHOWN HEREON WERE MADE TO PLAT BOOK 98, PAGE 59 OF DEKALB COUNTY RECORDS.
 - NO PORTION OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD ZONE AS IDENTIFIED ON FIRM COMMUNITY PANEL No. 13089C0066J, DATED MAY 16, 2013.
 - EXISTING ZONING: R-100
SETBACKS:
FRONT: 35'
SIDE: 10'
REAR: 40'
 - TOTAL DISTURBED AREA: 13,270 S.F.
 - ALL ELEVATIONS ON SITE SHALL BE VERIFIED PRIOR TO CONSTRUCTION.

**NOTE:
NOT RELEASED FOR CONSTRUCTION. THIS SITE
PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE.**

- SUBDIVISION CONDITIONS**
- ON LOT #1, NO WINDOWS ABOVE THE FIRST FLOOR ARE TO BE ALLOWED ON THE SIDE OF THE PROSPERED HOUSE MOST CLOSELY FACING 1150 McCONNELL DRIVE OTHER THAN SKYLIGHTS AND CLERESTORY WINDOWS.
 - STARTING AT THE MOST SOUTHERLY POINT OF THE HOUSE AT 1150 McCONNELL AND CONTINUING NORTH TO THE MOST NORTHERLY POINT OF LOT #1, SUFFICIENT PLANTING SHALL BE INSTALLED AND MAINTAINED AFTER CONSTRUCTION OF THE HOUSE ON LOT 1 TO PROVIDE VISUAL SCREENING.
 - NO FLOOD LIGHTS SHALL BE INSTALLED ON THE PROPOSED HOUSE IN THE SUBDIVISION WITHOUT MOTION DETECTION SWITCH DEVICES. ALL OUTDOOR SECURITY LIGHTING ON THE LOTS IN THE SUBDIVISION SHALL BE EITHER DIRECTIONAL OR BE OF SHIELDED OR CUT-OFF DESIGN SO AS TO MINIMIZE ILLUMINATION OF ADJOINING PROPERTIES.
 - THERE SHALL BE NO CHAIN LINK FENCES ALONG THE PROPERTY LINE OF THE SUBDIVISION. ALL FENCING CONSTRUCTED ON THE PERIMETER OF THE SUBDIVISION SHALL BE CONSISTENT DESIGN AND MATERIALS.
 - THE 10' SETBACK AT THE REAR OF LOT #1 AND THE 40' SETBACK AT THE REAR OF LOTS #2 AND 3 SHALL BE NON-DISTURBED AREAS AND SHALL REMAIN IN THEIR NATURAL STATE WITH THE EXCEPTION OF NECESSARY UTILITY FEATURES (EG. DETENTION STRUCTURES).
 - THE DEVELOPER SHALL NOT PERMIT AN OVER-ACCUMULATION OF DEBRIS OR LITTER TO REMAIN ON ANY CONSTRUCTION SITE AND SHALL NOT PERMIT ANY DEBRIS OR LITTER TO BE DISPLACED ON ADJACENT PROPERTIES. THE DEVELOPER SHALL BE RESPONSIBLE FOR REMOVAL OF ALL DEBRIS AND LITTER THAT DRIFTS FROM THE CONSTRUCTION SITE.
 - THE EXTERIOR OF THE HOUSE ON LOT #1 SHALL BE CONSTRUCTED OF BRICK.
 - THE HOUSE ON LOT #1 SHALL BE LIMITED TO 2 STORIES ABOVE THE GROUND PLANE (EXCLUDING ATTIC AND BASEMENT).
 - NO HOUSE SHALL BE CONSTRUCTED OF STUCCO OR SIMILAR EXTERIOR WALL FINISHES.
 - PRIVATE STREET TO BE BUILT TO 1994 STANDARDS.

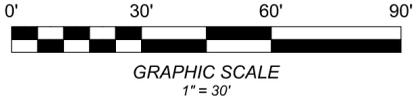
IMPERVIOUS SURFACE CALCULATIONS:
 PROPOSED DRIVEWAY=1,383
 PROPOSED HOUSE AND GARAGE=2,298
 PROPOSED SIDEWALK=293
 PROPOSED FRONT PORCH=144
 PROPOSED DECK=278
 TOTAL PROPOSED=4396 sf
 EXISTING ROAD = 2620 sf
 TOTAL PROPOSED IMPERVIOUS AREA: 7,016 sf
 TOTAL LOT AREA: 20,121 SF
 TOTAL PROPOSED LOT COVERAGE: 34.8% (35% MAX)

- CONSTRUCTION NOTES:**
- THE INSTALLATION OF EROSION AND SEDIMENTATION CONTROL MEASURES AND PRACTICES SHALL OCCUR PRIOR TO OR CONCURRENT WITH LAND-DISTURBING ACTIVITIES.
 - EROSION AND SEDIMENTATION CONTROL MEASURES WILL BE MAINTAINED AT ALL TIMES. IF FULL IMPLEMENTATION OF THE APPROVED PLAN DOES NOT PROVIDE FOR EFFECTIVE EROSION AND SEDIMENT CONTROL, ADDITIONAL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE IMPLEMENTED TO CONTROL OR TREAT THE SEDIMENT SOURCE.
 - ADDITIONAL EROSION CONTROLS SHALL BE INSTALLED AS DEEMED NECESSARY BY THE ON-SITE INSPECTOR.
 - ALL LOTS/SITES WITH 2' OF FILL OR GREATER WILL REQUIRE A COMPACTION CERTIFICATE BY A PROFESSIONAL REGISTERED ENGINEER PRIOR TO A BUILDING PERMIT AND OR PRIOR TO FOOTERS BEING POURED.
 - LOCATE AND FIELD STAKE ALL UTILITIES, EASEMENTS, PIPES, FLOOD LIMITS, STREAM BUFFERS, AND TREE SAVE AREAS PRIOR TO ANY LAND DISTURBING ACTIVITIES.
 - ALL TREE PROTECTION AREAS TO BE PROTECTED FROM SEDIMENTATION.
 - ALL TREE PROTECTION DEVICES TO BE INSTALLED PRIOR TO LAND DISTURBANCE AND MAINTAINED UNTIL FINAL LANDSCAPING.
 - ALL TREE PROTECTION FENCING TO BE INSPECTED DAILY AND REPAIRED OR REPLACED AS NEEDED.
 - A FINAL AS-BUILT LOT SURVEY IS REQUIRED PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY.
 - THERE ARE NO WATER QUALITY DEVICES DESIGNED FOR THIS SITE. THIS SITE HAS A COMMUNITY DETENTION POND FOR STORMWATER RUNOFF.
 - DUMPSTERS AND OR TEMP. SANITARY FACILITIES SHALL NOT BE LOCATED IN STREET OR TREE PROTECTION AREA OR RIGHT OF WAY.
 - WORK HOURS AND CONSTRUCTION DELIVERIES ARE:
 -MONDAY - FRIDAY 7:00 AM - 7:00 PM
 -SATURDAY 8:00 AM - 5:00PM
 - I, CALEB McGAUGHEY CERTIFY UNDER PENALTY OF LAW THAT THIS PLAN WAS PREPARED AFTER A SITE VISIT TO THE LOCATIONS DESCRIBED HEREIN BY MYSELF OR MY AUTHORIZED AGENT, UNDER MY DIRECT SUPERVISION.

EXISTING TREE INVENTORY:

TREE #	SIZE	SPECIES
101	36"	WHITE OAK (36" CRZ)
102	36"	WHITE OAK (36" CRZ)
103	36"	WHITE OAK (36" CRZ)
104	30"	WHITE OAK (30" CRZ)
105	30"	WHITE OAK (30" CRZ)
TOTAL = 168"		

TREE PRESERVATION CALCULATION:
 -DESTROYED - 232" @ 79.4 UNITS
 (INCLUDES 3 36" SPECIMEN TREES & 2 30" SPECIMEN TREES)
 -SAVED - 16" @ 4.8 UNITS
 REQUIRED TREES TO REMAIN:
 120 INCHES DBH / AC X 0.462 AC = 55 DBH
 10 TREES X .25 = 3 TREES
 - SPECIMEN TREE REMOVED 5 @ 62.2 units (1.5 x units removed = additional 93.3 units required)
 -DENSITY REQUIREMENTS 0.462 AC * 15 UNITS/AC = 6.9 units
 -REQUIRED: 6.9 units + 93.3 units = 100.2 units
95.4 units REQUIRED
 2 PROPOSED TREE PLANTINGS TO MEET ZONING REQUIREMENTS.
 TREE PROTECTION FENCES IN ACCORDANCE WITH THE APPROVED PLAN MUST BE INSTALLED PRIOR TO STARTING LAND DISTURBANCE ACTIVITIES, AND MAINTAINED UNTIL FINAL LANDSCAPING.



DATE:	JULY 12, 2017	ISSUE	
SCALE:	1" = 30'	NO.	DESCRIPTION
ACREAGE:	TOTAL 0.462 (20,121 sf)		
LAND LOT(S):	104		
DISTRICT:	18th		
CITY:			
COUNTY:	DEKALB	STATE:	GEORGIA
SURVEYED:	MWR	DRAWN:	MJS
CHECKED:		APPROVED:	CAM
PROJECT #:	15-251 sp		

RESIDENTIAL SITE PLAN FOR
BROCKBUILT HOMES
 1158 McCONNELL DRIVE
 PROPOSED LOT 7,
 FORMERLY PART OF LOT 6, WALDORF'S GALE S/D
 LAND LOT 104, 18th DISTRICT, DEKALB COUNTY, GEORGIA
 TAX PARCEL No. 18 104 05 060



GA
 LAND SURVEYOR
404-384-9577
 GA LAND SURVEYOR, LLC
 3355 ANNANDALE LANE, SUITE 1
 SUWANEE, GA 30024

SHEET
1
 OF
1



Example of Proposed House
Subject to Change

The Jasper C

Rocky Mountain Estates – Lot 2



Level 1

Level 2



At Brock Built Homes, we believe in continually providing you with the best possible product and home designs. Therefore, we reserve the right to change plans, specifications and prices without notice. Square footage is approximate. Floorplan may change based on elevation. Floorplan shown is not indicative of all elevations. Porch size and location based upon builder plans and lot conditions.



www.brockbuilt.com
OBIE AWARD WINNING BUILDER


All information is deemed reliable but is not guaranteed and should be independently verified. Builder reserves the right to change prices, elevations, and room dimensions without notice. Backed by Brock Built Properties 404 214 2918



Jasper - Bennett's Park

Example of Proposed House;
Subject to Change



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: May 2, 2017, 6:30 P.M.
Board of Commissioners Hearing Date: May 23, 2017, 6:30 P.M.**

STAFF ANALYSIS

Case No.: CZ-17-21421 **Agenda #:** N. 3

Location/Address: The northeast corner of Waldorf's Court and McConnell Drive at 1158 McConnell Drive, Decatur. **Commission District:** 2 **Super District:** 6

Parcel ID: 18-104-05-060

Request: To rezone from R-100 (Single-Family Residential) to R-100 (Single-Family Residential) - Conditional, to remove conditions of a 1993 Board of Commissioners decision and allow a seventh lot within the Waldorf's Gale subdivision.

Property Owner: Evanne L. Brock

Applicant/Agent: Brock Built Homes, LLC

Acreage: .46 acres

Existing Land Use: Vacant, several trees and other vegetation

Surrounding Properties: Single-family residential

Adjacent Zoning: **North:** R-100 **South:** R-100 **East:** R-100 **West:** R-100 **Northeast:** R-100 **Northwest:** R-100 **Southeast:** R-100 **Southwest:** R-100

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

Proposed Density: 2.17 units/acre	Existing Density: N.A. – vacant lot
Proposed Units, Square Ft.: One unit, 2,298 s.f.	Existing Units/Square Feet: N.A. – vacant lot
Proposed Lot Coverage: 34.8%	Existing Lot Coverage: none – vacant lot

Zoning History: The subject property is a lot of record that was proposed, in 1993, to be part of a seven-lot subdivision called “Waldorf’s Gale”. The developer at the time sought variances to construct a private street at less of the required width for a public street, a variance to one of the rear yard setbacks, and variances to the width of two of the lots. The variances were denied by the Zoning Board of Appeals. In December, 1993, the developer

appealed the denial to the Board of Commissioners, which allowed the variances on the condition that the number of lots in the subdivision would be limited to six. In January, 1994, a request to delete the condition was denied by the Board of Commissioners. In February, 1995, Brock Construction Company appealed the Board of Commissioners' January 1995 denial to the Zoning Board of Appeals, which declined to overrule the Board of Commissioners. In March, 1995, Brock Construction Company appealed the February 1995 Zoning Board of Appeals decision to the Board of Commissioners, which denied the appeal.

SITE ANALYSIS

The subject property is a .46-acre corner lot in what is known as the "Waldorf's Gale" subdivision. It has street frontage on McConnell Drive and Waldorf Court and is undeveloped. The topography is level. The central and northwestern part of the lot is cleared. Mature trees and dense undergrowth are located at the southeastern corner of the lot and along the southeast property line.

The property is located in a single-family residential neighborhood that lies approximately 300 feet west of Clairmont Road, a major commercial thoroughfare. The southern boundary of the Toco Hills shopping center is located approximately 200 feet to the north. Although the property is relatively close to the O-I (Office-Institutional) and MR-1 (Medium-Density Residential – 1) properties located along Clairmont Road, the character of the immediately surrounding neighborhood is single-family residential. The adjoining properties, as well as the properties in the neighborhood, are zoned R-100 and are designated SUB (Suburban). The proposed zoning classification of R-100 is consistent with the zoning and land use pattern of the surrounding neighborhood.

The six other lots in the Waldorf's Gale subdivision range in size from .35 to .38 of an acre. According to information from the County Tax Assessor, homes in Waldorf's Gale range in square footage from 2,138 square feet to 3,343 square feet (not including garages) and have two stories with attics. Homes on six adjoining and nearby properties have an average of 2,156 square feet and one to two stories. Newer infill homes in the surrounding neighborhood tend to be larger, while older homes tend to be one-story, ranch-style structures. The proposed home is consistent in square footage and number of stories with all the other homes in the Waldorf's Gale subdivision as well as the newer homes in the surrounding neighborhood.

The topography of nearby and surrounding properties slopes to the southwest. The Waldorf's Court cul-de-sac bulb is at a high point, and the land slopes towards McConnell Drive and then towards a creek that runs from the Toco Hills shopping center along the western portion of McConnell Drive, towards the South Fork Peachtree Creek, located to the southwest. County maps, as well as the survey prepared for the application, indicate that no underground pipes flow into the detention pond on the subject property, nor are there any outflow pipes. Thus, the detention pond on the property appears to have been constructed to capture runoff from the subject property. A stormwater inlet is located at the curb of the subject property to capture runoff on Waldorf's Court, where it is piped to the northwest.

A stormwater inlet in the curb at 1190 McConnell Drive, at a low point of McConnell Drive, appears to have been constructed to serve nearby properties on McConnell Drive.

PROJECT ANALYSIS

The applicant proposes to rezone the property to R-100, conditioned on the submitted site plan which depicts one single-family house. By doing so, the previously imposed condition that reduced the number of lots in the Waldorf's Gale subdivision from seven to six would be deleted. Other conditions imposed in 1993 would also be deleted.

The site plan shows a proposed house with 1,638 of living space and a 660 square foot, 3-car garage which is accessed by a concrete driveway from Waldorf Court. The house is proposed to have two stories with attic space

under a peaked roof, and a basement. The design of the house includes a front porch and a deck at the rear of the house. Five mature trees that are currently located along the southeastern property line are proposed to be removed and replaced, according to the developer, to facilitate re-grading of the site. The architectural design of the house is proposed to be similar to that of the other homes in the subdivision, including features such as a peaked or mansard roof, a front porch, window shutters, and brick, stacked stone, or shingle finishes.

LAND USE AND ZONING ANALYSIS

Section 27-832 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 zoning classification of R-100 is in conformity with the Suburban land use designation of the property, and no changes to the land use map are requested. The proposal is consistent with 2035 Comprehensive Plan policies for the Suburban character area that encourage development in single-family residential neighborhoods in a manner that is compatible with the established development patterns, density, and architectural styles of the neighborhood.

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 zoning proposal for a single-family home, at a size, scale, and architectural design that is similar to other homes on adjoining properties and in the surrounding neighborhood, is suitable at the subject location.

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

The 1993 zoning condition that prevents development of the property as an R-100 lot effectively eliminates its economic value.

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

Screening of the deck that is proposed on the rear of the house, as described in the staff recommendation, would help to maintain the usability of the adjoining single-family property. Because the proposed home and the size of the subject property is similar to other homes and lots in the Waldorf’s Gale subdivision, the proposal is not expected to affect the use or usability of adjacent or nearby property to a greater degree than any of the other homes in the subdivision affect each other.

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:

Compliance of the lot with R-100 district standards and with the current and proposed zoning classification with the Suburban land use designation supports approval of the zoning proposal.

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

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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

The zoning proposal is not expected to overburden existing streets or other public infrastructure.

Compliance with District Standards:

R-100 STANDARD		REQUIRED/ALLOWED	PROPOSED	COMPLIANCE
LOT WIDTH		Min. 100 ft	187 (Waldorf Court)	Yes
LOT AREA/DENSITY		Min. 14,000 sq. ft.	20,121 sq. ft.	Yes
MIN. LOT WIDTH – NEW CORNER LOT		115 feet	187 (Waldorf’s Court)	Yes
YARD SETBACKS	FRONT	Average f.y.s.b.; in this case, same setback as 1125 Waldorf’s Court, i.e., 35 feet	35 feet (from Waldorf’s Court)	Yes
	CORNER LOT SIDE	Min. 35 feet	63 feet (from McConnell Drive)	Yes
	INTERIOR SIDE	Min. 10 feet	21.5 feet	Yes
	REAR	Min. 40 feet	40 feet	Yes
BUILDING HEIGHT		Max. 35 feet	Max. 35 feet	Yes
FLOOR AREA OF D.U.		Min. 2,000 sq. ft.	2,298 sq. ft.	Yes
PARKING		Min. 4 spaces	Three garage spaces + 3-4 driveway spaces	Yes
LOT COVERAGE		Max. 35%	34.8%	Yes

STAFF RECOMMENDATION:

The development of the subject property for a single-family house is consistent with 2035 Comprehensive Plan policies for the Suburban character area that encourage development in single-family residential neighborhoods in a manner that is compatible with the established development patterns, density, and architectural styles of the neighborhood. The proposed single-family home, at a size, scale, and architectural design that is similar to other homes on adjoining properties and in the surrounding neighborhood, is suitable at the subject location. Compliance of the lot with R-100 district standards and with the current and proposed zoning classification with the Suburban land use designation supports approval of the zoning proposal. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following conditions:

1. Development of the property shall be consistent with the conceptual site plan titled, “Residential Site Plan for Brockbuilt Homes”, prepared by GA Land Surveyor, LLC, dated February 27, 2017.
2. The proposed deck on the rear of the house shall be screened from view from the adjoining property to the southeast by replacing any trees removed during construction with evergreen trees planted 8 feet on center, subject to approval by the County Arborist.

3. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.
4. Any retaining wall located next to a property used for or zoned for residential purposes, when said retaining wall exceeds 12 feet in height, must be approved by variance to the Zoning Board of Appeals.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Application
4. Site Plan
5. Zoning Map
6. Land Use Plan Map
7. Aerial Photograph
8. Site Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✔ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✔ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✔ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- ✔ • **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

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

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: CZ-17-21421

Parcel I.D. #: 18-104-05-060

Address: 1158
McConnell Dr.
Decatur, GA

Adjacent Roadway (s):

(classification) (classification)

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

Please provide additional information relating to the following statement.

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

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

COMMENTS:

<u>Plans and field reviewed. No problem found that would affect traffic.</u>

Signature: [Handwritten Signature]

DEKALB COUNTY

Board of Health

4/14/2017

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

General Comments:

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

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

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

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

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

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

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

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

DeKalb County Board of Health

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

4/14/2017

N.1

Z-17-21428/18-145-05-009

2729 Lawrenceville Highway, Decatur, GA

Amendment

- Please see front page for additional comments.

N.2

SLUP-17-21417/18-051-12-011

1369 & 1371 (Basement) Clairmont Road, Decatur, Ga

Amendment

- Please see additional comments.

✓ N.3

CZ-17-21421/18-104-05-060

1158 McConnell Drive, Decatur, GA

Amendment

- Please see general comments.

N.4

Z-17-21418/15-201-05-005

1562 Line Street, Decatur, GA

Amendment

- Please see general comments.

DEKALB COUNTY
BOARD OF COMMISSIONERS

835

ITEM NO. 1

BUSINESS AGENDA/MINUTES

PREL.
ACTION
PUB. HRG.

MEETING DATE December 28, 1993

RESOLUTION
ORDINANCE
PROCLAMATION

A-93132

SUBJECT: Appeal by Philip G. Paymer - Special Exception and Variances
Commission District: 2 & 6

DEPARTMENT: Development

PUBLIC HEARING: Yes No

ATTACHMENT: Yes No 4 pp

INFORMATION CONTACT: E.R. Longmire
PHONE NUMBER: 371-2169 *ER*

DEFERRED FROM DECEMBER 14, 1993 MEETING

PURPOSE:

To consider an appeal by Philip G. Paymer from a Board of Appeals decision denying the following special exception and variances to develop a 7-lot subdivision at 1158 McConnell Drive:

1. Special exception to allow development of 5 lots which will not abut a public street and will be accessed by a private easement (drive/road);
2. Variances to reduce required minimum building distance from west rear property line from 40 ft. to 10 ft. for proposed Lot #1;
3. Variance to reduce required minimum lot width at the building line from 115 ft. to approx. 42 ft. for proposed Lot #2;
4. Variance to reduce required minimum lot width at the building line from 100 ft. to approx. 95 ft. for proposed Lot #2. *(sic)*

The property is located on the north side of McConnell Drive approx. 986 ft. west of Clairmont Road. The zone is R-100.

NEED/IMPACT:

The Board of Appeals denied requested special exception and variances. This decision has been appealed by the applicant.

Applicant has not submitted sufficient evidence to establish need or hardship justifying special exception. Applicant has not demonstrated that by reason of exceptional topographic conditions or other extraordinary or exceptional conditions, the strict application of the development requirements would result in practical difficulties or undue hardship.

RECOMMENDATIONS:

Denial of appeal by Philip G. Paymer and uphold Board of Appeals decision denying a special exception and variances to develop a 7-Lot subdivision at 1158 McConnell Drive.

ATTACHMENT A
p. 1 of 7

836

FOR USE BY COMMISSION OFFICE/CLERK ONLY

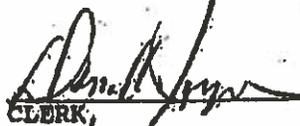
ACTION:

MOTION was made by Commissioner Walldorff, seconded by Commissioner Brown, to approve the private street conditioned on the 9 conditions proposed by the appellant plus two additional conditions by Commissioner Walldorff which included: reduction of the number of lots from 7 to 6; private street to be built to 1994 standards. (The 9 conditions proposed by the appellant are on file in the Clerk's Office.) After discussion, Commissioner Brown withdrew his second. The MOTION was then seconded by Commissioner Boyer, and passed 4-3-0-0, Commissioner Yates, Commissioner Williams, and Commissioner Brown opposed.

ADOPTED: DEC 28 1993
(DATE)

CERTIFIED: DEC 28 1993
(DATE)


PRESIDENT OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS


CLERK,
DEKALB COUNTY BOARD OF COMMISSIONERS

MINUTES:

DISCUSSION: Mr. Phil Paymer, 1158 McConnell Drive, Decatur, Georgia, 30033; Mr. W. Bard Brockman, 1150 McConnell Drive, Decatur, Georgia, 30033; and Mr. Andy Hall, 2236 Tanglewood Circle, Atlanta, Georgia, 30345, spoke for the appeal during rebuttal. Mr. Paymer requested approval of his second plan which he stated was a better design and which would save more trees. This second plan was different from the plan approved by the Planning Commission for R-100 zoning. Mr. Brockman stated that Mr. Paymer's second plan would have less impact on him than the first plan, and he asked the Board to make a decision which would allow him to protect his property. Mr. Hall stated that he is a registered landscape architect and he stated that the plan Mr. Paymer wants approved would require the removal of only two large trees, whereas the first plan would require the removal of 12 large trees.

7 lots; private street variances

Opposition: Mr. Bob Youngerman, 998 Vistavia Circle, Decatur, Georgia, 30033, spoke in opposition. He stated that this appeal violated the code; was denied by the Board of Appeals; provided no proof of hardship; and offered no compromise on density.

Continued on next page.

	FOR	AGAINST	ABSTENTION	ABSEN
DISTRICT 1 - ELAINE BOYER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 2 - GALE WALLDORFF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 3 - HOSEA WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 4 - KEN DAVIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 5 - WILLIAM C. "BILL" BROWN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 6 - JUDY YATES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 7 - JACQUELINE SCOTT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT A
p. 2 of 7

G. PUBLIC HEARING (continued)

1. Appeal by Philip G. Paymer - Special Exception and Variances (continued)

* There was lengthy discussion on this item. Responding to a question from Commissioner Williams, Mr. Paymer stated that he agreed to the conditions (1-9) as he had submitted but only if they were attached to his requested second plan; and this plan did not allow for a reduction in density from 7 lots to 6. Because of this comment, Commissioner Brown withdrew his second to the MOTION.

* Responding to a question from Commissioner Yates, Commissioner Walldorff stated that she was asked for a reduction in density as a compromise to control the effects of the development on the surrounding community.

At the request of Commissioner Boyer, Mr. Doug Bonds, Director of Public Works, explained the differences between private streets and public streets, and he stated that since the County does not have to maintain a private street, it saves the County money.

It was clarified by Chief Executive Officer Liane Levitan that with the passage of Commissioner Walldorff's motion, Mr. Paymer could build either the plan approved by the Board of Commissioners or the plan approved by the County under R-100 standards.

ATTACHMENT

ATTACHMENT A
p. 3 of 7

cases - DeKalb County Zoning Board of Appeals 11/10/93

Ms. Favors commented that she lives in Chimney Ridge and hers is a 3/4 acre lot. She stated that all other lots in Chimney Ridge are about the same or larger, and there are no three-homes-per-acre in her neighborhood and she has concerns with the request.

Department Recommendation

Denial.

Applicant has not demonstrated that by reason of exceptional topographic conditions or other extraordinary or exceptional conditions, the strict application of the development requirements would result in practical difficulties or undue hardship.

Motion

A motion was made by Ms. Favors to DENY. Motion was seconded by Dr. Studlar and unanimously carried 7-0-0.

A-93133

12. VOID

A-9313

13. 18-104-5-7
Commission District: 2 & 6

Application of PHILIP G. PAYMER for the following to development a 7-lc subdivision at 1158 McConnell Drive:

1. Special exception to allow development of 5 lots which will not abut public street and will be accessed by a private easement (drive/road)
2. Variance to reduce required minimum building distance from west re property line from 40 ft. to 10 ft. for proposed Lot #1;
3. Variance to reduce required minimum lot width at the building line fr 115 ft. to approx. 42 ft. for proposed Lot #1;
4. Variance to reduce required minimum lot width at the building line fr 100 ft. to approx. 95 ft. for proposed Lot #2.

The property is located on the north side of McConnell Drive approx. 986 west of Clairmont Road. The zone is R-100.

Applicant

Mr. Phil Paymer, 1158 McConnell Drive, Decatur, GA 30033, presented application and stated that he did not purchase this home with the idea later developing the property, but the nearly 3 acres have been severely impacted by the proximity of the C-1 and O-I properties surrounding adjoining it, some of which were developed before zoning requirements buffers, fencing, and detention. He stated that he did not want to sell property to a developer and wanted to set it up himself in the best way the neighborhood. He stated that he has turned in a plan to the Planning Commission for 7 lots which conforms to R-100 zoning, which was approved can be built, but feels it is a bad example of R-100 zoning and would cause much more of an impact on the immediate neighbors than his plan involving private road. He stated that neither density, drainage, nor traffic issues; he has already been approved for 7 lots, and the only issue is design -- which one will have the least impact on the neighborhood

ATTACHMENT A
p. 4 of 7

ices - DeKalb County Zoning Board of Appeals 11/10/93

stated that if the property is developed according to the zoning regulations, the road would be required to be along one property line or the other, within 10 ft. of neighboring houses, and would require a greater clearing of trees. He stated that with a private road, it would be more centrally located on the property and would provide better protection for the immediate neighbors, but requires a special exception and variances for development of the subdivision. He stated that his next door neighbor has given him a letter of support and at a meeting of the entire neighborhood, the neighborhood voted to support the variances. He submitted a list of conditions he is agreeable to and would like them to be made a part of granting the variances. He stated that the development already approved would proceed without any input from anyone and he feels that is a bad idea.

Opposition

Mr. Bob Youngerman, 998 Vistavia Circle, Decatur, GA 30033, representing himself as a resident of the neighborhood, distributed copies of a letter from him and the Mason Mill Civic Association and stated that those present at the neighborhood meeting felt that the request for variances was the lesser of two evils. He stated that the request for variances has not demonstrated that because of exceptional topographical conditions or extraordinary or exceptional conditions, the strict application of the development requirements would result in practical difficulties or undue hardship. He stated that he feels the proposed development must meet all county codes and standards without exception, and a poor precedent is established when variances of this type are approved. He stated that paving and tree removal for the subdivision will increase an already existing serious problem for homeowners below the development. He stated that the subdivision lacks any kind of compatibility with existing lots and homes on the street, as the existing lots and homes are far in excess of R-10 standards. He stated that the proposed design barely meets the minimum standards and requires variances to proceed with development. He stated that the applicant's intentions are to squeeze as many lots as possible out of the property to maximize his profits, which were the applicant's own words at the neighborhood meeting.

Mr. George Morris, 1116 McConnell Drive, Decatur, GA 30033, stated that the property is located on a dangerous curve where there have been many accidents and the subdivision will create a serious traffic problem. He stated that is opposed to the variances and the entire project.

Mr. Johnson Head, 1046 McConnell Drive, Decatur, GA 30033 and Ms. Bate Wa Advani, 1174 McConnell Drive, Decatur, GA 30033, also voiced opposition before time ran out.

A group also stood in opposition.

Executive Session

Dr. Studlar asked Mr. Youngerman to explain why he is more in favor of original plan than the subsequent plan. Mr. Youngerman responded that a procedural standpoint, the applicant would have to go back before Planning Commission to get final approval of the subdivision plat, at that time, the neighbors will have their own land use planner to discuss options available to the planning Commission and the applicant that they

ATTACHMENT A
p. 5 of 7

DeKalb County Zoning Board of Appeals 11/10/93

would be in the best interest of the neighborhood. He stated that they also fear the precedent granting variances could establish and the civic club has always opposed variances for in-fill developments.

Following further discussion, Dr. Studlar stated that problems stemming from the property adjoining Toco Hills Shopping Center are not going to go away with development of a new subdivision and she would hope the owner of Toco Hills would be agreeable to solving any problems. Mr. Allen commented that from statements made today, it would appear that the neighborhood meeting resulted in a favorable vote for the variances only because that was preferable to the original plan for a public road; as long as the development was going to go in, it was preferable to go with the design requiring variances. Dr. Studlar commented that she felt the main advantage to the second plan with the private road was that it made more marketable lots.

Department Recommendation

Denial of #1 thru #3;
#4 withdrawn by applicant prior to hearing.

Applicant has not submitted sufficient evidence to establish need or hardship justifying special exception.
Applicant has not demonstrated that by reason of exceptional topographic conditions or other extraordinary or exceptional conditions, the strict application of the development requirements would result in practical difficulties or undue hardship.

Motion

A motion was made by Dr. Studlar to DENY. Motion was seconded by Mr. Cowi and carried 5-2-0; Messrs. Kurtz and Washington voted against the motion.

A-931:

14. 18-203-2-9
Commission District: 2 & 6

~~Application of DR. PROF. K. M. WRIGHT for a special exception from his occupation standards to allow customer contact (patients) for homeopath medical practice at 322 Windmont Drive. The property (Windmont Apartment) is located on the west side of Clairmont Road approx. 620 ft. north of McJenkin Drive. The zone is O-1.~~

Applicant

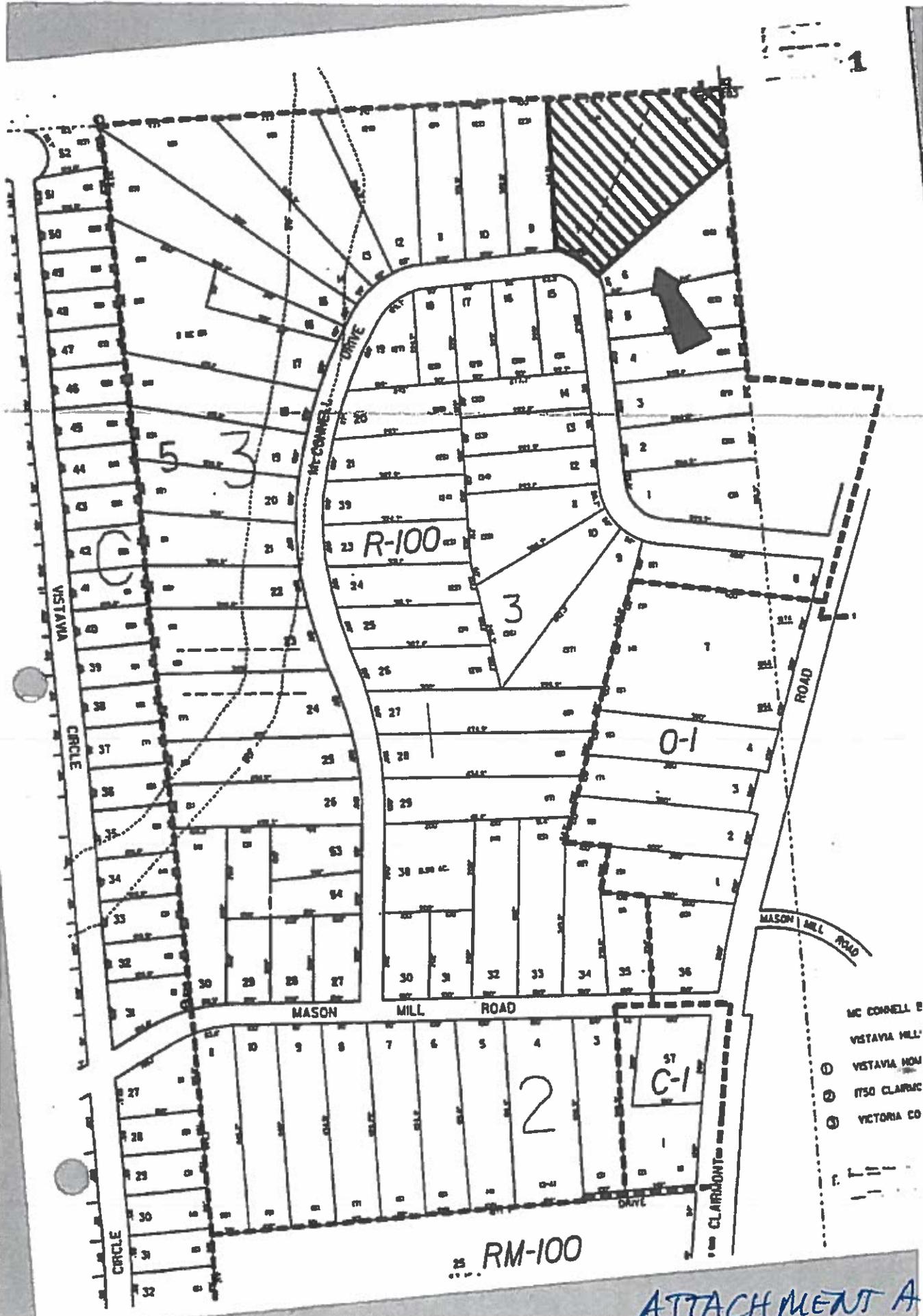
No one spoke for the application.

~~Mr. Lambie explained to the Board that he had received a call from a person reporting to be the applicant stating that the apartment owners would give authorization for this application and requested that it be withdrawn.~~

Opposition

No one spoke in opposition.

ATTACHMENT A
p. 6 of 7



- MC CONNELL E
- VISTAVIA MILL
- ① VISTAVIA MON
- ② ITSO CLARRIC
- ③ VICTORIA CO

RM-100

ATTACHMENT A
P. 7 OF 7

REV. 12/84

DEKALB COUNTY
BOARD OF COMMISSIONERS

ITEM NO. 1
268

PREL _____
ACTION _____
PUB HRG _____

BUSINESS AGENDA/MEETING
MEETING DATE January 25, 1994
COMMENTS FROM THE BOARD

RESOLUTION _____
ORDINANCE _____
PROCLAMATION _____

SUBJECT: Motion to Amend Number of Permitted Lots on Appeal by Philip G. Paymer

DEPARTMENT: Commission Office

PUBLIC HEARING: _____ Yes No

ATTACHMENT: _____ Yes No _____ pp

INFORMATION CONTACT: Ken Davis
Commission District 4
PHONE NUMBER: 371-2881

PURPOSE:

To consider amending the resolution adopted by the Board at the December 28, 1993, meeting of the Board of Commissioners relating to the appeal by Philip G. Paymer, page 836 of the Minutes, by deleting the additional condition of reducing the number of lots from 7 to 6, to allow the development of a 7-lot subdivision. All other conditions remain in full force and effect.

NEED/IMPACT:

Will allow applicant to develop a 7-lot subdivision as requested.

RECOMMENDATION(S):

To amend the resolution adopted by the Board at the December 28, 1993, meeting of the Board of Commissioners relating to the appeal by Philip G. Paymer, page 836 of the Minutes, by deleting the additional condition of reducing the number of lots from 7 to 6, to allow the development of a 7-lot subdivision. All other conditions remain in full force and effect.

ATTACHMENT B
p. 1 of 2

269

FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACTION:

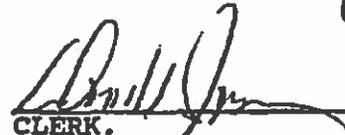
MOTION was made by Commissioner Davis, seconded by Commissioner Yates, to amend the resolution adopted by the Board at the December 28, 1993, meeting of the Board of Commissioners relating to the appeal by Philip G. Paymer page 836 of the Minutes, by deleting the additional condition of reducing the number of lots from 7 to 6, to allow the development of a 7-lot subdivision. All other conditions remain in full force and effect. A SUBSTITUTE MOTION was made by Commissioner Walldorff, seconded by Commissioner Boyer, and passed 4-3-0-0, to let the original action of the Board stand, since re-opening this matter would be a precedent-setting action. Commissioner Davis, Commissioner Yates and Commissioner Brown opposed.

ADOPTED: JAN 25 1994
(DATE)

CERTIFIED: JAN 25 1994
(DATE)



PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS



CLERK,
DEKALB COUNTY BOARD OF
COMMISSIONERS

MINUTES:

	FOR	AGAINST	ABSTENTION	ABSENT
DISTRICT 1 - ELAINE BOYER	✓	_____	_____	_____
DISTRICT 2 - GALE WALLDORFF	✓	_____	_____	_____
DISTRICT 3 - HOSEA WILLIAMS	✓	_____	_____	_____
DISTRICT 4 - KEN DAVIS	_____	✓	_____	_____
DISTRICT 5 - WILLIAM C. "BILL" BROWN	_____	✓	_____	_____
DISTRICT 6 - JUDY YATES	_____	✓	_____	_____
DISTRICT 7 - JACQUELINE SCOTT	✓	_____	_____	_____

F. COMMENTS FROM THE BOARD

1. Notice of Intent to Make a Motion to Amend Number of Permitted Lots on Appeal by Philip G. Paymer - Commissioner Ken Davis

Commissioner Davis stated that at the next meeting he would make a MOTION to amend a resolution previously adopted on December 28, 1993, relating to an appeal by Philip G. Paymer, Special Exceptions and Variances, so as to change the number of lots permitted from 6 to 7.

Responding to a question from Commissioner Walldorff, Commissioner Davis stated that the Board did not do anything procedurally incorrect nor did the Board approve anything in an illegal manner.

2. Expression of Appreciation to Supporters of Parade for Dunwoody High School - Commissioner Elaine Boyer

Commissioner Boyer expressed her appreciation to everyone who helped with the parade in Dunwoody honoring the State Champions from Dunwoody High School. Commissioner Boyer mentioned Ms. Becky Kelley, Director of Recreation, Parks and Cultural Affairs, and her staff; Ms. Cathy Harris, Special Projects Coordinator, Commission Office; the volunteers who helped roll the proclamations received by each student; the Communications Department; and Public Safety, under the direction of Thomas E. Brown, Jr., for its help with the parade route.

Chief Executive Officer Liane Levetan also thanked the Army for sending its marching land forces.

3. Comments from 1994 Presiding Officer - Commissioner Jacqueline Scott

Commissioner Scott thanked the Board for electing her Presiding Officer again this year. She praised the Board of Commissioners for its hard work and dedication, and cited three major accomplishments of the Board: the 1993 budget was adopted without the millage increase proposed; the Law Department was created for in-house legal services; the Board of Tax Assessors was reorganized; and minority participation was increased in County contracts and on appointed boards and committees.

Commissioner Scott stated that the three standing committees which she had previously established would continue: The Budget Review Committee would remain with Commissioner Williams as Chair; Commissioner Walldorff as Vice-Chair, and Commissioner Boyer as third member; the Personnel Committee will remain with Commissioner Brown as Chair; Commissioner Ken Davis will replace Commissioner Yates, who has asked that she be removed from this committee in order to spend more time with the Land Use and Planning Committee; and Commissioner Scott is also a member of the Personnel Committee. The Committee on Land Use and Planning will remain with Commissioner Yates as Chair; Commissioner Williams and Commissioner Scott will remain as members.

Continued on next page.

ATTACHMENT B
p. 2 of 2

~~(#12 - BallSouth - Con't)~~~~Department Recommendation~~~~Denial.~~~~Applicant has not demonstrated that by reason of exceptional topographic conditions or other extraordinary or exceptional conditions, the strict application of the development requirements would result in practical difficulties or undue hardship.~~~~Motion~~~~A motion was made by Mr. Pak to DEFER to the March 8, 1995 hearing. Motion was seconded by Mr. Thomson and carried 3-2-0; Mr. Washington and Mr. Cowie voted against the motion.~~

13. VOID

A-95028

14. 18-104-5-60
Commission District: 2 & 6

A-95029

Application of BROCK CONSTRUCTION COMPANY to waive a condition of a Board of Commissioners' decision (appeal by Philip G. Paymer of December 28, 1993) limiting the number of lots in a proposed subdivision to six (6). The property is located on the north side of McConnell Drive approx. 986 ft. west of Clairmont Road. The zone is R-100.

Applicant

Mr. Steve Brock, President of Brock Construction Company, 1936-A North Druid Hills Road, N. E., Atlanta, GA 30319, presented the application and stated that they want to divide lot #6 into two lots, both of which would meet all zoning requirements for R-100. He stated that they want to remove the condition of a previous variance request imposed on the previous property owner, Mr. Paymer, which in his opinion, should never have been imposed in the first place. He stated that the original request was for a special exception for a private street for a 7-lot subdivision. He stated that a public street, which could have been used and would have yielded 7 lots, was decided against because it would have meant clearing every tree from the site. He stated that the private street allows them to maintain a beautiful piece of property and there are some specimen oak trees on the property that they have saved.

(i.e., the appeal from denial of variance request) MUF

Opposition

Mr. Bob Youngerman, 998 Vistavia Circle, Decatur, GA 30033, President of the Mason Mill Civic Association, stated that he has been authorized by a unanimous vote of the Board of Directors to urge the Board of Appeals to deny the waiver of the Commissioners' condition, which would increase the subdivision from 6 lots to 7. He presented copies of documents to the Board and a statement from Mr. W. R. Brockman, next door neighbor to the subdivision, who was unable to attend. He stated that the Board of Appeals

ATTACHMENT C
p. 1 of 3

(#14 - Brock - Con't)

unanimously denied the application for a special exception and variances for 7 lots a year ago and the applicants purchased the property fully aware of the 6-lot limitation. He stated that to grant this request today would reverse the previous Board of Appeals' decision of a year ago as well as the decision of the Commissioners to condition the subdivision to 6 lots. He stated that if the request is granted, the applicant would be successful in achieving a 7-lot development, which a year ago, required a special exception and they would have had to prove a hardship or unusual circumstances. He stated that the applicant has tried to circumvent other conditions imposed by the Commissioners, such as the prohibition of upstairs windows facing Mr. Brockman's property, and Mr. Brockman informed him that the windows have been boarded up only after his many protests. He stated that the applicant has already encroached on the 10 ft. buffer from Mr. Brockman's property line by building the private street less than 10 ft. from the Brockman property. He stated that during construction of the subdivision, the applicants failed to curtail the mud and silt that literally covered McConnell Drive and neighbors' driveways in both directions from the development. They ask that the applicants not be allowed to enter in the back door when they were not allowed in a legitimate manner through the front door.

* Mr. Donald Abrams 1099 McConnell Drive, Decatur, GA 30033, stated that they informally circulated a petition over the weekend and were only able to reach about 2/3 of the homeowners on the street, but everyone signed it and was strongly opposed to the seventh house. He stated that with the exception of two people, they all opposed the development in the beginning and are now concerned what the addition of a seventh structure will do to the drainage, visual appearance, and character of neighborhood.

Rebuttal

Mr. Brock stated that there are no encroachments and the mud and silt was a problem during the development, as it has been with any property that has been developed in DeKalb County due to some of the heaviest rainfalls last summer on record. He stated that they took all the precautions possible and followed the County's recommendations and if a mess was made, they cleaned it up. He stated that the additional structure will not increase run-off more than one cubic foot per second and the County recognizes that as being small enough to exempt it. He added that the neighborhood groups supported the original proposal for 7 lots by Mr. Paymer.

Ms. Jackson asked Mr. Youngerman to comment on the statement that the neighborhood supported the original proposal in the past. Mr. Youngerman stated that Mr. Paymer initially had two proposals for the property: (1) A 7-lot subdivision with a public street which was approved by the Planning Commission and required no variances and there was nothing the neighborhood could do about it, and (2) a 7-lot subdivision with a private street that the owner claimed would cause a lot less trees to be removed and was a better proposal. He stated that the vast majority of the neighborhood, and he personally, did not support either proposal, but went along with the second one as being the lesser of two evils.

ATTACHMENT C
p. 2 of 3

(#14 - Brook - Con't)

Executive Session

The Board reviewed the history of the application to the Board of Appeals and the appeal to the Commissioners and reviewed with Mr. Brook the Board of Commissioners' decision. Following further review and discussion, the Board indicated their reluctance to waive a condition imposed by the Board of Commissioners. Ms. Jackson stated that she felt the same Board should be considering this that put the condition on there in the first place. Mr. Cowie concurred and stated that he felt uncomfortable being asked to overrule the Board of Commissioners and stated that he will move for denial of the request and wished for the record to reflect the reason for the Board's action.

Department Recommendation

Approval.

On December 28, 1993, the Board of Commissioners approved an appeal by Philip G. Paymer of a Board of Appeals' decision denying variances and a special exception for proposed subdivision on McConnell Drive, with the condition that the number of lots be limited to six. A request to delete this condition was denied by the Board of Commissioners on January 25, 1995. However, the proposed division of a lot will create two conforming lots.

Motion

A motion was made by Mr. Cowie to DENY. Motion was seconded by Mr. Thomson and carried 4-0-1; Mr. Pak abstained.

The meeting was adjourned at 3:30 P.M.

George F. Lambie

George F. Lambie
Manager, Permits and Zoning Review

Michael A. Cooper

Michael A. Cooper
Assistant Manager, Permits and Zoning Review

Alaine B. Maxey

Alaine B. Maxey
Zoning Board of Appeals Coordinator

ATTACHMENT C
p. 3 of 3

REV. 12/84

DEKALB COUNTY
BOARD OF COMMISSIONERS

ITEM NO. 2

BUSINESS AGENDA/MINUTES

MEETING DATE March 14, 1995

PREL.	___
ACTION	___
PUB. HRG.	<u>X</u>

RESOLUTION	<u>X</u>
ORDINANCE	___
PROCLAMATION	___

SUBJECT: Appeal by Brock Construction Company - Waiver of Condition
Commission District 2 & 6

DEPARTMENT: PW-Development

PUBLIC HEARING: X Yes ___ No

ATTACHMENT: X Yes ___ No 4 pp

INFORMATION CONTACT:
E. R. Longmire *[Signature]*
PHONE NUMBER: 371-2167

PURPOSE:

To consider an appeal by BROCK CONSTRUCTION COMPANY from a Board of Appeals' decision denying the waiver of a condition of a Board of Commissioners' decision (appeal by Philip G. Paymer of December 28, 1993) limiting the number of lots in a proposed subdivision to six. The property is located on the north side of McConnell Drive approx. 986 ft. west of Clairmont Road. The zone is R-100.

NEED/IMPACT:

On December 28, 1993, the Board of Commissioners approved an appeal by Philip G. Paymer from a Board of Appeals' decision denying variances and a special exception for proposed subdivision on McConnell Drive with the condition that the number of lots be limited to six. A request to delete this condition was denied by the Board of Commissioners on January 25, 1995. However, the proposed division of a lot will create two conforming lots.

RECOMMENDATION(s):

* Approval of appeal by Brock Construction Company and overturn Board of Appeals' decision denying the waiver of a condition of a Board of Commissioners' decision of December 28, 1993 limiting the number of lots in proposed subdivision on McConnell Drive to six.

ATTACHMENT D
p. 1 of 3

328

FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACTION:

MOTION was made by Commissioner Walldorff, seconded by Commissioner Sanford, and passed 5-1-1-0, to deny the appeal by Brock Construction Company and uphold Board of Appeals' decision denying the waiver of a condition of Board of Commissioners' decision of December 28, 1993 limiting the number of lots in proposed subdivision on McConnell Drive to six. Commissioner Brown opposed; Commissioner Sanford abstained.

DISCUSSION: Mr. Steve Brock, 1936A North Druid Hills Road, Atlanta, Georgia, 30319, spoke for the appeal. Mr. Brock requested that the Board remove the condition previously placed on this property by the Board of Commissioners two years ago, which limited the number of lots in the development to six. Mr. Brock stated that the neighborhood had originally voted for the 7-lot version of the development and he stated that he has met all of his obligations with regard to this development. A copy of the plat is on file in the Clerk's Office. (Continued below under MINUTES)

ADOPTED: MAR 14 1995
(DATE)

CERTIFIED: MAR 14 1995
(DATE)

Gale Walldorff
PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS

Donald W. Payne
CLERK,
DEKALB COUNTY BOARD OF COMMISSIONERS

MINUTES:

Opposition: Mr. Bob Youngerman, 998 Vistavia Circle, Decatur, Georgia, 30033; Mr. Bard Brockman, 1150 McConnell Drive, Decatur, Georgia, 30033; and Mr. Andy Scott, 1131 McConnell Drive, Decatur, Georgia, 30033, spoke in opposition. Reasons given for opposing the appeal were: Mr. Brock purchased the property from Mr. Paymer fully aware of the six-lot condition; and he should be made to adhere to that condition. The Board of Commissioners placed this six-lot requirement on this property and it should not have to reverse its decision; by requesting the waiver of the condition, Mr. Brock is attempting to remove the burden of his having to prove hardship, and the application for a seventh lot goes back on the compromise reached between the previous developer and the neighborhood. Mr. Scott submitted petitions of opposition to the Board for review, copies of which are on file in the Clerk's Office.

(Continued on next page.)

	FOR	AGAINST	ABSTENTION	ABSENT
DISTRICT 1 - ELAINE BOYER	✓			
DISTRICT 2 - GALE WALLDORFF	✓			
DISTRICT 3 - JACQUELINE SCOTT	✓			
DISTRICT 4 - KEN DAVIS	✓			
DISTRICT 5 - WILLIAM C. "BILL" BROWN		✓		
DISTRICT 6 - JUDY YATES	✓			
DISTRICT 7 - PORTER SANFORD, III			✓	

ATTACHMENT D
p. 2 of 3

F. PUBLIC HEARING (continued)

2. Appeal by Brock Construction Company - Waiver of Condition (continued).

Commissioner Walldorff stated that she had been asked if she could ethically vote on this item. Commissioner Walldorff stated that even though this development shares her name, she has no interest, financial or otherwise, in the project. Commissioner Walldorff stated that since the time this issue was last discussed, nothing has changed; and she made the MOTION to deny the appeal.

Responding to a question from Commissioner Brown, Mr. Brock stated that the neighborhood voted its support of the application prior to the hearing of the original application, and they supported the seven-lot, private street plan. Responding to a question from Commissioner Brown, Mr. Bob Youngerman, speaking for the opposing residents, stated that they felt that the increased density being requested would add more problems than six lots would, and he urged the Board to keep to the six-lot requirement.

Commissioner Yates summarized the discussion and action taken by the Board previously; and responding to a question from Commissioner Boyer, Mr. Brock stated that while he was not involved in the placement of the condition on the property, he was aware that the condition had been placed on it.

ATTACHMENT

ATTACHMENT D
p. 3 of 3

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

APPLICATION TO AMEND OFFICIAL ZONING MAP
OF DEKALB COUNTY, GEORGIA

Z/CZ No. Z-17-21421
Filing Fee: _____

Date Received: _____ Application No.: _____

Applicant: Brock Built Homes, LLC E-Mail: adambrock@brockbuilt.com
Applicant Mailing Address:
1110 Northchase Parkway Suite 150 Marietta GA 30067

Applicant Phone: 404.557.2523 Fax: NA

Owner(s): Evanne L. Brock E-Mail: c/o AdamBrock@Brockbuilt.com
(If more than one owner, attach as Exhibit "A")
Owner's Mailing Address:
1110 Northchase Parkway Suite 150 Marietta GA 30067

Owner(s) Phone: 404.557.2523 Fax: NA

Address/Location of Subject Property: 1158 McConnell Drive

District(s): 18th Land Lot(s): 104 Block: Lot 7 Parcel(s): 18 104 05 060

Acreage: 0.4619 Commission District(s): 2 and 6

Present Zoning Category: R100 Proposed Zoning Category: R100conditional

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.

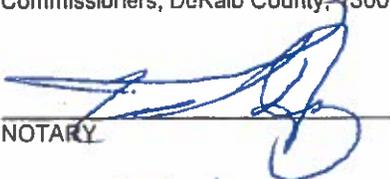
Disclosure of Campaign Contributions

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.

NOTARY 

SIGNATURE OF APPLICANT / DATE 31-2017

Check One: Owner _____ Agent X

County/City of DeKalb
Commonwealth/State of Georgia
The foregoing instrument was acknowledged before me this 1 day of March, 2017
by _____
(name of person seeking acknowledgement)

Notary Public
My Commission Expires: Sept 19, 2020

RECEIVED MAR 01 2017

GENTRY PLANNING SERVICES, LLC

PUBLIC MEETING NOTICE

TOM C WISNIEWSKI & KURT KNAPP
1125 WALDORFS CT
DECATUR GA 30033-3439

Dear Neighbor:

Gentry Planning Services, LLC will be holding a public meeting with and on behalf of Brock Built Homes, LLC regarding their application for a rezoning of property located at 1158 McConnell Drive. Brock Built Homes, LLC is seeking to change the zoning condition which limits the Waldorf's Gale subdivision to six homes, to allow for the construction of a new single family detached home. Gentry Planning Services will be hosting a public meeting with Brock Built Homes, LLC at Central DeKalb Senior Center. The meeting details are as follows:

MEETING DATE/TIME: February 27, 2017/7:00 PM

LOCATION: Central DeKalb Senior Center
1346 McConnell Dr. Decatur, GA 30033

SUBJECT: 1158 McConnell Drive – Rezoning

SINCERELY,

NINA E. GENTRY, AICP
GENTRY PLANNING SERVICES, LLC

February 27, 2017
 COMMUNITY MEETING CENTRAL DEKALB SENIOR CENTER
 1346 McConnell Drive

NAME	ADDRESS	CONTACT INFORMATION
RAFE and ILZE HENDERSON	1098 McCONNELL DRIVE	rafeh@bellsouth.net ilze@bellsouth.net
Mary Hinkel	1718 Mason Mill Rd	maryhinkel@comcast.net
John Ellett	1147 McConnell Drive	JWELLET@GMAIL.COM
B. WILS MADDOX	1134 Waldorfs Court	maddowels@ATT.NET
John T. Musser	1174 Mc Connell Dr.	jtmusser@yahoo.com miss Screer@yahoo.com
Shenoa Greer	" "	
Kevin Kinsey	1155 McConnell Dr.	kdkinsey@gmail.com
Tom Kinsey	1625 WALDORFS CT.	tom1394@bellsouth.net
PETER NEWFIELD	1128 WALDORFS CT	pnewfield@ysmadesign.com

2/23/17 Immediate Neighbors

<u>Name</u>	<u>Address</u>	<u>Contact</u>
Mary Hinkel	1718 Mason Mill	maryhinkel@comcast.net
Tom Wisniewski	1125 WALDOFS CT	tom1294@bellsouth.net
DAVID JONES	1155 MCCONNELL DR	DLJ302@GMAIL.COM
David White	1141 Waldorfs Ct.	waldorfs@aol.com
Wells Maddox	1134 Waldorfs CT	maddoxwells@att.net

THE ZOECKLER FIRM, LLC

ATTORNEYS AT LAW
POST OFFICE BOX 417
CLARKSTON, GEORGIA 30021

ROBERT L. ZOECKLER
THOMAS A. BOWMAN, Of Counsel

Telephone:
770.356.6270
Email:
bob@zoecklerfirm.com
Mr. Bowman direct:
404.408.3845

1 March 2017

VIA HAND DELIVERY

Marian Eisenberg, Zoning Administrator
Department of Planning and Sustainability
DeKalb County
Clark Harrison Building
330 W. Ponce de Leon Avenue
Decatur, Georgia 30030

Re: LETTER OF APPLICATION for Rezoning Application regarding 1158
McConnell Drive

Dear Marian:

On behalf of applicant Brock Built Homes, LLC, I am pleased to submit the attached rezoning application materials. This correspondence will serve as the Letter of Application required for rezoning applications.

History of Property

The property subject to this rezoning request has some history. Back in 1993, the subdivision that includes this property was platted and upon information and belief approved by the Planning Commission for a 7 lot public road subdivision. Because that subdivision as platted would have resulted in loss of trees and irregular lot layouts, the owner filed an application with the Board of Zoning Appeals for a Special Exception to allow a private road and Variances for lots 1 and 2. The application showed 7 lots with a private road. The BZA denied that application and an appeal was made to the Board of Commissioners. On 28 December 1993, the Board of Commissioners voted to approve the appeal and allow the private subdivision, but then a Commissioner added a new condition not requested by the applicant that stated: "Reduction of the number of lots from 7 to 6..." The applicant stated on the record that the plan was designed for 7 lots and that the plan did not allow for a reduction in the number of units. The Board approved the motion to approve the private subdivision with the lot reduction condition by a vote of 4 to 3. (Minutes and other supportive documents are attached to this application. Applicant and owner contend that the action by the Board of Commissioners imposing that condition was unconstitutional as described on the attached constitutional objections document.)

Thereafter, the subdivision was platted and filed in Superior Court. The lot line on the subdivision plat between lots 6 and 7 was erased so that Lots 6 and 7 appeared combined on that plat. However, the legal deeds to lot 6 and lot 7 were described by separate metes and bounds and separately sold to different owners. In addition, each lot received individual tax identification numbers and addresses. The lot subject to this rezoning was designated Parcel ID #

Marian Eisenberg
1 March 2017
Page 2

18 104 05 060 and has been individually taxed by the County since that time – some 23 years. The lot subject to this appeal also was addressed by the County as 1158 McConnell Drive. Additionally, this lot is shown as an individual lot on the official County Zoning Map. To anyone looking at this property, it would appear to be a separate buildable parcel recognized and taxed as an R-100 parcel by the County.

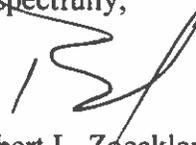
When efforts were begun by the applicant to construct a single family residence, the applications were refused by County Officials. The reason for that refusal was that the prior condition imposed by the Board of Commissioners prohibited a 7th lot, despite the facts noted above regarding its existence as a recognized lot. The County’s position is that the lot can not be developed even though the County acknowledges the existence of the lot on its tax data and official zoning map and taxes it each year. Applicant respectfully submits that this is an unconstitutional condition, and one of the very few situations in local governmental law in which a “taking” has occurred. This is because the property is being deprived of any economically viable use while simultaneously being recognized as a lawful parcel and taxed, due to the imposition of an outdated condition that was unlawful at its inception (because, among other defects, it had no relationship or nexus to the variance being requested) and continues to be unlawful today.

Proposed Rezoning

To rectify this situation, after lengthy consultation with Planning staff, the applicant proposes a rezoning from R-100 to R-100 conditional. The condition would be to remove the prohibition against the platting and development of 1158 McConnell Drive so that a single family residence can be constructed in accordance with the submitted site plan. The house can be constructed on this parcel without variances and would comply with all R-100 requirements. This action would alleviate the current untenable situation in a manner consistent with the surrounding residential neighborhood. History aside, the proposed home would meet all County requirements and fit well into this single family residential neighborhood.

Thank you, and please do not hesitate to call should you or your staff have any questions regarding this submission.

Respectfully,



Robert L. Zoeckler, Esq.
Counsel for Applicant

cc: Honorable Jeff Rader, District 2
Honorable Kathie Gannon, Super District 6
Adam Brock, Brock Built Homes, LLC

**Brock Built Homes, LLC
1158 McConnell Drive
Rezoning: R100 to R100C
1 March 2017**

REZONING IMPACT ANALYSIS

The applicant respectfully submits that the proposed project meets each of the standards and factors for rezoning in Dekalb County Section 27-832, as follows:

- A. Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan.

The property is designated “suburban” on the current land use plan, a category fully consistent with the proposed R-100 conditional zoning and use.

- 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 proposal will permit the platting and construction of a single family residence. This use is identical to the other uses in this subdivision and in the surrounding single family residential area.

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

The property affected by this rezoning has no economic use as currently zoned.

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

The proposal will positively affect uses and usability of adjacent and nearby properties. The property is now vacant and a maintenance burden on the remaining residential properties within the subdivision. This rezoning would allow for the construction of a single family residence, alleviating the current vacant condition and allowing a use that is identical to all surrounding properties.

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

The applicant believes that the continued imposition of the former condition prohibiting the recognition of this lot and prohibiting construction of a single family

**Brock Built Homes, LLC
1158 McConnell Drive
Rezoning: R100 to R100C
1 March 2017**

REZONING IMPACT ANALYSIS

residential structure is unlawful. The lot exists on the County's Official Zoning Map and is already addressed (1158 McConnell Drive). It also has an existing parcel identification number and taxes have been collected despite the use prohibition for the past 23 years. The development patterns of this area of Dekalb no longer support the prohibition of this lot's development, even if the condition's lawfulness were not in question. The proposal is to construct a single family home exactly like the other homes that exist in this neighborhood. These matters are additional supporting grounds to the approval of this conditional rezoning.

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

No such historic or archeological resources exist on this site.

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

The proposal will not burden such services. They already exist and are available at this location.

**Brock Built Homes, LLC
1158 McConnell Drive
Rezoning: R100 to R100C
1 March 2017**

REZONING : SUMMARY OF PROPOSED CONDITIONS

The applicant respectfully requests that the following conditions be attached to the rezoning of the subject property:

1. Number of Lots. The former restriction imposed in 1993 by the Board of Commissioners to reduce the number of lots from 7 to 6 in this subdivision is deleted so as to recognize the existence of Lot 7 (1158 McConnell Drive), allow the formal platting of Lot 7, and allow the construction of a single family residential building on Lot 7 in accordance with the site plan referenced in condition 2.
2. Site Plan. The rezoning shall be subject to the conceptual site plan prepared by Georgia Land Surveyor, LLC dated 27 February 2017.

Brock Built Homes, LLC
1158 McConnell Drive
Rezoning: R100 to R100C
1 March 2017

CONSTITUTIONAL OBJECTIONS

Brock Built Homes, LLC and Evanne L. Brock, (hereafter “Applicants”) respectfully submit that the above-referenced application for rezoning meets each of the rezoning criteria specified in the Zoning Code and the Code of Ordinances of DeKalb County and accordingly must be granted by the DeKalb County Board of Commissioners (“BOC”). Any application of the DeKalb County Zoning Ordinance or action by the BOC that would restrict the use and development of the subject site other than as requested in this Application would be unconstitutional, illegal, null and void, constituting a destruction of Applicants’ protected property interests and a taking of Applicants’ property in violation of the Just Compensation Clause of the Fifth and Fourteenth Amendments 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 Clauses of the Georgia Constitution and the Fourteenth Amendment to the Constitution of the United States, denying Applicants an economically viable use of their land while not substantially advancing legitimate state interests.

A denial of this Application would constitute a gross abuse of discretion and an arbitrary and capricious act by the BOC and DeKalb County without any rational basis in violation of Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. To the extent that the requested Application is denied based upon DeKalb County standards and criteria, Applicants contend said standards and criteria are unconstitutionally vague in violation of Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to approve the Application as proposed by Applicants as applied to this property would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicants 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 of the Constitution of the United States.

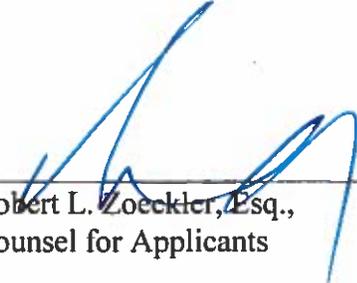
In addition to the other referenced constitutional defects, applicants specifically submit that the decisions of the Board of Commissioners on 28 December 1993 and 14 March 1995, and actions of officials of Dekalb County since that time, have been and continue to be unlawful and unconstitutional because, *inter alia*, they violate the Takings Clause and Due Process Clause of the United States Constitution and the Georgia Constitution as cited above by: (i) Imposing a condition prohibiting development of a lot (1158 McConnell Drive, Dekalb County) that lacked then and continues to lack any nexus or connection at all to the variances requested of the Board of Appeals by the Applicants and their predecessors in title (variances and special exception for a private drive) as clearly required by US Supreme Court and Georgia Supreme Court precedent; (ii) Prohibiting the development of applicants’ property, which is a conforming lot in the R100 zoning district and has been assigned a parcel identification number, been assigned an address, and been platted on the County’s Official Zoning Map, for any use whatsoever, thus denying

**Brock Built Homes, LLC
1158 McConnell Drive
Rezoning: R100 to R100C
1 March 2017**

CONSTITUTIONAL OBJECTIONS

applicants of all use of said property without any basis in law; and (iii) Demanding and taking real property tax payments annually for this lot despite the County's refusal to allow any development of said lot.

Any imposition of conditions upon the subject property restricting the utilization of the subject site other than conditions agreed to by Applicants also would constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions and statutory provisions set forth above.



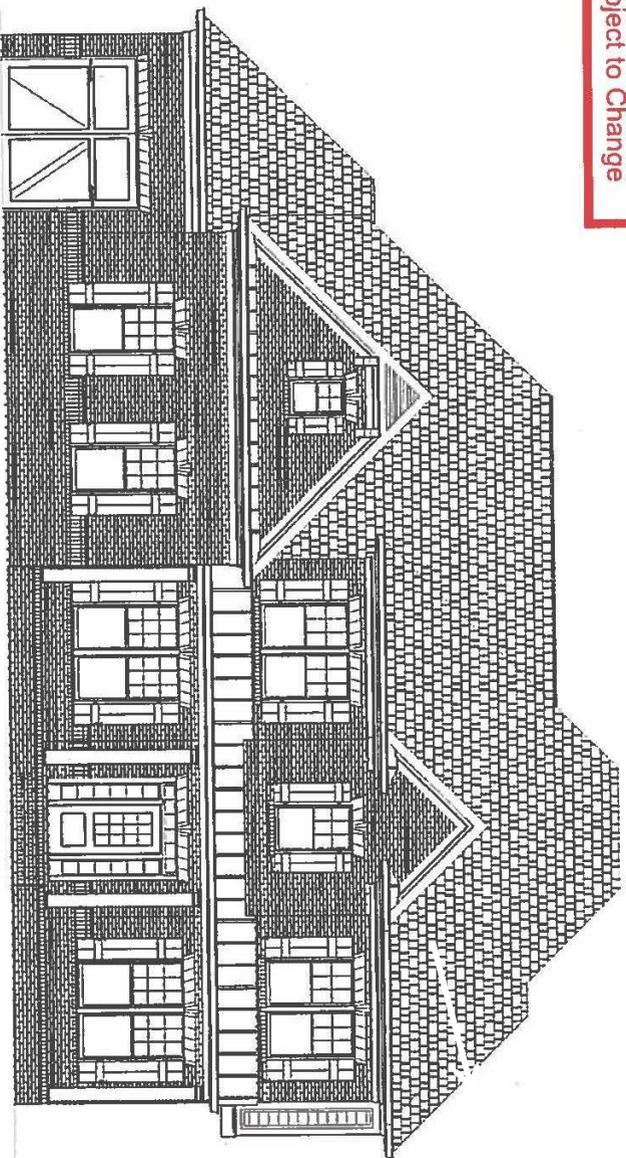
Robert L. Zoeckler, Esq.,
Counsel for Applicants

BROCK BUILT

The Jasper C

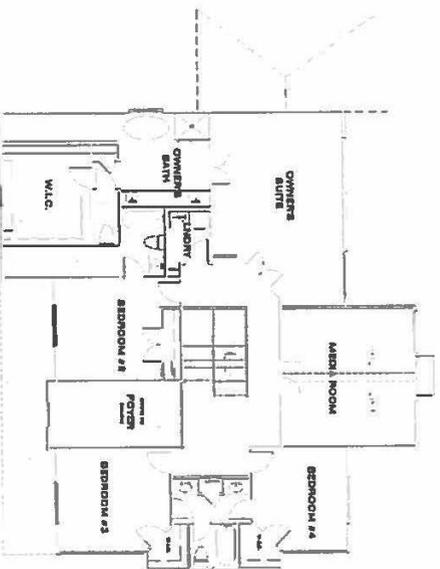
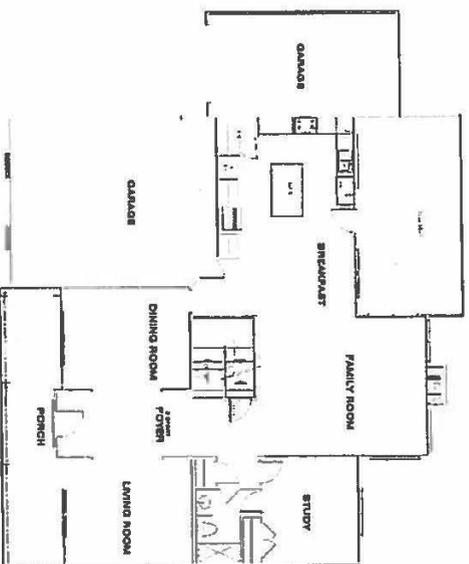
Rocky Mountain Estates – Lot 2

Example of
Proposed House
Subject to Change



Level 1

Level 2



At Brock Built Homes, we believe in continually providing you with the best possible product and home designs. Therefore, we reserve the right to change plans, specifications and prices without notice. Square footage is approximate. Floorplan may change based on elevation. Floorplan shown is not indicative of all elevations. Porch size and location based upon builder plans and lot conditions.



www.brockbuilt.com
OBIE AWARD WINNING BUILDER

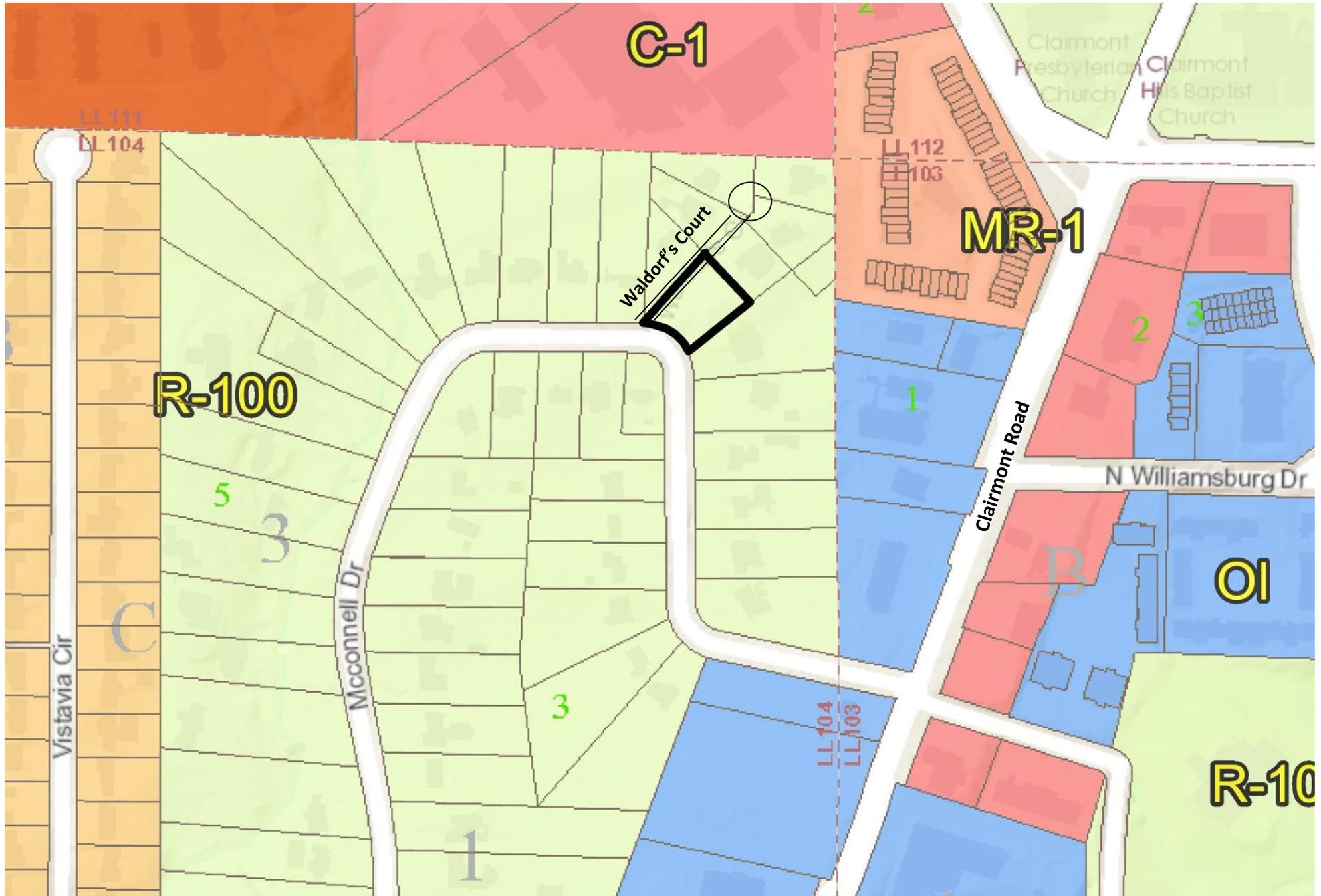


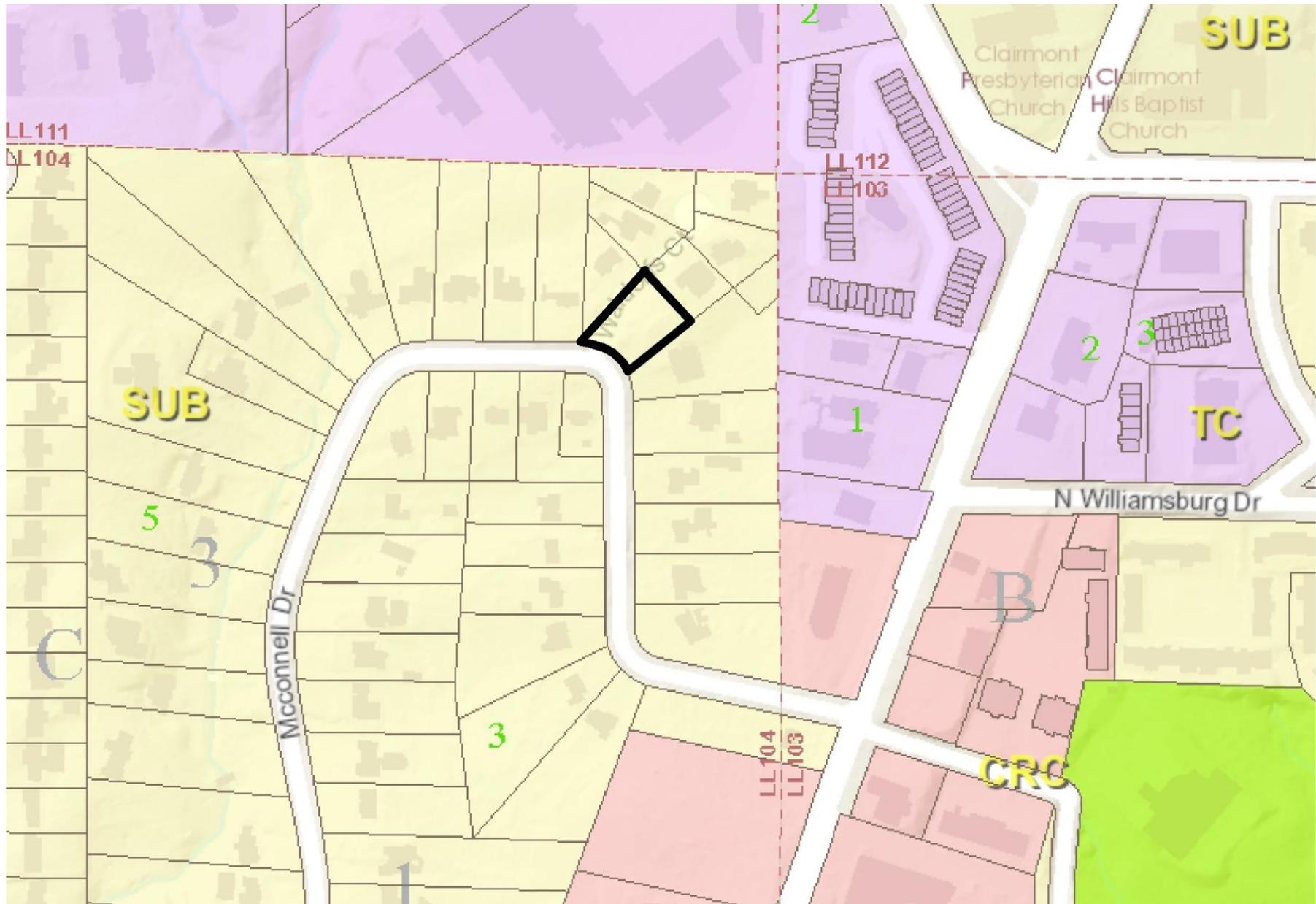
All information is deemed reliable but is not guaranteed and should be independently verified. Builder reserves the right to change prices, elevations, and room dimensions without notice. Modified by Brock Built Properties, Ltd. 714 2918

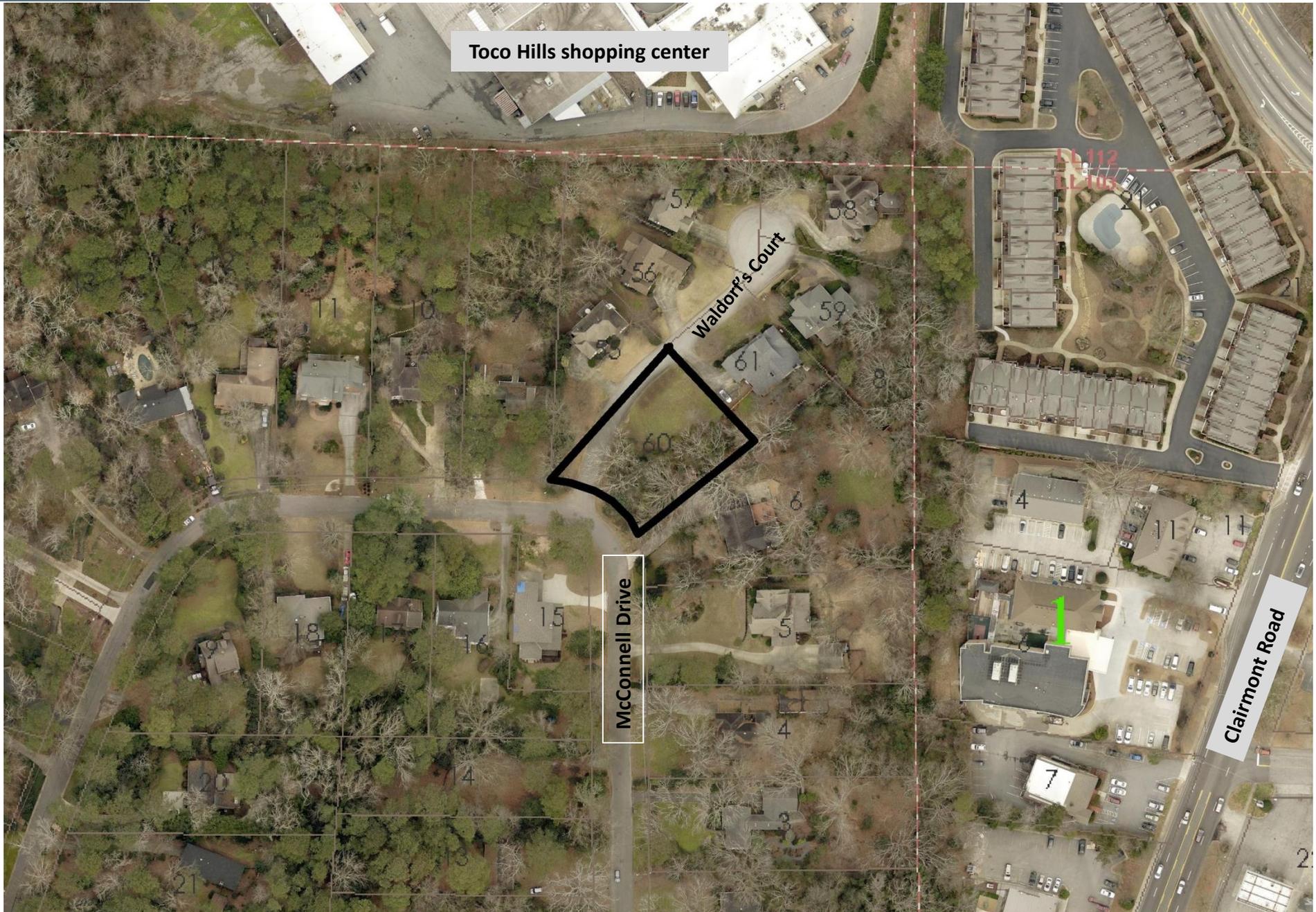


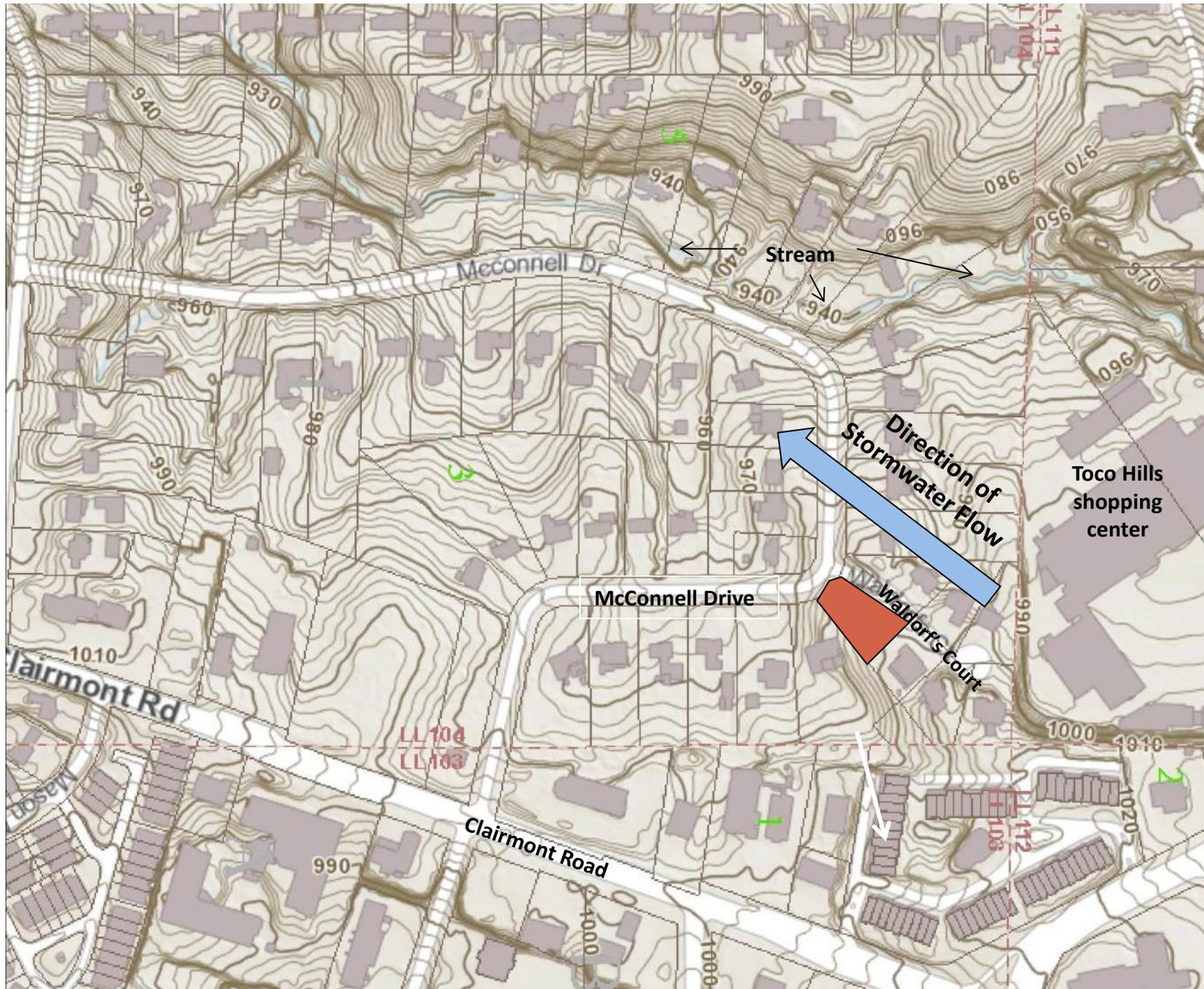
Jasper - Bennett's Park

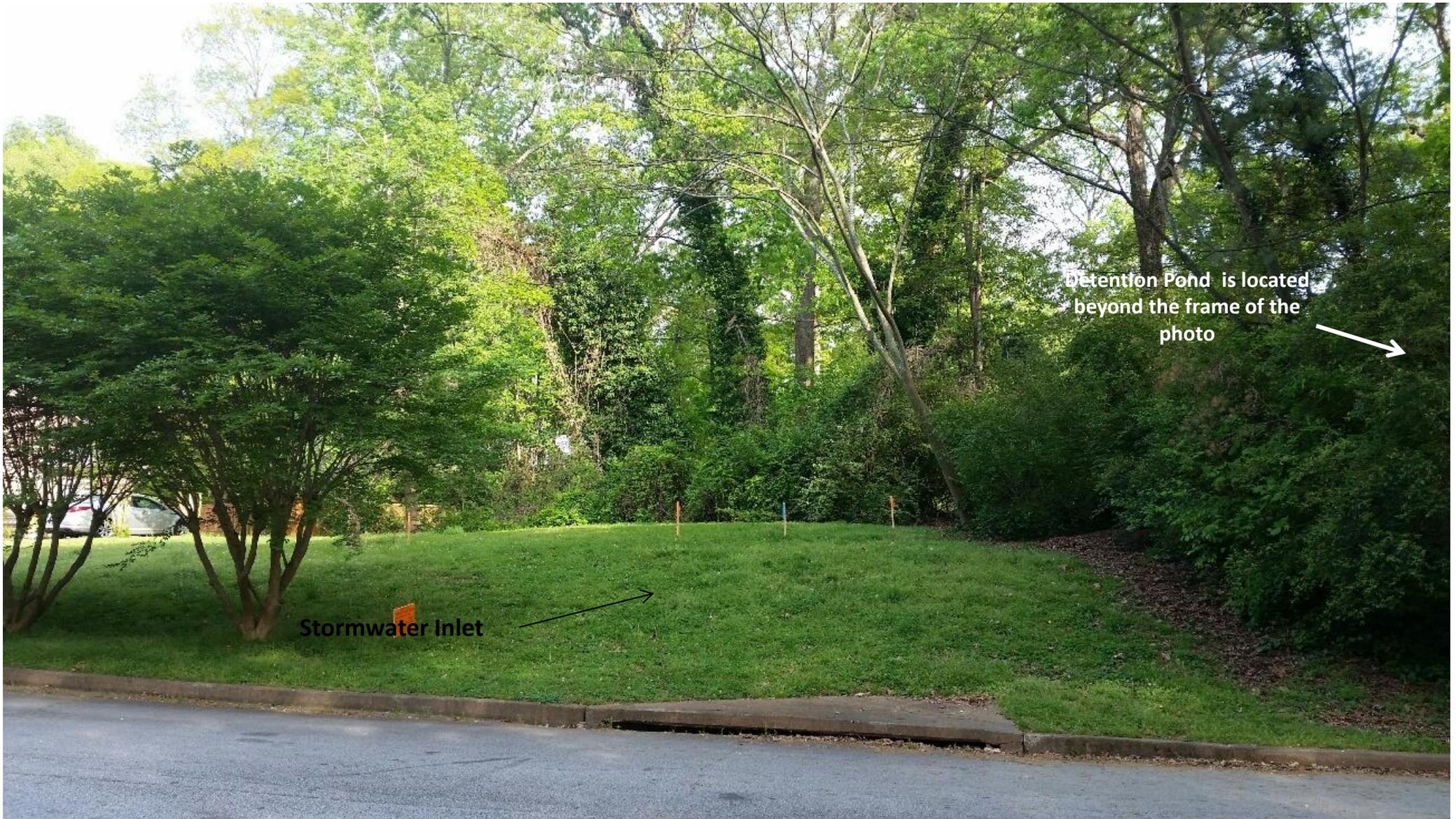
Example of Proposed House;
Subject to Change











Subject Property, viewed from Waldorf's Court



Subject Property



Subject Property



Existing Homes in the Waldorf's Gale Subdivision



Homes on Nearby Properties in Surrounding Neighborhood