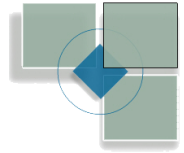




# DeKalb County Department of Planning & Sustainability

178 Sams Street, Suite 3600  
Decatur, GA 30030  
(404) 371-2155 / plandev@dekalbcountyga.gov



Michael Thurmond  
Chief Executive Officer

**Planning Commission Hearing Date: September 12, 2023**  
**Board of Commissioners Hearing Date: September 28, 2023**

## STAFF ANALYSIS

<b>Case No.:</b>	2023-0877	<b>Agenda #:</b> N7
<b>Location/ Address:</b>	The property is located at 6290 Sayler Park and has no public road frontage.	Commission District: 5 Super District: 7
<b>Parcel ID:</b>	16-102-01-001	
<b>Request:</b>	A Major Modification of zoning conditions pursuant to CZ-96056 to remove Condition #16, pertaining to required donation of land to the DeKalb County Parks Department in the RSM (Residential Small Lot Mix) zoning district.	
<b>Property Owner:</b>	Landman, Inc.	
<b>Applicant/Agent:</b>	DeKalb County Parks and Recreation Department c/o Caleb Wittenmyer	
<b>Acreage:</b>	1.18	
<b>Existing Land Use:</b>	Vacant	
<b>Surrounding Properties:</b>	Single-family residential to the east, west, and south; Redan Park to the north.	
<b>Adjacent Zoning:</b>	<b>North:</b> R-100 <b>South:</b> RSM <b>East:</b> RSM <b>West:</b> RSM	
<b>Comprehensive Plan:</b>	SUB (Suburban)	<b>Consistent</b> <input checked="" type="checkbox"/> <b>Inconsistent</b> <input type="checkbox"/>
<b>Proposed Density:</b> NA		<b>Existing Density:</b> NA
<b>Proposed Units/Square Ft.:</b> NA		<b>Existing Units/Square Feet:</b> Vacant Land
<b>Proposed Lot Coverage:</b> NA		<b>Existing Lot Coverage:</b> NA

### STAFF RECOMMENDATION: APPROVAL

The subject property is part of the Cheshire Estates subdivision and was approved with 20 zoning conditions by the Board of Commissioners per case CZ-96056 on March 30, 1998 (see Exhibit A "Landman Inc. Proposed Rezoning Conditions"). DeKalb County's Department of Recreation, Parks, and Cultural Affairs is requesting to remove Condition #16 which requires the donation of this parcel of land for use by the Parks Department (see enclosed memorandum dated February 1, 2023). Based on the submitted information, the vacant land is consistent with the policy and

strategies of the Suburban Character area to preserve and protect existing residential neighborhoods and appears to be compatible with the adjacent park (Redan Park) and surrounding single-family residential uses.

Therefore, it is the recommendation of the Planning & Sustainability Department that the application to remove Condition #16 be "Approved". All other approved conditions adopted by the Board of Commissioners on April 30, 1998 as delineated below shall remain in force and in effect.

1. Proposed RA-5 zoning conditioned to a maximum of 111 single family detached homes on 32.68 acres for a maximum density of 3.4 lots per acre.
2. Minimum heated floor area of houses to be 1,700 square feet, with a minimum average of 1,900 square feet mixed throughout the total development.
3. Minimum two car garage per unit.
4. No exposed concrete block.
5. Sod front yard and seed and straw side and rear yards.
6. Install sidewalks lot by lot on both sides of interior streets.
7. Provide underground utilities.
8. Build a minimum of four house plans mixed throughout the subdivision.
9. Provide for street lights.
10. Minimum of 75% of houses to be accented with brick, stucco, or stone.
11. Minimum lot size shall be 7,500 square feet.
12. Provide 120% storm water detention.
13. Subdivision entrance monument and plan shall be developed by the developer and approved by the DeKalb County Traffic Engineer.
14. Widen and curb Giles Road for the entire frontage of subdivision per DeKalb County regulations.
15. Widen and pave Giles Road 630 feet (+/-) to 24 feet wide where road is less than 24 feet wide (provided DeKalb County acquires permission or construction easements from owners) as shown on the preliminary lot layout for Park Place (revised date 2/27/98)
- ~~16. Donate 1.16 acres of unused land and floodplain area at northeast corner of property to DeKalb County Parks and Recreation. Developer to retain necessary rights to sanitary sewer and storm drain easements as required for the subdivision.~~
17. Install a 6 foot high chainlink fence from Giles Road along Phillips Chase property and DeKalb County Park property line as shown on preliminary plat of Park Place (revised date 2/28/98)
18. Subdivision covenants to provide for a mandatory homeowners association for the maintenance of subdivision entrance sign and landscaping and other common interests of the subdivision. The membership fee to be established by the homeowners association. The subdivision entrance to be maintained by the developer until 100% of the lots are sold.
19. A minimum of 4 hardwood trees to be planted on each lot unless 4 existing hardwood trees are preserved on the lot.
20. The side yards on lots 110 & 111 to be developed with R-100 standards (10 feet). This will allow for a larger square foot house on these lots.



**DEKALB COUNTY  
GOVERNMENT PLANNING  
DEPARTMENT DISTRIBUTION  
FORM**

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

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

Case No.: \_\_\_\_\_ Parcel I.D. #: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**WATER:**

Size of existing water main: \_\_\_\_\_ (adequate/inadequate)

Distance from property to nearest main: \_\_\_\_\_ Size of line required, if inadequate: \_\_\_\_\_

\_\_\_\_\_

**SEWER:**

Outfall Servicing Project: \_\_\_\_\_

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

Water Treatment Facility: \_\_\_\_\_ adequate \_\_\_\_ inadequate \_\_\_\_

Sewage Capacity: \_\_\_\_\_ (MGPD) Current Flow: \_\_\_\_\_ (MGPD)

**COMMENTS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

8/15/2023

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

General Comments:

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

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

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

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

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

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

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

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

## DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

8/15/2023

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N4-2023-0874

15-158-02-005, 15-158-02-006, 15-158-02-007, 15-158-02-051, 15-158-02-008  
& 15-158-02-009

4127,4139,4147,4149,4163 & 4173 Maplewood Drive, Decatur, GA 30035

Amendment

- Please review general comments.
- Septic installed at 4163 Maplewood Drive on 2/20/2010
- Septic installed at 4173 Maplewood Drive on 09/16/1969 and repairs on 09/16/1969
- Septic installed at 4147 Maplewood Drive on 04/21/1989

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N5-2023-0875

SLUP-23-1246545 18-283-04-001, 18-266-05-014

3003 Chamblee-Tucker Road & 2936 Mercer University Drive, Chamblee, GA 30341

Amendment

- Please review general comments.
- Surrounding area on septic 2889,2898 and 3154. Please note we have no record. Property may be on septic.

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N6-2023-0876

SLUP-23-1246546 16-126-02-068

1480 South Deshon Road, Lithonia, GA 30058

Amendment

- Please review general comments.
- Surrounding area indicated to have septic installed: 1450, 1451, 1388, 1500.

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N7-2023-0877

CZ-23-1246550 16-102-01-001

6290 Saylor Park, Lithonia, GA 30058

Amendment

- Please review general comments.

**Zoning Comments September 2023**

**N1: 3137 Weslock Circle -**  
No Comments.

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**N2 & N3: 7566 Union Grove Road –**  
No Comments.

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**N4: 4127, 4139, 4147, 4149, 4163 & 4173 Maplewood Drive –**  
Maplewood Drive is classified as a collector.

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**N5: 3401 Rainbow Drive –**  
Mercer University Drive is classified as minor arterials and a collector. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5 foot landscape strip with 6 foot sidewalk with 4 foot bike lanes OR (preferred) 10 foot multiuse path. Street Lighting required. ([hefowler@dekalbcountyga.gov](mailto:hefowler@dekalbcountyga.gov)) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Ensure there is pedestrian connectivity between the proposed development and the public sidewalk infrastructure. Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase.

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**N6: 1480 South Deshon Road –**  
No Comments.

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**N7: 6290 Sayler Park –**  
No Comments.



**DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM**

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

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**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**

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- **Storm Water Management**

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- **Flood Hazard Area/Wetlands**

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- **Landscaping/Tree Preservation**

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- **Tributary Buffer**

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- **Fire Safety**

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**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](mailto:MSPANN@DEKALBCOUNTYGA.GOV) OR JOHN REID [JREID@DEKALBCOUNTYGA.GOV](mailto:JREID@DEKALBCOUNTYGA.GOV)**

**COMMENTS FORM:  
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: CZ-23-1246550 Parcel I.D. #: 16-102-01-001

Address: 6290

Saxler Park,  
Lithonia, Ga 30058

Adjacent Roadway (s):

(classification)	(classification)

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

Please provide additional information relating to the following statement.

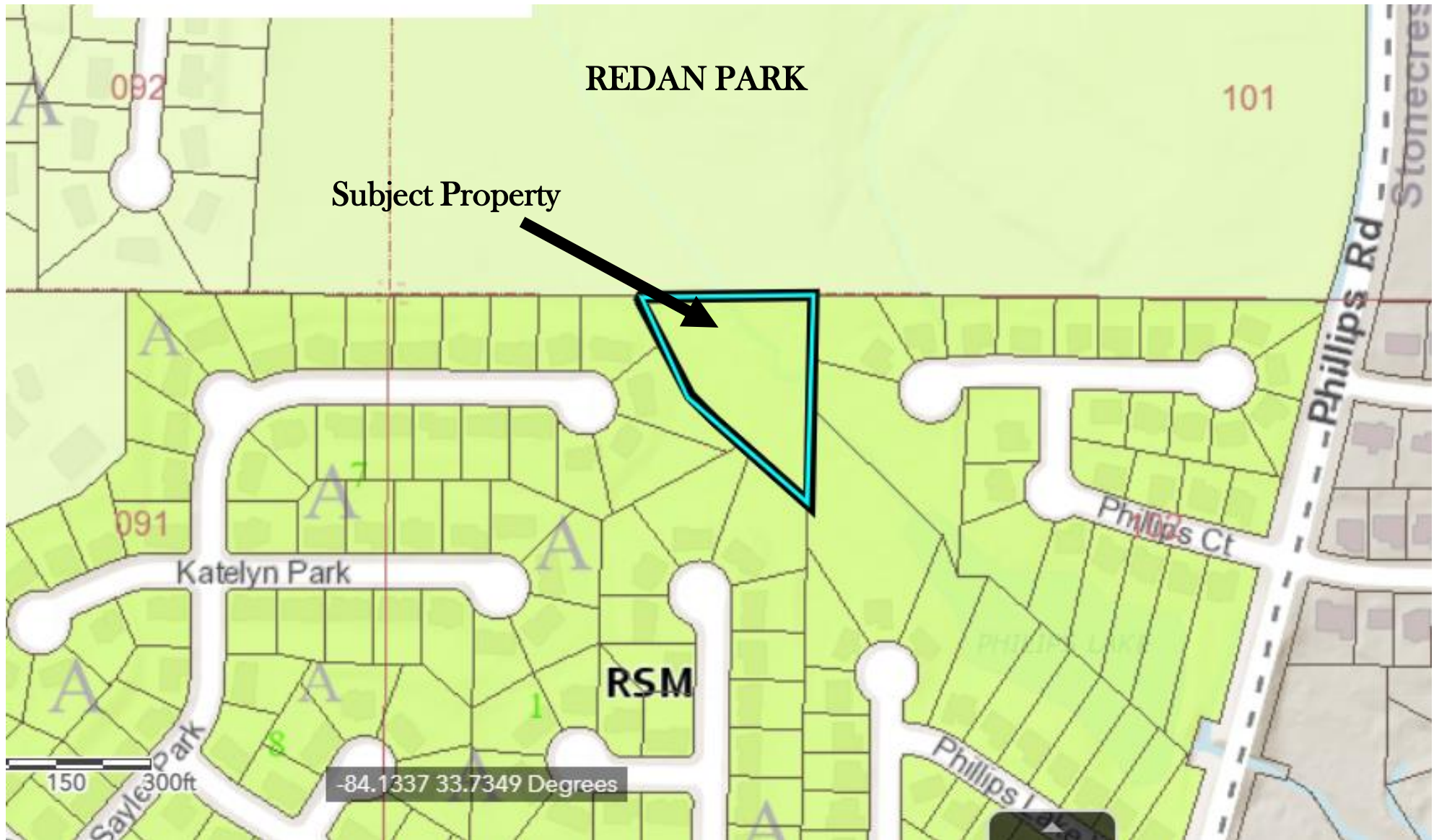
According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7<sup>TH</sup> Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula,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

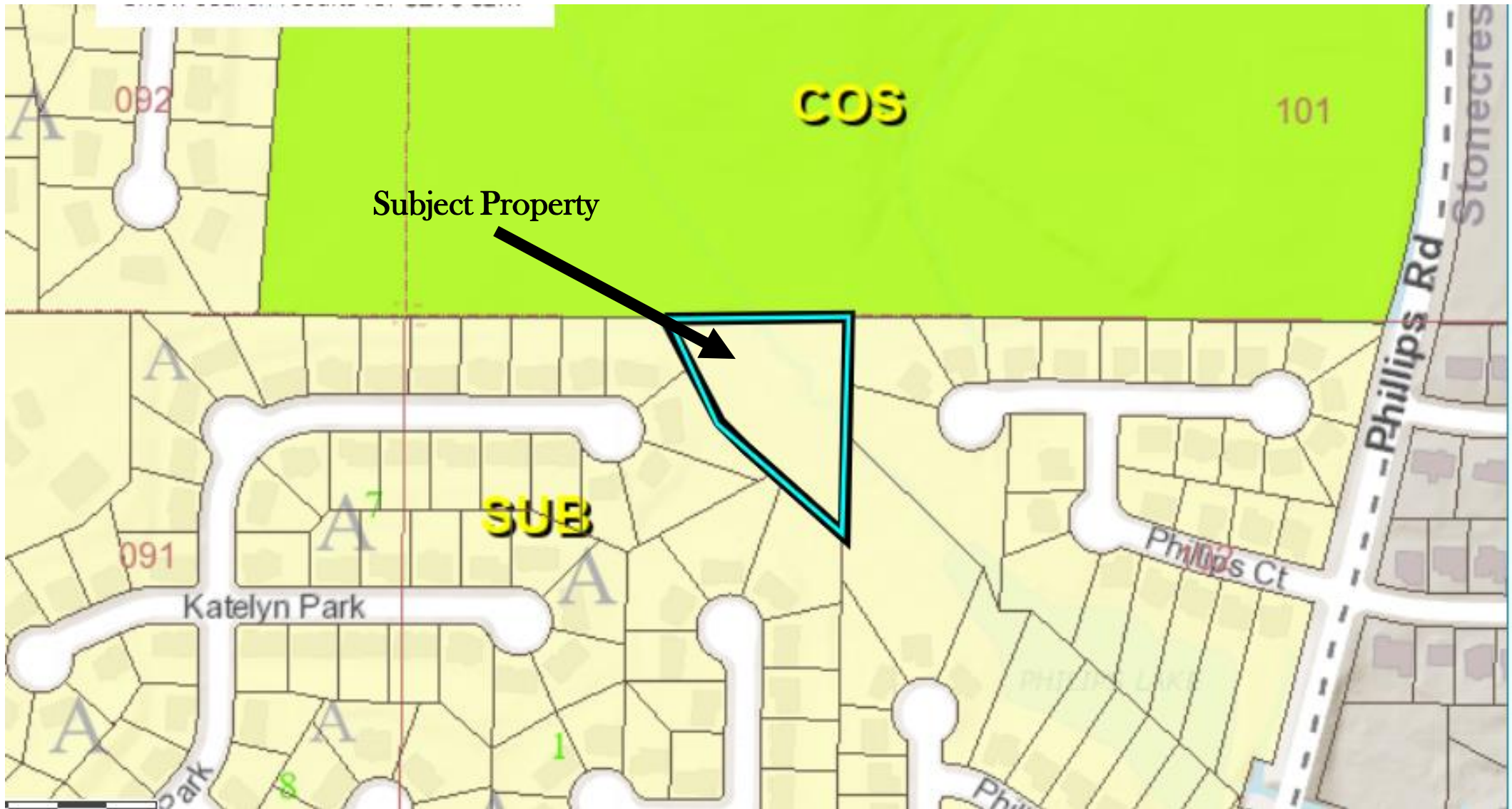
Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the \_\_\_\_\_ (Single Family Residential) District designation which allows a maximum of \_\_\_\_\_ units per acres,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

COMMENTS:

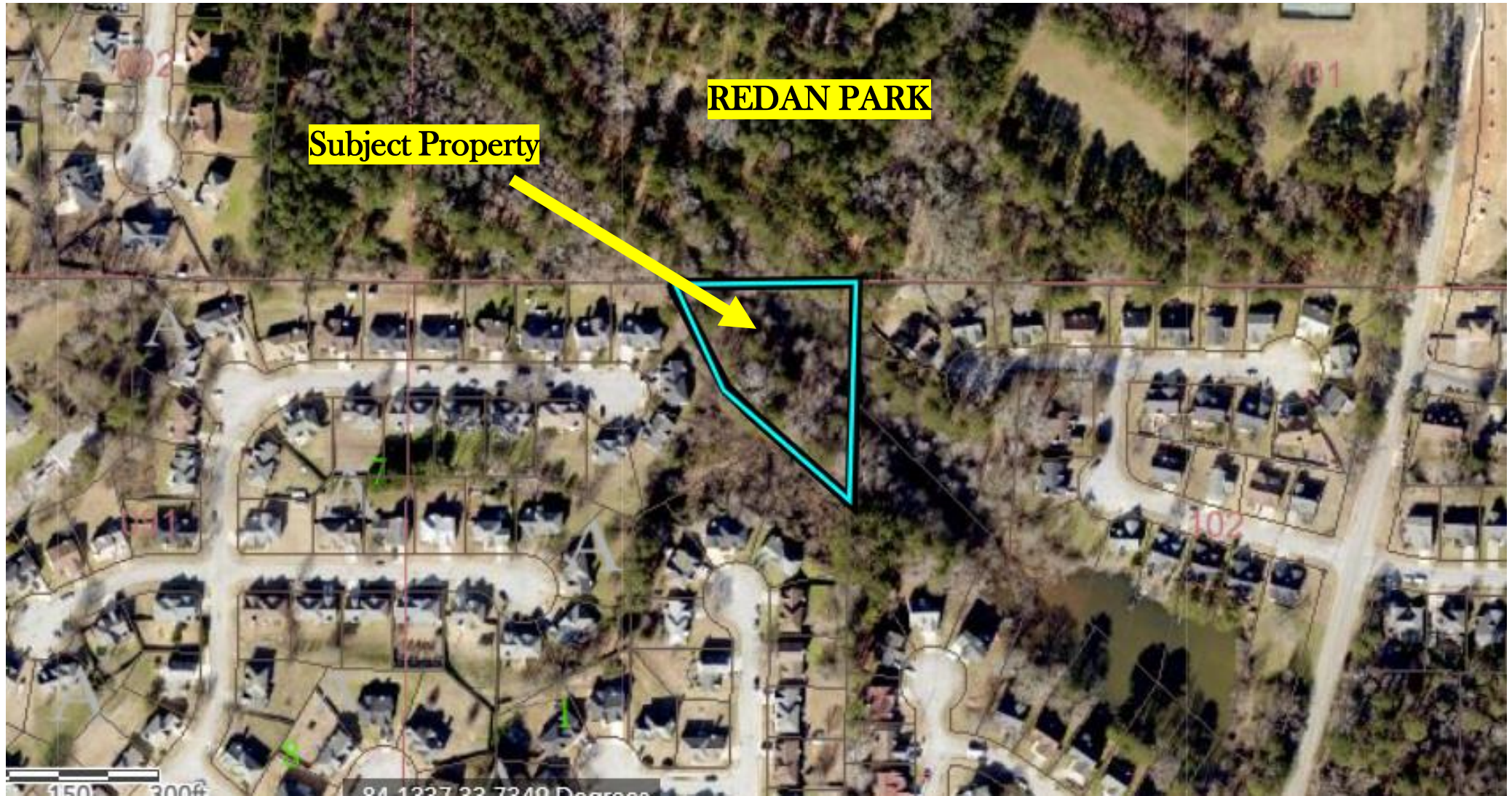
<p><u>Did not see any traffic engineering concerns</u> <u>at this time.</u></p>

Signature: George White









**DEPARTMENT OF PLANNING & SUSTAINABILITY**  
**MAJOR MODIFICATION APPLICATION CHECKLIST**

- \_\_\_\_\_ 1. Schedule a mandatory **Pre-Application Conference** with Planning & Sustainability staff by appointment. Obtain **Pre- Application form** (to be completed in pre-application meeting). Please email [lahill@dekalbcountyga.gov](mailto:lahill@dekalbcountyga.gov) for appointment.
- \_\_\_\_\_ 2. Hold a **Pre-Submittal Community Meeting** with surrounding neighborhood associations and residents. Provide documentation of the meeting (**meeting notice and sign in sheets**). Letter(s) from homeowners' association(s) may also be provided.
- \_\_\_\_\_ 3. Submit **Application** (Submit 4 printed, collated sets and a PDF version on a flash drive. Please assemble materials in the following order.)
  - \_\_\_\_\_ **A. Application form** with name and address of applicant and owner, and address of subject property;
  - \_\_\_\_\_ **B. Pre-submittal community meeting notice and sign-in sheet** and other documentation of meeting, if any;
  - \_\_\_\_\_ **C. Letter of application and impact analysis**
    - \_\_\_\_\_ **1. Letter of application** identifying a) the proposed zoning classification, b) the reason for the rezoning or special use or modification request, c) the existing and proposed use of the property, d) detailed characteristics of the proposed use (e.g. floor area, height of building(s), number of units, mix of unit types, number of employees, manner and hours of operation), d)(optional) statement of conditions discussed with the neighborhood or community, if any.
    - \_\_\_\_\_ **2. Impact analysis** of the anticipated impact of the proposed use and rezoning on the surrounding properties in response to the standards and factors specified in Article 7.3 of the DeKalb County Zoning Ordinance, as attached. If a Major Modification, please include previously approved conditions and Board of Commissioner meeting minutes.
  - \_\_\_\_\_ **D. Authorization Form**, if applicant is not the owner. Must be signed by all owners of the subject property and notarized. Authorization must contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property. Please include warranty deed, if property ownership is less than 2 years.
  - \_\_\_\_\_ **E. Campaign disclosure statement** (required by State law).
  - \_\_\_\_\_ **F. Legal boundary survey** of the subject property, (showing boundaries, structures, and improvements), prepared and sealed within the last year by a professional engineer or land surveyor registered in the State of Georgia. *(If survey shows property on opposite sides of a public street right-of-way, file a separate application for each property.)*
  - \_\_\_\_\_ **G. Site Plan**, printed to scale, folded, of any existing and or proposed development/redevelopment. For projects larger than 1 acre, site plan should be at least 1:50 scale. The site plan must include the following:
    - \_\_\_\_\_ a. complete boundaries of subject property;
    - \_\_\_\_\_ b. dimensioned access points and vehicular circulation drives;
    - \_\_\_\_\_ c. location of all existing and proposed buildings, structures, setbacks and parking;
    - \_\_\_\_\_ d. location of 100-year floodplain and any streams;
    - \_\_\_\_\_ e. notation of the total acreage or square footage of the subject property;
    - \_\_\_\_\_ f. landscaping, tree removal and replacement, buffer(s); and
    - \_\_\_\_\_ g. site plan notes of building square footages, heights, density calculations, lot coverage of impervious surfaces, parking ratios, open space calculations, and other applicable district standards.
  - \_\_\_\_\_ **H. Written Legal Description** of metes and bounds of the subject property (can be printed on site plan or survey).
  - \_\_\_\_\_ **I. Building Form Information.** Elevation (line drawing or rendering), or details of proposed materials, in compliance with Article 5 of the Zoning Ordinance.
  - \_\_\_\_\_ **J. Completed, signed Pre-application Form** (Provided at pre-application meeting.)



DEPARTMENT OF PLANNING & SUSTAINABILITY

MAJOR MODIFICATION APPLICATION

Date Submitted: \_\_\_\_\_ Case No.: \_\_\_\_\_

Existing Conditional Zoning No.: \_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

Daytime Phone#: \_\_\_\_\_ Fax #: \_\_\_\_\_ E-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

OWNER NAME: \_\_\_\_\_

(If more than one owner, attach contact information for each owner)

Daytime Phone#: \_\_\_\_\_ Fax #: \_\_\_\_\_ E-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

SUBJECT PROPERTY ADDRESS OR LOCATION: \_\_\_\_\_

\_\_\_\_\_, DeKalb County, GA, \_\_\_\_\_

District(s): \_\_\_\_\_ Land Lot(s): \_\_\_\_\_ Block(s): \_\_\_\_\_ Parcel(s): \_\_\_\_\_

Acreage or Square Feet: \_\_\_\_\_ Commission District(s): \_\_\_\_\_ Existing Zoning: \_\_\_\_\_

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

Signature of Applicant: Caleb Wittenmyer

Printed Name of Applicant: \_\_\_\_\_



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DEPARTMENT OF PLANNING & SUSTAINABILITY

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**ZONING CONDITIONS**

**Sec. 27-7-3.9 Conditions of zoning.** Conditions may be requested by an applicant, recommended by the planning department and planning commission, and imposed by the board of commissioners, as a part of any proposed change to the official zoning map, in accordance with the following requirements:

- A. Conditions may be imposed so as to ameliorate the effect(s) of the proposed developmental change for the protection or benefit of neighboring persons or properties consistent with the purpose and intent of the district(s) involved, and the goals and objectives of the comprehensive plan and state law. No condition shall be imposed which reduces the requirements of the zoning district(s) involved, except as stipulated in Section 8.1.12 of this chapter. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. All conditions shall be supported by a record that evidences the relationship between the condition and the impact of the developmental change. No condition in the form of a development exaction for other than a project improvement shall be imposed within the meaning of the Georgia Development Impact Fee Act, as amended.
- B. Once imposed, conditions of zoning shall become an integral part of the approved amendment and shall be enforced as such. Change to approved conditions shall be authorized only pursuant to Section 7.3.10.
- C. Site plans referenced in the conditions of zoning are conceptual only unless specific aspects of the site plan or the site plan itself are approved as a separate zoning condition. Development shall meet or exceed the imposed zoning conditions and all other applicable law, standards and regulations of DeKalb County. Compliance with the conditions of zoning shall be demonstrated prior to the issuance of a land disturbance permit or building permit and conditional improvements shall be in place prior to the issuance of the first certificate of occupancy.

**Sec. 27-7.3.10. Modifications and changes to approved conditions of zoning.**

The Director of Planning & Sustainability shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by the actual field conditions at the time of development, that do not alter the impact of the development on nearby properties, nor the intent or integrity of the conditions as originally imposed. Any request for minor change of conditions shall be filed with the director of planning or his/her designee on a written form which shall include a full description of the documents and/or information necessary for the application to be considered complete. At a minimum, if an approved site plan exists, the request for minor changes shall be accompanied by four copies of the proposed revised site plan. The director of planning shall decide whether to grant or deny the request for minor changes to conditions with 30 calendar days of receipt of a complete request for such minor changes. After making a decision, the director of planning shall have 10 calendar days to post a sign on the subject property which reflects the decision of the director and includes the deadline for taking an appeal of the decision. Person(s) identified in Section 7.5.2(B) shall have fifteen (15) calendar days from the posting of the sign to appeal the director of planning's decision by filing an application for appeal with the secretary of the zoning board of appeals. Any major change to conditions attached to an approved zoning amendment shall require an application and public hearings before the planning commission and the board of commissioners, as required in Section 7.2.4 of this article for amendments to the Official Zoning Map. Without limiting the meaning of the phrase, the following shall be deemed to constitute "major change" for the purposes of interpreting this section:

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**DEPARTMENT OF PLANNING & SUSTAINABILITY**

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1. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
3. Any decrease in the minimum size of residential units imposed in the original conditional amendment;
4. Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;
5. Any increase in the height of any building or structure;
6. Any change in the portion of floor space devoted to different authorized uses; or
7. Any change to conditions, except minor changes as defined in subsection 7.3.10(A), imposed by the board of commissioners when approving any change to the official zoning map, commonly referred to as a rezoning or a zoning amendment.

**FILING FEE – MAJOR MODIFICATIONS/CHANGE OF ZONING CONDITIONS**

All Districts: \$250.00



DEPARTMENT OF PLANNING & SUSTAINABILITY

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**AUTHORIZATION**

The property owner should complete this form or a similar signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN:

(I), (WE), \_\_\_\_\_  
Name of Owner(s)

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

\_\_\_\_\_  
Name of Applicant or Representative

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

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

\_\_\_\_\_  
Owner

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

\_\_\_\_\_  
Owner

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

\_\_\_\_\_  
Owner

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

\_\_\_\_\_  
Owner

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

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**DISCLOSURE OF CAMPAIGN CONTRIBUTION**

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

Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filling of this application?

Yes \_\_\_\_\_ No X \*

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 to the Board of Commissioners of DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Signature of Applicant /Date

Check one: Owner \_\_\_\_\_ Agent \_\_\_\_\_

\_\_\_\_\_  
Expiration Date/ Seal

\*Notary seal not needed if answer is "no".



DeKalb County  
GEORGIA

# MEMORANDUM



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This communication is confidential and protected by the attorney-client privilege and attorney work product rule. It is intended only for the individual or entity to which it is addressed and should not be given to persons or entities not directly involved with the subject matter on behalf of the County. It expresses the professional judgment of the attorney(s) rendering the opinion regarding the legal issues expressly addressed herein. By rendering an opinion, the attorney(s) does not insure or guarantee any particular result or outcome of any transaction or lawsuit.

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February 1, 2023

To: Commissioner Mereda Davis Johnson  
Commissioner Lorraine Cochran-Johnson

From: Matthew C. Welch, Deputy County Attorney   
Chuck Ellis, Director, Department of Recreation, Parks and Cultural Affairs 

Subject: **Proposed Removal of Sayler Park Zoning Condition**  
Zoning Agenda Item #6-CZ-96056 (Landman Inc. Rezoning)

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DeKalb County's Department of Recreation, Parks and Cultural Affairs ("Parks Department") would like to request that a zoning condition related to property located at 6290 Sayler Park, Lithonia, GA, 30058 be removed. As the district and super-district Commissioners for the affected property, we wanted to make you both aware of this request and address any questions or concerns it might raise before formalizing the request.

The zoning condition in question relates specifically to the donation of parcel of land for use by the Parks Department. Specifically, on March 30, 1998, Zoning Agenda Item #6-CZ-96056 (Landman Inc. Rezoning (Attached)) was approved and included Condition #16, as follows:

*Donate 1.16 acres of unused land and flood plain area at northeast corner of the property to DeKalb County Parks and Recreation. Developer to retain necessary rights to sanitary sewer and storm rain easements as required for subdivision.*

The intent of the proposed zoning condition was to enable the Parks Department to develop the site into additional parkland for nearby Redan Park. However, the property was never transferred to DeKalb County or made a part of the park system. The developer/owner has continued to pay taxes on said property since the imposition of this zoning condition.

In April 2021 the owner reached out to the Parks Department to discuss the intent of the zoning condition on the property and start the donation process. In June of 2021, the

**Memorandum to Commissioners Davis Johnson and Cochran-Johnson**

February 1, 2023

Page 2 of 2

Department evaluated the donation anew and deemed that the property to be donated added no value to the park and no connectivity to existing the park amenities.

The property is located behind several houses in the development and therefore would require increased maintenance that other portions of the Redan Park system do not require. Maintenance access to the property would require significant funding to build a roadway for equipment access to the remote location. With all these items considered, the Department does not wish to accept the donation and would like the #16 Zoning Condition removed from this item.

As Condition #16 was approved by the Board of Commissioners, the Law Department has advised that the Board should consider the removal of said condition. We have also spoken to the Department of Planning and Sustainability, who will be assisting in bringing the referenced request forward. However, before any item is put forth to remove Condition #16, we wanted to make you aware of the request.

Please let Director Ellis or Deputy County Attorney Matthew Welch know of any questions or concerns.

cc: Zachary L. Williams, Chief Operating Officer  
Viviane Ernstes, County Attorney  
Nicole W. Aigner, Supervising Attorney  
Bennett D. Bryan, Supervising Attorney  
Gabriel L. Daniel, Assistant County Attorney  
Cedric Hudson, Interim Director, Department of Planning and Sustainability  
Demetrius McCoy, Chief of Staff, District 5  
Dr. Leah Davis, Chief of Staff, District 7  
Paige Singer, Division Manager, Dept. of Recreation, Parks and Cultural Affairs

DEKALB COUNTY  
BOARD OF COMMISSIONERS

ITEM NO. 6

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

ZONING - AGENDA/MINUTES

MEETING DATE April 30, 1998

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

**SUBJECT:** Remanded Rezoning Application - Landman, Inc.  
**COMMISSION DISTRICTS:** 4 & 7

DEPARTMENT: Planning Department

PUBLIC HEARING: X Yes \_\_\_ No

ATTACHMENT: X Yes \_\_\_ No 4 PP

INFORMATION CONTACT: Ray White  
Or Charles Coleman  
PHONE NUMBER: 404-371-2155

**PURPOSE:**

CZ-96056 - To consider the application of Landman, Inc., to rezone property located on the north side of Giles Road, 500' west of Phillip Road, from R-100 to R-A5 (conditional). The property has frontage of 1,528' and contains 32.68 acres. The application is conditioned on a maximum of 3.5 units per acre and a minimum floor area of houses to be 1,400 square feet. The application is remanded to the Board by the Superior Court for a constitutionally permissible zoning.

**SUBJECT PROPERTY:**

16-91-3-pt. 3 & 4; 16-102-1-pt. 1 (0000, 0000, and 6152 Giles Road).

**RECOMMENDATION(S):**

**PLANNING DEPARTMENT:** Approval of R-A5 with conditions (revised 4/28/98) The amended request at 3.4 units per acres is consistent with recommendations of the Comprehensive Plan and consistent with the densities established by adjoining developments located on Giles Road and Phillips Road. Staff recommends approval based on the following:

1. The property is developed consistent with the February 27, 1998, list of twenty conditions which is attached.
2. The property is developed consistent with the attached preliminary subdivision plan of Park Place dated October 10, 1997.

**PLANNING COMMISSION:** Not applicable pursuant to the remand by the Superior Court.

**COMMUNITY COUNCIL:** Not applicable pursuant to the remand by the Superior Court.

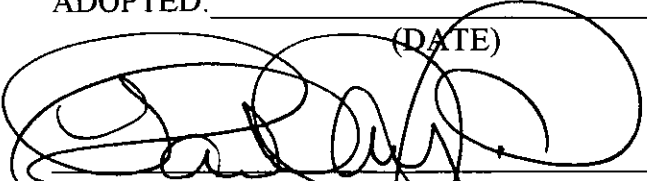
FOR USE BY COMMISSION OFFICE/CLERK ONLY

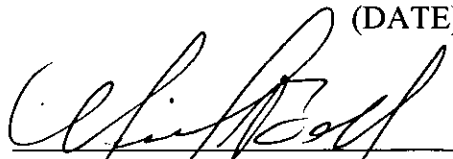
**ACTION:**

MOTION was made by Commissioner Davis, seconded by Commissioner Yates, and passed 6-0-1-0, to approve, with conditions, the application of Landman, Inc., to rezone property located on the north side of Giles Road, 500' west of Phillip Road, from R-100 to R-A5 (conditional) per the attached list of twenty conditions dated 2/27/98 and the preliminary subdivision plan of Park Place dated October 10, 1997. Commissioner Brown abstained.

ADOPTED: APR 30 1998  
(DATE)

CERTIFIED: APR 30 1998  
(DATE)

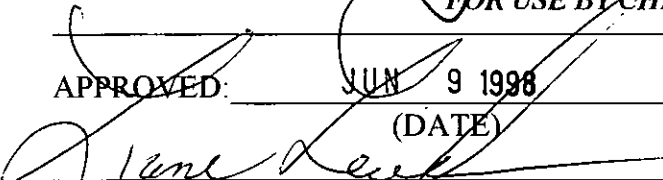
  
PRESIDING OFFICER, DEKALB COUNTY  
BOARD OF COMMISSIONERS

  
CLERK, DEKALB COUNTY  
BOARD OF COMMISSIONERS

FOR USE BY CHIEF EXECUTIVE OFFICER ONLY

APPROVED: JUN 9 1998  
(DATE)

VETOED: \_\_\_\_\_  
(DATE)

  
CHIEF EXECUTIVE OFFICER  
DEKALB COUNTY

CHIEF EXECUTIVE OFFICER  
DEKALB COUNTY

VETO STATEMENT ATTACHED: \_\_\_\_\_

**MINUTES:**

Joe Nardone, 535 N. McDonough Street, Decatur, GA, spoke for the application.  
Daniel Grant, 6243 Giles Rd., Lithonia, GA, spoke in opposition to the application.

	FOR	AGAINST	ABSTENTION	ABSEN
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	√	_____	_____	_____

LANDMAN, INC.  
d/b/a LAND DEVELOPING COMPANY  
1162 ROCKBRIDGE ROAD  
STONE MOUNTAIN, GEORGIA 30087  
(770) 923-6691  
FAX (770) 923-6485

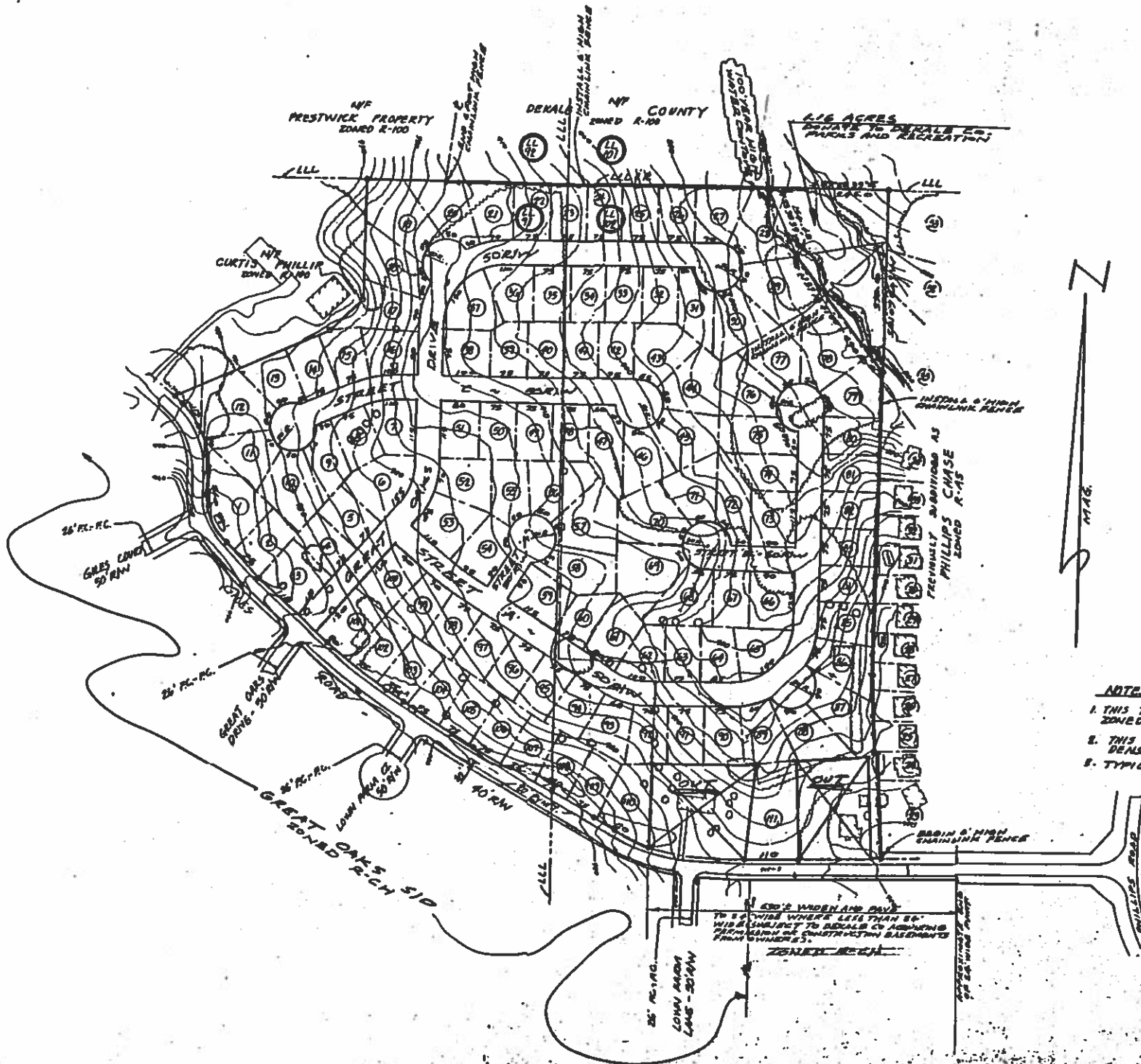
FEBRUARY 27, 1998

PROPOSED REZONING CONDITIONS  
PARK PLACE BY LANDMAN, INC.  
LAND LOTS 91 & 102 OF THE 16TH DISTRICT  
DEKALB COUNTY, GEORGIA  
LOCATED ON GILES ROAD

- 1) Proposed R-A5 zoning conditioned to a maximum of 111 single family detached homes on 32.68 acres for a maximum density of 3.40 lots per acre.
- 2) Minimum heated floor area of houses to be 1700 sq. ft., with a minimum average of 1900 sq. ft. mixed throughout the total development.
- 3) Minimum two car garage per unit (attached).
- 4) No exposed concrete block.
- 5) Sod front yard and seed and straw side and rear yards.
- 6) Install sidewalks lot by lot on both sides of interior streets.
- 7) Provide underground utilities.
- 8) Build a minimum of four house plans mixed throughout subdivision.
- 9) Provide for street lights.
- 10) Minimum of 75% of houses to be accented with brick, stucco or stone.
- 11) Minimum lot size shall be 7500 sq. ft.
- 12) Provide 120% storm water detention.
- 13) Subdivision entrance monument and plan shall be developed by the developer and approved by Dekalb County Traffic Engineer.
- 14) Widen and curb Giles Road for the entire frontage of subdivision per Dekalb County regulations.

- 15) Widen and pave Giles Road 630' ± to 24 feet wide where road is less than 24 feet wide (provided Dekalb County acquires permission or construction easements from owners) as shown on preliminary lot layout for Park Place (revised date 2/27/98).
- 16) Donate 1.16 acres of unused land and flood plain area at northeast corner of property to Dekalb County Parks and Recreation. Developer to retain necessary rights to sanitary sewer and storm drain easements as required for the subdivision.
- 17) Install a 6 foot high chainlink fence from Giles Road along Phillips Chase property and Dekalb County Park property line as shown on preliminary plat of Park Place revised date 2/28/98.
- 18) Subdivison covenants to provide for a mandatory homeowners association for the maintenance of subdivision entrance sign and landscaping and other common interests of the subdivision. The membership fee to be established by the homeowners association. The subdivision entrance to be maintained by the developer until 100% of the lots are sold.
- 19) A minimum of 4 hardwood trees to be planted on each lot unless 4 existing hardwood trees are preserved on the lot.
- 20) The side yards on lots 110 & 111 to be developed with R-100 standards (10'). This will allow for a larger square foot house on these lots.



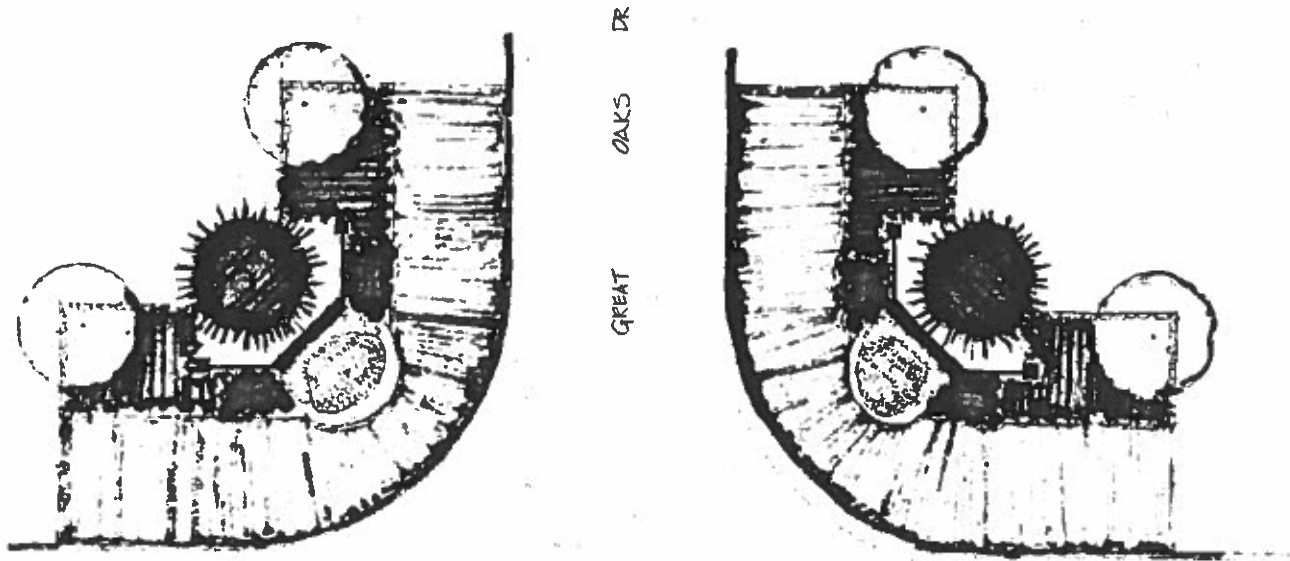
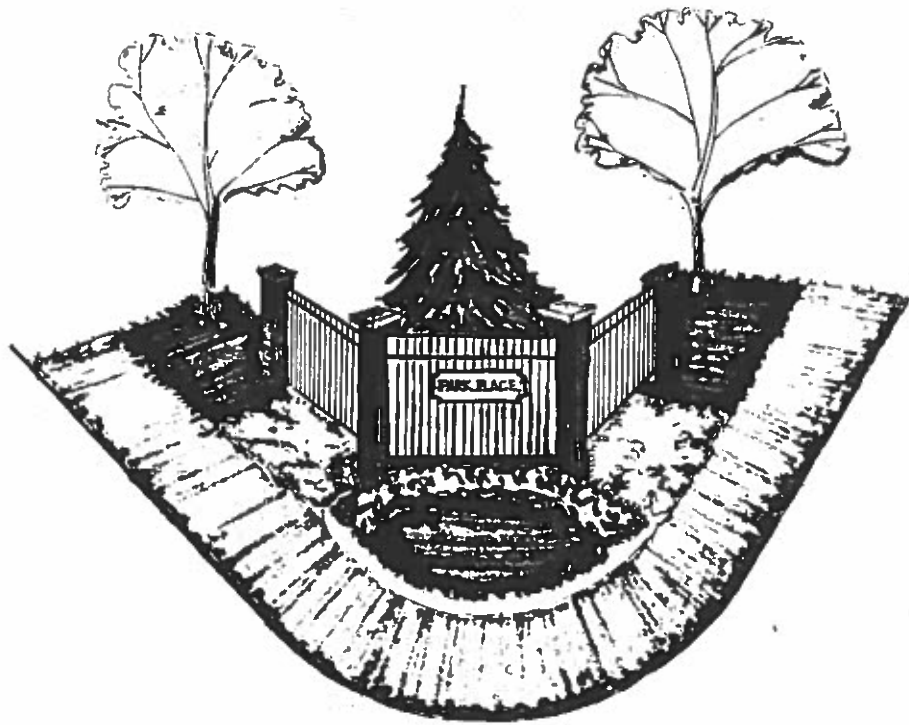


- NOTES:**
1. THIS TRACT CONTAINS 3268 ACRES AND IS ZONED R-100. PROPOSED R-AS CONDITIONAL
  2. THIS LAYOUT CONTAINS 111 LOTS FOR A DENSITY OF 3.40 LOTS/ACRE.
  3. TYPICAL LOT - 75X100' - 7500 SQ. FT.

30' WADEN AND DAVEN  
 TO 4" WIDE WHERE LESS THAN 66"  
 WILL BE SUBJECT TO RESURFACING  
 PERMITS AND CONSTRUCTION REQUIREMENTS  
 FROM OWNERS.

PROPOSED R-AS CONDITIONAL ZONING  
 PRELIMINARY UT LAYOUT FOR  
**PARK PLACE**  
 LAND LOT 91 & 102 - 16TH DIST.  
 DERALB COUNTY, GA  
 PREPARED BY  
**LAND DEVELOPING CO.**  
 1162 ROCKDALE ROAD  
 STONE MOUNTAIN, GA 30087  
 PH (770) 723-6677  
 DEC. 31, 1996  
 REV. OCT 10, 1997

SCALE: 1"=100'



DR

OAKS

GREAT

GILES

ROAD

PARK PLACE ENTRANCE