



**DeKalb County Department of Planning & Sustainability**

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

**Decatur, GA 30030**

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

**Planning Commission Hearing Date: September 7, 2017, 2017, 6:30 P.M.**

**Board of Commissioners Hearing Date: September 26, 2017, 6:30 P.M.**

**STAFF ANALYSIS**

**Case No.:** Z-17-21712 **Agenda #:** N. 2

**Location/Address:** The northeast corner of Jan Hill Lane and Beacon Hill Boulevard, at 1812 Jan Hill Lane, Atlanta. **Commission District:** 2 **Super District:** 6

**Parcel ID(s):** 18-151-07-054

**Request:** Rezone property from MR-1 (Medium Density Residential-1) to R-85 (Residential Medium Lot-85) to allow development of a 2,109 square foot single-family detached home.

**Property Owner(s):** Silver Hill Homes, LLC

**Applicant/Agent:** Silver Hill Homes, LLC c/o Jill Arnold

**Acreage:** .55 acres

**Existing Land Use:** A wooded lot

**Surrounding Properties:** To the northwest, north, northeast, east, and southeast: single-family residential; to the south, a wooded lot (subject to Z-17-21711); to the southwest and west: the Viera Briarcliff Apartment Homes development.

**Adjacent Zoning:** **North:** R-85 **South:** MR-1 **East:** R-85 **West:** MR-1 **Northeast:** R-85 **Northwest:** R-85 **Southeast:** R-85 **Southwest:** MR-1

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

<b>Proposed Density:</b> 1.8 units/acre	<b>Existing Density:</b> N.A. (vacant lot)
<b>Proposed Units:</b> One	<b>Existing Units:</b> N.A. (vacant lot)
<b>Proposed Lot Coverage:</b> 13.18%	<b>Existing Lot Coverage:</b> N.A. (vacant lot)

**Zoning History:**

In 1985, the property was zoned from R-100 (Single-Family Residential) to RM-100 (converted to MR-1 (Medium-Density Residential – 1) in 2015) along with a 48.95-acre tract located to the west and across Beacon Hill Boulevard, pursuant to CZ-85101. The 48.95-acre tract was developed for a 500-unit multifamily residential development called Viera Briarcliff Apartment Homes. The conditional site plan indicates that the subject property was to remain undeveloped to provide a transition between Viera Briarcliff and the single-family residential neighborhood located to the east.

## **PROJECT ANALYSIS**

The subject property is a .55-acre parcel at the northeast corner of Jan Hill Lane, a local residential street, and Beacon Hill Boulevard, also a local residential street. The property is undeveloped and wooded. The topography slopes noticeably upwards from Beacon Hill Boulevard, in an easterly direction.

The applicant proposes to construct a two-story, 2,109 square foot single-family house on the eastern half of the property. The western half is proposed to remain undeveloped so that the view of the property from Beacon Hill Boulevard will be of a wooded lot.

The subject property is located in a primarily single-family residential neighborhood. The Viera Briarcliff apartments are located to the west, across Beacon Hill Boulevard. The portion of the apartment property that adjoins Beacon Hill Boulevard is heavily wooded, and the apartment buildings are not visible from street view.

The applicant has concurrently applied for rezoning of 1813 Jan Hill Lane, located across the street to the south, from MR-1 to R-85 (Z-17-21711). The plan is to create a community greenspace on 1813 Jan Hill Lane.

## **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 proposal is consistent with the following policy of the 2035 Comprehensive Plan: “Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.” (Suburban Policy #1) The size and scale of the proposed house is consistent with other houses in the neighborhood to the east, which have one to two stories and similar sized footprints.

### **B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:**

As a single-family house with a size and scale that is similar to other homes in the neighborhood to the east, the proposed home is suitable in view of the character and use of adjacent and nearby properties.

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

The conditional site plan for CZ-85101 depicts the property as undeveloped; thus it has no economic use as currently zoned.

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

The zoning proposal would not have any adverse effects on adjacent or nearby property.

**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 Viera Briarcliff apartments have been completed and the trees on the eastern side of the property have grown to maturity, effectively screening the apartment development from street view. Preservation of all the trees on the subject property is no longer instrumental to creating a transition between the neighborhood to the east and the apartment property. Construction of the proposed house on the eastern half of the subject property, while keeping trees on the western half, will fulfill the intent of the 1985 plan to keep a natural buffer between the neighborhood to the east and the apartment property.

**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:**

There has been no indication that construction of the proposed house would burden the surrounding streets or the existing utilities or school system.

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

Half of the property will be kept wooded, thereby preserving natural resources and lowering the impact of the development on the environment.

**Compliance with District Standards:**

R-85 STANDARD		REQUIREMENT	PROPOSED	COMPLIANCE
MIN. LOT WIDTH		85 feet	148.93 feet	Yes
MIN. LOT AREA		12,000 square feet	23,958 square feet	Yes
MIN. YARD SETBACKS	FRONT	50.32 feet (average)	50.32	Yes
	CORNER LOT - SIDE	35 feet	94 feet	Yes
	INTERIOR LOT - SIDE	8.5 feet	8.5 feet	Yes
	REAR	40 feet	More than 40 feet	Yes
MAX. HEIGHT		35 ft.	35 feet	Yes
MAX. LOT COVERAGE		35%	13.18 feet	Yes
MIN. FLOOR AREA OF DWELLING		1,800 s.f.	2,109 s.f.	Yes
MIN. PARKING		Four spaces	Four spaces	Yes

**STAFF RECOMMENDATION:**

The proposal is consistent with the following policy of the 2035 Comprehensive Plan: “Protect stable neighborhoods from incompatible development that could alter established single-family residential development patterns and density.” (Suburban Policy #1) As a single-family house with a size and scale that is similar to other homes in the neighborhood to the east, the proposed home is suitable in view of the character and use of adjacent and nearby properties. Half of the property will be kept wooded, thereby conserving natural resources. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following condition:

1. The proposed home shall be constructed in substantial compliance with the site plan titled, “Silver Hill Homes”, prepared by Georgia Land Surveying Co., dated 4/7/17 and revised for average front yard setback 8/28/17.

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

COMMENTS FORM:  
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: Z-17-21712 Parcel I.D. #: 18-151-07-054

Address: 1812  
JAN HILL LANE  
ATLANTA, GA

Adjacent Roadway (s):

\_\_\_\_\_  
\_\_\_\_\_  
(classification) (classification)

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

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7<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:

Plans and field reviewed. Found NOTHING that would cause traffic interruption.

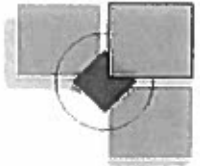
Signature: [Handwritten Signature]



# DeKalb County Department of Planning & Sustainability

Michael L. Thurmond  
Chief Executive Officer

Andrew A. Baker, AICP  
Director



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

Date Received: JUL 06 2017 Application No.: \_\_\_\_\_  
Z/CZ No. 21712  
Filing Fee: \$500

Applicant: Silver Hill Homes, LLC c/o Jill Arnold E-Mail: jarnold@pftlegal.com

Applicant Mailing Address: \_\_\_\_\_  
1230 Peachtree St. NE, Suite 1200, Atlanta, Georgia 30309

Applicant Phone: (404) 665-1243 Fax: \_\_\_\_\_

Owner(s): Silver Hill Homes, LLC E-Mail: johncevans@gmail.com  
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: \_\_\_\_\_  
10405 Old Alabama Road Connector, Suite 201, Alpharetta, Georgia 30022

Owner(s) Phone: (404) 661-1181 Fax: \_\_\_\_\_

Address/Location of Subject Property: 1812 Jan Hill Lane

District(s): 18 Land Lot(s): 151 Block: 7 Parcel(s): 18-151-07-054

Acreage: +/- 0.54 Commission District(s): 2

Present Zoning Category: MR-1 Proposed Zoning Category: R-85

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 filling of this application?  Yes  No

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

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

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

NOTARY  
April 14, 2020  
EXPIRATION DATE / SEAL

SIGNATURE OF APPLICANT / DATE  
Check One: Owner  Agent

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

## NOTICE OF A MEETING TO DISCUSS A REZONING APPLICATION

This letter is to inform you that Silver Hill Homes, LLC plans to submit a Re-Zoning Application with DeKalb County for property located at 1812 & 1813 Jan Hill Lane, NE, Atlanta, GA 30329.

The Applicant will be hosting a community meeting regarding the Application request and proposed development on Wednesday, June 28, 2017 at the Greek Orthodox Cathedral of the Annunciation, 2500 Clairmont Road, NE, Atlanta, GA 30329, beginning at 7:00 p.m.

Please be advised of the following information pertaining to the proposed Rezoning Application:

APPLICANT NAME: Silver Hill Homes, LLC

PROPERTY ADDRESS: 1812 & 1813 Jan Hill Lane, NE, Atlanta, GA 30329  
(Tax Parcels 18-151-07-054 and 18-151-06-093)

REQUESTED RE-ZONING: Request for property to be re-zoned to R-85

REQUESTED USE: Residential (single family detached)

PROPERTY SIZE: +/- 0.93 acres

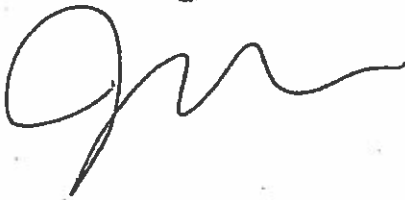
CONTACT PERSON: Jillian Arnold

TELEPHONE NUMBER: 404-665-1243

EMAIL: [jarnold@pfilegal.com](mailto:jarnold@pfilegal.com)

Please contact me with any questions about the neighborhood meeting. We look forward to seeing you at the meeting.

Sincerely, \_\_\_\_\_





Sign-in Sheet

June 28, 2017 Neighborhood Meeting re: 1812 & 1813 Jan Hill Lane, NE, Atlanta, GA 30329

	Name	Address	Contact Information
1.	Tara Gilbert	2928 Briarcliff Rd. ATL. GA	tgilbert71@gmail.com
2.	Shamin Lodin	1832 Georgiana Drive ATL 30329	678-315-5714
3.	TOM CARR	1860 GEORGIANA DR	404 634- 9995
4.	Shelley Woody	1643 Beacon Hill Blvd	404-235-0693
5.	Amanda Thornhill	1831 Jan Hill Ln. NE	(404) 308-2892
6.	Beverly Ferman	1692 Bridgeport Dr NE	. bferman@hotmail.com 404 321-0471
7.	Leah Walden	1839 Jan Hill LN NE	leahwalden54@gmail.com (404) 680-2133
8.	Tim McLain	1648 Beacon Hill Blvd NE	404-436-3608
9.	Nora Robillard	1838 Georgiana Dr. NE	404-849-9523
10.	Walter Robillard	1601 Berkeley Ln NE	404-634-4993
11.			
12.			
13.			
14.			

## I. INTRODUCTION

The subject property is approximately 0.546 acres of land located at the corner of Jan Hill Lane, Beacon Hill Boulevard, and Georgiana Drive, and is more specifically identified as 1812 Jan Hill Lane (the "Property"). This zoning application is being submitted along with a rezoning application for 1813 Jan Hill Lane, which is located directly across Jan Hill Lane from the Property. Both applications seek to rezone the subject properties from MR-1 to R-85 to remove current zoning conditions burdening the properties and to align the properties' zoning designation with the rest of the neighborhood.

The Property is currently zoned MR-1 (Medium Density Residential) with conditions (CZ-85101). In the mid-1980s, the Property was part of a larger rezoning application with the property that is now developed with the Viera Briarcliff apartments at 2696 North Druid Hills Road. The rezoning was approved by DeKalb County with several conditions, the most relevant being a limitation on overall residential density. The parcels at 1813 & 1812 Jan Hill Lane are undeveloped remnants of the CZ-85101 zoning approval.

The Applicant, Silver Hill Homes, LLC, seeks to rezone the Property to R-85 to develop one single family residence with abundant greenspace on site. The Applicant proposes to use the Property at 1813 Jan Hill Lane for community greenspace. The proposed rezoning and single-family development is consistent with the County's Comprehensive Plan and will complement surrounding single-family homes. For these reasons, the Applicant respectfully requests the County rezone the Property from MR-1 (Medium Density Residential) to R-85 (Residential Medium Lot).

## II. WRITTEN ANALYSIS FOR APPLICATIONS

The Applicant satisfies all of the criteria for rezoning as set forth in the DeKalb County Zoning Ordinance, Section 27-7.3.5.

### 1) **Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

The County's Comprehensive Plan and Future Development Map designates the Property as Suburban, which promotes traditional suburban land use patterns with a proposed density of up to 8 dwelling units per acre. The proposed use of the land as a single family residence is consistent with the intent of the County's Comprehensive Plan and the recommended primary land uses for the Property. Additionally, the R-85 zoning classification is consistent with the Comprehensive Plan. The development plan for the single family residence is consistent with the recommended density for the Suburban Character Area, and the preserved space at 1813 Jan Hill Lane satisfies the policies of the character area by contributing to greenspace in the surrounding neighborhood.

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

The proposed rezoning to R-85 will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property is bordered by single family residential and multi-family residential uses. The proposed R-85 zoning is consistent with the zoning on the surrounding parcels, which includes R-85 and MR-1 zoning classifications. The R-85 zoning classification is consistent with the neighborhood immediately adjacent to the Property.

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

The Property has no reasonable economic use as currently zoned, as it cannot be developed under the current MR-1 zoning because of zoning conditions restricting residential density.

- 4) **Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.**

The proposed rezoning will have no adverse impact on adjacent or nearby properties. On the contrary, the proposed use and development of the Property as a single family residence and preserved open space will benefit the adjacent properties by providing recreational greenspace for the community (i.e. a public gathering space) and a single family residence that complements the adjacent homes.

- 5) **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's proposed single family residence and preserved open space will benefit the public health, safety, and welfare by promoting development that is consistent with the suburban character of the surrounding properties. The preservation of open space by the Applicant will benefit the neighborhood by providing dedicated land for the use and enjoyment of community.

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

The proposed rezoning will not adversely affect historic buildings, sites, districts, or archeological resources.

- 7) **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 proposed rezoning will not create an excessive or burdensome use of streets, transportation facilities, utilities, or schools. The addition of one single family residence will not adversely impact any public facilities. Likewise, the preserved open space will not burden public facilities within the County.

**8) Whether the zoning proposal adversely impacts the environment or surrounding natural resources.**

The proposed rezoning of the Property will not adversely impact the environment or surrounding natural resources. The preservation of open space by the Applicant will add greenspace to the neighborhood and enhance the environment for the community's benefit.

### **III. CONSTITUTIONAL NOTICE**

Georgia law and the procedures of DeKalb County require us to raise Federal and State constitutional objections during the rezoning application. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of DeKalb County, facially and as applied to the Property, which restrict the Property to any zoning classification, conditions, uses, or to any development other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

A denial of this Application would constitute an arbitrary and capricious act by the DeKalb County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the

Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

This notice is being given to comply with the provisions of O.C.G.A. § 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification and to remove existing unconstitutional zoning conditions. If action is not taken by the County to rectify the existing unconstitutional zoning classification and zoning conditions within a reasonable time, a claim will be filed in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of property, diminution of value of adjacent and surrounding properties, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's constitutionally-protected property rights.

#### IV. CONCLUSION

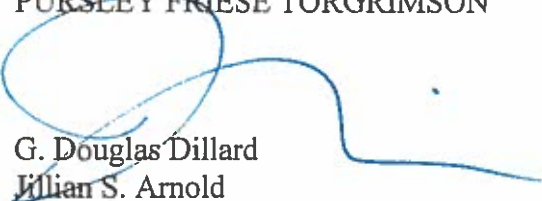
For the foregoing reasons, the Applicant respectfully requests that the DeKalb County Board of Commissioners approve this Application and rezone the Property as requested by the Applicant.

If there are any questions about this rezoning request, you may contact me at 404-665-1243 or at [jarnold@pftlegal.com](mailto:jarnold@pftlegal.com).

Sincerely,

PURSLEY FRIESE TORGRIMSON

G. Douglas Dillard  
Jillian S. Arnold



Av. 12/84

DEKALB COUNTY  
BOARD OF COMMISSIONERS

ITEM NO. 2

ZONING AGENDA/MINUTES

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

MEETING DATE July 23 1985

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

SUBJECT: Rezoning Application - Wood Properties, Inc.

DEPARTMENT: Planning

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

ATTACHMENT: X Yes \_\_\_ No 11 pp

INFORMATION CONTACT: Mac Baggett or Charles Cole  
PHONE NUMBER: 371-2155

PURPOSE: CZ-85101 - To consider the application of Wood Properties, Inc., to rezone property located on the northeast side of N. Druid Hills Road, approximately 300' southeast of High Haven Court, from R-100 to RM-100 (conditional). The request is based on a site plan and list of conditions.

DISTRICT: \_\_\_ 1. X 2. \_\_\_ 3. \_\_\_ 4. \_\_\_ 5. \_\_\_ N

SUBJECT PROPERTY: 18-151-1-4 (2694 N. Druid Hills Road). The property has frontage of 822' on N. Druid Hills Road and also frontage on High Haven Court, Georgiana Drive, Jan Hill Lane and Fern Creek Lane and contains 51.2 acres.

RECOMMENDATION(s): PLANNING DEPARTMENT: Approval with conditions (revised 7/12/85). The application as amended has been reviewed by applicable departments of the county. The questions of drainage and traffic have been answered by conditions of the applicant and review comments of the Public Works Director. Staff supports the rezoning subject to the following:

1. Density is reduced to a maximum of 10 units per acre as recommended by the Comprehensive Plan.
2. With exception of #4., conditions of the 6/28/85 amendment are incorporated. The conceptual plan is included.
3. Matters concerning drainage and traffic which are referenced by the Public Works director in his memo of 7/10/85 are applied as conditions.
4. Drainage and access to be approved by the Public Works Director.

- A) 5230
- B) Wood Prop., Inc.
- C) N. Druid Hills Rd., High Haven Court

FOR USE BY COMMISSION OFFICE/CLERK ONLY

**ACTION:** MOTION was made by Commissioner Schulman, seconded by Commissioner Williams, to approve the Planning Department recommendation with density not to exceed 8 units p acre, retention to be 120% in all areas except for High Haven area which should be 110%, and the conditions set forth by the Planning Commission, Numbers 2, 4, 5, and 6.

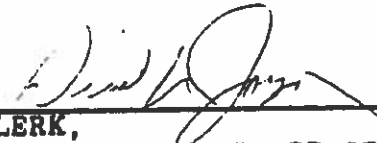
2. Architectural style and construction materials to be same as in Wood Hollow
4. Setbacks to be same as shown on site plan.
5. Acceptance of homeowners' agreement.
6. Retain existing trees in buffer.

SUBSTITUTE MOTION was made by Commissioner Manning, seconded by Commissioner Evans and passed 5-2, to approve the project in accordance with the staff recommendation, including retention to be 120% in all areas except for High Haven area which should

ADOPTED: JUL 23 '85  
(DATE)

CERTIFIED: JUL 23 '85  
(DATE)

PRESIDING OFFICER  
DEKALB COUNTY BOARD OF COMMISSIONERS

  
CLERK,  
DEKALB COUNTY BOARD OF COMMISSIONERS

**MINUTES:** 110%, the conditions set forth by the Planning Commission, numbers 2, 4, 5, and 6 (as listed above), and density to be at 10 units per acre. Opposed: Commissioners Williams and Schulman.

Mr. Doug Dillard, Dillard Greer Westmoreland & Wilson spoke for the application. Also for the application: Mr. Alvin Minsk, 1542 High Haven Court, Atlanta, Georgia

Opposition: Kathy Zickert, Suite 195, 400 Perimeter Center Terraces, Atlanta, Georgia. Reasons for opposition: Traffic increases, drainage problems, impact on future development in the area.

	FOR	AGAINST	ABSTENTION	AB:
DISTRICT 1 - Jean Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 2 - Sherry Schulman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 3 - John Evans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 4 - Robert J.(Bob) Morris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DISTRICT 5 - John S. Fletcher, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AT-LARGE - Brince H. Manning, III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AT-LARGE - Robert Lanier	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REZONING DECISIONS  
July 23, 1985

D.1. Portman-Barry Investments, Inc. (CZ-85027) - Approved per Planning Department recommendation below and with attached agreements:

1. The conceptual site plan is included as a condition to define setbacks and buffers.
2. The height of the proposed buildings is reduced to five stories on the north and eight stories on the east and south.
3. The maximum density not exceed 25,000 square feet per acre (average between Ackerman, Sea Pines, and Fulton County approvals).
4. Access for emergency vehicle access shall be provided from the south or east to the DeKalb portion of the property prior to issuance of building permits in Dekalb.

Where the above conditions are more restrictive than those of the agreement, the more restrictive conditions shall be applied.

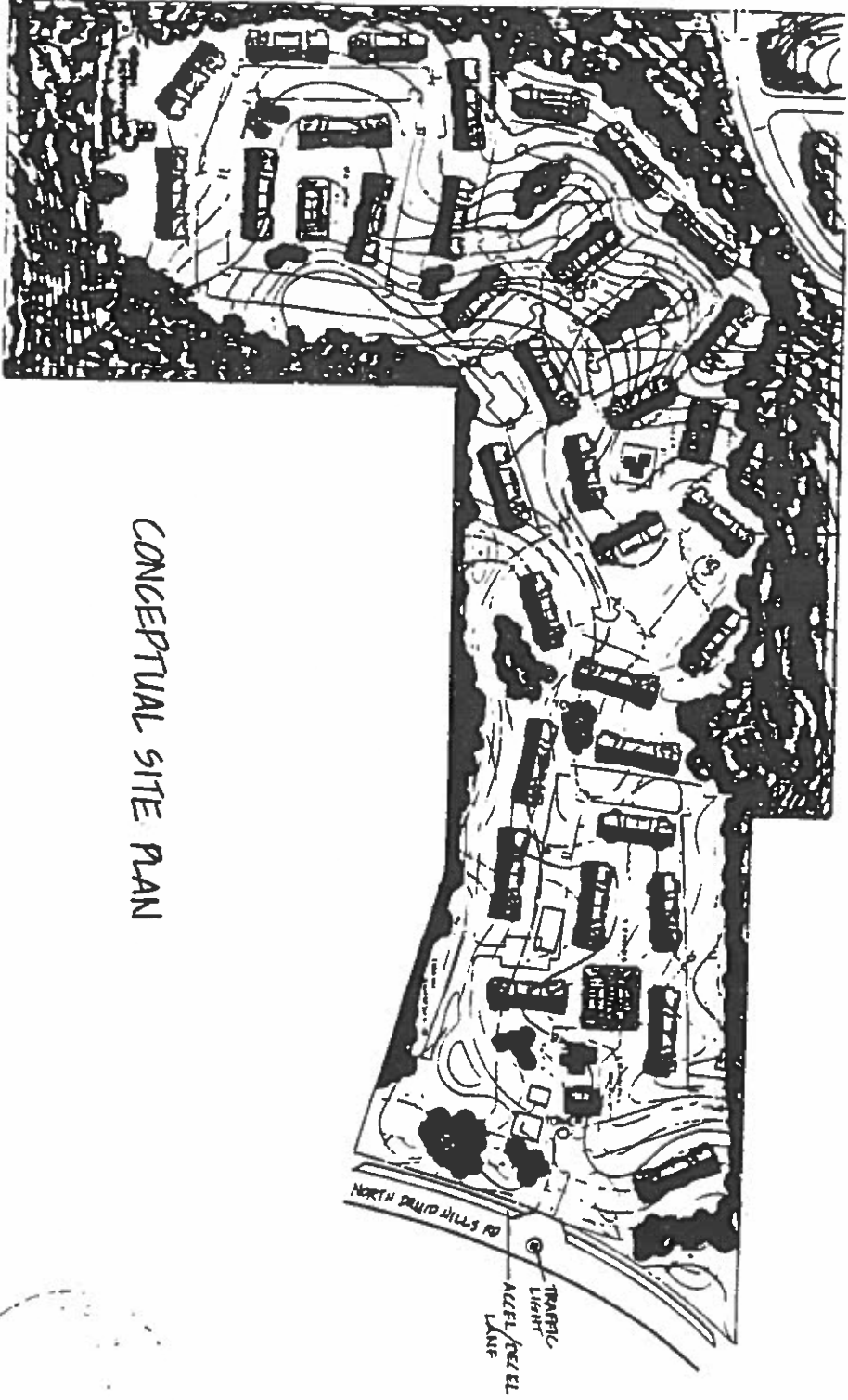
D.2. Joel F. Harris (CZ-85039) - Deferred to August 27, 1985, (10:00 a.m.) at request of applicant and community representatives.

1. Jerry G. Sheppard (CZ-85095) - Deferred to August 27, 1985, (10:00 a.m.) to allow additional time for applicant to meet with community.

②. Wood Properties, Inc. (CZ-85101) - Approved per Planning Department recommendation below and with attached conditions:

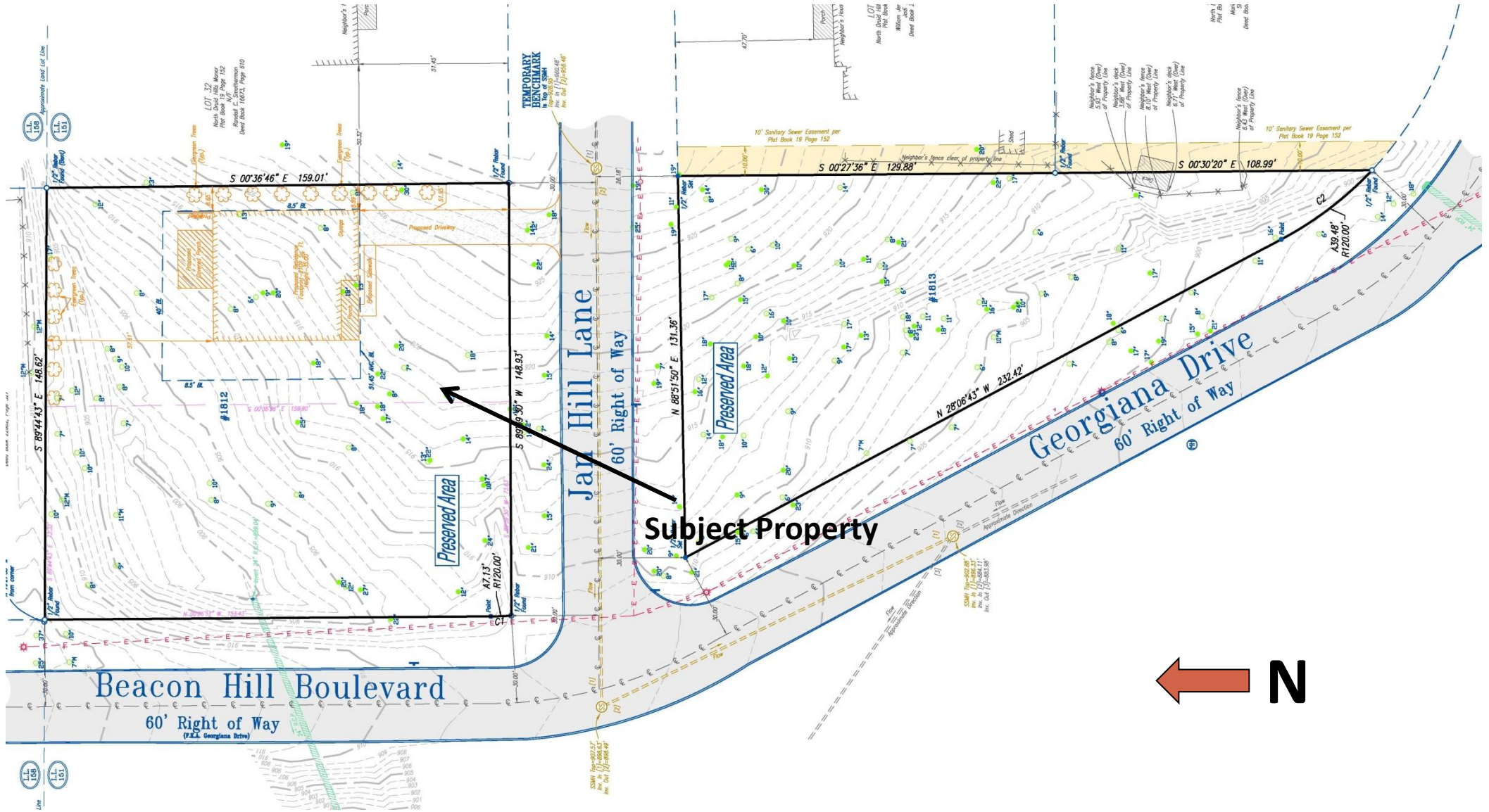
1. Density is reduced to a maximum of 10 units per acre as recommended by the Comprehensive Plan.
2. With exception of #4., conditions of the June 28, 1985, amendment are incorporated.
3. The conceptual plan is included.
4. Matters concerning drainage and traffic which are referenced by the Public Works Director in his memo of July 10, 1985, are applied as conditions.
5. Drainage and access to be approved by the Public Works Director.



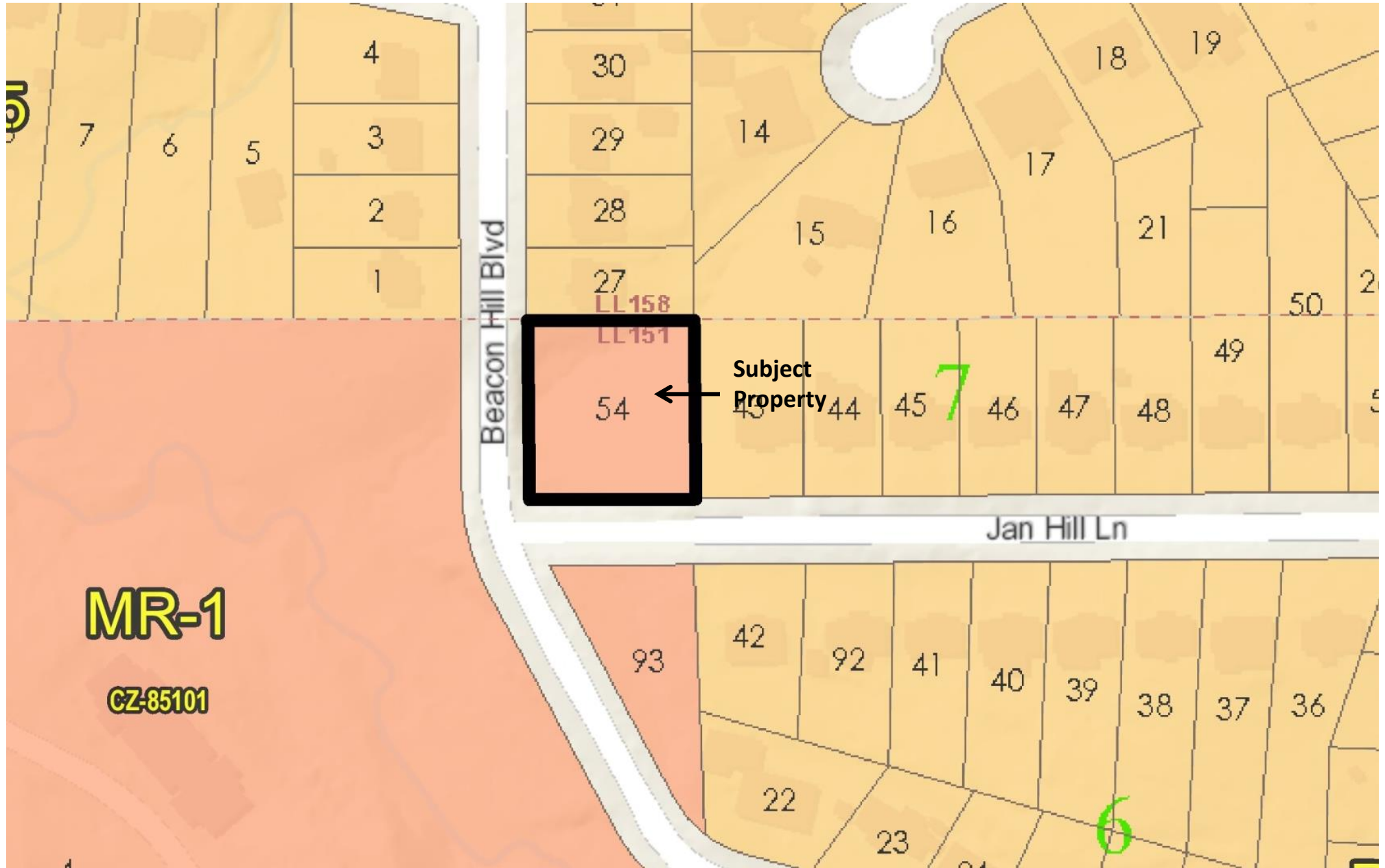


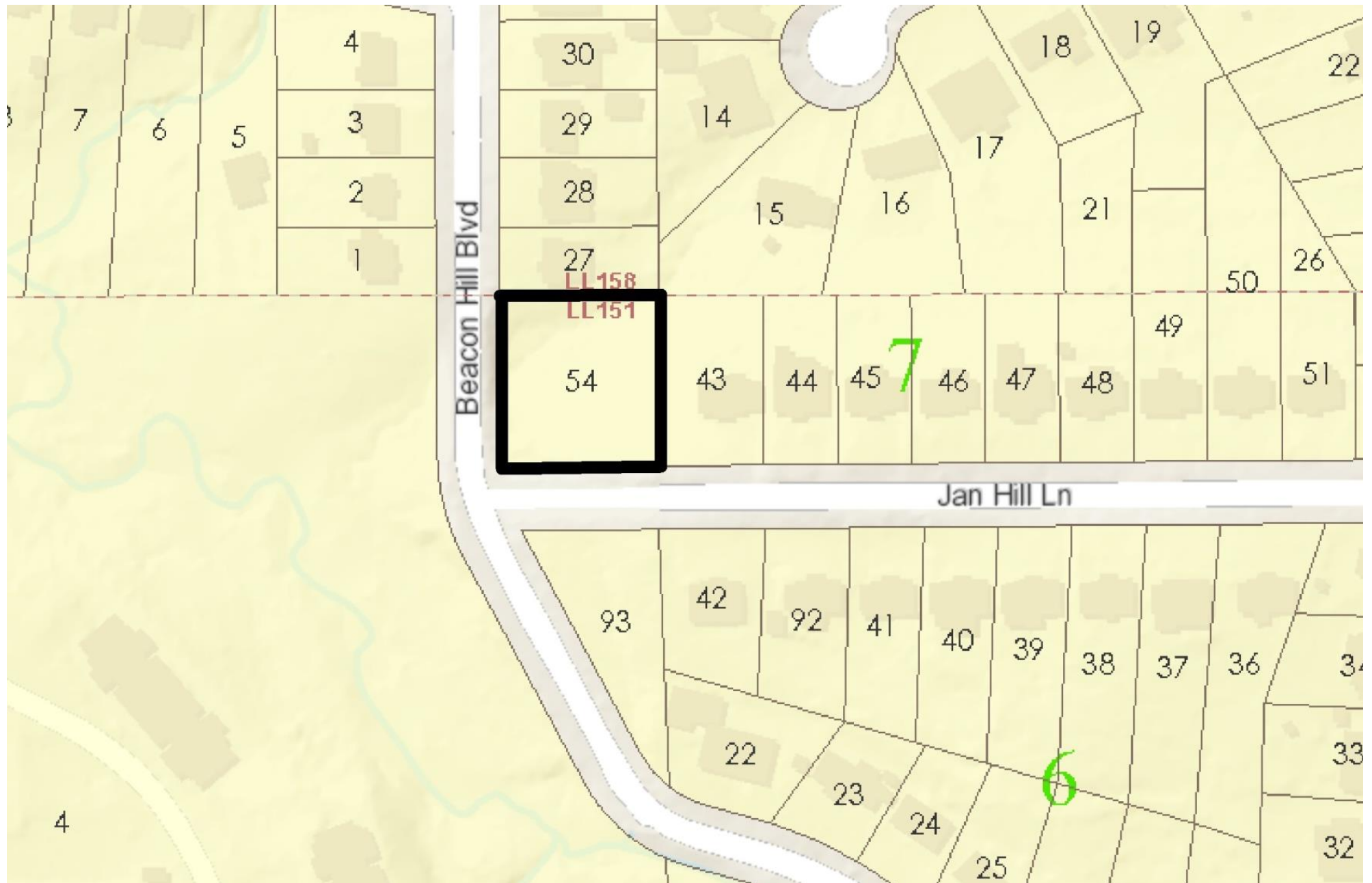
CONCEPTUAL SITE PLAN















← Subject Property.

View of subject property and 1811 Jan Hill Lane, looking west on Jan Hill Lane. →

