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-17-21711 Agenda #: N. 1

Location/Address: The southeast corner of Jan Hill Lane and Commission District: 2 Super District: 6

Beacon Hill Boulevard, at 1813 Jan Hill Lane,

Atlanta.

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 use of the site as community greenspace.

Property Owner(s): Silver Hill Homes, LLC

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

Acreage: .38 acres

Existing Land Use: A wooded lot

Surrounding Properties: To the north, a wooded lot (subject to Z-17-21712); northeast, east, southeast: single-

family residential; to the southwest, west, and northwest: the Viera Briarcliff Apartment

Homes development.

Adjacent Zoning: North: MR-1 East: R-85 West: MR-1 Northeast: R-85 Northwest: MR-1

Southeast: R-85 Southwest: MR-1

Comprehensive Plan:SUB (Suburban)XConsistentInconsistent

Proposed Density: N.A. (greenspace proposed)	Existing Density: N.A. (vacant lot)	
Proposed Lot Coverage: N.A. (greenspace proposed)	Existing Lot Coverage: N.A. (vacant lot)	

Zoning History: In 1985, the property was zoned from R-100 (Single-Family Residential) to RM-100 (Multifamily Residential – 100) pursuant to CZ-85101, along with a 48.95-acre tract that is located to the west and across Beacon Hill Boulevard. The RM-100 classification was converted to MR-1 (Medium-Density Residential – 1) in 2015. 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 as a transition between Viera Briarcliff and the single-family residential neighborhood located to the east. In addition to the site plan, the conditions for the Viera Briarcliff property regulate building height, unit density, and exterior building materials.

PROJECT ANALYSIS

The subject property is a .38-acre parcel at the southeast 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.

The proposal is to preserve the property as a wooded lot. Green space is allowed on the property under the existing MR-1 zoning, but the applicant has explained that rezoning the subject property removes the 1985 zoning conditions on the property while avoiding the need to bring the Viera Briarcliff property into the process.

The applicant has concurrently applied for rezoning of 1812 Jan Hill Lane, located across the street to the north, from MR-1 to R-85 (Z-17-21712). A two-story, 2,109 square foot single-family house is proposed to be located on the eastern half of the property, and the western half, which fronts on Beacon Hill Boulevard, is proposed to remain wooded. The goal is to have views of woods on both sides of Beacon Hill Boulevard. Keeping the subject property as a wooded lot will add to the effect.

The subject property is located in a primarily single-family residential neighborhood. The rear of the Viera Briarcliff property is located to the west, across Beacon Hill Boulevard. From Beacon Hill Boulevard, the appearance of the Viera Briarcliff property is that of a heavily wooded site; the apartment buildings are not visible from Beacon Hill Boulevard.

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: Because no development is proposed, 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) It is also consistent with the following policy: "Promote conservation and greenspace areas as passive use and recreation areas." (Conservation and Open Space Policy #1)
- B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. A natural area is a suitable land use in a single-family residential neighborhood. It is visually pleasing, helps absorb stormwater run-off to reduce flooding and purify groundwater, cools the air temperature, and provides habitat for birds and other wildlife.
- 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: As more infill sites throughout the County are developed, preservation of land in its natural state becomes more desirable.

- 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: As undeveloped property, the site would place no demands of public facilities and services.

STAFF RECOMMENDATION:

The proposed community greenspace would enhance and add value to the surrounding neighborhood. A natural area is a suitable land use in a single-family residential neighborhood. It is visually pleasing, helps absorb stormwater run-off to reduce flooding and purify groundwater, cools the air temperature, and provides habitat for birds and other wildlife. Because no development is proposed, 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) It is also consistent with the following policy: "Promote conservation and greenspace areas as passive use and recreation areas." (Conservation and Open Space Policy #1) Therefore, the Department of Planning and Sustainability recommends "Approval" with the following condition:

1. The property shall be preserved as green space.

Attachments:

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

NEXT STEPS

Following an approval of this zoning action, none of the following are 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.)



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

Transportation/Access/Row

Consult the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

Storm Water Management

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control is required as a condition of land development permit approval.

Flood Hazard Area/Wetlands

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application.

• Landscaping/Tree Preservation

Landscaping and tree preservation plans for any building, or parking lot must comply with

DeKalb County Code of Ordinances 14-39 and are subject to approval from the County Arborist.

• Tributary Buffer

State water buffer was not reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

Fire Safety

<u>Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.</u>



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:

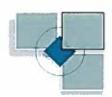
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: 2-17-21711 Parcel I.D. #: 18 Address: 1813 Jan 1-11 LN Allama GA	-151-06-093	
Adjacent Ros	adwav (s):	
(classification)	(classification) (classification)	
Capacity (TPD) Latest Count (TPD) Hourly Capacity (VPH) Peak Hour. Volume (VPH) Existing number of traffic lanes Existing right of way width Proposed number of traffic lanes Proposed right of way width	Capacity (TPD) Latest Count (TPD) Hourly Capacity (VPH) Peak Hour. Volume (VPH) Existing number of traffic lanes Existing right of way width Proposed number of traffic lanes Proposed right of way width	
Please provide additional information relating to the following state According to studies conducted by the Institute of Traffic Engineers generate an average of fifteen (15) vehicle trip end (VTE) per 1, 000 factor. Based on the above formula, thesquare foot place o with approximately peak hour vehicle trip ends. Single Family residence, on the other hand, would generate ten (10)	s (ITE) <u>6/7TH</u> Edition (whichever is applicable), churches) square feet of floor area, with an eight (8%) percent peak how of worship building would generate vehicle trip ends,	
peak hour factor. Based on the above referenced formula, the a maximum ofunits per acres, and the given fact that the proje vehicle trip end, and peak hour vehicle trip end would be gener	_ (Single Family Residential) District designation which allows ct site is approximately acres in land area, daily	
COMMENTS:		
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DeKalb County Department of Planning & Sustainability

Michael L. Thurmond Chief Executive Officer Andrew A. Baker, AICP Director



APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

Z/CZ No. 217-11				
Date Received: JUL 0 6 2017 Application No.: 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				
Owner's Mailing Address: 10405 Old Alabama Road Connector, Suite 201, Alpharetta, Georgia 30022				
Owner(s) Phone:(404) 661-1181				
Address/Location of Subject Property:1813 Jan Hill Lane				
District(s): 18 Land Lot(s): 151 Block: 6 Parcel(s: 18-151-06-093				
Acreage: +/- 0.37 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.				
<u>Disclosure of Campaign Contributions</u> 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, Decetor, Ga. 30030. NOTARY No Comm. Exp. April 14, 2020 April 14, 2020 EXPIRATION DATE / SEAL				

330 West Ponce de Leon Avehue - 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

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@pftlegal.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.	1011	2928 Briarcliff RJ.	tgilbert7/e gmail.com
	Nava Gilbert	ATL.GA	<i>Q</i> /
2.		1832 Geogland Dring Att 30329	678-315-5714
	Shamin Lodin		
3.	TOM 2100	1860 GEORGIANA	404 634-
	TOM CARR	DR	9995
4.	Shelley Woody	1643 Beacon Hill Blvd	404-235-0693
5.	amanda Thornhill	1831 Jan Hill Ln. NE	(404) 308 - 2892
6.	<u> </u>		Decrean@ notmail.
,	Beverly Fermon	1692 Bridgeport Da NE	404 321-0471
7.	· · · · · · · · · · · · · · · · · · ·		leanwalden540gma
	Leah Waldeh	1839 Tan Hill LN NE	(404)680-2133
8.	TIM MCLAIN	1648 BERCON HILL BLVD NE	
9.		1000 (
10	Nora Robilland	1838 Georgiana DR. NE	404-849-9523
10.	Walter Robillard	1601 BerkeleyLn NE	404-634-4993
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I. INTRODUCTION

The subject property is approximately 0.378 acres of land located at the corner of Jan Hill Lane, Beacon Hill Boulevard, and Georgiana Drive, and is more specifically identified as 1813 Jan Hill Lane (the "Property"). This zoning application is being submitted along with a rezoning application for 1812 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 preserve the site as community greenspace. The Applicant proposes to develop a single-family home on 1812 Jan Hill Lane. The proposed rezoning 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 community greenspace 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.

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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 used under the current MR-1 zoning because of existing zoning conditions.

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 of the Property as preserved greenspace will benefit the adjacent properties by providing recreational greenspace for the community (i.e. a public gathering space).

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 preserved greenspace 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.

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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.

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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.

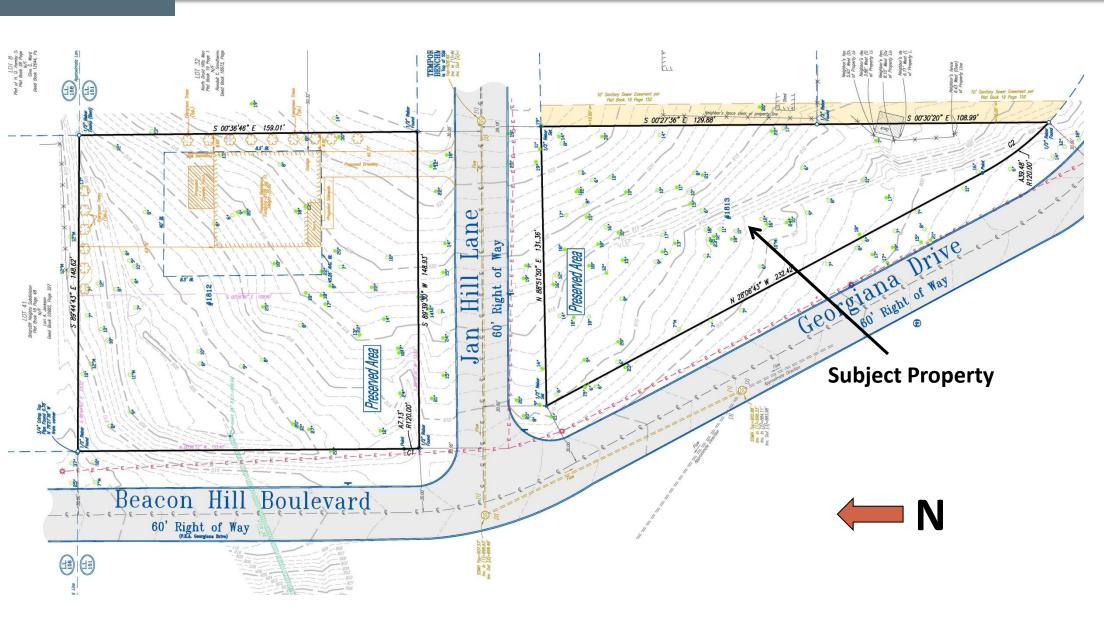
Sincerely,

PURSLEY FRIESE TORGRIMSON

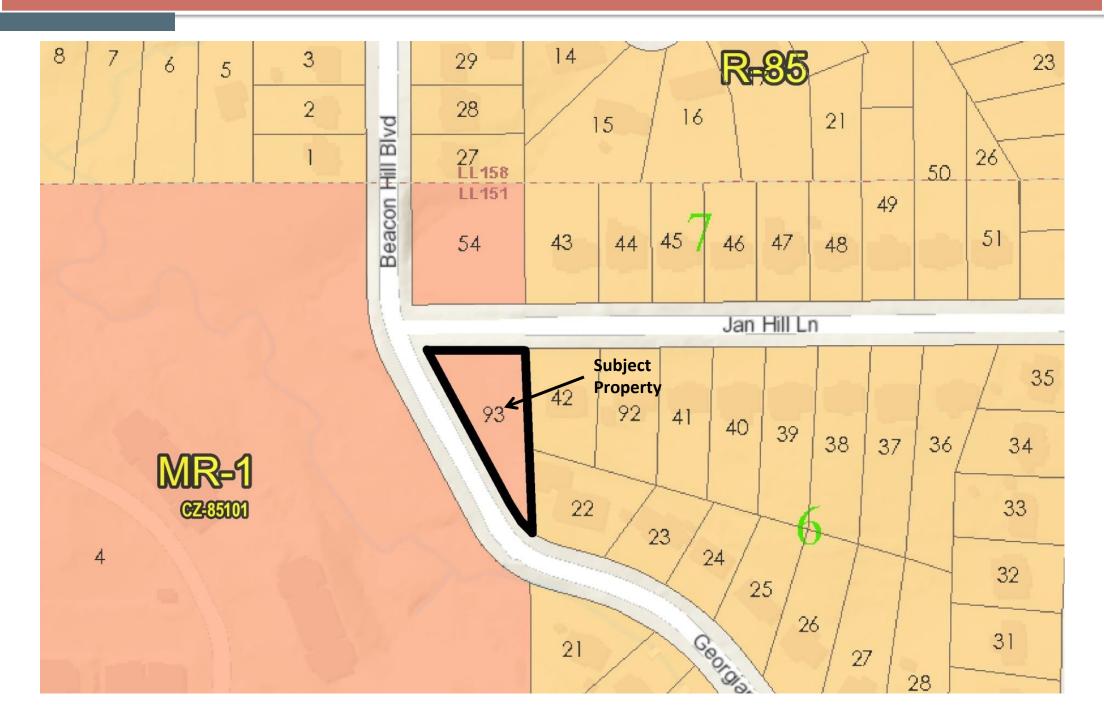
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N. 1 Z-17-21711 Site Plan

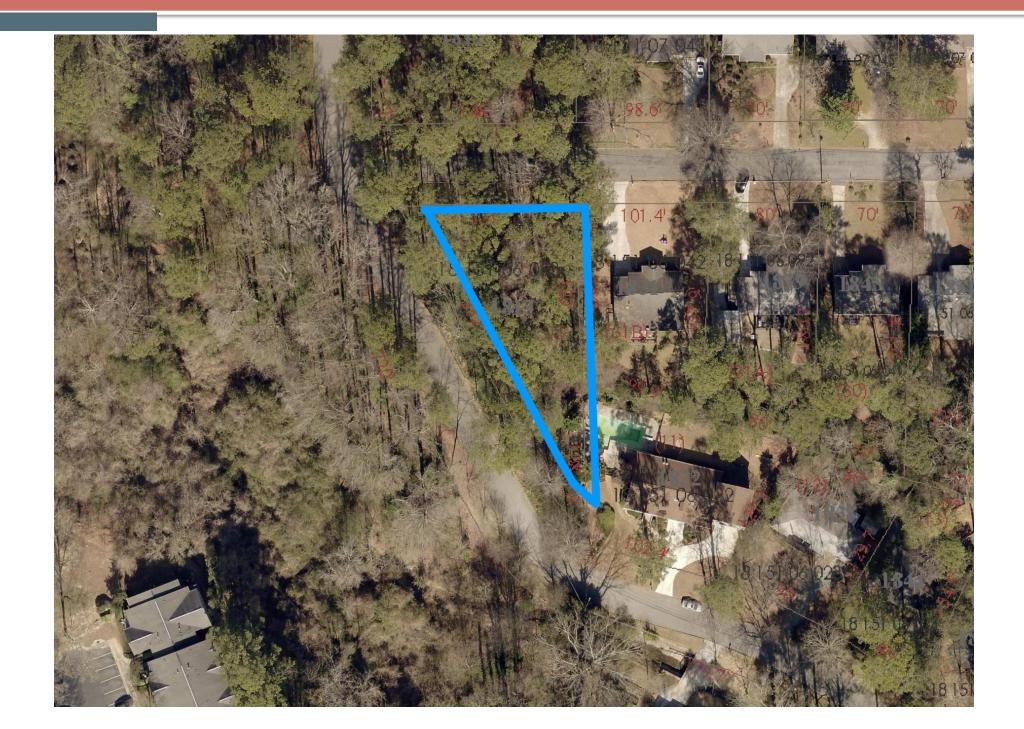


Zoning Map





N. 1 Z-17-21711 Aerial Photo



N. 1 Z-17-21711 Site Photos



Subject Property.

View of subject property and 1812
Jan Hill Lane, looking west on Jan Hill
Lane.

