



DeKalb County Department of Planning & Sustainability

**330 Ponce De Leon Avenue, Suite 300
 Decatur, GA 30030
 (404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: July 07, 2020
 Board of Commissioners Hearing Date: July 30, 2020**

STAFF ANALYSIS

Case No.: CZ-20-1243935 **Agenda #:** N.3

Location/Address: 4575 Chamblee Tucker Road **Commission District:** 1
 Tucker GA **Super District:** 7
 4155 Briarglade Way,
 Atlanta, GA

Parcel ID: 18-261-01-006 & 18-261-01-062

Request: Modification of zoning conditions of CZ-15-20076 within the RSM (Residential Small Lot Mix) District to allow the construction of four single-family lots by amending conditions #1, #3-7, and by adding three conditions (#9 -11).

Property Owner: Timothy Starks/ The Klondike Group, LLC
Applicant/Agent: BE3 Holdings, LLC c/o Battle Law, P.C.
Acreage: 1.23 Acres
Existing Land Use and Surrounding Properties: Single Family Residential
North: R-100: Sharon Park Subdivision
East: R-85: City of Tucker developed with single family residences
South: R-60: Livsey Trail Subdivision
West: R-100: Harper Valley Subdivision

Adjacent Zoning and surrounding properties **North:** R-100 **South:** R-60 **East:** R-85 **West:** R-100
Northeast: R-100/City of Tucker **Northwest:** R-100 **Southeast:** R-60/City of Tucker **Southwest:** R-60

Comprehensive Plan: Suburban **Consistent** **Inconsistent**

Proposed Residential Units: 4	Existing Residential Units: N/A
Proposed Lot Coverage: less than 35%	Existing Lot Coverage: N/A

SUBJECT SITE & ZONING HISTORY

The subject site is 4575 Chamblee Tucker Road, Tucker GA and 4155 Briarglade Way. Currently there are two separate parcels, consisting of approximately 1.23 acres. The subject properties are located west of the City of Tucker and inside of Harper Valley and Livsey Subdivision, at the cul-de-sac of Briarglade Way. Both properties 4575 Chamblee Tucker Road and 4155 Briarglade Way are currently developed with two single-family dwelling, zoned RSM (Small Lot Residential Mix) with the following Board approved conditions

1. Maximum of four single-family lots as shown on conceptual site plan.
2. Building facades shall be 70% brick.
3. Minimum unit size of 1,200 square feet.
4. A ten-foot wide landscape strip shall be provided along the northern, southern, and eastern property lines. The existing mature vegetation within the landscape strip shall be undisturbed and supplemented with additional vegetation to provide an effective visual screen as approved by the County Arborist. Provide an 8-foot tall opaque fence along the north, east, and south external property lines.
5. No access shall be provided from Chamblee Tucker Road. Access shall be from an extension of Briarglade Way.
6. Provide internal public road subject to approval of the Transportation Division of Public Works.
7. Comply with Sketch Plat requirements prior to the issuance of a Land Disturbance Permit.
8. The approval of this rezoning application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the authority of the Historic Preservation Commission, the Zoning Board of Appeals, or other entity whose decision should be based on the merits of the application under review by such entity.

MODIFICATION REQUESTS:

The existing zoning conditions CZ-15-20076, were approved November 17, 2015. The applicant would like to modify the following conditions:

1. ~~Maximum of four single family lots as shown on conceptual site plan.~~
Changes: Dated March 12, 2020
2. ~~Building facades shall be 70% brick.~~
Changes: The homes will be craftsman style homes with a mixture of brick and hardi-plank sides, with other cementitious siding as architectural accents and four design styles consistent with Section 5.7.5.J
3. ~~Minimum unit size of 1,200 square feet.~~
Changes: 2,400 square feet and a maximum of 3,500 square feet.
4. A ten-foot wide landscape strip shall be provided along the northern, southern, and ~~eastern~~ property lines. The existing mature vegetation within the landscape strip shall be undisturbed and supplemented with additional vegetation to provide an effective visual screen as approved by the County Arborist. Provide an ~~8-foot~~ tall opaque fence along the north, ~~east~~, and south external property lines.
Changes: Remove eastern property, east fence location, six feet fence instead of eight feet fence.
5. No access shall be provided from Chamblee Tucker Road. ~~Access shall be from an extension of Briarglade Way.~~

Changes: No access shall be provided from Chamblee Tucker Road through an extension from Briarglade Way.

- ~~6. Provide internal public road subject to approval of the Transportation Division of Public Works.~~

Changes: Remove condition 6.

- ~~7. Comply with Sketch Plat requirements prior to the issuance of a Land Disturbance Permit.~~

Changes: Remove condition 7

8. The approval of this rezoning application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the authority of the Historic Preservation Commission, the Zoning Board of Appeals, or other entity whose decision should be based on the merits of the application under review by such entity.

The applicant is requesting to add the following conditions:

1. The two lots fronting on Briarglade Way shall have a shared driveway. The two lots fronting on Chamblee Tucker Road shall have the option of having rear access from the shared driveway off of Briarglade Way, provided that under no circumstances shall any driveway developed on the site allow for connectivity from Briarglade Way directly or indirectly to Chamblee Tucker Road.
2. The lot coverage ratio shall not exceed 35%.
3. The front setback shall be a minimum of 35 feet for the lots having frontage on Briarglade Way and a minimum of 30 feet for the lots having frontage on Chamblee Tucker Road.

Planning Staff offers the following review for deleting and adding the modifications to the existing conditions from the pre-approved CZ-15-20076.

Section 27-7.3.5 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 Official Zoning Map.

- A. **Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan. Located within a Suburban (SUB) Character Area.**

The area vision consists of creating four single-family detached homes. The intent of the Suburban Character Area is to recognize those areas of the county that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. These areas include those developed (built out) and those under development pressures. These areas are characterized by low pedestrian orientation, limited transit access, scattered civic buildings and curvilinear street patterns. The proposed density for areas of this type is up to eight dwelling units per acre.

The primary land uses include: Single family detached residential, townhomes, assisted living facilities, neighborhood retail, schools, libraries, health care facilities, parks and recreational facilities, public and civic facilities, and institutional uses.

Based on Comprehensive Plan policies, the applicant should revise their site plan to comply with density/building height criteria above and with the following policies of the 2035 Comprehensive plan:

Transitional Buffers – Intent. Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of non-residential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.

Where the Mixed Residential District has single-family units along an adjacent residential (R) boundary, then a transitional buffer is not required.

Healthy Neighborhoods - Promote healthy living in neighborhoods by incorporating a pedestrian environment that encourages socialization, walking, biking, and connectivity. Implement the recommendations of the Master Active Living Plans (MALPs).

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

The modification request to amend conditions 3, 4, 5, remove conditions 6 and 7, and add two conditions is suitable in view of the existing surrounding neighborhoods.

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

The modification request does not affect the current surrounding zoning districts R-100 (Residential Medium Lots) or R-60 (Residential Small Lot) at the site.

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

The modification request does not adversely affect the use or usability of adjacent or nearby residential properties. The applicant proposes similar front setback reductions as required for R-60, minimum square footage of dwelling and the removal of the connectivity between Chamblee Tucker Road and Briarglade Way.

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.

North, south, and west adjacent to the site is property is zoned R-100 and R-60, which is developed with existing single family detached residential dwellings, which is compatible to the proposed use.

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

It is not known if there are historic buildings, sites, districts, or archaeological resources located on the property or in the surrounding area that would be affected by the modification requests.

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

The modification request to amend and remove CZ-15-20076 conditions will have to meet the approvals set forth from each division.

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

The modification request does not appear to adversely impact the environment or surrounding natural resources.

Staff Recommendation: APPROVAL WITH CONDITIONS.

Approval is based on the proposed site plan dated March 12, 2020. The final site plan provides resolutions by eliminating the access from Chamblee Tucker Road to Briarglade Way, addressing the concerns of the residents of the community. The proposed lot configuration eliminates the need for the construction of an extension to Briarglade Way. Therefore, Department of Planning and Sustainability recommends, **“APPROVAL”** of this modification request per the following recommended conditions.”

1. Lots 1 & 2 can have ingress and egress from Chamblee Tucker Road,
2. Lots 3 & 4 can only have access from Briarglade Way.
3. The lot coverage ratio shall not exceed 35%.
4. The front setback shall be a minimum of 35ft for the lots having frontage on Briarglade Way, and a minimum of 30 ft for the lots having frontage on Chamblee Tucker Road.
5. Remove condition 6.
6. Comply with Sketch Plat requirements prior to the issuance of a Land Disturbance Permit.
7. The approval of this rezoning application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the authority of the Historic Preservation Commission, the Zoning Board of Appeals, or other entity whose decision should be based on the merits of the application under review by such entity.

Attachments:

1. Public Works Department Comments
 - a. Land Development Division
 - b. Traffic Engineering Division
2. Watershed Management Department Comments
3. Board of Health Comments
4. Board of Education Comments
5. Application
6. Site Plan
7. Zoning Map
8. Aerial Photograph
9. Photographs

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

PRE-APPLICATION FORM
REZONE, SPECIAL LAND USE PERMIT, MODIFICATION, AND LAND USE
(Required prior to filing application: signed copy of this form must be submitted at filing)

Applicant Name: BE3 Holdings, LLC c/o Battle Law.P.C. Phone: 404.601.7616 Email: mlb@battlelawpc.com

Property Address: 4155 Briarglade Way, Atlanta, GA 30340 & 4575 Chamblee Tucker, GA 30084

Tax Parcel ID: 18 261 01 006 & 062 Comm. District(s): 1 & 7 Acreage: 1.23

Existing Use: R-100 Proposed Use 4 Single Family Res. Lots

Supplemental Regs: _____ Overlay District: _____ DRI: _____

Rezoning: Yes _____ No X

Existing Zoning: _____ Proposed Zoning: _____ Square Footage/Number of Units: 4

Rezoning Request: _____

Land Use Plan Amendment: Yes _____ No X

Existing Land Use: _____ Proposed Land Use: _____ Consistent _____ Inconsistent _____

Special Land Use Permit: Yes _____ No X Article Number(s) 27- _____

Special Land Use Request(s) _____

Major Modification:

Existing Case Number(s): CZ-15-20076

Condition(s) to be modified:

See attached SOI Conditions 1, and 3-7

DEPARTMENT OF PLANNING & SUSTAINABILITY

WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION

Pre-submittal Community Meeting: _____ Review Calendar Dates: _____ PC: _____ BOC: _____
 Letter of Intent: _____ Impact Analysis: _____ Owner Authorization(s): _____ Campaign Disclosure: _____
 Zoning Conditions: _____ Community Council Meeting: _____ Public Notice, Signs: _____
 Tree Survey, Conservation: _____ Land Disturbance Permit (LDP): _____ Sketch Plat: _____
 Bldg. Permits: _____ Fire Inspection: _____ Business License: _____ State License: _____
 Lighting Plan: _____ Tent Permit: _____ Submittal Format: NO STAPLES, NO BINDERS PLEASE

Review of Site Plan

Density: 3.25 per acre Density Bonuses: _____ Mix of Uses: _____ Open Space: _____ Enhanced
 Open Space: _____ Setbacks: front _____ sides _____ side corner _____ rear _____ Lot Size:
+12,346 Frontage: _____ Street Widths: _____ Landscape Strips: yes Buffers: _____
 Parking Lot Landscaping: _____ Parking - Auto: _____ Parking - Bicycle: _____ Screening:
 _____ Streetscapes: _____ Sidewalks: _____ Fencing/Walls: _____ Bldg. Height: _____ Bldg.
 Orientation: _____ Bldg. Separation: _____ Bldg. Materials: _____ Roofs: _____ Fenestration: _____
 Façade Design: _____ Garages: _____ Pedestrian Plan: _____ Perimeter Landscape Strip: _____
 Possible Variances: _____ None

Comments:

Planner: _____ Date _____

Filing Fees

REZONING:	RE, RLG, R-100, R-85, R-75, R-60, MHP, RSM, MR-1	\$500.00
	RNC, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, MU-5	\$750.00
	OI, OD, OIT, NS, C1, C2, M, M2	\$750.00

LAND USE MAP AMENDMENT \$500.00

SPECIAL LAND USE PERMIT \$400.00

DEPARTMENT OF PLANNING & SUSTAINABILITY

MAJOR MODIFICATION APPLICATION

Existing Conditional Zoning No.: _____

APPLICANT NAME: BE3 Holdings, LLC c/o Battle Law, P.C.

Daytime Phone#: 404.601.7616 Fax #: _____ E-mail: mlb@battlelawpc.com

Mailing Address: One West Court Square, Suite 750 Decatur, GA 30030

OWNER NAME: Timothy Starks/The Klondike Group, LLC (If more than
one owner, attach contact information for each owner)

Daytime Phone#: 404.281.2024 Fax #: _____ E-mail: tos2@bellsouth.net

Mailing Address: 3015 Klondike Road, Lithonia, GA 30038

SUBJECT PROPERTY ADDRESS OR LOCATION: 4155 Briarglade Way, Atlanta, GA 30340 &
4575 Chamblee Tucker Road, Tucker, DeKalb County, GA, 30084

District(s): 18 Land Lot(s): 261 Block(s): 01 Parcel(s): 006 & 062

Acreage or Square Feet: 1.23 Commission District(s): 1 & 7 Existing Zoning: RSM

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

Have you, the applicant, made a campaign contribution of \$250.00 or more to a DeKalb County government official within the two year period that precedes the date on which you are filing this application?

_____ Yes No If "yes", see page 4. (Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A)

Owner: _____ Agent:
(Check One)

BATTLE LAW, P.C>

Signature of Applicant: By: 

Printed Name of Applicant: Michele L. Battle **Major Modification Application**



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

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

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

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

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site.. Recommend Low Impact Development features/ Green Infrastructure be included in the proposed site design to protect as much as practicable the statewaters and special flood hazard areas.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was 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. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was 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**

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

N1., N2 No comment

N3. No Comment

N4. Stephenson Rd is classified as a collector road. ROW dedication of 35 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required. Add sidewalks across frontage of outparcel at 1451 Stephenson Road (16 162 05 001). Interior Streets residential: 55 right of way, 5 foot sidewalks, streetlights required. Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting.

N5. Stephenson Rd is classified as a collector road. ROW dedication of 35 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required. Alford is classified at a local road. ROW dedication of 27.5 feet from centerline or to accommodate all public infrastructure, whichever greater. 5-foot sidewalk, streetlights required. Provide an enhanced pedestrian crossing with a pedestrian refuge median and rectangular rapid flashing beacon for access to school. Add sidewalks across frontage of outparcel at 949 Stephenson Road (16 129 02 008). Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting.

N6 & N7. Wesley Chapel Road is classified as a major arterial. ROW dedication of 50 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required. Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting.

N8. Parcel has no frontage to right of way. Verify access easements.

N9. Panola Industrial and Acuity Way are both classified as collectors. ROW dedication of 35 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required on all public right of way frontages. Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting. Access to interior road needs to meet at a 90-degree angle to the existing street to meet county code.

N10. Memorial Drive. GDOT review and permits required prior to LDP. The right of way falls within the jurisdiction of the City of Atlanta. Professional courtesy would allow COA a chance to comment. No comments.

N11. Bermuda Road is classified as a collector. ROW dedication of 35 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required. Interior roads are shown as private. If public- ROW must be 55 feet, 5-foot sidewalks and streetlights required. Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting.

N12. Columbia Drive is classified as a minor arterial. ROW dedication of 40 feet from centerline or to accommodate all public infrastructure, whichever greater. Bike lanes, 6-foot sidewalk, streetlights required. Watch required ROW dedication as it may impact offsets and # of lots. Contact Herman Fowler at hefowler@dekalbcountyga.gov for street lighting.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER mmalexander@dekalbcountyga.gov OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER

Case No.: CZ-20-1243935

Parcel I.D. #: 18-261-01-006; 18-261-01-062

Address: 4575 Chamblee Tucker Road, Tucker, Georgia & 4155 Briarglade Way
Atlanta, Georgia

WATER:

Size of existing water main: 1.5" COP, 6" DI, and 10" DI, Water Main (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: North Fork Peachtree Creek Basin

Is sewer adjacent to property: Yes (X) No () If no, distance to nearest line: The Sewer Infrastructure is located on Briarglade Way

Water Treatment Facility: R M Clayton WTF () adequate () inadequate

Sewage Capacity; * (MGPD)

Current Flow: 127 (MGPD)

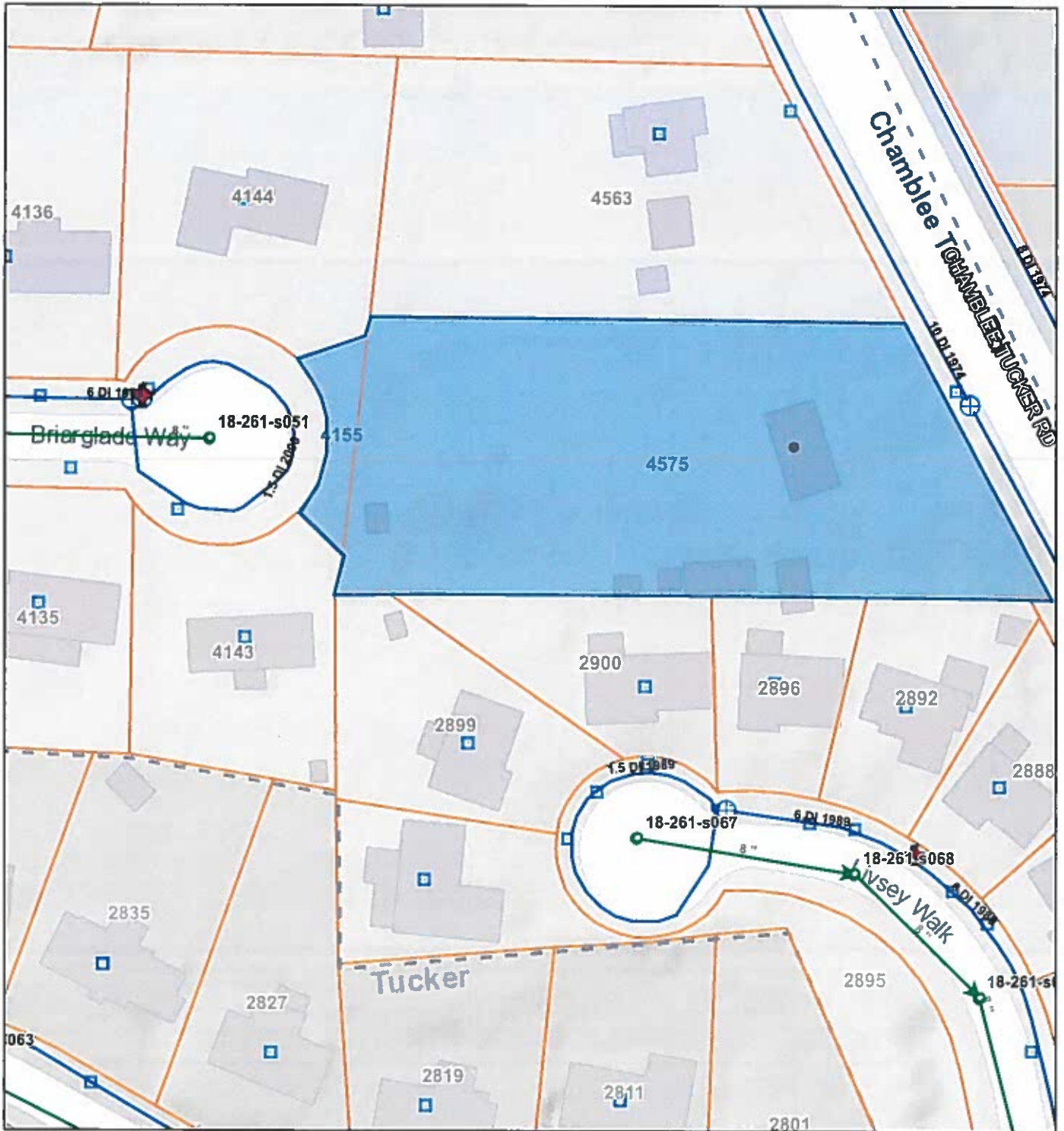
COMMENTS:

* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

(See attachment)

Signature: [Handwritten Signature]

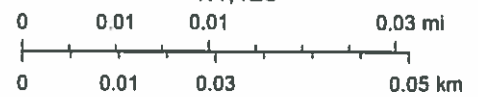
CZ-20-1243935



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|--------------------|-----------------------|--------------------|
| Manholes | Water Fittings | Water Meter |
| DEKALB | Plug | |
| Sewer Mains | Tap Sleeve | Streets |
| DEKALB | Tee | Parcels |
| Water Hydrants | WML | Land Lot |
| Water Valves | Water Mains | Districts |





Board of Health

06/15/2020

To: 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. Recommendation: Provide trash can with liner at each bus stop with bench and monitor for proper removal of waste.

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



Board of Health

- N.1 Z-20-1243838 2020-0598 / 15-013-01, 15-013-01-018
4341 East Conley Road, Conley, GA 30288
- Please review general comments.
- N.2 Z-20-1243839 2020-0599 / 15-013-02-017
4388 East Conley Road, Conley, GA 30288
- Please review general comments.
- N.3 CZ-20-1243935 2020-0600 / 18-261-01-006, 18-261-01-062
4575 Chamblee Tucker Road, Tucker, GA 30084
- Please review general comments.
- N.4 Z-20-1243841 2020-0601/ 16-159-01-003, 16-162-05-002, 16-162-05-003
1503 Stephenson Road, Lithonia, GA 30058
- Please review general comments.
- N.5 Z-20-1243958 2020-0602 / 16-128-02-001, 16-128-02-003, 16-128-02-011, 16-129-02-009
800 Alford Road, Stone Mountain, GA 30087
- Please review general comments.
- N.6 Z-20-1243955 2020-0603 15-131-03-009, 15-131-03-001, 15-131-03-012, 15-131-03-013
2450 Wesley Chapel Road, Decatur, GA 30035
- Please review general comments.
- N.7 SLUP-20-1243956 2020-0604 15-131-03-009, 15-131-03-001, 15-131-03-012, 15-131-03-013
2450 Wesley Chapel Road, Decatur, GA 30035
- Please review general comments.
- N.8 SLUP-20-1243957 2020-0605 / 15-015-04-013
3468 Moreland Ave., Conley, GA 30288
- Please review general comments.
- N.9 CZ-2—1243960 2020-0606 16-009-01-001,18-024-06-001
2620 Shell Bark Road, Decatur, GA 30035



Board of Health

- N.10 Z-20-1243968 2020-0607 / 15-179-11-025
2017 Memorial Drive, Atlanta, GA 30317
 - Please review general comments.

- N.11 Z-20-1243972 2020-0608 /18-083-01-010
1347 Bermuda Road, Stone Mountain, GA 30087
 - Please review general comments.

- N.12 Z-20-1243977 2020-0609 15-154-12-003
2043 Columbia Drive, Decatur, GA 30032
 - Septic system installed on this property on June 24, 1975
 - Please review general comments.

- N.13 TA-20-1244029 2020-0610
DeKalb County, GA
 - Please review general comments.

- N.14 RE: Public Art 2020-0611 / 16-071-09-001
2387 Wellborn Road, Lithonia, GA 30058
 - Please review general comments.

**DeKalb County School District
Development Review Comments**

Analysis Date: 6/15/2020

Submitted to: DeKalb County

Case #: CZ-20-1243935

Parcel #: 18-261-01-006/-062

Name of Development: 4575 Chamblee Tucker Road

Location: 4155 Briarglade Way and 4575 Chamblee Tucker Road

Description: Four single-family detached homes.

Impact of Development: When fully constructed, this development would be expected to generate 1 students: 1 at Livsey ES, 0 at Tucker MS, 0 at Tucker HS, 0 at other DCSD schools, and 0 at private schools. Enrollment at the three schools is over capacity. However, the impact of this development is expected to be minor.

Current Condition of Schools	Livsey ES	Tucker MS	Tucker HS	Other DCSD Schools	Private Schools	Total
Capacity	277	1,222	1,747			
Portables	8	1	4			
Enrollment (Fcast. Oct. 2020)	348	1,266	1,799			
Seats Available	-71	-44	-52			
Utilization (%)	125.6%	103.6%	103.0%			

New students from development	1	0	0	0	0	1
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New Enrollment	349	1,266	1,799
New Seats Available	-72	-44	-52
New Utilization	126.0%	103.6%	103.0%

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.156777	0.029412	0.052807	0.238996
Middle	0.067513	0.000000	0.007353	0.074866
High	0.044786	0.022727	0.022059	0.089572
Total	0.2691	0.0521	0.0822	0.4034
Student Calculations				
Proposed Units	4			
Unit Type	SF			
Cluster	Tucker HS			
Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.63	0.12	0.21	0.96
Middle	0.27	0.00	0.03	0.30
High	0.18	0.09	0.09	0.36
Total	1.08	0.21	0.33	1.62
Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Livsey ES	1	0	0	1
Tucker MS	0	0	0	0
Tucker HS	0	0	0	0
Total	1	0	0	1

DEPARTMENT OF PLANNING & SUSTAINABILITY

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: 04/13/2020

TO WHOM IT MAY CONCERN:

(I), (WE), Timothy Starks as the Managing Member of The Klondike Group, LLC
Name of Owner(s)

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

BE3 Holdings, LLC c/o Battle Law, P.C.

Name of Applicant or Representative


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



Notary Public



THE KLONDIKE GROUP, LLC

By: 
Owner Timothy O. Starks, its Managing Member

Notary Public Owner

Notary Public Owner

Notary Public Owner

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 261 of the 18th District of DeKalb County Georgia and being more particularly described as follows:

BEGINNING on the westerly side of the Chamblee-Tucker Road at an iron pin set 543.40 feet southwesterly from where the south side of Menlo Drive intersects with the west side of Chamblee Tucker Road; thence continuing along the west side of Chamblee Tucker Road South 30 degrees 04 minutes 09 seconds East a distance of 168.80 feet to a solid rod; thence leaving said right of way and running North 89 degrees 31 minutes 36 seconds West a distance of 395.19 feet to a 1 inch open top pipe found; then North 08 degrees 05 minutes 32 seconds East a distance of 20.77 feet to a iron pin found; then North 46 degrees 37 minutes 22 seconds West a distance of 35.21 feet to an iron pin found on Briarglade Way (60 foot right-of-way as said right of way forms a cul-de-sac); thence continuing along BriargladeWay right of way the arc of a curve to the left 90.88 feet said curve having a radius of 60.00 feet and being subtended by a chord bearing North 00 degrees 37 minutes 37 seconds East, a distance of 82.44 feet to an iron pin found; thence leaving said right of way and running North 68 degrees 35 minutes 49 seconds East a distance of 44.13 feet to an iron pin found; thence North 07 degrees 38 minutes 07 seconds a distance of 10.23 feet to an iron pin found; thence South 87 degrees 54 minutes 26 seconds East a distance of 290.11 feet to an iron pin set, the POINT OF BEGINNING.

Said tract contains 1.230 acres/53,588 sq. ft., as shown on that Survey for The Klondike Group, LLC prepared by Ricky C. Busbee, G.R.L.S.# 2497, Busbee & Poss Land Surveying Company dated 6/17/2015.

STATEMENT OF INTENT AND JUSTIFICATION

and

Other Material Required by
DeKalb County Zoning Ordinance
for the
Application to Amend Official Zoning Map in connection with
a Major Change of Condition for CZ-15-20076
of

**BE3 HOLDINGS, LLC
c/o BATTLE LAW, P.C.**

For

4155 Briarglade Way and 4575 Chamblee Tucker Road,
DeKalb County, GA

Commission Districts 1 & 7

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Sq., Suite 750
Decatur, Georgia 30030
404-601-7616

I. STATEMENT OF INTENT

Pursuant to CZ 15-20076 the properties at 4155 Briarglade Way and 4575 Chamblee Tucker Road (the “Subject Property”) were rezoned from R-100 to RSM to allow for the development of four (4) single family residential lots with a minimum lot size of 5,000 sq. ft., including the construction of a public right of way. For the past 4 years the owner of the Subject Property, The Klondike Group, LLC, has had the property listed for sale. Unfortunately, no developer/builder has been interested in acquiring the Subject Property based upon the approved site plan, a copy of which is attached hereto as Exhibit “A” and by this reference incorporated herein. The primary issue with the site plan is the installation of the road which constricts the size of the lots, and significantly increase the development costs for the development of the Subject Property. Constructing a new public right of way is cost prohibitive and would result in a significant increase in the impervious surface, thereby requiring a significant detention facility to be built onsite. Additionally, the right of way would have to be reduced in width in order to allow for the four lots to have sufficient depth to have a buildable envelope that would allow for a house that would be consistent with the surrounding homes, and market demands.

The Applicant, BE3 Holdings, LLC, currently has the Subject Property under contract for purchase, subject, in part, to the approval of this Major Change of Condition Application. The Applicant has developed the site plan attached hereto as Exhibit “B” and by this reference incorporated herein, that will allow for the development of four single family lots, with a minimum of lot size of 12,346 sq. ft., which is more consistent with the surrounding lots sizes. The proposed lot configuration eliminates the need for the construction of an extension to Briarglade Way. Additionally, the Applicant is proposing that the lots will drain into the Briarglade Way and Chamblee Tucker right of ways naturally, or with the addition of a berm and swale for Lot 3, which

eliminates the need for a detention pond. See Exhibit "C" attached hereto and by this reference incorporated herein. There is no question that this site plan is a better fit for the surrounding community.

In order to achieve the proposed new lot layout, the Applicant is asking for the following modifications to the zoning conditions:

April 12, 2020
November 12, 2015

**Proposed Revised Conditions
RECOMMENDED CONDITIONS
Z-15-20076**

1. Maximum of four single-family lots as shown on conceptual site plan dated March 12, 2020.
2. Building facades shall be 70% brick.
3. Minimum unit size of ~~1,200 square feet~~ 2,400 sq. ft. and a maximum of 3,500 sq. ft.
4. A ten-foot wide landscape strip shall be provided along the northern, southern, and eastern property lines. The existing mature vegetation within the landscape strip shall be undisturbed and supplemented with additional vegetation to provide an effective visual screen as approved by the County Arborist. Provide an ~~8~~ 6-foot tall opaque fence along the north, east, and south external property lines.
5. No access shall be provided from Chamblee Tucker Road. ~~Access shall be from an extension of Briarglade Way.~~
Access shall be from an extension of Briarglade Way to Briarglade Way
6. ~~Provide internal public road subject to approval of the Transportation Division of Public Works.~~
7. ~~Comply with Sketch Plat requirements prior to the issuance of a Land Disturbance Permit.~~
8. The approval of this rezoning application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the authority of the Historic Preservation Commission, the Zoning Board of Appeals, or other entity whose decision should be based on the merits of the application under review by such entity.
9. No more than 1 driveway per house fronting on Briarglade Way. The two homes on Briarglade Way may share a joint driveway, but the joint driveway shall not extend to the two homes having frontage on Chamblee Tucker Road.
10. The lot coverage ratio shall not exceed 35%
11. The front setback shall be a minimum of 35ft for the lots having frontage on Briarglade Way, and a minimum of 30 ft for the lots having frontage on Chamblee Tucker Road.

It is the Applicant's position that there are currently two existing lots, which can each be subdivided into two lots. This eliminates the need to go through the Sketch Plat process, which

was only required previously due to zoning condition requiring the provision of an internal public road, with lots coming off of the new road.

On February 27, 2020, the Applicant held a community meeting with all residents within 500 ft of the Subject Property to notify them of the proposed revision to the site plan. There was universal agreement that the site plan was a better site plan, and significantly reduced the amount of stormwater drainage that would be generated by the proposed lots. Yet, despite these agreements, concerns were still raised regarding stormwater run off due to the issues that community is having with the property located at 4557 Chamblee Tucker Road. It is the Applicant's belief that the proposed site plan will lessen the amount of stormwater runoff currently being generated by the Subject Property onto the property at 4144 Briarglade Way, which then flows to the low point behind that property, and continues behind the homes located at 4136, 4128 and 4120 Briarglade Way which are currently experiencing significant flooding due in large part to the conditions that have been allowed to exist at 4557 Chamblee Tucker Road. Currently, .71 acres of the Subject Property drain onto 4144 Briarglade Way. The new plan shows only .24 acre draining in the direction of 4144 Briarglade Way, and it is the Applicant's intent to construction a berm and swale to direct the water towards the Briarglade Way right of way into the public sewer system that runs along Briarglade Way.

Based upon the foregoing, it is the Applicant's belief that the current field conditions, and drainage issues in the surrounding area, support the approval of this Application. Therefore, the Applicant is requesting the approval of this Application, subject to the modified conditions set forth above, which include additional conditions requested by the surrounding community.


IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this Major Change of Condition Application be approved. Please note that the Applicant's Notice of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 12th day of April, 2020.

Respectfully submitted,

BATTLE LAW, P.C.

By: 

Michèle L. Battle, Esq.
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS
AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that the Zoning Ordinance and Development Regulations of DeKalb County, Georgia, as amended from time to time, to the extent that they are construed so as to preclude the use and development of the Subject Property, as per this Application, will be unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein; deprive the current owner(s) of any alternative reasonable use and development of the Subject Property; and deprive the current owner(s) of any reasonable use and development of the Subject Property.

Accordingly, Applicant submits that denial of this Application would constitute an arbitrary and unreasonable use of police powers because it would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and substantially harm the Subject Property's owner(s). Further, it would constitute a taking of the owner's(s') private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, 1983, and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that DeKalb County Board of Commissioner's failure to approve this Application would be unconstitutional and would discriminate in an arbitrary, capricious, and unreasonable manner between the Subject Property's owner(s) and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the

Constitution of the State of Georgia, 1983, and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Campaign Contribution Disclosure Statements

CAMPAIGN CONTRIBUTIONS DISCLOSURE STATEMENT

Pursuant to the provisions of 36 O.C.G.A. 67(A), please find below a list of those contributions made by Michèle L Battle or Battle Law, P.C. in the past two years, aggregating \$250.00 or more, to local government officials who will consider this application.

NAME OF GOV'T OFFICIAL	OFFICIAL POSITION	AMOUNT OF CONTRIBUTION
Kathie Gannon	Commissioner	\$350
Mereda Davis Johnson	Commissioner	\$500
Larry Johnson	Commissioner	\$700
Lorraine Cochran-Johnson	Commissioner	\$500

By: 
Printed Name: Michele L. Battle



SITE DATA

OWNER/DEVELOPER: THE KLONDIKE GROUP
3015 KLONDIKE ROAD
LITHONIA, GA 30058

ENGINEER: SOUTHEASTERN ENGINEERING, INC.
2470 SANDY PLAINS ROAD
MARIETTA, GA 30066
PHONE: 770.321.3936
www.seengineering.com

BOUNDARY: BOUNDARY SURVEY BY BUSBEE & POSS DATED JUNE 16, 2015

TOPOGRAPHY: DEKALB COUNTY GIS

PARCEL ID: 18 261 01 006

SITE ADDRESS: 4575 CHAMBLEE TUCKER ROAD

SITE AREA: 53,588SF / 1.23 ACRES

NUMBER OF LOTS: 4

DENSITY: 4 LOTS / 1.23 ACRES = 3.25 UNITS PER ACRE

OPEN SPACE: N/A LESS THAN 5 ACRES

FLOOD INFO: THIS SITE NOT LOCATED WITHIN THE 100 YEAR FLOOD ZONE PER FEMA FLOOD PANEL # 13089C00761, DATED 5/16/2013

EXISTING ZONING: R-100

PROPOSED ZONING: RSM

DEVELOPMENT STANDARDS:

- MIN. LOT SIZE: 5,000 S.F.
- MAX. DENSITY: 4-8 UNITS PER ACRE
- MIN. LOT WIDTH: 50'
- MIN. FRONT BUILDING SETBACK: 20'
- MIN. SIDE BUILDING SETBACK: 3' (WITH NO LESS THAN 10' BETWEEN STRUCTURES)
- MIN. REAR BUILDING SETBACK: 20'
- MAX BUILDING HEIGHT: 35'
- MAX LOT COVERAGE: 50%
- HEATED LIVING AREA: 1,200 SF

NOTE: SITE TO BE SERVICED BY PUBLIC WATER AND SEWER

SITE TO BE DEVELOPED WITH SINGLE FAMILY DETACHED HOMES, NO TRANSITIONAL BUFFER REQUIRED. (5.4.5 TRANSITIONAL BUFFERS)

DATE	ISSUED DESCRIPTION
No	

PROJECT OWNED/DEVELOPED BY:

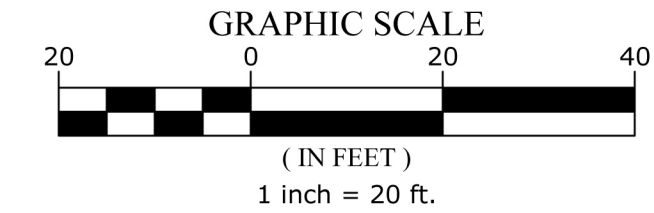
THE KLONDIKE GROUP, LLC
3015 KLONDIKE ROAD
LITHONIA, GA 30058

ZONING SITE PLAN

PROJECT LOCATED AT:
4575 CHAMBLEE TUCKER ROAD
LL: 261 OF THE 18TH DISTRICT
2ND SECTION
DEKALB COUNTY, GEORGIA



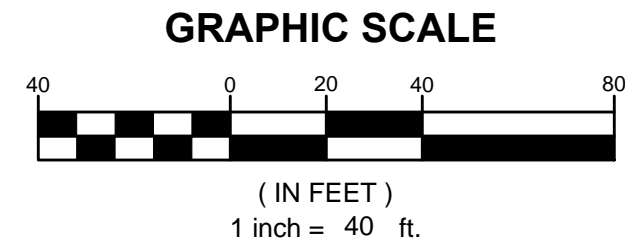
Project No.:
Designed By: NRA
Issue Date: 9/17/15



THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTORS CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UTILITIES WITHIN THE LIMITS OF THE WORK. ALL DAMAGE MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR. IT IS THE OWNER/DEVELOPER'S RESPONSIBILITY TO VERIFY EXISTING UTILITY CAPACITY PRIOR TO INITIATING DESIGN. THE ENGINEER MAKES NO GUARANTEES, NEITHER EXPRESSED OR IMPLIED, REGARDING EXISTING UTILITY LOCATION, CAPACITY OR CONDITION.



PROPOSED LOT CONFIGURATION
FOR
BE3 HOLDING, LLC
4155 BRIARGLADE WAY &
4575 CHAMBLEE TUCKER ROAD
LAND LOT 261, 18TH DISTRICT
DEKALB COUNTY, GEORGIA



THIS BLOCK RESERVED FOR CLERK OF COURT

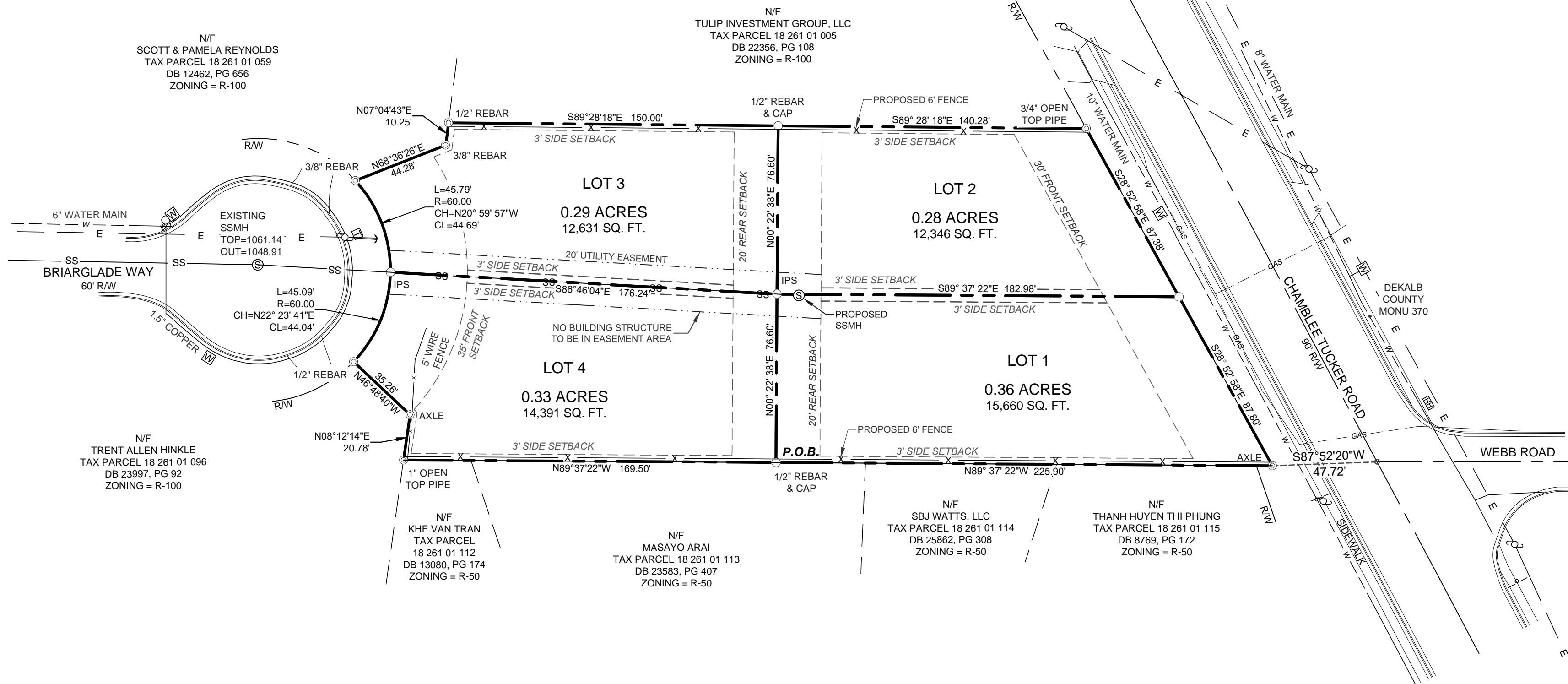


EXHIBIT B

CIVIL ENGINEERING LAND SURVEYING
LAND PLANNING
CONSTRUCTION MANAGEMENT LANDSCAPE ARCHITECT

STOCKBRIDGE OFFICE
235 CORPORATE CENTER, STE. 200
STOCKBRIDGE, GEORGIA 30281
PH: (770) 398-8666 FAX: (770) 398-8656

NEWNAN OFFICE
40 GREENWAY CT., STE. A
NEWNAN, GEORGIA 30256
PH: (770) 755-7978

CUMMING OFFICE
500 PIRAZLE FERRY RD., STE. C
CUMMING, GEORGIA 30008
PH: (678) 807-7100

www.fdc-llc.com

PROPOSED LOT CONFIGURATION
FOR
BE3 HOLDING, LLC
4155 BRIARGLADE WAY & 4575 CHAMBLEE TUCKER ROAD
LOCATED IN:
LAND LOT 261, 18TH DISTRICT
DEKALB COUNTY, GEORGIA

REVISIONS	
1.	
2.	
3.	
4.	

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

DATE:	3-12-2020
SCALE:	1" = 40'
FILE NUMBER:	258.001
DRAWN BY:	A MURDAUGH
REVIEWED BY:	K. BROWN

CERTIFICATE OF CONFORMITY

I, KEVIN M. BROWN, THE SURVEYOR FOR THE SUBDIVISION KNOWN AS "BOUNDARY LINE ADJUSTMENT FOR THE KLONDIKE GROUP, LLC" LOCATED IN LAND LOT 261 OF THE 18TH DISTRICT, HEREBY CERTIFY THAT NO LOTS PLATTED WITHIN THE SUBDIVISION ARE NON-CONFORMING OR WILL RESULT IN ANY NON-CONFORMING LOTS.

KMB
KEVIN M. BROWN
FALCON DESIGN CONSULTANTS, LLC
235 CORPORATE CENTER DRIVE
STOCKBRIDGE, GEORGIA 30281

SURVEY CERTIFICATE

AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL.

FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

KMB
KEVIN M. BROWN
REGISTERED LAND SURVEYOR #2960
3/12/2020
DATE



THIS DOCUMENT IS NOT VALID UNLESS IT BEARS THE ORIGINAL SIGNATURE OF THE REGISTRANT ACROSS THE REGISTRANT'S SEAL.

SHEET NUMBER
1 of 1

