

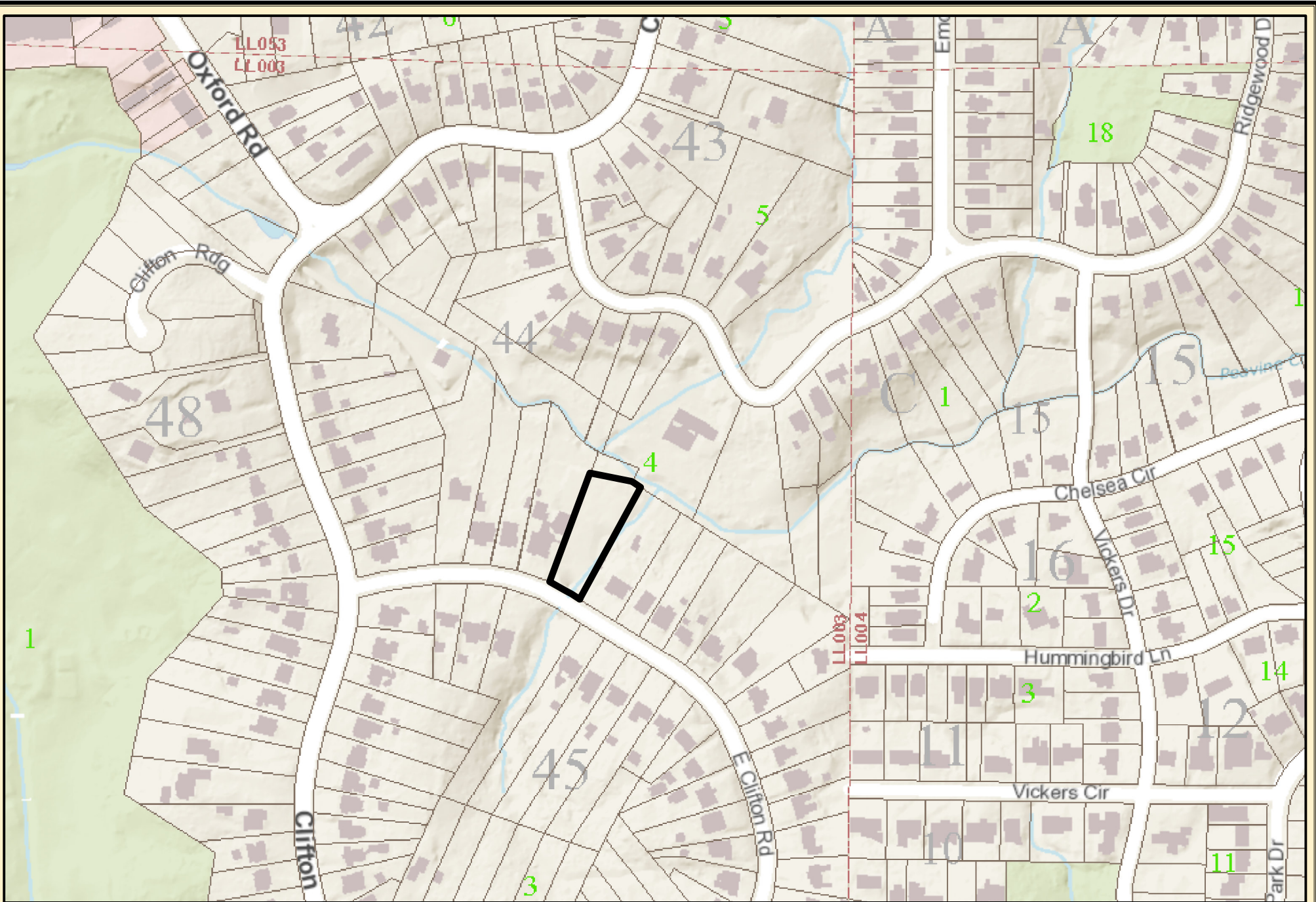
SUBJECT: Appeal of a Decision by the DeKalb County Historic Preservation Commission at 1787 East Clifton Road by Justin Gray, Rosalyn & Furman Smith, Douglas Grim, Edna Young, Conner Ball, Kelly Clouts, Susan Jordan, Germaine Glass, Jacques Eltersly, and Jane Seals.

ATTACHMENTS (69 PAGES)

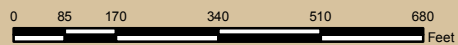
1. Attachment list (1p)
2. Location map (1p)
3. Application to appeal and supplementary statement (6p)
4. Applicant's supplementary statement (3p)
5. Certificate of Appropriateness (2p)
6. Decision form (2p)

(All information below was provided to the preservation commission for their consideration in making their decision.)

7. Staff Report (4p)
8. Application and attachments (4p)
9. Survey and site plan (2p)
10. Plans & elevation drawings (4p)
11. Photos provided by the applicant (8p)
12. Emails from the applicant (10p)
13. Opposition from the Druid Hills Civic Association (5p)
14. Original subdivision plat (1p)
15. Opposition from the Furman & Rosalyn Smith (4p)
16. Satellite photo & topographic maps (4p)
17. Photos by staff (8p)



1787 East Clifton Rd



Date Printed: 8/30/2017



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 330 W. Ponce de Leon Ave
 Decatur, GA 30030

404.371.2155 (o)



DEPARTMENT OF PLANNING & SUSTAINABILITY

Application to Appeal a Decision of the DeKalb County Historic Preservation Commission

All appeals must comply with the procedures set forth herein.

An application to appeal a decision of the Historic Preservation Commission on a certificate of appropriateness application must be filed within fifteen (15) calendar days after the issuance or denial of the certificate of appropriateness.

To be completed by County:
 Date Received:

To be completed by appellant:

Names: JUSTIN GRAY 1797 E. CLIFTON ATL GA 30307
ROSALYN & JERMAN SMITH 1779 E. CLIFTON RD NE atl 30307
DOUGLAS GRIMM 1757 E. Clifton Rd NE, Atlanta, GA 30307
Edna Young 1765 E. Clifton Rd. NE, Atlanta GA 30307
Conner Ball 1700 E Clifton Rd Atlanta GA 30307
Kelly Clouts 1801 E. Clifton Rd NE ATL. GA 30307
Susan Jordan 1761 E Clifton NE Atlanta GA 30307
 Address of appellant: S/A Germaine Glass 1811 E. Clifton Rd. NE Atlanta, GA 30307
Amy & Jacquely EUFERSY, 1711 E. Clifton NE Atlanta, GA 30307
Jane seats 1790 east Clifton Rd Atlanta 30307

Address of Property:

1787 E. CLIFTON ATL GA 30307



DeKalb County

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DEPARTMENT OF PLANNING & SUSTAINABILITY

This appeal is a review of the record of the proceedings before the preservation commission by the governing authority of DeKalb County, Georgia. The governing authority is looking for an abuse of discretion as revealed by the record. An abuse of discretion exists where the record presented to the governing authority shows that the preservation commission: (a) exceeded the limits of its authority; (b) that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6 or; (c) that the preservation commission's decision was otherwise arbitrary and capricious.

If the governing authority finds no abuse of discretion, then it may affirm the decision of the preservation commission. If the governing authority finds that the preservation commission abused its discretion in reaching a decision, then it may; (a) reverse the preservation commission's decision, or; (b) it may reverse the preservation commission's decision and remand the application to the preservation commission with direction.

Date(s) of hearing, if any: 11/13/17

Date of Historic Preservation Commission decision: 11/15/17

Historic Preservation Commission

Appeal Form

Page 2 of 4

In the space provided below the Appellant must describe how the preservation commission's decision constitutes an abuse of discretion. Specifically, the appellant must, citing to the preservation commission's written decision, show at least one of the following: that the preservation commission exceeded the limits of its authority, or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) of the DeKalb County Code or on the guidelines adopted by the preservation commission pursuant to section 13.5-6 of said code or that the preservation commission's decision was otherwise arbitrary and capricious.



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DEPARTMENT OF PLANNING & SUSTAINABILITY

Grounds for appeal:

_____ Abuse of discretion: 1) decision is not based on factors set forth in the section 13.5-8(3) or on the guidelines adopted by the preservation commission; 2) decision is arbitrary and capricious. Please refer to the attached supplementary explanation for a complete explanation of grounds for this appeal.

The appellant may submit a written supplementary explanation in support of the appeal. The supplementary explanation shall be submitted with the appeal. The supplementary explanation may not exceed three pages and must be typewritten and double-spaced using a twelve-point font with a one-inch margin on all four sides. The governing authority will not consider text in excess of the page limit set forth herein.

Date: 11.29.17

Signature:

Justin Gray
Justin Gray
Nestor Junior Joseph Smith
Rosaleen Smith
Edna Young Smith
Con Ball
Gammie Glass
11.11.17
Fred Soles

**SUPPLEMENTARY EXPLANATION TO APPEAL OF A DECISION OF THE DEKALB
COUNTY HISTORIC PRESERVATION COMMISSION
1787 E CLIFTON RD., NOVEMBER 2017**

This supplementary explanation is submitted in opposition to the Certificate of Appropriateness (COA) granted to applicant David Price – Price Residential Design by the Historic Preservation Commission at its November 13, 2017 meeting (case #21922).

HPC's approval of this application constitutes an abuse of discretion under section 13.5-8(12) of County Code. The decision is not based on factors set forth in the section 13.5-8(3) or on the guidelines adopted by the preservation commission. At a minimum, the decision violates guidelines 7.2.4 Massing, 7.2.7 Scale/Height, 7.2.8 Individual Architectural Elements, 7.3.2 New Construction and Subdivision Development, 8.1 Open Space and Parkland Preservation and Conservation, 9.1. Original Subdivision Forms, and 9.4 Enclosures and Walls. These factors are discussed below. Furthermore, the preservation commission's decision was arbitrary and capricious, for reasons presented herein.

This property has never been developed. The site includes a steep drop-off from the street, a piped waterway that might or might not be construed as a stream subject to State and county buffer. As the Staff report indicates, an appeal to the ZBOA has been filed, related to the County's determination that the piped waterway should not be construed as State waters, thus enforcing a 75' stream buffer that would make the lot unbuildable.

While the Staff report (and the HPC's decision) separate the ZBOA appeal as it relates to the stream buffer and piped waterway, this matter cannot be so readily disconnected from historical review. Guideline 9.1. Original Subdivision Forms asks that the original layouts for public and private spaces, along with streetscape profiles, be maintained. Guideline 8.1 Preservation and Conservation demands the preservation of

spaces that buffer stream corridors. Even if the piped stream might allow the development of this property from a zoning perspective (pending the ZBOA administrative appeal), the HPC still must consider the state and management of the stream, the stream buffer, the Peavine creek watershed, and the streetscape on the historic properties in the area of influence, as well as the district as a whole. That the Staff report recommends deferral pending resolution of some of these issues underscores the fact that the waterway is of relevance to historical review.

The burden of proof to demonstrate historical appropriateness of development in this portion of the watershed should fall on the applicant. No evidence of that kind has been provided, and the HPC's failure to request any such evidence further constitutes an arbitrary and capricious decision.

Historic review for new development requires that new construction conform with the mass, scale, pattern, and rhythm of the area of influence, with special care taken to avoid adverse effects on historical properties. The proposed structure is out of mass and scale with its historic neighbors. Specifically, the rear-most 18' of massing, at three full stories height, violates guidelines 7.2.4 Massing and 7.2.7 Scale/Height in relation to the neighboring properties, particularly 1797 E Clifton. While the guidelines allow reduced discretion in relation to elements not visible from the right of way, this portion of the structure is partly visible from the right of way, and furthermore reduced discretion does not imply no discretion. This awkward massing also appears to violate guideline 7.2.8 Individual Architectural Elements, because it imposes on the design of the historic neighbors.

Guideline 9.4 Enclosures and Walls states that fences and walls should not be built in front yard spaces, and that retaining walls should only be used where topography demands their use. In the present case, the right elevation retaining walls attempt to avoid violating the county drainage easement on this portion of the property—a feature that the record will show is unknown. Nevertheless, the height, size, length,

and extent of these walls is excessive. The applicant presented no alternative plans or approaches, and the HPC does not appear to have requested them, making this decision arbitrary and capricious.

For the reasons discussed above, we respectfully request that this appeal be granted and the decision of the HPC reversed.

JUSTIN GRAY
1797 E CLIFTON
ATL GA 30307



Douglas Grimm
Nayla Juinn

[NAME] Rosalyn Smith
[ADDRESS] 1779 E Clifton Rd NE
Atlanta GA 30307

[NAME] 1757 E. Clifton Rd NE, ATL 30307
[ADDRESS] Edna Young
1765 E. Clifton Rd, NE,
Atlanta GA 30307

[NAME] Conner Ball
[ADDRESS] 170 E Clifton Rd
Atlanta GA 30307

[NAME] Kelly Clouts
[ADDRESS] 1801 E CLIFTON RD NE
ATL GA 30307

Susan Jordan
1761 E Clifton Rd NE
Atlanta GA 30307

Germaine Glass
1811 E. Clifton Rd. NE
Atlanta, GA 30307

Jacques Elenny
1771 E. Clifton Rd
Atlanta, Ga. 30307

Jane Seals
1790 East Clifton Rd
Atlanta GA 30307



SUPPLEMENTAL EXPLANATION IN OPPOSITION TO NEIGHBORS APPEAL OF

COA APPROVAL FOR 1787 E. CLIFTON

On November 15, 2017, the HPC considered the application of Dave Price for the construction of a new home at 1787 E. Clifton. The plans presented had been modified in response to feedback from staff and citizens as to massing, size and retaining walls. The HPC approved construction of the home but specifically did not approve a proposed deck. Neighbors in opposition to any development on this undeveloped lot appealed the decision to the BOC and this supplemental explanation is submitted in opposition to that appeal. The neighbors assert that: 1) the HPC failed to properly consider the “state and management of the stream, the stream buffer, the Peavine creek watershed, and the streetscape on the historic properties”; and 2) the new construction proposed does not meet the Guidelines related massing, scale/height, individual architectural elements, enclosures and walls, and subdivision forms. The appeal should be denied on all grounds. First, the standard for reversal is an abuse of discretion. The record is devoid of any abuse of discretion. The HPC clearly considered all of the Guidelines identified in the neighbors appeal but reached the conclusion that the application met those Guidelines. Moreover, there is no evidence in the record that the piped watercourse is state waters requiring buffering of any kind. On the contrary, the County has stated that the pipe on the Subject Property is not “state waters”, it does not appear on any maps as “state waters” and there is no wretched vegetation adjacent to the pipe requiring the buffers which the neighbors tried to urge on the HPC. **Storm water pipe:** The storm water pipe on the Subject Property was constructed by DeKalb County and has been in place for a number of years. It runs under East Clifton Road, traverses the Subject Property from south to north along its eastern side and daylight

approximately 200 feet into the property where it becomes a stream and identified state waters. The neighbors, in an effort to prevent all construction on the Subject Property, assert without factual or legal basis that the pipe itself contains “state waters” and must be buffered. They produced no evidence in support of this novel theory and this theory is in direct contravention of state law and county ordinances governing the buffering of state waters. State law requires the buffering of streams and other bodies of water “from the point where vegetation has been wrested by normal stream flow or wave action” O.C.G.A. Section 12-7-6(b) (15) (A). The Georgia Supreme Court has decided that where water is piped, there is no point of wrested vegetation and thus no buffering is required. Turner v. Ga River Network, 297 Ga. 306(2015). The County has determined that the pipe is not state waters and thus no buffer is required. Nonetheless, Applicant has provided a 15 foot easement adjacent to the pipe and there is no construction within 10 feet of the centerline of the pipe. Admittedly, there is an appeal to the ZBA pending which asserts that the pipe is state waters. Should this appeal be successful, the Applicant will need to rework his plan but to deny the COA based on speculation that the existing law will somehow be changed would be an abuse of discretion and not legally justified.

Guidelines: The original subdivision for the area wherein the Subject Property is located included the Subject Property as an original lot. This is in the record and indisputable. Original subdivision forms are clearly being maintained. Moreover, no violation of Guideline 8.1 exists. That Guideline pertains to retention of public and private open spaces and spaces that buffer stream corridors. This lot has never been designated as a public/private open space or park and the construction approved by the HPC does not intrude into any properly designated stream buffers. The closest construction is more than 65 feet from the stream buffer on the Subject Property where the pipe ends. As to the retaining walls on site, Guideline 9.4 specifically allows

for the construction of retaining walls where topography requires it. There is no dispute that the topography of this lot is challenging and a wall is required to hold fill away from the pipe that the neighbors are worried about. As noted in the staff report before the HPC, “the fill on the left side of the front yard will blend into the existing slope...the right side will be supported by a pair of retaining walls with a planting area between them. The heights of the walls vary, but the maximum height of each is shown as being 3’.” The lot is in a special part of the Historic District called “Character Area #2”. The relevant guideline for this character area states, “This character area contains the most severe topography within the local district. For that reason, the area contains more retaining walls. Most walls are only a few feet high and are situated flush with the sidewalk.” This design is in clear compliance with #9.4. As to massing, scale and height (Guidelines 7.2.4 and 7.2.7), the house design is narrower than the historic houses on both sides. Both of the adjacent houses are three stories tall when viewed from the rear and sides because of the sloping topography. The upper floors are partially reduced by low roof areas on the existing houses and the proposed design. Building Height (at 25’-9”) is shorter than the house uphill on the right and taller than the house downhill on the left by less than one foot. The proposed threshold elevation is well below the house on the right. The front yard slopes down from the street like the adjacent yard to the left and there are three risers up to the front stoop (the house on the right has two and the house on the right has four). Design total square footage is right in the middle of the range of houses within the area of influence, based on County tax records. Design lot coverage is 15.7%, much less than the house to the left which has an accessory building, tennis court, and a swimming pool. All of these facts were in the record before the HPC and there can be no doubt that the HPC acted properly in approving the designs. For all the foregoing reasons, the appeal should be denied and the HPC decision sustained.



Michael L. Thumond
Chief Executive Officer

DeKalb County Government Historic Preservation Commission

330 Ponce De Leon Avenue Suite 500
Decatur, GA 30030
404/371-2155 or 404/371-2835(Fax)



November 22, 2017

CERTIFICATE OF APPROPRIATENESS

SITE ADDRESS 1787 E Clifton RD
Atlanta, GA 30307

PARCEL ID: 18-003-04-036

APPLICATION DA October 27, 2017

APPLICAN' David Price

MAILING ADDRE 1450 Lanier Pl Ne
Atlanta, GA 30306-3238

THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS REGULARLY SCHEDULED PUBLIC MEETING ON NOVEMBER 13, 2017, REACHED THE FOLLOWING DECISION ON THIS APPLICATION:

ACTION: MODIFIED APPROVAL

Build a 1 ½ story house with exposed basement at the left front (northwest) corner of the property.

The house is generally L shaped, with a screened porch set in the angle. The house is 50'± at its deepest and 46'± across the front. The FFE will be 897.0 and the ridge at its highest will be 922.75.

The ceiling on the main floor will be 10'1" and the ceiling of the upper level will be 9'1". The house will be clad with shingles and will be set on a brick foundation. All windows will be wood and will have simulated divided lights. The front door will be of vertical boards and will have an arched top. The entry porch is a steep gable matching the one on the house, with exposed timbers in the gable.

Add fill dirt to raise the area between the house and the street to a few feet below street grade and will fill the area to the left of the house to permit construction of a driveway. A brick-faced retaining wall will project 12'± from the left front corner of the house. A pair of retaining walls will be built on the right, with the upper retaining wall faced with brick and the lower wall with exposed poured concrete with a brick cap. A 24" unidentified hardwood, a 20" holly and six trees of 10" or

less will be removed.

The applicant has filed for a zoning variance.

Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ David Price – Price Residential Design _____

Address of Property: _____ 1787 East Clifton Road _____

Date(s) of hearing if any: _____ November 13, 2017 _____

Case Number: _____ 21922 _____

Approved Denied Deferred

Approval: The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for Historic Preservation Projects, including the Standards for Rehabilitation therein as a guidelines. The Preservation Commission finds that all relevant guidelines have been met.

Additional pertinent factors:

Build a 1 ½ story house with exposed basement at the left front (northwest) corner of the property.

The house is generally L shaped, with a screened porch set in the angle. The house is 50'± at its deepest and 46'± across the front. The FFE will be 897.0 and the ridge at its highest will be 922.75.

The ceiling on the main floor will be 10'1" and the ceiling of the upper level will be 9'1". The house will be clad with shingles and will be set on a brick foundation. All windows will be wood and will have simulated divided lights. The front door will be of vertical boards and will have an arched top. The entry porch is a steep gable matching the one on the house, with exposed timbers in the gable.

Add fill dirt to raise the area between the house and the street to a few feet below street grade and will fill the area to the left of the house to permit construction of a driveway. A brick-faced retaining wall will project 12'± from the left front corner of the house. A pair of retaining walls will be built on the right, with the upper retaining wall faced with brick and the lower wall with exposed poured concrete with a brick cap. A 24" unidentified hardwood, a 20" holly and six trees of 10" or less will be removed.

The applicant has filed for a zoning variance.

Application is approved with conditions or modifications without conditions or modifications .

Conditions or modifications (if applicable):

The proposed deck was not approved and any stair to the back porch must be set fully in the back and may not project beyond the side of the house.

Denial: The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district /or, the applicant has not provided sufficient information for the Preservation Commission to approve the application . Specifically, the Preservation Commission finds as follows:

Deferral: The Preservation Commission has deferred action on this application for the following reasons:

The application will be re-heard by the Historic Preservation Commission at its meeting on

_____.

Date: 11/15/17

Signature: 
**Vice Chair, DeKalb County
Historic Preservation Commission**

DeKalb County Historic Preservation Commission

Monday, November 13, 2017 - 7:00 P.M.

Staff Report

New Construction Agenda

W. 1787 East Clifton Rd (DH), David Price – Price Residential Design. Build a new house on an undeveloped lot and add fill between the house and the street. 21922

Vacant. (18 003 04 036)

This property is located in the Druid Hills National Register Historic District and Druid Hills Character Area 2.

9-17 1787 East Clifton Rd (DH), David Price – Price Residential Design. Build a new house on an undeveloped lot and add fill between the house and the street. **For comment only**

10-17 1787 East Clifton Rd (DH), David Price – Price Residential Design. Build a new house on an undeveloped lot and add fill between the house and the street. 21877 **Denied**

This is an original lot, but the boundaries were modified earlier this year.

The lot has not been developed. The property drops off steeply from the street, but most of the property is slightly sloped from the bottom of the drop to Peavine Creek at the rear. The right (south) side of the lot is lower than the rest because of a pipe and a watercourse. Much of the property in the middle and rear of the lot were formerly used as a yard by the house to the left, and are grass. The right side of the property is overgrown, primarily with bamboo. The areas near the street and at the back near Peavine Creek have less undergrowth and several large trees. Much of the property is in the floodplain.

A pipe runs under the street, entering the lot near the center of the bottom of the front slope and running diagonally across the front third of the property, then across to the neighbor's property where the pipe ends and opens up into a watercourse. The pipe and watercourse are part of the county stormwater drainage system. There is a dispute as to whether the pipe carries a stream and stormwater runoff or if it just carries stormwater runoff. The county environmental inspector, Greg Hubbard, has made a determination that there are not state waters on the property, and therefore a stream buffer is not required. This would typically mean that that since the water is piped, it is irrelevant whether it is a stream or not. Mr. Hubbard's decision has been appealed to the Zoning Board of Appeals. On November 8 the appeal was deferred at the December meeting. Either way, the county owns an easement on each side of the pipe/watercourse. The applicant believes the easement is 5' on each side and has contacted the DeKalb Roads and Drainage Department to try to confirm that. As of November 8 he had not received a response.

The applicant proposes building a new house near the left front (northwest) corner of the property. He would add fill dirt to raise the area between the house and the street to a few feet below street grade and will fill the area to the left of the house to permit construction of a driveway. The most of the fill on the left side of the front yard will blend into the existing slope, but a brick faced retaining wall will project 12'± from the left front corner. The right side will be supported by a pair of retaining walls with a planting area between them. The heights of the walls vary, but the maximum height of each is shown as being about 3'. The upper retaining wall will be faced with brick and the lower wall will be exposed poured concrete with a brick cap. The walls would hold the fill away from the pipe mentioned above.

The house has been scaled down since the October meeting. The house will be 1½ stories at the front. On the left side the basement will become increasingly exposed as the driveway moves to the rear. The basement on the right side and rear will be fully exposed right side and basement. Trees—A 24" unidentified hardwood, a 20" holly and six trees of 10" or less will be removed.

The house will be clad with shingles and will be set on a brick foundation. All windows will be wood and will have simulated divided lights. All the windows on the front and many of those elsewhere will be 6/1 double hung sash. There will be four large, fixed windows without grilles in the rear and ten smaller fixed windows with grilles on the right side.

Most of the details are Craftsman style, but the wide cornice and partial returns are Colonial revival. The form not typical to either style.

Vertical plank, arch topped front door.

Porch is a steep gable matching the one on the house, with exposed timbers in the gable. The roof supports will be simple wood columns set on brick piers.

Large gabled wall dormer in center flanked by smaller shed wall dormers.

The front façade will be on two planes, with the center section 2' in front of the sides.

The house is generally L shaped, with a screened porch set in the angle and a deck projecting to the right from the screened porch. The house is 50' at its deepest and deepest and 46' across the front. Some of the foundation below the basement will be exposed on the right and rear, but will be brick clad like the rest of the walls. The house to right has a similar vertical layout, with the basement, first floor and partial second floor, similar to this, but probably shorter. Foundation at lowest exposed about 887 elevation. Ridge 922.75. About 36' at right rear corner. About 26 FFE to ridge.

- Main floor ceiling is 11'1" and upstairs is 9'1". There is not enough information to determine if these are higher than those in the area of influence. This is these are taller the typical house of the 1920's, but there were exceptions.
- Fill is change in this site, but the new house would be set similarly to several other houses on this side of the street, slightly below street grade. Front yard fill was approved at 1904 Ridgewood, 2015 new design approved, 2017 new design approved.
- There is no shingle siding in the area of influence. Predominately brick, but with two lap siding.
- No dominant directional emphasis in the area of influence, but the proposed house is similar to those flanking it.
- No dominant roof pitch in the area of influence. The proposed pitch is similar to some of the others in the area of influence.
- With the exception of the stream valley, the house maintains the rhythm of the other houses
- Front massing similar or smaller than others in the area of influence.
- House 230'± from Peavine Creek and about 98'± from mouth of pipe, 9'± from the pipe. The plans will not impinge on the stream buffers.
- Parking in basement rear. This meets the guidelines.

The applicant has requested an opinion from DeKalb County Roads and Drainage about whether this work can be done in this location close to the pipe. He has not received a response.

If the Zoning Board of Appeals, and possibly thereafter Superior Court, determines that the pipe contains state waters, then a 75' stream buffer will come into effect. This house will probably not be buildable and the preservation commission's decision will become moot.

The applicant has also applied for a variance to have the FFE (threshold) moved to a place near street level. The zoning code without the variance would require the FFE (threshold) to be much closer to grade.

Recommendation

Staff recommends deferral.

- Staff recommends the dormers be moved back into the roof rather than on the wall.
- The applicant should reconsider the use of shingle siding.
- The cornice should be changed to a design matching the rest on the house.
- Require better height comparison.
- Due to concerns with the effect of the construction on the pipe, and the width of the county – right-of-way, staff has requested the applicant contact Roads and Drainage to get feedback. Roads and Drainage has not responded and may not respond. Nevertheless, if the application is deferred, the applicant should continue trying to obtain the statement.
- The review by the Zoning Board of Appeals should have no effect on this review. The ZBOA reviews appeals from administrative decision and request from variances from the Zoning code. The criteria are different those used by the HPC. The applicant needs approval of both bodies before he can begin the project.

Relevant Guidelines

- 7.1 *Defining the Area of Influence* (p64) Guideline - In considering the appropriateness of a design for a new building or addition in a historic district, it is important to determine the area of influence. This area should be that which will be visually influenced by the building, i.e. the area in which visual relationships will occur between historic and new construction.
- 7.2 *Recognizing the Prevailing Character of Existing Development* (p65) Guideline - When looking at a series of historic buildings in the area of influence, patterns of similarities may emerge that help define the predominant physical and developmental characteristics of the area. These patterns must be identified and respected in the design of additions and new construction.
- 7.2.1 *Building Orientation and Setback* (p66) Guideline - The orientation of a new building and its site placement should appear to be consistent with dominant patterns within the area of influence, if such patterns are present.
- 7.2.2 *Directional Emphasis* (p67) Guideline - A new building's directional emphasis should be consistent with dominant patterns of directional emphasis within the area of influence, if such patterns are present.
- 7.2.3 *Shape: Roof Pitch* (p68) Guideline - The roof pitch of a new building should be consistent with those of existing buildings within the area of influence, if dominant patterns are present.

W. 1787 East Clifton Rd (DH), David Price – Price Residential Design
page four

- 7.2.3 *Shape: Building Elements* (p68) Guideline - The principal elements and shapes used on the front facade of a new building should be compatible with those of existing buildings in the area of influence, if dominant patterns are present.
- 7.2.3 *Shape: Porch Form* (p68) Guideline - The shape and size of a new porch should be consistent with those of existing historic buildings within the area of influence, if dominant patterns are present.
- 7.2.4 *Massing* (p69) Guideline - The massing of a new building should be consistent with dominant massing patterns of existing buildings in the area of influence, if such patterns are present.
- 7.2.5 *Proportion* (p70) Guideline - The proportions of a new building should be consistent with dominant patterns of proportion of existing buildings in the area of influence, if such patterns are present.
- 7.2.6 *Rhythm* (p71) Guideline - New construction in a historic area should respect and not disrupt existing rhythmic patterns in the area of influence, if such patterns are present.
- 7.2.7 *Scale/Height* (p72) Guideline - New construction in historic areas should be consistent with dominant patterns of scale within the area of influence, if such patterns are present. Additions to historic buildings should not appear to overwhelm the existing building.
- 7.2.7 *Scale/Height* (p72) Guideline - A proposed new building should appear to conform to the floor-to-floor heights of existing structures if there is a dominant pattern within the established area of influence. Dominant patterns of cornice lines, string courses, and water tables can be referenced to help create a consistent appearance.

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

Application for Certificate of Appropriateness

Date Received: _____ Application No.: _____

Address of Subject Property: 1787 East Clifton Road Atlanta, GA 30307

Applicant: David Price - Price Residential Design E-Mail: dave@priceresidentialdesign.com

Applicant Mailing Address: 1450 Lanier Place Atlanta, GA. 30306

Applicant Phone(s): 404-245-4244 Fax: _____

Applicant's relationship to the owner: Owner Architect: Contractor/Builder Other Designer

Owner(s): Estate of Maureen Fitzpatrick Hopkins E-Mail: _____

co: Robert B. Hale, Executor E-Mail: rhale@paminc.biz

Owner(s) Mailing Address: P.O.Box 749
Tyrone, GA. 30290

Owner(s) Telephone Number: 770-486-8989

Approximate age or date of construction of the primary structure on the property and any secondary structures affected by this project: vacant - never built

Nature of work (check all that apply):


- New construction Demolition Addition Moving a building Other building changes
- New accessory building Landscaping Fence/Wall Other environmental changes
- Sign installation or replacement Other

Description of Work:

3473

We proposed to build a new two-story house of ~~3970~~ **3473** sq ft (on two floors) over an unfinished basement with garage. The lot is vacant with a steep slope in the rear portion of the front setback so fill and retaining walls (none over 4') must be added to bridge the gap to the house. The right side of the lot will remain as-is other than clearing underbrush and the 10.2' wide concrete driveway will pass the house on the left down to the garage turnaround. (2) trees over 10" and (6) smaller trees will be removed.

This form must be completed in its entirety before the Planning Department accepts it. The form must be accompanied by supporting documents (plans, material, color samples, photos, etc.). Provide eight (8) collated sets of the application form and all supporting documentation. If plans/drawings are included, provide eight (8) collated sets on paper no larger than 11" x 17" and three (3) additional sets at scale. All documents submitted in hard copy must also be submitted in digital form (.pdf format). All relevant items from the application checklist must be addressed. An application which lacks any of the required attachments shall be determined incomplete and will not be accepted.

 **10-27-17**
~~XXXXX7~~

Signature of Applicant/Date

DEPARTMENT OF PLANNING & SUSTAINABILITY

Authorization of a Second Party to Apply for a Certificate of Appropriateness

This form is required if the individual making the request is not the owner of the property.

(I) / (We), Robert B. Hale,
Executor for the Estate of M. A. C. Fitzpatrick Hopkins
being (owner) (owners) of the property 1787 East Clifton Road,
hereby delegate authority to David Price - Price Residential Design
to file an application in (my) (our) behalf.

Robert B. Hale,
Executor for the Estate of
Signature of Owner/Date,
M. A. C. FITZPATRICK

Please review the following information

Approval of this Certificate of Appropriateness does not release the recipient from compliance with all other pertinent county, state, and federal regulations.

Before making any changes to your approved plans, contact the preservation planner (404/371- 2155). Some changes may fall within the scope of the existing approval, but others will require review by the preservation commission. If work is performed which is not in accordance with your certificate, the Preservation Commission will issue a cease and desist order and you may be subject to other penalties including monetary fines and/or required demolition of the non-conforming work.

If your project requires that the county issue a Certificate of Occupancy at the end of construction, the preservation planner will need to inspect the completed project to ensure that the work has been completed in accord with the Certificate of Appropriateness. The review may be conducted either before or after your building inspection. If you will be requiring a Certificate of Occupancy, please notify the preservation planner when your project nears completion. If the work as completed is not the same as that approved in the Certificate of Appropriateness you will not receive a Certificate of Occupancy. You may also be subject to other penalties including monetary fines and/or required demolition of the non-conforming work.

If you do not commence construction within twelve months of the date of approval, your Certificate of Appropriateness will become void. You will need to apply for a new certificate if you still intend to do the work.

Please contact the preservation planner, David Cullison (404/371-2155), if you have any questions.

Price Residential Design
1450 Lanier Place Atlanta, Georgia 30306
dave@priceresidentialdesign.com
404-245-4244

October 31, 2017

1787 East Clifton Rd. -- Range of square footages within area of influence from largest to smallest (total sq. ft.) as per DeKalb tax records

address	Sq. footage	Fin Basement	Unfin. Basement	Total
1770	4661	0	2791	7452
1797	3282	1313	675	5270
1787 previous proposed design	3970	1257 fin & unfin		5227
1802	5094	0	0	5094
1807	2370	1571	907	4848
1787 current proposed design	3473	1100 fin & unfin		4573
1765	2712	0	1700	4412
1776	3055	659	488	4202
1760	3134	0	923	4057
1771	2546	0	1454	4000
1810	2351	972	180	3503
1764	2796	0	585	3381
1801	1725	1170	390	3285
1790	2418	0	0	2418

Our proposed basement will be unfinished other than a mudroom entry from the garage at the bottom of the stairs.

Thank you for your consideration,



David W. Price, Applicant

**PRESERVATION OF CONSTITUTIONAL RIGHTS FOR PROPERTY OWNER AT
1787 EAST CLIFTON ROAD**

The Applicant respectfully submits that, should the DeKalb County Historic Preservation Commission refuse to grant the requested Certificate of Appropriateness, such an action would be unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and a denial of due process of law under the United States Constitution and the Constitution of the State of Georgia.

Refusal to issue the requested Certificate of Appropriateness would deprive the Applicant of a reasonable use of the Subject Property and would be insubstantially related to the health and welfare of the public while substantially harming the Property owner.

Applicant specifically objects to the standing of any party that opposes this Application for Certificate of Appropriateness.

Respectfully submitted this 13th day of November, 2017.

Linda I. Dunlavy
DUNLAVY LAW GROUP, LLC
Attorney for Applicant
Georgia Bar No. 339596
1026 B Atlanta Avenue
Decatur, GA 30030
(404) 371-4101 Telephone
(404) 371-8901 Facsimile
ldunlavy@dunlavyllawgroup.com E-mail

GENERAL NOTES:

1: This Plat has been prepared without the benefit of a current title report. Easements or encumbrances may exist that are not shown on this plat.

2: This plat is subject to any restrictions, easements, covenants or restrictions that may exist either written or unwritten.

3: Underground utilities not shown hereon may exist. The Surveyor does not take responsibility for absence or presence of any such utilities.

4: No Geodetic monuments were found within 500 feet of this site

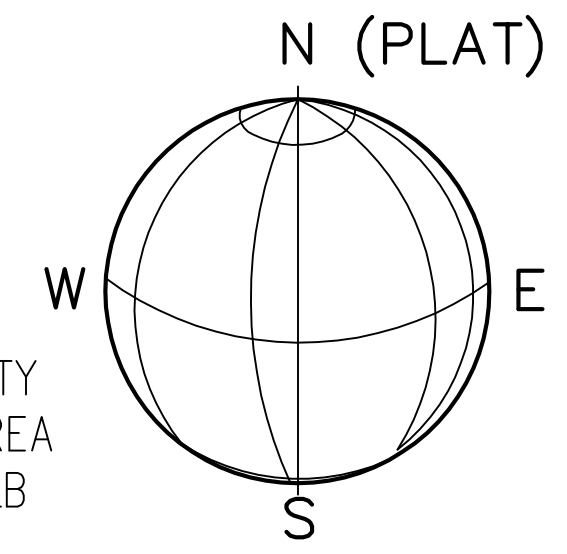
5: This Plat has been prepared for the exclusive use of the person(s) or entities named hereon.

LINE TABLE		
LINE	LENGTH	BEARING
L1	14.23	S29°13'47"W
L2	33.77	S58°39'28"E

CURVE TABLE				
CURVE	ARC LENGTH	RADIUS	BEARING	CHORD LENGTH
C1	87.72	508.98	N59°54'33"W	87.61



1" = 20'



REFERENCE: SURVEY FOR MAUREEN F. HOPKINS DESCENDANTS ESTATE BY MCCLUNG SURVEYING SERVICES, INC. DATED 8-30-2016 DB 7720 PG 552

FLOOD HAZARD NOTE: THIS PROPERTY IS LOCATED IN A FLOOD HAZARD AREA AS DEFINED BY FIRM MAP OF DEKALB COUNTY, GEORGIA 13089C0062J EFFECTIVE DATE MAY 16, 2013

ZONING: R-75

IMPERVIOUS SURFACES:
WALLS = 125 SQ. FT.
TOTAL IMPERVIOUS = 125 SQ. FT. (.0034%)
TOTAL LOT = 36,041 SQ. FT.

- TREE SYMBOLS
X = DIAMETER IN INCHES
- (X) OAK
 - (X) HARDWOOD
 - (X) PINE
 - (X) BEECH
 - (X) DOGWOOD
 - (X) HICKORY

SURVEY DATA:

TYPE OF SURVEY: TOPOGRAPHIC
SOURCE OF TITLE DESCRIPTION FOR SUBJECT PROPERTY: DB 7720 PG 552
PROPERTY OWNER AT TIME OF SURVEY: MAUREEN F. HOPKINS ESTATE
ROBERT B. HALE, EXECUTOR
PARCEL NUMBER: 18-003-04-036
NORTHWEST PROPERTY LINE IS BEARING BASIS FROM SURVEY FOR MAUREEN F. HOPKINS DESCENDANTS ESTATE BY MCCLUNG SURVEYING SERVICES, INC. DATED 8-30-2016

TOTAL AREA: 36,041 SQ FT, 0.83 AC

CALCULATED PLAT CLOSURE: 1:53,663

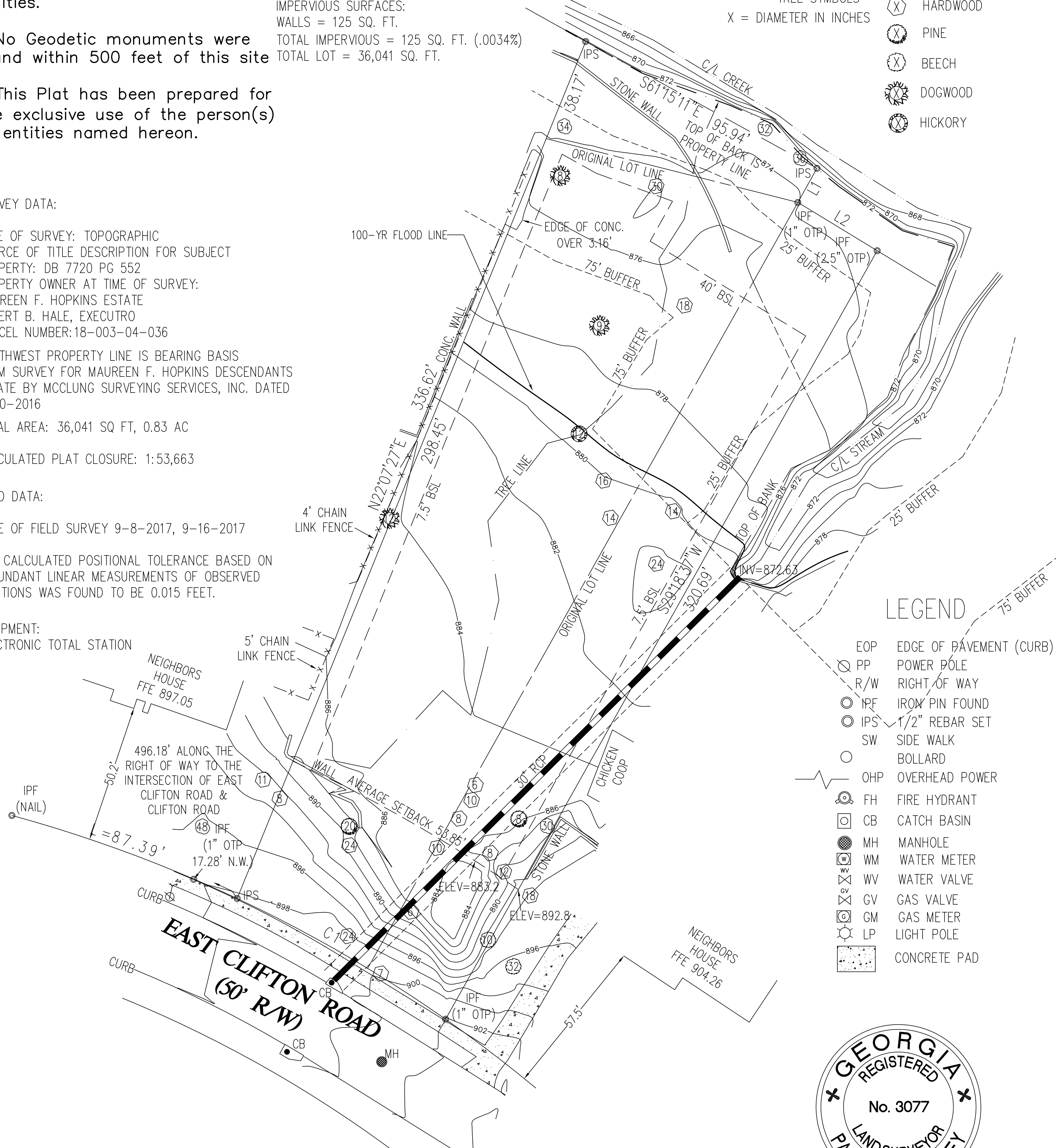
FIELD DATA:

DATE OF FIELD SURVEY 9-8-2017, 9-16-2017

THE CALCULATED POSITIONAL TOLERANCE BASED ON REDUNDANT LINEAR MEASUREMENTS OF OBSERVED POSITIONS WAS FOUND TO BE 0.015 FEET.

EQUIPMENT:

ELECTRONIC TOTAL STATION



LEGEND

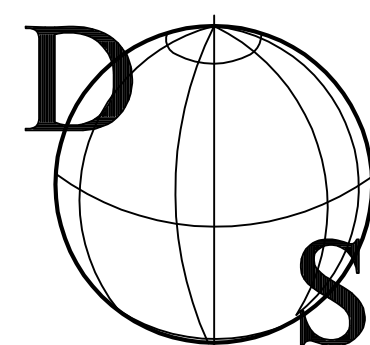
- EOP EDGE OF PAVEMENT (CURB)
- PP POWER POLE
- R/W RIGHT OF WAY
- IPF IRON PIN FOUND
- IPS 1/2" REBAR SET
- SW SIDE WALK
- BOLLARD
- OHP OVERHEAD POWER
- FH FIRE HYDRANT
- CB CATCH BASIN
- MH MANHOLE
- WM WATER METER
- WV WATER VALVE
- GV GAS VALVE
- GM GAS METER
- LP LIGHT POLE
- CONCRETE PAD



SURVEY FOR
DOUG ROLLINS C/O DAVE PRICE
PART OF LOTS 33 & 34, BLOCK 44, DRUID HILLS

1787 EAST
CLIFTON ROAD

DEKALB COUNTY, GEORGIA
LAND LOT 3, DIST 18
DATE: SEPTEMBER 22, 2017



www.dekalbsurveys.com
COA 1086

FOR
DEKALB SURVEYS, INC.
407 W. PONCE DE LEON
SUITE B
DECATUR, GEORGIA 30030
404.373.9003

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67. AUTHORITY O.C.G.A. SECS. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

COPY RIGHT 2017—THIS 11 X 17 DRAWING AND REPRODUCTIONS ARE THE PROPERTY OF THE SURVEYOR AND MAY NOT BE REPRODUCED, PUBLISHED OR USED IN ANY WAY WITHOUT THE WRITTEN PERMISSION OF THIS SURVEYOR

GENERAL NOTES:

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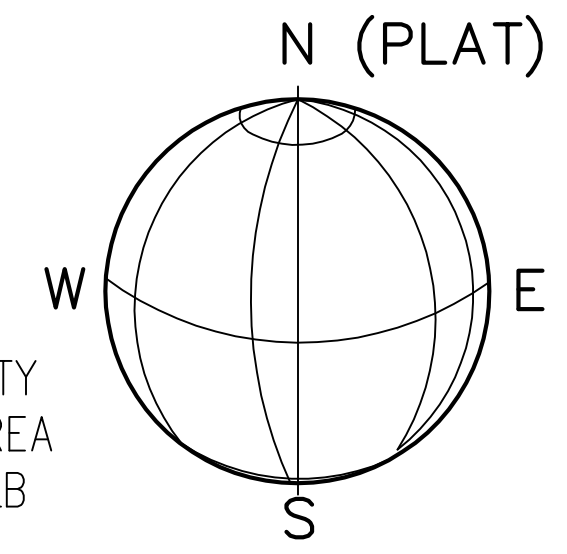
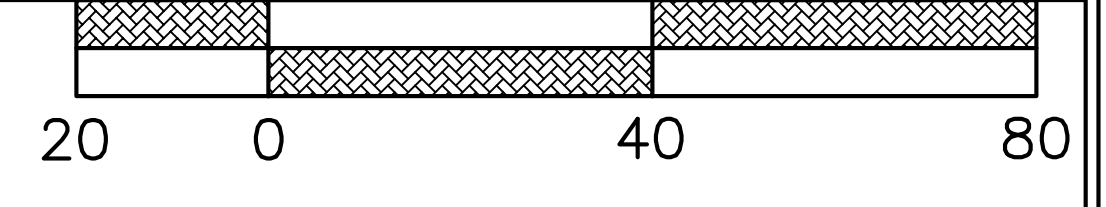
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CURVE	ARC LENGTH	RADIUS	BEARING	CHORD LENGTH
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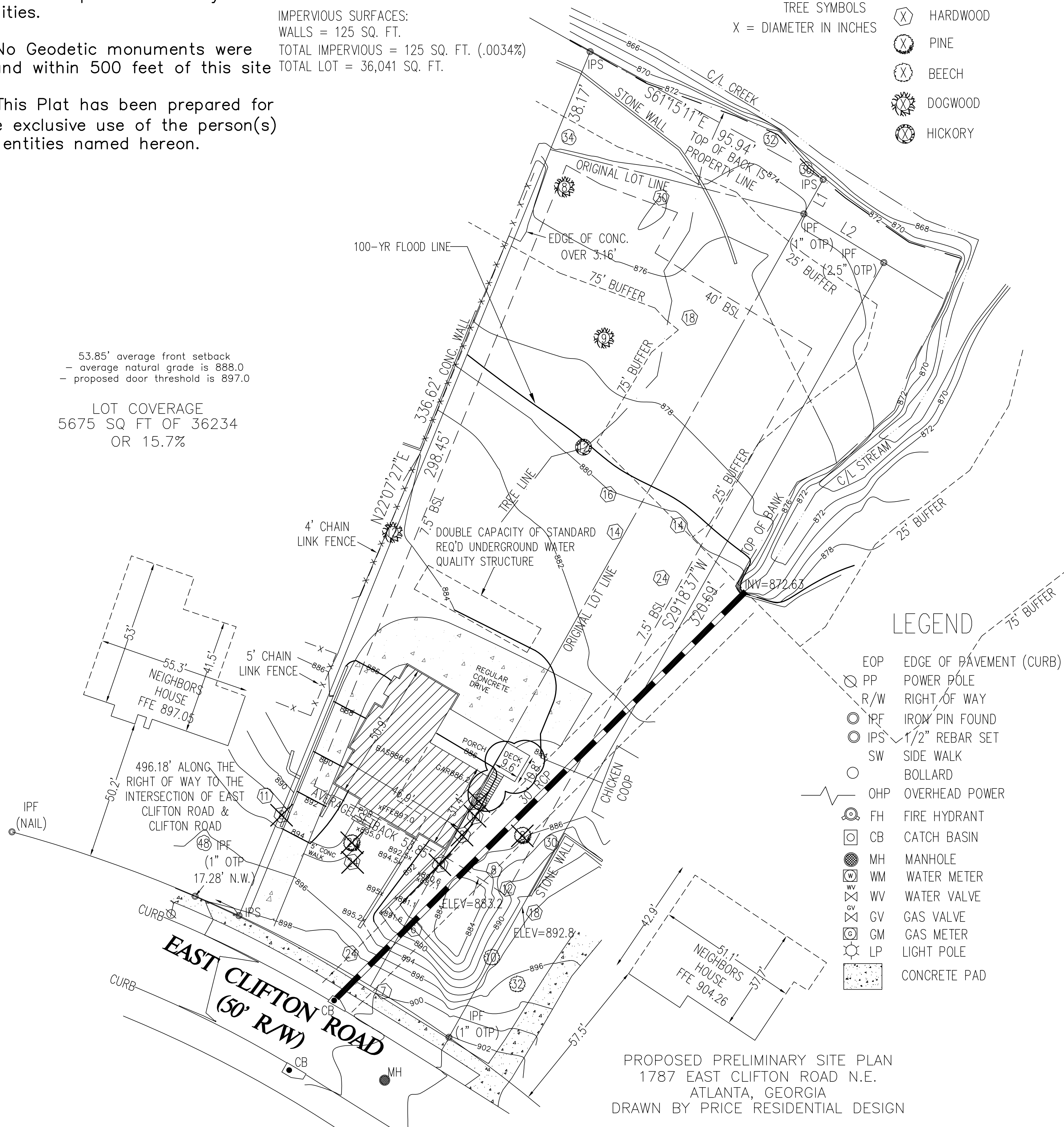
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 TOTAL IMPERVIOUS = 125 SQ. FT. (.0034%)
 TOTAL LOT = 36,041 SQ. FT.

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X = DIAMETER IN INCHES
- (X) OAK
 - (X) HARDWOOD
 - (X) PINE
 - (X) BEECH
 - (X) DOGWOOD
 - (X) HICKORY

53.85' average front setback
 - average natural grade is 888.0
 - proposed door threshold is 897.0

LOT COVERAGE
 5675 SQ FT OF 36234
 OR 15.7%



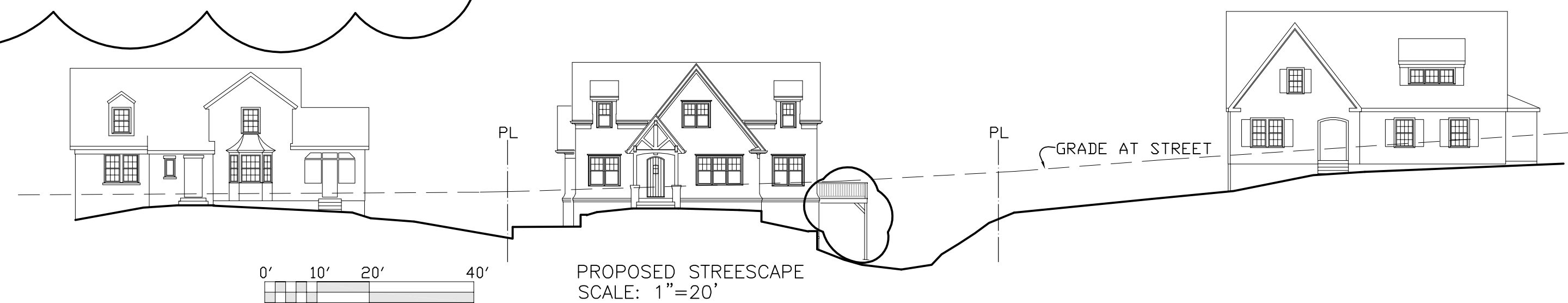
LEGEND

- EOP EDGE OF PAVEMENT (CURB)
- PP POWER POLE
- R/W RIGHT OF WAY
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- MH MANHOLE
- WM WATER METER
- WV WATER VALVE
- GV GAS VALVE
- GM GAS METER
- LP LIGHT POLE
- CONCRETE PAD

PROPOSED PRELIMINARY SITE PLAN
 1787 EAST CLIFTON ROAD N.E.
 ATLANTA, GEORGIA
 DRAWN BY PRICE RESIDENTIAL DESIGN

TOTAL AREA= 0.832± ACRES
 OR 36,234± SQ.FT.
 SCALE: 1"=20'
 OCTOBER 27, 2017

REVISED 11-13-17 TO INCREASE STORM SEWER EASEMENT TO 15' PER COUNTY REGS. DECK IS REDUCED TO BE WELL OUTSIDE EASEMENT - NO STRUCTURE WITHIN 10' OF CL OF PIPE





PRICE RESIDENTIAL DESIGN
 1450 LANIER PLACE NE
 ATLANTA, GEORGIA
 30306
 dave@priceresidentialdesign.com
 404-245-4244

PRICE RESIDENTIAL DESIGN

1787 E CLIFTON RD
 RESIDENCE
 ROLLING RESIDENCE

ROLLING RESIDENCE
 1787 E CLIFTON ROAD
 ATLANTA, GA.
 PRELIM EXTERIOR
 ELEVATIONS
 SHEET A-1
 OCTOBER 27, 2017

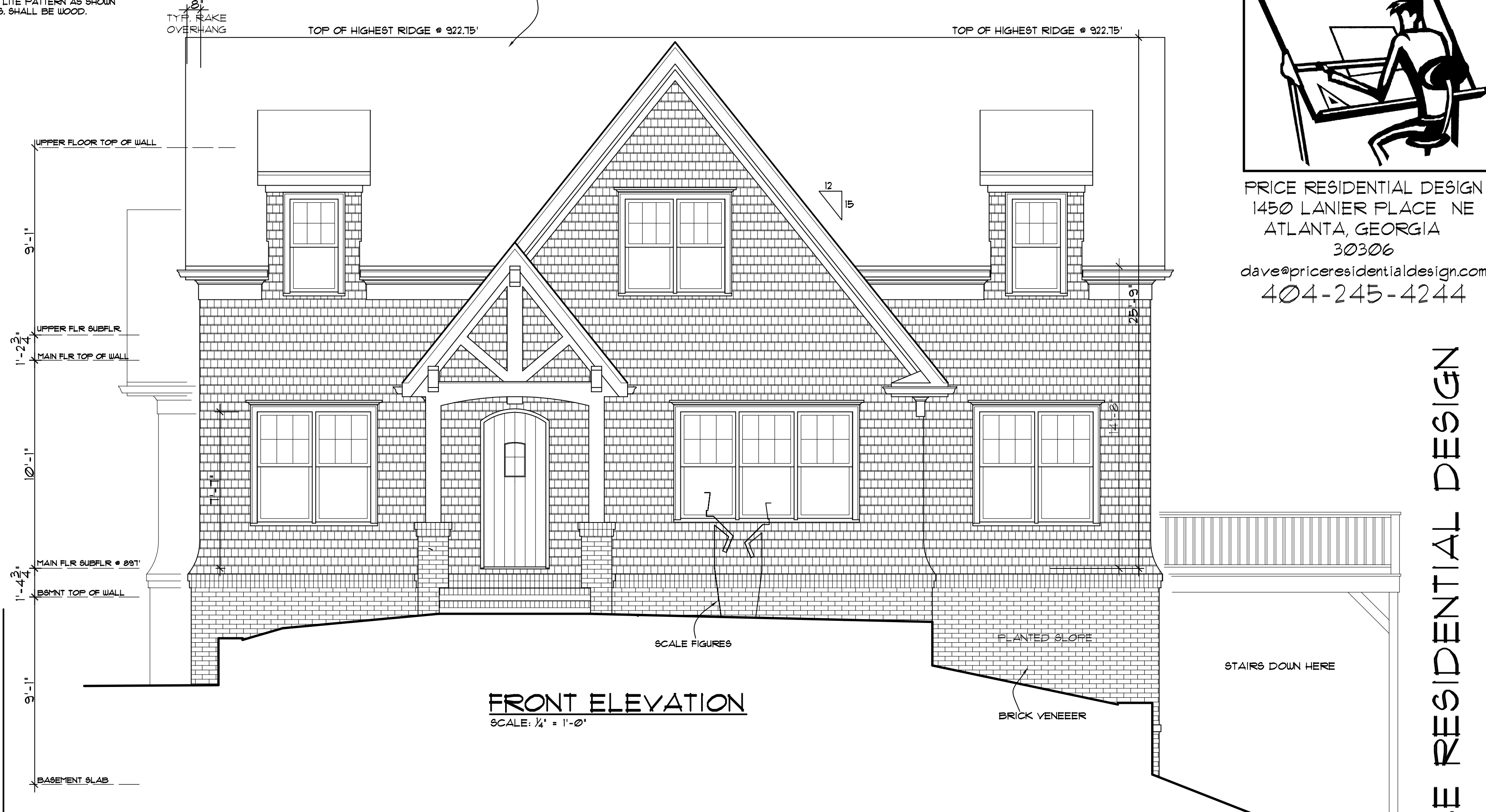
GENERAL NOTE:
 ALL WINDOWS SHALL BE
 PRIMED WOOD, SGL W/ 3/4"
 MUNTINS, LITE PATTERN AS SHOWN
 ALL DRG. SHALL BE WOOD.

FIBERGLASS SHINGLES OVER 15" FELT
 PAPER ON 1/2" APA-RATED DECKING



REAR ELEVATION
 SCALE: 1/4" = 1'-0"

CURRENT

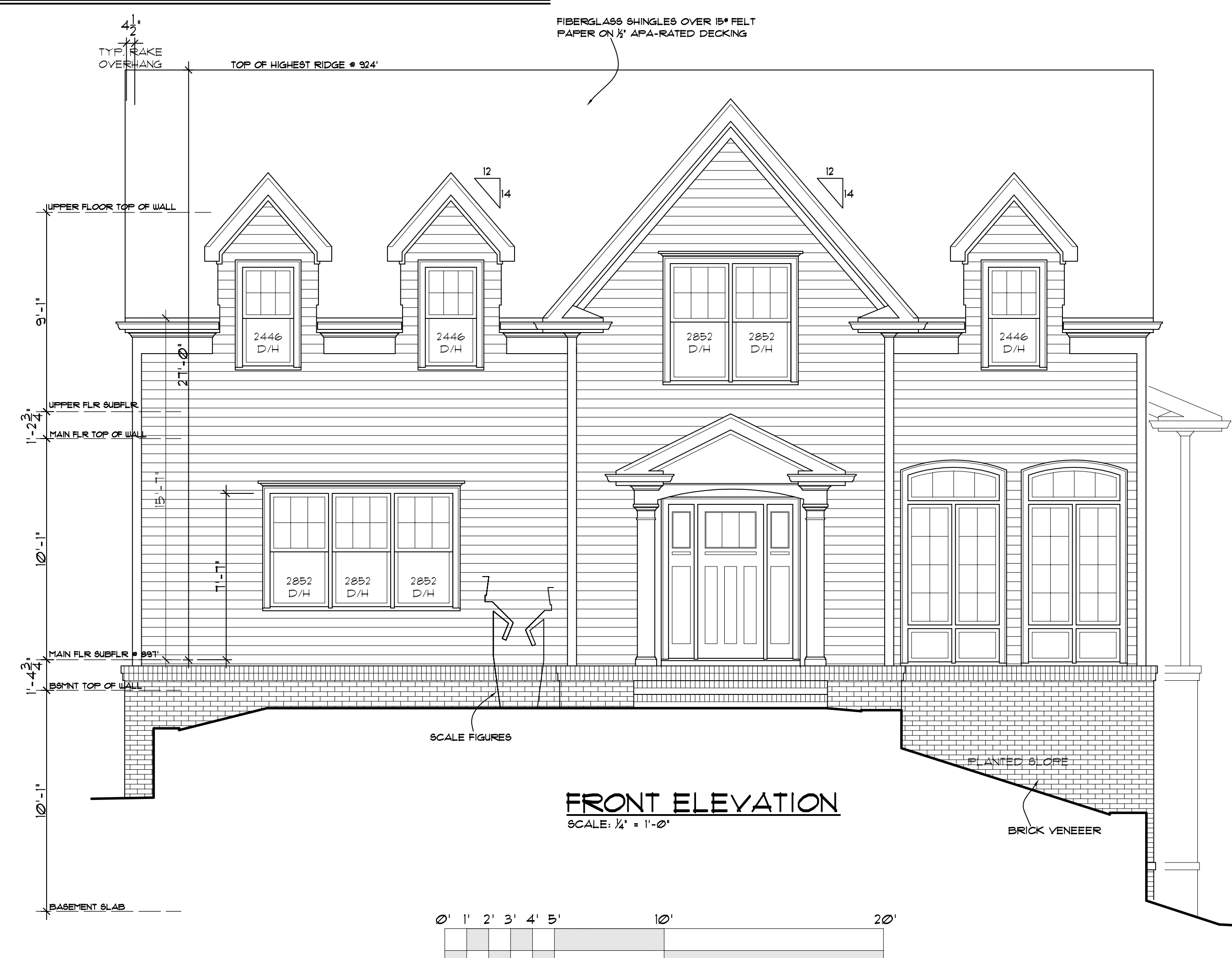


FRONT ELEVATION
 SCALE: 1/4" = 1'-0"

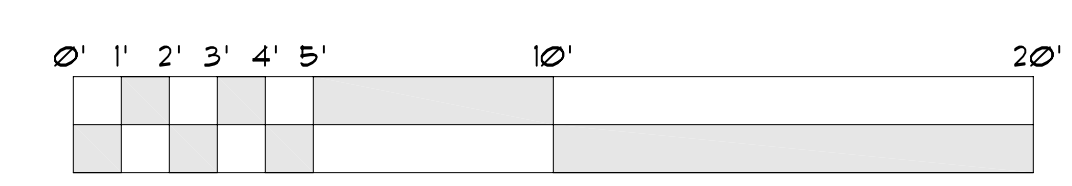
PREVIOUS



REAR ELEVATION
 SCALE: 1/4" = 1'-0"



FRONT ELEVATION
 SCALE: 1/4" = 1'-0"



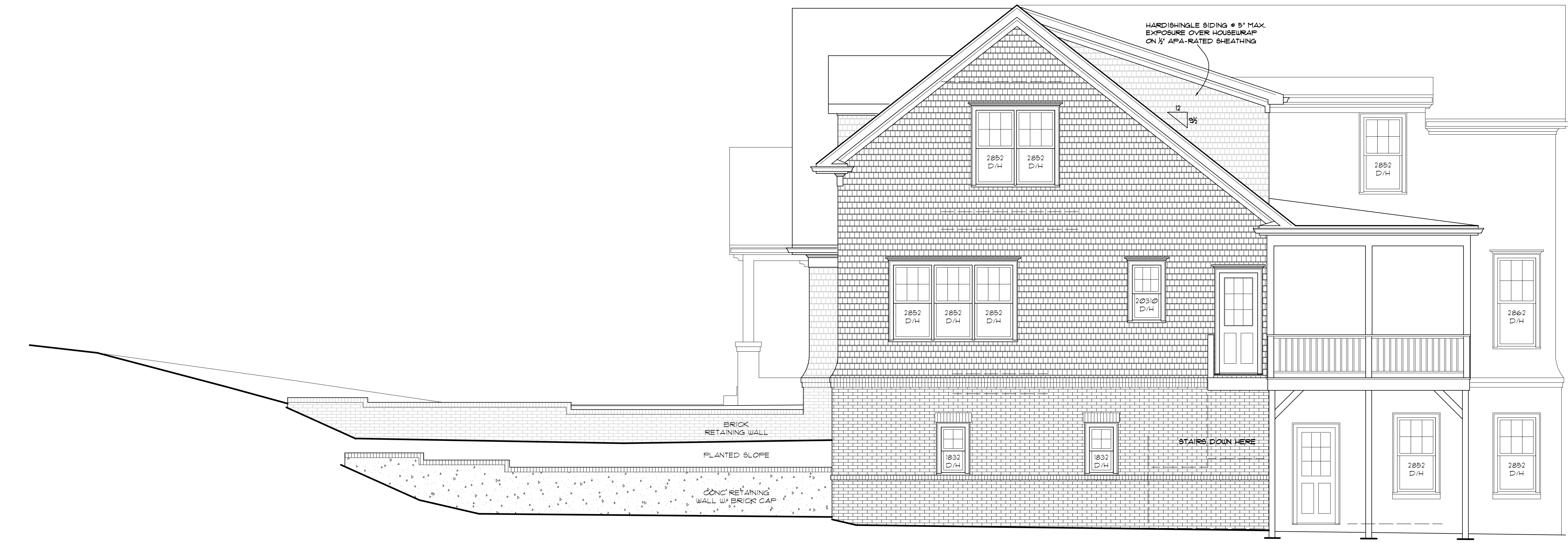


PRICE RESIDENTIAL DESIGN
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 ATLANTA, GEORGIA
 30306
 dave@priceresidentialdesign.com
 404-245-4244

1787 E CLIFTON RD
 RESIDENCE
 ROLLINS RESIDENCE

PRICE RESIDENTIAL DESIGN

CURRENT
 PREVIOUS



RIGHT ELEVATION
 SCALE: 1/4" = 1'-0"



STREETSCAPE
 SCALE: 1" = 20'



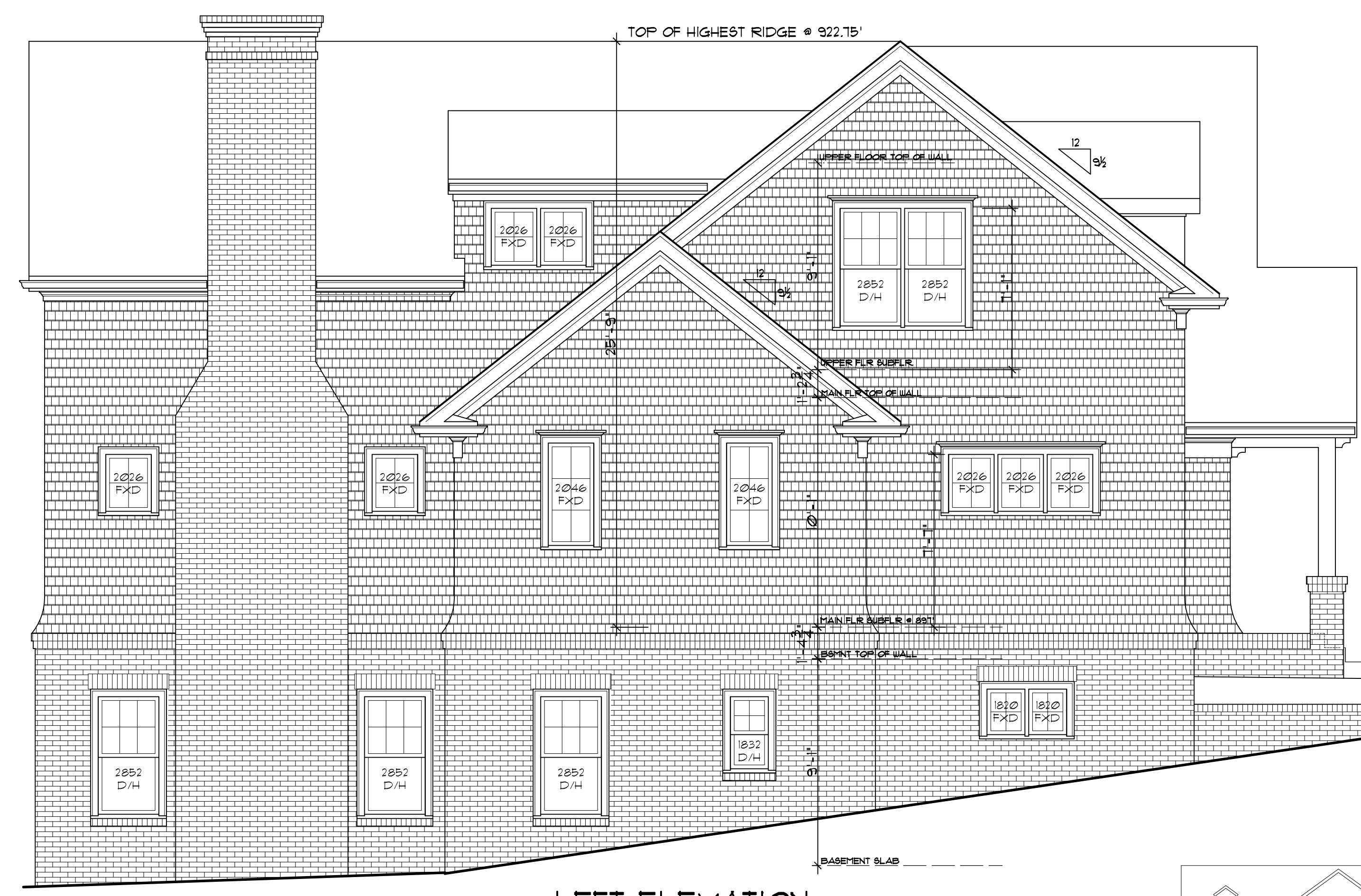
RIGHT ELEVATION
 SCALE: 1/4" = 1'-0"

ROLLINS RESIDENCE
 1787 E CLIFTON ROAD
 ATLANTA, GA.
 PRELIM EXTERIOR
 ELEVATIONS
 SHEET A-2
 OCTOBER 27, 2017



PRICE RESIDENTIAL DESIGN
 1450 LANIER PLACE NE
 ATLANTA, GEORGIA
 30306
 dave@priceresidentialdesign.com
 404-245-4244

GENERAL NOTE:
 ALL WINDOWS SHALL BE
 PRIMED WOOD, S.D.L. W/ 3/4"
 MUNTINS. LITE PATTERN AS SHOWN
 ALL DR'S. SHALL BE WOOD.



LEFT ELEVATION
 SCALE: 1/4" = 1'-0"



STREETSCAPE
 SCALE: 1" = 20'

CURRENT

PREVIOUS



LEFT ELEVATION
 SCALE: 1/4" = 1'-0"

GENERAL NOTE:
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 PRIMED WOOD, S.D.L. W/ 3/4"
 MUNTINS. LITE PATTERN AS SHOWN
 ALL DR'S. SHALL BE WOOD.

PRICE RESIDENTIAL DESIGN

1787 E CLIFTON RD
 RESIDENCE
 ROLLING RESIDENCE

ROLLING RESIDENCE
 1787 E CLIFTON ROAD
 ATLANTA, GA.
 PRELIM EXTERIOR
 ELEVATIONS
 SHEET A-3
 OCTOBER 27, 2011



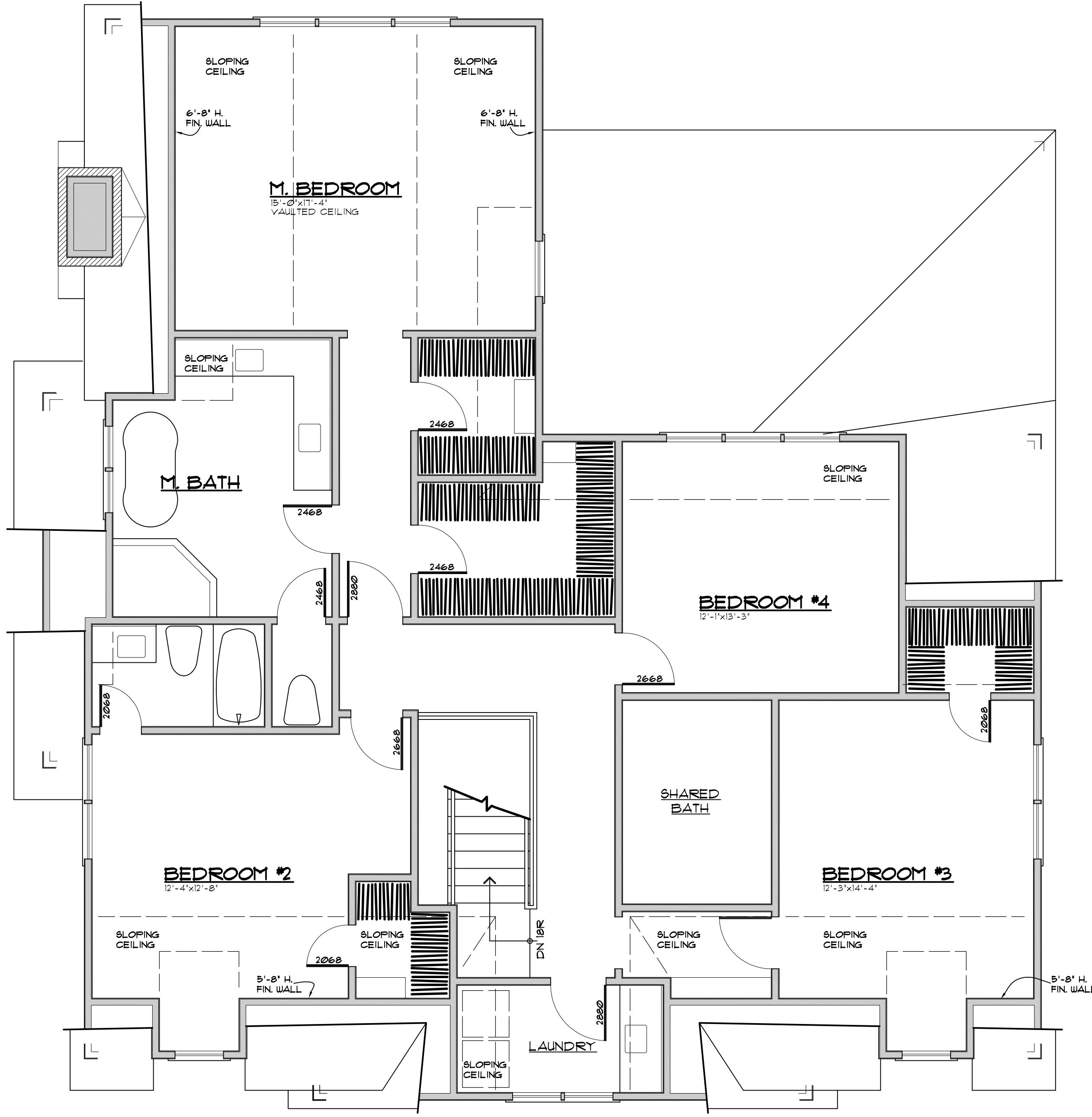
PRICE RESIDENTIAL DESIGN
 1450 LANIER PLACE NE
 ATLANTA, GEORGIA
 30306
 dave@priceresidentialdesign.com
 404-245-4244



STREETSCAPE
 SCALE: 1" = 20'

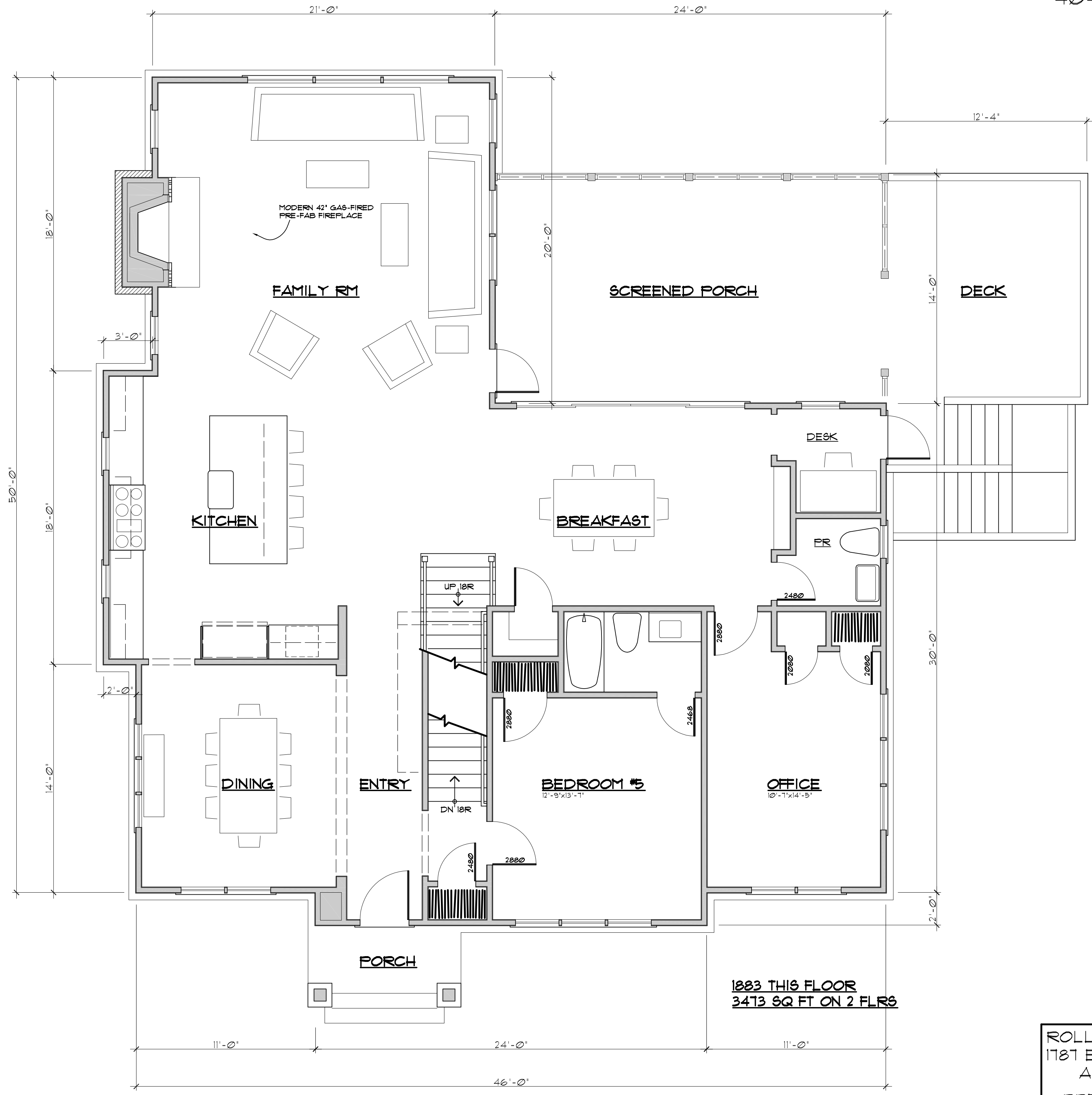
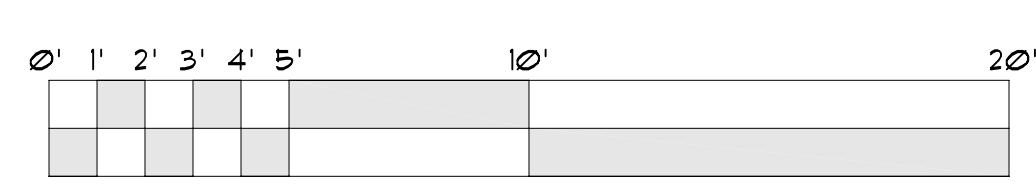
1787 E CLIFTON RD
 RESIDENCE
 ROLLING RESIDENCE

PRICE RESIDENTIAL DESIGN



1590 THIS FLOOR

UPPER FLOOR PLAN
 SCALE: 1/4" = 1'-0"



1883 THIS FLOOR
 3413 SQ FT ON 2 FLRS

MAIN FLOOR PLAN
 SCALE: 1/4" = 1'-0"

ROLLING RESIDENCE
 1787 E CLIFTON ROAD
 ATLANTA, GA.
 PRELIM MAIN AND
 UPPER FLOOR PLANS
 SHEET A-4
 OCTOBER 27, 2017

1787 East Clifton Rd Area of Influence



1811 E Clifton



1807 E Clifton



1801 E Clifton



1797 E Clifton



1779 E Clifton



1771 E Clifton



1765 E Clifton



1757 E Clifton



1760 E Clifton



1764 E Clifton



1770 E Clifton



1776 E Clifton



1790 E Clifton



1802 E Clifton



1810 E Clifton

17 East Clifton Rd Lot Photos



Street View



Street View



Rear Yard looking towards the rear



Rear Yard looking towards the front





Cullison, David

From: Price Residential Design <dave@priceresidentialdesign.com>
Sent: Tuesday, October 31, 2017 11:00 AM
To: Cullison, David
Cc: Doug Rollins; Eisterhold, Kit; Robert MacGregor; friendsgroupinc@yahoo.com; furmansmithjr@hotmail.com
Subject: 1787 East Clifton Rd New Design for Nov Meeting PDF
Attachments: 1787 East Clifton Docs 102717.pdf; 1787 East Clifton Full Set 102717.pdf; 1787 E Clifton Sq ft comparison 103117.pdf

Mr Cullison – Please find the PDF version of the plans I brought in Friday for 1787 East Clifton Road. Today I have added a chart comparing the square footage of the proposed house with the neighboring houses – I presented this information at the on-site meeting but did not have a document to give out. The proposed house is in the middle third of the range of total square footages. This sheet was not included in the paper set but I will bring to the HPC meeting. The 8.5x11 document set is almost identical to the original application.

Please send your staff report to me when it is ready – or any additional suggestions. Thank you to everyone for coming to the Oct 25 meeting and I hope we have come to a design that is acceptable to most if not all of the interested parties. Note the 'X' has been removed from the tree we believe to be the magnolia grandiflora since it is an uncommon species that likely will not grow very large (directly on top of the storm sewer).

Doug Rollins is in contact with Courtney Green of DeKalb Roads & Drainage to confirm the easement size of the buried storm sewer pipe. We have based our size on information provided by Greg Hubbard of DeKalb Planning Dept. but it is prudent to confirm it with Roads & Drainage. We will keep you informed as soon as we hear but we do have wiggle room beyond the 10' easement on the current site plan (I had originally assumed a 20' easement) so we should be in good shape regardless.

Courtney Green just now confirmed receipt and said they would review.

Thanks – Dave Price



Price Residential Design
1450 Lanier Place
Atlanta, Georgia 30306
404.724.9570 c:404.245.4244

Cullison, David

From: Price Residential Design <dave@priceresidentialdesign.com>
Sent: Thursday, November 09, 2017 11:08 AM
To: Cullison, David
Cc: Doug Rollins
Subject: RE: 1787 E Clifton

Mr Hubbard determined that there is no state water (no stream) on our lot (1787 E Clifton) and did not address the neighboring lot. Per the GIS map, there is a blue line stream on the neighboring lot after it emerges from the storm sewer pipe so it has a 75' stream buffer depicted on our surveys and site plans regardless of the actual presence of water.

We have not asked Mr Hubbard for an official determination of the status of the neighbor's lot and we do not plan to, since it does not affect the proposed project on our lot.

Doug, were you able to talk to Mr. Green yet today? Thanks all – Dave Price

From: Cullison, David [mailto:dcullis@dekalbcountyga.gov]
Sent: Thursday, November 09, 2017 8:50 AM
To: Dave Price <pricedesign@comcast.net>
Subject: 1787 E Clifton

Was there ever a final decision on whether it's a stream or a ditch?

David Cullison
Senior Planner
DeKalb County Department of Planning & Sustainability
330 W. Ponce de Leon Avenue
Third Floor
Decatur, GA 30030
404/371-2247
404/371-4556 (fax)

The DeKalb County zoning map is now on-line at <http://maps.dekalbcountyga.gov/parcel/>. The DeKalb County Zoning Ordinance is now on-line at http://planningdekalb.net/?page_id=756#articles.

Please visit the Planning & Sustainability web site at www.planningdekalb.net for information about procedures to obtain certificates of occupancy or building permits.

Cullison, David

From: Price Residential Design <dave@priceresidentialdesign.com>
Sent: Monday, November 13, 2017 1:20 PM
To: Linda Dunlavy; Cullison, David
Cc: Doug Rollins
Subject: RE: Size of county easement required--1787 East Clifton Road
Attachments: 1787 E Clifton Site Plan correct easement.pdf

Here is the PDF of the new plan with the reduced deck size. Thanks – Dave Price

From: Linda Dunlavy [mailto:ldunlavy@dunlavylawgroup.com]
Sent: Monday, November 13, 2017 12:06 PM
To: Cullison, David <dccullis@dekalbcountyga.gov>
Cc: Price Residential Design <dave@priceresidentialdesign.com>; Doug Rollins <dougrllns@hotmail.com>
Subject: FW: Size of county easement required--1787 East Clifton Road

David:

Please find below an email exchange with Akin Akinsola who is in charge of plan review for new development in DeKalb County concerning the scope of easement requirements for storm pipes. As you can see the size of an easement depends upon the size of the pipe. The site plan shows that the pipe is a 30 inch RCP which per Mr. Akinsola's table below would require a 15 foot easement. The easement, as I understand it is from the centerline of the pipe—so 7.5 feet on either side. Currently the nearest part of the house is just over 10 feet from the centerline of the pipe. The deck is about 7.5 feet. For the sake of symmetry and to provide additional clearance from the storm pipe, Dave Price will be reducing the size of the deck such that it too will be slightly more than 10 feet from the centerline of the pipe. He will bring a revised drawing showing this to the evening's meeting.

Finally, please find attached constitutional objections on behalf of the Applicant. I ask that these objections and the communication from Mr. Akinsola be provided to the HPC for their consideration this evening. I will bring extra copies of both should they prove necessary.

Thanks,

Linda

Linda I. Dunlavy
DUNLAVY LAW GROUP, LLC
1026 B Atlanta Avenue
Decatur, GA 30030
Ph: (404) 371-4101
Fax: (404) 371-8901

This message is confidential. It may also be privileged or otherwise protected by work product immunity or other legal rules. If you have received it by mistake, please let us know by e-mail reply and delete it from your system; you may not copy this message containing deadlines as incoming e-mails are not screened for response deadlines. Please note: This firm does not represent you in the absence of a fully executed engagement letter. Acting pursuant to any advice contained in this e-mail without a signed engagement letter is at your own peril. The integrity and security of this message cannot be guaranteed on the Internet.

From: Akinsola, Akin A. [<mailto:aaakinsola@dekalbcountyga.gov>]
Sent: Monday, November 13, 2017 10:50 AM
To: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Cc: Doug Rollins <dougrllns@hotmail.com>
Subject: RE: Size of county easement required

Ms Dunlavy,

It was indeed a pleasure speaking with you on the phone, even as it was in the course of my duty. As a response to your inquiry however, kindly find below DeKalb County requirements for Drainage Easements which are dependent on pipe sizes as follow.

	Pipe Size	Required Easement
1.	Over 72"	25ft
2.	54" – 66"	25ft
3.	48" – 42"	20ft
4.	36" – 30"	36" (20ft), 30" (15ft)
5.	24" – 18"	15ft.

Please, do not hesitate to let me know if the above information do fully address your question or if you have other questions.

Thank you.

Akin Akinsola
Engineering Review Officer
Land Development
Planning and Sustainability
DeKalb County
330 West Ponce De Leon Ave.
Decatur, GA 30030
Ph: 404-371-2191
aaakinsola@dekalbcountyga.gov

DeKalb Development Services is pleased to announce

EXTENDED 2ND FLOOR LOBBY HOURS

Monday - Thursday

8:00 A.M. - 4:00 P.M.

Friday

7:30 A.M. - 11:30 A.M.

Effective Monday, July 17, 2017, we will be altering our lobby schedule to better serve your needs for Permitting, Business License and Land Development customer service counters.

Please note the Land Development counter will open at 8:00 A.M. on Fridays.

In the event of an urgent C.O. or T.C.O. on Friday afternoons, please call **404-371-2155 Option #3** to set up an appointment.

Limited staff will be available to assist you between 1:00 P.M. and 3:30 P.M.

From: Linda Dunlavy [<mailto:ldunlavy@dunlavylawgroup.com>]
Sent: Monday, November 13, 2017 10:30 AM
To: Akinsola, Akin A.
Cc: Doug Rollins

Subject: Size of county easement required

Importance: High

Mr. Akinsola:

Thank you for taking the time to talk with me this am. As explained we need written confirmation of the size of the easement the County requires for the existing 30 inch RCP depicted on the attached site plan 1787 East Clifton. Please advise. Call me with any questions.

Cullison, David

From: Price Residential Design <dave@priceresidentialdesign.com>
Sent: Monday, November 13, 2017 12:11 PM
To: Cullison, David
Cc: Doug Rollins; Linda Dunlavy
Subject: RE: Roads Drainage input 1787 East Clifton

I just realized I said “Underground utilities are subject to review by the HPC” when I intended to say “Underground utilities are not subject to review by the HPC.” Sorry about that mistake and, per Ms. Dunlavy’s email, I will bring a revised site plan with a reduced deck size to reflect the larger easement size -- Dave Price

From: Price Residential Design [mailto:dave@priceresidentialdesign.com]
Sent: Monday, November 13, 2017 10:55 AM
To: 'Cullison, David' <dccullis@dekalbcountyga.gov>
Cc: 'Doug Rollins' <dougrllns@hotmail.com>; 'Linda Dunlavy' <ldunlavy@dunlavylawgroup.com>
Subject: RE: Roads Drainage input 1787 East Clifton

Thank you for the report.

Obviously, we are disappointed.

1. The neighboring house to the right is about 27-28’ from main floor to ridge (see attached photo showing the relatively large attic height), the neighbor to the left is 25’ approximately, and our proposed house is 25’-9” as noted on the elevations. I don’t know how we can do further height comparisons than what is shown on the streetscape.
2. We have 10’-1” rough ceilings on the main floor, not the 11’-1” noted in your report.
3. Both of the immediate neighboring houses have shingle siding with mitered corners and brick basements. How could any material combinations be more appropriate?
4. Other shingled houses within the area of influence, specifically the one cata-corner across the street at 1764 E Clifton (see photo attached and in your packet), have front walls in which break the eave line with dormers. The historic example on the other side of the street is a full two-story example with gabled dormers flush with the front wall at the windows, ours is a much shorter front wall with the windows contained inside a shorter shed dormer, flush with the front wall.
5. Underground utilities are subject to review by the HPC. If there are revisions required by an easement change, those design revisions would need to be approved by the HPC prior to a permit being granted.

I request that you modify your report to reflect this information prior to tonight’s meeting.

Thank you – Dave Price 404-245-4244

From: Cullison, David [mailto:dccullis@dekalbcountyga.gov]
Sent: Monday, November 13, 2017 10:08 AM
To: Price Residential Design <dave@priceresidentialdesign.com>
Cc: Doug Rollins <dougrllns@hotmail.com>
Subject: RE: Roads Drainage input 1787 East Clifton

David Cullison
Senior Planner

DeKalb County Department of Planning & Sustainability
330 W. Ponce de Leon Avenue
Third Floor
Decatur, GA 30030
404/371-2247
404/371-4556 (fax)

The DeKalb County zoning map is now on-line at <http://maps.dekalbcountyga.gov/parcel/>. The DeKalb County Zoning Ordinance is now on-line at http://planningdekalb.net/?page_id=756#articles.

Please visit the Planning & Sustainability web site at www.planningdekalb.net for information about procedures to obtain certificates of occupancy or building permits.

From: Price Residential Design [<mailto:dave@priceresidentialdesign.com>]
Sent: Friday, November 10, 2017 3:23 PM
To: Cullison, David
Cc: Doug Rollins
Subject: RE: Roads Drainage input 1787 East Clifton

Hey Mr Cullison – If you have the staff report ready today or early Monday, please forward that to me. Thanks – Dave Price

From: Doug Rollins [<mailto:dougrllns@hotmail.com>]
Sent: Friday, November 10, 2017 2:19 PM
To: Green, Courtney J. <cjgreen@dekalbcountyga.gov>
Cc: dave@priceresidentialdesign.com; Cullison, David <dccullis@dekalbcountyga.gov>
Subject: Re: Roads Drainage input 1787 East Clifton

Hey Mr Green,

Per my rather detailed (apologies for that) voicemail yesterday, I was hoping to get any input from Roads and Drainage related to our proposed site plan at 1787 East Clifton Rd.

We would very much appreciate input related to the storm pipe and the required easement that exists on either side.

Thanks again and sorry for the continued pestering!

Doug

404-226-4418

On Nov 6, 2017, at 7:04 PM, Doug Rollins <dougrllns@hotmail.com> wrote:

Hey Mr Green,

Any update from Roads & Engineering on our site plan? Let us know if anything we can provide to assist.

Any comments would be appreciated.

Thanks

Doug Rollins
404.226.4418

From: Doug Rollins <dougrllns@hotmail.com>
Sent: Friday, November 3, 2017 10:48 AM
To: Green, Courtney J.
Cc: Cullison, David; Price Residential Design
Subject: Re: Roads Drainage input 1787 East Clifton

Hey Courtney,

Just following up on our quick conversation Monday and ensuing emails below. Would love to get any comments/input from you and the engineer today or Monday if you guys are able.

Happy to provide any additional context as needed.

Really appreciate your attention.

Doug

Doug Rollins
404.226.4418

From: Price Residential Design <dave@priceresidentialdesign.com>
Sent: Tuesday, October 31, 2017 11:07 AM
To: Doug Rollins; Green, Courtney J.
Cc: Cullison, David
Subject: RE: Roads Drainage input 1787 East Clifton

Mr Green – Please cc David Cullison of DeKalb Historic Preservation (Dept. of Planning & Sustainability) with your comments. Also, just to be on the same page, we are currently showing a 10’ easement at the storm sewer (5’ on both sides). Thanks – Dave Price (designer)

From: Doug Rollins [mailto:dougrllns@hotmail.com]
Sent: Tuesday, October 31, 2017 10:54 AM
To: Green, Courtney J. <cjgreen@dekalbcountyga.gov>
Cc: dave@priceresidentialdesign.com
Subject: Re: Roads Drainage input 1787 East Clifton

Thanks! Let us know thoughts or questions.

Doug

Doug Rollins
404.226.4418

From: Green, Courtney J. <cjgreen@dekalbcountyga.gov>
Sent: Monday, October 30, 2017 11:35 AM
To: Doug Rollins
Subject: RE: Roads Drainage input 1787 East Clifton

Thanks Doug will review

From: Doug Rollins [<mailto:dougrllns@hotmail.com>]
Sent: Monday, October 30, 2017 11:22 AM
To: Green, Courtney J. <cjgreen@dekalbcountyga.gov>
Cc: dave@priceresidentialdesign.com
Subject: Roads Drainage input 1787 East Clifton

Hey Courtney

See below for the site plan including the home we plan to build.

Mr Hubbard specified the easement for storm drain was 5' and we're well outside get with the foundation. The plan also allows for much easier County access to the pipe via the driveway. Can you help us understand:

1. If the easement is actually larger than Mr Hubbard specified, is it possible that the easement can be off-center of the pipe, i.e. 7' on one side and 8' on the other (15' easement)? What is the maximum offset if that is possible?
2. Is minor grading allowed within the easement?
3. Any other thoughts on comments?

Thanks again and please confirm receipt when you have a second.

Doug

404-226-4418

Druid Hills Civic Association
DeKalb County Land Use and Historic Preservation Commission
Opposition to Application for Certificate of Appropriateness for
1787 E Clifton Rd, November 2017

At the October HPC hearing, the applicant submitted an application for this property, which was denied on the basis that it violated Guidelines 7.1, 7.2, 7.2.1, 7.2.2, 7.2.3, 7.2.4 and 7.2.5, and would have a substantial adverse effect on the historic district. Staff's report also recommended denial.

While the new plans show some improvement over the last, we submit that issues related to form and layout for the proposed new construction persists, and the application still violates most if not all of the 7.x guidelines cited in the October denial. We also wish to draw the commission's attention to several additional guidelines with which the proposed design appears incompatible.

Massing and Height

The applicant cites total square footage as a justification for the current plans, using tax records (these are sometimes inaccurate) to name commensurate living spaces within the area of influence. While square footage sometimes offers guidance, it is irrelevant as a means of demonstrating conformity with the 7.x guidelines. Instead, the perceived massing, scale/height, pattern, rhythm, and so forth must be evaluated. When such an approach is undertaken, the proposed structure still does not conform to the precedent set in the area of influence.

In particular, we draw attention to Guidelines **7.2.5 Massing** and **7.2.7 Scale/Height**. The rear of the proposed structure rises three full stories for the last 18' of structure. The neighboring structures, particularly 1797 E Clifton, which abuts the left elevation, establish a pattern of ~40' depth main structures whose gabled roofs slope toward 1 ½ to 2 stories of height at their maximum. The 18' rear segment of the left elevation will overwhelm both its neighbor at 1797 (**figure 1**) and its neighbor at 1779 (**figure 2**).

For this reason alone, the mass and scale of this portion of the plans is inappropriate and constitutes an adverse effect. We submit that this portion of the proposed structure constitutes an undesirable secondary mass, one that is incompatible with Guideline **7.2.8 Individual Architectural Elements**, which requires that new construction should be compatible with and not conflict with the predominant architectural elements within the area of influence.

Furthermore, this portion of the structure would be easily visible from the right of way, particularly after existing vegetation is cleared (see **figure 3**).

Another undesirable aspect of the current plans from the perspective of massing and height relates to the visible front foundation of the proposed structure. The applicant proposes to add a large amount of infill in front of the structure and to raise the threshold accordingly. As the applicant's street elevation shows, this infill results in a crowned platform that the new structure sits atop.

This design has two undesirable effects. First, it exposes substantial foundation on both sides of the front elevation, and at considerable height. Second, it makes the new structure appear to float

atop the topography, as if rising like a castle from a moat, rather than conforming with the flow of the street. Third, it increases both the perceived height and massing of the structure on the front, left, and right elevations. The homes in the area of influence all display 1 ½ to 2 stories of perceived height on the front elevation, while the proposed structure scans as more than that due to the exposed foundation on both sides. In some cases, due to the topography, nearby structures expose one or the other corner on the front elevation, but nothing as substantial as the proposed plans.

While we would not presume to conduct the applicant's design on their behalf, we surmise that reducing the infill and/or opting not to raise the FFE might help mitigate this issue with respect to massing, height, pattern, and rhythm.

Retaining Walls

Guideline **9.4 Enclosures and Walls** states that fences and walls should not be built in front yard spaces, and that retaining walls should only be used where topography demands their use. In the present case, the right elevation retaining walls are placed in an attempt to avoid violating the county drainage easement on this portion of the property. Nevertheless, the height, size, length, and extent of these walls is excessive. These walls appear to be added largely due to infill to create a flatter front yard, and to raise the threshold so as to facilitate a daylight basement on the rear slope. We submit that the retaining walls could accomplish their goal of supporting the drainage easement in a way that is smaller and less prominent.

Stream, Drainage, and Streetscape

This is an unusual property—no structure has ever been built on this plat. The origins of this lot, which appears to have been split from its neighbor at 1797, are unknown. Likewise, the provenance of the pipe that the applicant is relying on to preclude the stream buffer is also unknown—further unknown is anything related to its structural integrity and longevity, not to mention maintenance. (The headwall appears to be cracked or otherwise compromised.) A neighbor of the subject property, Furman Smith, has submitted a ZBOA administrative appeal related to the interpretation of the stream buffer exception.

Guideline **9.1. Original Subdivision Forms** asks that the original layouts for public and private spaces, along with streetscape profiles, be maintained. Guideline **8.1 Open Space and Parkland Preservation and Conservation** demands the preservation of spaces that buffer stream corridors. Even if the piped stream might allow the development of this property in theory, the HPC still must consider the state of the stream, the streambuffer, the Peavine creek watershed, and the streetscape before authorizing construction on this site. We suggest that further research and documentation of the current and future state of the piped creek represents a minimum requirement to allow the Commission to draw any conclusion about the effect of construction on the nearby area. Even more ideal would be a more complete structural-engineering and hydrological evaluation of the site.

Conclusion

This portion of East Clifton contains the first homes to be constructed on Olmsted's plan. 1776, just across the street and to the southeast, was built in 1922. Its neighbor, 1770, was built the following year, in 1923. The property adjacent to the subject property, at 1779 in 1926. The other adjacent property, 1797, in 1929.

This lot is an unusual one. It sits in a ravine. It's not been developed for 90+ years of the neighborhood's existence. Even if it is now appropriate and desirable to do so—and this is a big if—the HPC should insist on the most thorough and rigorous plan, site plan, hydrology plan, tree plan, and so on before approving any application for this site. The current materials represent a current step in the right direction, but they are not sufficient.

For all of these reasons, we respectfully request that the application be denied.

Figures



Figure 1 From the rear of the subject property looking toward the street. The primary structure at 1797 E Clifton is on the right. The main structure extends ~40' deep, but descends substantially in height before opening to a massless deck. The proposed structure, if built, would rise more than three stories at depth extending all the way to the white-sided addition pictured at far right. The mass and height of this structure would overwhelm its neighbor.



Figure 2 From the right of way in front of the subject property looking toward 1779 E Clifton. The structure of this historic neighbor exhibits one main mass rising to a peak of three stories along the left elevation, then descending to a much less massive secondary mass in the rear. The mass and height of the proposed structure is inconsistent with the pattern set by its neighbor.



Figure 3 From across the street at 1790 E Clifton, looking toward the subject property and 1797 E Clifton. The extreme massing at the rear of the structure would be visible from the right of way.

PLAT BOOK 7 PAGE 114

114



MAP OF
A PART OF
DRUID HILLS

DE KALB CO GA

LAND LOTS 1-100

O. L. ...
...

Cullison, David

From: rosalyne smith <rosesrs@hotmail.com>
Sent: Thursday, November 09, 2017 3:00 PM
To: Cullison, David
Subject: Fwd: Supplement to Appeal
Attachments: Supplement to Appeal.pdf; ATT00001.htm

Mr Cullison. Furman submitted this supplement to his Appeal of the Administrative decision re 1787 E Clifton. Could you please add it to the record, as we believe it is relevant for the HPC's consideration. Thank you, Rosalyn Smith

Sent from my iPhone

Begin forwarded message:

From: furman smith <smit3717@bellsouth.net>
Date: November 8, 2017 at 10:31:23 AM EST
To: Rosalyn Smith <rosesrs@hotmail.com>
Subject: Re: Supplement to Appeal
Reply-To: furman smith <smit3717@bellsouth.net>

Please see attached.

Furman Smith, Jr., P.C. 1126 Ponce de Leon Ave. N.E. Atlanta, Georgia 30306 office: (404)872-7086 direct: (404)524-4100 fax: (404)872-1128 NOTE: This transmission contains legally protected confidential and privileged information covered by the Electronic Communications Privacy Act [USC Title 18 Sections 2510-2521], and is intended for the exclusive use of the above addressee only. If you are not the intended recipient as listed above or if you have received this transmission in error, please contact the sender immediately and destroy any copies you may have without reading or inspecting them. Any communication or inspection of the enclosed or attached information is strictly prohibited and will be punished to the fullest extent allowed by law.



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Application No. A-17-21863
Parcel ID: 18-003-04-036
Applicant: Furman Smith, Jr.
1779 E. Clifton Road
Atlanta, Georgia 30307
Project Name: 1787 E. Clifton Road
Request: Appeal of an administrative decision relating to designation of “State Waters”

SUPPLEMENTAL STATEMENT IN SUPPORT OF
APPEAL OF ADMINISTRATIVE DECISION

1.

Contrary to the Staff Report, the appeal is timely. Section 1-2 of the Dekalb Code states that when the last day prescribed for an action falls on a Saturday or a Sunday, the applicant has until the following Monday to perform the action. The Dekalb Ordinance is identical to State Code § 1-3-1(3).

2.

The State Code definition of “State Waters” includes any streams, creeks or branches and other bodies of surface and subsurface water, natural or artificial which are not entirely on the property of a single individual. [emphasis added] This describes the water course in question, including the subsurface part in the artificial pipe. Attached is a copy of 1930 topographic map showing a stream just south of where the pipe goes under E. Clifton Road, which is just off the north edge of the 1930 City of Atlanta study. I will name this stream “Smith Creek.”

3.

The statutory scheme of the “Erosion and Sedimentation Act of 1975” (Chapter 7 of Title

12) is that local jurisdictions adopt and enforce requirements which are at least as strict as those set out in O.C.G.A. § 12-7-6(b). Among the requirements is a 25 foot buffer prescribed by Subsection 12-7-6(b)(15). There are some exceptions, but the only one which would be applicable here is the “ephemeral stream” exception of § 12-7-6 (b) (15) (A)(v). Smith Creek is not ephemeral. As shown by the topography map presented, it was flowing in 1930.

The standards of the State Law are minimum standards; local jurisdiction can adopt stricter standards, as Dekalb County has done with its 75 foot stream buffer. Our position is that the County can waive the 75 foot buffer requirement, but cannot waive the 25 foot State buffer. The proposed house would be less than 10 feet from Smith Creek.

4.

The staff submitted the case of *Turner v. Georgia River Network*, 297 Ga 306 (2015), in support of their position that our appeal should be denied. That case is, as lawyers say, not apposite, which means it is not on point. In the *Turner* case the EPD issued a variance to allow the construction of a dam by Grady County which would result in the inundation of nine miles of streams and 120 acres of wetland by the resulting lake. An environmental group appealed the EPD variance based on a contention that the wetlands were subject to the buffer requirement. The Georgia Supreme Court affirmed the EPD grant of the variance. The Court’s reasoning is somewhat strained and strange (and there was a dissent) but the opinion nowhere says anything about any pipe. In fact the only reference to piping that I have been able to find appears in Section 14-38(a)(16) of the Dekalb Erosion and Sedimentation Ordinance and in Section 391-3-7-.05 (9) to (11) of the Regulations issued by the Georgia Department of Natural Resources. Both variances for piping (at least to the extent of 25' minimum State buffer) require a variance from the EPD and both provisions do not allow the piping to extend into downstream property. In this

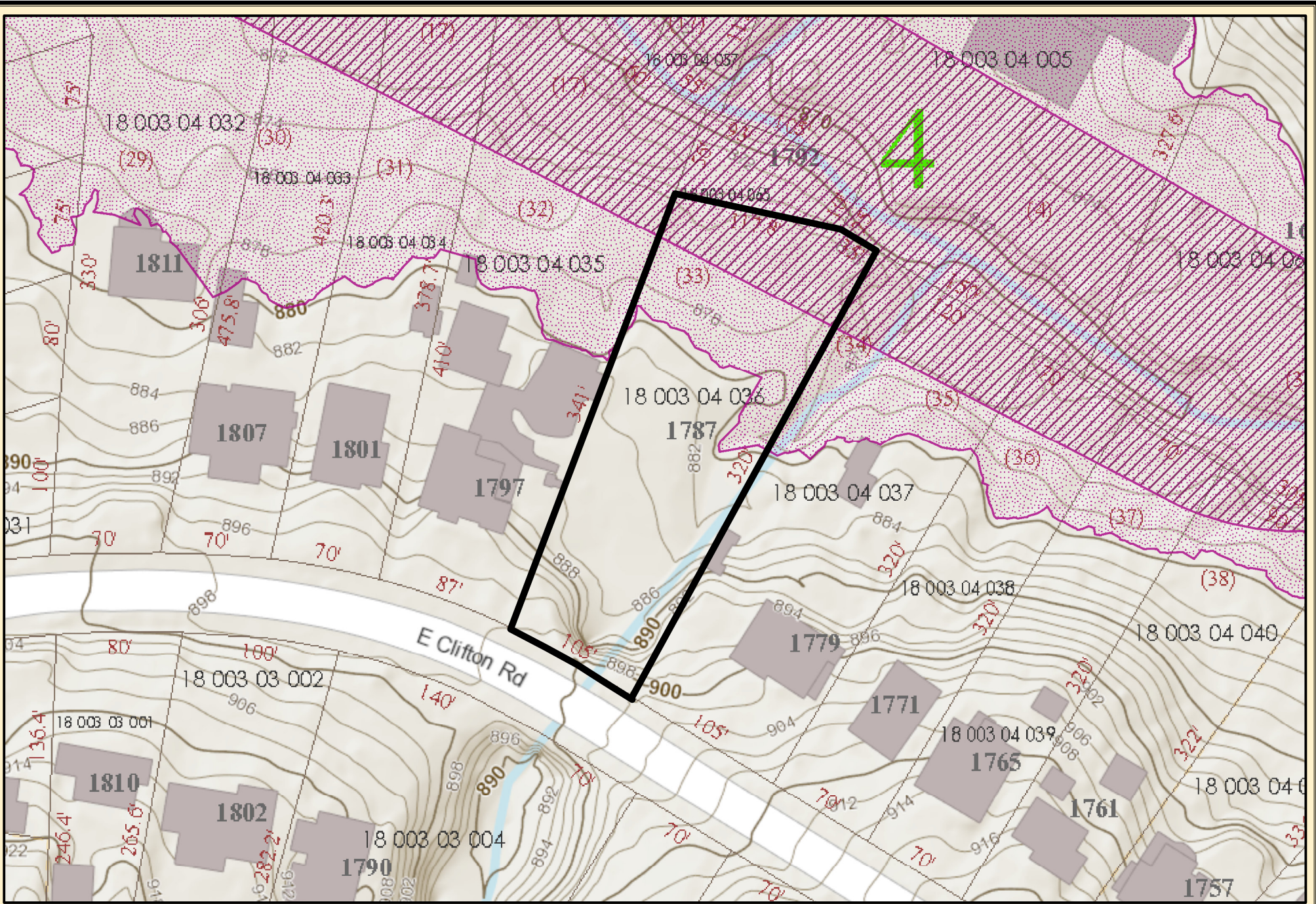
case there appears to be no EPD variance applied for and the pipe in question extends for a substantial distance onto my property.

The Dekalb Ordinance Sec 14-44.1(a)(1) requires a 75 foot buffer from each bank of a stream. Subsection (a) (4) provides that piping is not allowed in a stream buffer except pursuant to a variance. However, subsection (b)(1) provides that the County may not grant a variance within the twenty five foot state buffer. Subsection (b)(6) reiterates that a variance may not be granted within the 25 foot state mandated buffer. The plans for the proposed development show that a residential building will encroach within ten (10) feet of the stream and the pipe, and substantial fill will be placed even closer. This is very unwise. should repairs be required to the present pipe, it will endanger the proposed structure unless extensive and expensive shoring is applied.

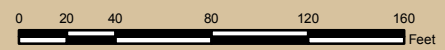
No one appears to know how old the pipe is, but when I bought my property in April of 1983 the rock headwall on my property appeared old and deteriorated and the east side of the headwall has since completely collapsed. Likewise, no one appears to know whom this pipe belongs to or who is responsible for its maintenance. If a proper application for a variance had been made, such details would have been made a matter of public record. Since there is a possibility of substantial property damage and even injury and loss of life should a structure be built close to the pipe and a sinkhole develops during a storm event. Such questions should be answered now, and not in a future lawsuit.

Respectfully Submitted,

Furman Smith, Jr.
Appellant



1787 floodplain map

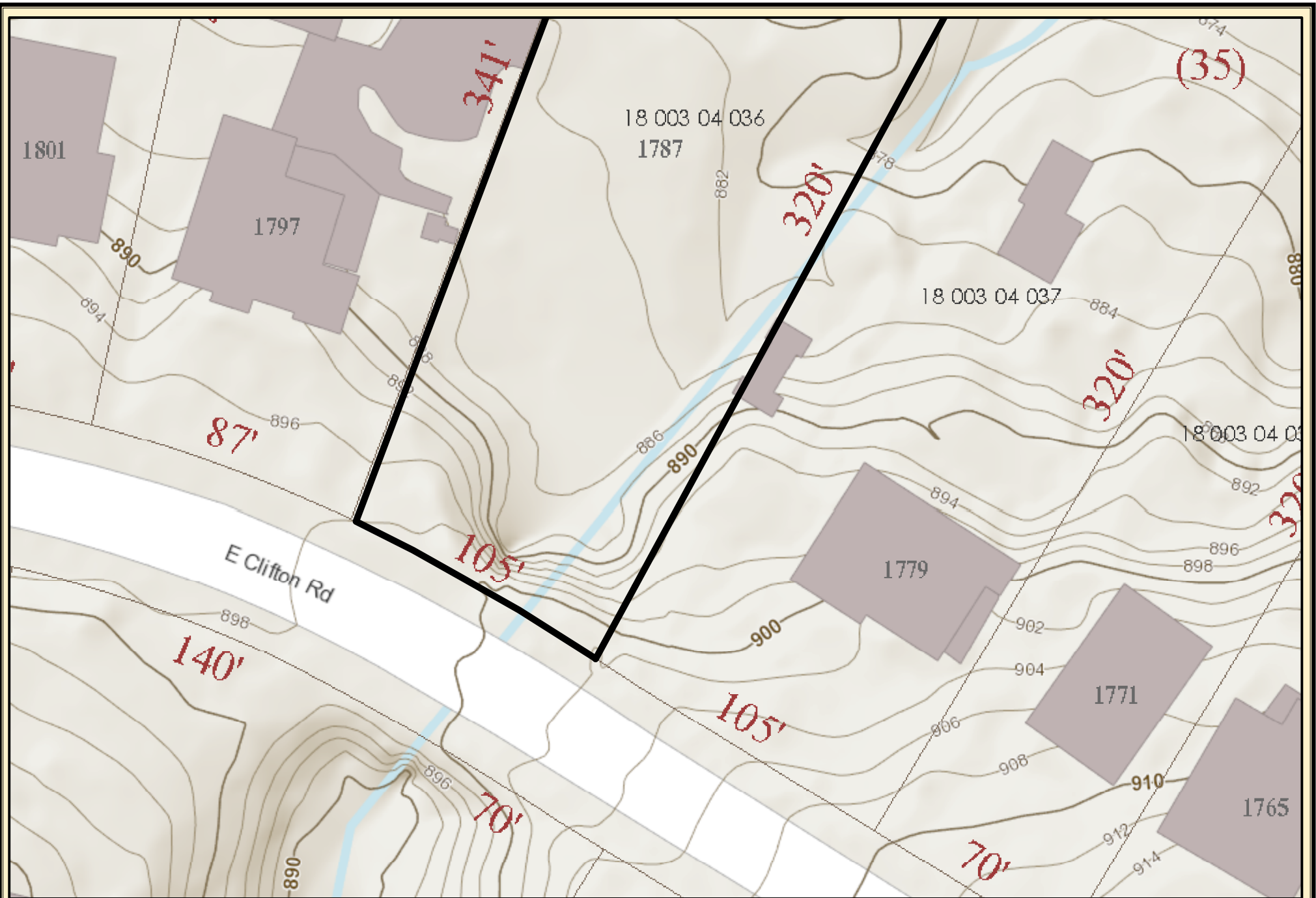


Date Printed: 8/30/2017



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1787 East Clifton Rd



Date Printed: 8/30/2017

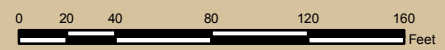


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1787 East Clifton Rd

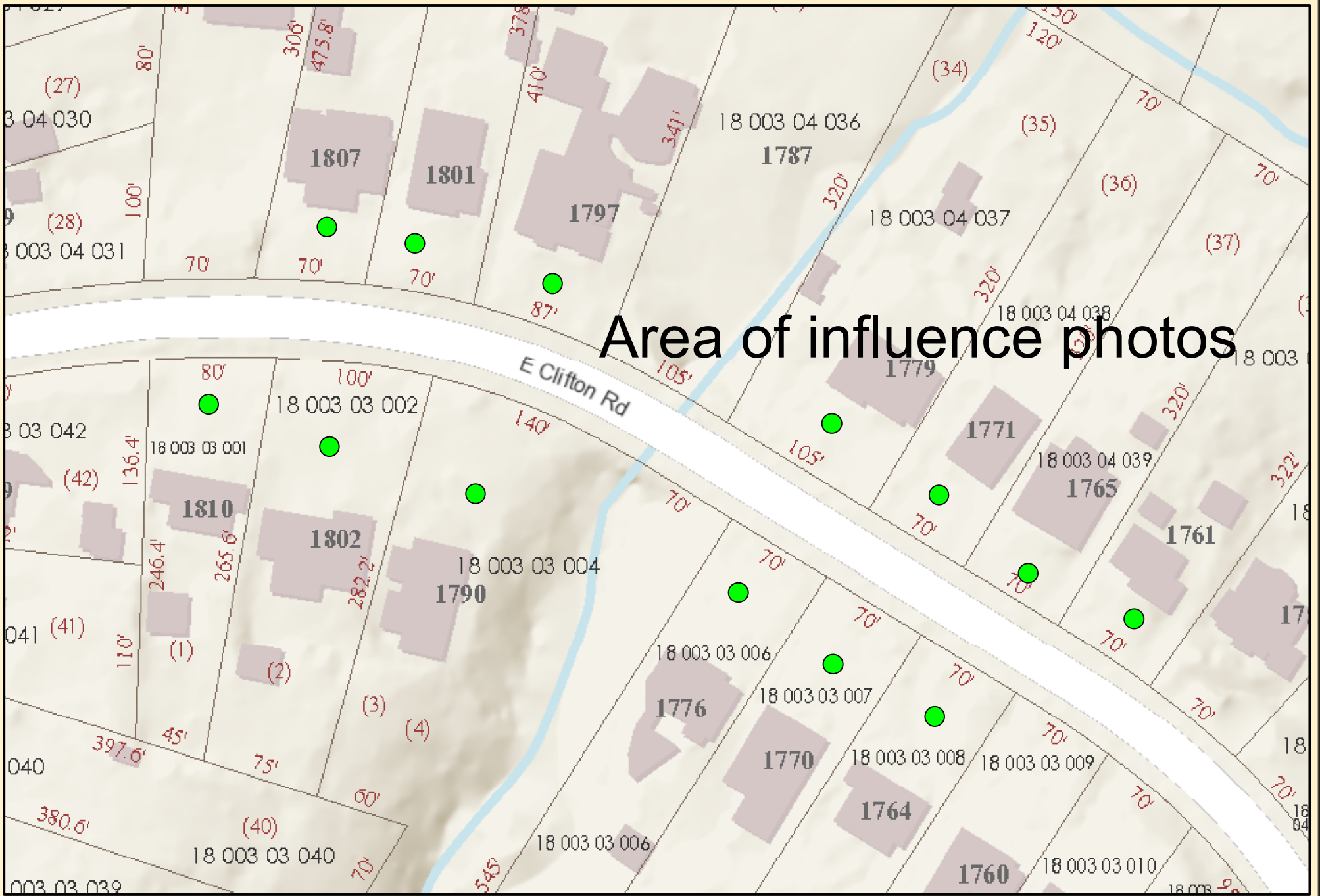


Date Printed: 8/30/2017

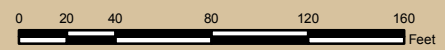


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Area of influence photos



1787 E Clifton area of influence



Date Printed: 11/9/2017



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