



DeKalb County Government

Manuel J. Maloof Center
1300 Commerce Drive
Decatur, Georgia 30030

Agenda Item

File ID: 2021-2189

Substitute

3/9/2021

Public Hearing: YES NO

Department: Public Works - Transportation

SUBJECT:

Commission District(s): 2 and 6

Resolution, Order and Declaration of Taking of Fee Simple Right of Way “Improvements at 40 Intersections within DeKalb County”. Cost to County is \$4,640.00

Information Contact: David Pelton

Phone Number: 770-492-5206

PURPOSE:

To consider adopting the attached Resolution, Order and Declaration of Taking for acquisition of certain fee simple right of way in parcel 18 (Owner: The Sycamore Square Condominium Association, Inc.) needed for “Improvements at 40 Intersections within DeKalb County” (the “Project”); and
To consider authorizing the Chief Executive Officer to execute all necessary documents.

NEED/IMPACT:

The condemnation will enable the County to include the subject property in the project to upgrade traffic signals and pedestrian features at the intersection of Sycamore Street and Commerce Drive. The required property interests are valued at \$4,640.00 and a certified letter has been sent to the property owner.

FISCAL IMPACT:

The fiscal impact to DeKalb County is \$4,640.00. The funding source is Capital Improvement Program (CIP), Georgia Department of Transportation (GDOT) funding.

RECOMMENDATION:

To adopt the attached Resolution, Order and Declaration of Taking for acquisition of certain fee simple right of way in parcel 18 (Owner: The Sycamore Square Condominium Association, Inc.) needed for “Improvements at 40 Intersections within DeKalb County” (the “Project”); and,
To authorize the Chief Executive Officer to execute all necessary documents.

RESOLUTION

**A RESOLUTION AUTHORIZING THE EXERCISE OF THE DEKALB COUNTY
POWERS OF EMINENT DOMAIN IN THE ACQUISITION OF CERTAIN INTERESTS
IN PROPERTY SITUATED IN DEKALB COUNTY, GEORGIA
FOR TRANSPORTATION PURPOSES**

WHEREAS, pursuant to Article 9, Section 2, Paragraph 5 of the Georgia Constitution, counties may acquire private property in fee simple or in any lesser interest by eminent domain for public purposes; and,

WHEREAS, the governing authority of DeKalb County, Georgia, a political subdivision of the State of Georgia, has determined that the circumstances of this matter are such that there is a necessity for exercising its powers of eminent domain pursuant to O.C.G.A. § 32-3-1 *et seq.* in the acquisition of certain interests in property for county transportation purposes:

NOW THEREFORE, BE IT AND IT IS HEREBY RESOLVED, that the DeKalb County Attorney, or her designee, is ordered and directed to institute proceedings in rem pursuant to O.C.G.A. § 32-3-1 *et seq.* in the DeKalb County Superior Court in order to condemn that certain property and interests therein more particularly described in Exhibit "A" which is attached hereto and made a part hereof by reference as though fully set forth at this point, all to the use of DeKalb County, said property now or formerly vested in The Sycamore Square Condominium Association, Inc., as well as his successors or assigns. It is further resolved that payment of just and adequate compensation in the amount of Four Thousand Six Hundred Forty Dollars (\$4,640.00) be made to the person or persons entitled to such payment. The Chief Executive Officer or the Presiding Officer may sign any documents and/or pleadings required for proper filing under the aforementioned code sections, including, but not limited to, a Declaration of Taking and Order of the Board of Commissioners. The County Attorney, or her designee, is

hereby authorized to approve a settlement with the landowner with respect to the condemnation matter authorized herein.

ADOPTED by the DeKalb County Board of Commissioners this _____ day of _____, 2020.

DEKALB COUNTY BOARD OF COMMISSIONERS:

STEVE BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2020.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Parcel 18

(Tax ID # 15-246-02-069)

The Sycamore Square Condominium Association, Inc.

5 Sycamore Square

Decatur, GA 30030

EXHIBIT A

DECLARATION OF TAKING

WHEREAS, DeKalb County, Georgia has made and passed a Resolution, and entered an Order, finding that the circumstances in connection with acquiring certain interests in property and easements for public (county) transportation purposes are such that it is necessary to acquire title, estate, or interest in the lands fully described in said Order to condemn contained in the Resolution. The Order is attached to this Declaration as Appendix A and made a part hereof, under O.C.G.A. § 32-3-1 *et seq.*; and

WHEREAS, said interests in property and easements are for public purposes upon, across and over the tract of land in said county, as fully described in the attachment hereto identified as Appendix B to Exhibit A and made a part hereof; and

WHEREAS, DeKalb County, Georgia has caused an investigation and report to be made by a competent land appraiser upon which to estimate the sum of money to be deposited in the Court as just and adequate compensation for the easements, above-referenced to, a copy of the appraiser's sworn statement being attached hereto identified as Appendix C to Exhibit A and made a part hereof; and

WHEREAS, in consequence of the sworn statement, Appendix C to Exhibit A, DeKalb County, Georgia estimates Four Thousand Six Hundred Forty Dollars (\$4,640.00) as just and adequate compensation to be paid for said easements, as fully described in Appendix B to Exhibit A which is attached hereto and made a part hereof and now deposits said sum in the Court to the use of the persons entitled thereto.

NOW THEREFORE, the premises considered, DeKalb County, Georgia, under authority of O.C.G.A. § 32-3-1 *et seq.*, hereby declares that the property and interests as

Intersection Improvements – Parcel 18
Project: STP00-0002-00(669)

described in Appendix B to Exhibit A, which is attached hereto and made a part hereof of this Declaration, is taken for purposes of locating, constructing, maintaining, repairing, extending, expanding, and/or installing a traffic signal upgrades for public (county) transportation purposes.

DEKALB COUNTY BOARD OF COMMISSIONERS:

STEVE BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of

_____, 2020.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

**BARBARA H. SANDERS-
NORWOOD, CCC**
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



Ashley C. Brown

Ga. Bar No. 287373

CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Intersection Improvements – Parcel 18
Project: STP00-0002-00(669)

Exhibit A

Appendix A (Order to Condemn)

**ORDER OF THE DEKALB COUNTY BOARD OF COMMISSIONERS
TO CONDEMN PROPERTY FOR TRANSPORTATION PURPOSES**

WHEREAS, the Board of Commissioners of DeKalb County has laid out and determined to construct a public transportation project for DeKalb County at that certain parcel identified for tax purposes as parcel identification number 15-246-02-069 by the DeKalb County Board of Tax Assessors, the same being more fully described and shown in the description and drawing attached as Appendix B to the Declaration of Taking.

WHEREAS, the tract of property and other rights as herein described and listed below shown of record as owned by the persons named herein, all as described and shown in Appendix B to the Declaration of Taking (Exhibit A to the Petition for Condemnation) incorporated herein by reference and made a part of this Order are essential for the construction of said project:

Property/Rights: 95.13 Square Feet in Fee Simple

Owner: The Sycamore Square Condominium Association, Inc.

NOW THEREFORE, in accordance with O.C.G.A. § 32-3-6 *et seq.*, it is hereby found by the Board of Commissioners of DeKalb County that the circumstances are such that it is necessary that the property as described in Appendix B to Exhibit A of the Declaration of Taking (Exhibit A to the Petition for Condemnation) be acquired by condemnation under the provisions of O.C.G.A. § 32-3-1 *et seq.* for public transportation purposes.

IT IS ORDERED, that DeKalb County proceed to acquire the title, estate or interest in the lands hereinafter described as Appendix B of the Declaration of Taking by condemnation under the provisions of said Code, and the County Attorney, or his or her designees, are authorized and directed to file condemnation proceedings, including, but not limited to, a

Intersection Improvements
Project: STP00-0002-00(669)

Declaration of Taking, to acquire said title, estate or interest in said lands and to deposit in the Court the sum estimated as just compensation all in accordance with the provisions of said law.

SO ORDERED by the DeKalb County Board of Commissioners, this _____ day of _____, 2020.

DEKALB COUNTY BOARD OF COMMISSIONERS:

STEVE BRADSHAW
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County this _____ day of _____, 2020.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

Attest:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer
DeKalb County, Georgia

Intersection Improvements
Project: STP00-0002-00(669)

APPROVED AS TO FORM:



Ashley C. Brown

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CAPLAN COBB LLP

75 Fourteenth Street, NE, Suite 2750

Atlanta, Georgia 30309

Tel: (404) 596-5600

Fax: (404) 596-5604

abrown@caplancobb.com

Counsel for DeKalb County, Georgia

Exhibit A

Appendix B
(Property Description)

EXHIBIT "A"

REQUIRED RIGHT OF WAY

PROJECT NO.: STP00-0002-00(669), DEKALB COUNTY

P. I. NO.: 0002669

THE SYCAMORE SQUARE CONDOMINIUM ASSOCIATION, INC.

PARCEL NO.: 18

TAX PARCEL ID #15-246-02-069

All that tract or parcel of land lying and being in Land Lot 246 of the 15th Land District of DeKalb County, Georgia, being more particularly described as follows:

Beginning at a point 29.57 feet left of and opposite Station 347+02.39 on the centerline of Commerce Dr;

Thence proceeding N 89° 59' 52" E for a distance of 10.22 feet to a point 39.79 feet left of and opposite Station 347+02.52 on the centerline of Commerce Dr;

Thence proceeding S 0° 06' 30" W for a distance of 3.28 feet to a point 39.74 feet left of and opposite Station 347+05.79 on the centerline of Commerce Dr;

Thence proceeding S 38° 10' 22" W for a distance of 4.79 feet to a point 36.74 feet left of and opposite Station 347+09.52 on the centerline of Commerce Dr;

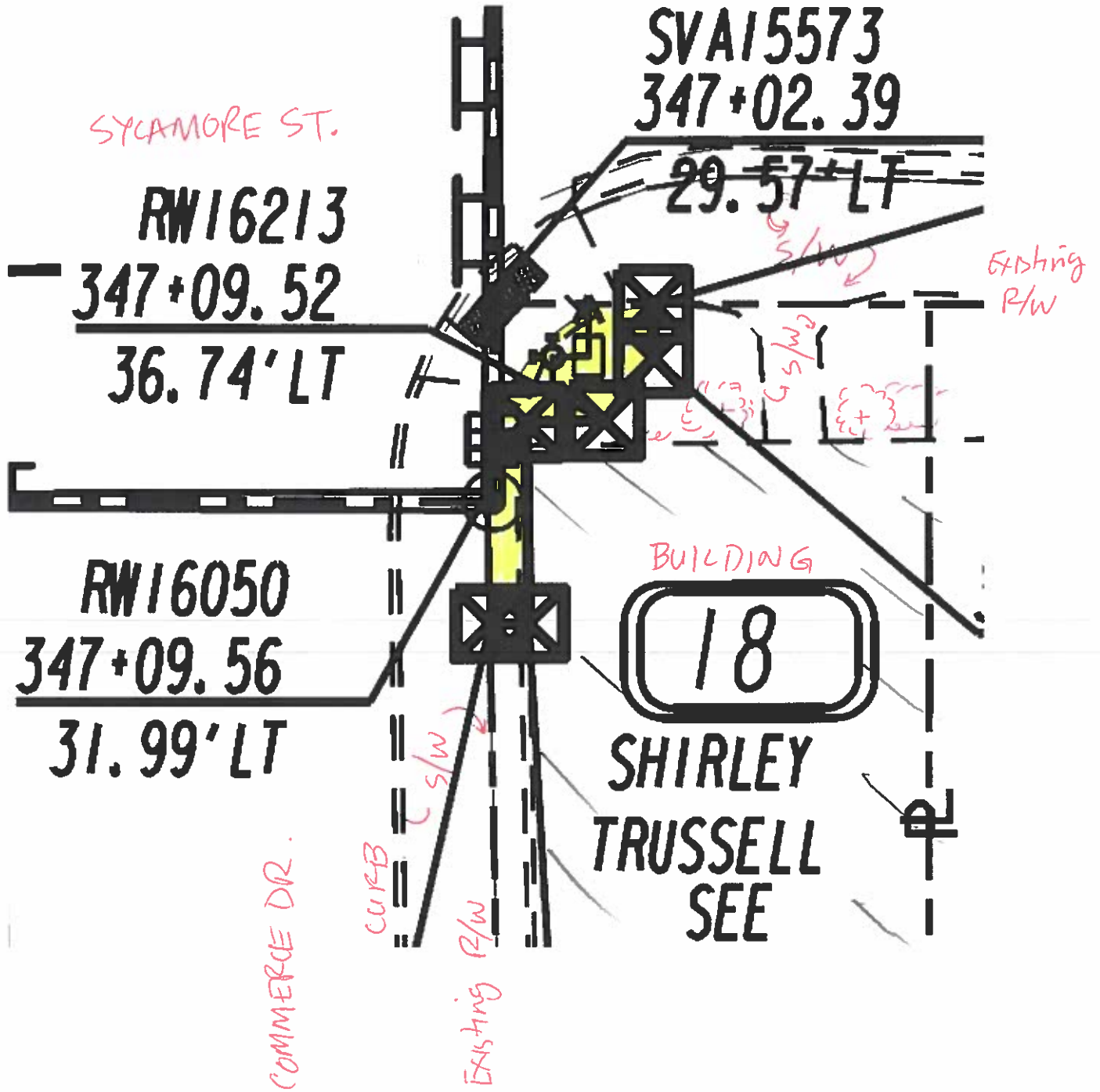
Thence proceeding S 88° 50' 12" W for a distance of 4.74 feet to a point 31.99 feet left of and opposite Station 347+09.56 on the centerline of Commerce Dr;

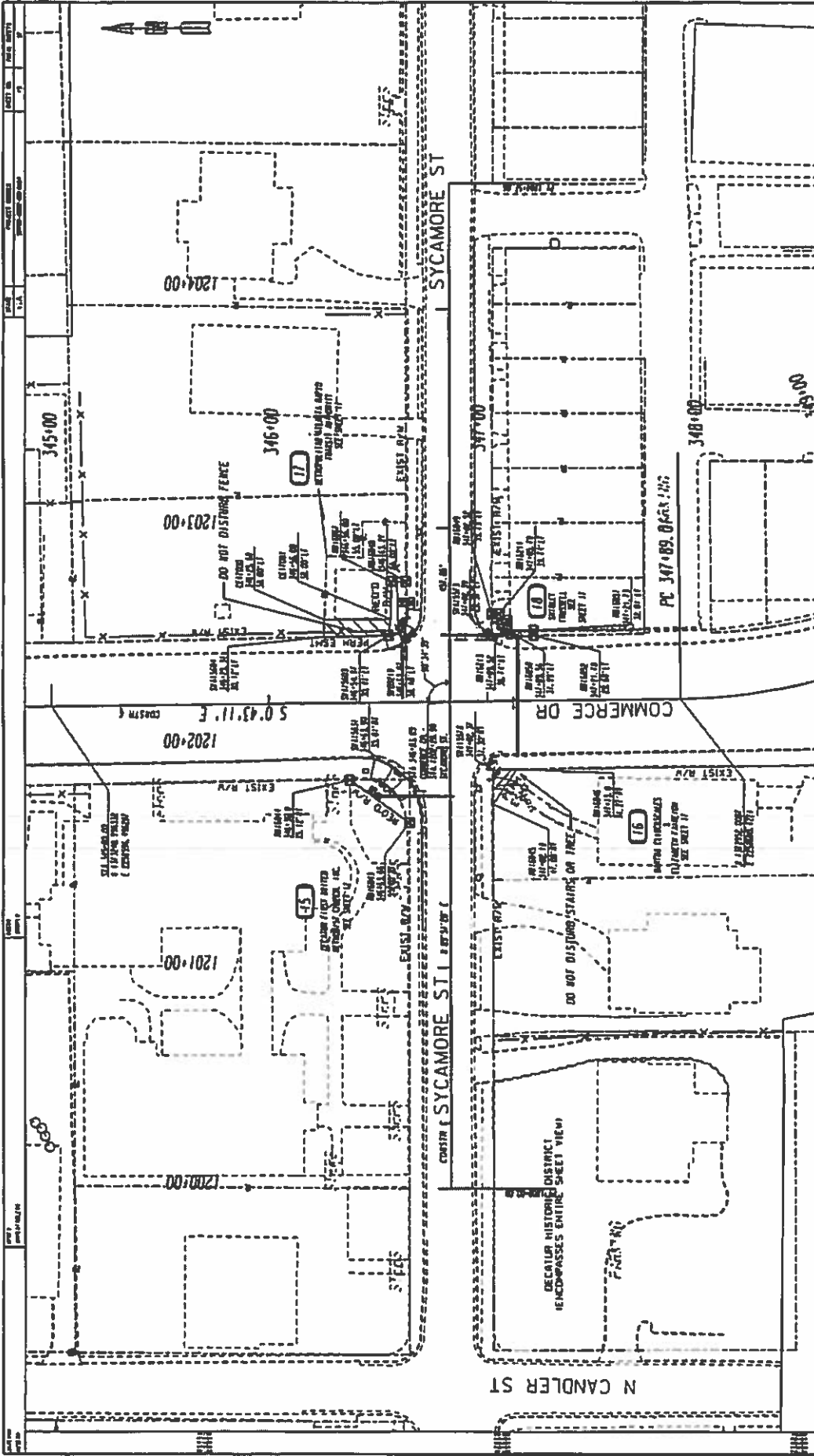
Thence proceeding S 0° 49' 41" E for a distance of 12.18 feet to a point 32.01 feet left of and opposite Station 347+21.73 on the centerline of Commerce Dr;

Thence proceeding N 90° 00' 00" W for a distance of 2.34 feet to a point 29.68 feet left of and opposite Station 347+21.70 on the centerline of Commerce Dr;

Thence proceeding N 1° 02' 51" W for a distance of 19.32 feet to a point 29.57 feet left of and opposite Station 347+02.39 on the centerline of Commerce Dr. back to the **POINT OF BEGINNING**, containing 95.13 square feet (0.002 acres) more or less.

Said described land being fee simple and shown on the attached Right of Way Maps, prepared by AECOM dated October 5, 2007 and revised April 19, 2019 is made a part hereof and by reference.





<p>PROPERTY AND UTILITIES FOR THE PROPOSED 8.00' WIDE CONSTRUCTION LIMITS CALCULATED FOR CONSTRUCTION & MAINTENANCE OF SLOPES EXCEPT FOR WIDTH OF SLOPES CALCULATED FOR CONSTRUCTION</p>		<p>AECOM ONE ALLEGREE ST ATLANTA, GEORGIA 30309 TEL: (404) 949-7400</p>		<p>DATE REVISIONS</p> <p>5/20/11 FOR THE RECORD FOR THE RECORD 5/20/11 FOR THE RECORD FOR THE RECORD 5/20/11 FOR THE RECORD FOR THE RECORD 5/20/11 FOR THE RECORD FOR THE RECORD</p>		<p>STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP PROJECT NO. STATE-ROAD-CON-4451 COUNTY, DECATUR ROAD DISTRICT, 14 END, 311 DATE 10/20/09 SH 15 OF 31</p>	
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 MARTHA CLAIRSCALES
 &
 ELIZABETH FAUBICH
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18
 SHIRLEY FRUSSELL
 SEE SHEET 15

PANEL 18 - SEE PLAN SHEET 15
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AECOM
 6750 RICHMOND ST
 FORT LINDSEY, CALIF. 95030
 TEL: 916/937-2600

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 (SEE PLAN SHEET 15)
 CONSTRUCTION LIMIT OF ACCESS
 (SEE PLAN SHEET 15)
 CENTER OF SLOPE LIMIT OF ACCESS
 (SEE PLAN SHEET 15)

REVISIONS
 NO. 1
 DATE
 DESCRIPTION

DATE REVISIONS
 11/15/88
 11/15/88
 11/15/88
 11/15/88

STATE OF GEORGIA
 DEPARTMENT OF TRANSPORTATION
 PROJECT NO. ST000-0000-001481
 COUNTY, DEKALB
 ROAD DISTRICT, 246, 411
 CONTRACT NO. ST000-0000-001481-15
 SHEET NO. 15
 DATE 10/20/88 54 17 OF 37

Exhibit A

Appendix C (Appraiser Certification)

CERTIFICATION OF APPRAISERSTATE OF GEORGIA
COUNTY OF DEKALBPROJECT NO – STP00-0002-00(669)
PARCEL NUMBER – 18

I Hereby Certify:

That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal. No one provided significant professional assistance to the appraiser in completion of this report.

That to the best of my knowledge and belief, the statements contained in the appraisal herein set forth are true and correct, the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting condition, and are my personal, unbiased professional analyses, opinions, and conclusions. That my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The appraiser is currently certified under the continuing education program of the State of Georgia through the date January 31, 2021. The appraiser is also currently certified under the voluntary continuing education program of The Appraisal Institute.

That I understand that such appraisal may be used in connection with the acquisition of right-of-way for a project to be constructed by the State of Georgia with the assistance of Federal-Aid highway funds and other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge, no portion of the value assigned to such property consists of items which are non-compensable under the established law of said State.

That my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. That I have no personal interest in or bias with respect to the parties involved and that I have no present or prospective interest in the property that is the subject of this report.

That I have not revealed the findings and results of such appraisal to anyone other than the property officials of the acquiring agency of said State or officials of the Federal Highway Administration and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my opinion of market value of the subject property as of the effective date 21st day of February 2020 is \$4,640 (rounded) based upon my independent appraisal and the exercise of my professional judgment.

Name: Cheryl Worthy-Pickett

3/30/2020

Telephone Number: (404) 376-4718

E-mail: cwpickett@bellsouth.net

Appraiser's Signature

Address: 3939 Lavista Road, Suite E Box 352 Atlanta, GA 30084



DeKalb County
Public Works
Transportation Division

1950 W. Exchange Place, 4th Floor
Tucker, Georgia 30084
Phone: 770-492-5206 - Fax: 770-492-5201

November 10th, 2020

USPS CERTIFIED MAIL: 7003 3110 0004 0073 7929

RE: PROJECT: STP00-0002-00(669)
P.I. NUMBER: 0002669

COUNTY: DEKALB
PARCEL: 18

The Sycamore Square Condominium Association, Inc.
5 Sycamore Sq.
Decatur GA 30030

Dear : Property Owner

As you know, the State of Georgia acting through the Department of Transportation must acquire a portion of your property in conjunction with the construction of the above numbered project.

The property rights have been explained by our negotiator and are shown in color on the plat attached to the option previously furnished to you. Through a process of thorough review of expert appraisals, we believe that the Fair Market Value for your property is **\$4,640.00**.

We prefer to and do purchase most of the property needed for right of way; however, we are authorized by law to acquire property by condemnation. As litigation is costly to both the State and Landowner, it is our sincere desire that upon reconsideration of our offer, a settlement agreement can be reached, hopefully avoiding litigation. Since negotiations for the required property rights have concluded, the Department provides an administrative appeal process as a final opportunity toward reaching an amicable settlement. Should you elect to submit an appeal, your request must be made directly to DeKalb County within ten (10) days of this letter, or by **11/05/2020**. This appeal should be requested by mail using the attached form. It must include the lowest monetary amount acceptable to you with any supporting documentation.

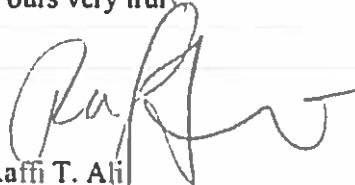
Page 2

Project: STP00-0002-00(669) County: DeKalb
P. I. Number: 0002669 Parcel: 18

Upon receipt of your appeal, an authorized representative of the Department will contact you to arrange a meeting for a discussion of your views and supporting documentation of the value of your property. With this being the final effort for settlement, please be prepared to furnish any supporting documentation. You are not required to be represented by an attorney; however, anyone you deem necessary may accompany you. Should this final review fail to produce an agreement, condemnation action will be initiated.

Legal proceedings will be instituted after November 25, 2020, if we have not received an executed option, a request for an appeal, or some other form of satisfactory reply. We regret that such action may become necessary, but we must proceed with acquisition in order to meet the scheduled construction dates.

Yours very truly



Raffi T. Ali
Land Acquisition Specialist
Phone: 770-492-5288
Email: tali@dcalbcountyga.gov

TA

Cc: File

Exhibit A

Appendix B (Property Description)

EXHIBIT "A"

REQUIRED RIGHT OF WAY

PROJECT NO.: STP00-0002-00(669), DEKALB COUNTY

P. I. NO.: 0002669

THE SYCAMORE SQUARE CONDOMINIUM ASSOCIATION, INC.

PARCEL NO.: 18

TAX PARCEL ID #15-246-02-069

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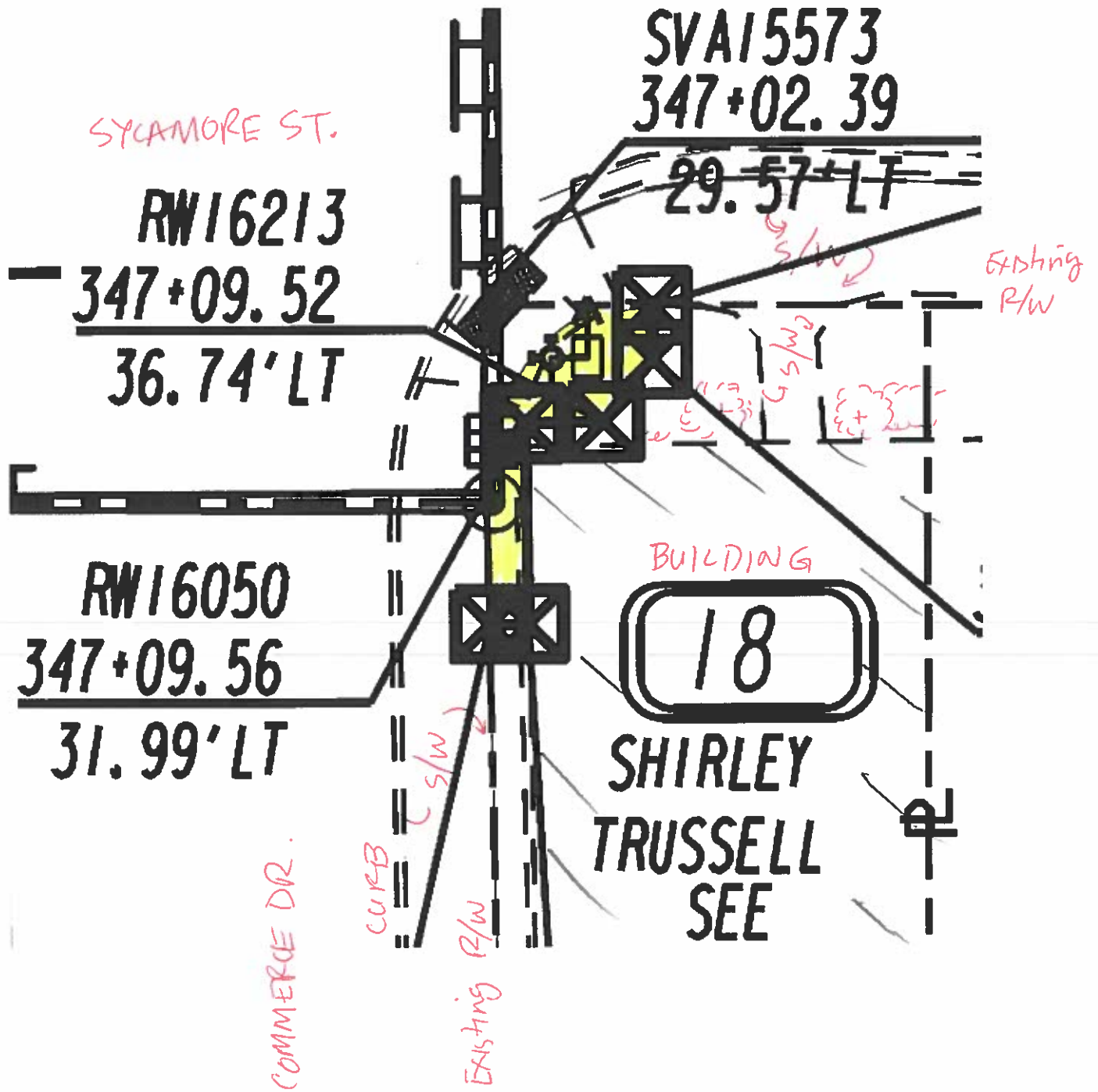
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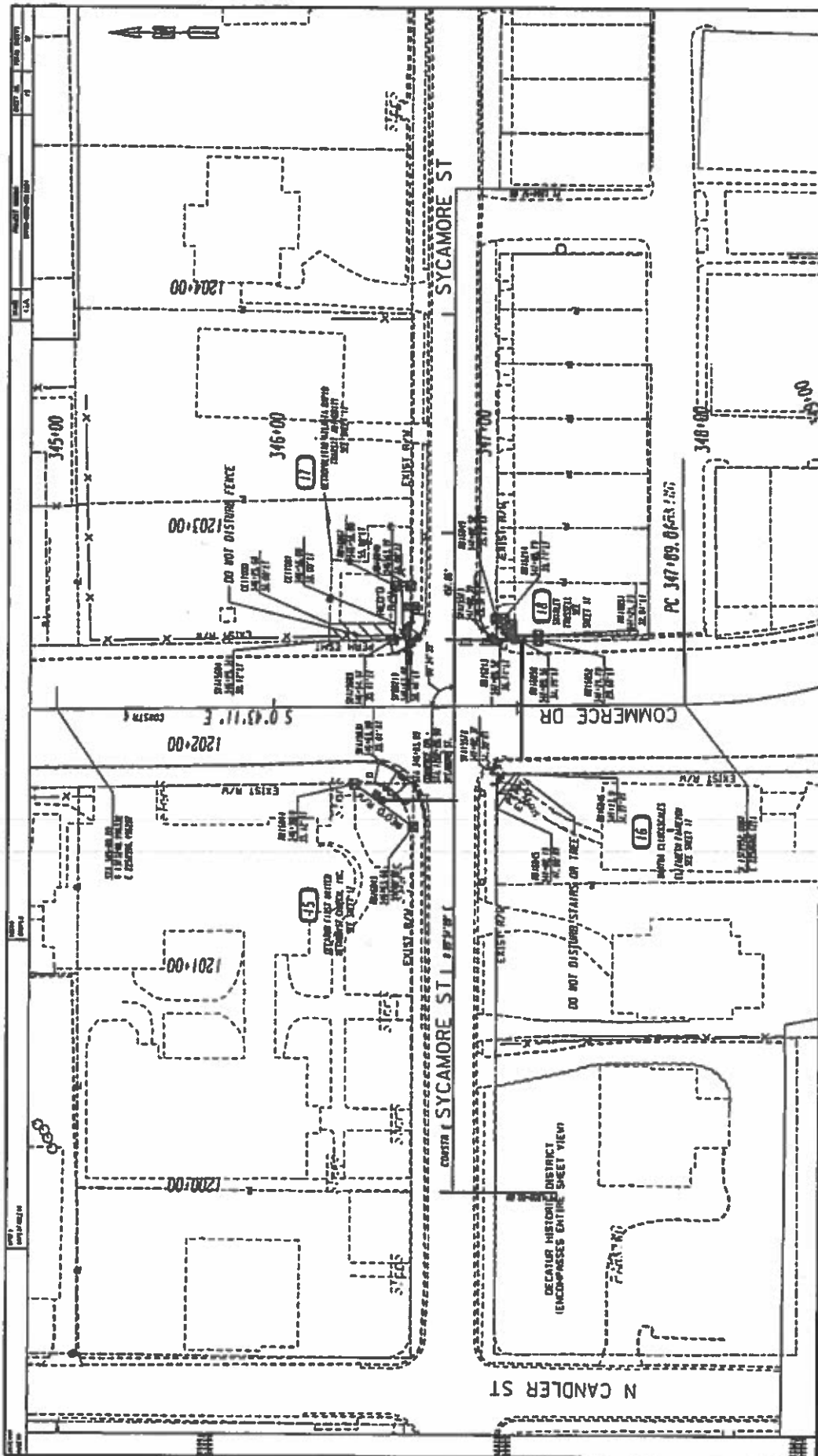
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Said described land being fee simple and shown on the attached Right of Way Maps, prepared by AECOM dated October 5, 2007 and revised April 19, 2019 is made a part hereof and by reference.





<p>PROJECT NO. 15 SHEET NO. 15 OF 15 DATE 10/20/09</p>	<p>STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP PROJECT NO. ST09-000-001(03) COUNTY, DEKALB LAND OF THE STATE AND DISTRICT 15 DATE 10/20/09</p>
<p>DATE: 10/20/09 DRAWN BY: J. HARRIS CHECKED BY: J. HARRIS IN CHARGE: J. HARRIS</p>	<p>AECOM 1000 RIVERCHASE ST 4TH FLOOR ATLANTA, GA 30309 TEL: 404.524.4600</p>
<p> <input type="checkbox"/> EXISTING <input type="checkbox"/> PROPOSED <input type="checkbox"/> EIA <input type="checkbox"/> EIA <input type="checkbox"/> LIMIT OF ACCESS <input type="checkbox"/> LIMIT OF ACCESS <input type="checkbox"/> LIMIT OF ACCESS <input type="checkbox"/> LIMIT OF ACCESS </p>	<p> LEGEND EXISTING PROPOSED EIA EIA LIMIT OF ACCESS LIMIT OF ACCESS LIMIT OF ACCESS LIMIT OF ACCESS </p>
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**Public Works Department
Transportation Division**



1950 West Exchange Place, 4th Floor, Tucker, Georgia 30084

February 17, 2021

Sycamore Square Condominium Association, Inc.
C/O Scott W. Peters
Schreeder, Wheeler & Flint, LLP
1100 Peachtree Street, NE, Suite 800
Atlanta, Georgia 30309

RE: Intent to Comdemn – DeKalb County, Georgia
Intersection Improvements @ 40 Locations in DeKalb County
PI #0002669
Project Parcel #18; Tax ID #15-246-02-065; 16 Sycamore Street, Decatur, GA

Dear Property Owner:

Under Georgia State Laws, a County is empowered to acquire private property for public use by payment of just and adequate compensation for that property. Based on our appraisal of your property, DeKalb County is offering payment to you in the amount of \$4,640.00. Since negotiations have failed, it is being recommended that your property be acquired through condemnation action, which will assure you of having opportunity to present evidence of value in a condemnation proceeding and the right of appeal for a jury trial.

The DeKalb County Board of Commissioners will consider a resolution to condemn your property at its regularly scheduled meeting held on Tuesday, March 9, 2021 at 10:00 a.m. This meeting will be conducted via teleconference (Zoom). Simultaneous public access to the meeting will be available (1) via live stream on DCTV's webpage and (2) DCTVChannel23.TV. The public is invited to watch the broadcast on DCTV's UStream link <https://video.ibm.com/channel/dctv-channel-23>), or join the meeting using the Zoom link (<https://dekalbcountyga.zoom.us/j/7753778046>), or by telephone (602-333-0032 or 888-270-9936, conference code: 217687). For those joining the meeting by telephone, please be aware that your phone number may be displayed to the public viewing or participating in the online meeting. The Board will provide 15 minutes of time for citizens to speak in favor of an agenda item, and 15 minutes for citizens to speak in opposition. Citizens who attend the meeting via the Zoom link above may join the public comment queue by raising their hand in the Zoom application, while citizens who attend the meeting via telephone may join the comment queue by pressing # followed by 2. There will be no comment cards, so when you are called upon, please state your name and address for the record. Also, please be conscious of speaking time so that everyone has an opportunity to provide input in the allotted time. Citizens may also email documents for inclusion into the official record by submitting such materials by 9:00 a.m. on the date of the public hearing to PublicHearing@dekalbcountyga.gov. While your presence at this meeting is not required, you may attend if you so desire. Should the Board vote to condemn your property, you will be notified.

If you receive a carbon copy of this letter, we may not be condemning your ownership interest in this property; however, we are giving all parties who have any ownership interest in this property notice of this intent to condemn. For your review, we have attached a plat and legal description showing the location of the actual boundaries of the property being considered for condemnation so that you can determine if your ownership interest is affected.

I would like to point out that even after the initiation of condemnation proceedings, the County will work with you in an attempt to reach a mutual agreement. In the meantime, should you decide to reconsider the County's offer or if you have any questions, please call Raffi T. Ali at 770-492-5288 or at tali@dekalbcountyga.gov.

Sincerely,



David Pelton, Deputy Public Works Director
Transportation Division

DWP/ta