



Rezoning Application

An application to amend the official zoning map of the City of Lilburn, Georgia

CASE NUMBER: RZ-2018-05

Date Received: 11/30/18

Please type or print using BLACK ink

Applicant: Planners and Engineers Collaborative, Inc.	Property Owner: McDaniel Enterprises
Address: 350 Research Ct, Suite 200	Address: 3296 Summit Ridge Pkwy, Suite 2110
City, State & Zip: Peachtree Corners, GA 30092	City, State & Zip: Duluth, GA 30096
Contact Person: Kenneth J. Wood	Owner Contact: Cynthia Raines c/o Thomas E. Raines
Business Phone: 678.684.6219	Business Phone: 770.263.0093
Email: dianne@pecatl.com, kwood@pecatl.com	Email: traines@traineslaw.com
Cell Phone: 770.380.5969	Cell Phone: 404.580.6807

APPLICANT IS THE ☒ Owner's Agent ☐ Property Owner ☐ Contract Purchaser

PROPERTY ADDRESS: 5175 Lawrenceville Hwy, Lilburn, Ga 30047

LAND DISTRICT: 6 LAND LOT(S): 146 PARCEL(S): 6146 013, 06146 431 ACRE(S): 11.87

CURRENT ZONING: CB & R2 PROPOSED ZONING DISTRICT(S): CB with SUP

PROPOSED DEVELOPMENT:

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
Number of Lots/Dwelling Units <u>90</u>	Number of Buildings/Lots: <u>2</u>
Dwelling Unit Size (sq.ft.): <u>1550 sqft</u>	Total Gross Square Feet: <u>23,800</u>

Has Applicant filed or intend to file, any other variance, rezoning or waiver applications? ☐ YES ☒ NO

If YES, describe: _____

Please attach all REQUIRED documents. Refer to Rezoning, SUP and CIC Instructions for deadlines, fees and hearing schedule.

- STANDARDS GOVERNING EXERCISE OF THE ZONING POWER (attached)
- CONFLICT OF INTEREST CERTIFICATION/CAMPAIGN CONTRIBUTIONS (attached)
- APPLICANT/PROPERTY OWNER NOTARIZED CERTIFICATIONS (attached)
- TYPED LEGAL DESCRIPTION OF PROPERTY
- TYPED LETTER OF INTENT
- SITE PLAN/ BOUNDARY SURVEY – 1 full size (to scale) copy and 5 reductions (8.5" x 11") or electronic file
- LIST OF ADJOINING PROPERTY OWNERS – names and mailing addresses

City of Lilburn Planning and Economic Development Department (770) 638-2198 • Fax (770) 921-8854
340 Main St. • Lilburn, Georgia 30047 • www.CityofLilburn.com

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

Pursuant to Section 1702 of the 1985 Zoning Resolution, the Mayor and Council of the City of Lilburn find that the following standards are relevant in balancing interest in promoting the public health, safety, unrestricted use of property and shall govern the exercise of the zoning power.

- (A) Whether a proposed rezoning (or Special Use Permit) will permit a use that is suitable in view of the use and development of adjacent and nearby property:

SEE ATTACHED

- (B) Whether a proposed rezoning (or Special Use Permit) will adversely affect the existing use or usability of adjacent or nearby property:

- (C) Whether the property to be affected by a proposed rezoning (or Special Use Permit) has a reasonable economic use as currently zoned:

- (D) Whether the proposed rezoning (or Special Use Permit) will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

- (E) Whether the proposed rezoning (or Special Use Permit) is in conformity with the policy and intent of the Land Use Plan:

- (F) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning (or Special Use Permit):

November 27, 2018

5175 Lawrenceville Hwy
Lilburn, Georgia

Rezoning (Special Use Permit) Application

RE: Standards Governing The Exercise of the Zoning Power

A. Whether a proposed rezoning (or Special Use Permit) will permit a use that is suitable view of the use and development of the adjacent and nearby property:

The surrounding community consists of a school, residential for-sale, multi-family rental, public park, and commercial. To be able to walk to the school and park make this site a great site for a mixture of uses. The SUP will allow for sale residential to be combined with commercial around the park and school.

B. Whether a proposed rezoning (or Special Use Permit) will adversely affect the existing use of usability of adjacent or nearby property:

The SUP will actually be positive for the area and uses. The residential will provide walkability to school and park. The residential for sale will also provide housing to support commercial CB uses.

C. Whether a proposed rezoning (or Special Use Permit) has a reasonable economic use as currently zoned:

The current site is undeveloped at this time and it has a split zoning for large residential detached and CB. The zoning line is not useable as a use. The CB with the SUP provides a mixture to enhance the community.

D. Whether a proposed rezoning (or Special Use Permit) will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

Having a mixture of uses will help lessen impacts. Having all uses close by increases walking and reduces trip times.

E. Whether a proposed rezoning (or Special Use Permit) is in conformity with the policy and intent of the Land Use Plan:

The SUP is in conformity with the policy and intent of the Land Use Plan.

SECTION 36-37A-4: PENALTIES

Any local government official knowingly failing to make a disclosure required by Code Section 36-85-2 shall be guilty of a misdemeanor. Any applicant for rezoning action knowingly failing to make any disclosures as required by Code Section 36-83-3 shall be guilty of a misdemeanor. (Code 1981, Section 36-67A-4, enacted by Ga. L. 1986, p. 1269, Sec. 1.)

CONFLICT OF INTEREST CERTIFICATION FOR REZONINGS

The undersigned below, making application for rezoning, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.



Signature of Applicant/Applicant's Attorney or Representative

11/27/18

Date

Kenneth J. Wood

Type or Print Name

President

Title

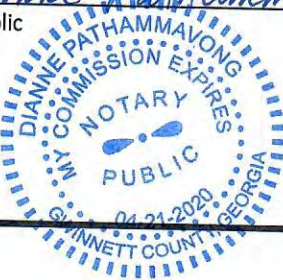


Notary Public

11/27/18

Date

(Seal)



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS AND/OR GIFTS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions or gifts of an aggregate value that is \$250.00 or more to the Mayor and Council Members or a member of the Lilburn Planning Commission? ☐ YES ☐ NO. If the answer is YES, please complete the following section:

NAME OF OFFICIAL	CONTRIBUTION/GIFT	DESCRIPTION	DATE
N/A			

Attach additional sheets if necessary to disclose or describe all contributions and gifts.

APPLICANT CERTIFICATION

The undersigned below is authorized to make this application and is aware that no application or reapplication affecting the same property shall be acted upon within twelve (12) months from the date of last action by the Mayor and Council, unless waived by the Mayor and Council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the Mayor and Council. Further, no application may be withdrawn once advertised and must receive final action by the Mayor and Council.

Kenneth J. Wood
Signature of Applicant

11/27/18
Date

Kenneth J. Wood

President

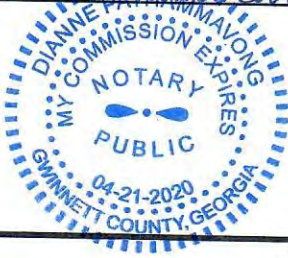
Type or Print Name

Title

Dianne P. Hammavong
Notary Public

11/27/18
Date

(Seal)



PROPERTY OWNER CERTIFICATION

The undersigned below, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied by the Mayor and Council, no application or reapplication affecting the same land shall be acted upon within twelve (12) months from the date of last action by the Mayor and Council, unless waived by the Mayor and Council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the Mayor and Council. Further, no application may be withdrawn once advertised and must receive final action by the Mayor and Council.

Signature of Owner

Date

Type or Print Name

Title

Notary Public

Date

(Seal)

ADMINISTRATIVE USE ONLY

CASE NUMBER: RZ-2018-05

DATE COMPLETE: 11/30/2018

RECEIVED BY: KR

APPLICATION FEE: \$1,500

PAID BY/RECEIPT#: 11264

HEARING DATES: PC 1/24 CC 2/11

APPLICANT CERTIFICATION

The undersigned below is authorized to make this application and is aware that no application or reapplication affecting the same property shall be acted upon within twelve (12) months from the date of last action by the Mayor and Council, unless waived by the Mayor and Council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the Mayor and Council. Further, no application may be withdrawn once advertised and must receive final action by the Mayor and Council.

Cynthia S. Raines
Signature of Applicant

11-26-2018
Date

Cynthia G. Raines
Type or Print Name

President
Title

Kelly L. Kennedy
Notary Public

11-26-2018
Date

(Seal)



PROPERTY OWNER CERTIFICATION

The undersigned below, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied by the Mayor and Council, no application or reapplication affecting the same land shall be acted upon within twelve (12) months from the date of last action by the Mayor and Council, unless waived by the Mayor and Council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the Mayor and Council. Further, no application may be withdrawn once advertised and must receive final action by the Mayor and Council.

Signature of Owner

Date

Type or Print Name

Title

Notary Public

Date

(Seal)

ADMINISTRATIVE USE ONLY

CASE NUMBER: RZ- 2018-05

DATE COMPLETE: 11/30/18

RECEIVED BY: KP

APPLICATION FEE: 1,500

PAID BY/RECEIPT#: 112104

HEARING DATES: PC 1/24 CC 2/11

11/29/2018

City of Lilburn
Planning and Economic Development
340 Main Street
Lilburn, Georgia 30047



Re: **Letter of Intent**
Highway 29 (AKA Lawrenceville Highway) and Lilburn School Road
Planners and Engineers Collaborative, Inc. Project Number 18293.00

To whom it may concern,

This rezoning application is being submitted on behalf of the owner for the proposed CB (Commercial Business District) zoning on the 11.87 acre tracts of land located at the intersection of Highway 29 and Lilburn School Road. The proposal is to provide a mixture of 21' and 24' front loaded towns along with 10,050 sf of retail and 13,750 sf of restaurant space on site. The site is currently zoned CB/R-2 and will require a SUP (Special Use Permit) for the residential portion of the development. Our proposal provides 90 for sale attached townhomes at a density of 7.58 units per acre. The site serves as a great transition from single family detached to townhomes with a retail/restaurant component also being provided.

The surrounding uses are as follows:

- East: Bryson Park
- West: Commercial Development & Calvary Baptist Church
- North: Lilburn Elementary School & Single Family Residences
- South: Lilburn Middle School & Single Family Residences

Our proposal for townhomes is the best option for the site since it is located near a school, park, and commercial retail. The townhomes will be for sale to match the for sale components in the area. The townhomes are a good use for housing close to major commercial corridors like Lawrenceville Highway. The site design provides for integrated open areas, interior courtyards and buffer areas to provide visual buffers to the surrounding developments. This type of housing on this site and the area provides the street with a mixture of uses within the existing developments created on the street.

The addition to the type of housing as a transitional use, this area is consistent with City's future land use plan and map, all of which support and encourage the transition of the housing. This proposal meets the City's long-term goals by creating a walkable community adjacent to commercial and residential development, and making use of long-vacant, infill property. The proposal would not burden existing infrastructure and the mixture of uses will provide offsetting trip times.

The housing will be consistent with the surrounding price points and will offer a variety of housing options on the site. There are front loaded types of units as well as alley fed units. This difference will provide for two distinct housing types with the site.



Constitutional Objections

The portions of the Code of Ordinances and Zoning Ordinance for the City of Lilburn (the "Zoning Ordinance") which classifies or conditions the Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are unconstitutional, in that they would destroy the Applicant's and property owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Zoning Ordinance which presently restricts the Property's use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, and constitutes a taking of the Applicant's and the property owner's property rights in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983, and in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States by denying economic and viable use of the Property while not substantially advancing legitimate state interests.

The Property is presently suitable for CB with SUP as proposed in the requested rezoning, as amended by the Applicant, and is not economically suitable for uses restricted under its present zoning and development classification, conditions, regulations, and restrictions due to its location, shape, size, surrounding development, and other factors. A denial of the requested rezoning and related variances would constitute an arbitrary and capricious act by the City of Lilburn, Mayor and Council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment. A refusal by the City of Lilburn, Mayor and Council to approve this requested rezoning, with only such additional conditions as agreed to by the Applicant and/or owner, so as to permit the only feasible economic use of the Property, would be unconstitutional between the Applicant, owner, and similarly situated property owners, in violation of Article I, Section I, Paragraph II of the Constitution of the State by discriminating of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment.

Conclusion

The Applicant and owner respectfully request the City of Lilburn Mayor and Council, Planning Commission and Planning Staff approval and support the Applicant's Special Use Permit request to allow for single-family attached (fee simple) townhomes to be provided on the subject site in addition to the retail/restaurant component as shown on the proposed site plan. A transitional use proposed as townhomes is the best economically-viable use of the Subject Property.

The Applicant, owner, and their representatives welcome the opportunity to meet with all interested parties and representatives.

Sincerely,
Planners and Engineers Collaborative, Inc.

Kenneth J. Wood, P.E., LEED AP
President

kjw/jh/dp

LEGAL DESCRIPTION

TRACT 1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 146 of the 6TH District, City of Lilburn, Gwinnett County, Georgia, and being more particular described as follows:

Begin at the most northerly end of mitered intersection created by the westerly right of way line of Lilburn School Road (80 foot right of way) and the northerly right of way of Lawrenceville Highway (a.k.a. US 29) (a.k.a. SR 8) (88 foot right of way), said point being the TRUE POINT OF BEGINNING;

THENCE proceed along said miter South 51 degrees 29 minutes 24 seconds West, a distance of 25.51 feet to an iron pin set at the most southerly end of said intersection created by said Lawrenceville Highway and Lilburn School Road; thence along said northerly right of way of Lawrenceville Highway South 81 degrees 51 minutes 23 seconds West, a distance of 634.26 feet to an iron pin set; thence leaving said northerly right of way of Lawrenceville Highway and proceed along common property line between McDaniel Enterprises and Berkshire Land Co. the following courses and distances: North 28 degrees 59 minutes 46 seconds West, a distance of 221.38 feet to an iron pin set; North 60 degrees 06 minutes 28 seconds East, a distance of 205.86 feet to a 1/2 inch rebar found; North 30 degrees 07 minutes 38 seconds West, a distance of 271.43 feet to a 1/2 inch rebar found; thence along common property line between Gwinnett County Board of Education and McDaniel Enterprises North 81 degrees 51 minutes 26 seconds East, a distance of 641.53 feet to an iron pin set on said westerly right of way line of Lilburn School Road; thence along said westerly right of way of Lilburn School Road the following courses and distances: along a curve turning to the right with an arc length of 180.99 feet, having a radius of 446.66 feet, being subtended by a chord bearing of South 19 degrees 03 minutes 32 seconds East, and a chord length of 179.76 feet to a point; South 05 degrees 20 minutes 55 seconds East, a distance of 101.57 feet to a point; South 02 degrees 15 minutes 37 seconds East, a distance of 245.28 feet to an iron pin set, said iron pin being the TRUE POINT OF BEGINNING.

Contains 351,500 square feet or 8.069 acres.



LEGAL DESCRIPTION

TRACT 2

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 146 of the 6TH District, City of Lilburn, Gwinnett County, Georgia, and being more particular described as follows:

Begin at the iron pin set at the intersection created by the easterly right of way line of Lilburn School Road (80 foot right of way) and the northerly right of way of Lawrenceville Highway (a.k.a. US 29) (a.k.a. SR 8) (88 foot right of way), said point being the TRUE POINT OF BEGINNING;

THENCE proceed along said easterly right of way of Lilburn School Road the following courses and distances: North 02 degrees 33 minutes 36 seconds West, a distance of 251.75 feet to a point; North 05 degrees 21 minutes 07 seconds West, a distance of 107.46 feet to a point; along a curve turning to the left with an arc length of 112.78 feet, having a radius of 460.31 feet, being subtended by a chord bearing of North 12 degrees 55 minutes 17 seconds West, and a chord length of 112.49 feet to a 1/2 inch rebar found; thence leaving said easterly right of way of Lilburn School Road and proceed along common property line between Greenleaf Investment Partners L009 L.L.C. and McDaniel Enterprises South 83 degrees 14 minutes 14 seconds East, a distance of 251.55 feet to an iron pin set; thence proceed along common property line between Gwinnett County, Georgia and McDaniel Enterprises South 29 degrees 09 minutes 03 seconds East, a distance of 590.64 feet to a 1/2 inch rebar found disturbed on said northerly right of way of Lawrenceville Highway; thence along said northerly right of way of Lawrenceville Highway the following courses and distances: North 78 degrees 18 minutes 50 seconds West, a distance of 226.69 feet to a point; along a curve turning to the left with an arc length of 245.73 feet, having a radius of 1081.24 feet, being subtended by a chord bearing of North 83 degrees 56 minutes 24 seconds West, and a chord length of 245.20 feet to an iron pin set; North 77 degrees 41 minutes 35 seconds West, a distance of 25.86 feet to an iron pin set, said rebar being the TRUE POINT OF BEGINNING.

Contains 165,568 square feet or 3.801 acres.



Highway 29 at Lilburn Church Road
A MASTER PLANNED MIXED-USE DEVELOPMENT
FOR
GREEN LINE PARTNERS, LLC

REVISIONS:

[illegible]

is drawing is the property of Planners and Engineers Collaborative and is not to be copied in whole or in part. A not to be used on any other project and is to be returned upon request. © Planners and Engineers Collaborative.

SHEET TITLE
SUP MASTER
SITE PLAN

SITE PLAN

SCALE: 1" = 50'
DATE: NOV. 30, 2018
PROJECT: 18293.00



24 HOUR CONTACT:
ROB ADAMSON
404-307-8389

GEORGIA811
www.Georgia811.com

TOWNHOME PERFORMANCE STANDARDS:

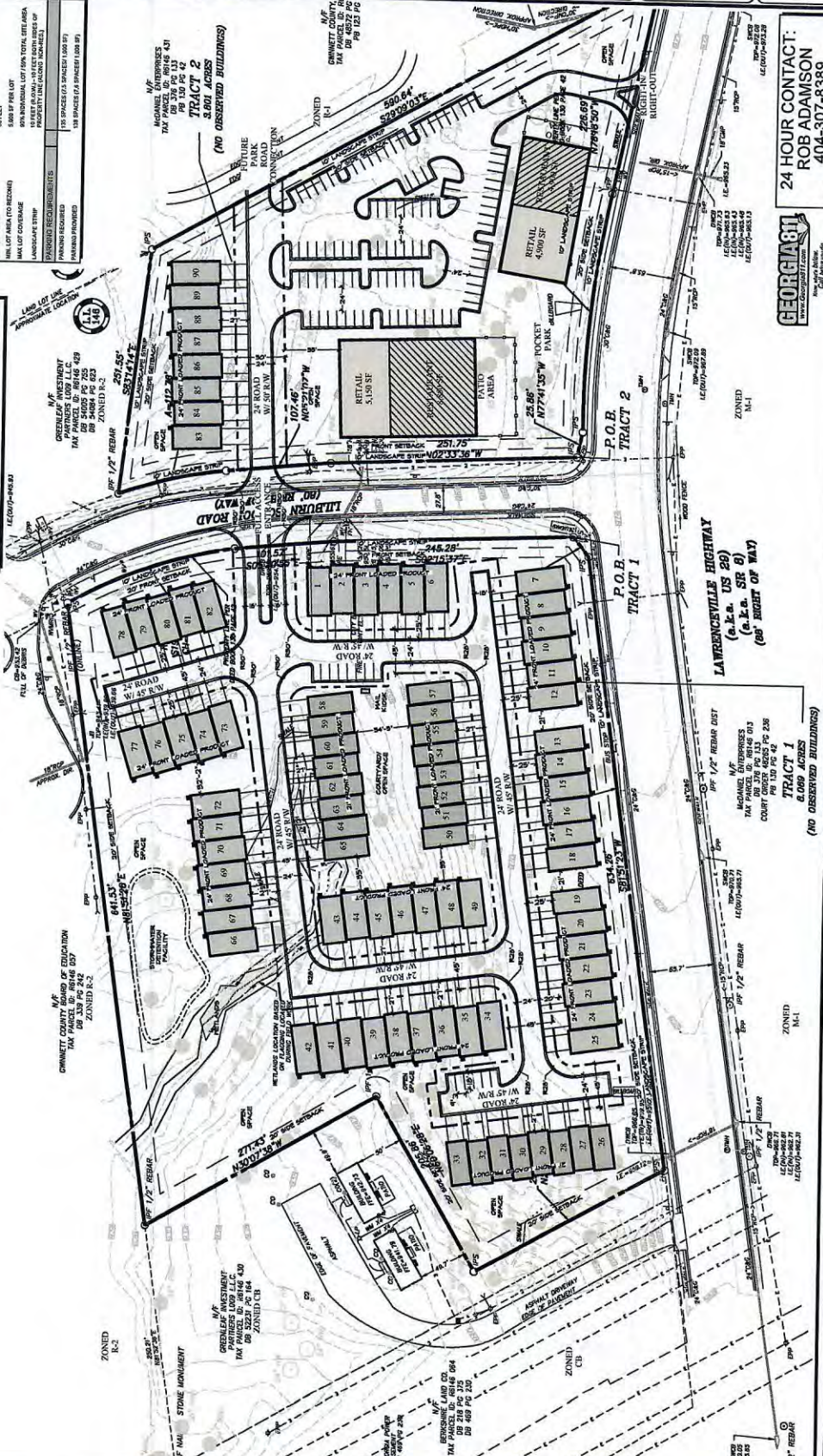
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SITE DATA:

[illegible]

FEMA MAP

SITE LOCATION MAP
NOT TO SCALE



NOV 30 2018



A3.1A-A

NOV 30 2018



1762B
A3.1A-B

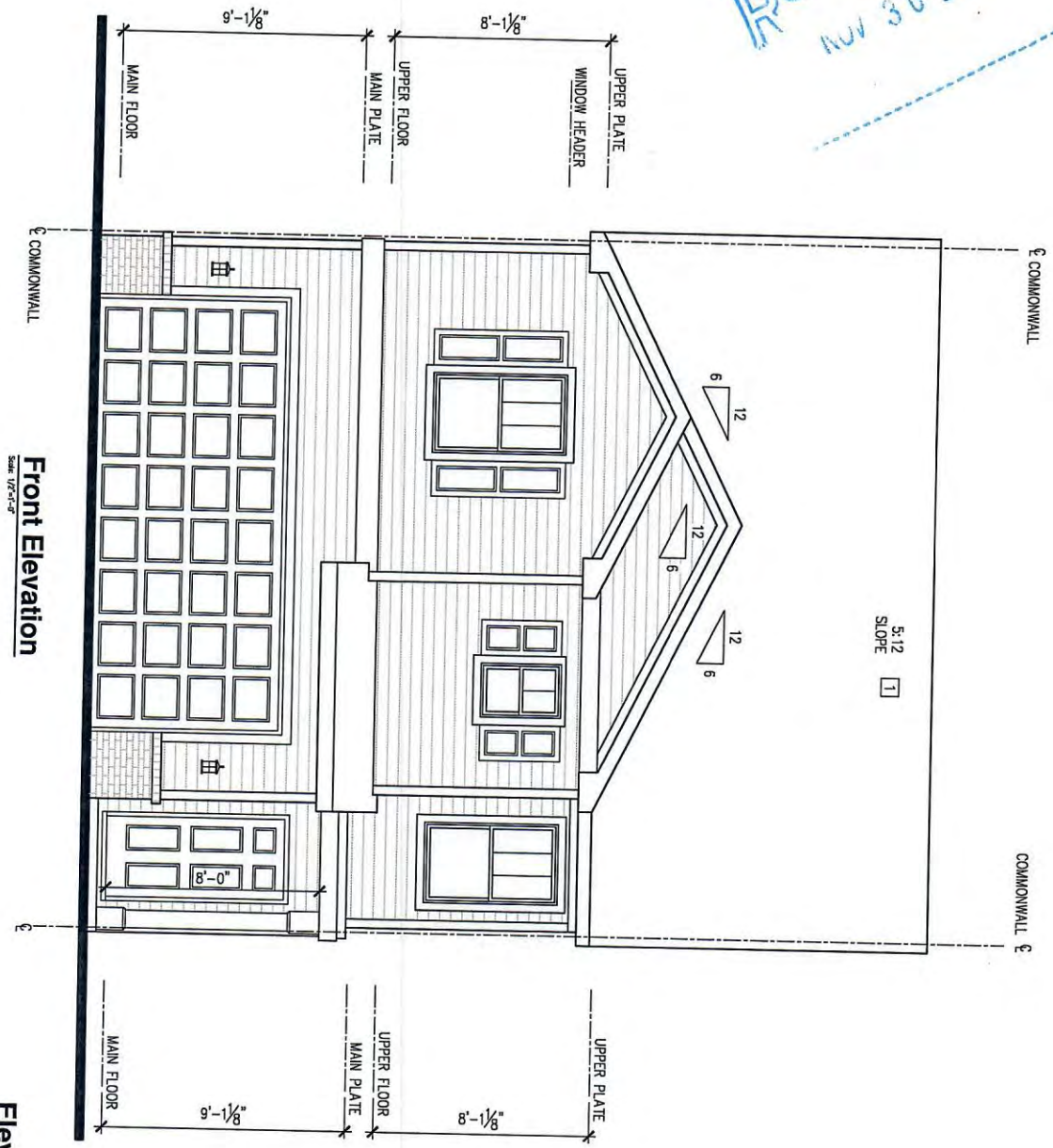
FOR RENT SEE LISTING PAGE 100
BRIDGE ST. CHICAGO
ELEVATION B
EXTERIOR ELEVATIONS



**Mentage
Homes**

[illegible]

RECEIVED
NOV 30 2018



Front Elevation

Elevation A

2004A
A3.1A-B

Meritage Homes
Meadows at Southpoint



ISSUE DATE:
REVISIONS

