

Community Development  
4119 Adrian Street  
Tucker, GA 30084  
Phone: 678-597-9040  
Email: [permits@tuckerga.gov](mailto:permits@tuckerga.gov)  
Website: [www.tuckerga.gov](http://www.tuckerga.gov)

# Land Use Petition Application

Type of Application:  Rezoning    Comprehensive Plan Amendment    Special Land Use Permit    Concurrent Variance

APPLICANT INFORMATION		
Applicant is the: <input type="checkbox"/> Property Owner <input type="checkbox"/> Owner's Agent <input checked="" type="checkbox"/> Contract Purchaser		
Name:      Betancourt Construction, LLC, c/o J. Alexander Brock		
Address:   1230 Peachtree Street, Suite 3100		
City:      Atlanta	State:     GA	Zip:      30309
Contact Name:   J. Alexander Brock		
Phone:   404-815-3603	Email: <a href="mailto:jabrock@sgrlaw.com">jabrock@sgrlaw.com</a>	
OWNER INFORMATION		
Name:    SEE ATTACHED LIST		
Address:		
City:	State:	Zip:
Contact Name:		
Phone:	Email:	
PROPERTY INFORMATION		
Property Address:    SEE ATTACHED LIST		
Present Zoning District(s):   R-85 and R-100	Requested Zoning District(s):   R-60 and R-75	
Present Land Use Category:    SUB	Requested Land Use Category:	
Land District:   18TH	Land Lot(s):   212 and 227	Acreage:    22.486 Acres
Proposed Development:    Midvale and LaVista		
Concurrent Variance(s):		
RESIDENTIAL DEVELOPMENT		
No. of Lots/Dwelling Units:    47	Dwelling Unit Size (Sq. Ft.):    Varies	Density:    2.8 Units Per Acre
NON-RESIDENTIAL DEVELOPMENT		
No. of Buildings/Lots:	Total Building Sq. Ft.:	Density:

RECEIVED  
City of Tucker

AUG 26 2019

Community Development  
Department

RZ-19-0005

**PROPERTY OWNER NAMES AND ADDRESSES**

PARCEL NO.	OWNER'S NAME	PROPERTY ADDRESS
18 212 01 002	Charles A. Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing	4704 LaVista Road Tucker, GA
18 212 01 006	Charles A. Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing	4738 LaVista Road Tucker, GA
18 212 01 019 (Rear)	Charles A. Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing	4738 LaVista Road Tucker, GA
18 227 04 042	Charles A. Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing	2470 Henderson Road Tucker, GA
18 212 01 018	Gary Alan Carter, as Co-Trustee of the Carter Descendants Trust dated December 24, 2007	4700 LaVista Road Tucker, GA

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City of Tucker  
**OCT 11 2019**  
Community Development  
Department

**PROPERTY OWNER'S CERTIFICATION**

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

Douglas Lee Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007, authorize, Steve Ficarra, (Property Owner) (Applicant)

to file for RZ, at 4700 LaVista Road, Tucker, GA (Parcel No. 18 212 01 018) (RZ, CA, SLUP, CV) (Address)

on this date August 14, 2019 (Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

*[Handwritten Signature]*  
Signature of Property Owner

August 14, 2019  
Date

Douglas Lee Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007  
Type or Print Name and Title

*[Handwritten Signature]*  
Signature of Notary Public

August 14, 2019  
Date



**PROPERTY OWNER'S CERTIFICATION**

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Charles Orth, as Trustee of the Testamentary Trust under the Will of Eunice Whitmire Ewing dated March 8, 1976, authorize, Steve Ficarra,  
(Property Owner) (Applicant)

to file for RZ, at 4738 LaVista Road, Tucker, GA (Parcel No. 18 212 01 006)  
(RZ, CA, SLUP, CV) (Address)

on this date 8, 14, 20 19  
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
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Charles Orth 8/14/19  
Signature of Property Owner Date

Charles Orth, as Trustee of the Testamentary Trust under the Will of Eunice Whitmire Ewing dated March 8, 1976  
Type or Print Name and Title

Cina Hill 8.14.19  
Signature of Notary Public Date

**CINA HILL**  
**NOTARY PUBLIC**  
**DEKALB COUNTY, GEORGIA**  
Notary Seal

**PROPERTY OWNER'S CERTIFICATION**

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

Charles A.Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing, authorize, Steve Ficarra  
(Property Owner) (Applicant)  
4704 LaVista Road, Tucker GA (Parcel No. 18 212 01 002)  
4738 LaVista Road, Tucker, GA (Parcel No. 18 212 01 019)  
to file for RZ, at 2470 Henderson Road, Tucker, GA (Parcel No. 18 227 04 042)  
(RZ, CA, SLUP, CV) (Address)

on this date August 14, 2019, 20  
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
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- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Charles A. Orth Signature of Property Owner August 14, 2019 Date

Charles A. Orth, as Trustee of the Item III Trust U/W of Eunice Whitmire Ewing Type or Print Name and Title

Gina Hill Signature of Notary Public 8-14-19 Date Gina Hill NOTARY PUBLIC DEKALB COUNTY, GEORGIA Notary Seal



**PROPERTY OWNER'S CERTIFICATION**

112

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

Gary Alan Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007, authorize, Steve Ficarra (Property Owner) (Applicant)

to file for RZ at 4700 LaVista Road, Tucker, GA (Parcel No. 18 212 01 018) (RZ, CA, SLUP, CV) (Address)

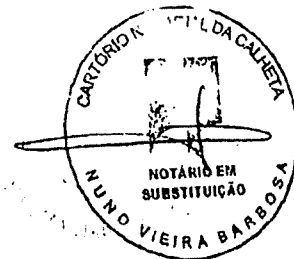
on this date August 19, 2019 (Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
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I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Signature of Property Owner [Handwritten Signature] Date 8/19/19

Gary Alan Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007 Type or Print Name and Title

Signature of Notary Public [Handwritten Signature] Date 19/08/2019 Notary Seal



CARTÓRIO NOTARIAL  
DA CALHETA



NUNO VIEIRA BARBOSA  
NOTÁRIO  
Em substituição

2121

**RECONHECIMENTO**

\_\_Reconheço a assinatura aposta no documento anexo de **Gary Alan Carter**, feita na minha presença pelo próprio signatário, cuja identidade verifiquei pela exibição do seu passaporte de número 488693811, válido até 13/12/2021, emitido pelo Departamento de Estado dos Estados Unidos da América, o qual confirma que o conteúdo do documento está conforme a sua vontade. \_\_\_\_\_

\_\_Calheta, dezanove de agosto de dois mil e dezanove. \_\_\_\_\_

O Notário, em substituição

António Costa

Conta registada sob o nº 19

**SIGNATURE RECOGNITION**

\_\_I hereby certify that the previous document was signed by **Gary Alan Carter**, before me, whose identity was confirmed by examining his passport number 488693811, valid until 13/12/2021, issued by the United States Department of State. I further certify that the signer confirmed its content. \_\_\_\_\_

\_\_Calheta, August nineteenth of two thousand nineteen. \_\_\_\_\_

The Notary, in substitution

António Costa

Register number. 19

02-19-2005  
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City of Tucker  
AUG 26 2019

**R-60 ZONING  
LEGAL DESCRIPTION**

Community Development  
Department

ALL THAT PARCEL OF LAND LYING IN LAND LOTS 212 AND 227 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A 1/2-INCH REBAR WITH CAP SET AT THE SOUTHEASTERLY END OF THE MITERED INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAVISTA ROAD (VARIABLE RIGHT-OF-WAY) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF MIDVALE ROAD (60-FOOT RIGHT-OF-WAY); THENCE ALONG SAID MITERED INTERSECTION, NORTH 76°46'40" WEST A DISTANCE OF 38.75 FEET TO A 1/2-INCH REBAR WITH CAP SET; THENCE ALONG SAID RIGHT-OF-WAY LINE OF MIDVALE ROAD THE FOLLOWING 2 COURSES AND DISTANCES: NORTH 36°43'23" WEST A DISTANCE OF 323.94 FEET TO A 1/2-INCH REBAR WITH CAP SET AND FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 38.77 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 255.00 FEET AND A CHORD OF NORTH 41°04'45" WEST A DISTANCE OF 38.74 FEET) TO A 1/2-INCH REBAR WITH CAP SET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 27°21'00" EAST A DISTANCE OF 65.67 FEET TO A T-POST FOUND; THENCE NORTH 51°11'03" WEST A DISTANCE OF 21.26 FEET TO A POINT; THENCE NORTH 57°07'17" EAST A DISTANCE OF 77.89 FEET TO A POINT; THENCE FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 115.36 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 975.00 FEET AND A CHORD OF NORTH 28°27'51" WEST A DISTANCE OF 115.29 FEET) TO A POINT; THENCE NORTH 25°04'29" WEST A DISTANCE OF 71.84 FEET TO A POINT; THENCE FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 61.72 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 90.00 FEET AND A CHORD OF NORTH 05°25'38" WEST A DISTANCE OF 60.52 FEET) TO A POINT; THENCE NORTH 14°13'14" EAST A DISTANCE OF 103.36 FEET TO A POINT; THENCE NORTH 41°04'59" EAST A DISTANCE OF 126.16 FEET TO A POINT; THENCE NORTH 71°07'42" EAST A DISTANCE OF 44.46 FEET TO A POINT; THENCE SOUTH 84°20'34" EAST A DISTANCE OF 214.72 FEET TO A POINT; THENCE SOUTH 48°06'35" EAST A DISTANCE OF 123.08 FEET TO A POINT; THENCE FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 203.07 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 1225.00 FEET AND A CHORD OF NORTH 38°12'52" EAST A DISTANCE OF 202.84 FEET) TO A POINT; THENCE NORTH 33°27'56" EAST A DISTANCE OF 67.59 FEET TO A POINT; THENCE FOLLOWING THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 149.82 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 90.00 FEET AND A CHORD OF NORTH 81°09'22" EAST A DISTANCE OF 133.11 FEET) TO A POINT; THENCE SOUTH 51°09'11" EAST A DISTANCE OF 271.09 FEET TO A POINT; THENCE SOUTH 16°58'16" EAST A DISTANCE OF 52.15 FEET TO A POINT; THENCE SOUTH 43°15'25" WEST A DISTANCE OF 224.43 FEET TO A POINT; THENCE SOUTH 44°02'00" EAST A DISTANCE OF 189.19 FEET TO A POINT; THENCE SOUTH 20°52'53" EAST A DISTANCE OF 172.37 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAVISTA ROAD (VARIABLE RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING 4 COURSES AND DISTANCES: SOUTH 69°18'16" WEST A DISTANCE OF 521.29 FEET TO A CONCRETE MONUMENT FOUND, FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 4.32 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 2333.83 FEET AND A CHORD OF SOUTH 69°15'06" WEST A DISTANCE OF



4.32 FEET) TO A 1/2-INCH REBAR WITH CAP SET, ALONG A CURVE TO THE LEFT A DISTANCE OF 29.01 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 2333.83 FEET AND A CHORD OF SOUTH 68°50'32" WEST A DISTANCE OF 29.01 FEET) TO A PK NAIL AND SHINER SET, AND ALONG A CURVE TO THE LEFT A DISTANCE OF 250.54 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 2333.83 FEET AND A CHORD OF SOUTH 65°24'39" WEST A DISTANCE OF 250.42 FEET) BACK TO THE **POINT OF BEGINNING**.

**CONTAINING 659,163 SQUARE FEET OR 15.132 ACRES.**

RECEIVED  
City of Tucker

Aug 26 2019

Community Development  
Department

**R-75 ZONING  
LEGAL DESCRIPTION**

ALL THAT PARCEL OF LAND LYING IN LAND LOTS 212 AND 227 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT A 1/2-INCH REBAR WITH CAP SET AT THE SOUTHEASTERLY END OF THE MITERED INTERSECTION OF THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAVISTA ROAD (VARIABLE RIGHT-OF-WAY) AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF MIDVALE ROAD (60-FOOT RIGHT-OF-WAY); THENCE ALONG SAID MITERED INTERSECTION NORTH 76°46'40" WEST A DISTANCE OF 38.75 FEET TO A 1/2-INCH REBAR WITH CAP SET; THENCE ALONG SAID RIGHT-OF-WAY LINE OF MIDVALE ROAD THE FOLLOWING 2 COURSES AND DISTANCES: NORTH 36°43'23" WEST A DISTANCE OF 323.94 FEET TO A 1/2-INCH REBAR WITH CAP SET AND FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 38.77 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 255.00 FEET AND A CHORD OF NORTH 41°04'45" WEST A DISTANCE OF 38.74 FEET) TO A 1/2-INCH REBAR WITH CAP SET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 27°21'00" EAST A DISTANCE OF 65.67 FEET TO A T-POST FOUND; THENCE NORTH 51°11'03" WEST A DISTANCE OF 21.26 FEET TO A POINT, SAID POINT BEING THE **POINT OF BEGINNING.**

THENCE NORTH 51°11'03" WEST A DISTANCE OF 38.60 FEET TO A T-POST FOUND; THENCE SOUTH 27°33'13" WEST A DISTANCE OF 66.68 FEET TO A 1/2-INCH REBAR WITH CAP SET ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF MIDVALE ROAD (60-FOOT RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE, FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 31.13 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF 255.00 FEET AND A CHORD OF NORTH 62°25'22" WEST A DISTANCE OF 31.11 FEET) TO A 1/2-INCH REBAR WITH CAP SET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 14°33'46" EAST A DISTANCE OF 177.46 FEET TO A 1-INCH OPEN TOP PIPE FOUND; THENCE NORTH 74°11'09" WEST A DISTANCE OF 176.37 FEET TO A 1/2-INCH REBAR WITH CAP SET; THENCE NORTH 14°13'14" EAST A DISTANCE OF 355.83 FEET TO A 1-INCH CRIMPED TOP PIPE FOUND; THENCE NORTH 89°41'16" EAST A DISTANCE OF 624.71 FEET TO A 1/2-INCH CRIMPED TOP PIPE FOUND; THENCE NORTH 00°06'06" EAST A DISTANCE OF 213.27 FEET TO A 1-INCH OPEN TOP PIPE FOUND; THENCE NORTH 44°10'13" EAST A DISTANCE OF 165.68 FEET TO A 1/4-INCH REBAR FOUND; THENCE SOUTH 51°09'26" EAST A DISTANCE OF 875.09 FEET TO A 1/2-INCH OPEN TOP PIPE FOUND; THENCE NORTH 89°26'29" WEST A DISTANCE OF 287.32 FEET TO A 5/8-INCH REBAR FOUND; THENCE SOUTH 00°52'39" EAST A DISTANCE OF 393.26 FEET TO A 1/2-INCH REBAR FOUND ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF LAVISTA ROAD (VARIABLE RIGHT-OF-WAY); THENCE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 69°18'16" WEST A DISTANCE OF 26.64 FEET TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 20°52'53" WEST A DISTANCE OF 172.37 FEET TO A POINT; THENCE NORTH 44°02'00" WEST A DISTANCE OF 189.19 FEET TO A POINT; THENCE NORTH 43°15'25" EAST A DISTANCE OF 224.43 FEET TO A POINT; THENCE NORTH 16°58'16" WEST A DISTANCE OF 52.15 FEET TO A POINT; THENCE NORTH 51°09'11" WEST A DISTANCE OF 271.09 FEET TO A POINT; THENCE FOLLOWING THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 149.82 FEET (SAID ARC BEING SUBTENDED BY A RADIUS OF

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**CONTAINING 320,310 SQUARE FEET OR 7.353 ACRES.**

RECEIVED  
City of Tucker  
AUG 20 2019  
Community Development  
Department

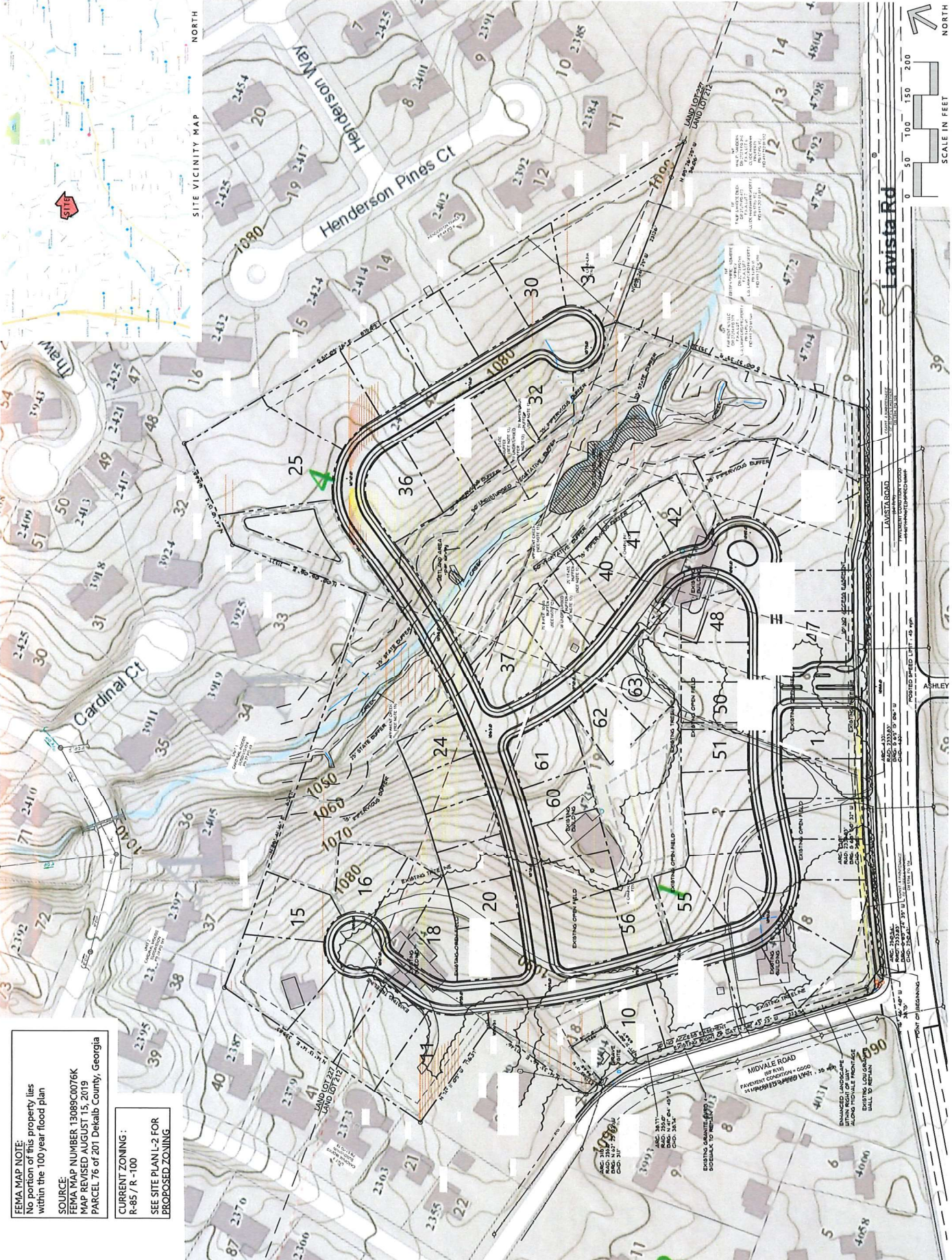


**FEMA MAP NOTE:**  
 No portion of this property lies within the 100 year flood plan

**SOURCE:**  
 FEMA MAP NUMBER 13089C0078K  
 MAP REVISED AUGUST 15, 2019  
 PARCEL 76 of 201 DeKalb County, Georgia

**CURRENT ZONING:**  
 R-85 / R -100

**SEE SITE PLAN L-2 FOR PROPOSED ZONING.**



**BARCLIFT ASSOCIATES**  
 LANDSCAPE ARCHITECTURE  
 LAND PLANNING  
 404.375.8659  
 DAVID@BARCLIFTORLANDSCAPE.COM  
 3524 SUNDLAND WAY NE  
 ATLANTA, GEORGIA 30319

**SITE ANALYSIS PLAN**  
 LAVISTA & MIDVALE PROPERTY  
 TUCKER, GA  
 BETANCOURT CONSTRUCTION

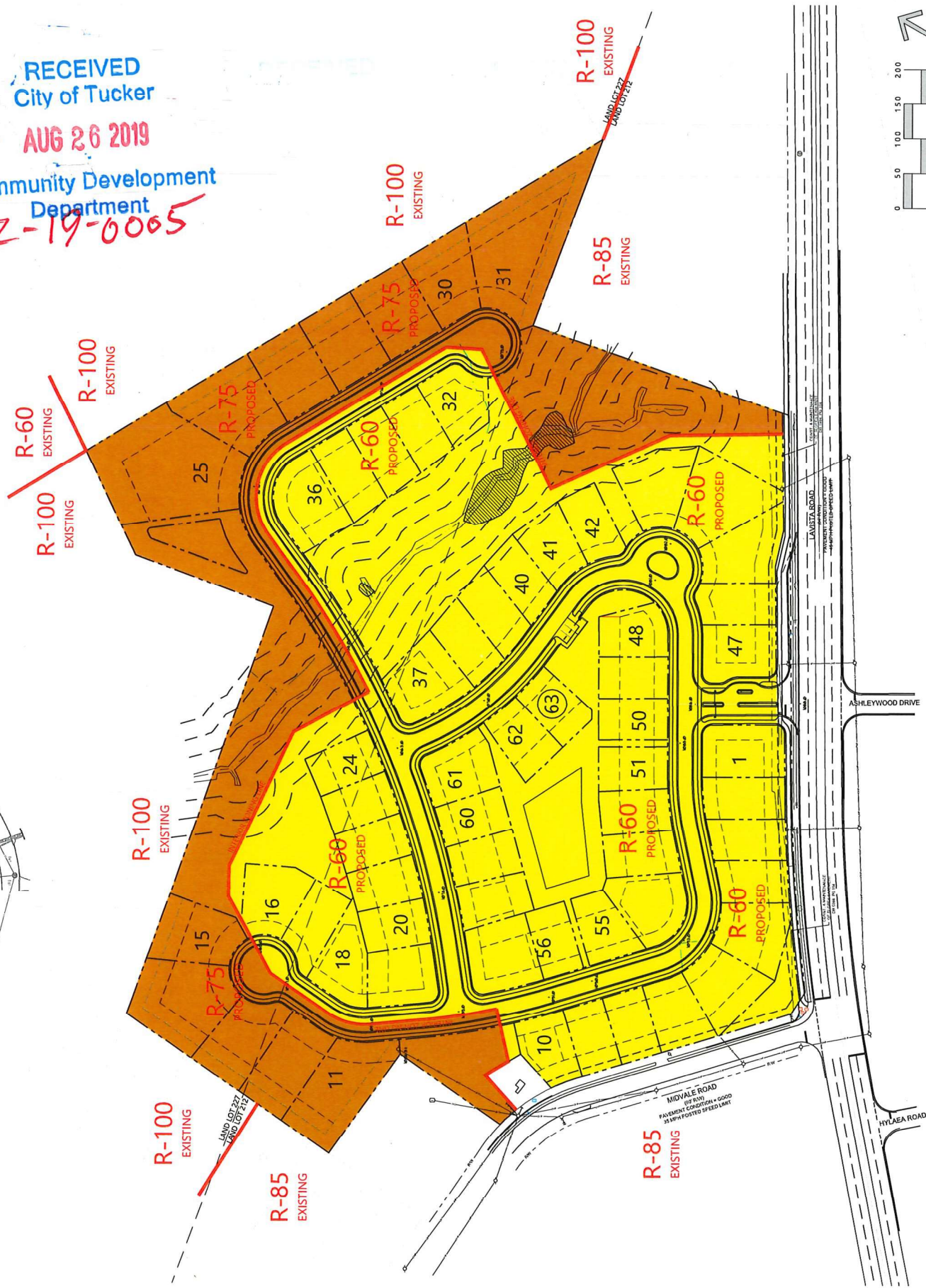
AUGUST 26, 2019  
 SHEET L - 2

BARCLIFT ASSOCIATES  
LANDSCAPE ARCHITECTURE  
LAND PLANNING  
404.375.8609  
DAVID@BARCLIFTARCHITECTURE.COM  
3324 SUNDKLAND WAY NE  
ATLANTA, GEORGIA 30319

PROPOSED INTERIOR ZONING LINE  
LAVISTA & MIDVALE PROPERTY  
TUCKER, GA  
BETANCOURT CONSTRUCTION

AUGUST 26, 2019  
SHEET L-3

RECEIVED  
City of Tucker  
AUG 26 2019  
Community Development  
Department  
RZ-19-0005





**LETORAY ENGINEERING**  
 2425 CORPORATE WAY  
 SUITE 400  
 KENNESAW, GA 30144  
 PHONE: 478.434.1000  
 WWW.LETORAYENGINEERING.COM  
 LEST01180

NO.	DATE	DESCRIPTION
1	08/20/17	ISSUED FOR PERMITS
2	09/15/17	REVISIONS
3	10/10/17	REVISIONS
4	11/05/17	REVISIONS
5	12/01/17	REVISIONS
6	01/05/18	REVISIONS
7	02/01/18	REVISIONS
8	03/01/18	REVISIONS
9	04/01/18	REVISIONS
10	05/01/18	REVISIONS
11	06/01/18	REVISIONS
12	07/01/18	REVISIONS
13	08/01/18	REVISIONS
14	09/01/18	REVISIONS
15	10/01/18	REVISIONS
16	11/01/18	REVISIONS
17	12/01/18	REVISIONS

**BETANCOURT CONSTRUCTION, LLC**  
 4355 COBB PARKWAY  
 SUITE 1400  
 ATLANTA, GEORGIA 30339  
 DISTRICT  
 LOCAL IN LOT 212 & 227, 18178  
**BOUNDARY AND TOPOGRAPHIC SURVEY**  
 DIXIE COUNTY, GEORGIA

**CLIENT**  
 BETANCOURT CONSTRUCTION, LLC  
 4355 COBB PARKWAY  
 SUITE 1400  
 ATLANTA, GEORGIA 30339

**SCALE: 1" = 40.00'**  
 JOB#: 026207  
 SHEET: 1 OF 2



- SYMBOL LEGEND**
- 1. CONCRETE FOUNDATION
  - 2. CONCRETE FOUNDATION
  - 3. CONCRETE FOUNDATION
  - 4. CONCRETE FOUNDATION
  - 5. CONCRETE FOUNDATION
  - 6. CONCRETE FOUNDATION
  - 7. CONCRETE FOUNDATION
  - 8. CONCRETE FOUNDATION
  - 9. CONCRETE FOUNDATION
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**TREE SUMMARY**

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**TREE SUMMARY**

POINT #	DATA	DESCR	NOTE
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STATEMENT OF INTENT

and

Other Material Required by  
City of Tucker Zoning Ordinance  
for the  
Rezoning Application

of

**BETANCOURT CONSTRUCTION, LLC**

for

± 22.486 Acres of Land  
located in  
Land Lots 212 and 227, 18<sup>th</sup> District, DeKalb County

Submitted for Applicant by:

Kathryn M. Zickert  
Dennis J. Webb, Jr.  
J. Alexander Brock  
Smith, Gambrell & Russell, LLP  
Promenade, Suite 3100  
1230 Peachtree Street, NE  
Atlanta, Georgia 30309  
404-815-3500



## I. INTRODUCTION AND ANALYSIS

This application seeks to rezone  $\pm 22.486$  acres in the City of Tucker from R-85 (Residential Medium Lot-85) and R-100 (Residential Medium Lot-100) to R-60 (Residential Small Lot-60) and R-75 (Residential Medium Lot-75) to allow for the development of single family homes. The property consists of five (5) parcels located in the northeast quadrant of the intersection of Lavista Road and Midvale Road (the "Subject Property"). The Subject Property is more particularly located at 4700 Lavista Road (Parcel ID 1821201018), 4704 Lavista Road (Parcel ID 1821201002), 4738 Lavista Road (Parcel ID 1821201006), 4738 Lavista Road REAR (Parcel ID 1821201019), and 2470 Henderson Road (Parcel ID 1822704042). The Applicant intends to develop the Subject Property with sixty-three (63) single family detached residences and appurtenant site improvements (the "Proposed Development"). The Proposed Development will contain approximately fifty-one (51) R-60 lots and twelve (12) R-75 lots. The intent is to have the larger R-75 lots on the exterior to buffer the established neighborhoods surrounding the Subject Property, while the smaller R-60 lots are on the interior and along Lavista and Midvale Roads.

The Subject Property is in a state of disrepair with several single family homes, a derelict pool house, pool, driveways and other site improvements situated on larger lots ranging in size from  $\pm 1.65$  acres to  $\pm 7.65$  acres. One of the homes is currently occupied by rental tenants, while the other two have been vacant for seven (7) to ten (10) years. The existing homes were built between 1947 and 1962, a time in Tucker's history when there were far fewer established subdivisions and the area was beginning to transition from rural to a modern residential suburb. This type of large lot residential development is an anomaly in the area today, which is characterized by single family detached homes on lots ranging in size from  $\pm 0.20$  to  $\pm 0.75$  acres.

In addition, the Subject Property is bisected by an existing stream, which limits the buildable area. The presence of stream buffers coupled with the shift in development trends is likely the reason that the Subject Property has remained vacant for almost a decade with little interest in redevelopment.

The Proposed Development and the proposed zoning are consistent with the existing residential developments surrounding the Subject Property. To the south, the Subject Property abuts the right-of-way of Lavista Road. To the south and west, the Subject Property abuts the right-of-way of Midvale Road. Also to the south and west, the Subject Property abuts the Bagwell Cemetery and a property containing a single family residence, both zoned R-85. To the west and north are single family residences within the Cardinal Woods subdivision, zoned R-85 and R-100. To the north, the Subject Property abuts single family residential properties within the Thawley Place subdivision, zoned R-60.<sup>1</sup> To the north and east are single family residences within the Henderson Trails subdivision, zoned R-100. To the east are single family properties fronting Lavista Road zoned R-85. Also, to the southeast, across Lavista Road are seven (7) properties containing single family detached homes, each zoned R-75. It is apparent from the mix of zonings in the vicinity, including existing R-60 and R-75, that the rezoning of the Subject Property to R-60 and R-75 is entirely appropriate for the area.

The Proposed Development will enhance the existing housing stock in the area with a modern, vibrant single family subdivision, blending harmoniously with the surrounding community. The Proposed Development's sixty (63) residences will be on lots of varying sizes, with the larger R-75 lots located to the north, adjacent to the existing neighborhoods and the R-60 lots situated to the south, closer to the right-of-way of Lavista and Midvale Roads. The site

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<sup>1</sup> The Thawley Place property was rezoned in 1989 from R-100 to R-50 (R-50 later became R-60 under the 2015 DeKalb County Zoning Ordinance) pursuant to DeKalb County ordinance CZ-87041.



design will provide a transition and buffer against Lavista Road to the south and the established neighborhoods to the north. Moreover, the site design will incorporate onsite practices to lessen the impacts of the development, including the preservation of stream buffers and the incorporation of enhanced open space areas within the development. It is the Applicant's intent not to maximize the proposed density, but rather to create an attractive development that is fitting with the surrounding community and provides significant open space.

The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and a written justification for the Application as required by the City of Tucker Zoning Ordinance, § 46-1559. A Site Plan has been filed with the original Application, along with the other required materials.

### **III. ZONING HISTORY**

The Subject Property is zoned R-85 and R-100 and is designated as being "Suburban" (SUB) on the City's Future Land Use Map. The Applicant's research of the Subject Property's history has not revealed any prior rezonings or conditions that affect the property. The SUB character area fully allows the proposed R-60 and R-75 zoning.

### **IV. IMPACT ANALYSIS**

#### **A. WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN.**

The Proposed Development is consistent with the Tucker Tomorrow Comprehensive Plan, which indicates the Subject Property as being within the SUB character area. The Comprehensive Plan's stated policy and intent for the SUB character area is to preserve the suburban character of Tucker's neighborhoods. The proposed single family residences fall neatly within this stated intent. Furthermore, the Proposed Development meets many of the expressed goals for the SUB character area:

- Ensuring that the expansion or improvement of single family homes within Tucker's existing neighborhoods are compatible with the existing housing stock in terms of building height, footprint and massing, particularly as viewed from the street.
- Giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.
- In the majority of the suburban character areas, which feature more traditional development patterns, up to 4 units per acre may be allowed.
- Incorporate transitions from more intense densities and uses to existing residential uses
- Incorporate design features, such as greater setbacks, buffers, landscape treatment and height-plane considerations, to mitigate any impacts on adjacent residential properties.

The proposed use, therefore, is suitable vis-a-vis the policies of the Comprehensive Plan.

**B. WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY OR PROPERTIES.**

Yes. The adjacent and nearby properties are almost entirely residential single family uses of varying densities and the proposed R-60 and R-75 zoning is complementary and suitable to these uses. As noted in the paragraphs above, the surrounding zoning districts range from R-60, small lot residential, to R-100, large lot residential, with other intermediate densities. The proposed R-60 and R-75 zoning falls squarely within the existing range of residential density in the area.

**C. WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED.**

No. It is highly unlikely that the Subject Property will ever be redeveloped or used in a manner consistent with the current R-85 and R-100 zoning. The Subject Property contains several residences, two of which have been vacant for seven (7) to ten (10) years and the third is used as a rental property. There has been no interest in the property to maintain a residence on

larger, estate-sized lots and the residences are likely to remain vacant. In addition, the presence of stream buffers on the site limits the buildable area and lessens the viability for redevelopment under R-85 and R-100. As a result, the Subject Property will remain vacant absent a rezoning to a more appropriate district.

**D. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY OR PROPERTIES.**

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Many of these devices have been or will be utilized in this Application.

The Proposed Development will pay careful attention to scale, buffering, setbacks, and landscaping so that it will blend and complement the adjacent developments. Accordingly, rezoning the Subject Property to R-60 and R-75 will not adversely affect the nearby existing uses and will enhance the adjacent properties.

**E. WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE ZONING PROPOSAL.**

As stated in previous paragraphs, the development trends in the area reveal a shift towards smaller residential lot subdivisions similar to the Proposed Development. The Subject Property is a left-over vestige from a time when the area was more rural and +1-acre lots were more common, while the area has become almost entirely comprised of smaller lot suburban neighborhoods. The proposed R-60 and R-75 zoning will bring the Subject Property into conformance with the surrounding developments. Hence, the zoning requested here conforms to the ideals and spirit of the City of Tucker's Zoning Ordinance and complements the existing uses in the area.

**F. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.**

The Subject Property abuts the existing Bagwell Cemetery at 4004 Midvale Road. There are no additional state or local buffers beyond the cemetery property and the Proposed Development will not encroach into the cemetery. Therefore, there will be no regulated disturbance to the cemetery from the construction of the Proposed Development. Regardless, the Applicant will take all due care to avoid any disturbance to the cemetery. The Applicant is not aware of any other historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested.

**G. WHETHER THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS.**

No. The Proposed Development will not overly burden existing streets or transportation

facilities. The Applicant has prepared a trip generation calculation for the Proposed Development which is attached to this Application. See Lavista & Midvale Residential Development – Trip Generation Report, prepared by LeCraw Engineering, dated August 23, 2019. The Proposed Development will generate a total of 47 trips during the A.M. peak hour, and 62 trips during the P.M. peak hour. The Proposed Development will have direct access to Lavista Road, which is a five-lane state route and classified as a minor arterial. The minor arterial classification indicates that the road is intended to carry large volumes of traffic and will be more than adequate to accommodate the additional trips the Proposed Development will generate. Therefore, the Proposed Development is not anticipated to contribute significantly to the trips on the surrounding roadways.

As for utilities, the Subject Property has access to water and sewer. Finally, the Proposed Development will not create an excessive or burdensome use of the community's schools. The Subject Property is served by Midvale Elementary School, Tucker Middle School, and Tucker High School service area. Midvale Elementary is listed as under capacity (83% capacity), and both Tucker Middle School and Tucker High School are listed as at capacity (Tucker MS is at 101% capacity with 1,232 students and Tucker HS is at 100% capacity with 1,769 students) according to DeKalb County Schools' Enrollment Data.<sup>2</sup> The Proposed Development will produce some additional students, however sixty-three (63) homes are not anticipated to produce a significant number of students to overly-burden local schools.

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<sup>2</sup> See DeKalb County School District Planning website, *Enrollment and Capacity by School*, <https://www.dekalbschoolsga.org/operations/planning/> (last accessed August 22, 2019).

**H. WHETHER THE ZONING PROPOSAL ADVERSELY IMPACTS THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.**

The Applicant will comply with all federal, state, and City regulations relating to environmental protection to ensure that the Proposed Development will not adversely affect the environment.

**V. NOTICE OF CONSTITUTIONAL CHALLENGES AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

The zoning on the Subject Property, and any intervening zoning district other than that requested, is unconstitutional. Further, the Zoning Ordinance of the City of Tucker, Georgia lacks adequate standards for the Mayor and City Council to exercise their power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the Mayor and City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of State of Georgia, 1983.

The Mayor and City Council are granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of the City of Tucker, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinance presently in effect is contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2

of the Constitution of the State of Georgia 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance presently in effect is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to rezone the Subject Property as requested, would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the Application for rezoning or to zone the property to any other classification including other intervening classifications, would be contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the Application would constitute a Violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due

process clause and equal protection clauses of Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Mayor and City Council who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The single family residences at issue in this Rezoning will provide housing opportunities to persons protected by the Fair Housing Act. A denial of this Rezoning will result in disparate treatment of individuals based on familial status in violation of the Fair Housing Act of the United States and Georgia.

Opponents to this request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal by failing to assert legal and constitutional objections.

## **VI. CONCLUSION**

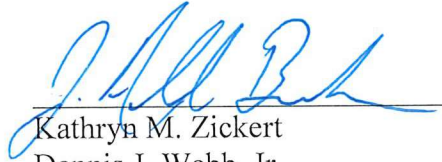
For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Tucker so that such recommendations or input might be incorporated as conditions of approval of this Application.

*[Signatures on Following Page]*



This 26<sup>th</sup> day of August, 2019.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J. Alexander Brock", is written over a horizontal line.

Kathryn M. Zickert  
Dennis J. Webb, Jr.  
J. Alexander Brock  
Attorneys For Applicant

Smith, Gambrell & Russell, LLP  
Promenade, Suite 3100  
1230 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
404-815-3500

## ENVIRONMENTAL SITE ANALYSIS (ESA) FORM

*Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3:*

1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN.** Describe the proposed project and the existing environmental conditions on the site. Describe adjacent properties. Include a site plan that depicts the proposed project.

Describe how the project conforms to the Comprehensive Land Use Plan. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

2. **ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT.** For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).


- a. Wetlands
  - U. S. Fish and Wildlife Service, National Wetlands Inventory (<http://wetlands.fws.gov/downloads.htm>)
  - Georgia Geologic Survey (404-656-3214)
  - Field observation and subsequent wetlands delineation/survey if applicable
- b. Floodplain
  - Federal Emergency Management Agency (<http://www.fema.org>)
  - Field observation and verification
- c. Streams/stream buffers
  - Field observation and verification
- d. Slopes exceeding 25 percent over a 10-foot rise in elevation
  - United States Geologic Survey Topographic Quadrangle Map
  - Field observation and verification
- e. Vegetation
  - United States Department of Agriculture, Nature Resource Conservation Service
  - Field observation
- f. Wildlife Species (including fish)
  - United States Fish and Wildlife Service
  - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
  - Field observation
- g. Archeological/Historical Sites
  - Historic Resources Survey
  - Georgia Department of Natural Resources, Historic Preservation Division
  - Field observation and verification

## ENVIRONMENTAL SITE ANALYSIS (ESA) FORM (CONTINUED)

3. **PROJECT IMPLEMENTATION MEASURES.** Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.
- a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.
  - b. Protection of water quality
  - c. Minimization of negative impacts on existing infrastructure
  - d. Minimization on archeological/historically significant areas
  - e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.
  - f. Creation and preservation of green space and open space
  - g. Protection of citizens from the negative impacts of noise and lighting
  - h. Protection of parks and recreational green space
  - i. Minimization of impacts to wildlife habitats

## MEMORANDUM

TO: City of Tucker, Department of Community Development

FROM: J. Alexander Brock, P.E. Smith, Gambrell & Russell, LLP (GA P.E. 031209)   
Dennis J. Webb, Jr., Smith, Gambrell & Russell, LLP  
Kathryn M. Zickert, Smith, Gambrell & Russell, LLP

DATE: August 26, 2019

RE: Environmental Site Analysis – 4700, 4704, 4738 Lavista Road and 2470  
Henderson Road

---

### 1) CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The property consists of five (5) parcels located in the northeast quadrant of the intersection of Lavista Road and Midvale Road (the “Subject Property”). The Subject Property is more particularly located at 4700 Lavista Road (Parcel ID 1821201018), 4704 Lavista Road (Parcel ID 1821201002), 4738 Lavista Road (Parcel ID 1821201006), 4738 Lavista Road REAR (Parcel ID 1821201019), and 2470 Henderson Road (Parcel ID 1822704042). The Subject Property is zoned R-85 (Residential Medium Lot-85) and R-100 (Residential Medium Lot-100). The Subject Property is developed with three single family homes, a pool house, paving and other appurtenant site improvements.

The Applicant seeks to rezone the Subject Property R-75 (Residential Medium Lot-75) and R-60 (Residential Small Lot-60) to allow the development of sixty-three (63) single family homes. The City of Tucker’s Comprehensive Land Use Plan designates the Subject Property as Suburban character area which is appropriate for the proposed R-60 and R-75 zoning and single family residential.

The City of Tucker approved the Tucker Tomorrow Comprehensive Plan (the “Comprehensive Plan”) on April 23, 2018. The proposed use is consistent with the Comprehensive Plan, which indicates the Subject Property as being within the SUB character area. The Comprehensive Plan’s stated policy and intent for the SUB character area is to preserve the suburban character of Tucker’s neighborhoods. The proposed single family residences fall neatly within this stated intent.

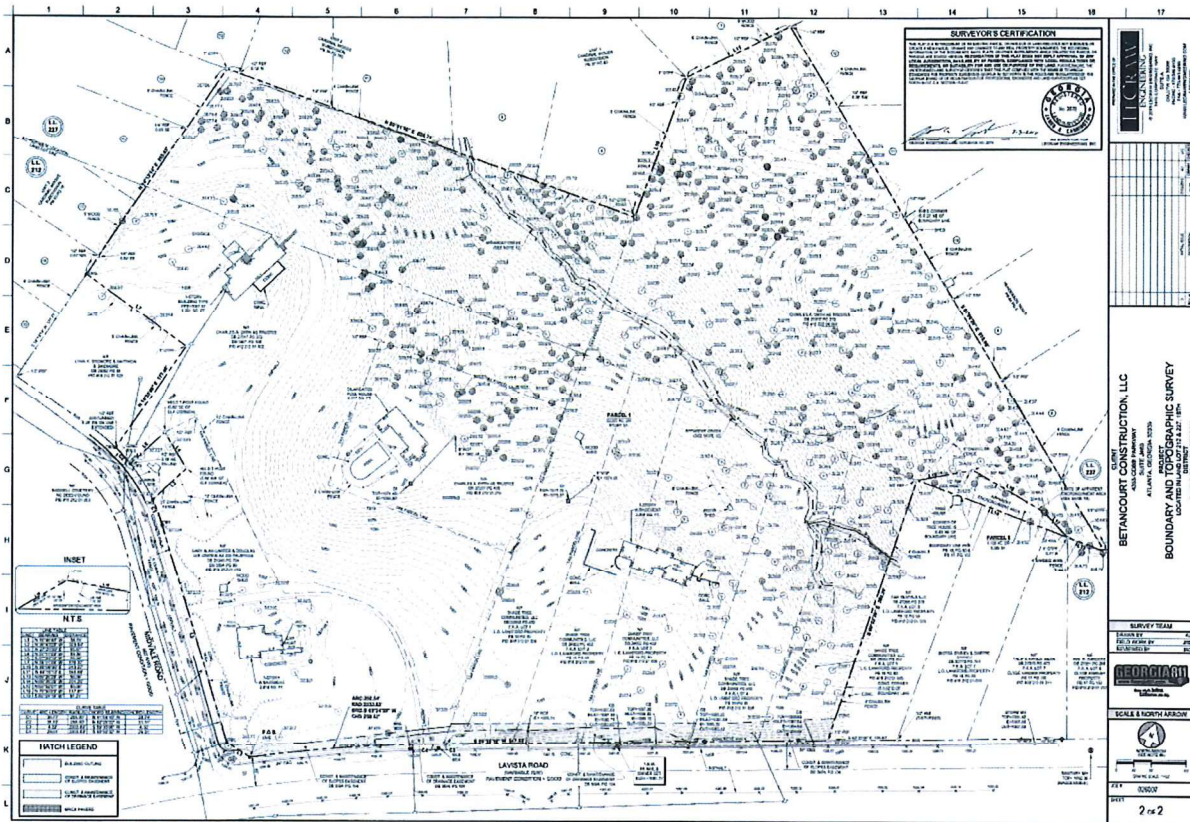


Figure 1. Survey

## 2) ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT.

### a) Wetlands

There are no wetlands on the property as indicated by the U. S. Fish and Wildlife Service, National Wetlands Inventory Maps. There are, however, wetlands on the Subject Property as indicated by the stream analysis prepared by Trimble GPS Pathfinder Office, dated April 23, 2019. The site plan prepared by Barclift Associates, dated August 26, 2019 (the "Site Plan"), does not propose any disturbance to the onsite wetlands for the construction of the single family homes and associated site work. The proposed Application to rezone the Subject Property and develop single family residences will have no impacts to any wetlands.

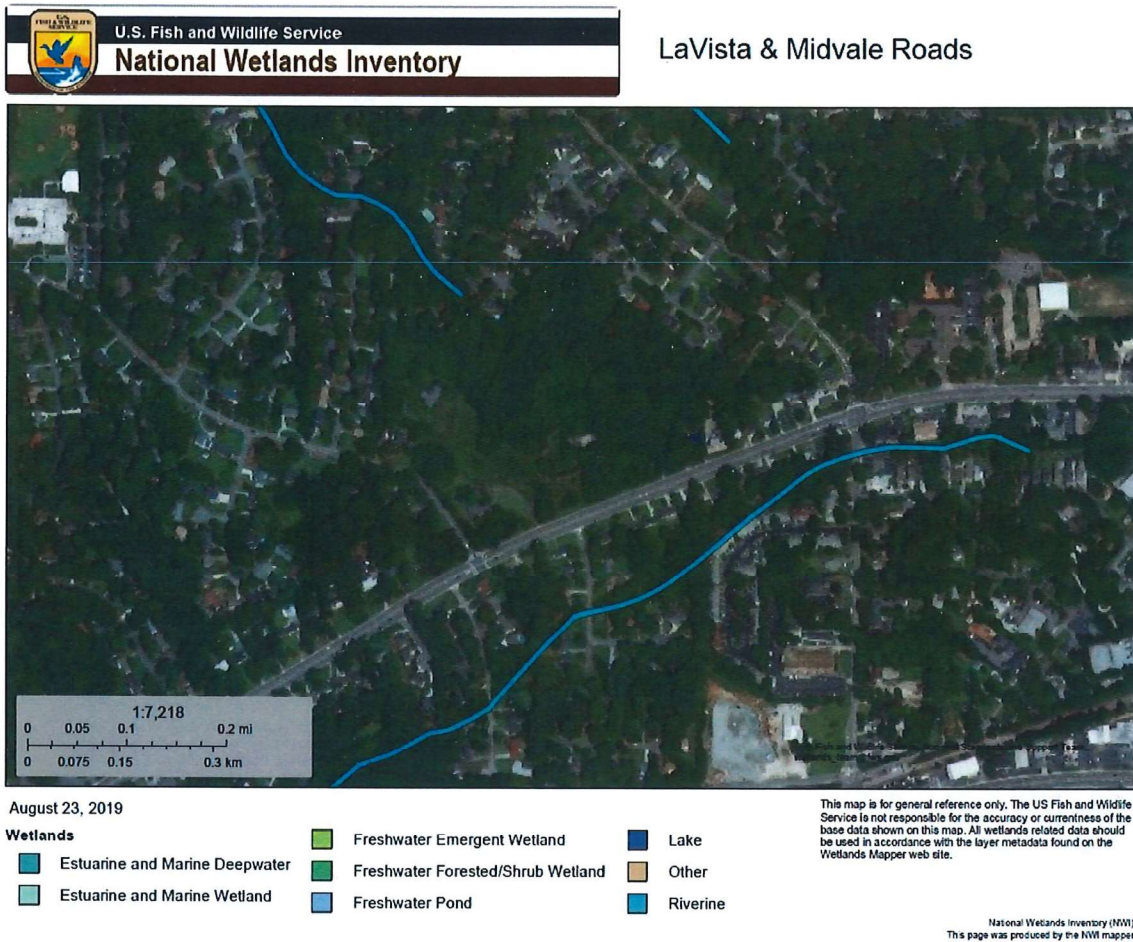


Figure 2. National Wetlands Inventory Map

**b) Floodplain**

The Subject Property is not within any floodplain and is designated as an Area of Minimal Flood Hazard according to FEMA FIRM Map, Panel numbers 13089C0076K, effective August 15, 2019. Accordingly, the proposed single family homes will not encroach into any portion of the floodplain.

**National Flood Hazard Layer FIRMette**



**Legend**

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE) Zone A, V, AE, AH
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Note, Zone X
- Area with Flood Risk due to Levee Zone D

**OTHER AREAS**

- Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone D

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Tract
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Tract Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 8/23/2019 at 4:26:44 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Figure 3. FEMA FIRM Panel

**c) Streams/stream buffers**

There are state waters present on the Subject Property based on site observations and as indicated by the stream analysis prepared by Trimble GPS Pathfinder Office, dated April 23, 2019 and the boundary survey performed by LeCraw Engineering, dated July 3, 2019. The FEMA FIRM maps identify the stream as the Peachtree Branch Unnamed Tributary 2. The stream enters the Subject Property in an open channel from the east and flows through the property before leaving the property to the northwest. The Site Plan depicts one perpendicular roadway crossing of the stream, however all other portions of the development will remain outside of the stream buffers.

**d) Slopes exceeding 25 percent over a 10-foot rise in elevation**

Based on topographic maps and site observation there are no slopes in excess of 25% over a 10-feet in rise on the Subject Property.

**e) Vegetation**

The project site consists primarily of trees, low lying brush and landscaped (primarily grassed) areas. An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service. The report revealed that there is one plant native to the region (Michaux's Sumac) that is endangered. This species was not found onsite.

**f) Wildlife Species (including fish)**

An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service, which did not indicate any endangered species in the area. The report did reveal that there are several species of migratory birds in the region. None were found to be present or nesting at the project location during the site visit on August 24, 2019.



### g) Archeological/Historical Sites

According Georgia's Natural, Archaeological and Historic Resources GIS (GNAHRGIS) maps, the project site is not on a historic or archaeological registry. The site is currently developed with several residential houses, a pool building and appurtenant site improvements.



Figure 4. GNAHRGIS Map

### 3) **PROJECT IMPLEMENTATION MEASURES.**

#### **a) Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.**

The Subject Property contains an environmentally sensitive stream corridor on a portion of the site. The proposed Site Plan shows an encroachment into a portion of the City and State buffers for the installation of a roadway. This disturbance will be limited in nature and confined to one section of the stream. The Applicant will apply for all necessary permits from the Georgia Environmental Protection Division for the encroachment. The Applicant will avoid all other disturbance within the stream buffer and take precautions to protect the same during construction activities.

#### **b) Protection of water quality**

The proposed project will treat stormwater for pollutants prior to discharge from the site. The overall impact to the downstream stormwater infrastructure will be positive, as no stormwater treatment currently exists.

#### **c) Minimization of negative impacts on existing infrastructure**

The proposed development has access to existing utilities with sufficient capacity to support the proposed use. The proposed use is not anticipated to overly burden existing utilities.

#### **d) Minimization on archeological/historically significant areas**

No archeological/historically significant areas were identified on or adjacent to the site and as a result no impacts are anticipated.

#### **e) Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.**

There are no environmentally adverse conditions (waste treatment facilities, airports, landfills, etc.) and therefore, the Subject Property is not in an environmentally stressed area.

#### **f) Creation and preservation of green space and open space**

The proposed development will incorporate significant portions of the overall site for open space areas, as well as maintaining natural undisturbed areas within the stream buffers.

**g) Protection of citizens from the negative impacts of noise and lighting**

The proposed residential development will not have negative impacts on the surrounding uses. The proposed design, however, is incorporating the use of certain setbacks and buffers along the property lines which will minimize noise and lighting impacts to/from nearby properties along the other property lines.

**h) Protection of parks and recreational green space**

No existing parks will be impacted.

**i) Minimization of impacts to wildlife habitats**

No sensitive wildlife areas were observed during the August 24, 2019 site visit and as a result no impacts are anticipated.

# DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE:            YES (if YES, complete points 1 through 4);            NO (if NO, complete only point 4)

1.            CIRCLE ONE:            **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)  
**In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2.            List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

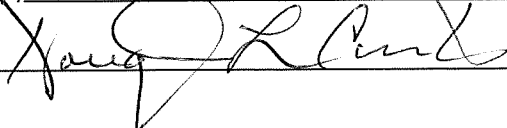
1. _____	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

3.            CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4.            The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Douglas Lee Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007

Signature: 

Date: AUGUST 14, 2019

## DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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Charles A. Orth, as Trustee of the Item III Trust U/W

Name (print) of Eunice Whitmire Ewing

Signature: Charles A. Orth

Date: 8/14/19

## DISCLOSURE REPORT FORM

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Charles Orth, as Trustee of the Testamentary Trust under the  
Name (print) Will of Eunice Whitmire Ewing dated March 8, 1976

Signature: Charles A. Orth Date: 8/14/19

## DISCLOSURE REPORT FORM

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Name (print) Gary Alan Carter, as Co-Trustee of The Carter Descendants Trust dated December 24, 2007

Signature:             Date: August 18, 2019

# DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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1.            **CIRCLE ONE:**            **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

**In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2.            List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

- |                                       |          |
|---------------------------------------|----------|
| 1. <u>Betancourt Construction LLC</u> | 5. _____ |
| 2. _____                              | 6. _____ |
| 3. _____                              | 7. _____ |
| 4. _____                              | 8. _____ |

3.            **CAMPAIGN CONTRIBUTIONS:**

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more
<i>NA</i>			

4.            The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Steve Ficarra

Signature:             Date: 8/24/19







## DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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Name (print) J. Alexander Brock

Signature:             Date: 8/21/19



August 23, 2019

Mr. Ken Hildebrandt  
City of Tucker  
4119 Adrian Street  
Tucker, Georgia 30084

RE: LaVista & Midvale Residential Development – Trip Generation Report

Dear Mr. Hildebrandt,

The Institute of Transportation Engineers (ITE) Trip Generation Manual, 10<sup>th</sup> Edition (2017), was used to estimate that the proposed 63 lot detached single-family residential development (ITE code 210) will generate a PM Peak of 62 trips. The trip generation information is provided in the table below for reference.

Land Use (ITE Code)	Project Density	Daily Total	A.M. Peak			P.M. Peak		
			In	Out	Total	In	Out	Total
Single-Family Detached Housing (210)	60 Units*	650	12	35	47	39	23	62

\* 60 units was used, as there are 3 existing single-family homes on the property in the current condition

Please let me know if we can provide any additional information.

Sincerely,



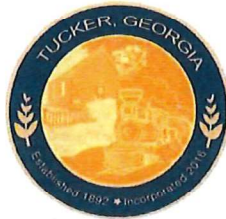
Mark S. LeCraw, P.E.

RECEIVED  
City of Tucker

AUG 26 2019

Community Development  
Department

122-19-0005



## PRE-APPLICATION FORM

### REZONING, COMPREHENSIVE PLAN AMENDMENT, SPECIAL LAND USE PERMIT, AND CONCURRENT VARIANCE

#### Purpose & Process

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es)/procedure(s) and fees required to process and review the application(s). Please contact Courtney Smith at [csmith@tuckerga.gov](mailto:csmith@tuckerga.gov) to schedule an appointment. This form will be completed during the pre-application meeting. After completing the pre-application meeting, the applicant may file the Land Use Petition.

Applicant: Stephen Ficarra / Betancourt Communities

Site Address: Midvale Rd / Lausta Parcel Size: ± 22 acres

Proposal Description: Single-family detached  
development. ± 63 units. R-75 + R-40  
Zoning

RECEIVED  
City of Tucker

AUG 26 2019

Community Development  
Department

Existing Zoning Designation and Case Number: R-85 / R-100

Proposed Zoning Designation: R-75 / R-60 CV: \_\_\_\_\_

Proposed SLUP Request: ALA CV: \_\_\_\_\_

Comprehensive Land Use Map Designation: Suburban

Overlay District: ALA

Staff: John McHenry, Rosie Mafe Date: 8/19/19