



Land Use Petition: SLUP-18-001

Date of Staff Recommendation Preparation: April 16, 2018

Community Council: March 14, 2018

Planning Commission: April 26, 2018

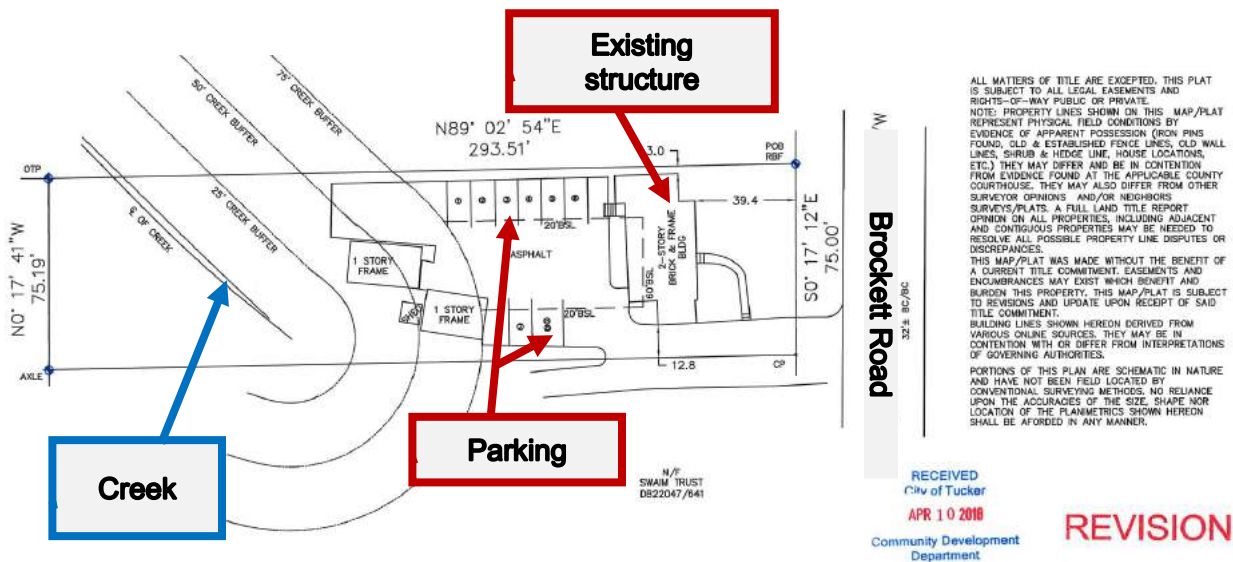
Mayor and City Council, 1st Read: May 14, 2018

Mayor and City Council, 2nd Read: May 29, 2018

PROJECT LOCATION:	2298 Brockett Road, Tucker, GA
DISTRICT//LANDLOT(S):	Land District 18, Land Lot 212
ACREAGE:	0.5 acre
EXISTING ZONING	OI (Office Institutional)
EXISTING LAND USE	Office
FUTURE LAND USE MAP DESIGNATION:	Suburban (SUB)
OVERLAY DISTRICT:	Downtown Tucker Overlay District, Neighborhood Zone
APPLICANT:	Warrior Body, LLC
OWNER:	Steve Wright
PROPOSED DEVELOPMENT:	Applicant requests approval of a Special Land Use Permit for a massage establishment/health spa.
STAFF RECOMMENDATION:	Approval of SLUP-18-001 (Massage Establishment)

PROJECT DATA

The applicant has submitted an application for a Special Land Use Permit (SLUP) for the ±0.5 acre subject property located at 2298 Brockett Road (approximately 725 feet south of the intersection of Lavista Road and Brockett Road). The application, SLUP-18-001, is to allow a massage establishment/health spa in the OI (Office Institutional) zoning district. The ±0.5-acre site is developed with three structures. The applicant intends no exterior change to the footprints of the existing buildings on the site.



The two smaller structures and pavement to the rear are partially located within the local stream buffer 50-foot radius, but outside the 25-foot state buffer. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25-foot buffers on both sides of a stream, measured from the point of wretted vegetation which is usually located at the tops of the banks. The City of Tucker requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited.

Rezone (CZ-80047), was approved by the DeKalb County Commission on May 27, 1980. Conditions of approval of Rezone (CZ-80047) include: (1) that the existing structure be maintained for OI use; (2) one sign allowed on the site; and (3) no additional driveways. At the time of the 1980 rezoning (CZ-80047), only the state 25-foot undisturbed stream buffer existed which explains the placement of structures close to the stream. Since that time, the county and the City of Tucker have implemented an additional 50-feet of stream buffers (for a total of 75-feet). The request is only to allow a massage establishment/health spa. The applicant is not proposing any exterior renovations.

The proposed use meets the intent of the Suburban Character Area by providing alternative health services to the community. The proposal is consistent with general policies of the comprehensive plan including increasing awareness among residents, being proactive about aging issues; identify opportunities to enhance and expand supportive services for all age cohorts; and developing innovative policies and programs to improve residents' health.

The applicant submitted a floorplan illustrating the existing 1,512-square-foot structure consisting of a conference room and administrative room on the 2nd floor; and five offices, including 2 flex office/treatment rooms and an administrative/reception entry area on the 1st floor.

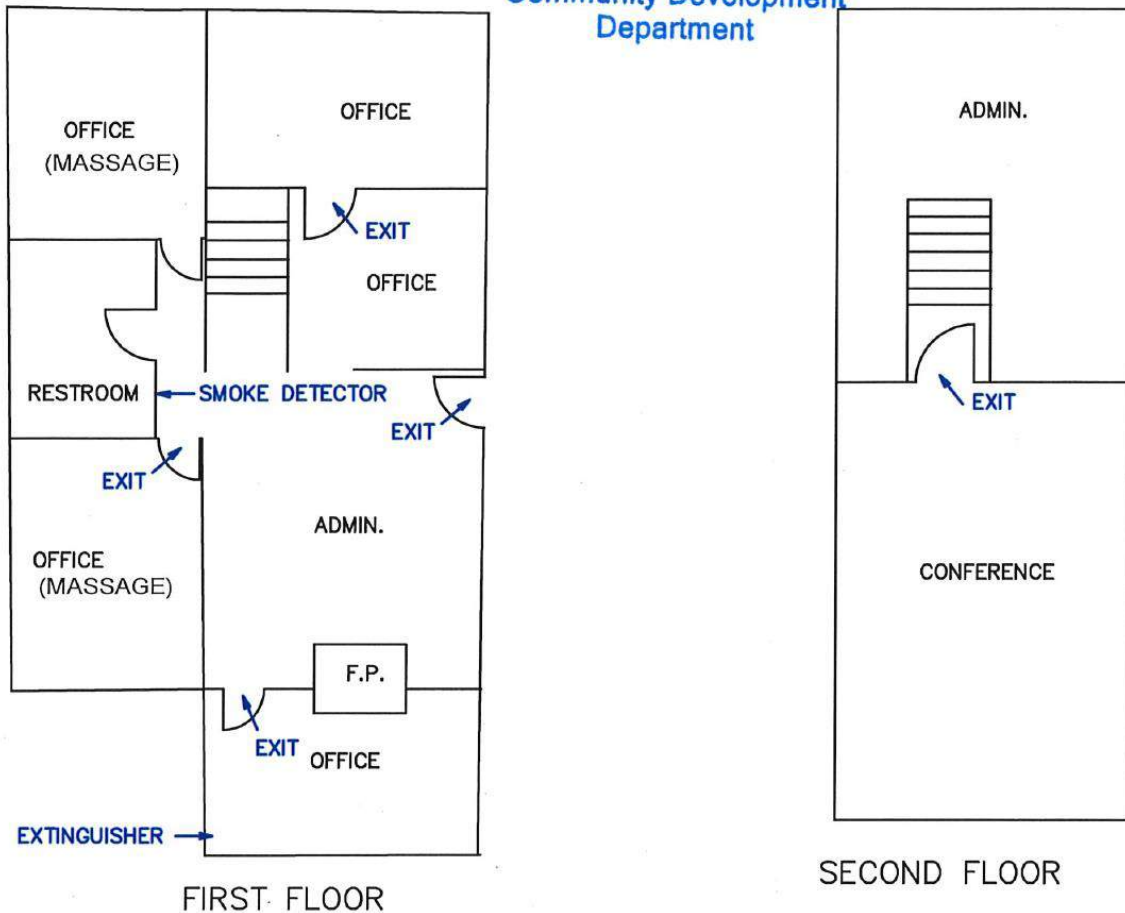
Floorplan of the Premises

The floorplan of the Premises consisting of approximately 1,512 USF located at 2298 Brockett Road, Tucker, Georgia 30084 is shown below:

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Community Development
Department



Warrior Body Spa has two locations: one location in Brookhaven and (the proposed new location) in Tucker. The Tucker location was previously located at 2145 Lavista Road. The owner is a healthcare professional, focusing on total wellness and detox, within the health and wellness industry. This spa will offer infrared saunas, detox foot baths, body wraps, ear candling and massage therapy with farmhouse fresh products, featuring local all-natural, organic ingredients. There are currently four independent contractors (1 receptionist and 3 massage therapists) at the proposed location.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located within the Downtown Tucker Overlay District. The intent of the Downtown Tucker Overlay district includes, “promote the development of a more dynamic, mixed-use district of appropriate scale and magnitude in the downtown Tucker area; to provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel; and to implement the policies and objectives of the Comprehensive Plan and the Zoning Ordinance of the City of Tucker within the Tucker Overlay District”.

The purpose and intent section of the OI zoning district (Article 2.25.1) indicates in part that the OI district is established to “provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the city; and to provide locations for the development of cultural, recreational, educational and health service facilities for the city”.

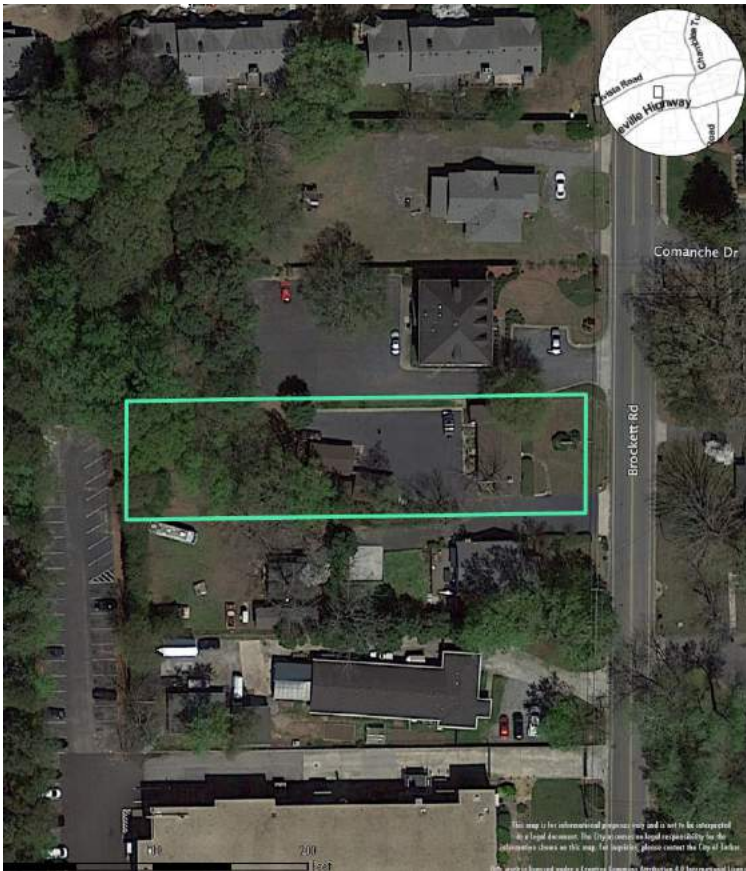
The OI zoning district and the Downtown Tucker Overlay District allows for “massage establishments and health spas” only as a special use (Table 4-1 zoning ordinance). The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case basis to ensure compatibility with the surrounding area including environmental impacts, aesthetic and infrastructure impacts. In the city of Tucker all massage establishments require a SLUP and must meet supplemental use regulations.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on March 14, 2018. Community Council discussion included whether this was a business expansion of the former location on Lavista Road, or re-location. As is standard, the Community Council did not make a recommendation of approval or denial.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	OI (Office Institutional)	Downtown Tucker Overlay	Office
Adjacent: East (Across Brockett Road)	OI (Office Institutional)	Downtown Tucker Overlay	Office
Adjacent: South	R-75	Downtown Tucker Overlay	Office
Adjacent: West	R-75	Downtown Tucker Overlay	BellSouth Utility; Vacant
Adjacent: Further West	MR-2	Downtown Tucker Overlay	Chelsea Commons Townhomes



Aerial Exhibit showing surrounding land uses.

Zoning Exhibit showing surrounding land uses.



SLUP-18-001 MASSAGE ESTABLISHMENT

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the zoning ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The site size is approximately 0.5 acre. The site is relatively small; however, the applicant is not proposing to expand the existing structure's footprint. The submitted parking plan shows eight parking spaces located behind the building, which will need to be striped. The applicant states that the smaller structures behind the primary structure are only used for storage, and that there are only 2 rooms used as treatment rooms.

The applicant is not proposing any structural revisions. The request relates to the proposed use only.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed massage establishment/health spa is compatible with the land uses and development of adjacent properties as it is surrounded on three sides by OI (Office Institutional) zoned properties. Further, the zoning of the adjacent parcel designated R-75 (Residential) is used as an office, as allowed in the Downtown Tucker Overlay District. The property is also located within walking distance to downtown Tucker.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The survey depicts existing conditions. The applicant does not propose any revisions, which would trigger review of a stormwater management system.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Traffic impacts will be minimal. One shared curb cut locations already exist. No new curb cuts would be allowed per the conditions of zoning and the City of Tucker Land Development Regulations. The business location has four independent contractors (1 receptionist and 3 massage therapists) currently employed at the location, with two treatment rooms.

The driveway is a shared drive with the parcel to the south. The applicant must provide a recorded inter-parcel access agreement. If approved, the Land Development Engineer has also recommended a revised parking plan with parking space dimensions and drive aisle spacing. Applicant must provide a revised parking plan with dimensional standards.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

In terms of development impacts, existing office type land uses would not be adversely affected by the proposed massage establishment/health spa. If developed in accordance with recommended conditions, land uses along Brockett Road will not be adversely affected by the character of vehicles or the volume of traffic generated by the proposed development.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

If developed in accordance with recommended conditions from the City Engineer, the proposed development can meet this standard. DeKalb Fire Department requires the proposed massage/health spa establishment to submit a Life Safety plan to show egress.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes a massage establishment/health spa. However, the surrounding adjacent land uses are office-like in nature and surrounded on 4 sides by the Downtown Tucker Overlay District. Therefore, no adverse impacts on adjoining land uses are anticipated.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The proposed massage/health spa establishment proposes to be operational as follows:
 Monday & Wednesday through Friday (10 am to 7 pm);
 Tuesday (Closed);
 Saturday (10 am to 5 pm);

Sunday (12 pm to 5 pm).

The property is surrounded by Office zoning and office uses. Additionally, it is located within the Downtown Tucker Overlay District.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with recommended conditions, land uses along Brockett Road will not be adversely affected by the manner or operation of the development.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed development complies with the requirements of the Downtown Tucker Overlay District. Compliance with the Downtown Tucker Overlay district standards assists in improving the vibrancy of the downtown, the economic sustainability and the aesthetics of the area.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the immediate area is designated Suburban on the Future Land Use. East across the Brockett Road is designated Town Center on the Future Land Use map. Primary Suburban land uses include health and wellness services provided to the community. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan.

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

No transitional buffer zones are required due to the property's location in the Downtown Tucker Overlay. The site plan is in violation of the City's required stream buffer ordinance. However, since the proposed SLUP will not further impact the buffer, this is considered a legal nonconforming use. Any future alterations to the building footprint onsite would require compliance with the current stream buffer regulations.

M. Whether or not there is adequate provision of refuse and service areas.

The site plan does not show a space for a trash; however, the proposed use should not generate much refuse.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

No limits on the length of time on the special land use permit are recommended, if granted.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The applicant proposes no changes to the existing building size, mass, and scale.

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated.

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The following supplemental use regulations are applicable: Sec. 4.2.58 (Massage Establishment (includes health spas that offer massage services)). The applicant's letter of intent states that they will comply with the standards for massage establishments in Section 4.2.58.

There are additional criteria that must be considered when massage establishments are proposed, as enumerated below:

- A. The presence of any device used as an early warning system to alert the employees of a massage establishment to the presence of law enforcement officers or city authorities on the premises is prohibited in any massage establishment.**

Applicant states they shall be in compliance.

- B. If a receptionist is present, the public entrance door of the massage establishment and the doors of all massage rooms or cubicles must remain unlocked during any time the establishment is occupied. In the absence of a receptionist, the public entrance may be locked as long as fire safety requirements are met (panic bar, no deadbolt, etc). Individual massage therapy rooms shall not be locked.**

Applicant states they shall be in compliance.

- C. All massage establishments must display the following documents at all times in a clearly visible place:**

- 1. State Licenses**
- 2. Local Business License**

Applicant states they shall be in compliance.

- D. Massage businesses may open no earlier than 6:00 a.m. and close no later than 11:00 p.m. Any massage must be completed by 10:00 p.m.**

Applicant's proposed hours of operation are in compliance.

- E. The exterior windows of the lobby/reception/entrance area may not be covered by curtains, closed blinds, tints or any other material that obstructs the view into the premises. No signs may cover more than 30% of any windowpane.**

Applicant states they shall be in compliance.

- R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not produce an adverse shadow effect. No changes are being proposed to the existing structure.

- S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

There is not a proliferation of this use in this area.

- T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

Downtown Tucker Overlay District. The purposes of the Downtown Tucker Overlay District, among others, are to promote the development of a more dynamic, mixed-use district of appropriate scale and magnitude in the downtown Tucker area; to design and arrange structures, buildings, streets, and open spaces to create an inviting, walkable, human-scale environment; and to provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel. More specifically, the intent of the **neighborhood zone** is to preserve the residential neighborhood character and uses while allowing mixed use and commercial uses along the major roads within the district. This neighborhood character shall be guided by residential architecture such as pitched roofs, smaller scale, fenestration, cornices, columns, etc. The height in this district should be compatible to residential structures.

Suburban Character Area. The proposal is not in conflict with the intent of the Suburban Character Area. Primary land uses include residential and health & wellness centers. The proposed development is consistent with the intent of the adopted comprehensive plan.

CONCLUSION

The proposed use is complementary to the existing uses along Brockett Road in the Downtown Tucker Overlay District and would contribute to a healthy and vibrant overlay district. The proposed Special Land Use Permit application is consistent with the comprehensive plan character area, and the zoning ordinance.



STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-18-001**.

1. The property shall be developed in general conformance with the site plan submitted on April 10, 2018, to the Community Development Department, with revisions to meet these conditions.
2. The business may open no earlier than 6:00 a.m. and close no later than 11:00 p.m. Any massage must be completed by 10:00 p.m.
3. Lighting shall be energy efficient LED lighting with downward facing cut-off light fixtures to reduce glare.
4. The development of this project is contingent upon the approval of the DeKalb County Department of Watershed Management.
5. The proposed massage establishment must submit a Life Safety plan to show egress to the Fire Department.
6. Applicant shall provide a recorded interparcel access agreement.
7. Applicant shall submit a revised parking lot design including dimensions for parking spaces and drive aisles, which shall be subject to the review and approval of the City of Tucker Community Development Department and the DeKalb Fire Department. Once approved, parking spaces shall be striped within 60 days.
8. Any infractions with the police department must be immediately reported to city staff.

DEPARTMENT COMMENTS

ARBORIST

No new development occurring on the site.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

Applicant submitted a letter dated, April 7, 2018, to Aaliya Bashir regarding Sanitary Sewer Capacity Evaluation for 2298 Brockett Road, stating, “that the completed application shall be provided to applicant via email for submittal to the Department of Watershed Management in DeKalb County”.

DEKALB COUNTY FIRE MARSHAL OFFICE

The proposed massage location would also need a Life Safety plan to show egress.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

1. Provide a parking lot design including dimensions for parking spaces and drive aisles.
2. The existing driveway encroaches on the adjacent property. Provide a recorded interparcel access agreement.
3. Water and sewer approval is required by the DeKalb County Department of Watershed Management.