



Agenda
Decatur City Commission

Monday, September 18, 2017

**All Meetings are held at
City Hall
509 North McDonough Street**

EXECUTIVE SESSION – 5:00 P.M.

Legal and Real Estate Matters

DINNER SESSION – 5:45 P.M.

Commission Conference Room

WORK SESSION – 6:30 P.M.

Commission Meeting Room

Affordable Housing Report

CITY COMMISSION MEETING - 7:30 P.M.

Commission Meeting Room



Agenda

Decatur City Commission

City Hall
Commission Meeting Room
Regular Meeting
Monday, September 18, 2017
7:30 P.M.

I. Call to Order by Mayor.

II. Approval of the Minutes.

Approval of the Minutes of the [Executive Session](#) and [Regular Meeting](#) of September 5, 2017.

III. [Planning Commission Recommendations.](#)

MCRT Investments, LLC requests a conditional use authorization for a lifecycle dwelling density increase for the property at 163 Clairemont Avenue. The Planning Commission recommends approval with conditions.

[Application](#)

[Plans](#)

[Staff Report](#)

[Ordinance O-17-Z-XX](#)

IV. Public Comment on Agenda Action Items.

The public is invited to comment on agenda action items other than for “Requests and Petitions” and “Reports and Other Business.” Public comments that relate to “Requests and Petitions” will be heard later in the meeting.

V. Agenda Action Items.

A. [Resolution Supporting an Equalized Homestead Option Sales Tax \(EHOST\) and Special Purpose Local Option Sales Tax \(SPLOST\).](#)

Recommend adoption of [Resolution R-17-25](#) supporting the referendum for an EHOST and SPLOST in DeKalb County; approving a list of projects and authorizing the Mayor to execute an [IGA with DeKalb County](#) regarding the use of SPLOST proceeds.

B. Agreement for Services.

Recommend authorizing the City Manager to execute an agreement for services to recognize and acknowledge the African American experience and history on the Courthouse Square through a multi-phase initiative.

VI. Requests and Petitions.

VII. Reports and Other Business.

- A. [Planning Commission Agenda.](#)
- B. [Resolution Confirming Executive Session of September 5, 2017.](#)
- C. Other.

Consistent with requirements of O.C.G.A. §50-14-1.(e)(1)a draft agenda was posted on Wednesday, September 6, 2017. This agenda may be amended. A final agenda will be posted by 5:00pm on Friday, September 15, 2017.

MINUTES

DECATUR CITY COMMISSION

Executive Session
September 5, 2017
City Hall: 5:00 P.M.

On a motion by Commissioner Smith, second by Commissioner Powers; and, Mayor Garrett; Mayor pro tem Boykin; and Commissioners Drake, Powers and Smith voting “aye”, the City Commission entered into an executive session for the purpose of considering legal matters.

PRESENT: Mayor Garrett; Mayor pro tem Boykin; and, Commissioners Drake, Powers and Smith; City Manager Merriss; Deputy City Manager Hugh Saxon; and City Attorney Bryan Downs.

On a motion by Commissioner Smith, second by Commissioner Powers; and, Mayor Garrett; Mayor pro tem Boykin; and Commissioners Drake, Powers and Smith voting “aye”, the City Commission adjourned from Executive Session for the purpose of discussing legal matters. And, the City Commission authorized that the City Commission, in a regular meeting, to adopt a resolution: confirming that the subject matter of the executive session was within exceptions permitted by the open meetings law; and, ratifying the actions taken; and, authorizing and directing the Mayor to execute an affidavit in compliance with O.C.G.A. §50-14-4.

Note: As required by O.C.G.A. § 50-14-4(b), a properly executed affidavit is attached to these minutes as part of the permanent record.

MINUTES

DECATUR CITY COMMISSION

Regular Meeting
September 5, 2017
City Hall: 7:30 p.m.

Mayor Garrett called the Regular Meeting of the Decatur City Commission to order at 7:30 p.m. on Tuesday, September 5, 2017.

PRESENT: Mayor Garrett; Mayor pro tem Boykin; and, Commissioners Drake, Powers and Smith; and, City Manager Merriss.

MINUTES: On a motion by Commissioner Smith; second by Commissioner Powers; and, Mayor Garrett; Mayor pro tem Boykin and Commissioner Powers and Smith voting “aye”, the minutes were approved as amended.¹

PUBLIC COMMENT ON AGENDA ACTION ITEMS.

Wylde Center Executive Director Stephanie Van Parys thanked the City Commission for the annual financial support from the City and stated it was vital to their success.

Wylde Center Board Member KC Boyce presented information regarding the positive impact the Center had on the City over the past years.

CONTRACT FOR SERVICES WITH WYLDE CENTER.

City Manager Peggy Merriss presented a recommendation to authorize the City Manager to execute a contract for services with the Wylde Center for \$15,000. She stated this was an annual grant and that funding was available in the 2017-18 budget.

On a motion by Mayor pro tem Boykin, second by Commissioner Smith; and, Mayor Garrett; Mayor pro tem Boykin; and Commissioners Drake, Powers and Smith voting “aye”, the contract was authorized as recommended.

INVESTMENT RESOLUTIONS – GEORGIA FUND 1.

City Manager Peggy Merriss presented a recommendation to approve four resolutions that would update wire transfer instructions for the City’s Georgia Fund 1 accounts. She stated all four resolutions amend previously adopted resolutions.

On a motion by Mayor pro tem Boykin, second by Commissioner Powers; and, Mayor Garrett; Mayor pro tem Boykin; and Commissioners Drake, Powers and Smith voting “aye”, the resolutions were approved as recommended.

¹ Commissioner Drake did not vote as he was not present at the August 21, 2017 meetings.

DESIGN SERVICES – ATHLETIC FIELD IMPROVEMENTS AT THE UNITED METHODIST CHILDREN’S HOME PROPERTY.

Deputy City Manager Hugh Saxon presented a recommendation to authorize the City Manager to execute an agreement with McFarland-Dyer and Associates for design and construction administration services for improvements to the athletic fields at the United Methodist Children’s Home property in an amount not to exceed \$19,000. He stated this would be something similar to what was done with Ebster Field.

In response to a question from Commissioner Smith, Mr. Saxon responded that planning for the entire property would start early in 2018 incorporating extensive community involvement. He stated that the City would not have to implement any design work produced by McFarland-Dyer if the long-term plan did not involve athletic fields but it was anticipated that based on current need that fields would be a part of future plans.

In response to a question from Commissioner Smith, City Manager Merriss responded that the design work would provide construction documents that could be used for soliciting bids from contractors.

Commissioner Smith stated that he did have concerns about moving forward given that a different use could come from future community meetings.

Commissioner Drake stated that whatever came out of the community meeting, the plan would have to be implemented over a long period of time and that there was a current need for playing fields.

City Manager Merriss stated that based on the City’s current need for fields we would anticipate the area being used for fields in the long term but it could be changed if necessary.

Mr. Saxon stated the space might be able to incorporate a track if that became a goal from the community plan.

Mayor Garrett stated that currently that space was used for soccer and she assumed the City would convert that into general field use. She stated that if it came out at the master planning meeting that residents wanted a track or other activities there was enough space. She stated the Commission previously said they were going to try to use some of the existing recreational facilities.

On a motion by Commissioner Powers, second by Commissioner Smith; and, Mayor Garrett; Mayor pro tem Boykin; and Commissioners Drake, Powers and Smith voting “aye”, the agreement was authorized as recommended.

REQUESTS AND PETITIONS.

Mayor Garrett recognized Benjamin Wiser from Boy Scout Troop 134 who was attending the meeting as a merit badge requirement.

Kelly Walsh, 124 Erie Avenue, stated that the annual Fifth Avenue 5K and Mayors’ Mile would be held on Saturday, October 7th, 2017 at 9 AM. She stated this year there would be a

“Mayor for a Day” essay contest for the 4/5 Academy students and there would be two 4th and two 5th grade winners.

REPORTS AND OTHER BUSINESS.

Mayor Garrett read the Zoning Board of Appeals agenda for September 11, 2017.

On a motion by Commissioner Smith; second by Mayor pro tem Boykin; and, Mayor Garrett; Mayor pro tem Boykin; and, Commissioner Powers and Smith voting “aye”, the Resolution confirming the Executive Session of August 21, 2017 was approved.²

City Manager Merriss recognized Virginia Atchinson who was attending the meeting as a member of the E5 Leadership Academy.

City Manager Merriss shared instructions on how the public could sign up to automatically be reminded when new agendas for various boards were posted.

City Manager Merriss stated that at the September 18th City Commission meeting, Commissioners would be presented with a request to adopt a resolution supporting the county-wide EHOST and SPLOST referendum that would add a penny to the DeKalb County sales tax. She stated DeKalb County had requested that all the cities pass a supporting resolution. She stated there was still discussion about whether the sales tax should last for five years or six years. She added that the cities in DeKalb County supported the six year option.

Mayor Garrett commented that there was a public meeting last week that allowed the cities to reiterate their preference for 6 year time frame. In addition DeKalb County officials wanted to consider taking funds off the top to support building new fire stations. In addition, it was confirmed at the meeting that the distribution would be based on 2017 population numbers provided by the DeKalb Municipal Association. She stated the County had to have everything ready by September 26th in order to get the referendum on the ballot. She stated there would probably be larger voter turnout in the cities because of the municipal elections.

Commissioner Smith thanked City Engineer Michelle Hirose for the information presented in the work session for Reimagine West Howard.

Commissioner Smith stated that the first 2017-2018 Decatur Youth Council meeting on would be on Wednesday, September 6, 2017.

Commissioner Smith stated he would be at the 4/5 Academy speaking to the students about the upcoming 5K and Mayor’s Mile.

Commissioner Powers thanked all the volunteers at the Decatur Book festival.

Commissioner Powers thanked the Wylde Center for all of their initiatives.

Commissioner Drake stated the West Howard project process was very good and hoped it moved forward quickly.

² Commissioner Drake did not vote as he was not present at the meeting.

Commissioner Drake stated the Decatur Book Festival appeared to be very well attended with an estimated 85,000 in attendance. He thanked the City staff that worked on that event.

Mayor Garrett stated the holiday ornament unveiling would be September 14, 2017 from 6:30pm – 8:00pm at Wild Oats and Billy Goats.

Mayor Garrett thanked Michelle Hirose and team for the Reimagine West Howard presentation. She stated that the City Commission acknowledged that Decatur had a lot of traffic during certain times of the day but also had a lot of pedestrians and bike riders who travelled throughout the day.

Mayor Garrett thanked the Decatur Police and Fire Department for their work during the Book Festival. She also thanked the public works employees for doing a great job cleaning up during and after the Decatur Book Festival.

Mayor Garrett stated she and Commissioner Smith attended Decatur Days at McKoy Park on September 2nd. She recognized the Decatur Active Living Department who helped coordinate traffic at that event.

In response to a question from Mayor Garrett, City Manager Merriss stated the City currently the only agendas that were set up for the e-notice program were ones for Boards and Commissions whose actions were legally binding on the City but we would look into adding others. Ms. Merriss stated that all the meeting dates were available online.

There being no other business, the meeting was adjourned.

Peggy Merriss
Acting City Clerk



Memorandum

TO: Peggy Merriss, City Manager
FROM: Angela Threadgill, Planning Director
DATE: September 15, 2017
RE: Planning Commission Recommendations

The following item was considered at the Planning Commission meeting on Tuesday, September 12, 2017 and received the following recommendation for further consideration by the City Commission.

1. MCRT Investments, LLC has requested a conditional use authorization for the lifecycle dwelling density increase for the property at **163 Clairemont Avenue**.

In an unanimous vote, the Planning Commission recommended approval of the request for conditional use authorization for lifecycle dwelling density increase for the property at 163 Clairemont Avenue, with the following additional conditions 1) at least 20% of total dwelling units, but in no case less than 29 residential units, be lifecycle dwelling units and that the developer shall be bound by the conditions approved within the DDA resolution. Mr. Buckley, Jr., having been recused.

**City of Decatur
Planning Commission**

**September 12, 2017
Minutes**

Decatur City Hall
City Commission Room
509 North McDonough Street
7:00 PM

Present: Burnette, Leland-Kirk, Manrow, Buckley, Jr., Doyon, Ohlandt, Travis

Absent: None

Staff: Threadgill

Mr. Burnette, Chair, called the meeting to order at 7:00 PM. He provided introductions and an overview of the procedural process for the meeting.

The first item under old business was held over to the end of the meeting.

Mr. Burnette announced the first item under new business. MCRT Investments, LLC has requested a conditional use authorization for the lifecycle dwelling density increase for the property at **163 Clairemont Avenue**.

Mr. Chad Dubeau, Senior Managing Director with MCRT Investments, LLC, presented the application to request the conditional use authorization for lifecycle dwelling density increase. He mentioned other projects around metro Atlanta and the firm's focus on mixed use developments. He stated that this project is a long-term two-phase project. The first phase proposes to relocate the existing Bank of America branch bank from the west side of the property to the northeast corner of the property. Bank of America has a long-term, 99-year lease to occupy the property. Therefore the redevelopment seeks to accommodate the branch bank while also constructing a mixed use project of 232 rental residential units and up to 25,000 sq. ft. of ground floor retail. He stated the second phase of the project would be to replace the current bank on the site with an 80,000 sq. ft. office building. He stated no surface parking would remain in phase two. Mr. Dubeau presented concept images, perspective drawings, and renderings of both phases of the project. He stated the PATH cycle track along Commerce Drive was considered and reflected in the designs of the project.

In response to a question from Mr. Burnette, Mr. Dubeau stated that the number of bedrooms had been determined by a market analysis. He stated that a breakdown could be approximately 5-7% studio apartments, 35-40% 1 and 2 bedrooms and 10-12% 3 bedrooms.

Mr. Buckley, Jr. recused himself due to a conflict of interest being that the developer is client of the law firm for which he works.

In response to a question from Ms. Leland-Kirk, Mr. Dubeau stated that the amount of parking spaces was determined from a desire to be more walkable and to have less cars. He stated there would be about 1 dedicated parking space per bedroom and 37 parking spaces for the bank. Mr. Kirk Billings

representing the current property owners, Pope and Land Enterprises, Inc., stated that the bank had originally requested 67 parking spaces but that they had lowered the number after much negotiation.

In response to a question from Mr. Travis, Mr. Dubeau stated that they had not performed a traffic study. He stated that they were not opposed to performing a traffic study.

In response to a question from Mr. Burnette, Mr. Dubeau stated that the new curb cut on Commerce Drive would be approximately 160 feet from the intersection of Commerce Drive and Church Street. Mr. Burnette stated that the curb cut along Commerce Drive would not be a suitable location and that it would be too close to the intersection. Mr. Dubeau stated that the location of the curb cut had been dictated by the bank. Mr. Billings stated that the three-year negotiations with the bank had been difficult and that they required a standalone building and surface parking accessible from Commerce Drive and Church Street.

Mr. Ohlandt stated that the project's phase II office building and the traffic it would generate may necessitate the Commerce Drive curb cut.

Mr. Burnette stated that the alley at the rear of the property is very narrow.

Ms. Leland-Kirk stated that it would be more difficult for traffic to exit onto Commerce Drive than it will be on Church Street. Ms. Manrow agreed and said traffic will be problematic.

In response to a question from Mr. Burnette, Mr. Dubeau stated that they can ask the bank if the exit through the curb cut on Commerce Drive can be right turns only. Mr. Burnette also suggested that no left turns into the development from Commerce Drive should be permitted to avoid the traffic congestion that would inevitably result if such turns were permitted.

In response to a question from Ms. Manrow, Mr. Dubeau confirmed that the residential units will be rental units.

In response to a question from Ms. Leland-Kirk, Mr. Dubeau stated that it is unlikely that the existing street or site trees would survive development.

In response to a question from Mr. Burnette, Mr. Dubeau stated that they will check their calculations on the minimum 5% outdoor amenity space. Ms. Threadgill stated that the space cannot be designated for the use by any one specific tenant group.

In response to a question from Mr. Burnette, Ms. Threadgill stated the application for the Planning Commission tonight is a request for a lifecycle dwelling density bonus. She clarified a variance from the minimum outdoor amenity space would go to the Zoning Board of Appeals. She stated other design standards, including deviations from the maximum façade length requirements, would require a separate special exception application before the Planning Commission and City Commission. Carl Westmoreland of Morris, Manning & Martin, LLP stated that they believe they can make the project meet all the requirements.

In response to a question from Mr. Burnette, Ms. Threadgill stated that the Planning Commission may be able to consider the Commerce Drive curb cut under the current application if the Planning Commission believes that the lifecycle dwelling density bonus would generate additional traffic on the

public streets. After being informed by Mr. Dubeau that there was a barrier between the surface parking for the bank and the interior entrance to the residential parking deck, Mr. Burnette stated that the lifecycle dwelling density bonus would not have a traffic impact on the Commerce Drive curb cut because there was no access to it by the residential users.

In response to a question from Mr. Travis, Ms. Threadgill stated that there have not been locations other than the Arlo project that have used this density bonus for rental apartments. There are a few for-sale projects that have been granted the lifecycle dwelling density bonus.

In response to a question from Mr. Ohlandt, Ms. Threadgill stated that the income requirements for the lifecycle dwelling units are based on HUD's AMI in the Atlanta metropolitan statistical area, which includes Sandy Springs and Marietta.

Mr. Burnette stated that he is all in favor of more affordable housing in the city.

Ms. Threadgill stated that she has encouraged the development team to meet with the fire marshal about the width of the alley.

Mr. Burnette asked if anyone would like to speak in favor of the application.

Mr. Chris Sciaronne, chair of Decatur Downtown Development Authority, presented the resolution unanimously approved on August 4th and reiterated the DDA's support of the project. He stated that the project meets the long-term development goals of the city.

Mr. Bill Floyd, member of the Decatur Downtown Development Authority, stated the lifecycle affordable housing ordinance has been a priority of the City for a longtime. He stated the City and the DDA have been trying to encourage redevelopment of the property at 163 Clairemont Avenue for 15 years and negotiations with a long-term lease holder have been difficult. He stated the development team has worked very hard to negotiate the terms of the lease with the bank and optimize the site's potential. Mr. Floyd stated this is a key property and gateway into downtown Decatur. He added that despite the successful negotiations thus far, the current project remains fragile and any additional conditions of approval that would effect the bank's site design could stop the project altogether. He asked the Planning Commission to be cautious and conscientious of the history.

Mr. Burnette asked if anyone would like to speak in opposition to the application.

Ms. Lynn Teale, 525 Ponce de Leon Place, stated that when she moved to Decatur seven years ago, it was a single-family community. She stated that she did not like to see more rental apartments being constructed in the city.

There being no further comment, Mr. Burnette closed public comment.

Mr. Travis stated that we are desperately in need of more affordable housing in the city.

In response to a question from Mr. Burnette, Ms. Threadgill confirmed the income limits of the lifecycle dwelling units would be perpetual from tenant to tenant.

Ms. Leland-Kirk stated the rear alley is an opportunity for public space and a mid-block connection. She encouraged the developers to include a sidewalk to allow pedestrians to safely access it.

Mr. Burnette stated that while 29 affordable units are proposed, only 28 are required. He stated his desire to see the project be held to constructing a minimum of 29 affordable units as presented in the application, to which all Planning Commission members agreed.

On a motion by Ms. Manrow, second by Mr. Ohlandt, and all voting "aye," the Planning Commission recommended approval of the request for conditional use authorization for lifecycle dwelling density increase for the property at 163 Clairemont Avenue, with the following additional conditions 1) at least 20% of total dwelling units, but in no case less than 29 residential units, be lifecycle dwelling units and that the developer shall be bound by the conditions approved within the DDA resolution. Mr. Buckley, Jr., having been recused.

Mr. Burnette announced the items listed under Other Business. He stated that the first item was the approval of the June 2017 minutes.

On a motion by Ms. Leland-Kirk, second by Mr. Travis, and all voting "aye," the Planning Commission approved the minutes from the June 13, 2017 meeting.

Mr. Burnette stated that the next item was the election of the Chair and Vice Chair.

On a motion by Mr. Ohlandt, second by Mr. Buckley, Jr., and all voting "aye," the Planning Commission elected Mr. Burnette Chair of the Planning Commission.

On a motion by Ms. Manrow, second by Mr. Travis, and all voting "aye," the Planning Commission elected Mr. Buckley, Jr., Vice Chair of the Planning Commission.

Ms. Threadgill gave status updates on the East Lake MARTA Station LCI Study, the Community Transportation Plan Update and the UMCH Master Plan.

Ms. Threadgill introduced new planning staff member, Sean Yates, to the Planning Commission.

The meeting adjourned at 8:07 PM.

CONDITIONAL USE PERMIT APPLICATION

Planning & Zoning
2635 Talley Street
Decatur, GA 30030
Phone 404-377-6198
Fax 404-378-5054



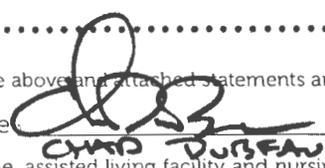
Before submitting this application, you must schedule a pre-application conference with the Zoning Administrator to discuss the procedures, standards and regulations required for approval. Attach a plat of the property drawn to scale and showing property lines, locations and heights of existing and proposed buildings and other structures, locations of all driveways and parking/loading areas, a north arrow, and any other information required to demonstrate conformance with the standards for the specific conditional use requested. Please provide one to-scale copy of all plans, as well as one copy of all plans in an 8½" x 11" format. If the applicant is not the current property owner, provide a notarized authorization for this application from the current property owner.

Address of property 163 Clairemont Avenue Decatur, GA 30030
Name of applicant MCRT Investments, LLC Phone 678-608-0907
Address 3715 Northside Parkway, Suite 2-440 City/state/ZIP Atlanta, GA 30327
Email ofriedmann@mcctrust.com
Name of property owner P&L Clairemont, L.P. Phone 770-980-0808
Address 3330 Cumberland Blvd SE #300 City/state/ZIP Atlanta, GA 30339
 Major amendment to existing conditional use permit New conditional use permit request
Existing zoning C-2 General Business Use requested Lifecycle dwelling

Please answer all of the following questions on a separate sheet.

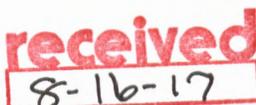
1. How would the proposed use be suitable in view of the use and development of adjacent and nearby property?
2. How is the proposed use consistent with existing zoning requirements?
3. What adverse affects does the proposed use have on the existing use or usability of adjacent or nearby property?
4. To what extent will or could the proposed use cause an excessive or burdensome use of existing streets, transportation facilities, utilities or other public facilities?
5. Describe how the proposed ingress and egress to the subject property is adequate. Include an evaluation of the traffic impact of the proposed use relative to street capacity and safety of public streets and nearby pedestrian uses.
6. What impact will the proposed use have on established property values and on the public health, safety, morality, comfort and general welfare of the residents of the City?

I hereby certify that the above and attached statements and documents are true to the best of my knowledge and belief.

Applicant signature  Date 7/28/17

For personal care home, assisted living facility and nursing home applications, I certify that I have applied for or will immediately apply for the corresponding permit or authorization for the operation of the facility from the State of Georgia Department of Community Health in accordance with its rules and regulations. I also certify that the proposed facility will meet and be operated in conformance with all applicable state and federal laws and regulations and with all codes and regulations of the City.

Applicant signature N/A Date _____



OWNER AUTHORIZATION FOR CONDITIONAL USE PERMIT APPLICATION
CITY OF DECATUR

The undersigned is the general partner of P&L Clairemont, L.P., the property owner of that certain tract of real property located at 163 Clairmont Avenue in the City of Decatur (the "Property"). This Owner Authorization authorizes MCRT Investments, LLC, to submit a conditional use permit application to the City of Decatur to permit lifecycle dwellings on the Property.

P&L Clairemont, L.P.

By: [Signature]
Name: Laurance K. Hill
Title: General Partner

Signed before me on this 26th day of July, 2017

[Signature: Leslie J. Thomas]
Notary Public

My Commission Expires _____

(NOTARY)



Exhibit B-1

RESPONSE TO CONDITIONAL USE PERMIT APPLICATION CRITERIA

Lifecycle Dwellings

1. **How would the proposed use be suitable in view of the use and development of adjacent and nearby property?**

Redevelopment of the existing property into a mixed use development with a bank, retail and residential is consistent with other projects in this area of downtown Decatur. The lifecycle component requested by this application will provide housing opportunities envisioned by this section of the code in an appropriate location.

2. **How is the proposed use consistent with existing zoning requirements?**

The existing zoning allows the proposed redevelopment. This CUP will allow the provision of a needed type of housing in the downtown area, consistent with City policy.

3. **What adverse affects does the proposed use have on the existing use or usability of adjacent or nearby property?**

There should be no adverse impact of this proposed use, as this application only seeks to provide more affordable housing in a project to be built consistent with City zoning codes in an appropriate location.

4. **To what extent will or could the proposed use cause an excessive or burdensome use of existing streets, transportation facilities, utilities or other public facilities?**

Redevelopment of this site and inclusion of housing units allowed by the CUP will easily be accommodated by all elements of the existing infrastructure.

5. **Describe how the proposed ingress and egress to the subject property is adequate. Include an evaluation of the traffic impact of the proposed use relative to street capacity and safety of public streets and nearby pedestrian uses.**

The site has public street frontage on three sides: Church Street, Commerce Drive and Clairemont Avenue. Vehicular ingress and egress is provided on each of these streets, as well as on the alley which abuts the property on its southern side. In this way, residents, tenants and visitors to the property will have the maximum number of alternatives for access and the ability to adjust to accommodate traffic patterns on the surrounding streets.

6. **What impact will the proposed use have on established property values and on the public health, safety, morality, comfort and general welfare of the residents of the City?**

The proposed new development will improve property values in the area. It represents a continuation of the downtown redevelopment trend which has substantially increased values in this area over the last several years. That increase is precisely the effect sought to be addressed by this CUP application.

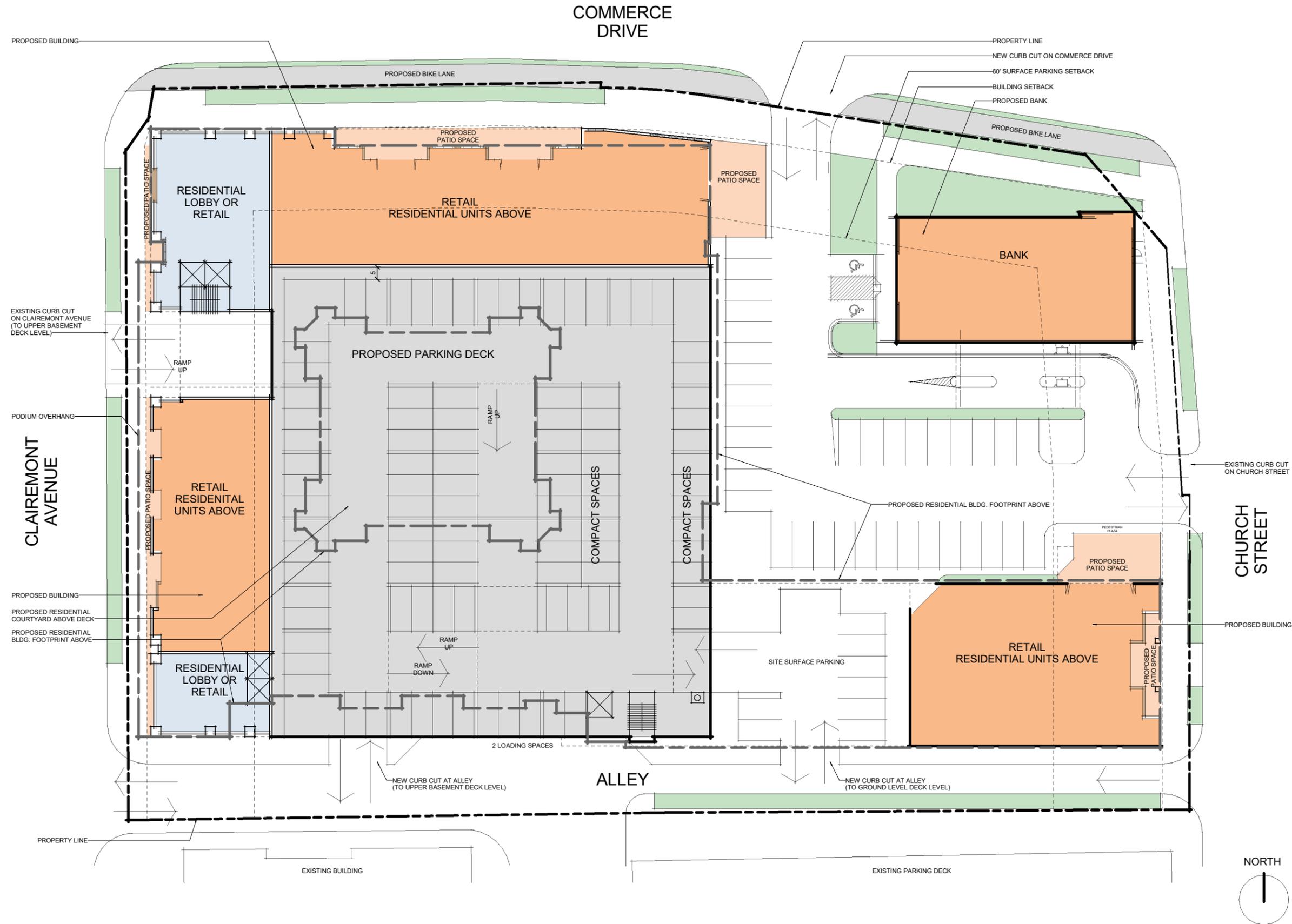
Exhibit B-2

Supplemental question regarding requirements for specific uses: Lifecycle Dwelling

What impact will the proposed increase in density have in providing housing opportunities for persons and families of moderate income, the elderly, employees of public agencies, local business and similar classes?

Compliance with the City's requirement for provision of lifecycle dwelling units means that of the 232 proposed residential units, 29 will meet the code definition of being available to people with income of 80% AMI. As is also required, such units will have the same mix of type of units as do those at market rate.

Exhibit B-3



BANK: UP TO 4,500 GSF
 RETAIL: UP TO 25,000 GSF
 RESIDENTIAL: 283,330 GSF
 (INCLUDES AMENITIES, LOBBIES, CIRCULATION)

TOTAL: 312,830 GSF

232 RESIDENTIAL UNITS
 (203 MARKET RATE,
 29 LIFECYCLE DWELLING UNITS)

PARKING SUMMARY:
 PARKING DECK:
 DECK TOTAL: +/- 486 SPACES
 SURFACE SPACES: 45 SPACES
 GRAND TOTAL: +/- 531 SPACES

BUILDING HEIGHT: 80' - 0"

SITE AREA SUMMARY:
 PARCEL 1: 2.288 ACRES
 PARCEL 3: 0.484 ACRES
 TOTAL: 2.772 ACRES, OR
 120,724 SF

CURRENT ZONING: C2 (GENERAL BUSINESS DISTRICT)

LAND LOTS: 246
 DISTRICT: 15TH
 COUNTY: DEKALB
 CITY: DECATUR
 STATE: GEORGIA

SITE PLAN MODERA DECATUR



Exhibit B-4

NOTE:

Elevations are conceptual and subject to change



NORTH ELEVATION
1/16" = 1'-0"



WEST ELEVATION
1/16" = 1'-0"

Modera Decatur
Decatur, GA

Professional Seal



© 2017 WDG Project No: WA17023

Scale:

Exhibit B-5

NOTE:

Elevations are conceptual and subject to change



EAST ELEVATION
1/16" = 1'-0"



SOUTH ELEVATION
1/16" = 1'-0"



PARTIAL NORTH ELEVATION
1/16" = 1'-0"

Modera Decatur
Decatur, GA

Professional Seal

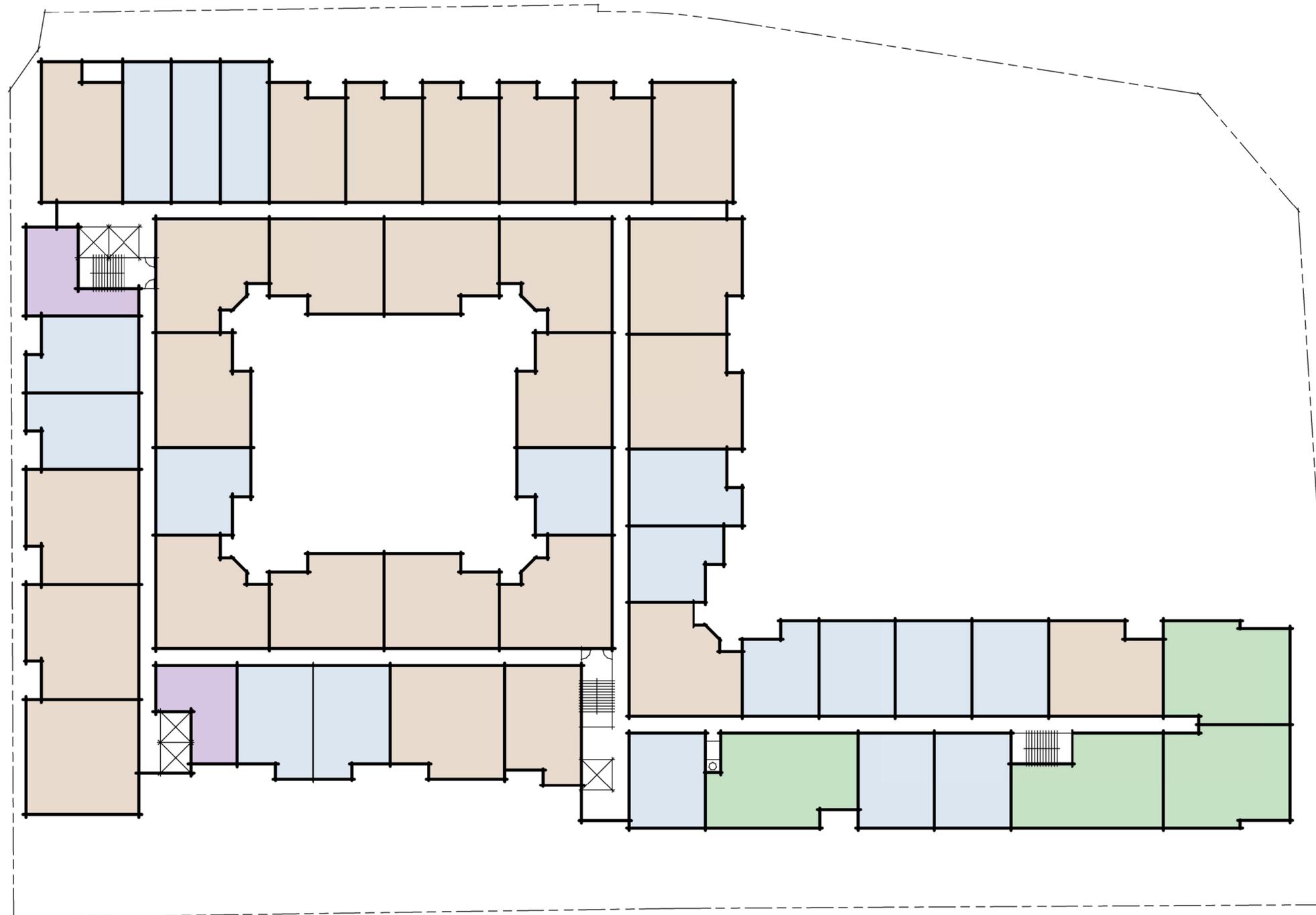


INSERT KEY
PLAN IN THIS
LOCATION

© 2017 WDG Project No: WA17023

Scale:

Exhibit B-6



TYPICAL
RESIDENTIAL
LEVEL
MODERA DECATUR

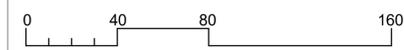
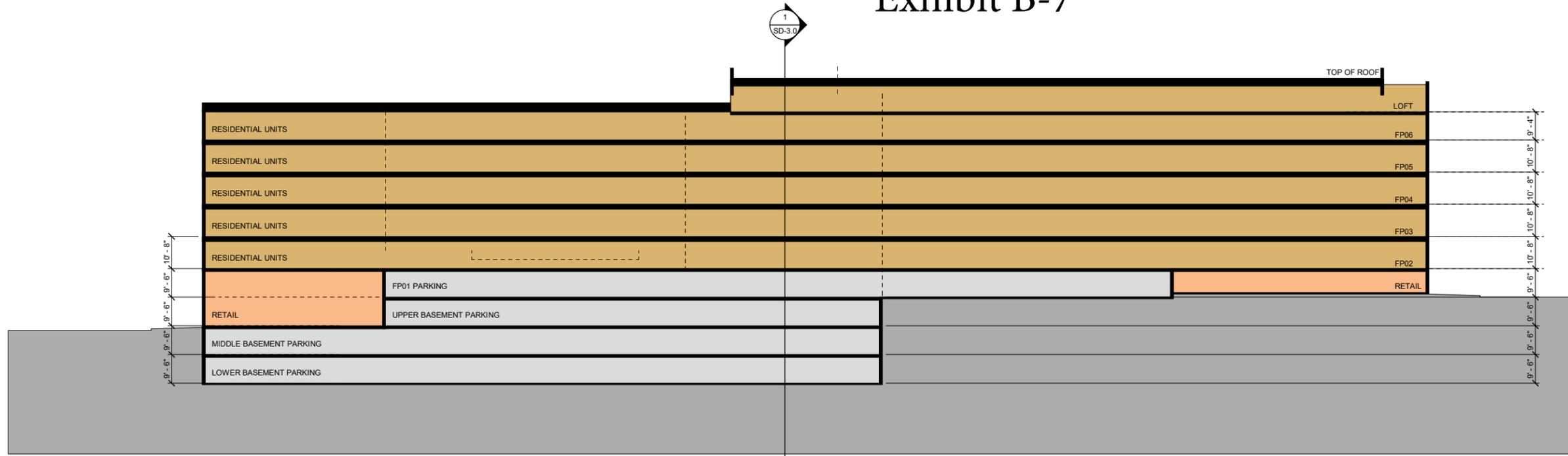
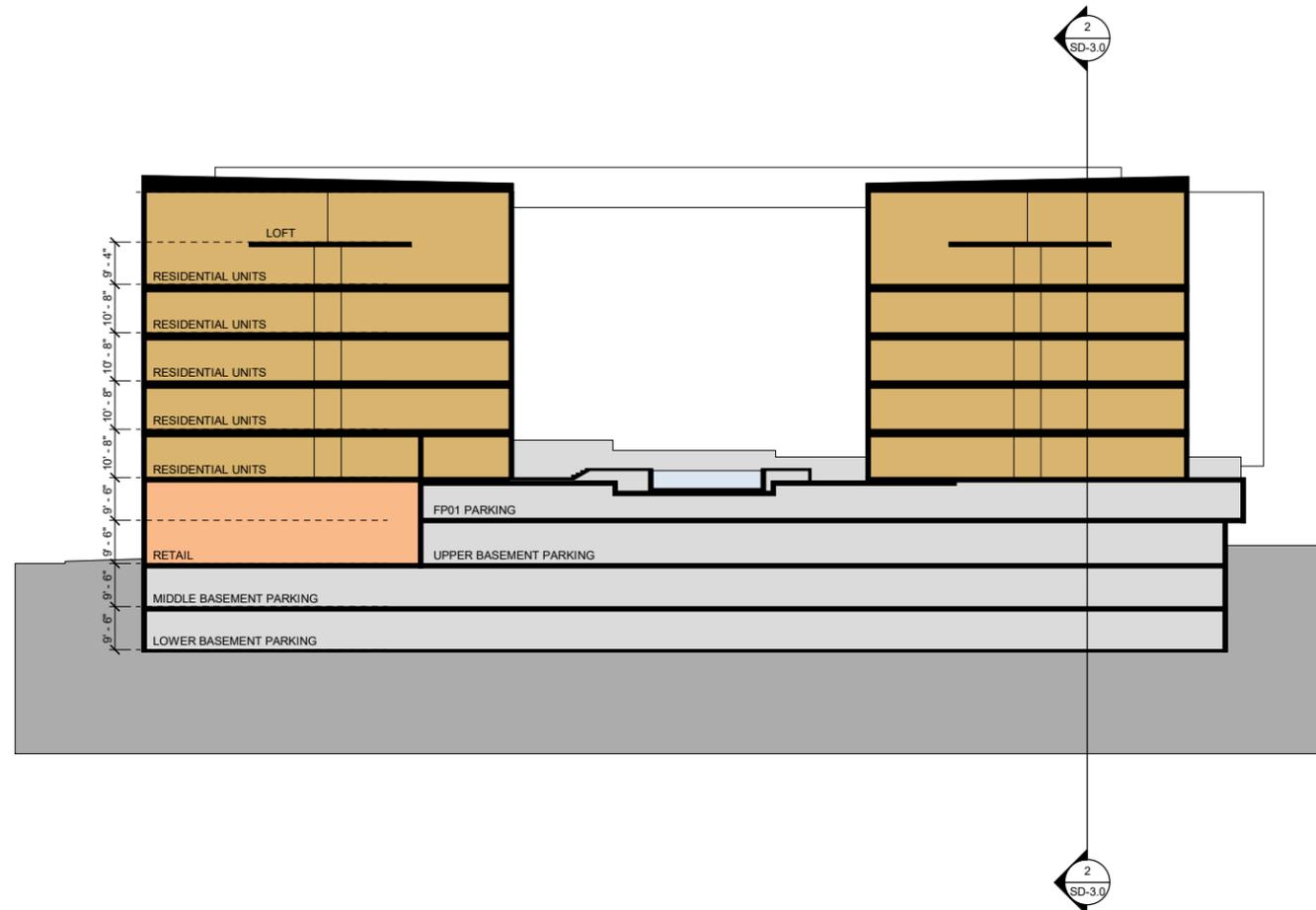


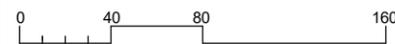
Exhibit B-7



2	SX02
---	------



BUILDING SECTIONS MODERA DECATUR





Planning Commission Staff Report
September 2017

The Planning Commission will meet on September 12, 2017. The following staff report has been prepared for an application that was received by the Planning and Zoning Division of the Community and Economic Development Department.

- Applicant:** MCRT Investments, LLC
- Property Addresses:** 143-163 Clairemont Avenue and 542 Church Street
- Parcel IDs:** 15 246 04 092, 15 246 04 091, 15 246 04 090, & 15 246 04 076
- Present Land Use:** C – Commercial and High-Density Residential (no change)
- Present Zoning:** C2 – General Commercial (no change)

1. The subject properties are a total of 2.77 acres (120,724 SF) and contain an existing two-story retail bank building with a four-lane drive through. Properties to the north, south, east, and west are all zoned C-2 General Commercial. The abutting property to the southwest contains a multi-story mixed-use office building with ground floor restaurant and retail uses. The abutting property to the southeast contains a multi-level parking deck. The subject properties front onto public streets to the north, east and west, and are within the Downtown Decatur Special Pedestrian Area as well as the Downtown Decatur Parking District.
2. The applicant is proposing to demolish the existing bank building and construct a one-story retail bank building with 36 surface parking spaces and a 2-lane drive through at the northeast corner of the property. The applicant is also proposing a six-story mixed-use multifamily building to be located on the remainder of the property. The proposed multi-family building will have 232 dwelling units, 25,000 SF of commercial ground floor uses, and will include a four-level 486-space parking deck partially below grade.
3. The property is presently zoned C-2 General Commercial. C-2 zoning permits a variety of commercial uses, as well as downtown multiple dwellings without legislative review at public hearing. C-2 zoning allows lifecycle dwellings with a conditional use permit in

accordance with Section 6.3.1. Therefore, the applicant is seeking approval of a conditional use permit for a lifecycle dwelling density increase for the proposed development, which requires the approval of the City Commission and a hearing before the Planning Commission and Downtown Decatur Development Authority.

4. **Downtown Multiple Dwellings.** The following development standards for downtown multiple dwellings, per Section 6.3.1.C. of the UDO, shall be considered:

- A. Minimum lot area is one acre. The development site contains 2.77 acres.

Minimum lot area per family for buildings four or more stories in height is 620 square feet. The total number of dwelling units in a downtown multiple dwelling development may not exceed the result of the following formula:

Net development area / Minimum lot area per family = Total dwelling units

This property has a gross development area of about 120,724 square feet. There are no proposed street rights-of-way or other publicly-dedicated land, and drainage facilities are planned to be underground. Therefore, the net development area is 120,724 square feet. The proposed building is 6 stories.

Thus, the maximum density is as follows:

$$120,724 \text{ sf} / 620 \text{ sf} = 194 \text{ dwelling units}$$

- B. A minimum 5% of the total lot area shall be dedicated to outdoor amenity space for residents and tenants. Development plans must comply with the open amenity space requirements prior to issuance of a land disturbance permit. Otherwise, a special exception must be granted to deviate from the requirement.

5. **Lifecycle Dwellings.** The following development standards for lifecycle dwellings, per Section 6.3.1.F. of the UDO, shall be considered:

- 1) The maximum number of dwellings permitted may be increased by up to 20% if dwellings in the development are designated as lifecycle dwellings. The total number of additional dwelling units, or density increase, in a development may not exceed the result of the following formula:

(Maximum number of dwelling units)(0.20) = Additional dwelling units allowed

Therefore, the additional dwelling units allowed is as follows:

$$(194)(0.20) = 38 \text{ additional dwelling units}$$

In total, the maximum number of dwelling units, including the density increase, is 232 dwelling units. The development proposes 232 dwelling units.

- 2) A minimum of 75% of the additional dwellings allowed shall be designated as lifecycle dwellings. Therefore, the minimum number of lifecycle dwelling units is as follows:

$$(38 \text{ additional dwelling units})(0.75) = 28 \text{ lifecycle dwelling units, minimum}$$

The development proposes 203 market rate dwelling units, and 29 lifecycle dwelling units.

The following standards shall be considered in determining whether the density increase shall be approved:

- a) The suitability of the proposed increase in view of the use and development of adjacent and nearby properties.
- b) The impact that the proposed increase will have on the existing use or usability of adjacent or nearby properties.
- c) The impact that the proposed increase will have on the public safety, traffic on the public streets, transportation facilities, utilities and other public services.
- d) The impact that the proposed increase will have on established property values and on the health, safety, comfort and general welfare of the residents of the City.
- e) The impact that the proposed increase will have in providing housing opportunities for persons and families of moderate income, the elderly, employees of public agencies and local business and similar classes.

6. **Downtown Decatur Special Pedestrian Area.** The subject properties, having frontage on the 100-900 block of Church Street, 100-300 block of Clairemont Avenue, and the East/north side 100-700 block of Commerce Drive, are subject to the following building design standards, per Section 5.3.3. of the UDO:

- A. **Buildings to Face Street.** Primary building entrances for each of the uses and buildings face onto the adjoining sidewalk and street of Church Street, Clairemont Avenue, or Commerce Drive.
- B. **Parking Areas and Driveways.** Parking areas are not permitted between building and street; none are proposed. Surface parking cannot be located within 60 feet of public street; surface parking of retail bank is adequately setback 60 feet.

No more than one curb cut is allowed per street frontage. Among the subject properties, Commerce Drive currently as one curb cut, one is proposed; Church Street currently as two curb cuts, two are proposed; and Clairemont Avenue

currently has three curb cuts, and two are proposed. The secondary curb cuts are provided on Church Street and Clairemont Avenue at the rear of the property to accommodate a one-way private alley for better vehicular traffic flow and for fire access.

Lastly, buildings shall not be setback more than 30 feet from the edge of street curb. Due to the curve of the street, the setback varies. The front corner of the bank building will be setback 20 feet from edge of street curb; it will be setback 30 feet from the street curb when the cycle track is completed.

- C. Drive-in or Drive-through Facilities. A drive-through is permitted in the C-2 zoning district provided it is not associated with a restaurant use and its vehicular ingress is accessed indirectly from a public street or street segment. The proposed two-lane drive-through is associated with a retail bank, and its vehicular access is from the internal drive of the surface parking area.
 - D. Multiple Level Parking Facilities. Parking decks must be setback a minimum of 3 feet above the first level and limit vehicular overhang when such facility has street frontage. The proposed parking deck has a minimum setback of 45 feet, is fronted with residential or commercial uses, and has no street frontage.
 - E. Cornice Lines. Multiple story buildings of 3 or more stories shall have a cornice line between the second and third stories. The architectural renderings are subject to change and must comply with the cornice design standard prior to issuance of a building permit. Otherwise, a special exception must be granted to deviate from the cornice requirement.
 - F. Transparency. Buildings which have street frontage in the special pedestrian area shall have a minimum transparency of 25% of the total area of the first floor elevation. The architectural renderings of street elevations are subject to change and must comply with the transparency design standard prior to issuance of a building permit. Otherwise, a special exception must be granted to deviate from the transparency requirement.
7. **Downtown Decatur Parking District.** The Downtown Decatur Parking District allows shared and unbundled parking, and it includes both parking minimums and parking maximums. Parking may be provided on-site or off-site through a shared parking arrangement. The proposed developments seeks to supply all parking requirements on-site.

All new buildings in the Downtown Decatur Parking District shall provide parking at a flat rate of not less than one parking space for every 500 sq. ft. of gross floor area of building and not more than one parking space for every 200 sq. ft. of gross floor area of

building. If it is a mixed use building or residential building, the portions of the building used exclusively for residential uses shall provide one parking space per dwelling unit and shall not exceed 2 spaces per dwelling unit.

The proposed bank building is approximately 4,500 sq. ft., which requires a minimum of 9 off-street parking spaces, but cannot exceed 22 off-street parking spaces.

The residential portion of the mixed use building has 232 dwelling units, which requires a minimum of 232 off-street parking spaces, but cannot exceed 464 off-street parking spaces. The non-residential portion of the mixed use building has approximately 25,000 gross floor area, which requires a minimum of 50 off-street parking spaces, but cannot exceed 125 off-street parking spaces.

In summary, the minimum parking requirement for the development is 290 off-street parking spaces and the maximum is 611 off-street parking spaces. The development proposes a total of 531 off-street parking spaces (486 parking deck spaces and 45 surface parking spaces).

8. Rules Specific to Building Types. Form-based development codes are applied to building types to help reinforce the existing character and scale of the Decatur. The proposed development is subject to the following building type dimensional standards, per Section 2.2.3. of the UDO:

- I. **Single-Story Shopfront.** The proposed one-story retail bank building is considered a single-story shopfront. The maximum street-facing façade length is 200 feet; a maximum of 50 feet is proposed.

The ground story height (floor to ceiling) is 14 feet minimum; 16 feet is the minimum building height (grade to roof surface). The architectural renderings of street elevations are subject to change and must comply with the height standards prior to issuance of a building permit. Otherwise, a special exception must be granted to deviate from the height requirement.

- J. **Mixed Use Shopfront.** The proposed multi-story mixed-use residential building is considered a mixed use shopfront. The minimum ground story height (floor to ceiling) is 14 feet and pedestrian entrances are required a minimum of every 75 feet. The maximum street-facing façade length is 200 feet.

The proposed development appears to be in compliance with ground story height and pedestrian entrance distances. Approximately 210 feet is the façade length proposed along Commerce Drive, approximately 230 feet is proposed along Clairemont Avenue, and 65 feet is proposed along Church Street. The architectural renderings of facades are subject to change and must comply with the maximum

façade length prior to issuance of a building permit. Otherwise, a special exception must be granted to deviate from the façade length requirement.

9. Other requirements

- a) Parking and Access. If approved, the development remains subject to requirements for parking space size and access aisle widths. No more than 25% of the required parking spaces may be designated as compact spaces, and shall be clearly marked with signs. A minimum of 26 on-site bicycle parking spaces are required. For a development of nearly 30,000 square feet of retail operations, at least one designated off-street loading space shall be provided.
- b) If approved, the development remains subject to current local life safety and fire codes, public improvement design standards, multimodal transportation performance standards, lot coverage, environmental protection, site lighting, landscaping, and sign ordinances.

10. Relevancy to the 2010 Strategic Plan

- a) The approval of the requested conditional use permit promotes growth and increased density in desired areas, specifically on underutilized commercial properties with excess surface parking lots.
- b) The approval of the requested conditional use permit supports the City's programs, such as the lifecycle dwelling program, that can help elderly, low-income residents remain in the community.
- c) The approval of the requested conditional use permit expands the variety of high quality housing options to meet the needs of a diverse community, including development of new apartment buildings in commercial districts.
- d) The Project promotes small business ownership and employment opportunities.
- e) The Project is a mixed-use development that serves and connects to its surrounding downtown neighborhood, and that increases opportunities for pedestrian activity for downtown residents.

Exhibit A



Source: City of Decatur OneMap

RESOLUTION 08-04-2017

MCRT Investments, LLC – 163 Clairemont Avenue

THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF DECATUR, a public body corporate and politic, (the “Authority”) hereby, after consideration and affirmative vote, adopts this RESOLUTION as of the 4th day of August, 2017 (this “Resolution”):

WITNESSETH:

WHEREAS, the Authority was duly created and is validly existing pursuant to the Downtown Development Authorities Law of the State of Georgia (O.C.G.A. Section 36-42-1 *et seq.*, as amended) (the “Act”);

WHEREAS, under the Act, the Authority has, among others, the power to make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created, including, but not limited to, encouraging and promoting the improvement and revitalization of the downtown development area (as defined in the Act);

WHEREAS, MCRT Investments, LLC (“MCRT”) intends to redevelop that certain retail premises located at and known as 163 Clairemont Avenue, Decatur, DeKalb County, Georgia 30030 (the “Property”) into a mixed use development with a bank, retail, and residential components (the “Development”);

WHEREAS, MCRT has applied to the City for a *Conditional Use Permit* in order to include Lifecycle Dwelling units as part of the Development in order to use the density bonus for affordable housing (the “Application”);

WHEREAS, the Authority recognizes that the Property is located in a highly desirable location within Decatur and that the Development and Application would be highly advantageously as projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, the Authority has evaluated and considered whether the Development and Application are advantageous projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, the Authority has evaluated and considered whether conditionally supporting the Application by a resolution will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, this Resolution having come before the Authority for a public hearing

pursuant to its rules and governing procedures and in accordance to all applicable laws, including all requisite public notice requirements; and

NOW, THEREFORE BE IT RESOLVED, the Authority does hereby resolve and authorize, as follows:

1.

The Authority determines and finds that the Property is located in a highly desirable location within Decatur and that the Development and Application are commercially advantageous projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act.

2.

The Authority determines and finds that the Development and Application will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act.

3.

The Authority determines and finds that supporting the Application by a resolution will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act, with such support of the Application conditioned upon:

(a) the Development to be built in accordance with the site plans presented to and considered by the Authority during its publically called meeting conducted on August 4, 2017;

(b) the Lifecycle Dwelling units to be included in the Development shall follow the same program as set forth for the ARLO development, including specifically calculation of rental rates as qualifying or “affordable” for individuals and families making 80% AMI and equitable division of rental unit sizes between non-Lifecycle Dwelling units and Lifecycle Dwelling units such that if 20% of all rental units are 2 bedroom rental units then 20% of the Lifecycle Dwelling units must be 2 bedroom; and,

(c) MCRT and/or its assigns must consult with the Authority on all final design decisions for the Development, with MCRT and/or its assigns providing a full size and complete set of elevation drawings and architectural plans setting forth design details to the Authority for review and comment prior to issuance of any building permit for the Development.

ADOPTED AND APPROVED this 23 day of August, 2017.

DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF DECATUR

(SEAL)

By



Chris Sciarrone, Chair

Attest:



Evelyn W. Menne, Executive Director

O-17-Z-XX

AN ORDINANCE
APPROVING A CONDITIONAL USE PERMIT
TO ALLOW A LIFECYCLE RESIDENTIAL DENSITY INCREASE
FOR THE PROPERTY LOCATED AT
143 CLAIREMONT AVENUE, 145 CLAIREMONT AVENUE,
155-163 CLAIREMONT AVENUE, AND 542 CHURCH STREET

WHEREAS, the Decatur City Commission has considered the proposed application, plans and other information submitted by the applicant, as well as comments by the applicant and interested residents at public hearings; and

WHEREAS, the Decatur City Commission finds that the information submitted with the application and presented at the public hearings establishes that the proposed lifecycle residential density increase meets the standards established in Section 6.3.1.F. of the Decatur Unified Development Ordinance; and

WHEREAS, the Decatur City Commission wishes to approve a lifecycle residential density increase for the contiguous property at 143 Clairemont Avenue, 145 Clairemont Avenue, 155-163 Clairemont Avenue, and 542 Church Street; and

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by authority of the same, as follows:

A lifecycle residential density increase for the proposed development at 143 Clairemont Avenue, 145 Clairemont Avenue, 155-163 Clairemont Avenue, and 542 Church Street, identified on the attached map as exhibit "A" as the "subject property," is approved subject to the condition that the property shall be developed according to plans substantially similar to those described by WCRT Investments, LLC, in their application submittal dated 07/28/2017, attached as exhibit "B-1 through B-2," and further described by development plans dated 08/03/2017 prepared by Lord Aeck Sargent Architects and WDG Architecture, attached as exhibit "B-3 through B-7." Such development shall be subject to the following additional conditions:

1. The property shall be developed with no more than 232 dwelling units; and
2. At least 20% of total dwelling units, but in no case less than 29 residential units, be designated as lifecycle dwelling units; and
3. The property shall be developed in accordance with all applicable codes of the Decatur Unified Development Ordinance; and
4. The developer shall be bound by the conditions approved by the Decatur Downtown Development Authority in its Resolution No. 08-04-2017 dated August 23, 2017.

Approved this ____ day of _____, 2017.

Attest: _____
Peggy Merriss
Acting City Clerk

Exhibit A



Source: City of Decatur OneMap

Exhibit B-1

RESPONSE TO CONDITIONAL USE PERMIT APPLICATION CRITERIA

Lifecycle Dwellings

1. **How would the proposed use be suitable in view of the use and development of adjacent and nearby property?**

Redevelopment of the existing property into a mixed use development with a bank, retail and residential is consistent with other projects in this area of downtown Decatur. The lifecycle component requested by this application will provide housing opportunities envisioned by this section of the code in an appropriate location.

2. **How is the proposed use consistent with existing zoning requirements?**

The existing zoning allows the proposed redevelopment. This CUP will allow the provision of a needed type of housing in the downtown area, consistent with City policy.

3. **What adverse affects does the proposed use have on the existing use or usability of adjacent or nearby property?**

There should be no adverse impact of this proposed use, as this application only seeks to provide more affordable housing in a project to be built consistent with City zoning codes in an appropriate location.

4. **To what extent will or could the proposed use cause an excessive or burdensome use of existing streets, transportation facilities, utilities or other public facilities?**

Redevelopment of this site and inclusion of housing units allowed by the CUP will easily be accommodated by all elements of the existing infrastructure.

5. **Describe how the proposed ingress and egress to the subject property is adequate. Include an evaluation of the traffic impact of the proposed use relative to street capacity and safety of public streets and nearby pedestrian uses.**

The site has public street frontage on three sides: Church Street, Commerce Drive and Clairemont Avenue. Vehicular ingress and egress is provided on each of these streets, as well as on the alley which abuts the property on its southern side. In this way, residents, tenants and visitors to the property will have the maximum number of alternatives for access and the ability to adjust to accommodate traffic patterns on the surrounding streets.

6. **What impact will the proposed use have on established property values and on the public health, safety, morality, comfort and general welfare of the residents of the City?**

The proposed new development will improve property values in the area. It represents a continuation of the downtown redevelopment trend which has substantially increased values in this area over the last several years. That increase is precisely the effect sought to be addressed by this CUP application.

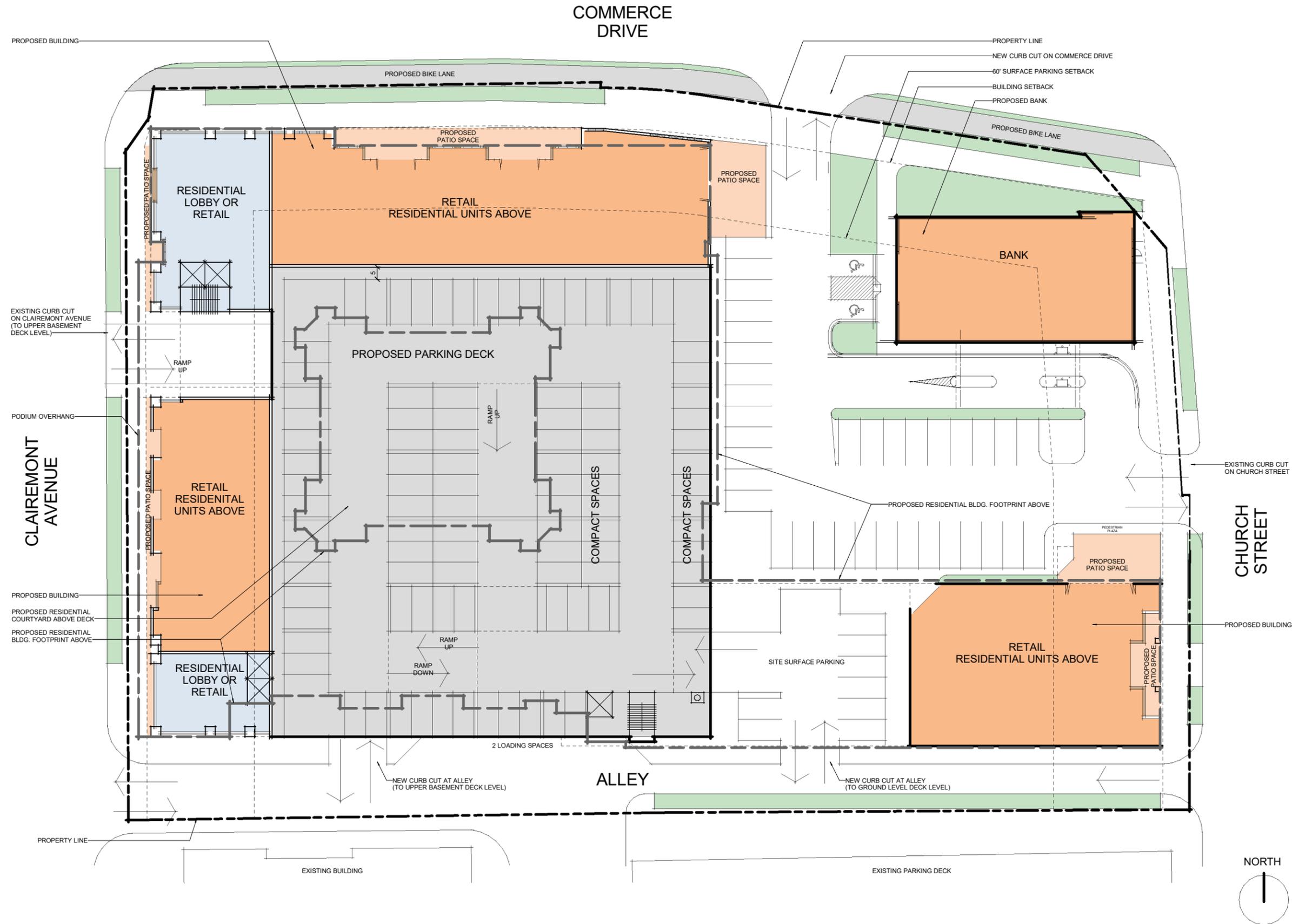
Exhibit B-2

Supplemental question regarding requirements for specific uses: Lifecycle Dwelling

What impact will the proposed increase in density have in providing housing opportunities for persons and families of moderate income, the elderly, employees of public agencies, local business and similar classes?

Compliance with the City's requirement for provision of lifecycle dwelling units means that of the 232 proposed residential units, 29 will meet the code definition of being available to people with income of 80% AMI. As is also required, such units will have the same mix of type of units as do those at market rate.

Exhibit B-3



BANK: UP TO 4,500 GSF
 RETAIL: UP TO 25,000 GSF
 RESIDENTIAL: 283,330 GSF
 (INCLUDES AMENITIES, LOBBIES, CIRCULATION)

TOTAL: 312,830 GSF

232 RESIDENTIAL UNITS
 (203 MARKET RATE,
 29 LIFECYCLE DWELLING UNITS)

PARKING SUMMARY:
 PARKING DECK:
 DECK TOTAL: +/- 486 SPACES
 SURFACE SPACES: 45 SPACES
 GRAND TOTAL: +/- 531 SPACES

BUILDING HEIGHT: 80' - 0"

SITE AREA SUMMARY:
 PARCEL 1: 2.288 ACRES
 PARCEL 3: 0.484 ACRES
 TOTAL: 2.772 ACRES, OR
 120,724 SF

CURRENT ZONING: C2 (GENERAL BUSINESS DISTRICT)

LAND LOTS: 246
 DISTRICT: 15TH
 COUNTY: DEKALB
 CITY: DECATUR
 STATE: GEORGIA

SITE PLAN MODERA DECATUR

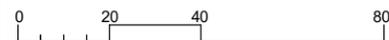


Exhibit B-4

NOTE:

Elevations are conceptual and subject to change



NORTH ELEVATION
1/16" = 1'-0"



WEST ELEVATION
1/16" = 1'-0"

Modera Decatur
Decatur, GA

Professional Seal



© 2017 WDG Project No: WA17023

Scale:

NOTE:

Elevations are conceptual and subject to change

Exhibit B-5



EAST ELEVATION
1/16" = 1'-0"



SOUTH ELEVATION
1/16" = 1'-0"



PARTIAL NORTH ELEVATION
1/16" = 1'-0"

Modera Decatur
Decatur, GA

Professional Seal

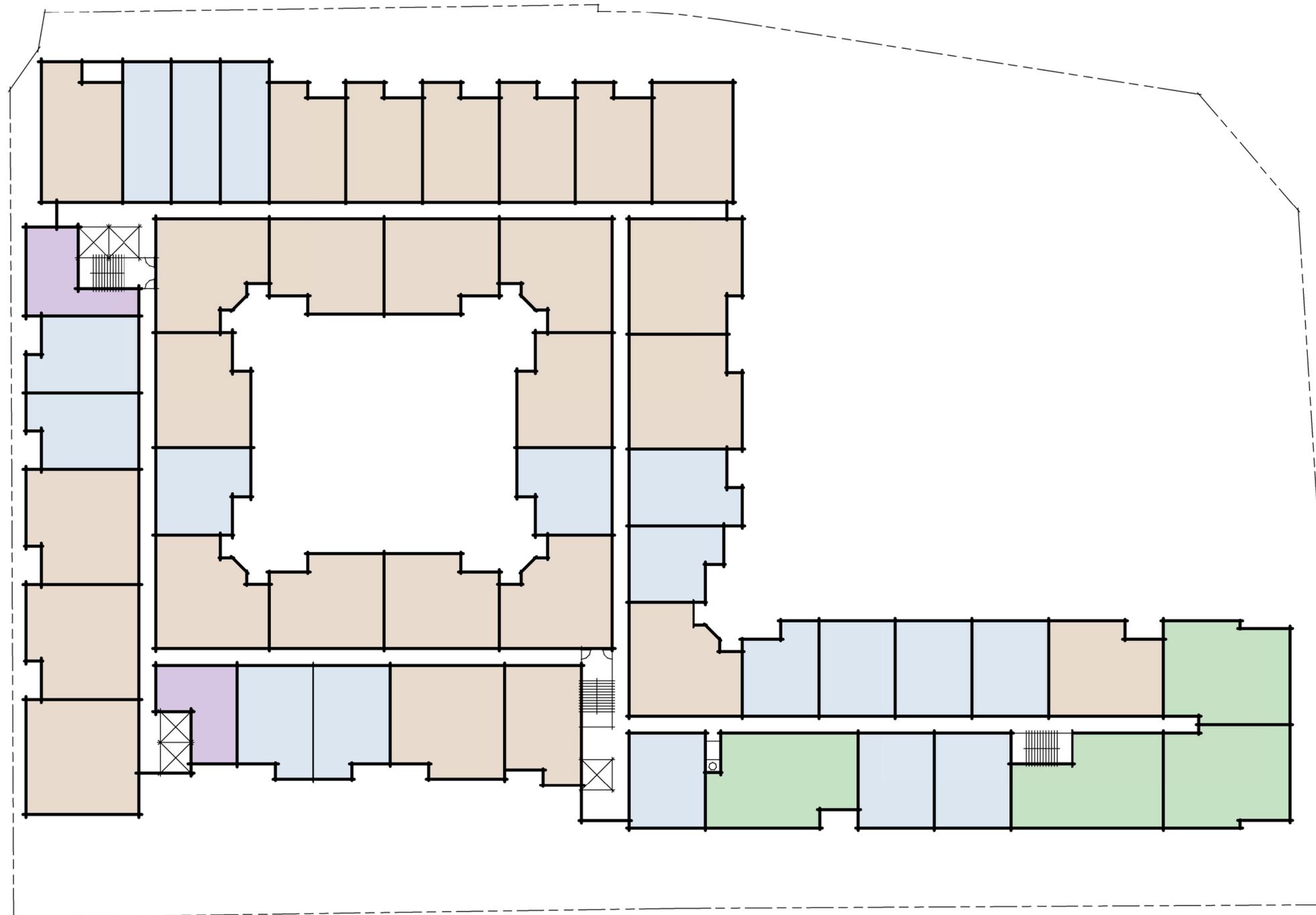


INSERT KEY
PLAN IN THIS
LOCATION

© 2017 WDG Project No: WA17023

Scale:

Exhibit B-6



TYPICAL
RESIDENTIAL
LEVEL
MODERA DECATUR

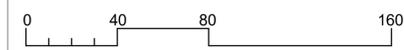
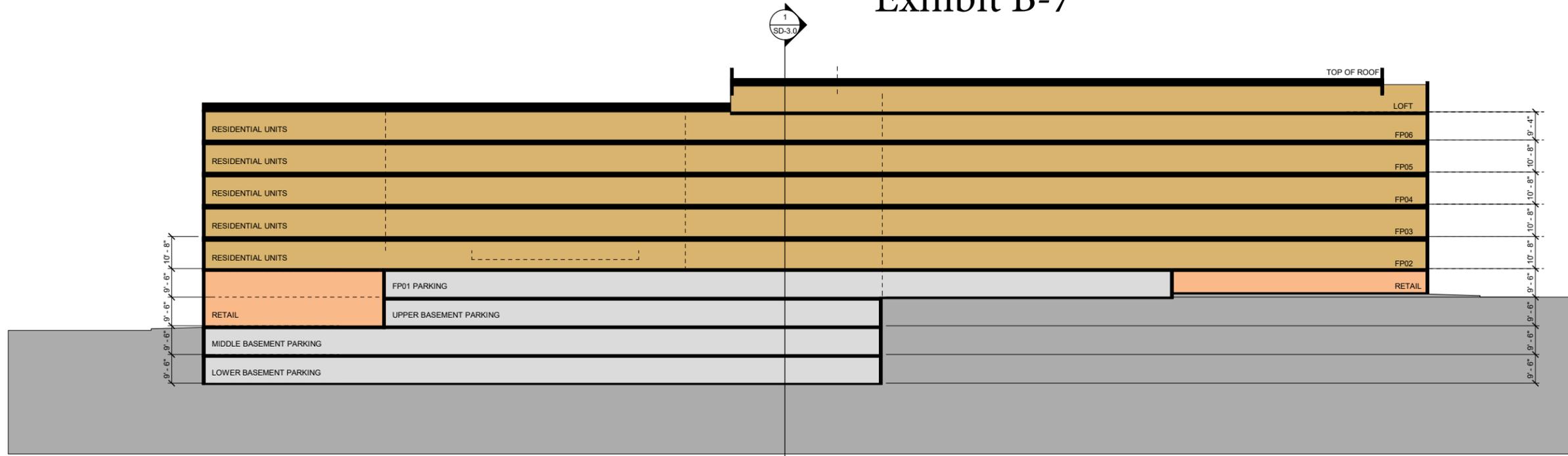
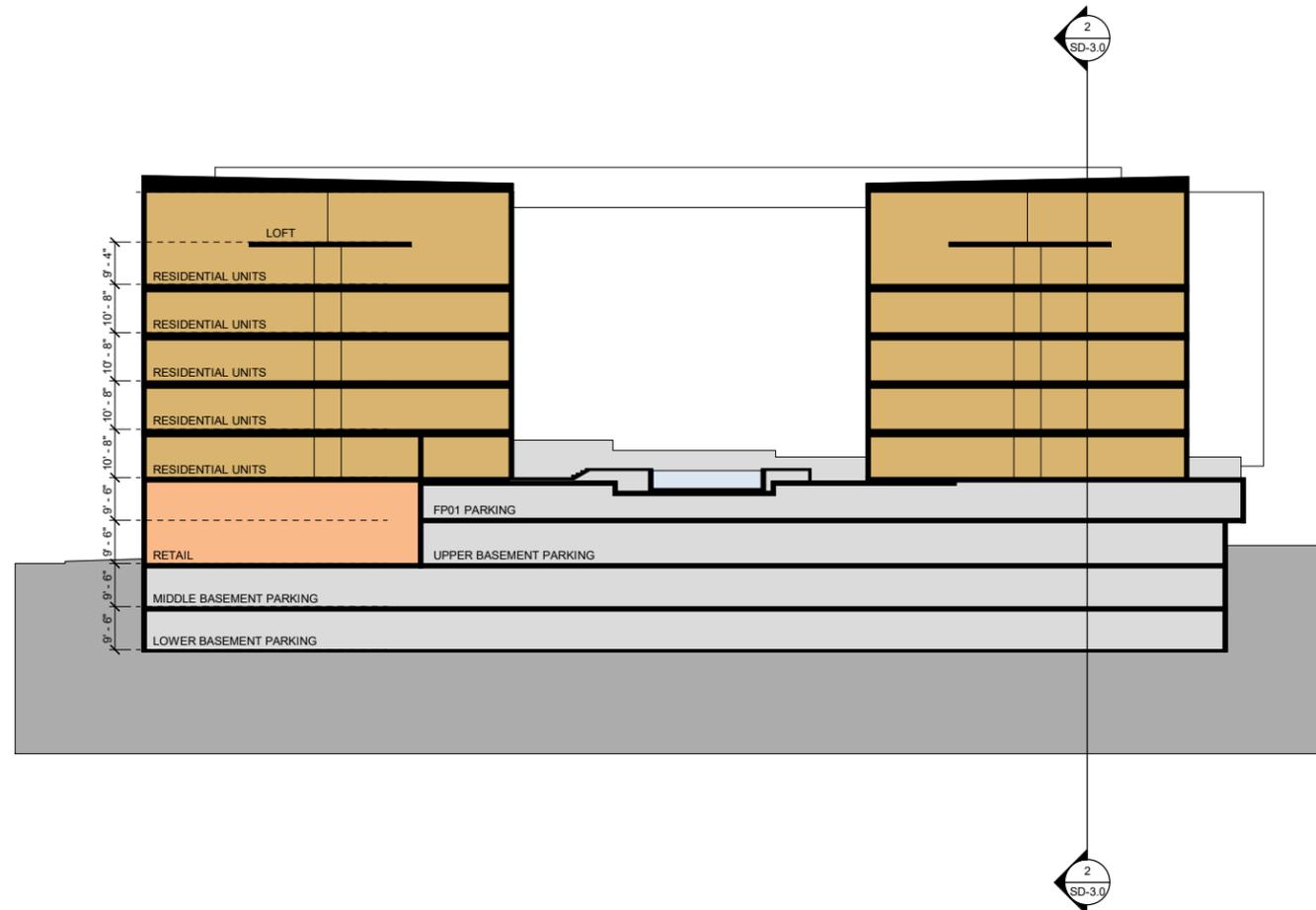


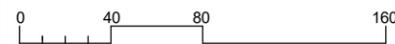
Exhibit B-7



2	SX02
---	------



BUILDING SECTIONS MODERA DECATUR



RESOLUTION 08-04-2017

MCRT Investments, LLC – 163 Clairemont Avenue

THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF DECATUR, a public body corporate and politic, (the “Authority”) hereby, after consideration and affirmative vote, adopts this RESOLUTION as of the 4th day of August, 2017 (this “Resolution”):

WITNESSETH:

WHEREAS, the Authority was duly created and is validly existing pursuant to the Downtown Development Authorities Law of the State of Georgia (O.C.G.A. Section 36-42-1 *et seq.*, as amended) (the “Act”);

WHEREAS, under the Act, the Authority has, among others, the power to make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created, including, but not limited to, encouraging and promoting the improvement and revitalization of the downtown development area (as defined in the Act);

WHEREAS, MCRT Investments, LLC (“MCRT”) intends to redevelop that certain retail premises located at and known as 163 Clairemont Avenue, Decatur, DeKalb County, Georgia 30030 (the “Property”) into a mixed use development with a bank, retail, and residential components (the “Development”);

WHEREAS, MCRT has applied to the City for a *Conditional Use Permit* in order to include Lifecycle Dwelling units as part of the Development in order to use the density bonus for affordable housing (the “Application”);

WHEREAS, the Authority recognizes that the Property is located in a highly desirable location within Decatur and that the Development and Application would be highly advantageously as projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, the Authority has evaluated and considered whether the Development and Application are advantageous projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, the Authority has evaluated and considered whether conditionally supporting the Application by a resolution will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act;

WHEREAS, this Resolution having come before the Authority for a public hearing

pursuant to its rules and governing procedures and in accordance to all applicable laws, including all requisite public notice requirements; and

NOW, THEREFORE BE IT RESOLVED, the Authority does hereby resolve and authorize, as follows:

1.

The Authority determines and finds that the Property is located in a highly desirable location within Decatur and that the Development and Application are commercially advantageous projects for the development of trade, commerce, industry, and employment opportunities in the City as required by and consistent with the purposes and provisions of the Act.

2.

The Authority determines and finds that the Development and Application will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act.

3.

The Authority determines and finds that supporting the Application by a resolution will further trade, commerce, industry, and employment in the City as required by and consistent with the purposes and provisions of the Act, with such support of the Application conditioned upon:

(a) the Development to be built in accordance with the site plans presented to and considered by the Authority during its publically called meeting conducted on August 4, 2017;

(b) the Lifecycle Dwelling units to be included in the Development shall follow the same program as set forth for the ARLO development, including specifically calculation of rental rates as qualifying or “affordable” for individuals and families making 80% AMI and equitable division of rental unit sizes between non-Lifecycle Dwelling units and Lifecycle Dwelling units such that if 20% of all rental units are 2 bedroom rental units then 20% of the Lifecycle Dwelling units must be 2 bedroom; and,

(c) MCRT and/or its assigns must consult with the Authority on all final design decisions for the Development, with MCRT and/or its assigns providing a full size and complete set of elevation drawings and architectural plans setting forth design details to the Authority for review and comment prior to issuance of any building permit for the Development.

ADOPTED AND APPROVED this 23 day of August, 2017.

DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF DECATUR

(SEAL)

By



Chris Sciarrone, Chair

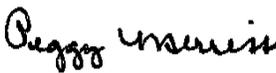
Attest:



Evelyn W. Menne, Executive Director



Memo

To: City Commission
From: Peggy Merriss, City Manager 
Date: September 18, 2017
Re: SPLOST and EHOST Resolution and Intergovernmental Agreement

The purpose of this memorandum is to recommend that the City Commission adopt Resolution R-17-25 that concurs in the call for a county-wide referendum to establish an Equalized Homestead Option Sales Tax (EHOST) and the imposition of a one cent Special Purpose Local Option Sales Tax (SPLOST); incorporates a project list for the City of Decatur; and, authorizes the Mayor to execute an Intergovernmental Agreement (IGA) with DeKalb County for use and distribution of the SPLOST proceeds.

In the 2015 Georgia Legislative Session, HB 215 was adopted that provided an option to suspend the existing Homestead Option Sales Tax (HOST) and replace it with an Equalized Homestead Option Sales Tax (EHOST) and add a one cent Special Purpose Option Sales Tax. If the SPLOST is approved, the sales tax in DeKalb County would increase from seven percent to eight percent.

The current HOST uses 80% of its proceeds to fund homestead exemptions from all DeKalb County property tax funds except for debt service payments for bonds and schools for taxpayers in owner-occupied single-family residences. This produces a differential benefit between unincorporated and incorporated DeKalb County taxpayers. In order to minimize the differential, cities in DeKalb County get a distribution from the 20% of HOST proceeds set-aside for capital improvements. However, due to the incorporation of new cities, DeKalb County receives almost no capital funding from HOST proceeds.

The EHOST uses 100% of its proceeds to fund homestead exemptions from DeKalb property tax funds for maintenance and operations and the hospital authority for taxpayers in owner-occupied single-family residences. This eliminates the differential between unincorporated and incorporated DeKalb County taxpayers because all taxpayers pay the same amount for these services.

The SPLOST will provide a significant source of revenue to DeKalb County to use to address its needs for capital improvement funding, primarily for transportation and public safety facility needs. It also provides a source of funding to the cities for capital projects and in all cases except for the City of Decatur, cities receive more funding from SPLOST than they receive in current HOST distributions.

Both the change from a HOST to an EHOST and imposition of a SPLOST require approval through referendum.

A review of estimated property tax bills using the current HOST formula compared to a potential EHOST formula show that DeKalb County taxes for City of Decatur homesteaded properties decrease over \$1,000¹. This represents a significant property tax reduction for our taxpayers.

The proposed resolution is the only action item for your consideration. However, the proposed resolution incorporates your support and concurrence with calling the referendum, it includes approval of the City of Decatur project list, approval of a ballot question to allow the City of Decatur to issue up to \$7,000,000 in general obligation debt to be paid back with SPLOST proceeds; and approves a proposed Intergovernmental Agreement (IGA) with DeKalb County, that among other things provides for allocation and distribution of the SPLOST proceeds.

Project List

The recommended project list consists of two components: debt service payments and transportation project. It is estimated that over a six-year period, the City of Decatur would receive approximately \$20,029,200 or \$3,421,500 annually. Approximately 66% or \$13,500,000 is needed to cover the cost of debt service payments for improvements to Fire Station No. 1, the Decatur Recreation Center, the Leveritt Public Works Building and for the Beacon Municipal Complex (not including the City Schools of Decatur Central Office). These payments are currently being covered by the City's HOST distribution and because that would be eliminated if the EHOST is approved, the costs need to be covered through SPLOST proceeds.

The transportation projects include improvements to the Atlanta Avenue/West Howard/West College intersection estimated to be \$5,920,000. This is the last remaining intersection improvement project that is part of the 2007 Community Transportation Plan. In addition, this intersection improvement was included as part of the project list for the previous regional TSPLOST.

Other transportation funding in the approximate amount of \$1,100,000 is included for bicycle, pedestrian and traffic calming improvements including construction and repair of sidewalks, construction and maintenance of bicycle lanes and facilities, and implementation of traffic calming initiatives.

The recommended project list contains items which are either currently legally obligated, or are included in adopted plans, or have been identified as priorities for capital funding by the City Commission. It is recommended that the proposed project list be approved.

IGA

The referendum for the SPLOST can be called for either a five-year or six-year period. To extend it to six-years, the cities and DeKalb County agreed to enter into IGA's. In addition to adding an extra year of proceeds, one of the advantages of the six year option is that the IGA's provide additional flexibility to determine how the proceeds will be distributed because a formula can be incorporated into the agreement.

Section 7 (B) provides a proportional distribution of the SPLOST proceeds based on current 2017 population estimates.

¹ City of Decatur homestead single-family residential property with an appraised value of \$500,000

The City's project list is also incorporated into the IGA as Exhibit B.

The IGA also addresses technical and administrative matters for how the SPLOST will operate if approved. The proposed IGA was developed with input and agreement from City Attorneys representing DeKalb's cities.

Mayor Garrett, City Manager Peggy Merriss and City Attorney Bryan Downs have been actively involved with the development of the IGA. Approval is recommended.

It is our understanding that the DeKalb County Commission will call for the EHOST and SPLOST referenda on September 26, 2017. If approved, the referenda will be scheduled for Tuesday, November 7, 2017.

It is recommended that Resolution R-17-25 be approved.

A RESOLUTION CONCURRING IN THE CALL OF A REFERENDUM ELECTION IN DEKALB COUNTY FOR VOTERS TO CONSIDER IMPLEMENTATION OF AN EQUALIZED HOMESTEAD OPTION SALES AND USE TAX AND A ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX (SPLOST) IMPOSED IN THE SPECIAL DISTRICT COTERMINOUS WITH THE BOUNDARIES OF DEKALB COUNTY; AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT TO BE ENTERED INTO BETWEEN DEKALB COUNTY AND ITS QUALIFIED MUNICIPALITIES AS TO THE USE AND DISTRIBUTION OF SPLOST PROCEEDS; PROVIDING FOR A PROJECT LIST OF CITY PROJECTS TO BE COVERED BY THE SPLOST, IF APPROVED BY VOTERS; TO CALL FOR A REFERENDUM ELECTION WITHIN THE CITY OF DECATUR TO DETERMINE WHETHER TO AUTHORIZE THE ISSUANCE OF CERTAIN GENERAL OBLIGATION DEBT OF THE CITY SECURED BY A PART OF THE CITY'S PORTION OF THE PROCEEDS OF SUCH SPLOST, IF SUCH SPLOST IS APPROVED BY VOTERS; AND FOR OTHER PURPOSES.

WHEREAS, Title 48 of the Official Code of Georgia Annotated was amended during the 2015 Georgia General Assembly to allow the homestead option sales and use tax authorized by O.C.G.A. § 48-8-102 (the "HOST") to be suspended and replaced with the imposition of an equalized homestead option sales and use tax (the "EHOST"), if approved by referendum; and

WHEREAS, Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated authorizes the imposition of a county one percent sales and use tax (the "SPLOST") for the purpose, among other things, of financing certain county and municipal capital outlay projects, including those set forth herein, if approved by referendum; and

WHEREAS, pursuant to O.C.G.A. § 48-8-109.2, the referendum election to determine whether to impose an EHOST must be held in conjunction with the referendum election to approve a SPLOST and, unless both sales and use taxes are approved, neither shall become effective and HOST will continue without interruption; and

WHEREAS, the governing authority of DeKalb County intends to issue a call for a referendum on implementation of the EHOST to be levied in conjunction with a SPLOST; and

WHEREAS, the City Commission of the City of Decatur concurs in the decision to issue a call for a referendum on implementation of the EHOST to be levied in conjunction with a SPLOST; and

WHEREAS, pursuant to O.C.G.A. § 48-8-109.5(e) and O.C.G.A. § 48-8-109.5(f), DeKalb County and all the municipalities located within DeKalb County except for the City of Atlanta (the "Qualified Municipalities") intend to enter into an intergovernmental agreement in order to prescribe the method by which the State Revenue Commissioner shall strictly divide the SPLOST proceeds in the event the SPLOST is approved by the voters in the referendum; and

WHEREAS, the proposed intergovernmental agreement is attached hereto as Exhibit A;
and

WHEREAS, in the event the SPLOST is approved by the voters in the referendum, the City intends to finance a portion of the cost of the City of Decatur Projects (hereinafter defined) through the issuance of not to exceed \$7,000,000 in general obligation debt of the City and the City intends to pay the principal of and interest on such bonds with a part of its portion of the proceeds of the SPLOST.

NOW THEREFORE BE IT RESOLVED that the list of projects shown on the attached Exhibit B is adopted and approved as Decatur City Projects to be funded with the proceeds of the SPLOST, if approved by the voters in the referendum.

IT IS FURTHER RESOLVED, that the Governing Authority of DeKalb County and the Board of Elections of DeKalb County are requested to include the following language or substantially similar language relating to the City of Decatur within the notice of election and on the ballot to be used in the EHOST and SPLOST referendum election:

(xx) City of Decatur projects to be funded from the City of Decatur's share of the proceeds related to (a) debt service for the acquisition, through installment purchase, of Fire Station No. 1, the Leveritt Public Works Building, and the Decatur Recreation Center from the Urban Redevelopment Agency of the City of Decatur; (b) debt service for the acquisition, through installment purchase, of the Beacon Municipal Complex from the Urban Redevelopment Agency of the City of Decatur, including the Beacon stormwater projects, but not including the administrative facilities for the City Schools of Decatur; (c) transportation improvements to the Atlanta Avenue/W. Howard Avenue/W, College Avenue intersection; and, (d) bicycle, pedestrian improvements and traffic calming improvements.

IT IS FURTHER RESOLVED that the Governing Authority of DeKalb County and the Board of Elections of DeKalb County are requested to include the following language or substantially similar language relating to the City of Decatur within the notice of election and on the referendum ballot applicable to the City of Decatur for voters to consider authorizing the City of Decatur to issue general obligation debt to be funded by anticipated proceeds from the SPLOST:

Assuming that the imposition of such special 1 percent sales and use tax is approved by the voters of the County in the election herein referred to, the City of Decatur is hereby authorized to issue general obligation debt (the "Debt") (in whole or in part and in one or more series), secured by the proceeds of such special 1 percent sales and use tax, in a maximum aggregate principal amount of up to \$7,000,000. The proceeds of the Debt, if issued, shall be used to pay a portion of the City of Decatur projects, the costs of issuing the Debt, and capitalized interest. The Debt shall bear interest from the first day of the month during which the Debt is to be issued or from such other date as may be designated by the City prior to the issuance of the Debt, which rates shall not exceed 5% per annum. The maximum amount of principal to be paid in each year during the life of such Debt shall be as follows:

<u>Year</u>	<u>Amount</u>
2019	\$1,060,000
2020	\$1,095,000
2021	\$1,125,000
2022	\$1,180,000
2023	\$1,240,000
2024	\$1,300,000

The proceeds of the Debt shall be deposited in a separate account or accounts for the purposes set forth above, and any interest earnings on such proceeds shall be similarly applied.

Ballot Question:

If imposition of the tax is approved by a majority of the voters within the City of Decatur, such vote shall also constitute approval of the issuance of general obligation debt of the City of Decatur in the principal amount not to exceed \$7,000,000 for the above transportation improvement and bicycle and pedestrian improvement projects.

IT IS FURTHER RESOLVED, that the Mayor is authorized to execute the intergovernmental agreement in substantially the form attached hereto as Exhibit A, subject to such changes as may be negotiated between DeKalb County and the Qualified Municipalities and approved by the Mayor and City Manager in consultation with the City Attorney.

IT IS FURTHER RESOLVED, that if the SPLOST is approved by the voters in the referendum, the Mayor is authorized to execute on behalf of the City of Decatur, the “Special Purpose Local Option Sales and Use Tax Certificate of Distribution under Equalized Homestead Option Sales Tax,” at such rate as provided in the final intergovernmental agreement entered into between DeKalb County and the Qualified Municipalities.

SO RESOLVED, this 18th day of September, 2017.

CITY OF DECATUR

By: _____
Patricia Garrett, Mayor

(SEAL)

ATTEST:

CITY CLERK

EXHIBIT A

Intergovernmental Agreement

EXHIBIT B

City of Decatur Projects

Project Title	SPLOST Funding
Debt Service	
Debt service for the acquisition of Fire Station No. 1, the Leveritt Public Works Building, and the Decatur Recreation Center from the Urban Redevelopment Agency of the City of Decatur through payment of installment payments under the Agreement of Sale dated December 15, 2010 between the City of Decatur and the Urban Redevelopment Agency of the City of Decatur.	\$4,600,000
Debt service for the acquisition of the Beacon Municipal Complex from the Urban Redevelopment Agency of the City of Decatur through payment of installment payments under the Agreement of Sale dated May 1, 2013 between the City of Decatur and the Urban Redevelopment Agency of the City of Decatur, including the Stormwater Projects, but not including the administrative facilities for the City Schools of Decatur.	\$8,900,000
Transportation	
Improvements to the Atlanta Avenue/W. Howard Avenue/W. College Avenue intersection.	\$5,920,000
Bicycle, pedestrian and traffic calming improvements	\$1,109,218
Total	\$20,529,218

**INTERGOVERNMENTAL AGREEMENT FOR THE USE AND DISTRIBUTION
OF PROCEEDS FROM THE ONE PERCENT SPECIAL PURPOSE
LOCAL OPTION SALES TAX**

THIS AGREEMENT is made and entered into this _____ day of _____, 2017 by and between DeKalb County, a political subdivision of the State of Georgia (hereinafter the “County”), and the City of Avondale Estates, the City of Brookhaven, the City of Chamblee, the City of Clarkston, the City of Decatur, the City of Doraville, the City of Dunwoody, the City of Lithonia, the City of Pine Lake, the City of Stonecrest, the City of Stone Mountain, and the City of Tucker, municipal corporations of the State of Georgia (hereinafter collectively the “Municipalities” and, individually, as the context requires, “Municipality”). This Agreement does not include the portion of the City of Atlanta located in DeKalb County, which is specifically excluded from the levy and receipt of SPLOST proceeds at this time pursuant to O.C.G.A. § 48-8-109.5(f).

WITNESSETH:

WHEREAS, the parties to this Agreement consist of the County and the Municipalities; and

WHEREAS, the parties anticipate that the DeKalb County Governing Authority will approve and sign a resolution requesting the DeKalb County Board of Registrations and Elections to call a Referendum on the issue of the imposition of a Special Purpose Local Option Sales Tax (the “SPLOST”) and an Equalized Homestead Option Sales Tax (the “EHOST”); and

WHEREAS, O.C.G.A. § 48-8-110 et seq. (the “Act”), authorizes the levy of a one percent County Special Purpose Local Option Sales Tax (the “SPLOST”) for the purpose of financing capital outlay projects, as that term is defined and described by the Act (“capital outlay projects” or “projects”), for the use and benefit of the County and qualified municipalities within the County; and

WHEREAS, the County and Municipalities met to discuss possible projects for inclusion in the SPLOST referendum on the 31st day August, 2017; and

WHEREAS, the County and the Municipalities have reviewed O.C.G.A. § 48-8-109.5(e) and agreed upon a method to request the State Revenue Commissioner for the Georgia Department of Revenue (“Revenue Commissioner”) to strictly divide the SPLOST proceeds so that payments to the County and the Municipalities account for annexations and new cities created after the most recent decennial census; and

WHEREAS, the County and the Municipalities are authorized to enter into this Agreement by Georgia law, specifically including Article IX, Section III, Paragraph 1 of the Constitution of the State of Georgia and O.C.G.A. § 48-8-109.5(e).

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

Section 1. Projects

- (A) All capital outlay projects, to be funded in whole or in part from County SPLOST proceeds, are listed in Exhibit A, which is attached hereto and made part of this Agreement.
- (B) The capital outlay projects, to be funded in whole or in part from the Municipalities' SPLOST proceeds, are listed in Exhibit B, which is attached hereto and made part of this Agreement.

Section 2. Representations and mutual covenants

- (A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:
 - (i) The County is a political subdivision duly created and organized under the Constitution of the State of Georgia; and
 - (ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the County; and
 - (iv) The County will take all actions necessary to call an election to be held in all voting precincts in the County on the 7th day of November, 2017, for the purpose of submitting to the voters of the County for their approval, the question of whether or not a SPLOST shall be imposed on all sales and uses within the special district of DeKalb County for a period of six (6) years, commencing on the 1st day of April, 2018, to raise an estimated \$636,762,352 to be used for funding the projects specified in Exhibit A and Exhibit B; and
 - (v) Each County project funded by SPLOST proceeds shall be maintained as a public facility and in public ownership.
 - (vi) Upon the request of a Municipality by official Resolution of the Governing Authority of the Municipality, the County will take all actions necessary to add language to the referendum ballot presented to voters residing in the requesting Municipality to submit to those voters for their approval, the question of whether or not the requesting Municipality shall be authorized to issue general obligation debt of the Municipality in a not to exceed amount to be identified by the Municipality in its requesting Resolution.

- (B) Each of the Municipalities, on its own behalf, makes the following representations and warranties, which may be specifically relied upon by all parties as a basis for entering this Agreement:
 - (i) The Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia; and
 - (ii) The governing authority of the Municipality is duly authorized to execute, deliver and perform this Agreement; and
 - (iii) This Agreement is a valid, binding, and enforceable obligation of the Municipality; and
 - (iv) The Municipality is a qualified municipality as defined in O.C.G.A. § 48-8-110 (4); and
 - (v) The Municipality is located entirely within the geographic boundaries of the special tax district created in the County; and
 - (vi) Each Municipality's projects funded by SPLOST proceeds shall be maintained as public facilities and in public ownership.
- (C) It is the intention of the County and Municipalities to comply in all applicable respects with O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.* and all provisions of this Agreement shall be construed in light of the applicable provisions found in O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.*
- (D) The County and Municipalities agree to promptly proceed with the acquisition, construction, equipping, installation, and execution of the projects specified in Exhibit A and Exhibit B of this Agreement, or any other capital outlay projects as defined and authorized under O.C.G.A. §§ 48-8-109.1 *et seq.* and 48-8-110 *et seq.* that are approved for such purposes hereafter.
- (E) The County and the Municipalities agree to maintain thorough and accurate records concerning their respective receipt and expenditure of SPLOST proceeds.

Section 3. Conditions Precedent

- (A) The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the EHOST and SPLOST in accordance with the provisions of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*
- (B) This Agreement is further conditioned upon the approval of the proposed imposition of the EHOST and SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*

- (C) This Agreement is further conditioned upon the collecting of the SPLOST revenues by the Revenue Commissioner and transferring same to the County and Municipalities in conformity with the requirements of O.C.G.A. § 48-8-109.1 *et seq.* and O.C.G.A. § 48-8-110 *et seq.*

Section 4. Effective Date and Term of the Tax

The SPLOST, subject to approval in an election to be held on November 7, 2017, shall continue for a period of six (6) years with collections beginning on April 1, 2018 or the date the state revenue commissioner specifies as the collection start date.

Section 5. Effective Date and Term of this Agreement

This Agreement shall commence upon the date of its execution and shall terminate upon the later of:

- (i) The official declaration by the DeKalb County Board of Registration and Elections of the failure of the election described in this Agreement;
- (ii) The expenditure by the County and all of the Municipalities of the last dollar of money collected from the Special Purpose Local Option Sales Tax after the expiration of the Special Purpose Local Option Sales Tax; or
- (iii) The completion of all projects described in Exhibit A and Exhibit B or approved for development with SPLOST proceeds hereafter.

Section 6. County SPLOST Fund; Separate Accounts; No Commingling

- (A) A special fund or account shall be created by the County and designated as the 2017 DeKalb County Special Purpose Local Option Sales Tax Fund (“SPLOST Fund”). The County shall select a bank with an office or branch physically located within DeKalb County which shall act as a depository and custodian of the SPLOST Fund upon such terms and conditions as may be acceptable to the County.
- (B) Each Municipality shall create a special fund to be designated as the 2017 “*municipality name*” Special Purpose Local Option Sales Tax Fund. Each municipality shall select a bank with an office or branch physically located within DeKalb County which shall act as a depository and custodian of the SPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.
- (C) All SPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts or funds established pursuant to this Section. SPLOST proceeds shall not be commingled with other funds of the County or

Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than SPLOST proceeds and accrued interest shall be placed in such funds or accounts.

Section 7. Procedure for Disbursement of SPLOST Proceeds

- (A) Pursuant to O.C.G.A. § 48-8-115, proceeds of the SPLOST shall be collected by the Revenue Commissioner and one percent (1%) of the amount of the SPLOST proceeds collected beginning April 1, 2018 shall be paid into the general fund of the state treasury in order to defray the costs of administration.

- (B) The remaining ninety-nine percent (99%) of the amount collected from the SPLOST (the “SPLOST proceeds”) beginning April 1, 2018 shall be distributed to the County and each Municipality by the Revenue Commissioner pursuant to the percentages set forth below and the parties agree that such percentages shall remain unchanged until the expiration of this six (6) year Special Purpose Local Option Sales Tax:

City/County	Distribution Percentage
Avondale Estates	0.445%
Brookhaven	7.411%
Chamblee	4.000%
Clarkston	1.801%
Decatur	3.224%
Doraville	1.484%
Dunwoody	6.908%
Lithonia	0.294%
Pine Lake	0.108%
Stone Mountain	0.894%
Stonecrest	7.500%
Tucker	4.991%
Unincorporated-DeKalb	60.940%

The above-described distribution percentages shall be set forth in a Tax Certificate of Distribution, the form of which is attached hereto as Exhibit C, to be forwarded to the Revenue Commissioner at a date and time of his/her choosing. In the event of an annexation of previously unincorporated areas of the County by a Municipality or in the event of the creation and voter approval of a new municipality within the previously unincorporated areas of the County, the County agrees to fund and develop projects within such newly incorporated areas in the same manner, at the same rate and subject to the same standards of priority as similar projects are funded and developed at that time in the unincorporated area of the County.

- (C) Upon receipt by the County or Municipality of SPLOST proceeds collected by the Revenue Commissioner, the County and each Municipality shall immediately deposit said proceeds in a separate fund established by each government entity in accordance with Section 6 of this Agreement. The monies in each SPLOST fund shall be held and applied to the cost of acquiring, constructing, installing, and executing, which includes project management, oversight auditing, and reporting, the County's and the Municipalities' respective capital outlay projects listed in Exhibit A and Exhibit B.

- (D) Should any Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, that Municipality's share of the funds subsequent to dissolution shall be paid to the County as part of the County's share unless an Act of the Georgia General Assembly makes the defunct Municipality part of another successor municipality. If such an act is passed, the defunct Municipality's share shall be paid to the successor Municipality in addition to all other funds to which the successor Municipality would otherwise be entitled.

Section 8. Expenses

The County shall be responsible for the cost of holding the SPLOST election.

Section 9. Audits

During the term of this Agreement, the distribution and use of all SPLOST proceeds deposited in the SPLOST Fund and each Municipal SPLOST fund shall be audited in accordance with O.C.G.A. § 48-8-121 (a)(2) by the County's Auditor for the County projects and by each Municipality's auditor for the respective Municipality's projects. The County and each Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits.

Section 10. Notices

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage prepaid to the following addresses. The parties agree to give each other non-binding duplicate email notice. Future changes in address shall be effective upon written notice being given by the City to the County Executive Assistant or by the County to the City Manager via certified first class U.S. mail, return receipt requested.

DeKalb County:
Chief Executive Officer
Executive Assistant
DeKalb County, Georgia
1300 Commerce Drive
Decatur, Georgia 30030

City of Avondale Estates:
Mr. Clai Brown
City Manager
21 N. Avondale Plz.
Avondale Estates, GA 30002-13

With a copy to:

County Attorney
DeKalb County, Georgia
1300 Commerce Drive
Decatur, Georgia 30030

City of Brookhaven:

Mr. Christian Sigman
City Manager
4362 Peachtree Road
Brookhaven, GA 30319

With copy to:

Chris Balch
Balch Law Group
1270 Carolina St., Suite D120-315
Atlanta, GA 30307

City of Clarkston:

Keith Barker
City Manager
1055 Rowland Street
Clarkston, GA 30021-1711

With copy to:

Stephen G. Quinn
Wilson, Morton & Downs LLC
125 Clairmont Ave., Ste. 420
Decatur, GA 30030

City of Doraville:

Regina Williams-Gates
Interim City Manager
3725 Park Avenue
Doraville, GA 30340-1197

With copy to:

Cecil C. McLendon, Esq.
3725 Park Avenue
Doraville, GA 30340

With a copy to:

Robert E. Wilson, Esq.
Wilson, Morton & Downs LLC
125 Clairmont Avenue, Ste. 420
Decatur, GA 30030

City of Chamblee:

Jon Walker
City Manager
5468 Peachtree Road
Chamblee, GA 30341-2398

With copy to:

Joe L. Fowler
Fowler, Hein, Cheatwood &
Williams, P.A.
2970 Clairmont Road, Suite 220
Atlanta, GA 30329

City of Decatur:

Peggy Merriss
City Manager
509 N. McDonough Street
Decatur, GA 30030

With copy to:

Bryan Downs
Wilson, Morton & Downs LLC
125 Clairmont Ave., Ste. 420
Decatur, GA 30030

City of Dunwoody:

Eric Linton
City Manager
41 Perimeter Ctr. East, Suite 250
Dunwoody, GA 30346

With copy to:

Cecil McLendon, Esq.
41 Perimeter Center East, Suite 250
Dunwoody, GA 30346

City of Lithonia:

Cheryl Foster
City Administrator
6920 Main Street
Lithonia, GA 30058

With copy to:

Winston A. Denmark, Esq.
8024 Fairoaks Court
Jonesboro, GA 30236

City of Stone Mountain:

Ms. ChaQuias Miller Thornton
City Manager
875 Main Street
Stone Mountain, GA 30083

With copy to:

Joe L. Fowler
Fowler, Hein, Cheatwood
& Williams, P.A.
2970 Clairmont Road, Suite 220
Atlanta, GA 30329

City of Tucker:

Tami Hanlin
City Manager
4119 Adrian Street
Tucker, GA 30084

With copy to:

Brian Anderson
Anderson Legal Counsel
4119 Adrian Street
Tucker, GA 30084

City of Pine Lake:

Valerie Caldwell
City Manager
462 Clubhouse Drive
Pine Lake, Georgia 30072

With copy to:

Laurel E. Henderson
Sumner Meeker LLC
14 East Broad Street
Newnan, GA 30263

City of Stonecrest:

Michael C. Harris
City Manager
3120 Stonecrest Blvd.
Stonecrest, GA 30038

With copy to:

Thompson Kurrie, Jr.
Coleman Talley LLP
3475 Lenox Road, NE, Suite 400
Atlanta, GA 30326

Section 11. Entire Agreement

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to distribution and use of the proceeds from the Special Purpose Local Option Sales Tax. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said SPLOST. No representation oral or written not incorporated in this Agreement shall be binding upon the County or the Municipalities.

Section 12. Amendments

This Agreement shall not be amended or modified except by agreement in writing executed by the County and the Municipalities.

Section 13. Severability, Non-Waiver, Applicable Law, and Enforceability

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the State of Georgia without regard to conflicts of law principles thereof. Should any provision of this Agreement require judicial interpretation, it is agreed that the arbitrator or court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

Section 14. Compliance with Law

During the term of this Agreement, the County and each Municipality shall comply with all State law applicable to the use of the SPLOST proceeds, specifically including O.C.G.A. § 48-8-110, et seq.

Section 15. Dispute Resolution

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- (A) Claims shall be heard by a single arbitrator, unless the claim amount exceeds \$500,000, in which case the dispute shall be heard by a panel of three arbitrators. Where the claim is to be heard by single arbitrator, the arbitrator shall be selected pursuant to the list process provided for in the Commercial Arbitration Rules unless the parties to the arbitration are able to select an arbitrator independently by mutual agreement. The arbitrator shall be a lawyer with at least 10 years of active practice in commercial law and/or local government law. Where the claim is to be heard by a panel of three arbitrators, selection shall occur as follows. Within 15 days after the commencement of arbitration, the city or cities party to the arbitration shall select one person to act as arbitrator and the County shall select one person to act as an arbitrator. The two selected arbitrators shall then select a third arbitrator within ten days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. This third arbitrator shall be a former judge in the State or Superior Courts of Georgia or a former federal district judge.
- (B) The arbitration shall be governed by the laws of the State of Georgia.
- (C) The standard provisions of the Commercial Rules shall apply.
- (D) Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a particular law permits them to do so, specifically including O.C.G.A. § 9-15-14.
- (E) The award of the arbitrators shall be accompanied by a written opinion that includes express findings of fact and conclusions of law.

Section 16. No Consent to Breach

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

Section 17. Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

DEKALB COUNTY, GEORGIA

_____(SEAL)
MICHAEL L. THURMOND
Chief Executive Officer

ATTEST:

BARBARA NORWOOD SANDERS, CCC
Clerk to the Board of Commissioners
and Chief Executive Officer

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

ZACHARY L. WILLIAMS
Chief Operating Officer

OVERTIS HICKS BRANTLEY
County Attorney

**CITY OF AVONDALE ESTATES,
GEORGIA**

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM AND
LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF BROOKHAVEN, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF CHAMBLEE, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF CLARKSTON, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF DECATUR, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF DORAVILLE, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF DUNWOODY, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF LITHONIA, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF PINE LAKE, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

**CITY OF STONE MOUNTAIN,
GEORGIA**

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF STONECREST, GEORGIA

Attest:

_____ (SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

CITY OF TUCKER, GEORGIA

Attest:

_____(SEAL)

Mayor

Municipal Clerk

APPROVED AS TO SUBSTANCE:

**APPROVED AS TO FORM
AND LEGAL VALIDITY:**

City Manager

City Attorney

September 7, 2017

EXHIBIT "A"
County Projects

EXHIBIT "B"
City of Decatur Projects

Project Title	SPLOST Funding
Debt Service	
Debt service for the acquisition of Fire Station No. 1, the Leveritt Public Works Building, and the Decatur Recreation Center from the Urban Redevelopment Agency of the City of Decatur through payment of installment payments under the Agreement of Sale dated December 15, 2010 between the City of Decatur and the Urban Redevelopment Agency of the City of Decatur.	\$4,600,000
Debt service for the acquisition of the Beacon Municipal Complex from the Urban Redevelopment Agency of the City of Decatur through payment of installment payments under the Agreement of Sale dated May 1, 2013 between the City of Decatur and the Urban Redevelopment Agency of the City of Decatur, including the Stormwater Projects, but not including the administrative facilities for the City Schools of Decatur.	\$8,900,000
Transportation	
Improvements to the Atlanta Avenue/W. Howard Avenue/W. College Avenue intersection.	\$5,920,000
Bicycle, pedestrian and traffic calming improvements	\$1,109,218
Total	\$20,529,218

EXHIBIT “C”

**SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX
CERTIFICATE OF DISTRIBUTION
UNDER EQUALIZED HOMESTEAD OPTION SALES TAX**

TO: State Revenue Commissioner

Pursuant to O.C.G.A. § 48-8-109.5(e) of Part 2 of Article 2A of Chapter 8 Of Title 48 of the Official Code of Georgia Annotated, the “Equalized Homestead Option Sales Tax Act of 2015”, relating to the distribution of proceeds of the tax under Part 1 of Article 3 of said chapter, the County Special Purpose Local Option Sales & Use Tax, the governing authorities for DeKalb County and all municipalities located within the special district coterminous with the boundaries of DeKalb County, except that portion of the City of Atlanta in DeKalb County, hereby certify that the proceeds of the combination county/city special purpose local option sales and use tax generated in such district shall be strictly divided in the following percentage amounts as determined by the attached intergovernmental agreement between the parties named below. Such proceeds shall be distributed by the State Revenue Commissioner as follows:

City of Avondale Estates, Georgia shall receive 0.445 %
City of Brookhaven, Georgia shall receive 7.411 %
City of Chamblee, Georgia shall receive 4.000 %
City of Clarkston, Georgia shall receive 1.801 %
City of Decatur, Georgia shall receive 3.224 %
City of Doraville, Georgia shall receive 1.484 %
City of Dunwoody, Georgia shall receive 6.908 %
City of Lithonia, Georgia shall receive 0.294 %
City of Pine Lake, Georgia shall receive 0.108 %
City of Stonecrest, Georgia shall receive 7.500 %
City of Stone Mountain, Georgia shall receive 0.894 %
City of Tucker, Georgia shall receive 4.991 %
County of DeKalb, Georgia shall receive 60.940 %

This certificate shall continue in effect until March 1, 2024.

September 7, 2017

As required by O.C.G.A. § 48-8-109.5(f), this certificate specifically excludes that portion of the City of Atlanta located in DeKalb County.

Executed on behalf of the governing authorities of the county and municipalities located wholly within the special district of DeKalb County, this _____ day of _____ 20 ____.

MAYOR, CITY OF AVONDALE ESTATES

MAYOR, CITY OF BROOKHAVEN

MAYOR, CITY OF CHAMBLEE

MAYOR, CITY OF CLARKSTON

MAYOR, CITY OF DECATUR

MAYOR, CITY OF DORAVILLE

MAYOR, CITY OF DUNWOODY

MAYOR, CITY OF LITHONIA

MAYOR, CITY OF PINE LAKE

MAYOR, CITY OF STONE MOUNTAIN

MAYOR, CITY OF STONECREST

MAYOR, CITY OF TUCKER

**CHIEF EXECUTIVE OFFICER
DEKALB COUNTY, GEORGIA**

**City of Decatur
Planning Commission**

October 10, 2017 Regular Meeting Agenda

Decatur City Hall
City Commission Room
509 North McDonough Street
7:00 PM

I. Old Business:

- a. Approval of Minutes from September 12, 2017 regular meeting.

II. New Business:

- a. Alex Brounstein has requested a special exception from the Special Pedestrian Area District parking requirements at **433 North McDonough Street**.
- b. Alice Johnson has requested a special exception for a rear yard modification at **157 Ridley Lane**.
- c. Thankful Baptist Church has requested a change in land use designation from I – Institutional to C – Commercial/High Density Residential for the northeast corner property at **830 W. College Avenue**.
- d. Thankful Baptist Church has requested a rezoning from I – Institutional to C-1 – Neighborhood Commercial for the northeast corner property at **830 W. College Avenue**.
- e. Thankful Baptist Church has requested a special exception from the streetscape requirements for the proposed development along Mead Road at **830 W. College Avenue**.
- f. The City of Decatur has requested amendments to Article 2 – Rules of Interpretation, Article 3 – Residential Districts, Article 6 – Use Provisions, Article 10 – Buildings and Fire, and Article 12 – Definitions of the Unified Development Ordinance, related to cottage court building type and standards, accessory dwelling units, accessibility codes, lifecycle density bonus, and definitions.

III. Other Business:

- a. Real Estate Development Workshop – Nov. 15

Consistent with requirements of O.C.G.A. §50-14-1(e)(1) this agenda was posted by Tuesday, September 26, 2017.

R-17-AA

RESOLUTION

WHEREAS, the City Commission of the City of Decatur, Georgia, entered into executive session, on September 5, 2017 as allowed by O.C.G.A. §50-14-4 for the purpose of discussing legal matters; and,

WHEREAS, at the close of discussion of this subject, the City Commission of the City of Decatur, Georgia, did vote to close the executive session and begin open session; and,

WHEREAS, the Commissioners present were: Mayor Garrett; Mayor pro tem Boykin; and, Commissioners Drake, Powers and Smith.

WHEREAS, the Commissioners voting for closure were: Mayor Garrett; Mayor pro tem Boykin; and, Commissioners Drake, Powers and Smith.

NOW, THEREFORE, BE IT RESOLVED, and it is hereby resolved, by the City Commission of the City of Decatur, Georgia, that:

- 1) Each member of the City Commission of the City of Decatur, Georgia present for the meeting does hereby confirm that to the best of his or her knowledge, the said subject matter of the executive session was devoted to matters within the relevant exception as set forth above; and,
- 2) That the actions taken in executive session and discussions of the same are hereby ratified; and,
- 3) That the City Commission of the City of Decatur, Georgia does hereby authorize and direct the Mayor to execute an affidavit in order to comply with O.C.G.A. §50-14-4(b); and,
- 4) That the affidavit be included and filed with the official minutes of the meeting and shall be in a form which substantially complies with the requirements of the statute.

This 18th day of September, 2017.

Mayor

ATTEST: _____
Acting City Clerk