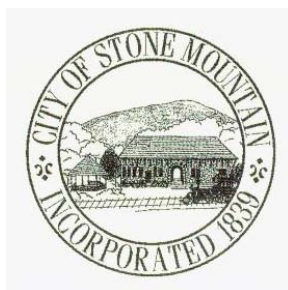


Technical Assistance Panel Stone Mountain West Condominium February 2010

Prepared for:



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About ULI Atlanta

A District Council of the Urban Land Institute

With over 1,000 members throughout the Metropolitan Atlanta area, ULI Atlanta is one of the largest District Councils of the Urban Land Institute (ULI). We bring together leaders from across the fields of real estate and land use policy to exchange best practices and serve community needs. We share knowledge through education, applied research, publishing, and electronic media.

ULI Mission: The mission of the Urban Land Institute is to provide leadership in the responsible use of land and in creating and sustaining thriving communities worldwide.

About the Technical Assistance Panel (TAP) Program

Since 1947, the Urban Land Institute has harnessed the technical expertise of its members to help communities solve difficult land use, development, and redevelopment challenges. ULI Atlanta brought this same model of technical assistance to the Metropolitan Atlanta area. Local ULI members volunteer their time to serve on panels. In return, they are provided with a unique opportunity to share their skills and experience to improve their community.

Through Technical Assistance Panels (TAPs), ULI Atlanta is able to enhance community leadership, clarify community needs and assets, and advance land use policies that expand economic opportunity and maximize market potential.

ULI Atlanta TAPs Committee Members

Ronnie Davis, Co-Chair
Sarah Kirsch, Co- Chair
Stephen Arms
Bob Begle
Jan Bozeman
Constance Callahan
John Cheek
Charles Feder
Chris Hall
Troy Landry
Robert Newcomer
Sabina Rahaman
Janae Sinclair
Amy Swick
Monte Wilson



Ronnie Davis, Chair of ULI Atlanta TAPs Committee gives opening remarks.

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The Panel is also grateful to have the benefit of input from the many stakeholders and residents who attended the session, including: Gary Peet, Fred Young, Erin Bailey, Chakira Johnson, John Oselette, James P. Curran, Laura Keyes, Al Capogrossi, Susan Coletti, Sarah Babb, Pat Wheeler, Richard Mailman, Barry Amos, Nan Nash, Aaron Garne, Fr. Paul Elliott, Bobbie Unger, Ronnie Spain, Ted Meeker, Steve Higgins, Joel S. Boykin, Jr., Marla Bexley-Lovell, Morgan Wheeler, and Valerie Grigley.

The panel would also like to thank Stone Mountain Park for the use of their meeting space and the assistance of their staff in setting up the room & the AV equipment.



Gary Peet, Former Mayor of Stone Mountain

PANEL & PROJECT STAFF

ULI Atlanta would like to thank the Panelists, Moderators, and TAP Committee members for their time, energy, and passion for ULI.

SPONSOR ATTENDEES:

Gary Peet – *Immediate Past Mayor, City of Stone Mountain*

Pat Wheeler – *Mayor, City of Stone Mountain*

Chakira Johnson – *Mayor Pro Tem, City of Stone Mountain*

Barry Amos – *City Manager, City of Stone Mountain*

Ted Meeker – *Special Counsel, City of Stone Mountain*

PANEL MEMBERS:

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David A. Herrigel, Esq. – *Hyatt & Stubblefield, P.C.*

Bob Begle – *Urban Collage, Inc.*

Lynn Gavin, Esq. – *The Gavin Law Firm*

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Kyle Williams, Esq. – *The Bloom Law Firm*

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MODERATORS:

Janet L. Bozeman, Esq. – *Hyatt & Stubblefield, P.C.*

Troy Landry, ASLA, LEED AP – *Landry Design Assoc.*



Front Row: Pat Wheeler (Mayor), Gary Peet (former Mayor), Denis Pellerin, Jan Bozeman, Lynn Gavin, Kyle Williams

Back Row: David Haddow, Troy Landry, David Herrigel, Chris Kacena, Bob Begle, Ray Strychalski. Not pictured: Stephen Arms.

EXECUTIVE SUMMARY

The primary objective of the TAP was to provide the City of Stone Mountain ("City") and the Downtown Development Authority of the City of Stone Mountain ("DDA") with guidance and direction for revitalization and redevelopment of the Stone Mountain West Condominium site. A panel of experts in the areas of legal, market analysis, brokerage/assemblage, land planning, public finance, engineering, construction and development, and condominium law facilitated the production of a strategic plan. The Panel discussion focused on redevelopment issues specific to Stone Mountain West. However, the problems at Stone Mountain West are not unique in the metropolitan Atlanta area. A successfully implemented rescue plan could serve as a model for other jurisdictions facing the same problems with failed condominium sites.

The Panel recommended that further study of redevelopment options be conducted and a redevelopment plan formulated if the City and/or the DDA are interested in pursuing redevelopment further. This study would include analyzing the cost and time involved to acquire the land, market demand in terms of type of product and price point, feasibility and practicality of redevelopment, and the availability of financing for redevelopment. Until these issues are properly analyzed, any plan for redevelopment of the site will be purely conjecture. A physical needs assessment ("PNA"), updated title report, market analysis, and appraisal should all be commissioned. These reports will not only determine current value of the property, but will also determine the highest and best use of the use of site.

The City and/or the DDA needs to determine its level of interest and involvement in the Project. The City may be able to use its powers of eminent domain to acquire the land and then partner with a private developer to undertake the redevelopment. Or, the City or the DDA could simply provide assistance to a private developer.

If the City does not use condemnation to assemble all or part of the property interests for redevelopment, a private developer could do the assemblage itself and proceed with redevelopment if a substantial number of the current owners are willing to sell at a price that does not exceed the land acquisition cost ceiling established as part of the redevelopment plan. The current market conditions and general economic malaise makes the likelihood of a private developer assembling this property at prices that would make sense now very unlikely. It is widely assumed that it may be 3 to 5 years before the economy can support new development or redevelopment of this property purely with private funds. A high discount factor on future values would likely drive the value of the property below what it will take to acquire it through private negotiations.

The Project site should be considered as potentially three different areas due to topographical features and physical layout. These differences could lead to three separate uses of the land and, consequently, three separate developers. While the highest and best use of the property will not be known until the appropriate studies are conducted, a single family product of either small detached houses or attached cottages may be an appropriate use, particularly adjacent to existing single-family areas. Higher density housing could be appropriate fronting Memorial Drive. This kind of housing design could be made attractive to several different types of end-users - seniors, small families, and entry-level housing. Due to the location of the property and proximity to other commercial areas, commercial use or mixed-use is not likely to be the best use of the property.

Senior housing is a use that has been urged by some members of the community. Generally speaking, the site topography is not conducive to housing for elderly or frail persons (unless developed in an elevator type of construction). Two areas of the Project could potentially support senior-friendly housing on a single level. One area could potentially support assisted-living housing. None of the existing structures will support senior housing, so demolition would be required. A market analysis will help determine whether senior housing is a viable option.

The best use of the middle section of the property may be to renovate the existing structures due to current building setback requirements around the stream.

The highest and best use of the property may not be the quickest redevelopment of the site. The studies commissioned should set a timetable for different land uses so that this is part of the decision-making process for the City. The City will ultimately need to establish some priorities and balance competing interests. For example, the higher the redevelopment costs, the higher the unit density needed to offset costs. While the Project currently has 142 units, the property is zoned for 200 units; this additional density may be needed to offset costs.

Once the City makes a decision about the best use of the property, the Panel recommended that the City issue requests for proposals from private developers and others who might be interested in undertaking redevelopment of the Project. A private party would not only provide its own financing, but it could bring creative solutions to the table for solving the Project's problems. If a private developer is not interested in undertaking the redevelopment entirely on its own, the City or the DDA might consider a public-private partnership.

There are funding mechanisms, such as the issuance of bonds, available to the City and/or the DDA if either entity desires to finance the redevelopment. Depending on the ultimate use of the property, the issuance of bonds through the Housing Authority of DeKalb County may be considered as well. However, many of the options would be difficult to pursue, because of the depressed state of the current bond market. In addition, the City does not have a bond rating. For this reason, the Panel recommended that the City investigate funding options through local banks who might be willing to provide support for the local community and other government agencies, such as the Georgia Department of Community Affairs. The Panel recommended that the City and/or the DDA have a complete redevelopment plan formulated and be committed to following the project through to completion of redevelopment before acquiring any property interest in the Project. This means that the City and/or the DDA needs to have the funding in place to complete acquisition, either through a sale to a private developer or through public or private financing, before completing the acquisition of any property interest (whether through a private sale or condemnation).

Finally, the Panel recommended that the City not wait to pursue building code violations until a redevelopment plan is formulated. The City should proceed immediately with pursuing those violations for reasons independent of a desire for redevelopment of the Project. The City should proceed under the assumption that it may have to condemn some or all of the property. The City should also formulate two strategies for dealing with building code violations – one strategy for use if the City does not pursue redevelopment (such as tearing down violating structures without acquiring the land) and one strategy for use if redevelopment is pursued (where violations would be addressed as part of the redevelopment).

BACKGROUND

CITY OF STONE MOUNTAIN PROFILE

The City of Stone Mountain is located 16 miles east of downtown Atlanta and borders the west side of Stone Mountain Park. The City is accessible to metropolitan Atlanta from the Stone Mountain Freeway/Highway 78 corridor and is primarily a bedroom community. With 7,145 residents on 1.6 square miles, the City is one of the most densely populated communities in the Atlanta metropolitan region.

Current business conditions are depressed due to the general economy but also due to the substandard conditions of buildings and infrastructure in the commercial district. In 2003, a Livable Centers Initiative Plan was completed that includes three phases of public investment in the commercial district's infrastructure. Phase I is a \$1.6 million Main Street streetscape project that started construction in January 2010. Phase II is a \$1.7 million continuation of Phase I that is in the design stage and programmed for construction in 2011. A \$2.4 million improvement to the intersection located at the entrance to the City from Highway 78 is planned for construction in 2011.

The Project site is within walking distance of the downtown commercial district and Stone Mountain Elementary.

PROJECT OVERVIEW

The Stone Mountain West Condominium is located on a 12.3-acre site in the City of Mountain near the west gate entrance to Stone Mountain Park. The Project site covers three tracts of land divided by a stream and ravine and by Rankin Street, a public street. Originally constructed in 1971 as 142 townhome apartments, the Project was converted to a condominium in 2003. The site contains 16 buildings, a clubhouse, and pool.

The condominium developer/converter failed to make the structural improvements and modifications necessary to complete the conversion of the project to a condominium. The property has also been poorly maintained, and conditions continue to decline. Litigation was commenced by the condominium association against the condominium developer, and the City intervened to enforce the building code violations. The Superior Court of DeKalb County approved a consent agreement in 2007 between the condominium association and the City, which required the condominium association to undertake remediation of building code violations, including, but not limited to, installing firewall separations in the attic space between units, upgrading to Class "C" roof shingles, installing a submetered water system, and installing a compactor for solid waste management.

The condominium association, unfortunately, has not been able to satisfy its obligations under the consent agreement. Due to the building code violations, only 20 units presently have certificates of occupancy, and these are at risk of being revoked since the association is in default of its remediation requirements. The association was placed in receivership in 2007. The court-appointed receiver reported in February, 2010 that only 10 unit owners are current in their assessments to the association. Not only does the association lack the means to undertake the remediation work, but the association has accrued substantial debts totaling almost \$200,000. The largest creditor is the DeKalb County



Department of Water and Sewer, which is due more than \$140,000. The association also has liens on the condominium units for unpaid assessments, totaling more than \$0.5 million.

When the units were first sold as condominium units, the average price was \$165,000. The latest sales prices have been between \$10,000 and \$25,000. Nearly all of the units have been foreclosed upon at least once since being converted to individually-owned properties in 2003. Most of the units currently appear to be owned by investors rather than owner-occupants. Current conditions of the site are negatively impacting the surrounding neighborhoods and are a major impediment to development and revitalization of the area.

TAP PANEL OBJECTIVES

- ❖ Discuss strategies for land acquisition, including negotiating a purchase of the property with existing owners and/or the association receiver and eminent domain.
- ❖ Develop preliminary options for best use of the land with a view toward making the use consistent with the City's Livable Centers Initiative. The Panel was also asked to discuss the feasibility/practicality of utilizing existing structures versus a complete demolition.
- ❖ Discuss strategies for moving forward to redevelop the property and finance the redevelopment.

OBSERVATIONS AND FINDINGS

CONDUCT ADDITIONAL RESEARCH AND ANALYSIS

An evaluation of the feasibility and practicality of site redevelopment includes analyzing the cost and time involved to acquire the land, market demand in terms of type of product and price point, feasibility and practicality of redevelopment, and the availability of financing for redevelopment. Substantial additional research and analysis needs to be conducted before a redevelopment plan can adequately be formulated. This includes:

- ❖ **Physical Needs Assessment.** A physical needs assessment ("PNA") should evaluate site conditions, code violations, utility infrastructure, age of the structures, building materials, environmental conditions, and zoning and building code requirements for new construction. This will help determine a practical use of the property and the feasibility of rehabilitation. For example, several buildings at the Project do not meet the current stream buffer setback requirements. If these buildings are torn down, unit density may be lost unless a multi-story building is located somewhere on the Project. In addition, toxic mold has been reported in a number of units. Mold remediation could be relatively inexpensive or cost-prohibitive.
- ❖ **Title Report.** A updated title report identifying the names and addresses of all current unit owners, as well as any liens on their units, will give a potential purchaser a better idea of the owners they must work with.
- ❖ **Market Analysis.** An updated market analysis should be obtained to identify the needs of the community. Rev. Elliott of St. Michael's Episcopal Church, across the street from the Project, indicated that there was a need in the community for affordable retirement and/or assisted living housing. Others opine that the City needs more up-scale housing. The Livable Centers Initiative Plan indicates an over-abundance of affordable housing. The attractiveness of the Project being located across the street from an elementary school and immediately adjacent to Stone Mountain Park should also be considered.
- ❖ **Appraisal.** An appraisal should be commissioned to appraise the property in an "as is" condition, with all issues known.

Ultimately, the cost to acquire the land and the cost of redevelopment plus a profit margin must not exceed what the market will bear. An off-the-cuff, rough estimate of redevelopment costs and market potential indicates that a developer may not want to invest more than \$10,000 to \$20,000 per unit in land acquisition costs or else redevelopment costs could exceed sales potential. A developer probably cannot afford to spend more than one-third of its total land development costs in acquisition of raw land.

PURSUE BUILDING CODE VIOLATIONS

The Panel recommended that the City pursue and prosecute building code violations existing on the Project with all deliberate speed. The condominium association and/or the receiver appear to be incapable of remediating the problems. Building conditions will only continue to deteriorate and could pose a risk to surrounding properties. For example, if the Project swimming pool is not maintained, it could become a breeding ground for mosquitoes. Pursuing the building code violations and rigorously documenting the file regarding safety concerns, crime, and other violations will aid the City if it decides to exercise its eminent domain powers to acquire the property at any point in the future. Prosecuting violations and/or exercising eminent domain can be an unpopular remedy, but the City may not have a choice if the code violations are not cured.

PROJECT ACQUISITION STRATEGIES

The following is a summary of various methods that could be used by a private developer or the City to acquire the land.

Private Options. These options could be taken by the City or by a private developer, independently or in conjunction with the City through a public/private partnership. The most efficient way to redevelop the Project is to acquire all of the interests in the land. This would involve making an attractive offer to the existing unit owners. However, there is always a potential for someone to hold out in an effort to obtain more than fair market value. There are other options for proceeding with less than complete ownership of the Project.

❖ **Remediate Building Conditions by Taking Control of the Project with the Purchase of at Least a Majority of the Units and/or Private Foreclosure.** A developer could make purchase offers to individual unit owners to see how many it can purchase with little or negotiation. If a majority of the units are owned by a developer, it can control the condominium association and operations and use this power to force remediation of building conditions.

- The developer could enter into option contracts with unit owners, with the purchase being contingent upon the developer being able to acquire at least a majority of the units.
- The key is to educate the owners as to the value of their units and their future liabilities. Owners need to understand that the price offered is the best they can do without an outlay of additional money to remediate the code violations. Faced with a possible special assessment for remediation costs of perhaps tens of thousands of dollars per unit, many owners may be looking for a way out. One problem is that the units may only be worth \$10,000 to \$20,000 but some owners may have paid more than \$100,000; these owners may be unwilling to take such a big loss unless their mortgage gets involved to permit a short sale that would allow the unit owner to walk away without

additional liability. A good, aggressive realtor would be a valuable asset to the purchaser in acting as a go-between with the seller.

- A special assessment can be levied by the association against all units to cover the remediation costs. A lien will be placed on each unit that does not pay the special assessment. The condominium association can foreclose its lien, subject to any existing mortgage and higher ranking liens.
- After remediation is completed, unit value should hopefully be restored, and the association could sell any units that it has acquired by foreclosure. In order for the association to at least break even, the association needs to be able to sell the units it owns at a price that is equal to or exceeds any liens remaining on the unit (mortgage and liens with priority over the association's lien) plus the unit's share of the remediation costs.
- This method will allow the building conditions to be remediated, but it will not permit structures to be torn down (without rebuilding to substantially the same design) or the property to otherwise be redeveloped to a different use without additional control of the property.
- The developer will need to fund the shortfall in remediation costs collected from unit owners until the association is able to repay these costs from funds it obtains from the sale of units it owns.

❖ **Redevelop Project With Consent of at Least 80% of the Unit Owners and their Mortgagees.** If the developer owns or obtains the consent of at least 80% of the unit owners and their mortgage companies and such other approvals as may be required under the condominium documents, it can redevelop the property, terminate the condominium, and/or tear down structures.

- Under condominium law, a unit owner owns his or her unit as well as an undivided interest in the common elements (the land and structures outside of the unit). A unit owner cannot be divested of its interest in the unit or the common elements except through foreclosure or eminent domain (discussed below). If the condominium regime is terminated, each unit owner is left with an undivided interest in the entire parcel of land.
- It is possible for the developer to move forward with redevelopment if it owns or controls 80% of the units. Those owners that do not sell would end up being minority partners with the developer in the redevelopment. It would be best to reach an agreement with the minority partners as to responsibility for costs and the sharing of profits to avoid future disputes.

Public Option: Eminent Domain/Condemnation. The City can acquire the Project by exercising its powers of eminent domain if the Project is deemed to be "blighted." At least two out of six statutory conditions must be met for "blight" to exist, which can include the following conditions:

- Uninhabitable, unsafe, or abandoned structures. If certificates of occupancy are revoked, the property is rendered uninhabitable. If the property is not up to building code, it could be considered unsafe;
- Inadequate provisions for sanitation;
- Repeated illegal activity that is known or should be known to the property owner. The City should start documenting any evidence of crime on or emanating from the Project; and
- Maintenance of property below building codes for more than one year after notice of violation. This is why it is important that notices of code violations be sent to all units if not already done.

In addition, the property must also be "conducive to ill health, transmission of disease, infant mortality or crime in the immediate proximity of the property." This is also why it is important to document any crime in the area and other conditions that could cause ill health effects on the surrounding area, such as allowing the swimming pool to become a breeding ground for mosquitoes. Each "property" to be condemned has to be "blighted," meaning that documentation should show that every unit in the Project as well as the common elements are contributing to the blighted condition.

❖ **Procedure for Eminent Domain.**

- a. Acquisition Negotiations
 - Obtain appraisal of fair market value
 - Establish just compensation amount
 - Make written purchase offer at or greater than appraised fair market value. The offer should include a description of the code violations. If the owner accepts the offer, then eminent domain proceedings do not have to be pursued
 - Tender compensation to property owner or tender to Superior Court. City needs to have acquisition funds lined up to pay for the property
 - Allow 90-days to vacate from written notice

b. Condemnation Resolution

- City Council adopts a Resolution "specifically and conspicuously" identifying each property to be condemned and the "blighted" conditions existing
- Post a sign in the right-of-way adjacent to each property advertising a public meeting
- Personally serve each property owner with notice of the meeting
- Advertise the meeting in The Champion Newspaper
- Conduct the public meeting after 6:00 p.m.
- Vote by City Council at the meeting to exercise eminent domain by an up or down vote

c. Lawsuit

- File a petition with Superior Court 30 days after passage of Resolution unless the Resolution identifies an emergency
- A Special Master is appointed (three assessors for in rem actions) to determine the price to be paid by the City to each property owner

❖ **Additional Considerations**

- If the City abandons condemnation proceedings, it has to pay attorneys' fees and expenses to the property owners.
- If substantial, good faith efforts to remedy the blight are not begun within five years, the property reverts back to the previous owners.
- There is a provision in the statute that provides that when eminent domain is used for public use purposes (such as road building), the property must be used for such public purposes for 20 years before it can be converted to another use. It is not clear how or whether this provision would apply to private use land. If it applies, a covenant could be placed on the land requiring that it remain residential for 20 years.
- If the City exercises eminent domain and then turns around and sells the Project to a private developer, the sale contract would need to require that the developer remedy the blight within a certain period of time.

PLANNING AND LAND USE

Site Conditions

The Project is divided by Rankin Street (public street), with units on both sides of the street. The west side of the Project is further divided by a natural ravine. For purposes of the planning discussion, the property was discussed as three potential redevelopment parcels – Section "A" is the property on the East side of Rankin Street, Section "B" is the property North of the ravine on the West side of the street, and Section "C" is the property South of the ravine on the West side of the street, as shown on the next page.

At present, the property contains:

- Section "A" - 38 residential units, a 2,400 square-foot clubhouse/office, and a pool
- Section "B" – 22 residential units
- Section "C" – 82 residential units

Most of the housing in the area is affordable; there is not much in the area for middle to upper income purchasers.

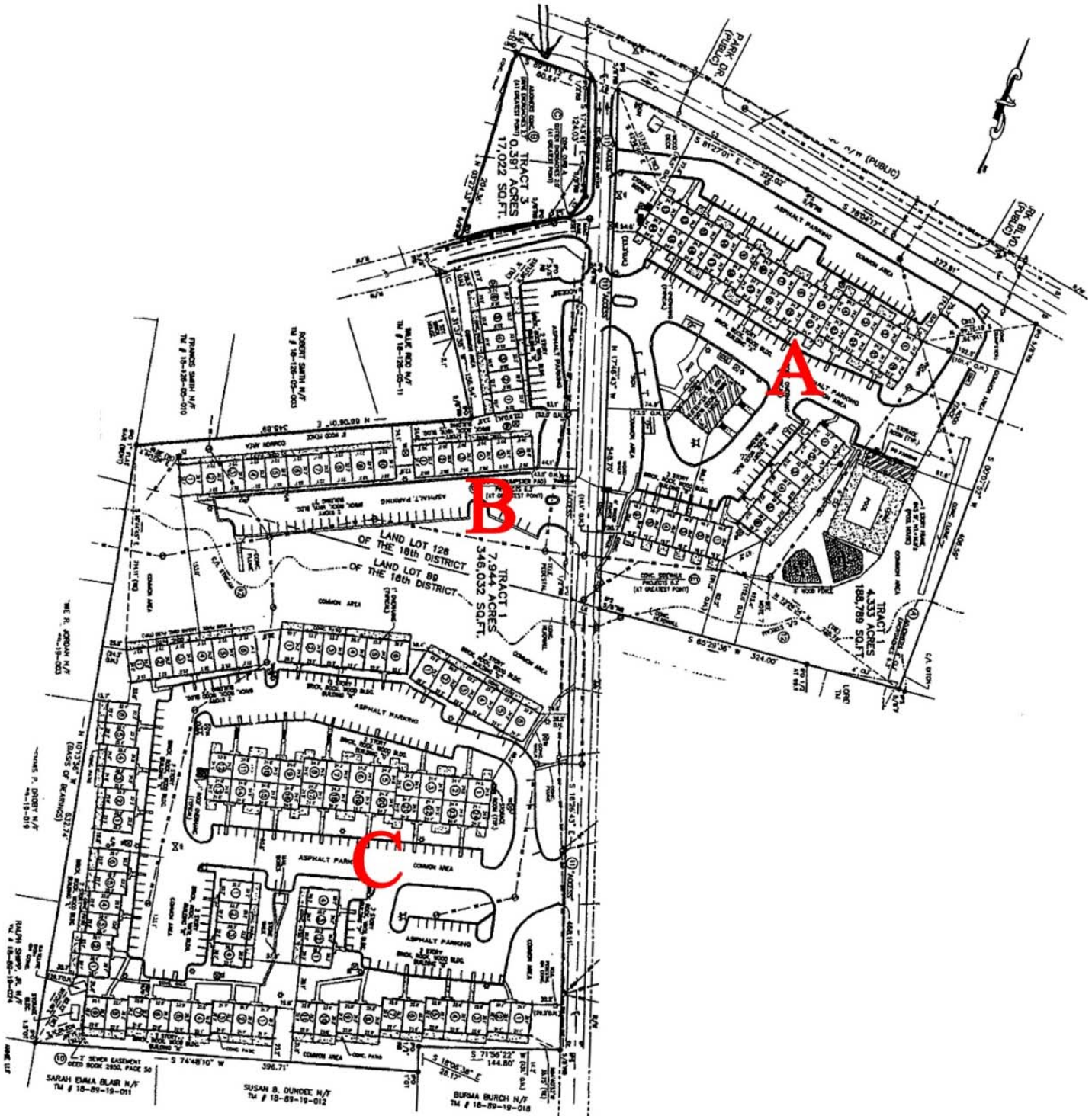
Surrounding Land Uses

The surrounding land uses need to be considered during the design process for the Project:

- North: St. Michael's Episcopal Church is across Memorial Drive from the Project
- South: Detached, single-family residential housing
- West: Detached, single-family residential housing and vacant land
- East: Detached, single-family residential housing and vacant land

Areas of Interest in Close Proximity to Project

- Walking distance to Stone Mountain Park via existing sidewalks. Park includes attractions, golf, lakes, hiking, biking, restaurants, lodges, and nighttime entertainment
- Walking distance to the City's historic downtown with retail, office, restaurants, and government offices
- Three miles to DeKalb Technical College Campus
- Walking distance to Stone Mountain Elementary School



Issues to Consider When Determining Best Use of the Property

A feasibility study to determine the highest and best use of the property should be prepared. The study should examine the market, income potential, and cost analysis for the property.

- The physical needs assessment described above will help determine whether it is more practical and economical to tear down or renovate existing structures. The results of this analysis will assist in determining the best approach for each Section of the Project.
- Who is the customer? Retirees? Young professionals? What income bracket? An active lifestyle, golf courses, etc. are some of the things that upper-middle income customers want before they will purchase.
- Stone Mountain Park is a great selling point, a niche market.
- What kind of composition and how many purchasers can you attract in two to three years?
- Plans for Sections "A," "B," and "C" may need to be variations of development with different price points. It is likely that the best use for each Section may not be the same.
- Due to the current building setback requirements, it might not be practical to tear down Section "B," so a development plan may need to accommodate a rehabilitation of the existing townhomes.
- The highest and best use of the property may not be the quickest redevelopment of the site. The study should set a timetable for different land uses so that this is part of the decision process for the City. A quick fix versus a long-term solution is something to which the City needs to give serious thought during the early stages of the process.
 - Not mutually exclusive
 - Partial short-term fix for portions of property then look at longer-term development for other portions of the Project
- The physical layout and differences in the three Sections could lead to three separate buyers and developers of the property.
- A recent study by DeKalb County found that 77% of DeKalb residents would like to stay in DeKalb County as they get older. The study shows a doubling of this age group by 2030. This may also show evidence of a need for senior housing.

- Sections "A" and "C" could potentially support senior-friendly housing on a single level. Section "A" is more suited than the other Sections for assisted living housing. The topography of the site, however, is not conducive to levels of frailty and age.
- It is estimated that over 1,000 people walk down East Mountain Street on a warm spring day. The sidewalks along this street are inadequate for that kind of foot traffic. This pedestrian route would need to be improved and widened to support this kind of traffic and additional traffic added by redevelopment of the Project.
- The best use of property for Section "C" may be a single family product – detached small houses or attached cottages. The housing design could be made attractive to seniors without ruling out other uses, such as family-oriented, entry-level housing.
- The property fronting Memorial Drive would be better suited to a higher density product than the other sections.
- Existing structures will not support senior housing.
- A building with elevators significantly increases both building costs and building maintenance costs. Current zoning limits building height to four stories. This may make a building with elevators cost-prohibitive unless a zoning variance is granted.
- A "greenhouse" model is a multi-unit facility created around a central kitchen, eating area, and laundry facilities. Each resident has their own separate unit with a bedroom and living area. This is a more affordable model because the kitchen creates much of the cost of a home.
- Higher density may be needed in order to offset the redevelopment costs. This may mean removing the pool and clubhouse in order to make room for more units. An overall goal should be to get close to the current zoning of 200 units +/-.
- Land use of each section is largely dependent on development cost for the project. But, the importance of community standards, community input or desires needs to be a strong component of the overall development if this project is to be successful.

Best Potential Land Use Options for Project

❖ Section "A"

- Short-Term Solution
 - Renovate existing buildings to sell or rent units
- Long-Term Solution

- Demolish buildings and build mid-rise senior housing facility
 - 4 stories in height
 - Acquire vacant property to the east to include in project
 - Transitional senior housing could partner with St. Michael's Church for social activities
- Demolish buildings and build three to four split apartment buildings. Can include existing renovated buildings in Section "B" as part of the apartment complex. However, Livable Centers Initiative Study found that there is an over-supply of rental housing in the area, unless it is senior housing.
- Demolish buildings and build cottage style homes that would blend architecturally with the historic homes in the area. It could be geared toward senior housing in partnership with St. Michael's Church.

❖ Section "B"

- Short-Term and Long-Term Solution
 - Renovate existing buildings to sell or rent units

❖ Section "C"

- Short-Term Solution
 - Renovate existing buildings to sell or rent units
- Long-Term Solution
 - Demolish buildings and develop two scenarios – one for traditional neighborhood development ("TND") and one for multifamily.
 - Purchase vacant land west of this Section and connect the grid street system through the property.
 - Create cottage style homes of maybe 1,000 to 1,200 s.f.
 - Provide small pocket park in the community. Larger park use is Stone Mountain Park.
 - Provide elements that create a sense of community:

- large front porches
- community gardens
- community sidewalks; very walkable environment
- parallel street parking

REDEVELOPMENT FINANCE OPTIONS

The Panel acknowledged that it is difficult to provide detailed information about specific financing mechanisms until such time as the City makes a decision about the ultimate use of the property. However, the Panel did provide a general summary of various financing options:

Private Finance

The City should consider using a “request for proposal” mechanism to the private sector. Under such mechanism, the City would seek solutions from the private sector as to the best use of the property and the proposed plan of financing. Although these are currently difficult economic times, many private developers, development companies, churches and other non-profit organizations view these times as presenting unique financial opportunities. Such entities would provide their own financing for the property through such mechanisms as cash reserves, private banking relationships such as a line of credit or bank loan, or other private financing mechanisms. In addition, utilizing a “request for proposal” mechanism should allow those private individuals or entities with an interest and concern for the City and Stone Mountain Park to provide private resources to solving the current problems at the property. Under such approach, the City could maintain its control over the ultimate use of the property by selection of the “most appropriate private proposal for use and financing” and traditional zoning mechanisms.

Public Finance

- ❖ **The City** – The City may issue general obligation bonds for a wide variety of governmental purposes. Such bonds are backed by the ad valorem taxing power and full faith and credit of the City. General obligation bonds cannot be issued without the assent of a majority of the qualified voters of the City voting in a referendum held for that purpose. The Panel agreed that it was extremely unlikely that the City could use such general obligation bonds to provide financing for the Project, unless it was determined that the current buildings would be torn down and the property be used for a traditional public project, such as a public library, public school, public park, fire station, or the like. However, bonds issued by the City may not receive a good credit rating since the City does not currently have a financial rating from any of the major rating agencies, such as Standard and Poor’s, Moody’s Investor Services or Fitch, nor has it previously issued any general obligation bonds.
- ❖ **The DDA** – The DDA is authorized to issue revenue bonds and then loan the proceeds of such bonds to a private entity to finance certain specific projects as defined under Georgia law. Such revenue bonds do not require voter approval of the City and do not call on the full faith and

credit and taxing power of the City for payment. Instead, such revenue bonds are payable from revenues generated by the specific project for which bonds can be issued and that are pledged for that purpose. Generally speaking, the DDA may issue revenue bonds for any industrial, commercial, business, office, parking, public or other use, provided a majority of the members of DDA determine by a duly adopted resolution such project is for the essential public purpose of the development of trade, commerce, industry and employment opportunities within the City's downtown area. Given the proximity of the property to Stone Mountain Park, the City should consider whether the property would be attractive to a private entity in connection with providing any desirable supportive business services to Stone Mountain Park. Once the City makes a specific determination about its desired use for the property, further consultation should be made with a public finance attorney to ascertain whether DDA revenue bonds would provide an appropriate and economically feasible mechanism for financing the desired use of the property with a private entity. The Panel noted that the current market for investors to purchase such tax-exempt revenue bonds has been negatively impacted by the recession.

❖ **The Housing Authority of DeKalb County** – The Panel was informed that the City has not created a separate housing authority to act within the limits of the City. The City may desire to approach the Housing Authority of DeKalb County (“HADC”) if the City should decide that the ultimate use of the property should be for a multifamily rental housing project or a senior rental housing project. Under Georgia law, the HADC may operate within the City's limits with the City's consent.

- The HADC may issue revenue bonds for multifamily rental housing projects and senior rental housing projects. In addition, such revenue bonds may be issued to finance the projects of certain charitable organizations, commonly known as 501(c)(3) organizations under the federal tax code, such as churches, private schools and the like. The proceeds of such revenue bonds would be loaned to a private entity or the charitable organization.
- There are numerous specific requirements imposed by both state law and federal tax law as to the details of such tax-exempt housing bonds. Such requirements differ as to whether the borrower is a for-profit developer or a non-profit developer. There are also specific detailed rules imposed by federal tax law as to whether an assisted living facility qualifies as a residential rental housing project.
- Examples of rules for a for-profit private developer include - a multifamily residential rental housing project must have at least 20% of the project occupied by persons of low income (as such term is defined by state law and federal tax law); be leased to the general public; be owned by the same entity and financed pursuant to a common plan; have separate and complete facilities for living, sleeping, cooking and sanitation (no hotels), provided, however, single room occupancy units with communal provisions for eating, cooking and sanitation on a communal basis may also comply; 95% of the bond

proceeds must be used for capitalizable costs; acquisition of existing property permitted only if an amount equal to 15% of the purchase price of the structures (not land) is used for rehabilitation (structural upgrade or replacement of equipment and not additions); and not more than 25% of the bond proceeds may be used for land costs.

- As to whether an assisted living facility qualifies as a senior residential rental housing project, the federal tax law has focused on the level of nursing care. Where no such nursing care is given or where such nursing care is available but not “continual or frequent”, such project also qualifies. Incapacitating infirmities that require continual assistance but do not require continual or frequent nursing, medical or psychiatric services do not disqualify the project.
- In addition to the revenues generated by the project providing the source for repayment of the bonds, such bonds are backed frequently also by the developer’s credit, bank letters of credit or other forms of credit enhancement.
- Once a specific determination has been made about the desired use for the property, further consultation should be made with a public finance attorney to ascertain whether HADC revenue bonds would provide an appropriate and economically feasible mechanism for providing financing to a private entity for the desired use of the property. As with the DDA bonds, the Panel noted that the current market for investors to purchase such tax-exempt revenue bonds has been negatively impacted by the recession.

❖ **The Georgia Department of Community Affairs** – The Panel agreed that the City should meet with representatives of the Georgia Department of Community Affairs to explore the availability of possible federal and state grants that could be used to assist with the financing of the redevelopment of the property.

❖ **Tax Allocation Bonds** – The Panel was informed that the City has created a tax allocation district. The property is not currently in that tax allocation district. Even if the tax allocation district were to be redrawn to include the property, it appears highly unlikely that tax allocation bonds could be used to finance any redevelopment of the property under current economic conditions. In general, a tax allocation district financing is a Georgia statutory mechanism enabling a local governmental body, such as the City, to use incremental tax revenues generated by a development project or area to finance upfront infrastructure and other permitted costs of a qualified redevelopment project. To illustrate, a tax allocation district financing is set in motion when a local government body, such as the City, acts to “freeze” the tax value of property within a designated area. This base value in Georgia is referred to as the tax allocation increment base. Taxes paid up to the base value continue to be collected and paid to the appropriate taxing jurisdictions. The amount of taxes paid above that base value is referred to as the tax allocation increment. That tax allocation increment may then be paid into a “special

fund” to pay qualified redevelopment costs within the designated area. The definition of qualified redevelopment costs is broad under Georgia law and has historically included such items as the clearing and grading of land; construction of new buildings; public works or improvements; renovation, rehabilitation, demolition or expansion of existing buildings; and acquisition of equipment. The redevelopment costs are financed through the pledge of future incremental increases in property taxes generated by the resulting new development. The Panel was informed by representatives of the City that it is unlikely that any substantive incremental tax revenues will be generated in the near future with respect to the City’s tax allocation district to support any type of bond financing.

General Observations

The Panel also made the following general observations regarding the possible financing options:

- ❖ There is concern that this Project may not be attractive to a large number of private developers because of its small size, *i.e.*, it would be only a \$3 million to \$4 million acquisition.
- ❖ The City actively seeking investors who care about Stone Mountain may provide the most appropriate financing mechanism. An example would be those local financial institutions and banks that are located in the City's downtown area. Such institutions may be more inclined to provide attractive financing to private developers than others who have no direct connection to the City.
- ❖ A cost/benefit analysis needs to be done to with respect to the Project comparing the current costs and benefits of the property to the City versus such costs and benefits of the property in the future, *i.e.*, opportunity cost, possible lower expenditures from police and others, generation of ad valorem tax revenues, and the like.
- ❖ There was discussion from various representatives in the audience as to the need for senior residential rental housing/assisted living facilities in the area. There are charitable organizations that do develop and operate such projects. The Panel noted that the American Recovery and Reinvestment Act of 2009, commonly known as the Stimulus Act, provides certain incentives for banks and other financial institutions to purchase such tax-exempt bonds issued by governmental authorities for the benefit of such charitable organizations up to an annual \$30 million aggregate limitation currently through 2010. As a result, there may be an increased interest from the banks and other financial institutions located in the City to purchase such bonds.

RECOMMENDED NEXT STEPS

The City needs a well-developed plan before implementing any acquisition or redevelopment plan.

- ❖ Immediately move forward with enforcing building code violations. The City should assume that it will have to condemn some or all of the property, even if condemnation is never utilized. The City should be gathering evidence and documenting every instance of blight now to support condemnation in the event the City decides to go this route.
- ❖ Formulate two strategies for dealing with building code violations – one strategy for use if the City does not pursue redevelopment (such as tearing down violating structures and clearing the land without acquiring the property) and one strategy for use if redevelopment is pursued (where violations would be addressed as part of the redevelopment).
- ❖ Decide if the City wants to pursue acquisition of the property. If it does not, then a plan for addressing code violations must be developed and funds must be committed for such purpose. Doing nothing puts the City at risk of liability. If the current property owners are unwilling or unable to cure the code violations, the City must pursue removing the occupants from the property and correcting any site conditions that pose a risk to the community-at-large. This option will require the least outlay of money by the City, but there is also a social cost to be considered. How will the surrounding area feel about having boarded up buildings in the vicinity? Will such conditions negatively impact surrounding property values?
- ❖ If the City wants to pursue or at least investigate the feasibility of pursuing acquisition of the Project for redevelopment, then it must conduct additional due diligence:
 - Obtain a title report listing all current owners and lien holders.
 - Commission a physical needs assessment to assess site conditions, code violations, utility infrastructure, age and condition of structures, building materials used, and environmental conditions.
 - Commission a market study to identify the type of product suitable for the Stone Mountain market, the price point, and the target market. Does the desired target market presently live in the City? If not, then a plan needs to be developed for attracting such buyers to the area.
 - Obtain an appraisal of the property in an "as is" condition, with all issues known. Also talk to existing owners to gauge how much it will cost to assemble the land and how long it will take.
- ❖ After the due diligence is completed, then the City can develop one or more strategies for acquiring and redeveloping the property and financing the redevelopment. The land ultimate acquisition plan will likely combine several strategies, private purchases and condemnation.

- ❖ Issue requests for proposals from private developers to gauge private interest in taking on the redevelopment role. Private developers may also come up with creative ways of financing the costs of redevelopment.
- ❖ Create a "community-based" plan that relies heavily on structured input from residents and the community. The existing property owners need to be educated on the realities of what their homes are worth as well as what may happen if they do not sell. The community needs to be educated on the reality of what the market will bear. The public cannot demand a certain type of product, less density, more greenspace, or other niceties which would increase redevelopment costs unless they are willing pay for such through increased taxes or other avenues. Moving public relations and public meetings and comment forward in a productive manner will require leadership and oversight. The City should establish a point person – someone whose job it is to keep the process moving.
- ❖ Investigate the availability of funding from local banks who might be willing to invest in the community.
- ❖ Meet with the Georgia Department of Community Affairs to explore the availability of federal and state grants for redevelopment and meet with the Housing Authority of DeKalb County if the best use of the property would be multifamily rental housing or a senior rental housing project.
- ❖ Before the City acquires the first unit in the Project (whether through a private sale or condemnation), it needs to be committed to following the project through to completion of redevelopment. It does the City no good to acquire any interest in the project unless it is prepared to follow through. The City needs to have the funding in place to complete acquisition, either through a sale to a private developer or through public or private financing.

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Jan Bozeman is a principal of the law firm of Hyatt & Stubblefield, P.C. She is a graduate of Auburn University and received her law degree from Georgia State University. She assists developers throughout the country in creating the governance structure for their planned communities, condominiums, and destination resorts and in establishing club membership programs for project amenities. She also works with workout companies, successor owners, and acquisition or constituent groups to "rescue" or revive troubled planned communities and clubs. Her experience includes small and large scale residential, commercial, and mixed-use projects, as well as age-qualified communities. She also counsels clients on community association governance and operations.

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Troy Landry, Principal, is the founder of Landry Design Associates, Inc. and has over 18 years of experience in professional design practice. As Principal, he provides the leadership with client relations, conceptual design, budget development, design review, project management and construction observation. His management of projects from conception to completion ensures the clients goals and visions become a reality. Troy understands the delicate balance between design development and budgetary goals, while able to achieve the attention to detail needed to create a unique completed project.

The range and scope of his experience includes retail, mixed use, multi family, office, sports recreation, hospitality, resort planning and master planning, both on local and regional projects. Troy received his Bachelor of Landscape Architecture from Louisiana State University in 1992.

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One of the Marthasville's specialties is the development of high quality moderately priced housing, through aggressive land acquisition, creative site planning, collaborative entitlement in progressive communities, and efficient home design. Stephen also believes in building homes that can "learn" over time so that owners can stay in place if they wish, which can add to the fabric of a community.

Stephen has managed a wide variety of real estate projects throughout North America. His experience over the last 18 years includes most major property types and every activity related to the development and asset management process. Prior to his full time commitment to Marthasville, Stephen oversaw development and project management activities throughout the Southeast for CB Richard Ellis.

Stephen holds a Bachelor's degree from Louisiana State University and Masters in Business Administration degree from Emory University. Stephen is a Certified Public Accountant and has been a volunteer for numerous industry, governmental and non-profit organizations, including the Fulton County Arts Council, Brain Injury Association, and Urban Land Institute.

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Robert J. Begle is a principal and cofounder of Urban Collage, Inc. – an Urban Design and City Planning firm in Downtown Atlanta. Established in 1997, the firm has conducted hundreds of small and large-scale planning efforts throughout the southeast U.S. Bob and his business partner, Stan Harvey, created Urban Collage with the notion that “urban design” was a viable industry unto itself with an ever increasing importance within the built environment. In this regard, the firm conducts it’s planning efforts like the art of making a collage - an art which understands that each community is unique and comprised of a wide-variety of diverse elements.

Building on 19 years of professional experience, Bob approaches most design projects with the notion that there are frequently many, equally viable ways to solve a problem, each with their own inherent benefits and disadvantages. Bob strongly believes that problem-solving is best accomplished in a collaborative manner in which both designer and client bring their ideas and expertise to the table.

Bob’s professional highlights include significant experience in housing design, neighborhood planning, zoning and design guidelines, site planning, transit-oriented-development (TOD), mixed-use village centers, tax allocation districts (TADs), Livable Center Initiatives (LCIs), public housing redevelopment and community participation.

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Lynn Gavin has over 17 years of legal experience in public finance and government law. She has represented cities, counties, development authorities, housing authorities, schools, hospital authorities, banks, and underwriting firms throughout Georgia. She received her Juris Doctor Degree from Georgia State University, her Master of Science Degree from Purdue University, and her Bachelor of Science Degree from Purdue University. She is currently a solo practitioner with The Gavin Law Firm. Lynn practiced public finance and government law at Hunton & Williams LLP for 10 years and at Long Aldridge & Norman LLP for over six years. Her memberships include the National Association of Bond Lawyers and the Georgia Economic Development Association. Lynn has been a speaker for the Georgia Municipal Association, the Association of County Commissioners, the National Association of Bond Lawyers and the Atlanta Bar Association. She is a member of the Editorial Board for the State Bar of Georgia Legal Journal, the Endowment Board for the Atlanta Junior League and the Leadership Council for the Georgia State University College of Law.

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David Haddow is the president and founder of Haddow & Company. He has represented individual and institutional clients in real estate investments since 1979, including seven years at Landauer Associates, Inc., where he was Senior Vice President in charge of the real estate consulting practice in the firm's Atlanta office. He has an undergraduate degree from Emory University and master's degrees in city planning and business administration from Georgia Tech and Georgia State University, respectively.

A former mortgage banker and city planner, he serves as a part-time instructor in the College of Business Administration at Georgia State University and the College of Architecture at Georgia Tech. His articles have appeared in numerous real estate journals and periodicals. He is a licensed real estate broker and a member of the prestigious Counselors of Real Estate. Active in civic affairs, Haddow has served on numerous boards and volunteered considerable time to non-profit organizations.

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David is a principal with the law firm of Hyatt & Stubblefield, PC, and represents developers of all types of planned communities, from residential, commercial, and resort condominiums to mixed-use developments of all sizes, golf course communities, and destination resorts throughout the United States and beyond. He has worked exclusively in the field of community association law since 1989, and his practice centers around the creation of community governance structures, drafting community governance documents, and consulting on related issues.

He graduated from the University of Colorado (B.A., 1982) and Emory University School of Law (J.D., 1986).

David co-authored "How Community Developers Can Work with Golf Course Developers," a paper published in *The Practical Real Estate Lawyer* (July 1997). In addition, he has spoken to the Urban Land Institute's Community Development Council and the ULI general membership, the National Association of Home Builders, the Home Builders Association of Atlanta, and the Community Associations Institute and has conducted various continuing legal education programs on issues relating to community associations and development.

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Chris is the President & Owner of Kacena Design, LLC. He has spent the last 16 years in the fields of architecture & planning. His work has focused on a variety of project types ranging from resident and community architecture to retail, mixed-use, office, religious, educational, and hospitality facilities.

His land planning work has focused on resort and community design, as well as industrial development and infill projects. More recently, the concept of sustainable design has been incorporated into many design disciplines. To that end, he is a LEED accredited professional.

Chris has worked in all phases of architecture, and through several delivery processes, but his greatest skills lie in conceptual and design development -- identifying and solving a problem and translating that to a built product the client can enjoy.

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Denis is the Founder/Partner and is responsible for the overall development services and management of the Company; Denis has experience in general and executive management, real estate financing, development, planning, construction management, appraisals, property management and asset management. Denis has a Bachelor of Arts with a major in Architecture from the University of Florida, has completed post graduate studies in Urban Design, and has a Masters in Urban and Regional Planning from Virginia Tech. Denis co-founded The Integral Group with Egbert Perry in 1995 and was responsible for over \$200 million in commercial and residential real estate projects. Denis also co-developed Park Place South, a \$50 million residential project in Midtown Atlanta.

David is a member of the Atlanta District Council of ULI - the Urban Land Institute, and formerly served on the Sustainable Development Council for ULI National. He is a member of the State Bar of Georgia.

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Raymond Strychalski has over 28 years of experience as a licensed landscape architect and land planner in major markets across the Eastern United States; he has been in charge of a variety of large-scale land planning endeavors including traditional neighborhood developments (TNDs), urban in-fill developments, mixed-use developments, commercial and retail centers, corporate campuses, and office and hotel complexes. In addition, Ray's work includes numerous community recreation facilities, golf and social clubs, and public parks and preserves.

Through his extensive urban in-fill experience, Ray has also been able to develop a strong portfolio and expertise in Streetscape design and implementation. Currently Ray is involved in the design and construction of over \$23 million worth of Streetscape and pedestrian improvement projects.

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Kyle created and maintains www.GeorgiaZoningBlog.com blogging Georgia land use and zoning decisions, law, and politics. In 2005, 2006, and 2009 Kyle was recognized as a Georgia "Rising Star" in Litigation, Land Use and Zoning by Georgia "Super Lawyer" and Atlanta Magazine. Kyle serves on the Decatur Zoning Board of Appeals and served on the Transition Committee for DeKalb County Chief Executive Officer Burrell Ellis.

THE EXPERIENCE



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