



DeKalb County Department of Planning & Sustainability

178 Sams Street,
Decatur, GA 30030

(404) 371-2155 / www.dekalbcountyga.gov/planning

Planning Commission Hearing Date: Tuesday, May 2, 2023
Board of Commissioners Hearing Date: Thursday, May 25, 2023

STAFF ANALYSIS

Case No.:	SLUP 23-1246256	Agenda #: 2023-0115
Address:	4434, 4450, 4466 Memorial Drive and 187 Northern Avenue Decatur and Avondale Estates, GA	Commission District: 04 Super District: 06
Parcel ID(s):	15-252-01-002, 15-252-01-005, 15-252-01-007, 15-252-01-008	
Request:	Request a Special Land Use Permit (SLUP) to allow for a convenience store with accessory fuel pumps within an RC (Regional Center) character area and within a C-2 (General Commercial) Zoning District.	
Property Owner(s):	RTS Hospitality LLC, Advanta Ira Administration LLC, Beagle Family Investments, LLLP, Chandra Murar Investments	
Applicant/Agent:	Quick Trip Corporation, c/o Battle Law, P.C.	
Acreage:	Approximately 2.145 acres	
Existing Land Use:	C-2	
Surrounding Properties:	North: C-2 East: I-285 South: Memorial Drive West: C-1 (Local Commercial)	
Comprehensive Plan:	RC- Regional Center	Consistent <input type="checkbox"/> Inconsistent <input checked="" type="checkbox"/>

Staff Recommendation: Disapproval.

The application is for a SLUP to allow accessory fuel pumps (related to a convenience store) as required by Section 27-4.1 and the property’s location within a Regional Center activity center. The submitted site plan, dated 08/01/22, shows a 5,312 square foot convenience store with four fuel islands, four fuel pumps each, and fifty (50) parking spaces. No required variances were identified during a cursory review of the conceptual site plan. No transitional buffers are required for this use due to the surrounding land uses and zoning districts.

The subject parcels are located at the western intersection of Memorial Drive and Interstate 285. Three (3) properties are vacant and one (1), 187 Northern Avenue, is developed with a one-story liquor store, Avondale Package Store. The surrounding area is commercially developed; the DeKalb County Tax Commissioner and Voter Registration Offices are to the west, DeKalb County Sheriff’s Office, Jail and other county office are

to the south across Memorial Drive. The property is partially bound to the east by I-285. The property directly to the north of the subject parcels is an existing Citgo convenience store with accessory fuel pumps and to the east is a bail bondsman, 24 Fast Bail Bonds of DeKalb. Based on feedback from the community, Staff learned that the southwestern corner of the site houses the Tom Scott Memorial Garden, dedicated to a former DeKalb County Tax Commissioner and State Senator. The applicant has submitted an updated plan (04/19/2023) showing a rendering of a relocated Memorial Garden in the eastern corner of the property. It is vegetated and includes a memorial plaque. The site plan shows the package store, bail bondsman, and existing convenience store with fuel pumps remaining after the construction of the new convenience store with fuel pumps.

There is a proliferation of gas stations within two (2) miles of the subject property. There are three existing or BOC approved (SLUP approved for gas pumps and alcohol outlet) Quik Trip (QT) gas stations near the subject property (all distances based on DeKalb ArcGIS Parcel map estimates). Additionally, there are eight (8) non-QT gas stations, for a total of 11 approved or existing known gas stations within two (2) miles of the subject property:

Distance	Name	Address
0.0-miles	Citgo	195 Northern Ave, Avondale Estates, GA 30002
0.60-miles	QT	4775 Memorial Dr, Decatur, GA 30032
0.71-miles	QT	3830 N Decatur Rd, Stone Mountain, GA 30083
0.8-miles	Texaco	3580 N Decatur Rd, Scottdale, GA 30079
0.8-miles	Valero	4837 Memorial Dr, Stone Mountain, GA 30083
0.86-miles	Shell	4144 Memorial Dr, Decatur, GA 30032
0.86-miles	Exxon	4101 Memorial Dr, Decatur, GA 30032
1.82-miles	Circle K	3874 Covington Highway, Decatur, GA 30032
1.82-miles	Texaco	3902 Covington Hwy, Decatur, GA 30032
1.90-miles	Citgo	3436 E Ponce de Leon Ave, Scottdale, GA 30079
2.0-miles	QT	4113 Covington Hwy, Decatur, GA 30032

Although gas stations are required for many vehicle trips, the subject parcel is adjacent to Transit Oriented Development (TOD) and less than 0.40-miles from the Kensington Marta Station. There appears to be sufficient numbers and distribution of gas stations for this area without approving additional fuel pumps.

The requested SLUP is not consistent with the *Kensington Station Livable Center Initiative (LCI)*, the *Kensington LCI TOD Plan*, the *Memorial Drive Revitalization Plan* or the *Comprehensive Plan*.

The *2050 Comprehensive Plan* identifies this location as part of the Kensington MARTA Station Regional and Employment Center; one of only three Regional Centers in DeKalb County. The plan states (page 35):

“The intent of the Regional Activity Center is to promote the concentration of intensity, development and regional serving activities in a centralized location that allows for a variety of uses, reduces dependency on automobile travel, and promotes walkability and increased transit usage. These areas include the highest intensity residential, commercial, office, and higher-education facilities allowed within DeKalb County and serve as regional destinations for employment, shopping, and services.”

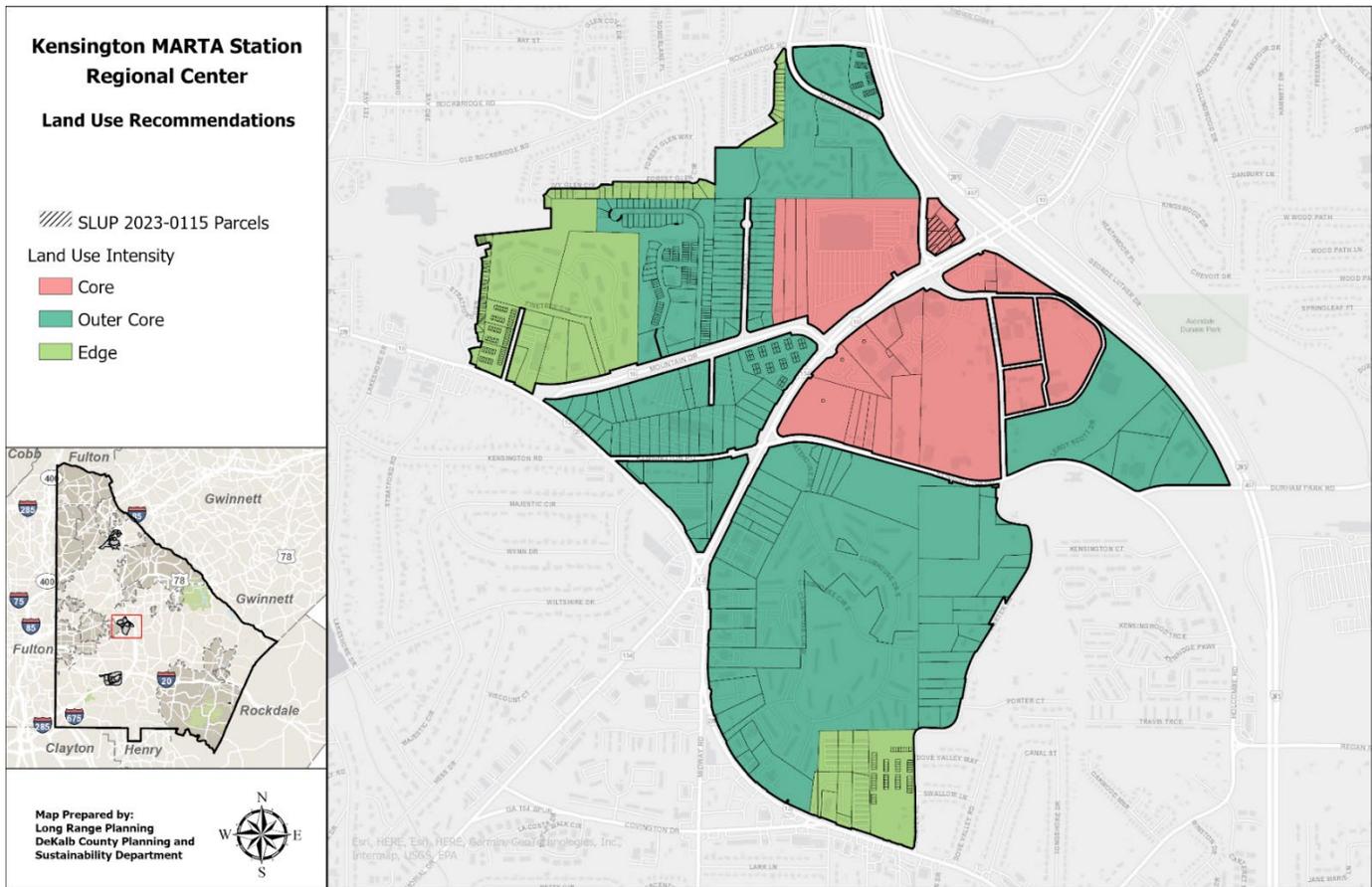


Image 1. Shows the subject parcels within the Regional Center.

The subject parcel is within the core of this Regional Center (see Image 1). The plan further states (page 35), “The most intense development types and tallest buildings should be concentrated in the core of the activity center, gradually transitioning to less intense uses and lower building heights as one moves further from the core.” See Images 2 and 3.

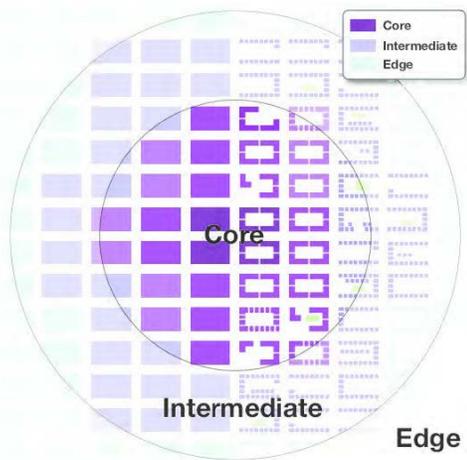


Image 2. Shows the rings of development intensity proposed for activity centers.

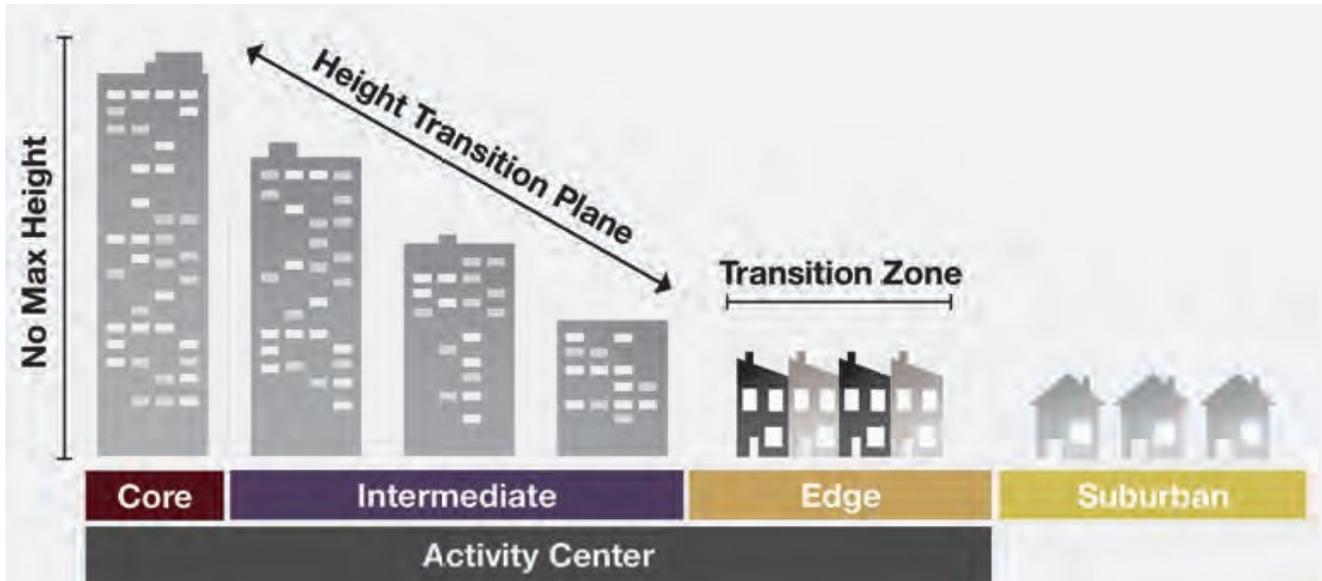


Image 3. Heights of development within activities centers.

Approval of this SLUP would not increase the concentration or density of services, retail, offices, or residences and would only provide a service that is already offered on an adjacent parcel. The large parking area (50 spaces) associated with the convenience store appears more suited for a suburban-style development and would not be appropriate at a location designated for the “highest intensity” commercial facilities allowed within DeKalb County. The site plan could be redesigned to increase pedestrian orientation and sidewalk level engagement to better fit the Regional Center Character Area of the site.

Therefore, after reviewing criteria H and N of Section 27-7.4.6, staff recommends disapproval of this application.



Battle Law

4/19/2023

VIA: EMAIL

**Memorial Drive Proposed Special
Land Use Permit**

ATTN: Brandon White (blwhite@dekalbcountyga.gov)

Planning and Zoning Manager White:

On behalf of the Applicant for the proposed Rezoning for property located at 4434, 4450, and 4466 Memorial Drive pertaining to case number SLUP-23-1246256 and being tax parcel numbers 15-252-01-002, 15-252-01-005, 15-252-01-007, and 15-252-01-008, I respectfully request to amend the application to with the attached photos of the proposed new location and landscaping for the Tom Scott Memorial Garden.

Prepared By:

Joshua Mahoney

For Battle Law, P.C.







**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
RACHEL BRAGG RLBRAGG@DEKALBCOUNTYGA.GOV OR
JOHN REID JREID@DEKALBCOUNTYGA.GOV

**COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER**

Case No.: SLUP-23-1246256

Parcel I.D. #: 15-252-01-002, 15-252-01-005, 15-252-01-007, 15-252-01-008

Address: 4434, 4450 & 4466 MEMORIAL DRIVE
DECATUR, GA 30032

WATER:

Size of existing water main: 16"CI (~~ade~~adequate/inadequate)

Distance from property to nearest main: Adjacent

Size of line required, if inadequate: _____

SEWER:

Outfall Servicing Project: Indian Creek

Is sewer adjacent to property: Yes No If no, distance to nearest line: _____

Water Treatment Facility: Snapfinger () adequate () inadequate

Sewage Capacity; 36 (MGPD) Current Flow: 28 (MGPD)

COMMENTS:

Signature: Yola Lewis

2/17/2023

To: Ms. Madolyn Spann, Planning Manager
Mr. John Reid, Senior Planner
From: Ryan Cira, Environmental Health Manager
Cc: Alan Gaines, Technical Services Manager
Re: Rezone Application Review

General Comments:

DeKalb County Health Regulations prohibit use of on-site sewage disposal systems for

- multiple dwellings
- food service establishments
- hotels and motels
- commercial laundries
- funeral homes
- schools
- nursing care facilities
- personal care homes with more than six (6) clients
- child or adult day care facilities with more than six (6) clients
- residential facilities containing food service establishments

If proposal will use on-site sewage disposal, please contact the Land Use Section (404) 508-7900.

Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

This office must approve any proposed food service operation or swimming pool prior to starting construction.

Public health recommends the inclusion of sidewalks to continue a preexisting sidewalk network or begin a new sidewalk network. Sidewalks can provide safe and convenient pedestrian access to a community-oriented facility and access to adjacent facilities and neighborhoods.

For a public transportation route, there shall be a 5ft. sidewalk with a buffer between the sidewalk and the road. There shall be enough space next to sidewalk for bus shelter's concrete pad installation.

Since DeKalb County is classified as a Zone 1 radon county, this office recommends the use of radon resistant construction.

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

2/17/2023

N9-2023-0072

CZ-23-1246251 16-104-01-004

7006 Covington Highway, Lithonia, GA 30058

Amendment

- Please review general comments.
- Septic system installed on 03/12/1985. Provide details of removal of septic system to DeKalb County Board of Health Department of Environmental Health before construction.

N10-2022-0115

SLUP23-1246256 15-252-01-002, 15-252-01-005, 15-252-01-007, 15-252-01-008

4434,4450 & 4466 Memorial Drive, Decatur, GA 30032 and Northern Avenue, Avondale Estates

Amendment

- Please review general comments.
- Septice system installed at 4666 Memorial Drive on 04/09/1968.
- Septic system installed on 04/09/1968. Provide details of removal of septic system to DeKalb County Board of Health Department of Environmental Health before construction.

N11-2023-0185

TA-23-1246284

Application of the Direstor of Planning & Sustainability to amend the DeKalb County Zoning Ordinance to a

Amendment

- Please review general commetns.

ZONING COMMENTS – FEBRUARY 2023

N1 (LP-23-1246239), N2 (Z-23-1246238), N3 (LP-23-1246240), and N4 (Z-23-1246241): 1422 Rock Chapel Road. Rock Chapel Road is SR 124. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov) Rock Chapel Road is classified as a major arterial. Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.)

N5 (LP-23-1246249) & N6 (Z-23-1246248): 710 Fayetteville Road (47 Multi-family Units). The zoning is dependent on the conditions for 15 173 07 048, 15 173 07 002 and 15 173 07 018. Provide inter-parcel multimodal connectivity.

N7 (CZ-23-1246278) & N8 (SLUP-23-1246250): 1807 Memorial Drive. Memorial Drive is State Route 154. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov) The right of way in front of this property is within the City of Atlanta. City of Atlanta review and approval of improvements/access approval required for Memorial Drive. My suggestion would be to make the access point on Memorial Drive a right in/right out and provide primary access at the signal at Wilkinson Drive at Memorial Dr. This would be a City of Atlanta/GDOT decision. Wilkinson Drive and Warren Drive are local streets. DeKalb County Zoning Code (section 5.4.3) and Land Development Code (Section 14-190) require: Right of way dedication of 27.5 feet from centerline, 12 feet of pavement with curb and gutter, a 5-foot sidewalk (Zoning Code) located 6 feet from back of curb. Pedestrian Scale Street lighting required (Contact Street Light Engineer, Herman Fowler: hefowler@dekalbcountyga.gov).

N9 (CZ-23-1246251): 7006 Covington Hwy. Covington Hwy is State Route 12. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). Covington Hwy is classified as a major arterial. Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Wellington Walk Place will be a local street. Whether public or private, it needs to be improved to public street standards. DeKalb County Zoning Code (section 5.4.3) and Land Development Code (Section 14-190) require: Right of way dedication of 55 feet (If public), 24 feet of pavement with curb and gutter, a 5-foot sidewalk (Zoning Code) located 6 feet from back of curb. Pedestrian Scale Street lighting required (Contact Street Light Engineer, Herman Fowler: hefowler@dekalbcountyga.gov). Interior streets to remain private. If Wellington Walk remains private, then the HOA will provide funding for ongoing maintenance. Connect sidewalk between Covington Hwy and the existing sidewalks on Wellington Walk Place. Upgrade ADA ramp on the northwest corner of Covington Hwy at Wellington Walk with an ADA ramp of modern standards with truncated domes. Add ADA ramps with truncated domes crossing proposed driveway of townhomes. Provide a pedestrian connection to the townhomes to the sidewalk.

N10 (SLUP-23-1246256): 4434, 4450, 4466 Memorial Drive. Memorial Drive is State Route 10. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov) GDOT MMIP coordination is also required for the I-285 managed lanes project prior to permitting. Contact Tim Matthews, PM (TMatthews@dot.ga.gov) Dedicate right of way or easements needed for the MMIP project, as required. Memorial Drive is classified as a major arterial. Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Northern Ave is classified as a collector road. Requires a right of way dedication of 35 from centerline OR such that all public infrastructure is within right of way, whichever

greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. (hefowler@dekalbcountyga.gov) Eliminate right in/right out access point on Northern Ave. Only one access point allowed on Northern Ave. No access allowed from Memorial Drive.



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Storm Water Management**

- (1) Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control (those sections have been amended recently, and available in Municode), to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site. Recommend Low Impact Development features/ Green Infrastructure be included in the proposed site design to protect as much as practicable the statewaters and special flood hazard areas.
- (2) The county codes require the hydrology study to model the existing conditions as wooded
- (3) Runoff Reduction Volume shall be provided unless technical justification is provided regarding the unfeasibility. Strongly recommend investigating the site and identify location where RRv can be provided and re-design/revise the layout to comply with the RRv requirement.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was not reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

N-10

**NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV**

COMMENTS FORM:

PUBLIC WORKS TRAFFIC ENGINEERING

N-10-2023-0115

Case No.: SLup-23-1246256 Parcel I.D. #: 15-252-01-002, 005, 007, & 008

Address: 4434, 4450, 4466

MEMORIAL DR.

Decatur 30032

AND 187 Northern AVE

Avondale Estates 30002

Adjacent Roadway (s):

(classification)	(classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____	Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Plans and field reviewed. No problem that would interfere with traffic flow.

Signature: Jerry White

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION
Amendments will not be accepted after 5 working days after the filing date.

Date Received: _____ Application No.: _____

APPLICANT NAME: QuikTrip Corporation c/o Battle Law, P.C.

Daytime Phone #: 404-601-7616 Fax #: 404-745-0045

Mailing Address: 3562 Habersham at Northlake, Building J, Suite 100, Tucker, GA 30084

E-mail: mlb@battlelawpc.com and jnb@battlelawpc.com

OWNER NAME: Please see attached Exhibit A (if more than one owner, attach contact information for each owner)

Daytime Phone #: _____ Fax #: _____

Mailing Address: _____

E-mail: _____

SUBJECT PROPERTY ADDRESS OR LOCATION: 4434, 4450 and 4466 Memorial Drive, Decatur 30032
and 187 Northern Ave, Avondale Estates 30002, DeKalb County, GA, _____

District(s): 15 Land Lot(s): 252 Block(s): 01 Parcel(s): 002, 005, 007 & 008

Acreage or Square Feet: _____ Commission District(s): 4 & 6 Existing Zoning: C-2

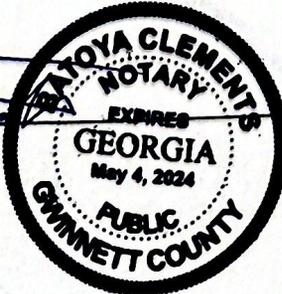
Proposed Special Land Use (SLUP): Fuel Pumps associated with a convenience store

I hereby authorize the staff of the Planning and Development Department to inspect the property that is the subject of this application.

Owner: _____ Agent: Signature of Applicant: QuikTrip Corporation
(Check One) By: _____

Printed Name of Applicant: _____
Title: Real Estate Project Manager

Notary Signature and Seal:

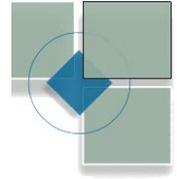
BATOYA CLEMENTS


DeKalb County Department of Planning & Sustainability



Lee May
Interim Chief Executive Officer

Andrew Baker
Director



SPECIAL LAND USE PERMIT APPLICATION CHECKLIST (SUBMIT 4 COMPLETE, COLLATED SETS OF APPLICATION DOCUMENTS)

- _____ 1. Mandatory **Pre-Application Conference** with Planning & Sustainability staff. **Pre-Application form** to be completed in pre-application meeting. Please call (404) 371-2155 to schedule pre-app conference.
- _____ 2. Hold a **Community Meeting** with surrounding neighborhood associations and residents. Notify staff in advance of date, time, and location of meeting. **Provide documentation** (e.g., meeting notice, sign-in sheets, letter(s) from homeowners associations).
- _____ 3. **Application Form**. Form must be completely filled out and be the first page of packet.
- _____ 4. Notarized **Authorization Form**, if the applicant is not the owner of the subject property, which
 - _____ a. is signed and notarized by all owners of the subject property;
 - _____ b. contains the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property; and
 - _____ c. includes a warranty deed, if ownership is less than 2 consecutive years.
- _____ 5. **Written Legal Description** of subject property, in metes and bounds.
- _____ 6. **Boundary Survey** (showing existing buildings, structures, and improvements), prepared and sealed within the past ten years by a professional engineer, or land surveyor registered in the State of Georgia and is consistent with the plat(s) on Official Tax Record. Applicant shall certify that the Boundary Survey is complete and currently accurate. **Site plans shall be drawn to scale** showing all proposed development or redevelopment projects, proposed buildings, structures, and improvements. Site plans must include the following:
 - _____ a. Complete boundaries of subject property including curb cuts, internal vehicular circulation facilities, and sidewalks;
 - _____ b. Location of buildings, structures, setback lines, buffer lines, and parking;
 - _____ c. Location of any 100-year floodplains, streams, and stream buffer lines;
 - _____ d. Notation of the total acreage or square footage of the subject property;
 - _____ e. Landscaping, trees, open space, and undisturbed buffers;
 - _____ f. Notation of building square footages and heights, residential density calculations, existing and proposed lot coverage, required and proposed parking, and open space calculations;
 - _____ g. Four copies of site plans:
 1. Full-size site plans (at least 11" x 17"): 4 copies, folded.
 2. Site plan reduced to 8 ½" x 11". 4 copies
- _____ 7. **Building Elevations**, renderings or details of materials proposed for compliance to Article 5.
- _____ 8. **Letter of Application** identifying the proposed zoning classification, the reason for the rezoning request, the existing and proposed use of the property, and detailed characteristics of the proposed use (e.g., floor area, height of buildings, number of units, mix of unit types, hours of operation, etc. Include any statement of conditions agreed upon by the applicant.
- _____ 9. Written documented, detailed analysis of the impact of the proposed zoning map amendment with respect to each of the standards and factors specified in Article 7.4.
- _____ 10. Campaign disclosure statement, if applicable, to be filed in compliance with State law.
- _____ 11. **Application fee - \$400.00**. Payable to DeKalb County.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

If subject property is made up of parcels located on opposite sides of a public street, a separate application is required for each parcel.



Battle Law

December 6, 2022

RE: A Proposed Rezoning, Special Land Use Permit, and Variance at 3505 Cascade Road

Dear Property Owner:

We would like to invite you to join our Zoom Video Meeting on Wednesday, December 21, 2022, from 6:00 pm to 7:30 pm to discuss a proposed special land use permit for properties located at 4450, 4466, 4434 Memorial Drive, and 137 Northern Avenue. My client, QuikTrip Corporation, is seeking a special land use permit for these properties to allow for the development of a gas station and convenience store.

Below are the meeting instructions. There are multiple ways for you to join the meeting, including via your computer, tablet, or cell phone, with or without video. If you are unable to make it, but would like to learn more, please contact our office at (404) 601-7616 ext. 2 or email us at bdc@battlelawpc.com and we will send you a summary of the meeting.

When: December 21, 2022, 06:00 PM Eastern Time (US and Canada)

Register in advance for this meeting at <https://otago.zoom.us/join>:

Meeting ID: 872 6346 5756

Password: 694004

After registering, you will receive a confirmation email containing information about joining the meeting.

Please contact our offices if you have any questions regarding the meeting.

Sincerely,

Michèle L. Battle



Battle Law

Zoom Step by Step Instructions

Go to <https://otago.zoom.us/join> and Enter the Meeting ID and Password that you have been provided with in the appropriate field and click “Join” (the meeting ID will be a 9 digit or 10 digit number)

If joining from a mobile Device

If you are joining from a mobile device (Android smartphone/tablet, Apple iPhone/iPad) then it will simply prompt you to download the Zoom Cloud Meeting app from the App/Play Store.

If joining from a computer

When entering a Zoom meeting for the first time from a computer you may need to download a small application file. This process is easy to complete on all commonly used browsers. Google Chrome should automatically download the file.

Just before Entering the meeting you will be prompted to enter a display name. This name is simply to identify you in the meeting.

Join Audio via Computer

You will then be prompted how you wish to join your audio. If you wish to join audio via the telephone, follow the instructions further down, otherwise simply select Join Computer by Audio

Join Audio via Telephone

Dial in as using the number provided, however after entering the Meeting ID, you will be prompted to enter your Participant ID/Password. Simply enter this number followed by # and the video audio will then be synchronized.

Raising Your Hand

As the non-speaker if you wish to ask a question or make a point during the meeting it’s good protocol to use the “Raise Hand” facility.

If the tool bar is not showing at the bottom of the Zoom window, place your cursor over the Zoom window so it appears and select the “Participants” icon.

A window listing other participants will appear, there is also a “Raise Hand” icon, click the icon to make it known to the Host that you would like to raise your hand.

If you wish to lower your hand, click the “Lower Hand” icon that will have replaced the “Raise Hand” icon.

Leave Meeting

To leave a meeting from Zoom on your desktop, select “End Meeting” then “Leave Meeting.”

Name (Original Name)	User Email
Jordan Battle	jnb@battlelawpc.com
Joshua Mahoney	joshmahoney47@gmail.com
Sean Hayes	shayes@fdc-llc.com
Eric Bikas	ebikas@quiktrip.com

Exhibit A

ARGO MEMORIAL DRIVE ASSOCIATES	330 W PONCE DE LEON AVE	DECATUR GA 30030	JAROGETI@KKGPC.COM
METROPOLITAN ATLANTA RAPID	2424 PIEDMONT RD NE	ATLANTA GA 30324	pandrews@itsmarta.com
ZEHNEEL CORPORATION	195 NORTHERN AVE	AVONDALE ESTATES GA 30002	SANZENTINC@YAHOO.COM AND HAND DELIVER
BEAGLE FAMILY INVESTMENTS LLLP	1675 RIVERSIDE RD	ROSWELL GA 30076	n/a
2MDS INVESTMENTS LLC	129 S 129 11TH STREET	NASHVILLE TN 37206	n/a



404.371.2155 (e)
404.371.4556 (f)
DeKalbCountyGa.gov

178 Sams Street
Decatur, GA 30030

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

The property owner should complete this form or a similar, signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: 12/2/2022

TO WHOM IT MAY CONCERN:

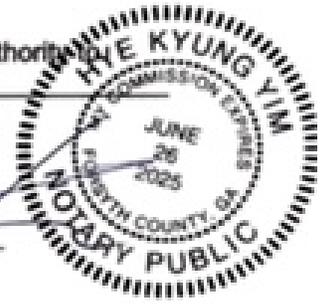
(I) (WE), HJK Group Inc
Name of Owner(s)

being (owner) (owners) of the subject property described below or attached hereby delegate authority to
QuikTrip Corporation and Battle Law, PC
Name of Applicant or Agent

to file an application on (my) (our) behalf.

[Signature]
Notary Public

HJK Group Inc.
By: [Signature]
Owner



Notary Public _____ Owner _____

Notary Public _____ Owner _____

Notary Public _____ Owner _____

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

The property owner should complete this form or a similar, signed and notarized form if the individual who will file the application with the County is not the property owner.

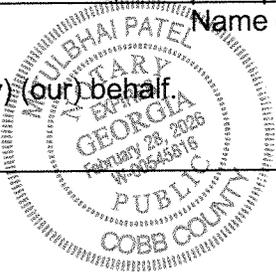
Date: 12/17/2022

TO WHOM IT MAY CONCERN:

(I) (WE), RTS Hospitality LLC
Name of Owner(s)

being (owner) (owners) of the subject property described below or attached hereby delegate authority to
QuikTrip Corporation and Battle Law, PC
Name of Applicant or Agent

to file an application on (my) ~~(our)~~ behalf. RTS Hospitality LLC
By: [Signature]
Notary Public [Signature] Owner



Notary Public _____ Owner

Notary Public _____ Owner

Notary Public _____ Owner

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

The property owner should complete this form or a similar, signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: 12/16/2022

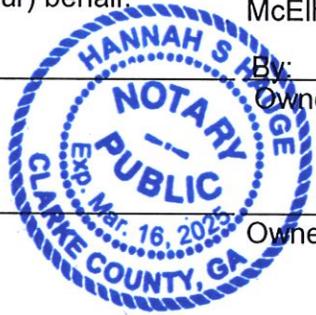
TO WHOM IT MAY CONCERN:

(I) (WE), Advanta Ira Administration LLC FBO Joel McElhannon, IRA #1522527
Name of Owner(s)

being (owner) (owners) of the subject property described below or attached hereby delegate authority to
QuikTrip Corporation and Battle Law PC
Name of Applicant or Agent

to file an application on (my) (our) behalf. Advanta IRA Administration LLC FBO Joel McElhannon, IRA #1522527

Hannah Hauge
Notary Public



By: [Signature]
Owner

Notary Public _____ Owner

Notary Public _____ Owner

Notary Public _____ Owner



DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

The property owner should complete this form or a similar, signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: 12/21/2022

TO WHOM IT MAY CONCERN:

(I) (WE), BEAGLE FAMILY INVESTMENTS, LLLP,
Name of Owner(s)

being (owner) (owners) of the subject property described below or attached hereby delegate authority to
QuikTrip Corporation and Battle Law PC
Name of Applicant or Agent

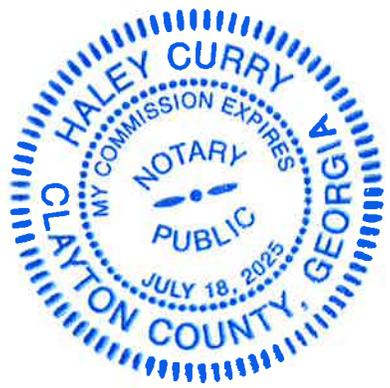
to file an application on (my) (our) behalf. BEAGLE FAMILY INVESTMENTS, LLLP,

Notary Public _____ By: Stephen E. Beagle
Owner General Manager
Stephen E. Beagle

witness _____
Notary Public _____ Owner _____

Notary Public _____ Owner _____

Haley _____
Notary Public _____ Owner _____



FLOOD CERTIFICATION:

THIS PROPERTY LIES IN ZONE "X" AND DOES NOT LOCATE WITHIN ANY PRESENTLY ESTABLISHED 100-YEAR FLOOD PLAIN, AS SHOWN BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP FOR THE DEKALB COUNTY, GEORGIA, COMMUNITY PANEL NUMBER 13089C0088J EFFECTIVE DATE MAY 16, 2013.

STATE WATERS CERTIFICATION:

THERE ARE NO WETLANDS OR STATE WATERS WITHIN 200' OF THE PROJECT SITE.

SITE LEGEND

- BOUNDARY LINE
- CONCRETE CURB AND GUTTER
- MOUNTABLE CURB W/RADIUS PROTECTOR
- PARKING SPACE INDICATOR
- AREA LIGHT
- MULTIPLE PRODUCT DISPENSER WITH CANOPY COLUMNS AND BOLLARDS
- TRANSFORMER
- PROPOSED SHRUB
- PROPOSED TREES
- TREES TO BE REMOVED

PARKING REQUIREMENTS

TOTAL BUILDING AREA: 5,312 SF

USE: CONVENIENCE STORE w/ GAS PUMPS (2,996 SF)
 MIN PARKING REQUIRED: 1 SPACE PER 500 SF FLOOR AREA
 2,996/500 = 6 SPACES
 MAX PARKING ALLOWED: 1 SPACE PER 150 SF FLOOR AREA
 2,996/150 = 20 SPACES

USE: RESTAURANT (2,316 SF)
 MIN PARKING REQUIRED: 1 SPACE PER 150 SF FLOOR AREA
 2,316/150 = 15 SPACES
 MAX PARKING ALLOWED: 1 SPACE PER 75 SF FLOOR AREA
 2,316/75 = 31 SPACES

PARKING REQ'D: 21 MIN/51 MAX
 PARKING PROVIDED: 50 SPACES (2 ADA)
 ACCESSIBLE PARKING REQUIRED: 2
 ACCESSIBLE PARKING PROVIDED: 2

DEVELOPMENT SUMMARY

ZONING DISTRICT	C-2 (GENERAL COMMERCIAL)
PARCEL AREA	±1.88 ACRES
IMPERVIOUS AREA	±1.49 ACRES
LANDSCAPE AREA	±0.39 ACRES
TOTAL DISTURBED	±2.0 ACRES
% IMPERVIOUS	79%
OPEN SPACE	21% (0.39 AC.)

GEORGIA REGISTERED ENGINEER
 No. 033637
SEAN PAUL HAYES

GSWCC LEVEL II CERT. NO. 58841
 GSWCC CERT. EXP. 09/01/24
 PROJECT NO.: 07-1706

FALCON DESIGN CONSULTANTS
 ENGINEERING SURVEYING
 PLANNING LANDSCAPE
 CONST. MGMT. ARCHITECTURE

500 PIRKLE FERRY RD., STE. C
 CUMMING, GEORGIA 30040
 Ph. (678) 807-7100
 www.fdc-llc.com

QuikTrip No. 1706
 MEMORIAL DRIVE AT NORTHERN AVENUE
 DECATUR, GEORGIA

QT

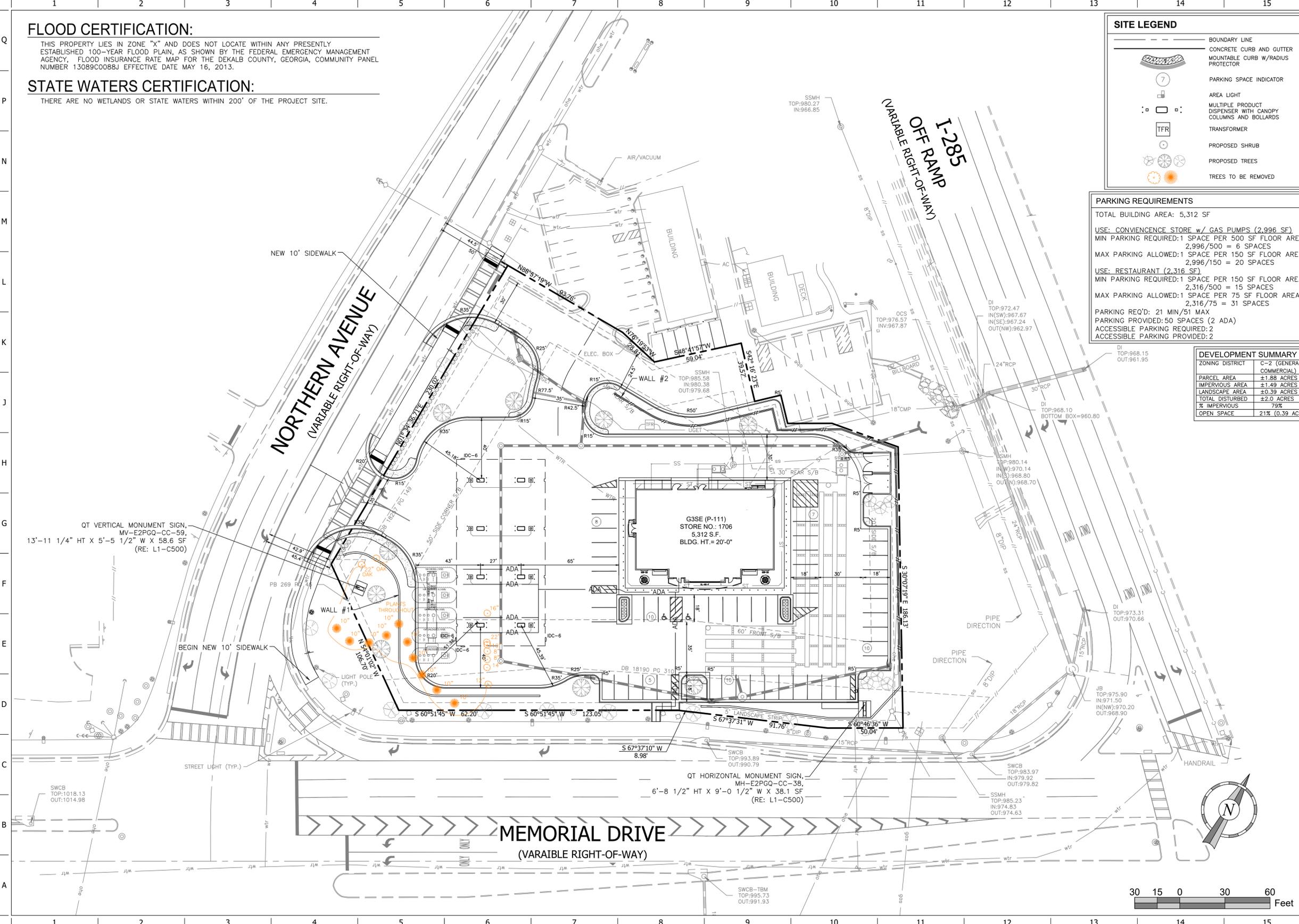
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 ANY UNAUTHORIZED USE, REPRODUCTION, PUBLICATION, DISTRIBUTION, OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE: P-111 (08/01/22)
 DIVISION: ATL
 VERSION: 001
 DESIGNED BY: SH
 DRAWN BY: CM
 REVIEWED BY: KM

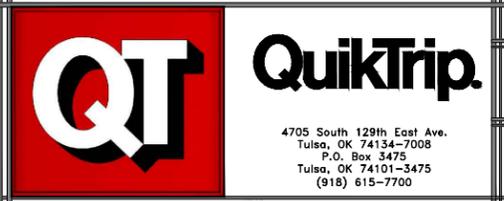
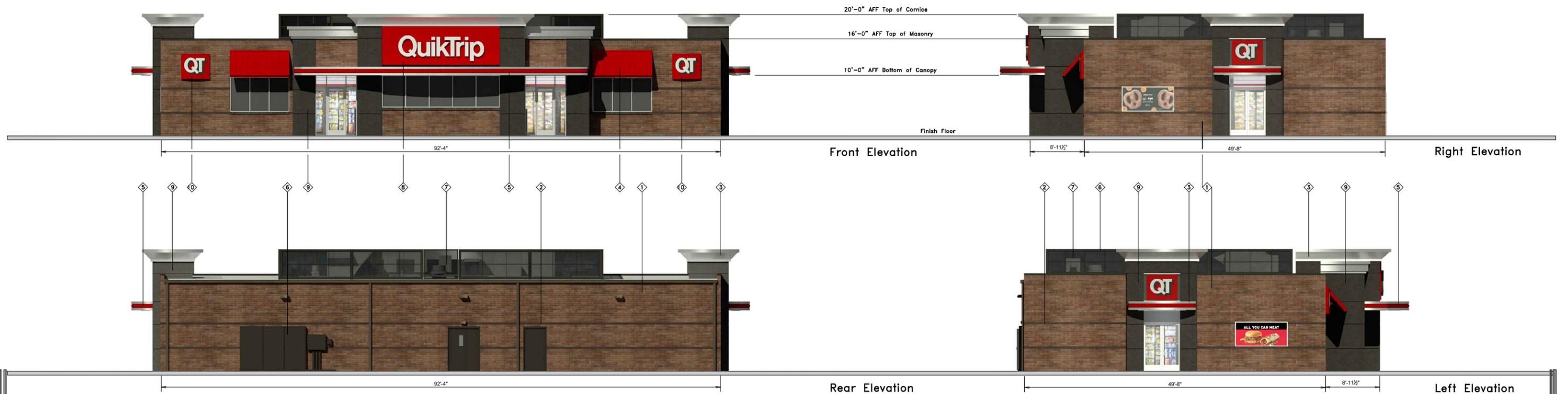
REV	DATE	DESCRIPTION	ORIGINAL ISSUE DATE:

SHEET TITLE:
 PRELIMINARY SITE PLAN

SHEET NUMBER:
3



FILE LOCATION: \\sqa\QuikTrip\1706\Engineering\DWG\07-1706 Civil.dwg TAB NAME: Site (Prelim) USER: SStoyes SAVED: 4/2/2023 2:56 PM PLOTTED: 1/5/2023 9:07 AM

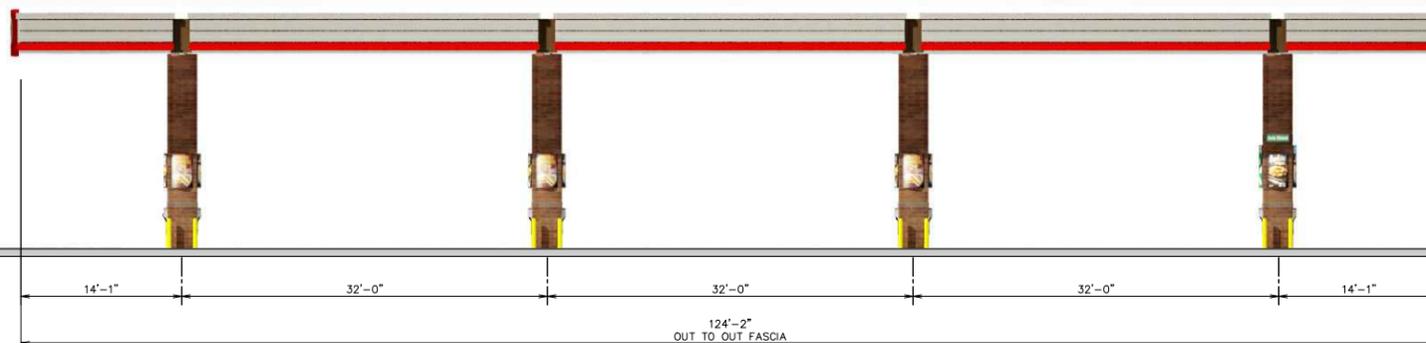


Store # 1742 G3S Building Elevations
 Serial # 07-1742-G3S
 Scale: 1/16"=1'-0"
 Issue Date: 03.24.21

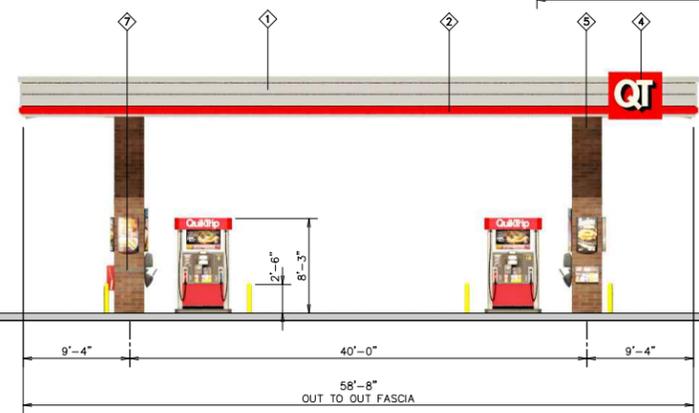
Address: 5129 Mercer University & Tucker Valley
 City, State: Macon, GA
 Drawn By: BP
 Rev/Notes:

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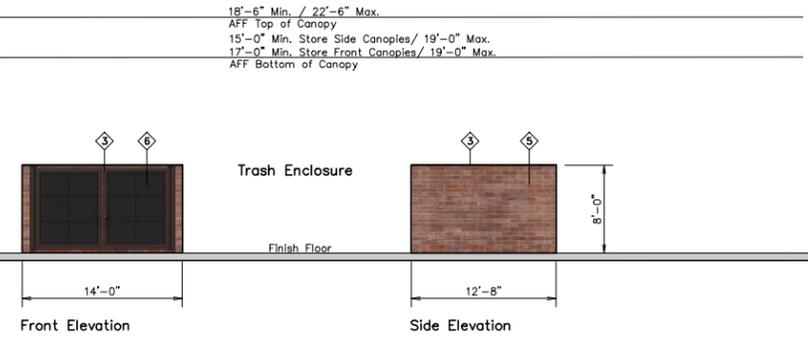
FINISH	MANUFACTURER	SPECIFICATION
1 BRONZESTONE	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
2 MIDNIGHT	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
3 BRUSHED ALUMINUM	REYNOLDS	FASCIA
4 QT RED	SHERWIN-WILLIAMS	STANDING SEAM AWNING
5 RED POLYCARBONATE	ALLEN INDUSTRIES	ILLUMINATED BAND
6 QT BROWN	SHERWIN-WILLIAMS	METAL PAINT
7 BLACK	ALL COURT FABRICS	POLYPRO 95 MESH
8 CL-60R	ALLEN INDUSTRIES	SIGNAGE
9 GRANITE	ISTO	A190G EPS
10 IDB-20	ALLEN INDUSTRIES	ILLUMINATED SIGNAGE



Front Elevation

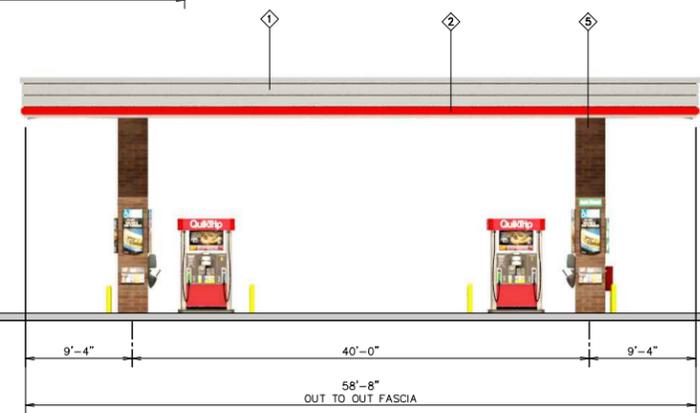


Left Elevation



Front Elevation

Side Elevation



Right Elevation



QuikTrip

4705 South 129th East Ave.
Tulsa, OK 74134-7008
P.O. Box 3475
Tulsa, OK 74101-3475
(918) 615-7700

Store # 1741 DS8 Canopy w/ Brick Columns

Address: 1825 Jonesboro Road

City, State: McDonough, GA

Serial # 07-1741-GD08

Scale: 1/16"=1'-0" Issue Date: 03/16/21

Drawn By: BP

Rev/Notes:

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①	FINISH	MANUFACTURER	SPECIFICATION
1	BRUSHED ALUMINUM	REYNOLDBOND	CANOPY
2	RED POLYCARBONATE	ALLEN INDUSTRIES	ILLUMINATED BAND
3	QT BROWN	SHERWIN - WILLIAMS	METAL PAINT
4	IDC-20	ALLEN INDUSTRIES	ILLUMINATED SIGNAGE
5	BRONZESTONE	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
6	BLACK	ALL COURT FABRICS	POLYPRO 95 MESH
7	MIDNIGHT	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK



Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance

For
Special Land Use Permit

Pursuant to

DeKalb County Zoning Ordinance

Of

QuikTrip Corporation c/o Battle Law, P.C.

for

2.145+/- acres of Land

Tax Parcel Nos. 15 252 01 005, 15 252 01 002, 15 252 01 008, 15 252 01 007

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com



Battle Law

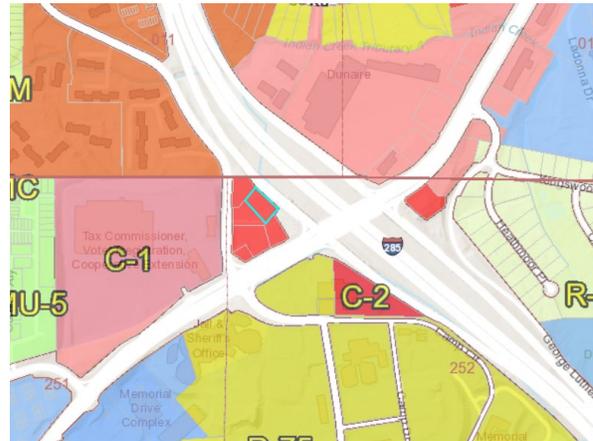
I. LETTER OF INTENT

The applicant, (QuikTrip Corporation) is requesting a Special Land Use Permit on 2.145 +/- acres of land to develop a new QT gasoline service station with a new convenience store. The Subject Property is located at 191 Northern Avenue, Decatur, Georgia, and consists of four (4) parcels of land further known as parcels: 15 252 01 005, 15 252 01 002, 15 252 01 008, 15 252 01 007. The Subject Property is currently zoned C-2 per Dekalb County's GIS and Official zoning map.

The Subject Property is an ideal location for the development of a QuikTrip, due to its proximity to the I-285 exit 10 ramp and road accessibility on Memorial Drive and Northern Avenue. The proposed development provides ample opportunity to redevelop the site and allow a Grade-A business to operate within 200 feet of a major interstate.



Map 1.A – Aerial Map



Map 1.B – DeKalb County Zoning Map

This document is submitted as a Statement of Intent regarding this Application, the preservation of the Applicant's constitutional rights, and an application of the criteria provided in the Steinberg Act to provide a rigorous analysis of the proposed rezoning and land use amendment. A surveyed plat and conceptual site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

II. DEKALB COUNTY SPECIAL LAND USE PERMIT CRITERIA

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

The size of the site for the use contemplated is adequate and land area is available for the proposed use including provision of all required yards, open space, off-street parking,



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transitional buffer zones, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The C-2 zoning district requires parcels to be a minimum of 30,000 square feet with setbacks that vary according to which land use designation the parcel falls into. In this case, the Subject Property is 80,03.4 square feet, well in excess of the minimum. Additionally, all setback requirements under the C-2 district are met for both Memorial Drive (a major arterial road) and Northern Avenue. Because the Subject Property abuts only other C-2 parcels, no transitional buffer is required.

Article 6 section 6.1.3 lays out the parking regulations for all uses in the County. For “Convenience Store with gas pumps,” section 6.1.3 requires a minimum of “one (1) space per five hundred (500) square feet of floor area.” This proposed convenience store will be 5,312 square feet. So, eleven (11) (rounding up) spaces are required. The Applicant has provided more than forty (40) spaces as well as three (3) ADA compliant spaces.

Therefore, The size of the site for the use contemplated is adequate and land area is available for the proposed use including provision of all required yards, open space, off-street parking, transitional buffer zones, and all other applicable requirements of the zoning district in which the use is proposed to be located.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district, and whether the proposed use will create adverse impacts upon any adjoining land use by reason of traffic volume/congestion, noise, smoke, odor, dust, or vibration generated by the proposed use;

The proposed use is compatible with adjacent properties and land uses and with other properties and land uses in the district. The proposed use will not create adverse impacts upon any adjoining land use by reason of traffic volume/congestion, noise, smoke, odor, dust, or vibration generated by the proposed use.

The Subject Property is at the corner of Memorial Drive and Northern Avenue, but also abuts an off-ramp of I-285. Only two properties immediately abut the Subject Property, and both are to the north. One property is used as a liquor store and the other is used for bonds. There are various institutional uses across Memorial Drive and Northern Avenue including the DeKalb County Jail, the DeKalb County Recorder’s Court, and the DeKalb County Tax Commissioner’s Office. None of the nearby uses are incompatible with the proposed QT convenience store and fuel pumps.

Furthermore, a QT convenience store and fuel pump station is compatible with other uses in the C-2 district as convenience stores and fuel pump are permitted. In this case, the Applicant must seek a Special Land Use Permit because the Subject Property is in the Regional Center land use



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designation. However, this does not change the fact that the proposed use remains compatible with other uses in the district.

The proposed convenience store and fuel pump will not have any adverse impacts upon any adjoining land uses by reason of traffic volume/congestion, noise, smoke, odor, dust, or vibration. While the proposed QT convenience store and fuel pumps will attract traffic from I-285, the traffic will not create congestion. The patrons of the QT will have plenty of on-site parking as well as space to avoid blocking access to the other buildings. Additionally, the site plan included with this application shows two access points. The one closest to I-285 is a right-in, right-out only and provides access to the Subject Property without ever coming close to disrupting the other abutting businesses. The second access point will be a shared driveway that patrons of the QT can use to exit and turn left out of the establishment. This set up creates a traffic flow that will not impede any other the other businesses.

Therefore, the proposed use is compatible with adjacent properties and land uses and with other properties and land uses in the district. The proposed use will not create adverse impacts upon any adjoining land use by reason of traffic volume/congestion, noise, smoke, odor, dust, or vibration generated by the proposed use.

C. Adequacy of public services, public (or private) facilities, and utilities to serve the proposed use;

There are adequate public services, public (or private) facilities, and utilities to serve the proposed use.

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

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

The Subject Property fronts on Memorial Drive, Northern Avenue, and an I-285 off-ramp. Memorial Drive is a Major Arterial Road, Northern Avenue is a Collector, and I-285 is a Freeway. The majority of the traffic visiting the Subject Property will come from either Memorial Drive or I-285. Drivers traveling west will be able to take advantage of the deceleration lane on Memorial Drive (shown on the attached site plan) and turn onto Northern Avenue. This same traffic flow applies to drivers coming from Memorial Drive. Then, those drivers traveling west will be able to use the right-in access point to access the Subject Property. Those same drivers will be able to exit via Northern Avenue and then take a right back onto



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Memorial Drive. Drivers getting back onto I-285 can take a left onto Memorial Drive thanks to the traffic light at the intersection of Northern Avenue and Memorial Drive.

Therefore, the public street on which the use is proposed to be located is adequate and there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

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

There is adequate ingress and egress to the Subject Property and to all proposed buildings, structures, and uses thereon.

The site plan attached proposes two ingress-egress points. The first is a right-in, right-out only off of Northern Avenue before the existing full-service access point a bit further north. The second is the very same existing full-service access point that currently services the liquor store and bonds building. The access point closest to I-285 is the right-in, right-out only and provides access to the Subject Property without ever coming close to disrupting the other abutting businesses. The second access point will be a shared driveway that patrons of the QT can use to exit and turn left out of the establishment. This set up creates a traffic flow that will not impede any other the other businesses.

Therefore, there is adequate ingress and egress to the Subject Property and to all proposed buildings, structures, and uses thereon.

F. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner and hours of operation of the proposed use;

The proposed use will not create adverse impacts upon any adjoining land use by reason of the manner and hours of operation of the proposed use.

The abutting liquor store closes at 11:00pm according to its website and the bonds building is open twenty-four (24) hours a day according to its website. The proposed convenience store and fuel pumps will not be any more disruptive by reason of hours of operation than either the liquor store or the bonds office. Even if it is open for twenty (24) hours a day.

Therefore, the proposed use will not create adverse impacts upon any adjoining land use by reason of the manner and hours of operation of the proposed use.



Battle Law

G. Whether the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed use is otherwise consistent with the requirements of the zoning classification in which the use is proposed to be located.

H. Whether the proposed use is consistent with, advances, conflicts, or detracts from the policies of the comprehensive plan.

The proposed use is consistent with the policies of the comprehensive plan.

I. Whether there is adequate provision of refuse and service areas.

There is adequate provision of refuse and service areas.

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

The length of time for which the special land use permit is granted should not be limited in duration. Limiting the duration for which the special land use permit is granted would not create any benefit. The proposed convenience store and fuel pumps would be located in an ideal location, right off of the I-285 Freeway for drivers to use to easily access fuel. Limiting the duration of the special land use permit would unduly burden QuikTrip and risk the benefits the DeKalb County residents would gain by having a new QT convenience store and fuel pump on the Subject Property.

Therefore, the length of time for which the special land use permit is granted should not be limited in duration.

K. Whether the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings; and whether the proposed use will create any shadow impact on any adjoining lot or building as a result of the proposed building height;

The size, scale, and massing of proposed buildings are appropriate in relation to the size of the Subject Property and in relation to the size, scale, and massing of adjacent and nearby lots and buildings. The proposed use will not create any shadow impact on any adjoining lot or building as a result of the proposed building height. The C-2 zoning district limits the height of buildings two (2) stories or thirty-five (35) feet. The attached site plan shows that the new Convenience store will be only twenty (20) feet in height. The bonds office is two-stories, though the



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Applicant does not have the exact height of the building. The liquor store is one store with a façade that extends above the ceiling. These buildings will be right in line with the proposed twenty (20) foot building.

Therefore, the size, scale, and massing of proposed buildings are appropriate in relation to the size of the Subject Property and in relation to the size, scale, and massing of adjacent and nearby lots and buildings.

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

The proposed use will not adversely affect historic buildings, sites, districts, or archaeological resources. The Subject Property is vacant, not located in a historic district, not located on a historic site, and does not have any archaeological resources that the Applicant is aware of.

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

The proposed use satisfies the requirements contained within the supplemental regulations. Section 4.2.28 applies to convenience stores and fuel pumps. That section lays out a number of regulations that apply to the building and fuel pump design, lighting, and distances from property lines. The attached site plan satisfies all of the requirements under 4.2.28 including the regulations that apply to all fuel pumps and those applying to fuel pumps associated with convenience stores.

N. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, as expressed and evidenced during the review process;

The proposed use will be consistent with the needs of the neighborhood or the community as a whole.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application submitted to the DeKalb County Planning and Zoning Department at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.



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IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the DeKalb County Ordinance Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null, and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the DeKalb County to amend the land use and rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any Special Land Use Permit of the Subject Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the proposed rezoning and future land use amendment in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition,



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which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the land use amendment and rezoning in question would be invalid inasmuch as it would be denied pursuant to an ordinance is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Amended and Restated on the 4th Day of January 2023.



Michele L. Battle, Esq.
Attorney for the Applicant



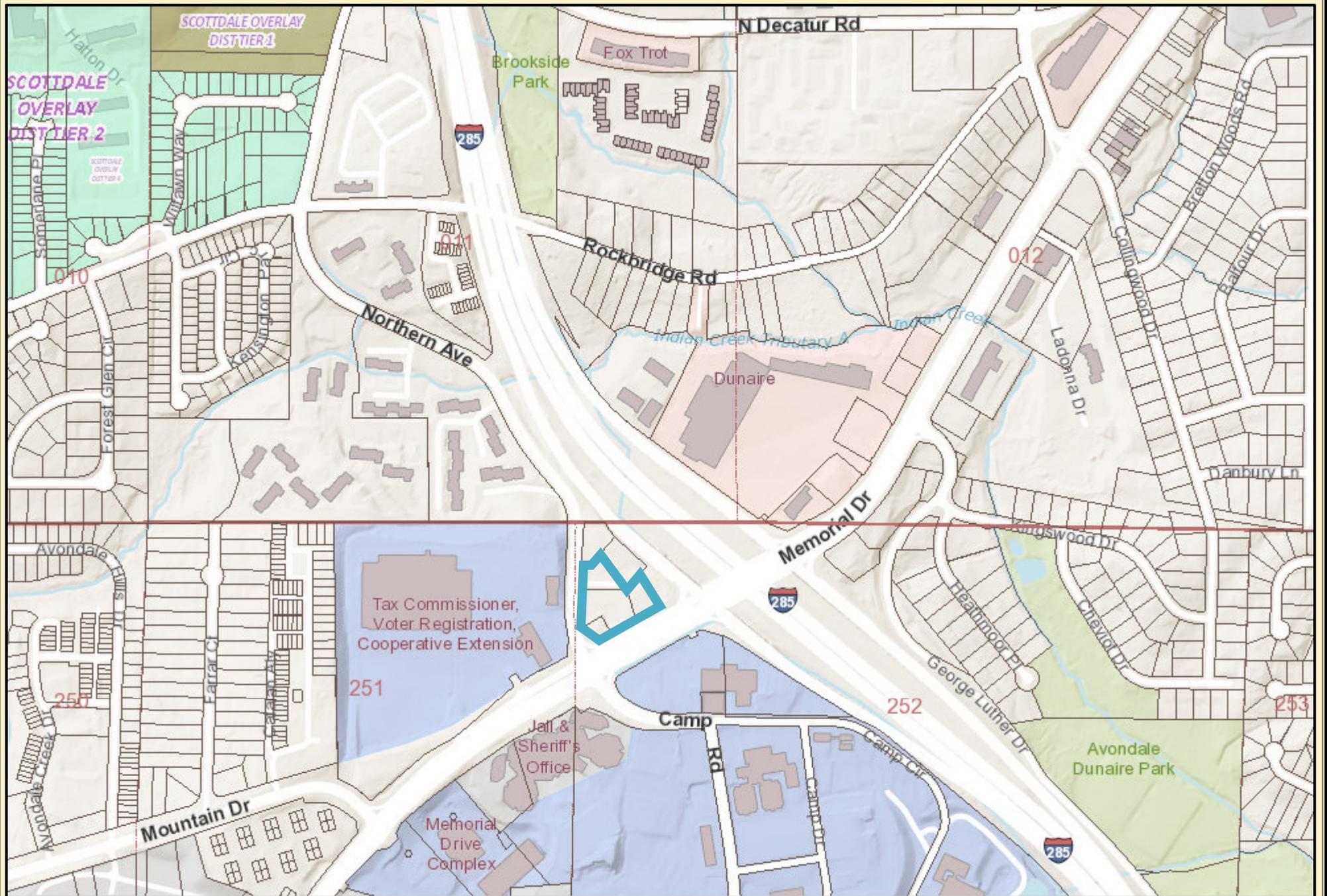
Battle Law

Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Submitted on the 22nd Day of December 2022.

MLB

Michele L. Battle, Esq.
Attorney for the Applicant



DeKalb County Parcel Map

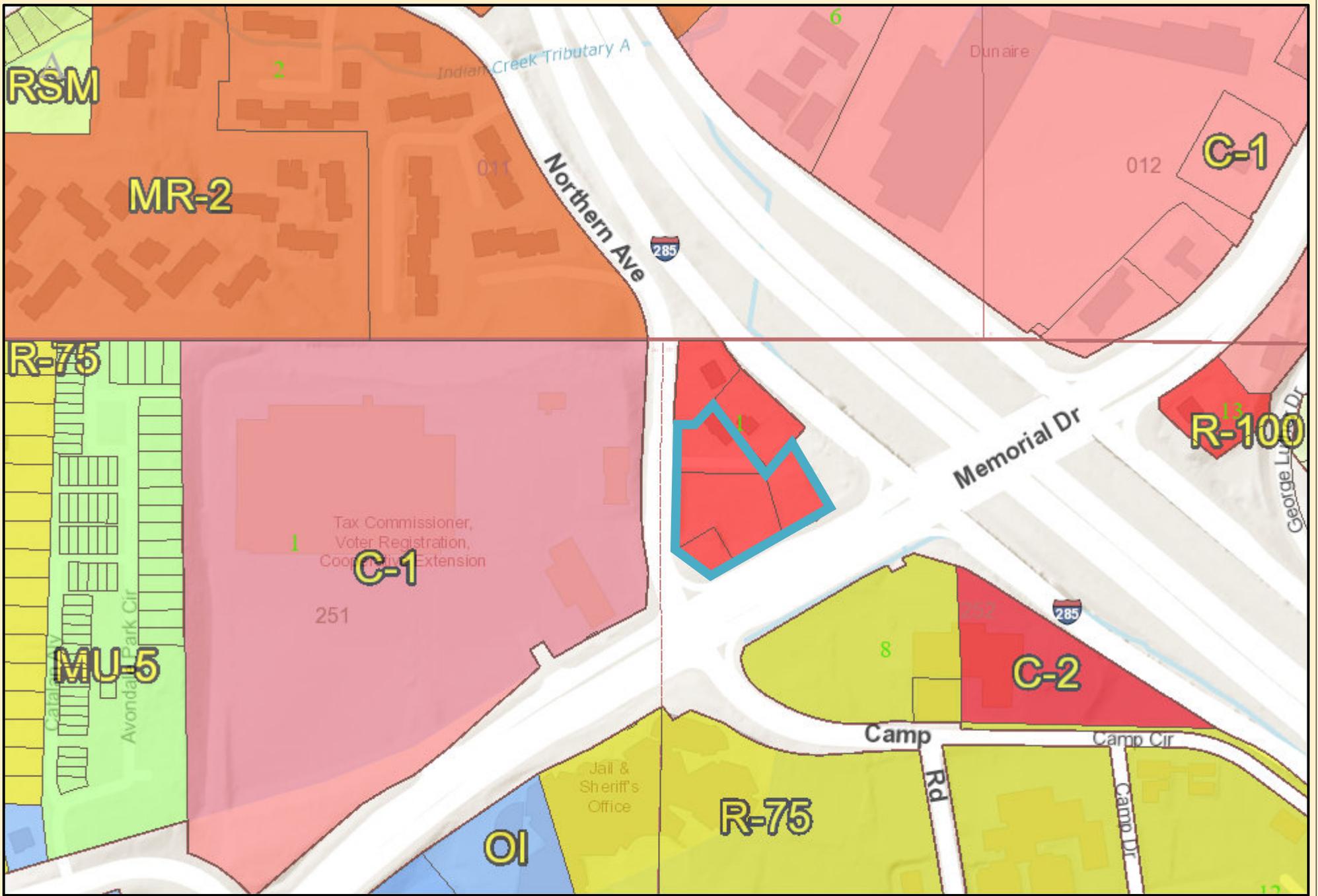


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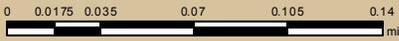


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DeKalb County Parcel Map



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SUB

011

Dunaire

CRC

012

13

MU-5

1

Tax Commissioner,
Voter Registration,
Cooperative Extension

RC

251

Northern Ave



Memorial Dr

8

252

Camp Rd

Camp Cir

Jail &
Sheriff's
Office

12

9

Mountain Dr



DeKalb County Parcel Map



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