

DeKalb County Department of Planning & Sustainability

**178 Sams Street,
Decatur, GA 30030**

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

**Planning Commission Hearing Date: March 5, 2024
Board of Commissioners Hearing Date: March 28, 2024**

STAFF ANALYSIS

Case No.:	SLUP-24-1246801	Agenda #: 2024-0107
Location/Address:	2209 Lawrenceville Highway, Decatur, GA 30033	Commission District: 04 Super District: 06
Parcel ID(s):	18 100 01 004	
Request:	Special Land Use Permit to operate a drive-through facility within the C-1 (Local Commercial) Zoning District	
Property Owner(s):	2209 Lawrenceville LLC	
Applicant/Agent:	Toxaway Automotive Group c/o Battle Law P.C.	
Acreage:	0.37	
Existing Land Use:	Tire Repair Shop	
Surrounding Properties:	North: C-1 East: C-1 South: C-1 West: C-1	
Comprehensive Plan:	CRC (Commercial Redevelopment Corridor) <input checked="" type="checkbox"/> Consistent	<input type="checkbox"/> Inconsistent

Staff Recommendation: APPROVAL WITH CONDITIONS

The application is proposing a Special Land Use Permit (SLUP) for transitioning the subject property from a tire shop to a drive-through oil change facility within the C-1 (Local Commercial) Zoning District. Both the previous tire shop and the proposed oil change operation are allowed as permitted uses in the C-1 zoning district under the "minor auto-repair" land use category. The operation of the previous tire shop included two bays and required that customers exit their vehicles for tire installation services. The proposed oil change operation will continue to use the existing two bays but will allow the customers to stay in their vehicles while oil changes are being completed which qualifies the operation as a drive-through facility. A SLUP is required to address this drive-through component of the oil change operation per section 27-4.1.3.

Based on the submitted information, it appears that the proposed use of the site aligns with the dimensional requirements of the C-1 Zoning District, with adequate land area available for the intended purpose. No change in land use, building footprint, or ingress/egress are proposed, and traffic flow should not be impacted by the proposed drive-through operation as ingress and egress remain unchanged. Furthermore, the proposal complies with all drive-through facility supplemental regulations as required by Section 4.2.23 of the *Zoning Ordinance*. Transitioning to an oil change facility is not anticipated to significantly alter the traffic volume, noise, or other quality of life factors, while maintaining compatibility with adjacent properties and land uses.

The transition is not expected to impose additional strain on public utilities or services, given the similarity in nature between the proposed and existing businesses.

Based on the submitted renderings and landscape plan, it appears that the proposed drive-through facility is consistent with the policies and strategies of the Commercial Redevelopment Corridor (CRC) calling for improving the function and aesthetic appeal of commercial corridors in the County and promoting the redevelopment of commercial corridors in decline.

The transition of the subject property to a drive-through oil change facility satisfies the criteria outlined for a Special Land Use Permit. The proposal demonstrates compatibility with existing regulations, minimizes adverse impacts on surrounding properties, and aligns with the community's long-term development objectives. Therefore, based on review of Section 7.4.6., Staff recommends approval with the following conditions.

1. 5-foot-wide sidewalks shall be installed along White Boulevard connecting with Lawrenceville Highway prior to issuance of a certificate of occupancy.
2. Pedestrian scale street lighting shall be installed on all property frontages.
3. Building materials shall be maintained as shown in submitted rendering.
4. Landscaping shall be installed as shown on submitted landscape plan, subject to review and approval of the DeKalb County Arborist, prior to issuance of a certificate of occupancy.

ZONING COMMENTS FEBRUARY 2024

N1 & N2- 3744 Redan Road- This section of Redan Road is classified as a local road. (The Planning Department may want to look into this because I believe it is a typo on the map.) With a local road: Minimum right of way dedication of 27.5 feet from centerline OR such that all required public infrastructure is within right of way, whichever greater. Requires 12 foot travel lane with curb and gutter, a 6 foot landscape strip (with at least 5 feet between the back of curb and the sidewalk), pedestrian scale street lights (Street Light Engineer: Herman Fowler at hefowler@dekalbcountyga.gov). All interior streets are required to be private streets. Be sure to watch the required separation of access points in Code Section 14-200 (6). This minimum spacing applies to access points on both sides of the road. Verify access point has stopping and intersection sight distances at time of permitting.

N3. 2209 Lawrenceville Hwy. Add 5 foot sidewalks on White Blvd five feet from the back of curb along property frontage. Add pedestrian scale street lighting on all property frontages. (Street Light Engineer: Herman Fowler at hefowler@dekalbcountyga.gov) Verify property lines (property corner shown in the roadway). Dedicate right of way to 8 feet behind curb for sidewalk and street light installations.

N4. 6009 Memorial Drive. No comments

N5. 2020 & 2030 Moreland Ave. Moreland Ave is SR 42. Requires GDOT review and approval prior to permitting. Moreland Ave is a major arterial. Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within the State/County right of way, whichever greater. Requires a 10 foot landscape strip (with 5 feet of the landscape strip between the back of the sidewalk and the curb), a 10 foot multiuse path, and pedestrian scale lighting. (Street Light Engineer: Herman Fowler at hefowler@dekalbcountyga.gov) Only one access point will be allowed on Hillcrest Drive. Be sure to consult with DeKalb County Code Section 14-200 (6) for minimum driveway spacing. This applies to drives on both sides of the street. Hillcrest Drive is classified as a local road. Right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within the right of way. A local street requires a 12 foot travel lane with curb and gutter, 6 foot landscape strip and a 5 foot sidewalk. Verify access points have stopping and intersection sight distances at time of permitting.

2/5/2024

To: Mr. John Reid, Senior Planner
From: Ryan Cira, Director, Division of Environmental Health
Cc: Alan Gaines, Environmental Health Deputy Director
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

2/5/2024

N.1 LP-24-1246832 15-220-01-026

3744 Redan Road, Decatur, GA 30032

- Please review general comments.

N.2 Z-24-1246799 15-220-01-026

3744 Redan Road, Decatur, GA 30032

- Please see general comments.

N.3 SLUP-24-1246801 / 18-100-01-004

2209 Lawrenceville Hwy, Decatur, GA 30033

- Please see general comments.

N.4 SLUP-24-1246803/ 18-072-02-072

6009 Memorial Drive, Ste 10, Stone Mountain, GA 30083

- Please review general comments.

**N.5 SLUP-24-1246804 15-081-01-003, 15-081-01-004, 15-081-01-036,15-081-01-006,
15-081-01-007**

2020 & 2030 MORELAND AVENUE and 1022 & 1032 HILLCREST DRIVE ATLANTA, GA 30316

- Please review general comments.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL TO EXPEDITE THE PROCESS TO JOHN REID jreid@dekalbcountyga.gov AND/OR LASONDRA HILL lahill@dekalbcountyga.gov

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:

- **Transportation/Access/Row**

- **Storm Water Management**

- **Flood Hazard Area/Wetlands**

- **Landscaping/Tree Preservation**

- **Tributary Buffer**

- **Fire Safety**



**DEKALB COUNTY
GOVERNMENT PLANNING
DEPARTMENT DISTRIBUTION
FORM**

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

Case No.: _____ Parcel I.D. #: _____

Address: _____

WATER:

Size of existing water main: _____ (adequate/inadequate)

Distance from property to nearest main: _____ Size of line required, if inadequate: _____

SEWER:

Outfall Servicing Project: _____

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

Water Treatment Facility: _____ adequate _____ inadequate _____

Sewage Capacity: _____ (MGPD) Current Flow: _____ (MGPD)

COMMENTS:

Signature: _____



DEKALB COUNTY
GOVERNMENT PLANNING
DEPARTMENT DISTRIBUTION
FORM

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COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: SLUP-24-1246801 Parcel I.D. #: 18-100-01-004

Address: 2209 OR 2207 LAWRENCEVILLE HWY, DECATUR, GA 30033

Adjacent Roadway (s):

(classification) (classification)

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

Capacity (TPD) _____
Latest Count (TPD) _____
Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____
Existing right of way width _____
Proposed number of traffic lanes _____
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: Did not see any traffic engineering concerns
at this time.

Signature: Jerry White



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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**REZONE
COMMENTS FORM:
PUBLIC WORKS ROAD AND DRAINAGE**

Case No.: SLUP-24-1246801

Parcel I.D. #: 18-100-01-004

Address: 2209 Lawrenceville Highway, Decatur, GA 30033.

Drainage Basin: South Forth Peachtree Creek

Upstream Drainage Area: N/A

Percent of Property in 100-Year Floodplain: 0%

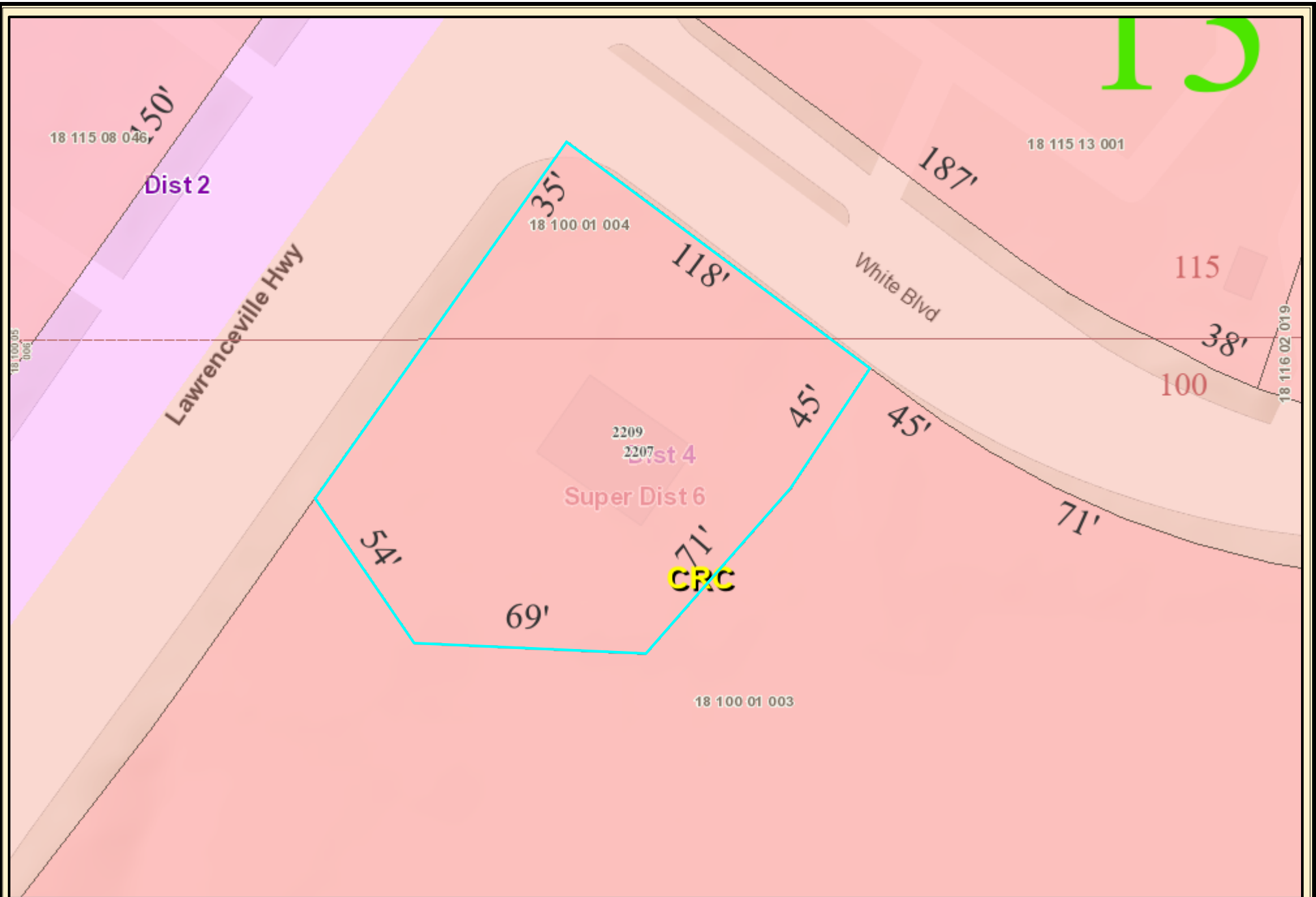
Impact on property (flood, erosion, sedimentation) under existing zoning: No known flood, erosion and sedimentation issues have been reported on the property and, the proposed land use is not expected to have any adverse impact.

Required detention facility(s): No Detention is required.

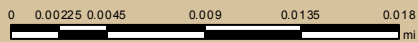
COMMENTS:

The proposed use will trigger compliance with extant federal, state and DeKalb county laws relating to Highly Visible Pollutant Sources since the location will be considered as a stormwater hotspot. Compliance with discharge regulations under the NPDES permit is will be required.

Signature: _____



DeKalb County Parcel Map



Date Printed: 2/15/2024

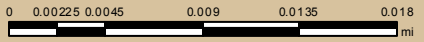


DeKalb County GIS Disclaimer

The maps and data, contained on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should it be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.



DeKalb County Parcel Map



Date Printed: 2/15/2024



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DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION

Amendments will not be accepted after 5 working days after the filing deadline.

Date Received: _____ Application No: _____

APPLICANT NAME: Toxaway Automotive Group c/o Battle Law PC

Daytime Phone: 404-601-7616 ext 1 E-Mail: mlb@battlelawpc.com

Mailing Address: 3562 Habersham at Northlake Bldg. J Ste. 100
Tucker, GA 30084

Owner Name: 2209 Lawrenceville LLC

(If more than one owner, attach contact information for each owner)

Daytime Phone: 404-601-7616 ext 1 E-Mail: mlb@battlelawpc.com

Mailing Address: 3203 Reserve DR NE
Brookhaven, GA 30319

SUBJECT PROPERTY ADDRESS OR LOCATION: 2209 Lawrenceville Hwy

Decatur, GA 30033 DeKalb County, GA _____

Parcel ID: 18 100 01 004 Acreage or Square Feet: .4 Commission Districts: 4 & 6

Existing Zoning: C1 Proposed Special Land Use (SLUP): _____

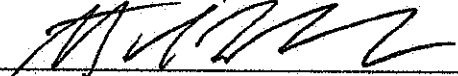
Drive-Through oil change facility

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

Owner: _____ Agent: X _____

Signature of Applicant: _____

Toxaway Automotive Decatur, LLC

By: 

Printed Name: SCOTT DICKINSON

Title: MANAGER



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

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: December 20, 2023

TO WHOM IT MAY CONCERN:

(I), (WE) 2209 Lawrenceville LLC
Name of owners(s) (If more than one owner, attach a separate sheet)

Being (owner) (owners) of the subject property described below or attached hereby delegate authority to:

Battle Law, P.C. and Toxaway Automotive Decatur, LLC
Name of Agent or Representative

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

[Signature]
Notary Public

Notary Public

Notary Public

Notary Public

Notary Public

2209 Lawrenceville LLC

By: M Patel

Printed Name: Meghna Patel Title: Managing Member

Owner

Owner

Owner

Owner

See attached certificate

FLORIDA INDIVIDUAL ACKNOWLEDGMENT
F.S. 117.05(13)

State of Florida

County of Broward }

The foregoing instrument was acknowledged before me by means of

Physical Presence,

— OR —

Online Notarization,

this 20 day of December, 2023 by
Date Month Year

Meghana Patel

Name of Person Acknowledging

Stephanie Baldwin

Signature of Notary Public — State of Florida

Stephanie Baldwin

Name of Notary Typed, Printed or Stamped

Personally known

Produced Identification

Type of Identification Produced: Florida

Driver's License



Place Notary Seal Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Department of Planning & Sustainability Authorization

Document Date: 12/20/23 Number of Pages: 1

Signer(s) Other Than Named Above: None



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

In accordance with the Conflict of Interest in Zoning Act, OCGA Chapter 36-67A, the following questions must be answered.

Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filing of this application?

Yes _____ No X *

If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and to the Board of Commissioners of DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.

Decatur
Toxaway Automotive Group, LLC

By: *[Signature]*

Signature of Applicant /Date

Notary

Check one: Owner _____ Agent X

Expiration Date/ Seal

*Notary seal not needed if answer is "no".



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

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Toxaway Automotive Decatur, LLC

By: 

Signature of Applicant /Date

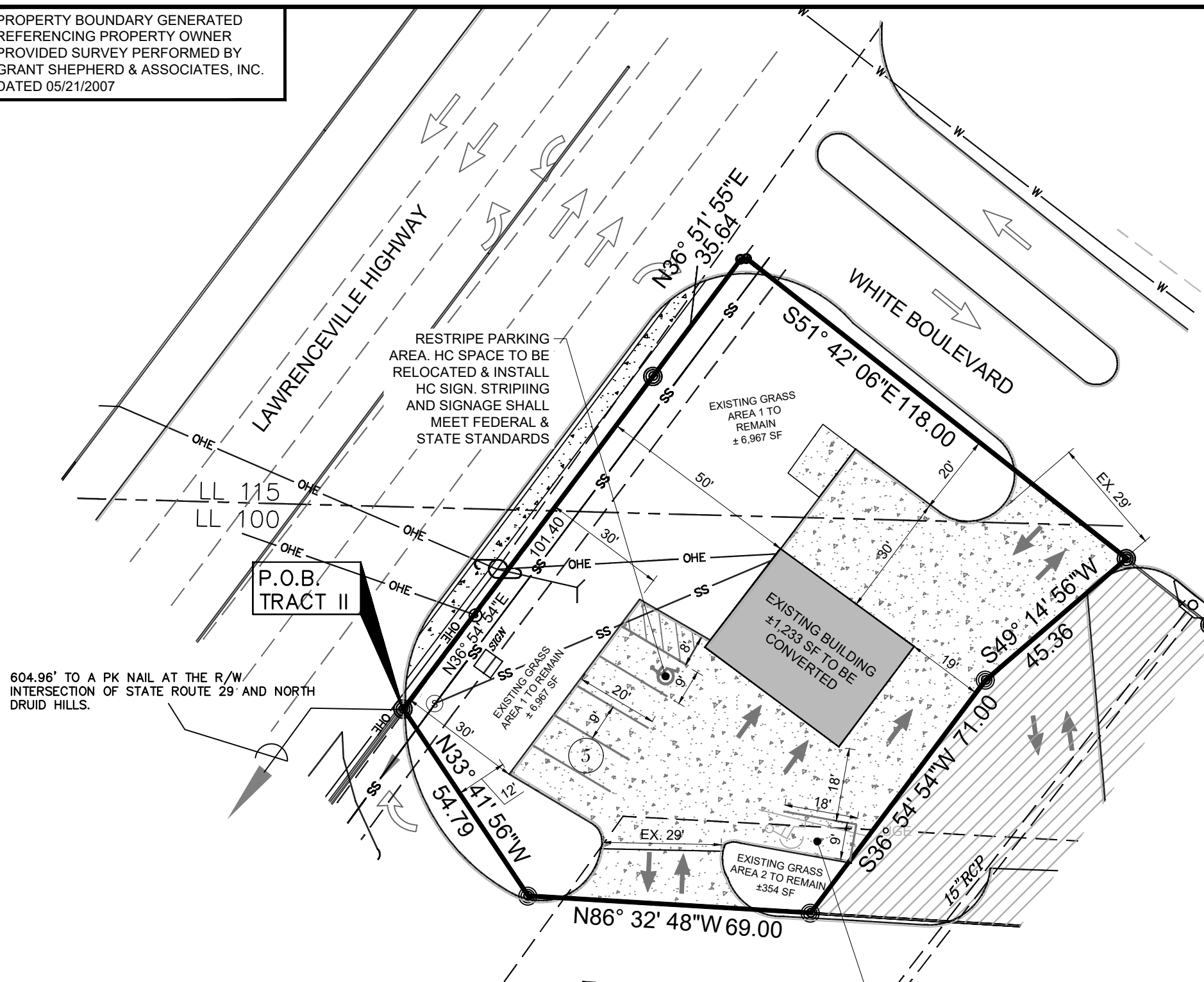
Notary

Check one: Owner _____ Agent X

Expiration Date/ Seal

*Notary seal not needed if answer is "no".

PROPERTY BOUNDARY GENERATED
 REFERENCING PROPERTY OWNER
 PROVIDED SURVEY PERFORMED BY
 GRANT SHEPHERD & ASSOCIATES, INC.
 DATED 05/21/2007



QUICK CONCEPTS GROUP



QUICK CONCEPTS GROUP, LLC.
 FIRM LIC #: PEF008530
 TREVOR STUBBS, P.E. #PE047852
 2719 TROPICAL AVE. VERO BEACH FL 32960

PROJECT NAME:
 TAKE 5 OIL CHANGE CONVERSION
 IN DECATUR, GA

ADDRESS:
 2207 LAWRENCEVILLE STATE RTE
 DECATUR, GA 30033

JURISDICTION:
 DEKALB COUNTY

PARCEL ID #:
 18 100 01 004

PARCEL AREA:
 ±15,574 SF OR ±0.357 AC

ZONE: C-1
 LOCAL COMMERCIAL

EXISTING USE:
 TIRE STORE

PROPOSED USE:
 AUTOMOBILE REPAIR OR
 MAINTENANCE, MINOR
 (PERMITTED USE)

PARKING CALCULATION:
 1 PER 400 SF FLOOR SPACE (MIN.)
 1 PER 150 SF FLOOR SPACE (MAX.)
 3 REQUIRED, MAX 9 SPACES

PROVIDED PARKING: 6 TOTAL
 1 ADA STALLS
 5 STALLS (9' X 18')

SETBACKS PER ZONING DISTRICT
 C-1, SEE PLAN FOR EXISTING:
 FRONT: 20' MIN, 60' MAX
 SIDE: 15' INTERIOR, 30' STREET
 REAR: 20'
 BUFFERS: EXISTING TO REMAIN

FLOOD ZONE: X
 FEMA MAP: 13089C0067K
 DATED: 08/15/2019

LOT COVERAGE BREAKDOWN:
 IMPERVIOUS BUILDING: 1,233 SF (8%)
 IMPERVIOUS OTHER: 7,020 SF (45%)
 IMPERVIOUS TOTAL: 8,253 SF (53%)
 OPEN SPACE: 7,321 SF (47%)
 TOTAL: 15,574 SF (100%)

BUILDING HEIGHT:
 18' (MAX ALLOWED 35')

DRAWING DATA
 DATE: 11/30/2023
 PROJECT NO.: 23.1704

DISCLAIMER: THE CONCEPT REPRESENTED
 HEREIN IS FOR SPECIAL USE PERMIT APPROVAL.
 INFORMATION SHOWN HEREIN WAS BASED ON
 PROVIDED INFORMATION BY THE CLIENT AND
 PRELIMINARY CODE RESEARCH WITH THE
 SUBJECT JURISDICTION. INFORMATION SHOWN
 HEREIN SHALL BE CONFIRMED BY SUBJECT
 JURISDICTION AND MAY BE SUBJECT TO
 CHANGE.

604.96' TO A PK NAIL AT THE R/W
 INTERSECTION OF STATE ROUTE 29' AND NORTH
 DRUID HILLS.

LEGAL DESCRIPTION FROM OWNER PROVIDED SURVEY:

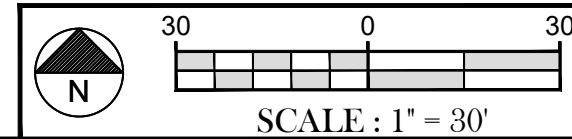
MEASURED DESCRIPTION TRACT 2

All that tract or parcel of land lying and being in Land Lots 100 and 115 of the 18th District of DeKalb County, Georgia, the same being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence at PK nail located at the intersection of the northerly right-of-way of North Druid Hills Road with the easterly right-of-way line of Lawrenceville Highway, running thence North 05 degrees 18 minutes 30 seconds East along said right-of-way of Lawrenceville Highway a distance of 47.15 feet to a pk nail set; running thence North 38 degrees 54 minutes 54 seconds East along said right of way line of Lawrenceville Highway a distance of 604.96 feet to a pk nail set which marks the TRUE POINT OF BEGINNING, with the TRUE POINT OF BEGINNING thus established, continuing along said right of way of Lawrenceville Highway (aka State Route 29) N36°54'54"E a distance of 101.40' to a pk nail set; thence N36°51'55"E a distance of 35.64' to a pk nail set; thence N82°34'55"E a distance of 1.40' to a pk nail found along a 60' Pedestrian & Vehicular Ingress-Egress Easement; thence S51°42'06"E a distance of 118.00' to a pk nail set; then S49°14'56"W a distance of 45.36' to a pk nail found; thence S36°54'54"W a distance of 71.00' to a pk nail set; thence N86°32'48"W a distance of 69.00' to a pk nail set; thence N33°41'56"W a distance of 54.79' to the TRUE POINT OF BEGINNING.

Said tract containing 15, 574 square feet or 0.357 acres.

RESTRIPE HC PARKING
 SPACE TO MEET
 STANDARD STALL
 DEPTH AND WIDTH AS
 SHOWN







Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
For
A Special Land Use Permit

of

TOZAWAY AUTOMOTIVE GROUP LLC
c/o Battle Law, P.C.

for

+/- .4 number of acres Acres of Land
Being 2209 Lawrenceville Highway
Decatur, Georgia and
Parcel No. 18 100 01 004

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

Toxaway Automotive Group LLC (the “Applicant”) is seeking to operate a minor automotive repair facility for oil changes on +/- 0.4 acres of land being Tax Parcel No. 18 100 01 004 also known as 2209 Lawrenceville Hwy., Decatur, GA 30033 (the “Subject Property”). The Subject Property is currently zoned C-1 and has a land use designation of CRC (Commercial Redevelopment Corridor). While the use of the Subject Property for a minor automotive repair facility is allowed in the C-1 zoning district, the Applicant is seeking a Special Land Use Permit to allow customers to remain in their car while receiving their oil change.

This document serves as a statement of intent, analysis of the criteria under the Dekalb County Special Land Use Permit criteria and contains notice of constitutional allegations as a reservation of the Applicant’s rights.

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 current and future operators of the Subject Property will go virtually unchanged, transitioning from a tire shop to an oil change facility, both allowed by-right under the C-1 zoning as minor automotive repairs. The operators currently comply with all dimensional requirements necessary under C-1.

- 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.**



Battle Law

The current use of the property is the same as the proposed use. The addition of a drive-through only changes the flow of customers and does not raise the level of traffic volume/congestion, noise, smoke, odor, dust, vibration, or other negative externality that is currently produced.

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

Since the proposed use does not add to the existing use, merely changes the flow of customers, no additional need for public or private facilities or utilities will be necessary.

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 building is inaccessible from Lawrenceville Highway, the main thoroughfare travelled by most traffic near the business. The site currently has two curb cuts, one on White Blvd., a side street that dead ends into a small condominium complex. The other is fed by the adjacent development's parking lot. The proposed use will utilize the curb cut located in the neighboring property's parking lot as the entrance, and White Blvd. as the exit. The proposed layout removes all traffic off the main road, Lawrenceville Highway. Furthermore, the proposed use will not impede the flow of traffic to its neighbors. Any traffic going to the adjacent development in the direction of travel approaches another entrance before the entrance located near the Subject Property.

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.



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All traffic flow of the proposed operations is located off of the main road, and does not increase the current traffic volume. The nature of the business only requires two curb cuts as customers enter and leave. Customers also expect to drive-in, park, and wait on service. Employees also have the responsibility of directing traffic in and out of the site. The Subject Property matches with neighboring uses in safety and design, not adding any additional stress to the pedestrian or vehicle infrastructure. Finally, in the case of emergency, the site does not act as an impediment to the lanes of travel on the main road, the side street, or to the neighboring businesses. Responders have ample land to access any of the surrounding areas and parcels.

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 hours of the proposed operation will be normal commercial business operating hours.

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, minor automotive repairs, is allowed by-right in the C1 zoning classification. The addition of the drive-through is allowed as well, subject to obtaining a SLUP.

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

The proposed use advances the Comprehensive Plan. As the site is located in a Commercial Redevelopment Corridor, the proposed use places an established business on Lawrenceville Highway that holds high aesthetic and moral standards for operation, priding itself in its level of quality compared to competitors. The new business provides the Corridor a fresh and inviting use of space, without the usual downsides of other minor



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automotive repair shops. The quick flow of cars and limited services available will eliminate the need for unsightly repairs to happen outside of the building and for cars to be located on the lot after hours. The drive-through provides efficient service to customers, a valuable addition to a parcel that will generate higher economic returns to the County.

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

Because of the limited services available in the business, the small footprint and service area are adequate to house the employees and patrons during operations. There is a small office located which employees may use for breaks. Customers will not leave their vehicles.

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

The SLUP should be issued in perpetuity of property ownership.

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 proposed use only utilizes an existing building which is much smaller than the neighboring developments. It is a typical, small scale automotive repair shop, similar to many others lining Lawrenceville Highway.

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



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No historic buildings, sites, districts, or archaeological resources exist nearby.

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

The proposed use complies with all supplementary regulations required of drive-through facilities outlined in Sec. 4.2.23. of the Dekalb County Code.

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 of the Subject Property provides a safe, efficient option for the community. All vehicle owners must maintain their cars, and this use provides a quick, affordable option for the most common maintenance service – an oil change. The business owners pride themselves on fast, friendly service. Located multiple turns off a main road, the proposed use will not add to additional traffic, nor detract from the neighborhood character, rather the proposed use revitalizes the neighborhood by creating an attractive façade, unlike many traditional auto service facilities. The proposed use turns a necessity of car ownership into a neighborhood amenity.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application for a Special Land Use Permit be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The portions of the Dekalb County 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



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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 Board of Commissioners to amend the land use and/or 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 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 land use amendment and/or Special Land Use Permit in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, 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 Special Land Use Permit in question would be invalid inasmuch as it would be denied pursuant to an ordinance which 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.



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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.

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