



DeKalb County Department of Planning & Sustainability

**330 Ponce De Leon Avenue, Suite 500
Decatur, GA 30030
(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: November 2, 2017, 6:30 P.M.
Board of Commissioners Hearing Date: November 14, 2017, 6:30 P.M.**

STAFF ANALYSIS

Case No.: SLUP-17-21833 **Agenda #:** N. 1

Location/Address: The southwest side of North Druid Hills Road, approximately 1081 feet northwest of Clairmont Road, at 2957 North Druid Hills Road, Atlanta. **Commission District:** 2 **Super District:** 6

Parcel ID: 18-111-03-019

Request: A Special Land Use Permit to replace an existing Wendy's restaurant with a new Wendy's restaurant and drive-through lane in a C-1 (Local Commercial) district, in accordance with the Chapter 27 Article 4.1 Use Table of the DeKalb County Code.

Property Owner: Northern Realty, LLC

Applicant/Agent: Wen Georgia LLC c/o Kathryn M. Zickert

Acreage: .68

Existing Land Use: A Wendy's restaurant.

Surrounding Properties: To the north and northeast: Fidelity Bank, Wells Fargo Bank; to the east: Toco Instant Printing, Health Unlimited health food store; to the southeast, south, and southwest (in the Toco Hills shopping center): a Chipotle restaurant and La Parrilla restaurant; to the west and northwest: the Giant Package Store; to the north: the Wing Stop restaurant (vacated due to fire).

Adjacent Zoning: **North:** O-I **South:** C-1 **East:** C-1 **West:** C-1 **Northeast:** O-I **Northwest:** C-1 **Southeast:** C-1 **Southwest:** C-1

Comprehensive Plan: Town Center **Consistent** **Inconsistent**

Proposed Density: 3,768 s.f./acre	Existing Density: 4,457 s.f/acre
Proposed Square Ft.: 2,562 s.f.	Existing Square Feet: 3,031 s.f.
Proposed Lot Coverage: 83%	Existing Lot Coverage: 83%

Zoning History: Based on DeKalb County records, it appears that the C-1 zoning of the property has not changed since adoption of the first zoning ordinance and map in 1956.

PROJECT ANALYSIS

The subject property is a .68-acre parcel with approximately 150 feet of frontage on North Druid Hills Road. It is located on the edge of the Toco Hills shopping center, which is located in a Town Center activity center concentrated around the intersection of Lavista Road and North Druid Hills Road. The property is developed with a 3,031 square foot Wendy’s restaurant with a drive-through lane. Two curb cuts from North Druid Hills Road provide access to the site; in addition, there is a curb cut on the northwest side of the site. The northwestern curb cut allows access to an internal driveway from North Druid Hills Road that provides access into the interior of the shopping center.

The character of the surrounding area is commercial. The commercial land uses within the shopping center and in the larger Town Center are primarily retail stores and restaurants. Other uses include offices, health clinics, service establishments, and a State unemployment office. A Fidelity Bank, a Wells Fargo Bank, a printing shop, and the Health Unlimited health food store are located across North Druid Hills from the subject property. A Chipotle restaurant is located on the adjoining property to the southeast. The La Parilla restaurant is located on the adjoining property behind the site. An interior driveway adjoins the west side of the property; the Giant Package Store and a former Wing Stop restaurant are located across the driveway from the subject property.

The applicant proposes to demolish the existing Wendy’s restaurant and construct a new, 2,562 square foot Wendy’s restaurant. The application states that the new building would be designed according to the latest Wendy’s architectural standards. Access would be provided by the existing curb cuts on North Druid Hills Road and from the internal driveway. The plan is to reduce parking by three spaces, resulting in a 27-space parking lot (which exceeds the required amount of parking by ten spaces). Building orientation would remain the same, with the primary entrance on the northwest side of the building and the pick-up window and speaker box on the south side of the building. The site plan shows an outdoor dining area on the northwest side of the building, a pedestrian walkway from the sidewalk along North Druid Hills Road, and pedestrian striping from the adjoining interior driveway to a paved area on the northwest side of the building.

LAND USE AND ZONING ANALYSIS

Section 27-873 of the DeKalb County Zoning Ordinance, “Special land use permit; criteria to be applied” states that the following criteria shall be applied in evaluating and deciding any application for a Special Land Use Permit. No application for a Special Land Use Permit shall be granted unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application.

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

The size of the site is adequate for the proposed restaurant to meet, and in some cases, exceed all standards regarding required yard setbacks, open space, and parking.

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

The proposed use is compatible with the restaurant uses on adjoining properties and the commercial uses on nearby properties.

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

The existing restaurant is served by public services and utilities, and there has been no indication that this infrastructure will be inadequate to serve the proposed restaurant.

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 proposed use, so as not to unduly increase traffic or create congestion in the area:

The Traffic Engineering Division has reported that they found no problems that would interfere with traffic flow.

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

The proposed restaurant is expected to generate the same type of traffic as the existing restaurant, and the same type of traffic as other commercial land uses in the area. Reduction in the square footage of the building may reduce traffic volumes. Existing land uses on North Druid Hills Road are not expected to be adversely affected.

F. 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:

Ingress and egress will not change and appears to be satisfactory to maintain traffic flow and control and to provide access for emergency vehicles. The staff-recommended condition regarding pedestrian striping is intended to improve pedestrian safety and access to the site.

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

The proposed use is not expected to create adverse impacts upon any adjoining land use by generating objectionable levels of noise, smoke, odor, dust, or vibration.

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

The proposed restaurant is not expected to create adverse impacts upon any adjoining land use due to this aspect of its operation.

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

The proposed restaurant is not expected to create adverse impacts upon any adjoining land use due to its manner of operation.

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

The proposed plan complies with the regulations of the C-1 District, except for the sidewalk and streetscaping standards. The application states that the applicant intends to seek a variance from these standards.

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

The proposed drive-through restaurant is consistent with the following policy of the 2035 Comprehensive Plan for Town Centers: "Each Town Center shall include a high-density mix of residential, retail, office, services, and employment to serve several neighborhoods." (Town Center Policy No. 22) A pedestrian crossing across the two curb cuts on North Druid Hills Road will help make the proposal more consistent with the pedestrian-oriented policies and strategies of the Town Center Character Area.

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

No buffers or transitional buffer zones are required.

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

Provisions for refuse and service areas appear to be adequate.

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

Because the proposed drive-through restaurant is suitable for the subject property, there appears to be no reason to limit its duration.

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

At 2,562 square feet and one story, the size, scale, and massing of the proposed restaurant is appropriate in relation to the size of the subject property and in relation to the size, scale, and massing of adjacent and nearby commercial lots and buildings.

P. Whether the proposed plan would adversely affect historic building sites, districts, or archaeological resources:

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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

The proposal complies with the applicable requirements of the Supplemental Regulations.

R. Whether or not the proposed building as a result of its proposed height , would create a negative shadow impact on any adjoining lot or building:

The proposed restaurant is not expected to cast objectionable shadows on adjoining lots or buildings.

S. Whether the proposed use would be consistent with the needs of the neighborhood or of the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objectives of the comprehensive plan:

The proposed use would be consistent with the needs of the community for a Town Center that continues to be a vital commercial node. It would not be in conflict with the overall objectives of the 2035 Comprehensive Plan.

Compliance with District Standards:

C-1 STANDARD	REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MIN. LOT AREA	20,000 s.f.	.68 acres (29,620.8 s.f.)	Yes
MIN. LOT WIDTH	100 ft.	150 feet	Yes
MAX. LOT COVERAGE	90%	83%	Yes
MIN. OPEN SPACE	5,000 – 39,999 s.f. of gross floor area – 10%	17%	Yes
MIN. TRANSITIONAL BUFFER	Not required	---	---

C-1 STANDARD		REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
YARD SETBACKS	FRONT	(Arterials): Min. – 20 ft.; Max. 60 ft.	52.5 feet	Yes
	INTERIOR SIDE	Min. 15. ft.	Northwest: 63' Southeast: 27.5'	Yes
	REAR	Min. 20 ft.	67'	Yes
MAX. BLDG. HEIGHT WITHOUT SLUP		2 stories and 35 ft.	1 story; max. bldg. height: 35'	Yes
TRANS'L HEIGHT PLANE		Not required	---	---
PARKING		One space per 150 s.f. floor area = 17 spaces	27 spaces	Yes
Sidewalks and Streetscaping		10 ft. landscape strip, 6 ft. sidewalk, street trees.	Not provided.	A variance will be necessary.

SUPPLEMENTAL REGULATIONS

A. Speaker box must be at least 60 feet from residential property.

The proposed speaker box meets this standard.

B. Minimum lot size of 10,000 square feet.

The property meets this standard.

C. Drive-through lanes and speaker boxes shall be located to the side or rear of buildings.

The proposed drive-through lane and speaker box are located to the side and rear of the proposed building.

D. Drive-through canopies and other structures shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.

No canopy or other structures are proposed.

E. Speaker boxes shall be pointed away from adjacent residential properties [and] shall not play music.

No residential properties adjoin the subject property.

F. Stacking spaces: minimum 10 feet wide and 25 feet long; shall begin at the last service window for the drive-through lane.

The site layout for stacking spaces meets this standard.

G. Drive-through restaurants shall provide ten stacking spaces per lane for each window or drive-through service facility.

The proposed restaurant meets this standard.

H. General standards.

- a. Drive-through lane shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.
- b. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.
- c. All drive-through facility shall include a bypass lane with a minimum width of ten feet [which] may share space with a parking access aisle.
- d. Lanes must be set back five feet from all lot lines and roadway right-of-way lines.

The proposed drive-through restaurant complies with these Supplemental Regulations.

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS. The requested Special Land Use Permit for a drive-through restaurant is suitable at the subject location. Use of the property for a restaurant is consistent with the use of commercial properties in the surrounding area. The proposed drive-through restaurant is not expected to create adverse effects on adjoining and nearby properties in the Toco Hills shopping center and surrounding Town Center activity center. The proposal is consistent with the following policy of the 2035 Comprehensive Plan for Town Centers: "Each Town Center shall include a high-density mix of residential, retail, office, services, and employment to serve several neighborhoods." (Town Center Policy No. 22). Therefore, the Department of Planning and Sustainability recommends, "Approval" with the following conditions:

1. The Special Land Use Permit shall be issued to Wen Georgia, L.L.C. for operation of a drive-through restaurant, and shall be transferrable in accordance with Section 27-877 of the DeKalb County Code.
2. The development shall be consistent with the layout shown on the site plan titled, "Site Plan for Meritage Hospitality Group", prepared by Harkleroad and Associates, dated 8/14/17.
3. The proposed restaurant shall not exceed 2,562 square feet of floor area and shall be limited to one story.
4. Pedestrian crossings shall be installed across the curb cuts on North Druid Hills Road.
5. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Application
4. Site Plan
5. Zoning Map
6. Aerial Photograph
7. Site Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✔ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✔ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✔ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- ✔ • **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- ✔ • **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

**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**

Case No.: SLUP-17-21833 Parcel I.D. #: 18-11-03-019

Address: 2957
NORTH David Hills Rd
Atlanta, Ga

Adjacent Roadway (s): Channing Rd Alajon

(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:

<u>Plans and field reviewed. No problem found that would interfere with traffic flow</u>

Signature: [Handwritten Signature]

DEKALB COUNTY



10/13/2017

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

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

10/13/2017

N.1

SLUP-17-21833/18-11-3

2957 North Druid Hills Road, Atlanta, GA

Amendment

- Please see general comments.
- Septic system installed on Nov. 30, 1961.

N.2

CZ-17-21855/18-151-01-004

2696 North Druid Hill Road, Atlanta

Amendment

- Please see general comments.
- The current septic tank needs to be replaced with proper size to accommodate number of occupancy.

N.3

SLUP-17-21813/15-006-01-049

3363 Luxembourg Circle, Decatur, GA

Amendment

- Please see general comments.
- The current septic tank needs to be replaced with proper size to accommodate number of occupancy.

N.4

SLUP-17-21752/18-069-02-003 (Portion of)

5475 Memorial Drive, Suite D, Stone Mountain, Ga - Near Atrium

Amendment

- Please see general comments.



DeKalb County
GEORGIA

SEP , 7 2017

404.371.2155 (o)
404.371.4556 (f)
DeKalbCountyGa.gov

Clark Harrison Building
330 W. Ponce de Leon Ave
Decatur, GA 30030

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.: SLUP-17-21833

APPLICANT NAME: Wen Georgia LLC c/o Kathryn M. Zickert

Daytime Phone #: 404-815-3704 Fax #: 404-685-7004

Mailing Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

E-mail: kmzickert@sgrlaw.com

OWNER NAME: Northern Realty LLC (If more than one owner, attach contact information for each owner)

Daytime Phone #: 201-681-5799 Fax #: _____

Mailing Address: Attn: Richard Kramisen

P.O. Box 1766, Fort Lee, NJ 07024 E-mail: _____

SUBJECT PROPERTY ADDRESS OR LOCATION: 2957 North Druid Hills Road
Atlanta, DeKalb County, GA, 30329

District(s): 18 Land Lot(s): 111 Block(s): 03 Parcel(s): 019

Acreage or Square Feet: .677 acres Commission District(s): 2 / 6 Existing Zoning: C-1

Proposed Special Land Use (SLUP): Renovation / rebuild restaurant with drive-thru

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: Kathryn M. Zickert
(Check One)

Printed Name of Applicant: Kathryn M. Zickert

Notary Signature and Seal: Shawna E. Avila



COMMUNITY MEETING

Application for a Special Land Use Permit to renovate and rebuild a restaurant with a drive-thru located at 2957 North Druid Hills Road, Atlanta, GA 30329.

Date: Wednesday, September 6, 2017
Time: 7:00 p.m. to 8:00 pm
Place: Toco Hill-Avis G. Williams Library
1282 McConnell Drive
Decatur, GA 30033

What is a Community Rezoning Meeting? Community rezoning meetings are designed to inform the surrounding communities of current rezoning and special use permit applications. It's an opportunity for the community to learn about the proposed project, ask questions, present concerns, and make suggestions.

WEN GEORGIA LLC

September 6, 2017 @ 7:00 p.m.

COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Alex Brock	1230 Peachtree St.	(404) 815-3603 jabrock@sgrlaw.com
Nan Wilcox	1608 Tree Lane Bldg A Ste 100 Sneville, GA 30096	770 982 1496 nwilcox@haverford.com
Andy Blackburn	1145 Sanctuary Pkwy, Suite 215 Alpharetta, GA 30009	andy.blackburn@wendys.com 770-283-3770

Name 1	Name 2	Address	City	State	Zip
Triple L and P Real Estate LLC		323 4th Ave	Decatur	GA	30030
Suburban Partners LLC		3549 Hill Forest Trl NW	Acworth	GA	30101
PNC Bank		130 S Jefferson St Ste 300	Chicago	IL	60601
Toco Hill Inc.	Station F	P.O. Box 8088	Atlanta	GA	31106-0088
Limestone Wells LLC		200 S Biscayne Blvd Floor 6th	Miami	FL	33131
Toco Instant Printing Inc		2960 N Druid Hills Rd NE	Atlanta	GA	30329-3910
Richard Kraus		2968 N Druid Hills Rd NE	Atlanta	GA	30329-3910
Toco Hill Picture Framing Co	Anne B Chihade	2980 N Druid Hills Rd NE	Atlanta	GA	30329-3910
Chong Woo Park	Hyun Shil Park	2996 N Druid Hills Rd NE	Decatur	GA	30033
Clairmont Presbyterian Church		1994 Clairmont Rd	Decatur	GA	30033-3498
Sharad Bijanki	Kelly Bijanki	1962 Azalea Cir	Decatur	GA	30033
Calvin Robertson Jr.		3799 Robertson Rd	Loganville	GA	30052-4557
Vanajakshi Bollineni		1976 Azalea Cir	Decatur	GA	30033
James Skinner IV	Sarah Skinner	1982 Azalea Cir	Decatur	GA	30033
First National Bank of Atlanta		919 E Main St # 14	Richmond	VA	23219-4622
Toco Hill Inc.	Station F	P.O. Box 528	Columbia	SC	29201-0528
Toco Hill Inc.	Station F	P.O. Box 15518	Atlanta	GA	30333
Huckleberry Properties		5 Brewsters St	Glen Cove	NY	11542-2549
Toco Hills (E&A) LLC		1221 Main St # 1000	Columbia	SC	29201-3255
Twenty Nine Sixty Three North	Druid Hills LLC	6000 Lake Forrest Dr Ste 400	Atlanta	GA	30328-4403
SMH Trust	Hashmi Suleman	5937 Gladeside Ct	Dallas	TX	75248
Reginaldo Castaldo	Sharon Castaldo	3033 N Druid Hills Rd NE	Atlanta	GA	30329-3911
Providence Townhomes		11735 Pointe Pl	Roswell	GA	30076-4636
Merry Hills Homeowners Association, Inc.		P.O. Box 98490	Atlanta	GA	30359
Weatherstone Condominium Association, Inc.		1465 Northside Drive NW Ste 128	Atlanta	GA	30318
Providence Townhomes Association, Inc.		1465 Northside Drive NW Ste 128	Atlanta	GA	30318
Williamsburg Professional Center Condominium Association, Inc.		6760 River Springs Ct	Atlanta	GA	30328
Frosty Acres CA LLC	Yvonne Tillem Revocable Trust	201 Allen Rd # 300	Atlanta	GA	30328

COMMUNITY MEETING

Application for a Special Land Use Permit to renovate and rebuild a restaurant with a drive-thru located at 2957 North Druid Hills Road, Atlanta, GA 30329.

Date: Wednesday, September 6, 2017

Time: 7:00 p.m. to 8:00 pm

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1282 McConnell Drive
Decatur, GA 30033

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I. INTRODUCTION

This Application seeks a Special Land Use Permit (“SLUP”) to allow for the redevelopment of an existing Wendy’s Restaurant with drive-thru on a ± 0.677 acre tract of land located in Land Lot 111, 18th District, DeKalb County, known as 2957 North Druid Hills Road (the “Subject Property”). The existing restaurant is a 3,031 square foot, one story brick structure with drive-thru on the side of the building. The existing parking lot has 30 spaces, including two handicap spaces. The Subject Property is an outparcel of the existing Toco Hills Shopping Center and fronts North Druid Hills Road.

The Applicant has planned a ±\$700,000 redevelopment to remove and replace the existing, outdated Wendy’s restaurant with the latest Wendy’s architectural standard. The new restaurant will be slightly smaller at 2,562 square feet, including a utility area with coolers, but will provide a much more modern and architecturally appealing design. Parking will be reduced from the existing 30 spaces to 27 spaces, including two handicap spots. In addition, pedestrian access will be improved with ADA-accessible sidewalk access from North Druid Hills Road and the addition of internal crosswalks to facilitate pedestrian flow into the site. The end result will be a more modern, attractive, and accessible building that will compliment and add to the existing developments in the surrounding area. The Subject Property is zoned Local Commercial (C-1) and the proposed use is entirely consistent with the current zoning. Although the use on the Subject Property will not change, the Applicant is required to obtain a SLUP because drive-thru restaurants are regulated under the County’s SLUP Ordinance and lies within an activity center per the DeKalb County Comprehensive Plan 2035¹. See DeKalb County, Georgia Code of Ordinances § 27-4.2.23.

¹ The DeKalb County Comprehensive Plan 2035 shows the Subject Property land use as a Town Center activity center and lying within the Toco Hills Node (NDHLCI) small area plan.

The Applicant submits this document as a Statement of Intent with regard to its Application, a preservation of the Applicant's constitutional rights, and a written justification for the proposed SLUP as required by the DeKalb County Code of Ordinances ("Zoning Code") § 27-7.4.6.

II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

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

The 0.677 acre size of the Subject Property is adequate for the proposed restaurant. The new building will be 469 square feet smaller than the existing restaurant and will provide sufficient setbacks, building height requirements, parking lot landscaping, as well as meeting the special use requirements of Zoning Code § 4.2.23 for drive-through facilities. *See* site plan attached to this Application for site dimensional data. *See also* Subsection II.Q of this Statement of Intent for an analysis of the § 4.2.23 requirements. Moreover, the proposed development will make a number of improvements over the existing facilities, including reducing the lot coverage from the existing 87% to 83% and providing 17% open space, which is a dramatic increase of over the existing 13% open space.

In addition to meeting the site dimensional requirements, the proposed redevelopment will provide adequate onsite parking. In accordance with Zoning Code Table 2.2, Non-Residential Zoning Districts Dimensional Requirements, a 2,562 square foot restaurant with seating requires a minimum of 17 parking spaces and a maximum of 34. The 27 proposed spaces are well within this range.

The site abuts the right-of-way of Clairmont Road which is designated as a major arterial per the DeKalb County 2014 Transportation Plan. In accordance with Zoning Code § 5.4.3, a

streetscape along a major arterial includes a 10 landscape strip with a 6 foot sidewalk. The existing sidewalk along the frontage is ±4 feet wide and matches the width of the remaining sidewalk sections along North Druid Hills Road in front of the Toco Hills Shopping Center and to either side of the Subject Property. As a result, the Applicant will seek an administrative variation to allow the existing sidewalk to remain. In addition, major arterials are required to have 100 feet of right-of-way (50 feet from centerline), in accordance with DeKalb County Code § 14-190. The current right-of-way along the frontage of the Subject Property is 70 feet (35 feet from centerline). Consequently, a dedication of 15 additional feet may be required during the Land Disturbance Permit review process. However, it is anticipated that the dedication of 15 feet of right-of-way will not require any variances to the site dimensional requirements.

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

The existing Wendy's restaurant has operated in harmony with adjacent properties and land uses, and the redeveloped restaurant will as well. As noted above, the Subject Property is an outparcel of the existing Toco Hills Shopping Center and fronts North Druid Hills Road, a heavily-traveled major arterial. The Subject Property is zoned C-1 and is almost entirely surrounded by other commercial properties zoned C-1. Directly to the northwest and southwest is an access drive and parking for the Toco Hills Shopping Center, zoned C-1. Directly to the southeast is a Chipotle restaurant, zoned C-1. Across North Druid Hills Road are a retail health supplement store and a print/copy store, both zoned C-1. To the north, across North Druid Hills Road is a Wells Fargo Bank, zoned Office-Institutional (OI). The proposed use is appropriate given the Subject Property's location and surrounding uses.

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

The proposed redevelopment will be removing and replacing a like use and will decrease the existing floor area by 469 square feet. An effect of reducing the building's floor area is that there will be a corresponding reduction in demands on public utilities. Therefore, there will be no negative impacts on existing utilities from the proposed redevelopment. Furthermore, the Applicant has confirmed that there are adequate public services, public facilities, and utilities to serve a 2,562 square foot restaurant on the Subject Property.

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 renovated restaurant will not unduly increase traffic or create congestion in the area. According to the Institute of Transportation Engineers' *Trip Generation Manual* (9th Edition), a 2,562 square foot restaurant with drive-thru (ITE category 934) is anticipated to generate 1271.06 total trips on a weekday, 137.35 trips during the A.M. peak hour, and 121.18 trips during the P.M. peak hour. This will be a net reduction of 232.68 weekday trips, 25.14 AM trips, and 22.18 PM trips when compared to the existing 3,031 square foot restaurant. Therefore, the proposed development will reduce the traffic generated resulting in an improvement of existing traffic conditions. The Subject Property is located on North Druid Hills Road, a five-lane state highway classified as a major arterial. This major roadway has sufficient traffic-carrying capacity to continue to serve the renovated restaurant.

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

No. The proposed development will be the same use with smaller building. As a result, the character of the vehicles will be identical to the existing conditions and the volume of traffic

generated by the proposed use will be less than to what exists today. See Subsection II.D, supra, for the proposed traffic analysis.

F. 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.

The Subject Property is currently serviced by two curb cuts on North Druid Hills Road (one for ingress only and one for egress only) and one curb cut allowing access to the Toco Hills Shopping Center's access drive. The number and location of curb cuts will remain the same, but stacking and site circulation will be improved. Moreover, pedestrian safety will be improved through the addition of a crosswalk and ADA access from the right-of-way of North Druid Hills Road.

G. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

No. The Subject Property is surrounded entirely by commercial uses that will not be adversely impacted by the renovated restaurant. In addition, the proposed development will replace an existing like use and no additional noise, smoke, odor, dust, or vibrations will be produced as a result.

H. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

No. Hours of use will remain the same and similar to other businesses in the area.

I. Whether the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

No. The manner of operation will be exactly the same as exists today. In fact, the proposed redevelopment of the property will replace the existing structure with one of a smaller footprint, thereby reducing the impact of the use from what is current today. Accordingly, the

proposed use will not constitute a more intense manner of operation that would adversely impact surrounding properties and, in fact, it will be an improvement over the existing development.

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

As stated in Subsection II.A above, the proposed use will be fully compliant with the C-1 district regulations. Moreover, the proposed development will be compliant with the supplemental use regulations set forth in the Zoning Code § 27-4.2.23. See Subsection II.Q of this Statement of Intent for analysis.

K. Whether the proposed use is consistent with the policies of the Comprehensive Plan.

The Subject Property is designated as “Town Center” (TC) by the County’s Comprehensive Land Use Plan. The TC character area promotes the concentration of residential and commercial structures, which serve many communities in order to reduce automobile travel, promote walkability and increased transit usage. The areas consist of a focal point for several neighborhoods with a variety of activities such as general retail, commercial, professional office, higher-density housing, and appropriate public and open space uses that are easily accessible by pedestrians.

- Pedestrian Scale Development - Create pedestrian scale communities that focus on the relationship between the street, buildings, streetscaping and people.
- Open Space and Linkages - Encourage development and redevelopment in activity centers to provide open space and/or contribute to the public realm with pedestrian linkages, and other design features.

- **Traffic Calming - Organize circulation patterns through traffic calming techniques and access management. Add traffic calming improvements, sidewalks, and increased street interconnections to increase safety and improve walkability.**

The proposed development will improve pedestrian access and linkages to the public realm by improving access from the public sidewalk along North Druid Hills. The proposed redevelopment will promote pedestrian traffic to the restaurant with the installation of ADA compliant access and striped crosswalks to the interior of the site. Moreover, the improved stacking and internal traffic circulation coupled with the improved pedestrian access will help improve safety and walkability within and along the frontage of the site.

L. Whether the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

The Subject Property abuts other commercial uses and is not in close proximity to any residential districts. As a result, no buffer or transitional zones are required for the Subject Property in accordance with Zoning Code § 5.4.5.

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

The refuse and service areas will be adequate to accommodate the renovated restaurant. The redevelopment provides the relocation of the existing dumpster to the eastern side of the Subject Property for better truck access. In addition, the proposed dumpster area will include a four-sided enclosure to conceal its visibility from the right-of way and adjacent properties, in accordance with Zoning Code § 5.4.6.

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

Because the renovated restaurant is suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

O. 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 the adjacent and nearby lots and buildings.

The size of the renovated restaurant will be slightly smaller than the existing restaurant and is appropriate in light of adjacent and nearby properties.

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

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources on or around the Subject Property.

Q. Whether the proposed use satisfies the requirements contained within the Supplemental Regulations for such special land use permit.

Yes. The renovated restaurant and drive-thru facilities meet the requirements of Zoning Code § 27-4.2.23. Specifically, the drive-thru facilities will:

- (a) not be located within 60 feet of a residentially zoned property (the drive-thru facility is \pm 365 feet from the nearest residentially zoned property, as measured from the speaker box);
- (b) not be located on a property less than 10,000 square feet in area and meet the stacking requirements of Article VI (Subject Property is 29,490 square feet and provide 10 stacking spaces);
- (c) provide drive-thru lanes and service windows on the side of the restaurant;
- (d) be constructed of the same materials and be of the same architectural quality as the primary buildings;
- (e) meet the requirements for speaker boxes (the speakers are directed away from residential properties and will face an wooden fence on the adjacent property to the south of the Subject Property);
- (f) have lighting which will be directed away from any residential properties;

- (g) provide stacking spaces with a minimum of 10' in width and 25' in length;
- (h) provide sufficient stacking spaces for a drive through restaurant (the proposed design provides for 10 stacking spaces, each 10 feet wide and 25 feet long);
- (i)(1) have a drive-thru lane that will not impede on and off-site traffic, cross through off-street parking areas, or create unsafe conditions for pedestrians;
- (i)(2) will provide a marked drive-thru lane separated by striping from off-street parking areas;
- (i)(3) include a bypass lane with a minimum width of 10';
- (i)(4) be set back at least 5' from all lot lines and right-of-way lines;
- (i)(5) be cleaned of litter and debris daily, along with the remainder of the property;
- (i)(6) not be located within 500 feet of an elementary, middle or high school;
- (i)(7) be operated pursuant to the SLUP requested herein; and
- (i)(8) use the appropriate distance measurements.

R. Whether the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

No. The renovated restaurant will be the same height (one story) as the existing restaurant, which does not currently create any negative shadow impacts on the adjoining properties.

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

The proposed use ("restaurant") will be the same as the existing use ("restaurant"), and accordingly will not increase the proposed use in the subject character area.

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

Like the existing restaurant, the renovated restaurant would serve both patrons from the surrounding neighborhood as well as travelers passing through the area. The Subject Property's location on a five-lane major arterial and in a predominantly commercial area makes it an appropriate site for continued use as a restaurant with drive-thru. In addition, the community will be benefited by the updated architectural aesthetics of the proposed structure. Also, the proposed redevelopment is consistent with the overall objectives of the Comprehensive Plan. Refer to Subsection II.K, supra, for analysis.

III. NOTICE OF CONSTITUTIONAL CHALLENGE TO UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that the current zoning classification of and rules relative to the Subject Property owner's right to use the Property established in the DeKalb County Zoning Ordinance, to the extent they prohibit this use, are unconstitutional and 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 I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of private property without just compensation and without due process in violation of 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 I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The Applicant respectfully submits that the Board of Commissioners' failure to approve the requested Special Land Use Permit would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the use in question 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 use 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. § 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Special Land Use Permit 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.

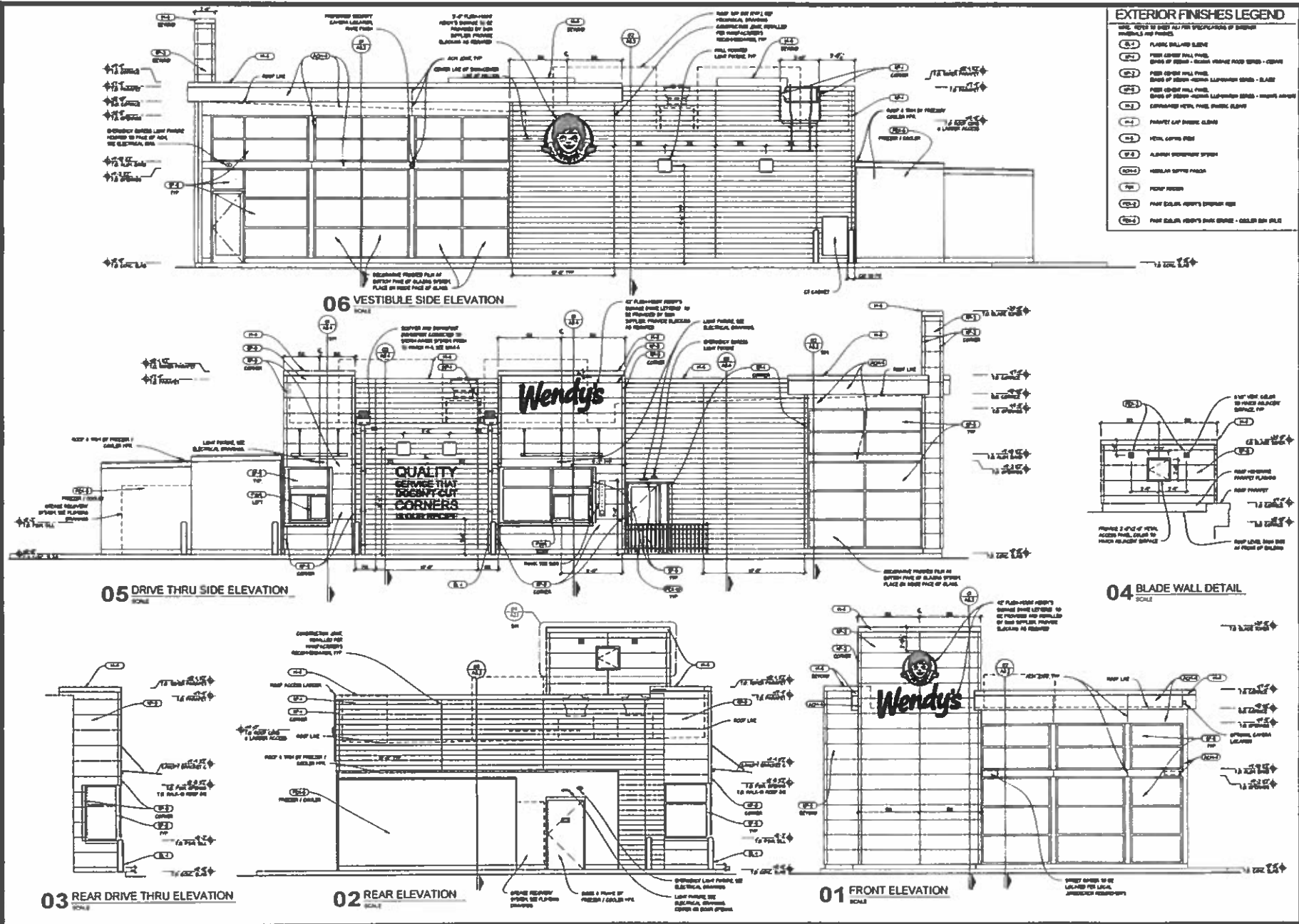
[Signatures Below]

This 7th day of September, 2017.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "K. M. Zickert", is written over a horizontal line.

Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Attorneys For Applicant



SHEET NUMBER: 0000
 SHEET TITLE: EXTERIOR ELEVATIONS
 PROJECT TYPE: FRANCHISE
 CLASSIFICATION: NEW
 OWNER: WEN'S RESTAURANTS, INC.
 SHEET VERSION: 00000001
 UPDATES CLASSIFICATION: FRANCHISE NEW BUILD
 PROJECT YEAR: 2017
 FURNITURE PACKAGE: 2016 V3
 DRAWING RELEASE: 04/20/2017

snidesign
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 2057 NORTH DRUID HILLS RD.
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 404.525.8888
 www.snidesign.com

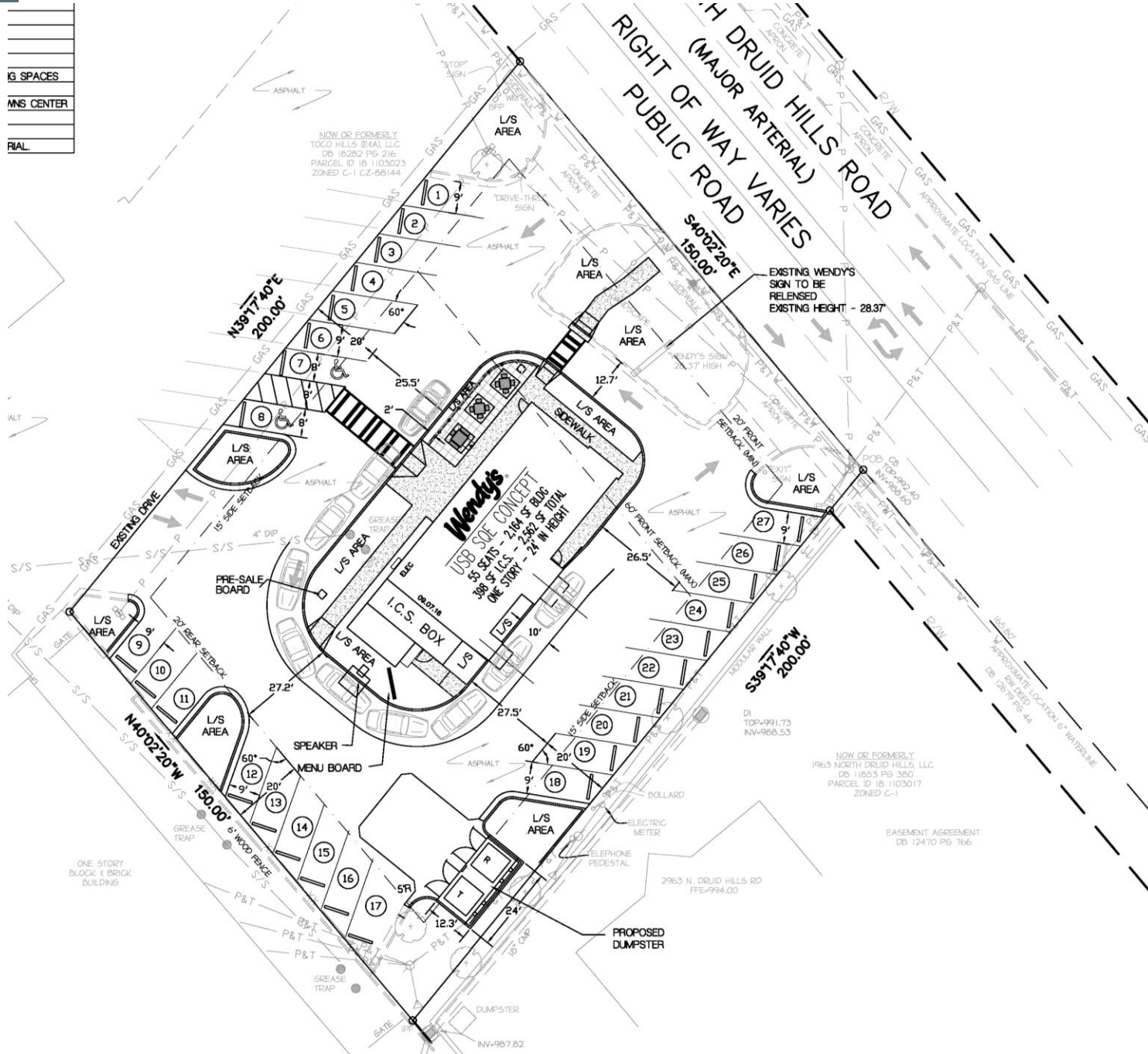
Wendy's
 2057 NORTH DRUID HILLS RD.
 ATLANTA, GA 30329

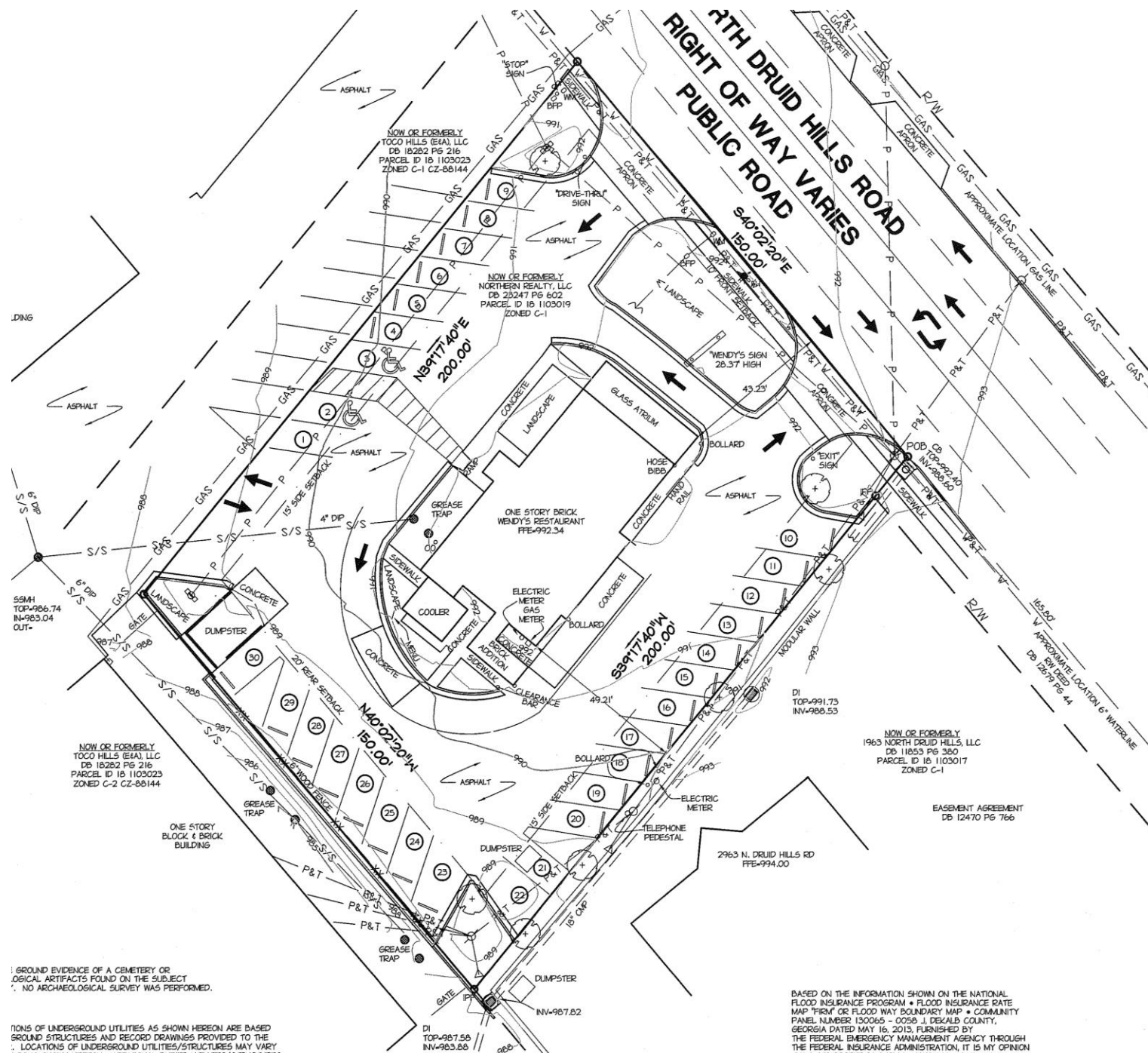
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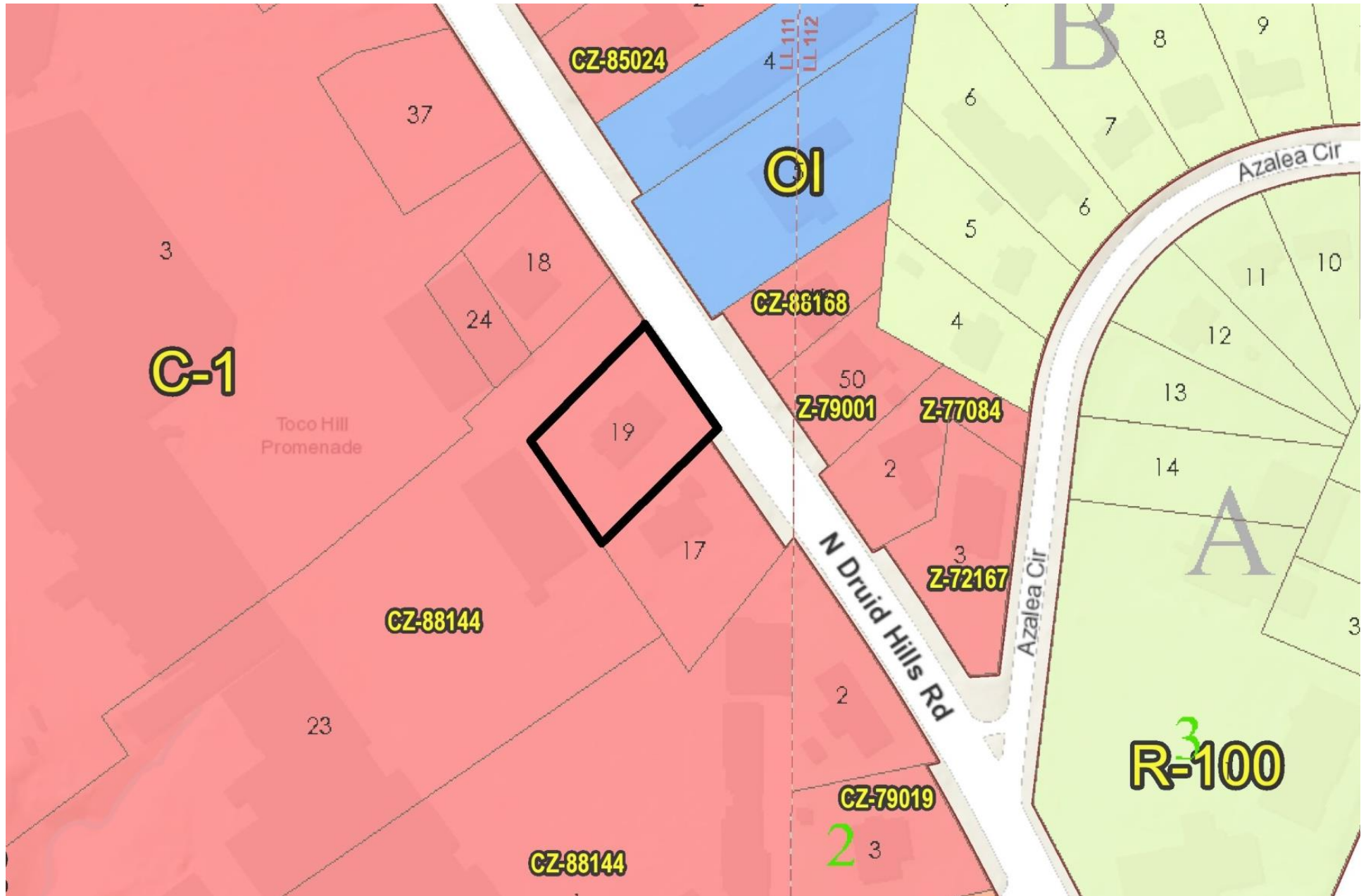




! GROUND EVIDENCE OF A CEMETERY OR
OSICAL ARTIFACTS FOUND ON THE SUBJECT
! NO ARCHAEOLOGICAL SURVEY WAS PERFORMED.

ITIONS OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED
GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE
! LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY

BASED ON THE INFORMATION SHOWN ON THE NATIONAL
FLOOD INSURANCE PROGRAM + FLOOD INSURANCE RATE
MAP "FIRM" OR FLOOD WAY BOUNDARY MAP + COMMUNITY
PANEL NUMBER 130065 - 0058 J, DEKALD COUNTY,
GEORGIA DATED MAY 16, 2015, FURNISHED BY
THE FEDERAL EMERGENCY MANAGEMENT AGENCY THROUGH
THE FEDERAL INSURANCE ADMINISTRATION, IT IS MY OPINION





2933
Giant Package Store
18 111 03 024

Toco Instant Printing

2960
Health Unlimited
18 112 01 050

2957
18 111 03 019
La Parrilla Restaurant

2963
Chipotle
18 111 03 017

Toco Hills Shopping Center



Front of subject property.



Existing interior side entrance from Toco Hills shopping center