

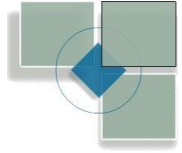


DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 500

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov



Michael Thurmond
Chief Executive Officer

Planning Commission Hearing Date: September 9, 2021
Board of Commissioners Hearing Date: September 30, 2021

STAFF ANALYSIS

Case No.: SLUP-21-1245054 **Agenda #:** N1

Location/Address: 2757 LaVista Road, Decatur, GA. **Commission District:** 2 **Super District:** 6

Parcel ID: 18 149 02 011

Property Owner: Richard Adams

Applicant/Agent: Richard Adams

Acreage: 1.3 acres

Existing Land Use: Oak Grove Market within the Oak Grove Shopping Center.

Surrounding Properties: Townhomes (Cambridge Commons) to the west; a single-family subdivision (Oakshire Subdivision) to the south; a drugstore (Walgreens) and a single-family home to the east across Oak Grove Road; and two-story condominiums (Davis Oaks condominiums) to the north across LaVista Road.

Adjacent Zoning: **North:** RSM & C-1 **South:** C-1 **East:** C-1 **West:** C-1

Comprehensive Plan: NC (Neighborhood Center) **Consistent** **Inconsistent**

Proposed Density: NA **Existing Density:** NA
Proposed Units/Square Ft.: Alcohol outlet within existing Oak Grove Market Grocery Store. **Existing Units/Square Feet:** Oak Grove Market Shopping Center.
Proposed Lot Coverage: NA **Existing Lot Coverage:** NA

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.

SUBJECT PROPERTY/VICINITY

The 1.3-acre project site is located on the southwest corner of LaVista Road and Oak Grove Road. The property is currently developed with a 3,000 square foot grocery store (Oak Grove Market) within a 78,094 square foot shopping center (Oak Grove Market Shopping Center).

Topography of the project site is flat. Surrounding uses consist of Townhomes (Cambridge Commons) to the west; a single-family subdivision (Oakshire Subdivision) to the south; a drugstore (Walgreens) and a single-family home to the east across Oak Grove Road; and two-story condominiums (Davis Oaks condominiums) to the north across LaVista Road.

PROJECT ANALYSIS

The proposed request is to allow an alcohol outlet (beer and wine sales) within the Oak Grove Market grocery store which has been operating out of the Oak Grove Market Shopping Center for over 40 years.

The subject site has approximately 180 feet of frontage along LaVista Road and 290 feet of frontage along Oak Grove Road. Oak Grove Road is a two-lane local road with a center turn lane, curb and gutter, and sidewalks. LaVista Road is a two-lane, minor, arterial road with a center turn lane, curb and gutter, and sidewalks. The existing shopping center has one driveway access to LaVista Road and two curbcuts onto Oak Grove Road. Since the request is merely to expand the retail offerings of the existing grocery store, no additional traffic impacts are anticipated.

Article 4.2.8 Compliance with Supplemental Regulations (Alcohol Outlet)

<u>STANDARDS</u>	<u>COMPLIANCE</u>
1. Alcohol outlets shall not be located within 300 feet of any school building, school grounds, educational facility, college campus, or adult entertainment establishment.	Yes. Based on applicant’s alcohol survey, the nearest school is 2,785 feet away from the subject property, the nearest church is 2,562 feet away from the subject property, and the nearest adult entertainment establishment is 2.6 miles away.
2. Alcohol outlets shall not be located within 600 feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government.	Yes. Based on applicant’s alcohol survey, the nearest alcohol treatment center is 1.25 miles away.
3. Alcohol sales as an accessory use to retail shall not exceed 20% of gross floor area.	Undetermined. Information not provided.

LAND USE AND ZONING ANALYSIS

Section 27-7.4.6 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:

Based on the submitted site plan and information, as well as field investigation of the project site, it appears that the size of the site is adequate for the use contemplated. Alcohol outlets are allowed in the C-1 (Local Commercial) Zoning District, subject to approval of a SLUP. The C-1 district requires 20,000 square feet (approx. .46 acres), and the project site contains 1.3 acres. The project site will be located in an existing grocery store (Oak Grove Market) that has been in operation for over 40 years, and is part of an established 78,094 square foot shopping center (Oak Grove Shopping Center). Additionally, the proposed alcohol outlet will be required to comply with all supplemental regulations for alcohol outlets. Therefore, it appears that there is adequate land area available for the proposed use.

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

Based on the submitted information and site plan, it appears that the proposed retail, accessory use (alcohol outlet) is consistent with the retail, principal use of the existing grocery store (Oak Grove Market) along with other retail and restaurant tenants within the established Oak Grove Shopping Center. Therefore, it appears that the proposed use is compatible with the adjacent and surrounding properties.

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

There will be no burdensome impacts on schools since the proposed request is for non-residential use. It does not appear that there will be a burdensome use of transportation facilities since the site has frontage along and access to a minor arterial (LaVista Road) and is part of an established shopping center (Oak Grove Shopping Center). Since the request is merely to expand the retail offerings of the existing grocery store, additional traffic impacts should be marginal. The applicant will need to obtain a sewer capacity letter from the Department of Watershed Management to verify if sewer capacity is available.

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:

Based on field investigation of the project site, it appears that the public street on which the proposed use is to be located is adequate. The proposed accessory use should not unduly increase traffic congestion since the alcohol outlet will be located within an established commercial building within the Oak Grove Shopping Center site and accesses a minor arterial road (LaVista Road). Since the request is merely to expand the retail offerings of the existing grocery store, additional traffic impacts should be marginal.

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:

See Criteria C and D. Moreover, the character of vehicles associated with the alcohol outlet should be similar to that of the retail market presently.

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:

G. See Criteria C and D. 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:

There are no anticipated adverse impacts on surrounding properties due to noise, smoke, odor, dust, or vibration generated by the proposed use. Since the request is merely to expand the retail offerings of the existing grocery store, additional traffic impacts should be marginal. Additionally, the Planning Department is recommending as a condition of approval that there be compliance with all supplemental regulations relating to alcohol outlet, to reinforce the regulations themselves.

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:

Based on the submitted information, the proposed hours of operation are the same as the existing food market, Monday—Thursday 8am-7pm and Friday—Saturday 8am-6pm. Therefore, the proposed use should not create adverse impacts by reason of hours of operation.

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

See criteria “H”.

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:

While the existing shopping center does not comply with some of the requirements of the zoning district in which the property is located (i.e. building setbacks), the site is a non-conforming site that was constructed circa 1991. Alcohol outlets are allowed in the C-1 (Local Commercial) Zoning District, subject to approval of a SLUP.

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

Based on the submitted information, it appears that the proposed use with recommended conditions is consistent with the policies and strategies of the Neighborhood Center (NC) Character Area of the *DeKalb County Comprehensive Plan* calling for a mix of retail, office, services, and employment to serve neighborhoods.

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 transitional buffers are required since no new construction is proposed.

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

Based on the submitted information, ample refuse and service areas are provided.

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

The alcohol outlet would be within an established grocery store that has been in operation for over 40 years (Oak Grove Market) and should not be limited in 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:

Based on the submitted plan and information, the proposed use will be located within an established commercial building. Therefore, there are no impacts on the size, scale, and massing of adjacent and nearby lots and buildings.

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

Based on the submitted site plan and information, as well as field investigation of the project site, it does not appear that the proposed plan would adversely affect historic buildings, sites, districts, or archaeological resources.

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

Based on the submitted information, it appears that the proposed use does not comply with all applicable supplemental regulations for alcohol outlets (Section 4.2.8 of the *Zoning Ordinance*), as described in the project analysis. The applicant has not demonstrated that the sale and storage of alcohol shall not exceed 20% of the gross floor area. The Planning Department's recommended conditions of approval will require compliance with all supplemental regulations be demonstrated before the issuance of any building permits.

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:

Based on the submitted plan and information, the proposed use will be located within an established commercial building which should not create a negative shadow impact on any adjoining lot or building.

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*:

See Criterion K. Additionally, the applicant contends in the letter of intent that, "[t]he proposed use would not result in a disproportional proliferation of that or similar uses in the subject area. The beer and wine offered will be specially selected to pair well with the to-go food offerings of the existing food market."

Staff Recommendation: APPROVAL WITH CONDITIONS (rev. 9/10/2021)

The proposed use (with the recommended conditions) is consistent with the policies and strategies of the Neighborhood Center (NC) Character Area of the *DeKalb County Comprehensive Plan*, which calls for a mix of retail, office, services, and employment to serve neighborhoods. It appears that the proposed retail use (alcohol outlet) is consistent with the retail use of the existing grocery store wherein it will be located (Oak Grove Market) and the other retail and restaurant tenants of the established Oak Grove Shopping Center (Sec 7.4.6.B). Additionally, the Planning Department is recommending as a condition of approval that there be compliance with all supplemental regulations relating to alcohol outlet, to reinforce the regulations themselves. Since the request is merely to expand the retail offerings of an existing grocery store within an established shopping center, no additional traffic impacts are anticipated (Sec 7.4.6.B). Therefore, the Department of Planning and Sustainability recommends approval with the following conditions.

1. Compliance with alcohol license requirements and supplemental zoning regulations of DeKalb County.
2. The alcohol outlet shall be located within the existing 3,400 square foot suite of the Oak Grove Market grocery store within the Oak Grove Market Shopping Center.
3. The alcohol outlet shall be limited to retail sales of beer and wine only.
4. No consumption of alcohol allowed on the premises.

Attachments:

1. Public Works Department Comments
 - a. Land Development Division
 - b. Traffic Engineering Division
2. Watershed Management Department Comments
3. Board of Health Comments
4. Board of Education Comments
5. Application
6. Site Plan
7. Zoning Map
8. Aerial Photograph
9. Photographs



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER mmalexander@dekalbcountyga.gov OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS WATER AND SEWER

Case No.: SLUP-21-1245054

Parcel I.D. #: 18 149 02 011

Address: 2757 Lavista Road

Decatur, Georgia

WATER:

Size of existing water main: 6" AC and 8" CI Water Main adequate (adequate/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: South Fork Peachtree Creek Basin

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

Water Treatment Facility: R. M. Clayton WTF () adequate () inadequate

Sewage Capacity: * (MGPD)

Current Flow: 127 (MGPD)

COMMENTS:

* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

If no square footage change, sewer capacity request will be for zero flow increase.

-D Taylor

Signature: 

Zoning

N1. No Comment

N2. Panola Road is classified as a Major Arterial. Infrastructure requirements: 50 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 6 foot sidewalk, 4 foot bike lane (or 10 foot multiuse path in lieu of required bike lanes and 6 foot sidewalk), 10 foot landscape strip and street lights. Young Road is classified as a collector road. Infrastructure requirements: 35 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 6 foot sidewalk, 4 foot bike path (or 10 foot multiuse path in lieu of required bike lanes and 6 foot sidewalk), 10 foot landscape strip and street lights. The access point on Young Road must be right in/right out only and be located father from the intersection of Young Road at Panola Road. See Land Development Code Section 14-200 (6) for required minimum spacing to get proper offset from the Family Dollar access point. Verify that the access point meets intersection and stopping sight distance based on AASHTO design guidelines when submitting for permitting.

N3. No file forwarded for review.

N4. North Druid Hills is classified as a Major Arterial. Driveway is to be right in/right out only. Verify that the access point meets intersection and stopping sight distance based on AASHTO design guidelines when submitting for permitting. Raise the curb along North Druid Hills to current standards. Infrastructure requirements: 50 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 6 foot sidewalk, 4 foot bike lane (or 10 foot multiuse path in lieu of required bike lanes and 6 foot sidewalk), 10 foot landscape strip and street lights.

N5. No Comment

N6. No file forwarded for review.

N7. Memorial Drive is a state route. Review and approval of GDOT District 7 is required prior to a land disturbance permit (rmathis@dot.ga.gov) Memorial Drive is classified as a Major Arterial. Infrastructure Requirements: 50 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 6 foot sidewalk, 4 foot bike lane (or 10 foot multiuse path in lieu of required bike lanes and 6 foot sidewalk), 10 foot landscape strip and street lights. East Anderson Road is classified as a local road. The Land Development Code requires improvements on all property frontages. Infrastructure Requirements: 27.5 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 5 foot sidewalk, 6 foot landscape strip and street lights. A variance from the Zoning Board of Appeals for the Zoning Code requirements is necessary to eliminate the infrastructure improvements. However, the Transportation Division requires that the right of way dedication of 27.5 feet from centerline be donated- even if ZBA variances for sidewalks, streetlights, etc. are granted. The Land Development Code Section 14-200 (5) requires 3 access points for 170 units. If you propose over 150 units, you will need a variance from the BOC for the Land Development Code prior to approval of the land development permit. You will also need a variance from the BOC if you do not dedicate the right of way on East Anderson Road.

N8. No file forwarded for review.

N9. Columbia Drive is classified as a minor arterial. . Infrastructure Requirements: 40 foot right of way dedication from centerline or such that all public infrastructure is within public right of way, whichever greater, 6 foot sidewalk, 4 foot bike lane (or 10 foot multiuse path in lieu of required bike lanes and 6 foot sidewalk), 10 foot landscape strip and street lights. Interior roads to be private. Only one access point (30 units). Verify that the access point meets intersection and stopping sight distance based on AASHTO design guidelines when submitting for permitting.

N10. No Comment

N11. No Comment

N12. No Comment.



Board of Health

08/20/2021

To: Planning & Sustainability Department
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, tourist accommodation 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 GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

(N-1)

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE ALEXANDER mmalexander@dekalbcountyga.gov AND/OR LASONDRA HILL lahill@dekalbcountyga.gov

**COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: SLUP-21-1245034 Parcel I.D. #: 18-149-02-011

Address: 2757
LAVIEZA Rd
DEKALB, GA 30033

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.

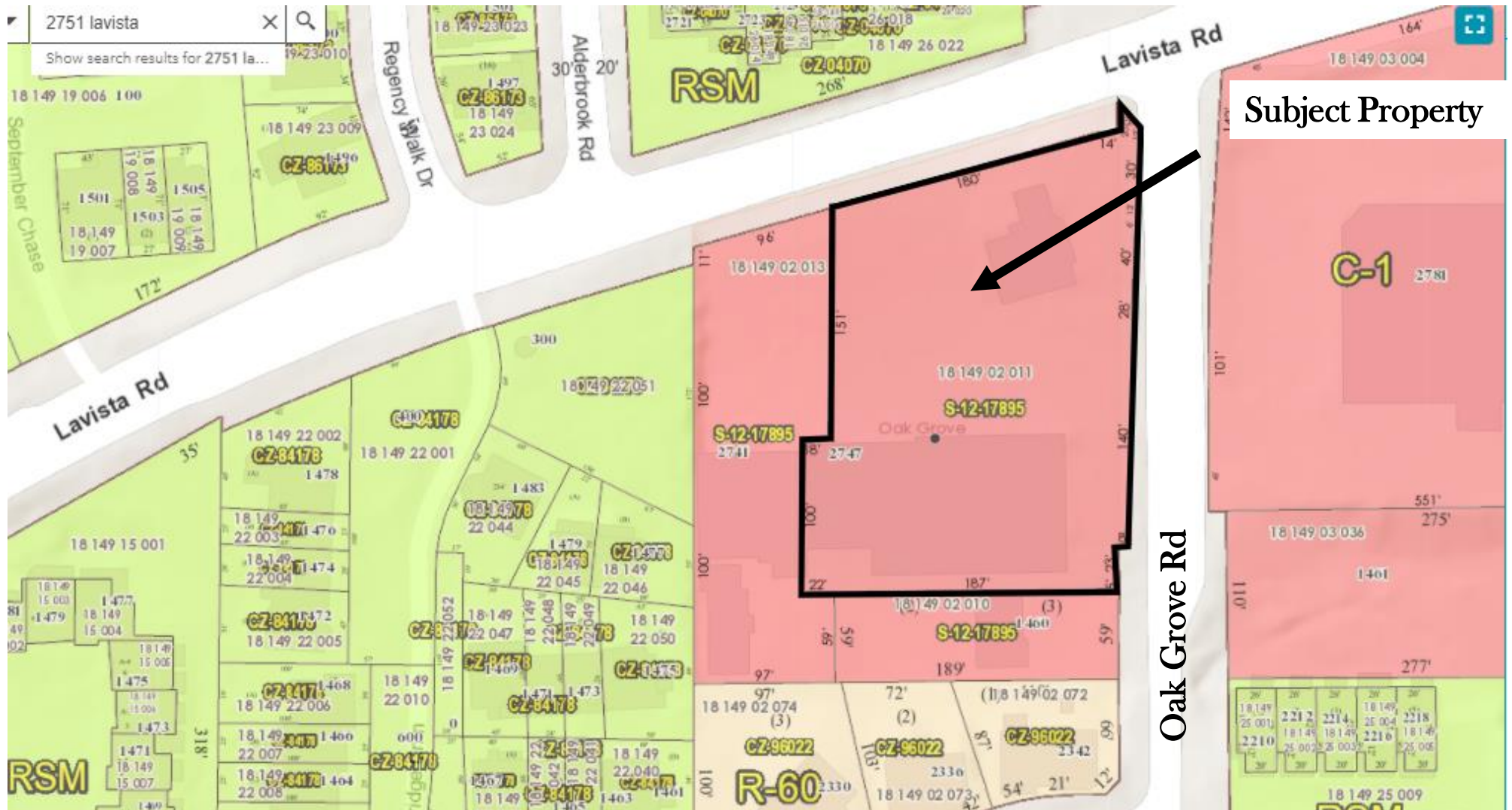
According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7th Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____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

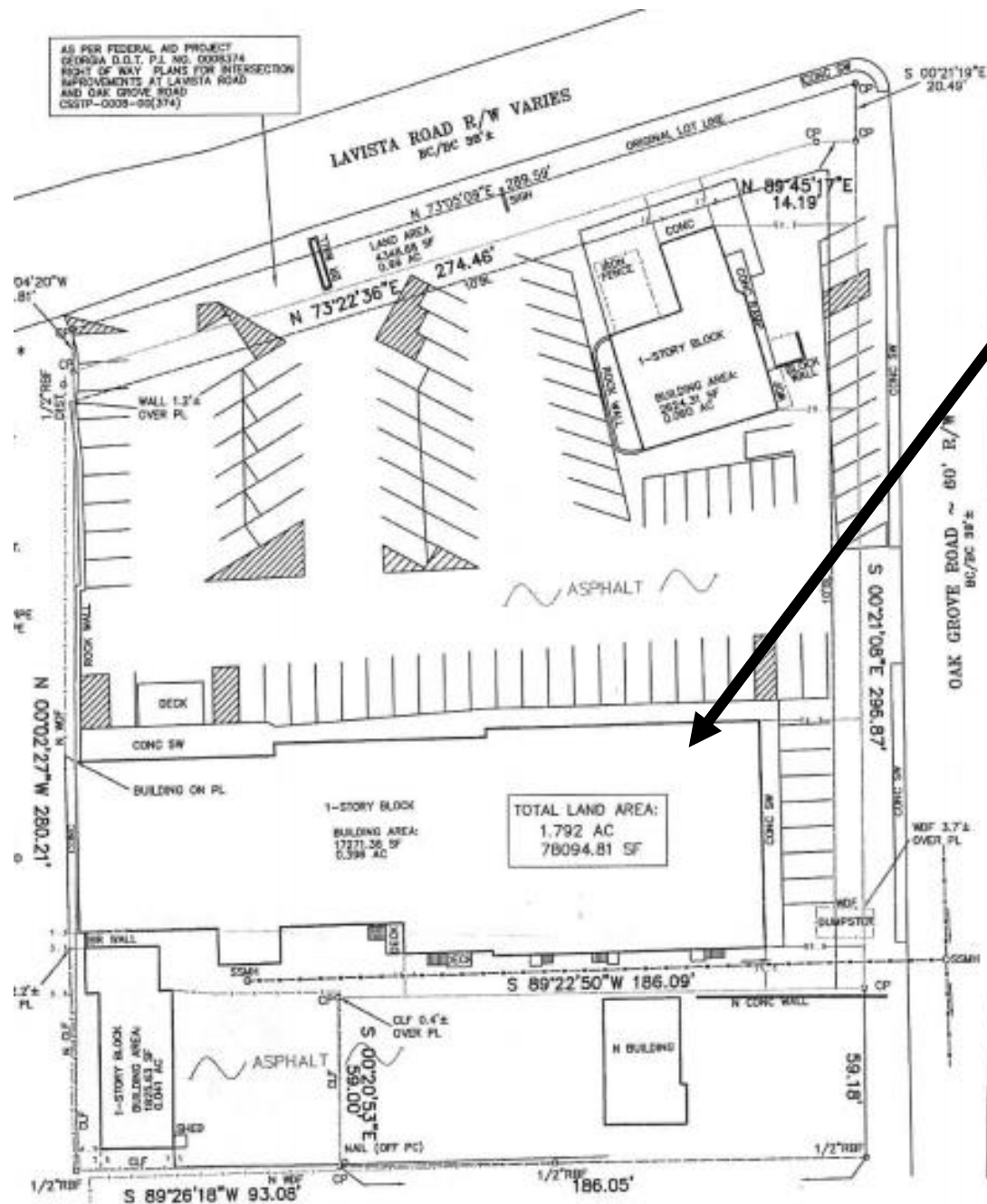
Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given 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:

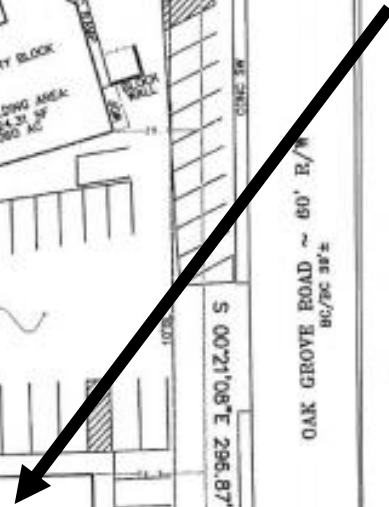
Reviewed, and found nothing that would disrupt traffic flow.

Signature: [Signature] David M Row





Subject Suite
(Oak Grove Mkt)





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: Richard Adams / Oak Grove Market

Daytime Phone #: _____ Fax #: _____

Mailing Address: 2757 Lavista Road, Decatur, GA 30033

E-mail: oakgrovemarketdecatur@gmail.com

OWNER NAME: Richard Adams (If more than one owner, attach contact information for each owner) See Attached

Daytime Phone #: 40 4797-4316 Fax #: _____

Mailing Address: 2588 Flemington Rd., Atlanta, GA 30345

E-mail: oakgrovemarketdecatur@gmail.com

SUBJECT PROPERTY ADDRESS OR LOCATION: 2757 Lavista Road, Decatur, GA 30033

_____, DeKalb County, GA, _____

District(s): 18 Land Lot(s): 1 4 Block(s): _____ Parcel(s): _____

Acreage or Square Feet: 3,000 sq ft Commission District(s): 2 Existing Zoning: C-1

Proposed Special Land Use (SLUP): Beer + Wine Package Sales

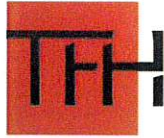
I hereby authorize the staff of the Planning and Development Department to inspect the property that is the subject of this application.

Owner: _____ Agent: Signature of Applicant: [Signature]
(Check One)

Printed Name of Applicant: Richard Adams

Notary Signature and Seal: [Signature]





TFH | LEGAL

TAYLOR | FEIL | HARPER | LUMSDEN
ATTORNEYS AT LAW

D. Taylor Harper, Esq.
THarper@TFHlegal.com

June 30, 2021

Via Federal Express Tracking No. 7741 4012 5850

DeKalb Department of Planning & Sustainability
Attn: Mr. Matthew Williams
330 W. Ponce de Leon Ave
Decatur, Georgia 30030

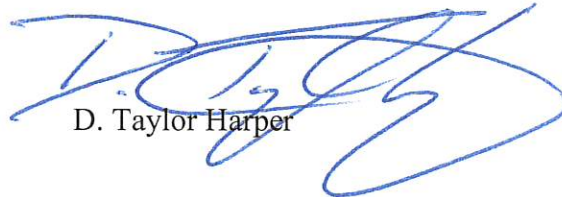
Re: Oak Grove Market – SLUP Application
Ref. No. 11246.03

Dear Mr. Williams:

This firm represents Oak Grove Market and has enclosed its SLUP application. If you have any question or wish to discuss this further, please contact me.

Regards,

TAYLOR, FEIL, HARPER & LUMSDEN, P.C.



D. Taylor Harper

SPECIAL LAND USE PERMIT CHECKLIST

(SUBMIT 4 COMPLETE, COLLATED, HARDCOPY SETS AND 1 SET IN PDF FORMAT ON FLASH DRIVE OR CD)

- _____ 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 **Pre-Submittal Community Meeting** with surrounding neighborhood associations and residents. Notify staff in advance of date, time, and location of meeting. **Provide documentation** (i.e., 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 the 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, consistent with the plat(s) on the 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. 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, Ordinance
- _____ 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 building, 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.
- _____ 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.

10153

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

OPERATING ACCOUNT
3400 PEACHTREE RD NE, STE 1515
ATLANTA, GA 30326



06/30/2021

PAY TO THE ORDER OF DeKalb County

\$ 400.00

DOLLARS

Four Hundred Dollars and 00/100*****

DeKalb County

MEMO

[Handwritten Signature]
AUTHORIZED SIGNATURE

⑈000 10 153⑈ ⑆06 1 20 1 754⑆ 0005052645⑈

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

10153

INVOICE	DATE	DESCRIPTION	INV AMOUNT
	6/30/2021	11246.03/Oak Grove Market - Special Land Use Permit App. Fee	400.00

Check# / Date 10153 6/30/2021 DeKalb County 400.00

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

10153

INVOICE	DATE	DESCRIPTION	INV AMOUNT
	6/30/2021	11246.03/Oak Grove Market - Special Land Use Permit App. Fee	400.00

Security features. Details on back.

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION

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E-mail: oakgrovemarketdecatur@gmail.com

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_____, DeKalb County, GA, _____

District(s): 18 Land Lot(s): 1 4 Block(s): _____ Parcel(s): _____

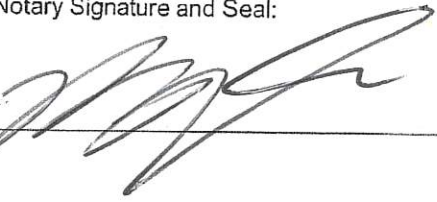
Acreage or Square Feet: 3,000 sq ft Commission District(s): 2 Existing Zoning: C-1

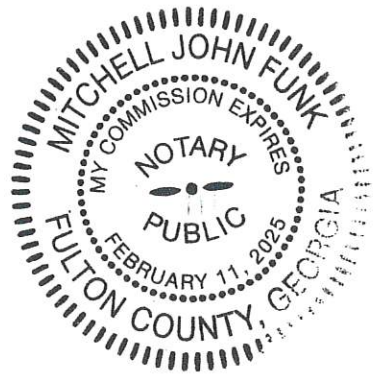
Proposed Special Land Use (SLUP): Beer + Wine Package Sales

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: _____
(Check One)

Printed Name of Applicant: Richard Adams

Notary Signature and Seal: _____




Additional Owners

Kenneth Sears, 2478 Williamswood Ct., Decatur, GA 404-315-9831

Richard Watson, 1026 Willivee Dr., Decatur GA 404-542-3736

DEPARTMENT OF PLANNING & SUSTAINABILITY

- A. Filing Fee:** \$400. Filing fees shall not be refunded at any time following the deadline for amendments.
- B. Criteria:** Sec. 27-873. Special land use permits; criteria to be applied. The following criteria shall be applied by the Department of Planning and Sustainability, the Planning Commission, and the Board of Commissioners in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the Board of Commissioners 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 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;
 - B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;
 - C. Adequacy of public services, public facilities, and utilities to serve the use contemplated;
 - 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;
 - 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;
 - F. Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular references to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency;
 - G. Whether or not 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;
 - H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
 - I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;
 - J. Whether or not the proposed plan is consistent with all of the requirements of the zoning district classification in which the use is proposed to be located;
 - K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan;
 - L. Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;
 - M. Whether or not there is adequate provision of refuse and service areas;
 - N. Whether the length of time for which the special land use permit is granted should be limited in 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 the adjacent and nearby lots and buildings;
 - P. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;
 - Q. Whether the proposed use satisfies the requirements contained within the Supplemental Regulations for such special land use permit.
 - R. Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.
 - S. Whether the proposed use would result in a disproportional proliferation of that or similar uses in the subject character area.
 - T. 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.

C. Additional Criteria is contained in Supplemental Regulations of Zoning Ordinance: Sec. 27-874. Additional criteria for specified uses: "In addition to the criteria contained in Sec. 27-873 and Sec. 27-863 listed above, which each applicant for special land use permit is required to meet, Article IV, Supplemental Regulations of the DeKalb County Zoning Ordinance shall apply to that specific land use being applied for. No application for a Special Land Use permit for the uses specified shall be granted by the Board of Commissioners unless it is determined that all requirements contained within the zoning district in which such property is located, and the criteria contained in Section 27-873 and Article IV, Supplemental Regulations have been met."



DeKalb County
GEORGIA

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 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: 6/29/21

TO WHOM IT MAY CONCERN:

(I) (WE), Kontoes and Sons Properties, LLC
Name of Owner(s)

being (owner) (owners) of the subject property described below or attached hereby delegate authority to
Richard Adams/Oak Grove Market
Name of Applicant or Agent

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

Notary Public

Owner

Notary Public _____ Owner _____

Notary Public _____ Owner _____

Notary Public _____ Owner _____

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

PRE-APPLICATION FORM
REZONE, SPECIAL LAND USE PERMIT, MODIFICATION, AND LAND USE
(Required prior to filing application: signed copy of this form must be submitted at filing)

Applicant Name: Richard Adams Phone: 404-797-4316 Email: info@oakgrovemarket.com

Property Address: 2757 Lavista Road

Tax Parcel ID: 18 149 02 011 Comm. District(s): 2 & 6 Acreage: ??

Existing Use: been over 40 years retail market –Oak Grove Market approx 3000 sf Proposed Use: Alcohol Outlet—beer and wine sales to go no consumption

Supplemental Regs: NA Overlay District: NA DRI: NA

Rezoning: Yes No

Existing Zoning: _____ Proposed Zoning: _____ Square Footage/Number of Units: _____

Rezoning Request: _____

Land Use Plan Amendment: Yes No

Existing Land Use: _____ Proposed Land Use: _____ Consistent Inconsistent

Special Land Use Permit: Yes No Article Number(s) 27- _____

Special Land Use Request(s) _____

Major Modification:

Existing Case Number(s): NA

Condition(s) to be modified:

DEPARTMENT OF PLANNING & SUSTAINABILITY

WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION

Pre-submittal Community Meeting: Review Calendar Dates: PC: 9/9/21* BOC:
9/30/21 Letter of Intent: Impact Analysis: Owner Authorization(s): Campaign
Disclosure: Zoning Conditions: Community Council Meeting: 08/10/21* Public Notice,
Signs: Tree Survey, Conservation: Land Disturbance Permit (LDP): Sketch
Plat: Bldg. Permits: Fire Inspection: Business License: State
License: Lighting Plan: Tent Permit: Submittal Format: NO STAPLES, NO
BINDERS PLEASE

***Filing deadline for sept. agenda cycle is July 1 2021**

Deadline for holding virtual community meeting with 15 days notice is 6/30/21

Review of Site Plan

Density: NA Density Bonuses: NA Mix of Uses: NA Open Space:
Enhanced Open Space: Setbacks: front NA-EXISTING BUILDING—sides side
corner rear Lot Size: Frontage: Street Widths: Landscape
Strips: Buffers: Parking Lot Landscaping: Parking - Auto: Parking -
Bicycle: Screening: Streetscapes: Sidewalks: Fencing/Walls:
Bldg. Height: Bldg. Orientation: Bldg. Separation: Bldg. Materials: Roofs:
Fenestration: Façade Design: Garages: Pedestrian Plan: Perimeter Landscape
Strip:

Possible Variances: NA—want to use existing building—no proposed additions or renovations to
existing buildings or to the site. Site is already developed with shopping center.

Comments: Need to indicate square footage within the suite Present justificaiton to show
compatibility with surrounding area.

DEPARTMENT OF PLANNING & SUSTAINABILITY

Planner: John Reid Date 6/9/2021

Filing Fees

REZONING: RE, RLG, R-100, R-85, R-75, R-60, MHP, RSM, MR-1	\$500.00
RNC, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, MU-5	\$750.00
OI, OD, OIT, NS, C1, C2, M, M2	\$750.00
LAND USE MAP AMENDMENT	\$500.00
SPECIAL LAND USE PERMIT	\$400.00

Notice Date: Friday, June 11, 2021

PUBLIC NOTICE

To

Request for a Special Land Use Permit for an “Alcohol Outlet”

Filed by: Richard Adams/Oak Grove Market

Located at: 2757 Lavista Road

Decatur, GA 30033

Current Use – Retail Market (for over 40 years)

Proposed Use – Retail Market, including the sale of beer and wine by the package

Hours of Operation – Mon – Thurs: 8am – 7pm, Fri – Sat: 8am – 6pm, Sun: Closed

PRE-SUBMITTAL COMMUNITY MEETING TO TAKE PLACE AT:

Location: Zoom (<https://us02web.zoom.us/j/86050154753>)

Date & Time: Monday, June 28, 2021 at 6:30 PM

If you have any questions regarding the purpose of the meeting, please do not hesitate to contact Taylor Harper at tharper@tfhlegal.com or 404-214-1200.

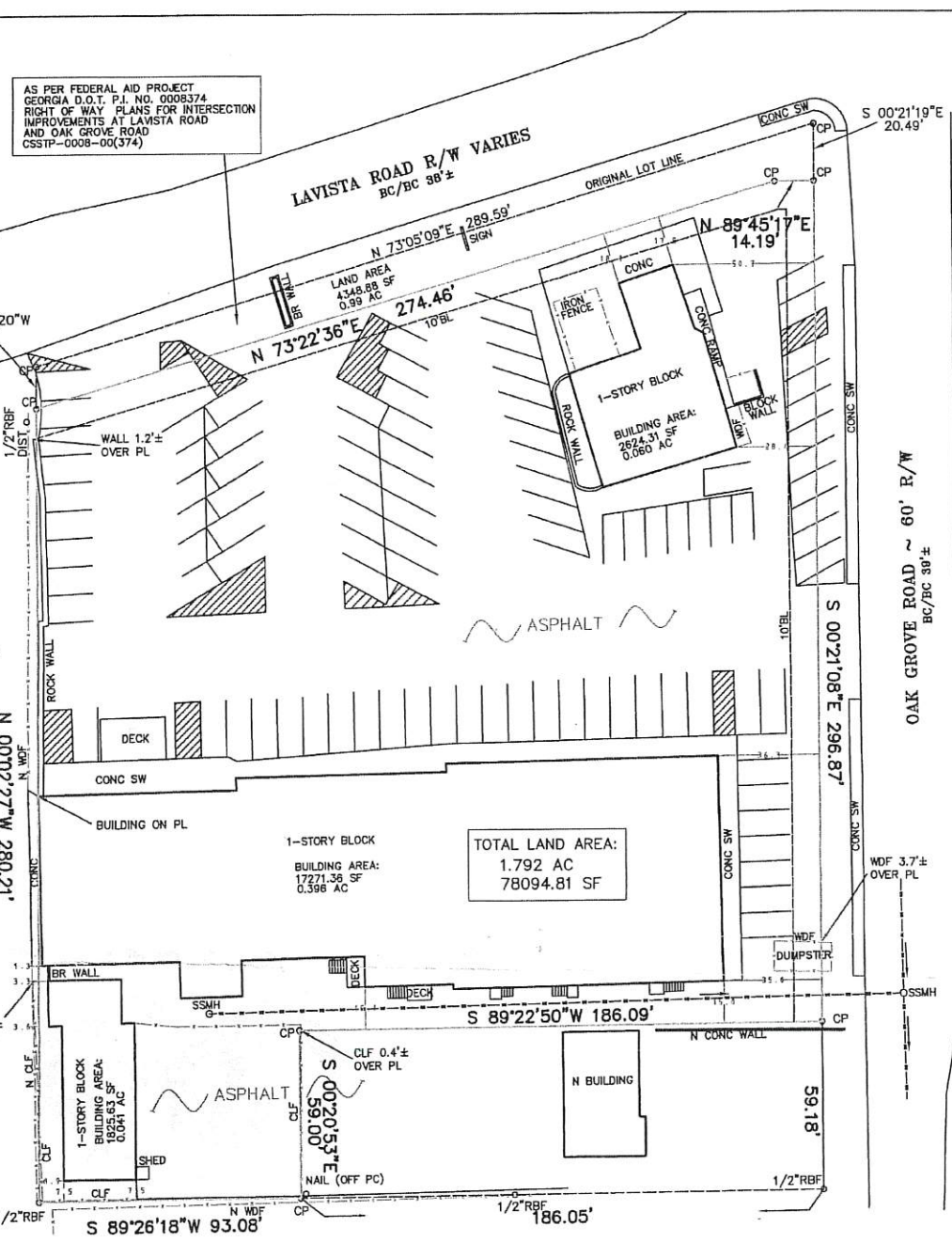
BEGINNING at an iron pin found at the intersection of the southerly right of way line of LaVista Road with the west right of way line of Oak Grove Road, thence south along the west right of way line of Oak Grove Road 0 degrees 00 minutes 12 seconds west 317.30 feet to an iron pin found; thence south 89 degrees 43 minutes 40 seconds west along the northerly property line of Evelyn W. Aycock 186.09 feet to a point thence south 0 degrees 00 minutes 035 seconds east 59 feet to an iron pin found on the property line of Oakshire Subdivision; thence south 89 degrees 47 minutes 05 seconds west along said property line of Oakshire Subdivision 93.10 feet to an iron pin found; thence north 0 degrees 18 minutes 23 seconds east along the east property line of Cambridge Commons Town Homes 295.03 feet to an iron pin found on the southerly right of way line of LaVista Road thence north 73 degrees 26 minutes 44 seconds east along said right of way line 289.59 feet to the point of BEGINNING. As shown on that plat of survey for Homer Lee Cheek, dated May 2, 2000 by Goble & Associates, Inc., Georgia Registered Surveyor No. 1081.

AS PER FEDERAL AID PROJECT
 GEORGIA D.O.T. P.I. NO. 0009374
 RIGHT OF WAY PLANS FOR INTERSECTION
 IMPROVEMENTS AT LAVISTA ROAD
 AND OAK GROVE ROAD
 CSSTP-0008-00(374)



*** LEGEND ***

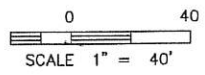
- POB POINT OF BEGINNING
- LLL LAND LOT LINE
- MH MAN HOLE
- SSL SANITARY SEWER LINE
- CO SAN SEWER CLEANOUT
- CB CATCH BASIN
- JB JUNCTION BOX
- DI DRAINAGE INLET
- YI YARD INLET
- HW HEAD WALL
- PP POWER POLE
- PW POWER LINE
- SSE SANITARY SEWER ESMT.
- DE DRAINAGE EASEMENT
- UE UTILITY EASEMENT
- AE ACCESS EASEMENT
- TB TOP OF BANK
- CMP CORRUGATED METAL PIPE
- RCP REINFORCED CONC. PIPE
- APP AS PER PLAT
- APD AS PER DEED
- APR AS PER RECORD
- APF AS PER FIELD
- BC BACK OF CURB
- EP EDGE OF PAVEMENT
- EB ELECTRIC POWER BOX
- GM GAS METER
- WM WATER METER
- WV WATER VALVE
- OH OVERHANG
- OU OWNERSHIP UNCLEAR
- IP IRON PIN FOUND
- IPS IRON PIN SET
- OTP OPEN TOP PIPE FOUND
- CTP CRIMP TOP PIPE FOUND
- RB REINFORCING BAR FOUND
- RBS REINFORCING BAR SET
- MAG MAGNETIC READING IP
- AI ANGLE IRON FOUND
- CP CALCULATED POINT
- X- FENCE
- CLF CHAIN LINK FENCE
- WDF WOOD FENCE
- WRF WIRE FENCE
- WW WET WATER
- FC FENCE CORNER
- BL BUILDING LINE
- R/W RIGHT-OF-WAY
- PL PROPERTY LINE
- PC PROPERTY CORNER
- CL CENTER LINE
- CPT CARPORT
- BR BRICK
- FR FRAME
- WD WOOD
- P PLAT
- D DEED
- R RECORD
- F FIELD
- N 'N'BORS.



I HAVE THIS DATE, EXAMINED THE "FIA FLOOD HAZARD MAP" AND FOUND IN MY OPINION REFERENCED PARCEL (●) (IS NOT) IN AN AREA HAVING SPECIAL FLOOD HAZARDS, WITHOUT AN ELEVATION CERTIFICATION SURVEYOR IS NOT RESPONSIBLE FOR ANY DAMAGE DUE TO SUCH PARCEL.
 MAP ID: 13089C0056H EFFECTIVE DATE: 05/07/2001
 ZONE: X

THE FLOOD INFORMATION ON THIS PLAT HAS BEEN DETERMINED AFTER REVIEW OF MAPS WHICH ONLY APPROXIMATE THE LOCATION OF THE APPLICABLE FLOOD HAZARD AREA. A SECOND OPINION OR COMPREHENSIVE FLOOD EVALUATION STUDY IS SUGGESTED FOR MORE ACCURATE INFORMATION. FOR FURTHER INFORMATION CONTACT THE LOCAL DRAINAGE DEPARTMENT, CORPS OF ENGINEERS AND INSURANCE COMPANY OR AN APPRAISER.

THIS PLAT WAS PREPARED TO SHOW THE APPROXIMATE LOCATION OF THE IMPROVEMENTS AND IS NOT RECORDABLE. FENCES SHOULD NOT BE PLACED USING SIDE DIMENSIONS FROM HOUSE. ALL MATTERS OF TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHT-OF-WAY PUBLIC OR PRIVATE.



PROPERTY IS ZONED C-1
 BUILDING SETBACK:
 FRONT 10'
 SIDE 0'
 REAR 0'

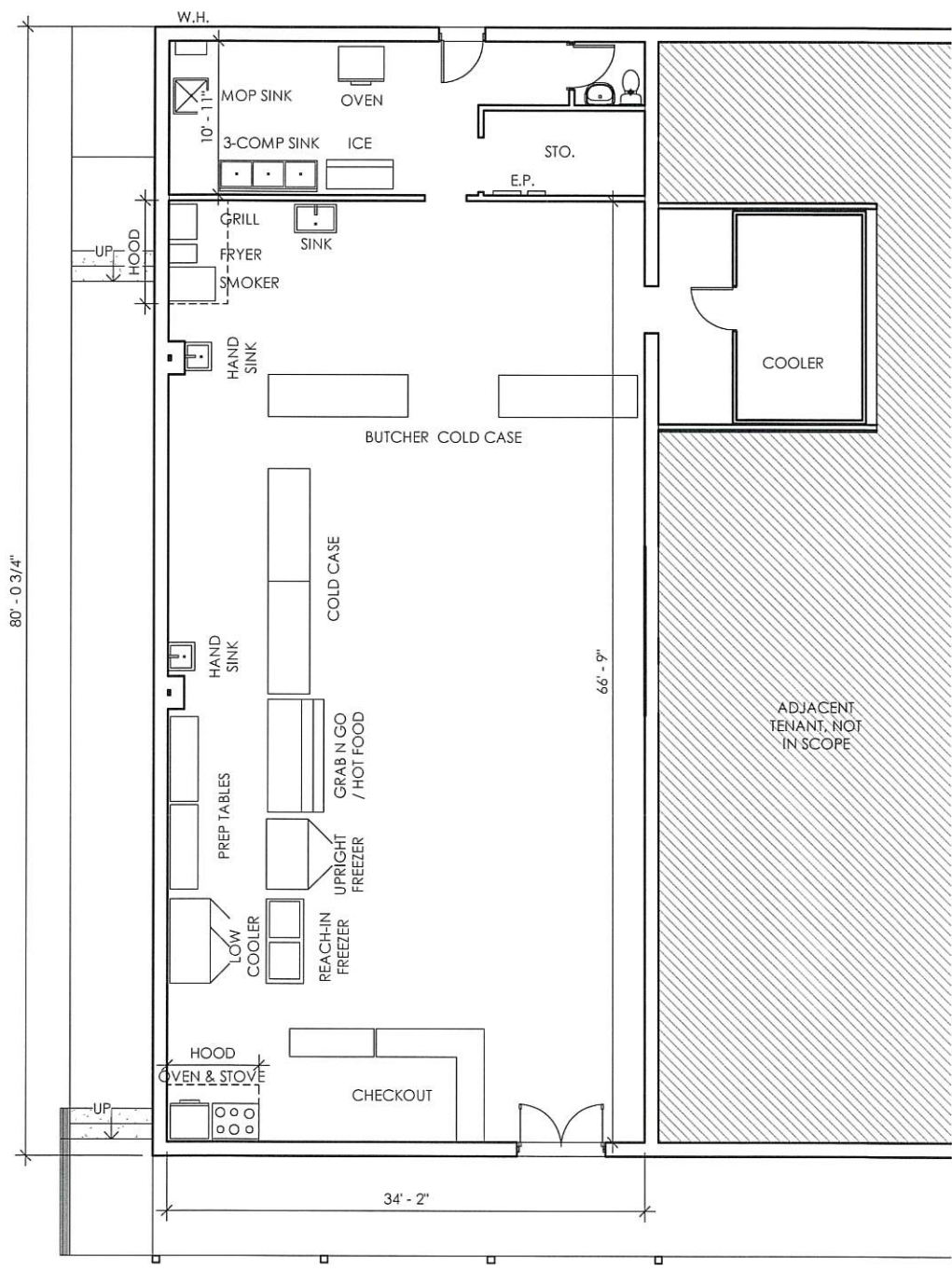


IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

PLAT PREPARED FOR:	
2749 LAVISTA ROAD	
LOT	BLOCK
SUBDIVISION	UNIT
LAND LOT 149	18TH DISTRICT
SECTION	
DEKALB COUNTY, GEORGIA DB.11544/PG.180	
FIELD WORK DATE APR 30, 2012	PRINTED/SIGNED MAY 03, 2012
SURVEY LAND EXPRESS, INC	
LAND SURVEYING SERVICES	
70 LENOX POINTE ATLANTA, GA 30324	FAX 404-601-0911 TEL 404-252-57
JOB#20120250	INFO@SURVEYLANDEXP.COM

SURVEY NOTES:

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROCESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, TELEPHONE, ELECTRIC, WATER AND SEWER, GAS COMPANIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.
2. THIS PLAT WAS PREPARED TO SHOW THE APPROXIMATE LOCATION OF THE IMPROVEMENTS AND IN NOT RECORDABLE. FENCES SHOULD NOT BE LOCATED USING SIDE DIMENSIONS FROM THE HOUSE. ALL MATTERS OF THE TITLE ARE EXCEPTED. THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHT OF WAY PUBLIC OR PRIVATE.
3. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
4. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECERTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS, ENTITY.



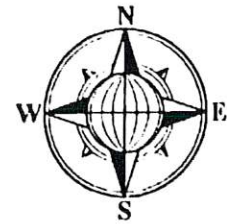
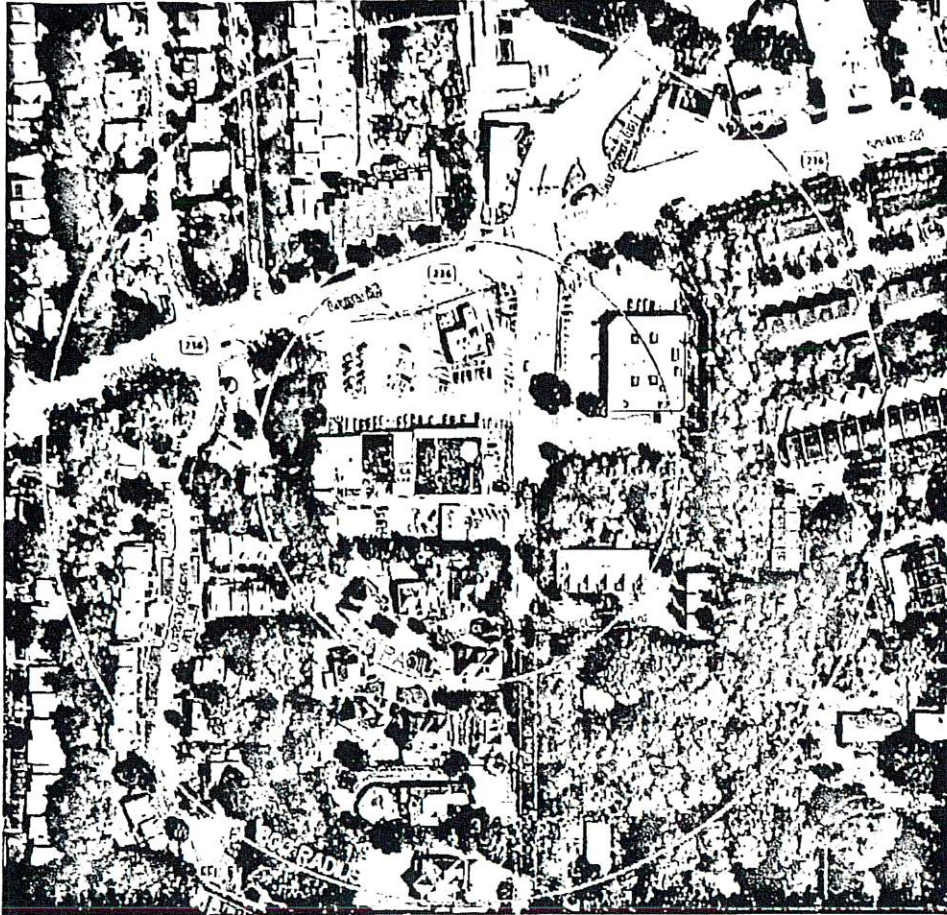
1 1/8" = 1'-0" FIRST FLOOR PLAN EXISTING

FLOOR PLAN
 AB-2.1
 2/9/2021

OAK GROVE MARKET
 2757 LAVISTA ROAD
 DECATUR, GA 30033



SITE:
2757 LAVISTA ROAD
DECATUR, GA 30079
CONTACT: RICK ADAMS
404-797-4316



MAGNETIC
NORTH

SCALE: 1"=250'

ALCOHOL SURVEY
PREPARED FOR: OAK GROVE MARKET
LAND LOT 149, 18TH DISTRICT
DEKALB COUNTY, GEORGIA - 11/6/19

NEAREST SCHOOL: ±2.785'/928 YDS
ARBOR MONTESSORI SCHOOL
2998 LAVISTA ROAD
DECATUR, GA 30033

NEAREST CHURCH: ±2.562'/854 YDS
MOUNT ZION A.M.E. CHURCH
2977 LAVISTA ROAD
DECATUR, GA 30033

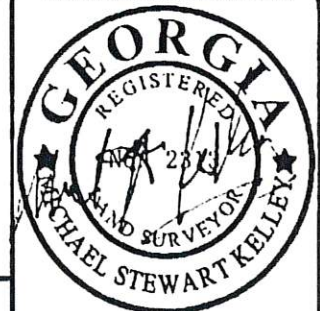
NEAREST ADULT ENTERTAINMENT: ±2.6 MILES/4.598 YDS
PINK PONY
1837 CORPORATE BOULEVARD
ATLANTA, GA 30329

NEAREST ALCOHOL TREATMENT CENTER: ±1.25 MILES/2.202 YDS
SHEPHERD PATHWAYS
1942 CLAIRMONT ROAD
DECATUR, GA 30033

NEAREST PACKAGE STORE: ±1.188' /396 YDS
HAPPY TIMES PACKAGE
2836 LAVISTA ROAD
DECATUR, GA 30033

NEAREST RESIDENCE: ±220' /73 YDS
2342 OAKSHIRE COURT
DECATUR, GA 30033

NOT VALID WITHOUT
ORIGINAL SIGNATURE



FOR THE FIRM
BOUNDARY ZONE, INC.
LSF #839

THIS DRAWING WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON FOR ALCOHOL PERMIT OR LICENSE APPLICATION PURPOSES ONLY AND DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT A RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

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BOUNDARY
zone, inc. LAND SURVEYING SERVICES
& LAND PLANNING SERVICES

SURVEYING LANDSCAPE ARCHITECTURE LAND PLANNING
WWW.BOUNDARYZONE.COM (770) 271-5772

SUWANEE (770) 271-5772
454 SATELLITE BLVD, SUITE 200
SUWANEE, GEORGIA 30024

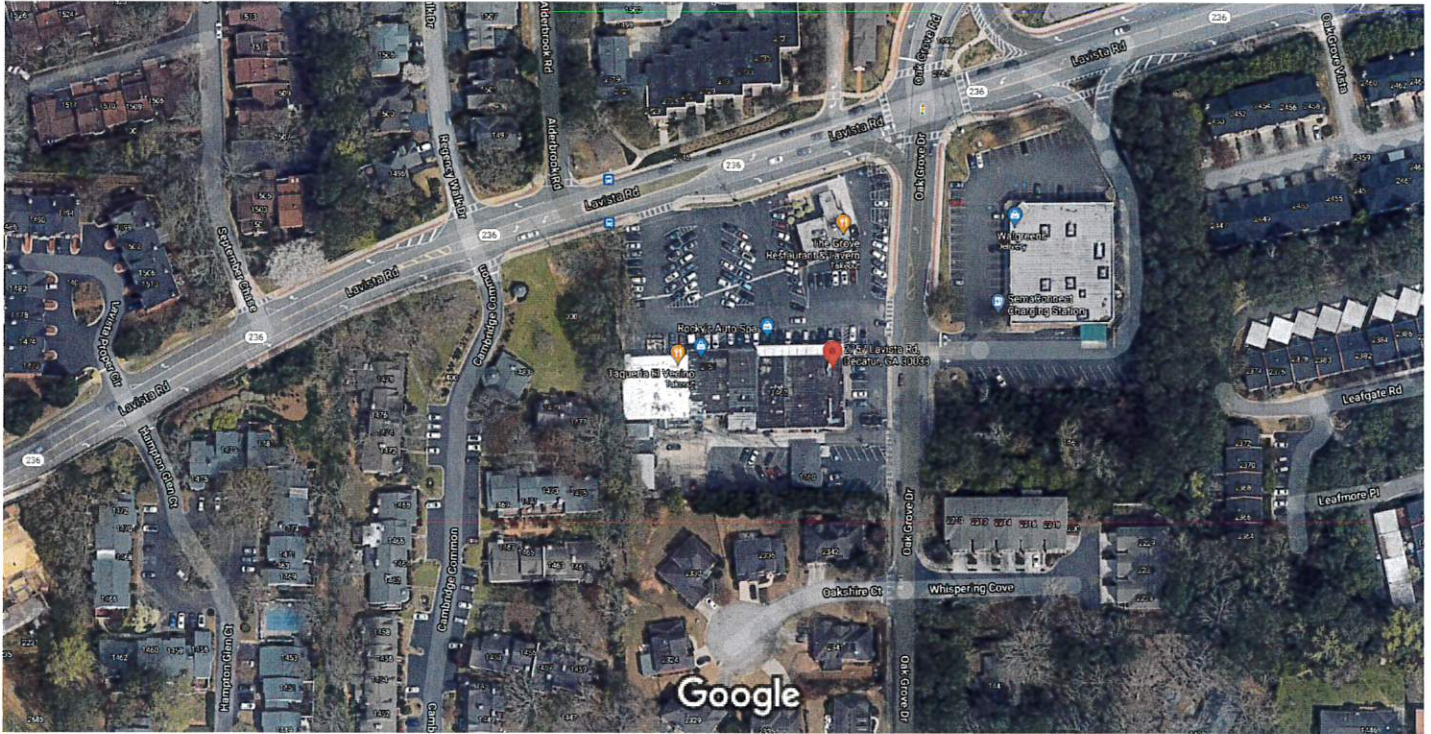
ATLANTA (404) 446 8180
1100 BRACHTRHH ST, SUITE 200
ATLANTA, GEORGIA 30309

KENNESAW (678) 770-4393
975 COBB PLACE BLVD, SUITE 101
KENNESAW, GEORGIA 30144

PROJECT
2134801

SHEET
1 OF 1

Google Maps 2757 Lavista Rd



Imagery ©2021 Maxar Technologies, U.S. Geological Survey, Map data ©2021 50 ft

LETTER OF INTENT

and

Other Material Required by
Zoning Ordinance of DeKalb County

Application for a Special Land Use Permit

by

Richard Adams/Oak Grove Market

for

± _____ Acres of land located at
2757 Lavista Road, Decatur, Georgia 30033
Land Lot 149, 18th District

Submitted for Applicant by:
D. Taylor Harper, Esq.
Taylor, Feil, Harper & Lumsden, P.C
3400 Peachtree Road, Suite 1515
Atlanta, Georgia 30033
404.214.1200

SUMMARY OF PROPOSED USE

This is an application of Richard Adams/Oak Grove Market (hereinafter referred to as the “Applicant”) for a Special Land Use Permit (hereinafter referred to as the “SLUP”) to permit an Alcohol Outlet (beer/wine package sales) for property located at 2757 Lavista Road, Decatur, Georgia (hereinafter referred to as the “Subject Property”). The subject property is located inside the shopping center at the intersection of Lavista Road and Oak Grove Drive in a commercial corridor. The Subject Property is bordered by Lavista Road on the north; by Oak Grove Drive on the east; by a commercial office complex to the south; and additional retail establishments to the west..

The proposed alcohol outlet is approximately 3,000 square feet and will use one vacant tenant space inside of the shopping center. Accordingly, the applicant has included in the application a signed and sealed survey by a licensed surveyor that illustrated that the proposed alcohol outlet exceeds the minimum distance requirements, as listed in DeKalb County's Code of Ordinances.

Presently, the Applicant intends to work closely with the immediate neighborhood to ensure the SLUP requested herein does not frustrate the intent of the zoning. As such, the plan is in the public's best interest.

JUSTIFICATION FOR THE SPECIAL LAND USE PERMIT

The DeKalb Zoning Ordinance specifically authorizes the DeKalb County Board of Commissioner (hereinafter referred to as the "BOC") to give special consideration to those types of uses that may or may not be compatible with those uses authorized as a right within a particular zoning district.

According to Section 27-873 of the DeKalb County Code of Ordinances, Department of Planning and Sustainability, The Planning Commission and the BOC shall apply the following in evaluating and deciding any application for a SLUP. As such, the Applicant has adequately addressed each factor in the remainder of this application.

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 site is adequate in size for the use contemplate. This site is within an existing shopping center and it meets the all required yards, open space, and off street parking

requirements. More specifically, as illustrated in the signed and sealed survey prepared by a licensed engineer, the site also meets the distance requirements of the zoning district for an alcohol outlet that sells beer and wine by the package.

B.

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

The site is within a shopping center with many different commercial uses. The shopping center is in the middle of a neighborhood commercial corridor. These surrounding uses are consistent and complementary to the use proposed by the Applicant.

C.

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

The site is inside of an existing shopping center that has adequate public service, public facility and utilities. The contemplated use does not require any additional public services, facilities or utilities.

D.

Adequacy of the public street on which the use is 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 Applicant is an existing boutique food market within a retail shopping center along a major thoroughfare, Lavista Road. Adding the proposed use of beer/wine package sales will not generate additional traffic in an amount to create congestion in the area.

E.

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

The character of vehicles generated by this proposed use will only involve delivery vehicles to supply goods being supplied by the alcohol outlet. The vehicles will be similar in nature to the current vehicles that deliver goods to the Applicant's food market and the surrounding commercial uses in the area. As such, existing land uses will not be adversely affected.

F.

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

Subject Property is inside an existing shopping center which allowed adequate access for pedestrian and automobile safety and convenience as well as access in the event of fire or other emergency.

G.

Whether or not 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;

Applicant's proposed use will not create any adverse impacts by reason of noise, smoke, odor, dust, or vibration.

H.

Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;

The proposed hours of use are Monday through Thursday 8AM-7PM and Friday through Saturday 8AM-6PM and close on Sundays. These proposed hours are the same as the hours of operation of the existing food market. As such, the proposed use will not create adverse impacts upon these uses.

I.

Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;

The proposed use will not create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use. Like many of the adjoining land uses, the Application proposes to sell retail goods to consumers.

J.

Whether or not the proposed plan is consistent with all of the other requirements of the zoning district classification in which the use is proposed to be located;

The proposed plan is consistent with all other requirements of the zoning district classification in which the use is proposed to be located. The proposed site is in a pre-existing shopping center which obtained its necessary permits and permissions from DeKalb County as is legally required.

K.

Whether or not the proposed use is consistent with the Policies of the Comprehensive Plan

DeKalb County's Comprehensive Plan consists of texts and a series of maps. The Plan is accompanied by a procedure to link changes in zoning with corresponding changes in the Plan in order to avoid repeating the situation in which a static land use plan and an evolving zoning map

become increasingly out of step with each other. Thus, with an updated Plan in effect and a mandatory planning and zoning consistency mechanism in place, it is extremely important that any special use request, such as these requested, be based on sound land use planning and comprehensive planning principles. As such, the proposed development is fully compliant with the category applicable to the property and the Applicant submits that said proposal for small scale neighborhood retail services would effectively implement the policies stated in the Plan for this area of DeKalb County.

L.

Whether or not the proposed plan provided for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;

Applicant does not propose any new construction or additions to the existing floor area that would affect the required buffer and transitional buffer zones.

M.

Whether or not there is adequate provision of refuse and service areas;

The existing loading area of the shopping center along with the parking lot provides an adequate provision of refuse and service areas.

N.

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

Applicant requests that the SLUP not be limited in duration. The proposed retail outlet satisfies the criteria set forth in Sec. 27-873. Accordingly, granting this SLUP without a limit in its duration does not frustrating the purpose of the Zoning Ordinance.

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 the adjacent and nearby lots and buildings;

Not applicable. There are no proposed buildings in this application.

P.

Whether the proposed plan will adversely affect historic buildings, sites, district, or archaeological resources;

Proposed plan does not adversely affect historic buildings, sites, district, or archaeological resources.

Q.

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 for such special land use permit in that the Subject Property is not located within three hundred feet of any school building, school grounds, educational facility, college campus, or adult entertainment establishment; it is not located within six hundred feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government; the area devoted to the sale and storage of alcohol shall not exceed twenty percent of gross floor area; and the sale or distribution of individual cups and individual servings of ice will be prohibited.

R.

Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building;

Not applicable. There no proposed new buildings in this SLUP.

S.

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

The proposed use would not result in a disproportional proliferation of that or similar uses in the subject area. The beer and wine offered will be specially selected to pair well with the to-go food offerings of the existing food market.

T.

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 objective of the comprehensive plan

The proposed use is consistent with the need of the neighborhood, is compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan. Applicant seeks to introduce high-end beer and wine package sales to compliment the current food market offerings.

CONCLUSION

Based upon the foregoing facts, the Applicant contends that the application of the applicable development standards of DeKalb County Zoning Ordinance to this particular piece of property would create an unnecessary hardship and that the Special Land Use Permit requested herein would do substantial justice while preserving the spirit of the chapter shall, securing the

public welfare and safety and not causing substantial detriment to the public good or impair the purpose and intent of Zoning Ordinance DeKalb County.

Further, the Applicant respectfully submits that the Zoning Ordinance DeKalb County, Georgia, as amended from time to time and known as the “DeKalb County Zoning Ordinance,” is expressly intended to grant Special Land Use Permits in instances such as these described herein. Further, to forbid the requested variances in this instance would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all 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.

For these reasons, we request the variances sought herein from the stated restrictions as set out in the DeKalb County Code of Ordinances.

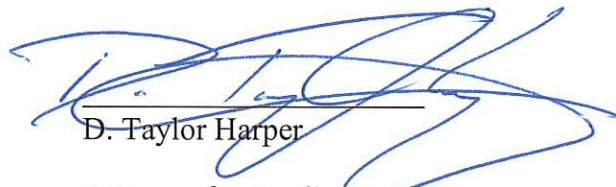
Accordingly, the Applicant, on behalf the owner of the property respectfully submits that the denial of the Special Land Use Permit proposed herein on the Subject Property would constitute an arbitrary and unreasonable use of the zoning and police powers because it will bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Applicant. Additionally, issuance of the requested variances is required because it fully satisfies all standards applicable to it. A denial would constitute a taking of the Applicant’s 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 the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that the failure to approve the requested Special Land Use Permits would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Property owner and the 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.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl v. Holcomb Bridge Road, 238 Ga. 322 (1977).

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

Respectfully submitted,



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Attorney for Applicant