



**DeKalb County Department of Planning & Sustainability**

178 Sams Street,  
Decatur, GA 30030

(404) 371-2155 / [www.dekalbcountyga.gov/planning](http://www.dekalbcountyga.gov/planning)

**Planning Commission Hearing Date: Tuesday, March 7<sup>th</sup>, 2023**  
**Board of Commissioners Hearing Date: Thursday, March 30<sup>th</sup>, 2023**

**STAFF ANALYSIS**

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

**Staff Recommendation:** Denial.

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

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

to the north of the subject parcels is an existing Citgo convenience store with accessory fuel pumps and to the east is a bail bondsman, 24 Fast Bail Bonds of DeKalb. Thanks to feedback from the community, Staff has learned that the southwestern corner of the site houses the Tom Scott Memorial Garden, dedicated to a former DeKalb County Tax Commissioner and State Senator. Although the applicant stated this memorial would be relocated onsite, it is not clearly shown on the site plan submitted to staff.

The site plan shows the package store, bail bondsman, and existing convenience store with fuel pumps remaining after the construction of the new convenience store with fuel pumps. The parcel is zoned C-2 and is within a Regional Center activity center. The parcel is included in the *Kensington Station Livable Center Initiative* report and in the *Memorial Drive Revitalization Plan*.

The submitted site plan will need significant revision based on comments from DeKalb County Transportation. The submitted plan shows two access points from Northern Avenue:

Eliminate right in/right out access point on Northern Ave. Only one access point allowed on Northern Ave. No access allowed from Memorial Drive.

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

The *Kensington Station Livable Center Initiative* report provides a compilation of future land use patterns and transportation improvements designed to create a more pedestrian friendly and transit-oriented environment in the study area (page 33). The plan shows the subject parcels at the edge of an area that would serve as a Regional Employment Center with high density office space and increased pedestrian and vehicular connections, the study states:

The “Employment Center” could include a high-density office development and associated conference center. Density should be concentrated towards Mountain Drive and Memorial Drive, thinning as development moves north. New multi-family development at the north of the site would assist in the transition from high-density office to the adjacent Avondale Crossing Apartments.

Additionally, the subject parcels are on the edge of the study area of the *Memorial Drive Revitalization Plan*. The plan recommends rezoning commercial properties such as this one to MU-4 or MU-5 (Mixed- Use High or Very High Density) to promote healthy, high density redevelopment.

Approval of this SLUP would allow redevelopment of one corner of the envisioned Employment Center as a gas station, while leaving intact the package store, bail bondsman, and existing convenience store with fuel pumps; types of development identified by the community in the *Memorial Drive Revitalization Plan* as undesired. This proposed development would undermine attempts to redevelop the area with a new internal street grid and high-density office space and residences as envisioned in the LCI Study.

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

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

Approval of this SLUP would not increase the concentration or density of services, retail, offices, or residences and would only provide a service that is already offered on an adjacent parcel. Additionally, this applicant (Quick Trip Corporation) received a SLUP for accessory fuel pumps at a convenience store only ~3,000 feet away in February 2021, further reducing the need for this service. The large parking area (50 spaces) associated with the convenience store appears more suited for a suburban-style development and would not be appropriate at a location designated for the “highest intensity” commercial facilities allowed within DeKalb County.

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



**DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM**

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

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

Case No.: SLUP-23-1246256

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

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

**WATER:**

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

Distance from property to nearest main: Adjacent

Size of line required, if inadequate: \_\_\_\_\_

**SEWER:**

Outfall Servicing Project: Indian Creek

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

Water Treatment Facility: Snapfinger ( ) adequate ( ) inadequate

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

**COMMENTS:**


Signature: Yola Lewis



DEPARTMENT OF PLANNING & SUSTAINABILITY

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

Date Received: \_\_\_\_\_ Application No.: \_\_\_\_\_

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

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

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

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

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

Daytime Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

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

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

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

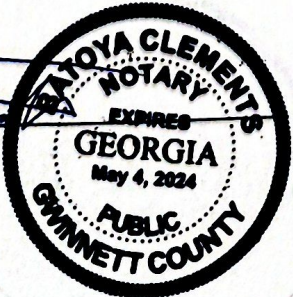
Proposed Special Land Use (SLUP): Fuel Pumps associated with a convenience store

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

Owner: \_\_\_\_\_ Agent:  Signature of Applicant: QuikTrip Corporation  
(Check One) By: [Signature]  
Printed Name: Eric B. CAS  
Title: Real Estate Project Manager

Printed Name of Applicant: \_\_\_\_\_

Notary Signature and Seal:

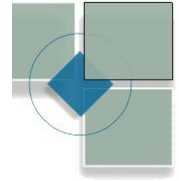
[Signature]  


# DeKalb County Department of Planning & Sustainability



Lee May  
Interim Chief Executive Officer

Andrew Baker  
Director



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

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

### **INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

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



## Battle Law

December 6, 2022

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

Dear Property Owner:

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

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

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

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

**Meeting ID:** 872 6346 5756

**Password:** 694004

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

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

Sincerely,

Michèle L. Battle





# Battle Law

## **Zoom Step by Step Instructions**

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

### **If joining from a mobile Device**

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

### **If joining from a computer**

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

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

### **Join Audio via Computer**

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

### **Join Audio via Telephone**

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

### **Raising Your Hand**

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

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

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

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

### **Leave Meeting**

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



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

# Exhibit A

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



404.371.2155 (e)  
404.371.4556 (f)  
DeKalbCountyGa.gov

178 Sams Street  
Decatur, GA 30030

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

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

Date: 12/2/2022

TO WHOM IT MAY CONCERN:

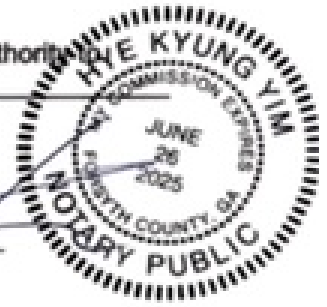
(I) (WE), HJK Group Inc  
Name of Owner(s)

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

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

[Signature]  
Notary Public

HJK Group Inc.  
By: [Signature]  
Owner



Notary Public \_\_\_\_\_ Owner \_\_\_\_\_

Notary Public \_\_\_\_\_ Owner \_\_\_\_\_

Notary Public \_\_\_\_\_ Owner \_\_\_\_\_

DEPARTMENT OF PLANNING & SUSTAINABILITY

**SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION**

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

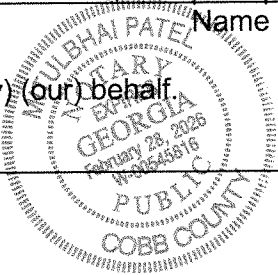
Date: 12/17/2022

TO WHOM IT MAY CONCERN:

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

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

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



Notary Public \_\_\_\_\_ Owner

Notary Public \_\_\_\_\_ Owner

Notary Public \_\_\_\_\_ Owner

DEPARTMENT OF PLANNING & SUSTAINABILITY

**SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION**

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

Date: 12/16/2022

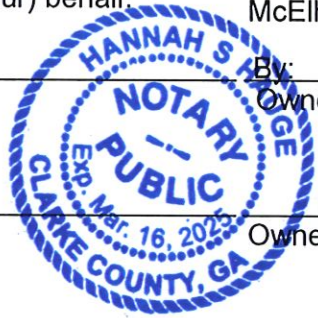
TO WHOM IT MAY CONCERN:

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

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

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

Hannah Hauge  
Notary Public



By: [Signature]  
Owner

Notary Public \_\_\_\_\_ Owner

Notary Public \_\_\_\_\_ Owner

Notary Public \_\_\_\_\_ Owner





DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

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

Date: 12/21/2022

TO WHOM IT MAY CONCERN:

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

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

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

Notary Public

By: Stephen E. Beagle  
Owner General Manager  
Stephen E. Beagle

witness

[Signature]

Notary Public

Owner

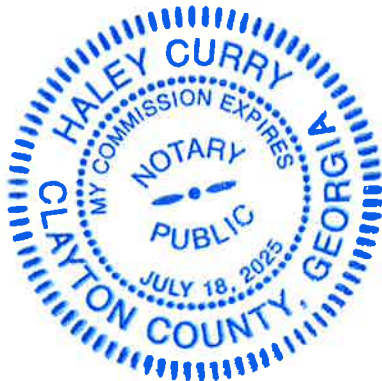
Notary Public

Owner

[Signature]

Notary Public

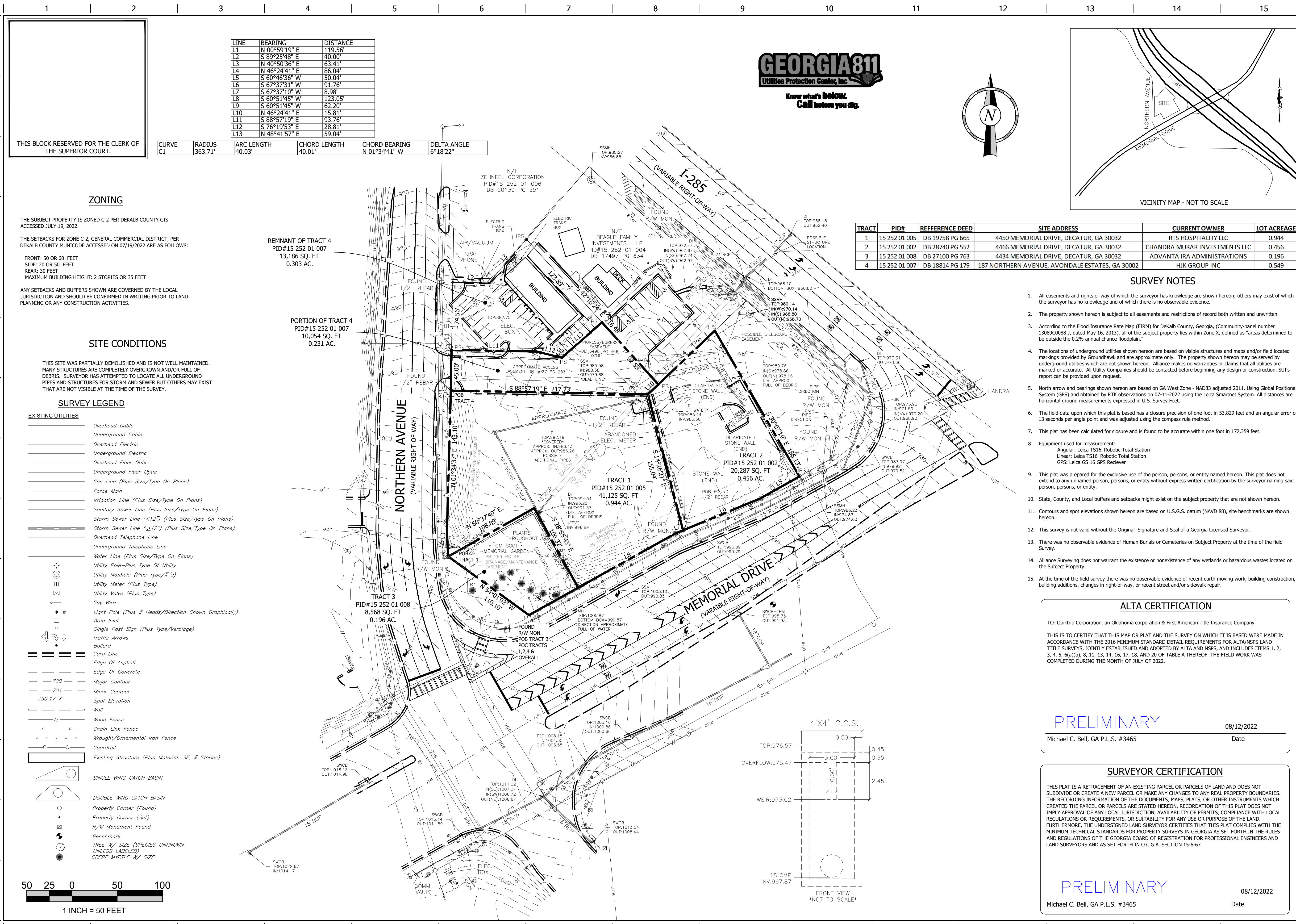
Owner







FILE LOCATION: C:\Users\Tovad\Documents\Dropbox\Users\Tovad\Documents\Projects\03-survey projects\03-survey projects\22137 - Decatur\Drawings\22137 - 01 1706.dwg  
TAB NAME: Survey  
USER: Tovad  
DATE: 10/13/2022 4:11 PM  
PLOT DATE: 10/16/2022 8:18 PM



THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

### ZONING

THE SUBJECT PROPERTY IS ZONED C-2 PER DEKALB COUNTY GIS ACCESSED JULY 19, 2022.

THE SETBACKS FOR ZONE C-2, GENERAL COMMERCIAL DISTRICT, PER DEKALB COUNTY MUNICIPLE ACCESSED ON 07/19/2022 ARE AS FOLLOWS:

FRONT: 50 OR 60 FEET  
SIDE: 20 OR 50 FEET  
REAR: 30 FEET  
MAXIMUM BUILDING HEIGHT: 2 STORIES OR 35 FEET

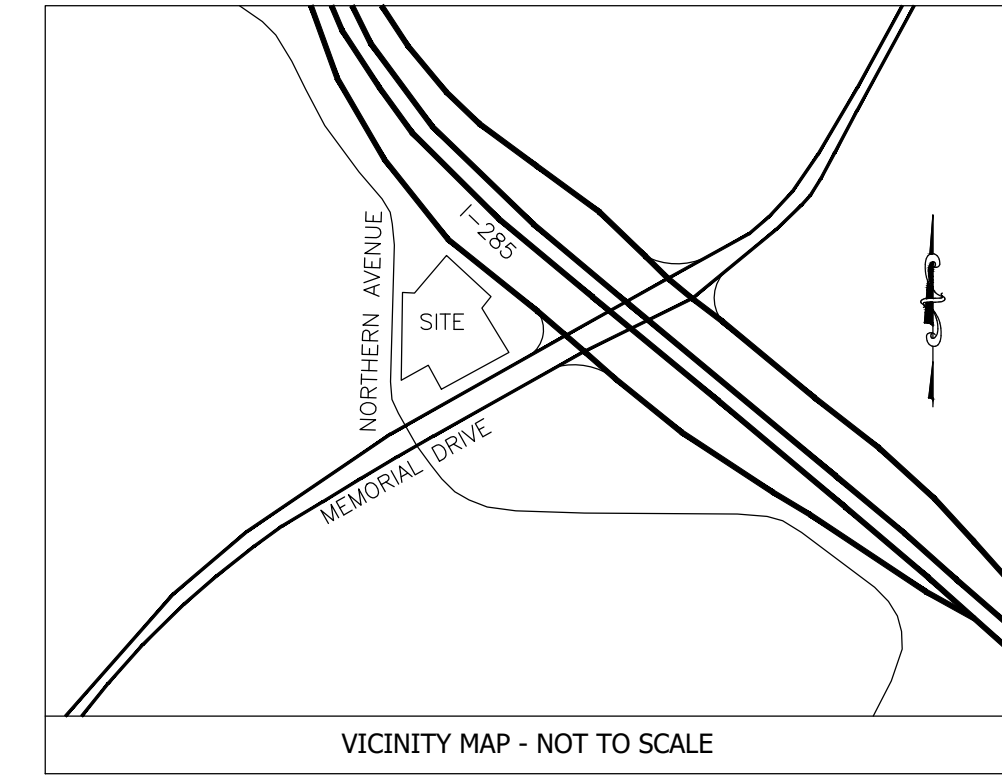
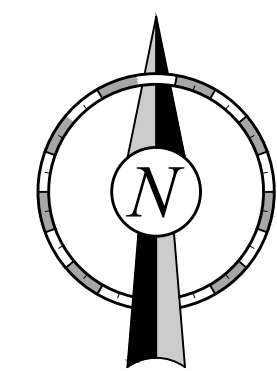
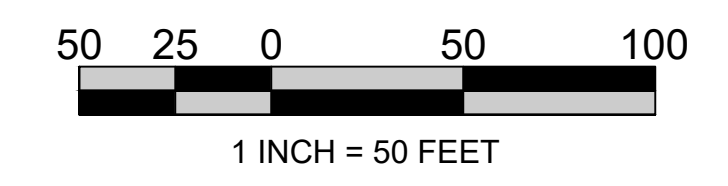
ANY SETBACKS AND BUFFERS SHOWN ARE COVERED BY THE LOCAL JURISDICTION AND SHOULD BE CONFIRMED IN WRITING PRIOR TO LAND PLANNING OR ANY CONSTRUCTION ACTIVITIES.

### SITE CONDITIONS

THIS SITE WAS PARTIALLY DEMOLISHED AND IS NOT WELL MAINTAINED. MANY STRUCTURES ARE COMPLETELY OVERGROWN AND/OR FULL OF DEBRIS. SURVEYOR HAS ATTEMPTED TO LOCATE ALL UNDERGROUND PIPES AND STRUCTURES FOR STORM AND SEWER BUT OTHERS MAY EXIST THAT ARE NOT VISIBLE AT THE TIME OF THE SURVEY.

### SURVEY LEGEND

- Overhead Cable
- Underground Cable
- Overhead Electric
- Underground Electric
- Overhead Fiber Optic
- Underground Fiber Optic
- Gas Line (Plus Size/Type On Plans)
- Force Main
- Irrigation Line (Plus Size/Type On Plans)
- Sanitary Sewer Line (Plus Size/Type On Plans)
- Storm Sewer Line (<12") (Plus Size/Type On Plans)
- Storm Sewer Line (≥12") (Plus Size/Type On Plans)
- Overhead Telephone Line
- Underground Telephone Line
- Water Line (Plus Size/Type On Plans)
- Utility Pole-Plus Type Of Utility
- Utility Manhole (Plus Type/E's)
- Utility Meter (Plus Type)
- Utility Valve (Plus Type)
- Guy Wire
- Light Pole (Plus # Heads/Direction Shown Graphically)
- Area Inlet
- Single Post Sign (Plus Type/Verbiage)
- Traffic Arrows
- Bollard
- Curb Line
- Edge Of Asphalt
- Edge Of Concrete
- 700
- 701
- Spot Elevation
- Wall
- Wood Fence
- Chain Link Fence
- Wrought/Ornamental Iron Fence
- Guardrail
- Existing Structure (Plus Material, SF, # Stories)
- SINGLE WING CATCH BASIN
- DOUBLE WING CATCH BASIN
- Property Corner (Found)
- Property Corner (Set)
- R/W Monument Found
- Benchmark
- TREE W/ SIZE (SPECIES UNKNOWN UNLESS LABELED)
- GREPE MYRTLE W/ SIZE



TRACT	PID#	REFERENCE DEED	SITE ADDRESS	CURRENT OWNER	LOT ACREAGE
1	15 252 01 005	DB 19758 PG 665	4450 MEMORIAL DRIVE, DECATUR, GA 30032	RTS HOSPITALITY LLC	0.944
2	15 252 01 002	DB 28740 PG 552	4466 MEMORIAL DRIVE, DECATUR, GA 30032	CHANDRA MURAR INVESTMENTS LLC	0.456
3	15 252 01 008	DB 27100 PG 763	4434 MEMORIAL DRIVE, DECATUR, GA 30032	ADVANTA IRA ADMINISTRATIONS	0.196
4	15 252 01 007	DB 18814 PG 179	187 NORTHERN AVENUE, AVONDALE ESTATES, GA 30002	HK GROUP INC	0.549

### SURVEY NOTES

- All easements and rights of way of which the surveyor has knowledge are shown hereon; others may exist of which the surveyor has no knowledge and of which there is no observable evidence.
- The property shown hereon is subject to all easements and restrictions of record both written and unwritten.
- According to the Flood Insurance Rate Map (FIRM) for DeKalb County, Georgia, (Community-panel number 13089C0088), dated May 16, 2013, all of the subject property lies within Zone X, defined as "areas determined to be outside the 0.2% annual chance floodplain."
- The locations of underground utilities shown hereon are based on visible structures and maps and/or field located markings provided by Groundwork and are approximate only. The property shown hereon may be served by underground utilities which are not shown hereon. Alliance makes no warranties or claims that all utilities are marked or accurate. All Utility Companies should be contacted before beginning any design or construction. SUJ's report can be provided upon request.
- North arrow and bearings shown hereon are based on GA West Zone - NAD83 adjusted 2011. Using Global Positional System (GPS) and obtained by RTK observations on 07-11-2022 using the Leica Smartnet System. All distances are horizontal ground measurements expressed in U.S. Survey Feet.
- The field data upon which this plat is based has a closure precision of one foot in 53,829 feet and an angular error of 13 seconds per angle point and was adjusted using the compass rule method.
- This plat has been calculated for closure and is found to be accurate within one foot in 172,359 feet.
- Equipment used for measurement:  
Angular: Leica TS16 Robotic Total Station  
Linear: Leica TS16 Robotic Total Station  
GPS: Leica GS 16 GPS Receiver
- 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 express written certification by the surveyor naming said person, persons, or entity.
- State, County, and Local buffers and setbacks might exist on the subject property that are not shown hereon.
- Contours and spot elevations shown hereon are based on U.S.G.S. datum (NAVD 88), site benchmarks are shown hereon.
- This survey is not valid without the Original Signature and Seal of a Georgia Licensed Surveyor.
- There was no observable evidence of Human Burials or Cemeteries on Subject Property at the time of the field survey.
- Alliance Surveying does not warrant the existence or nonexistence of any wetlands or hazardous wastes located on the Subject Property.
- At the time of the field survey there was no observable evidence of recent earth moving work, building construction, building additions, changes in right-of-way, or recent street and/or sidewalk repair.

### ALTA CERTIFICATION

TO: Quiktrip Corporation, an Oklahoma corporation & First American Title Insurance Company

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6(a)(i), 8, 11, 13, 14, 16, 17, 18, AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED DURING THE MONTH OF JULY OF 2022.

**PRELIMINARY**

Michael C. Bell, GA P.L.S. #3465

08/12/2022  
Date

### SURVEYOR CERTIFICATION

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

**PRELIMINARY**

Michael C. Bell, GA P.L.S. #3465

08/12/2022  
Date

PROJECT NO.: 22137

**ALLIANCE**  
LAND SURVEYING

4525 S. LEE STREET  
BUFORD, GA 30518  
678.693.9424  
WWW.ALLIANCECO.COM

ALTA/NSPS LAND TITLE SURVEY

**QuikTrip No. 1706**

191 NORTHERN AVENUE  
DECATUR, GA

LAND LOT 252, 15TH DISTRICT, DEKALB COUNTY

**QT**

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PUBLICATION, DISTRIBUTION, OR SALE IN  
WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE:  
DIVISION:  
VERSION: 001  
DESIGNED BY:  
DRAWN BY: MAS  
REVIEWED BY: DLA

REV	DATE	DESCRIPTION
1	07/19/2022	ISSUE FOR THE SURVEYOR'S CONNECTIONS

SHEET TITLE:  
SURVEY PLAN

SHEET NUMBER:  
**C020**

ORIGINAL ISSUE DATE: 07/19/2022



**FLOOD CERTIFICATION:**

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

**STATE WATERS CERTIFICATION:**

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

**SITE LEGEND**

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

**PARKING REQUIREMENTS**

TOTAL BUILDING AREA: 5,312 SF

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

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

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

**DEVELOPMENT SUMMARY**

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

**GEORGIA REGISTERED ENGINEER**  
 No. 033637  
**SEAN PAUL HAYES**

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

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

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

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

**QT**

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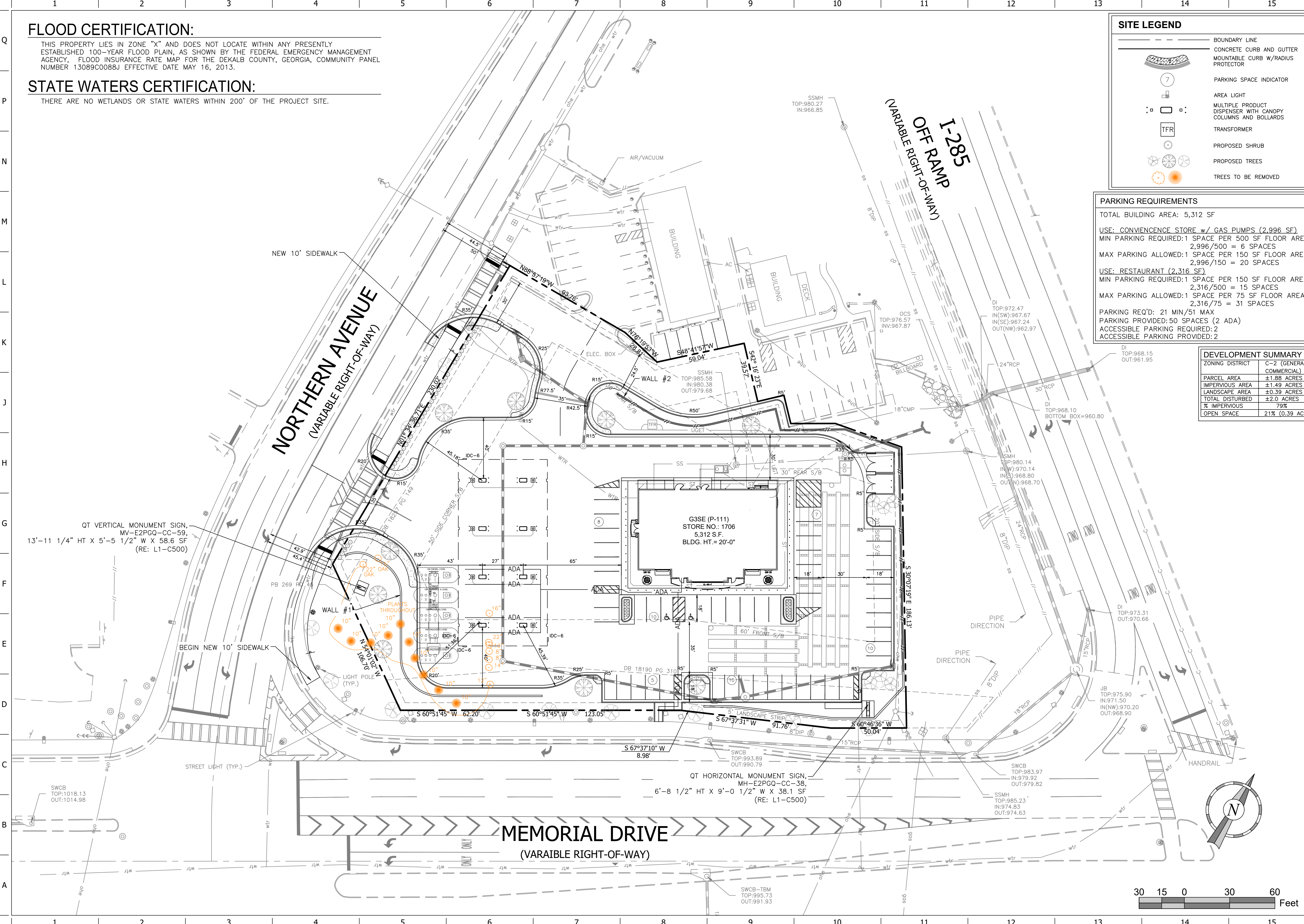
PROTOTYPE: P-111 (08/01/22)  
 DIVISION: ATL  
 VERSION: 001  
 DESIGNED BY: SH  
 DRAWN BY: CM  
 REVIEWED BY: KM

REV	DATE	DESCRIPTION

ORIGINAL ISSUE DATE:

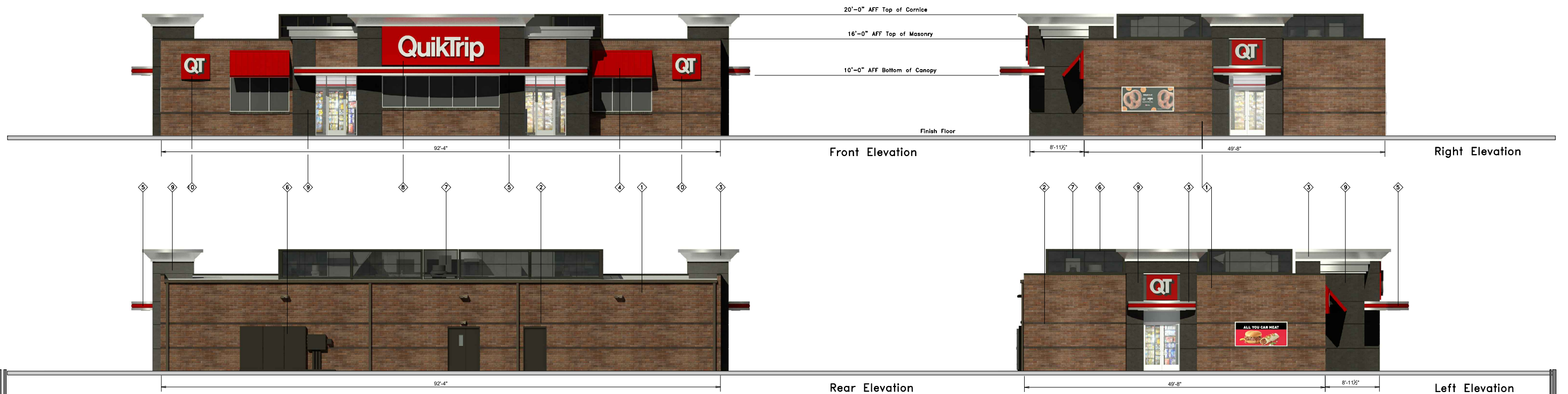
SHEET TITLE:  
 PRELIMINARY SITE PLAN

SHEET NUMBER:  
**3**



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





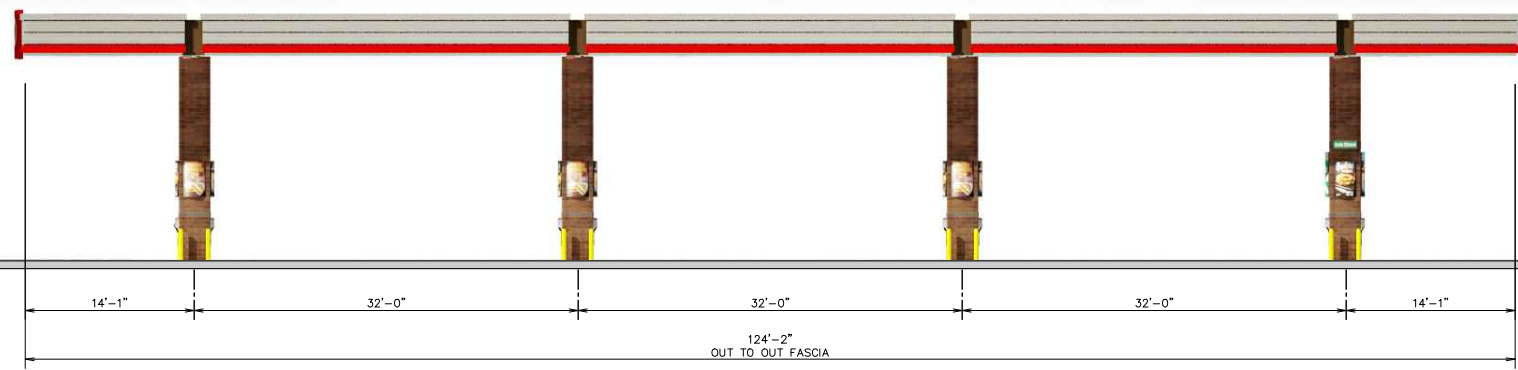
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 Serial # 07-1742-G3S  
 Scale: 1/16"=1'-0"  
 Issue Date: 03.24.21

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

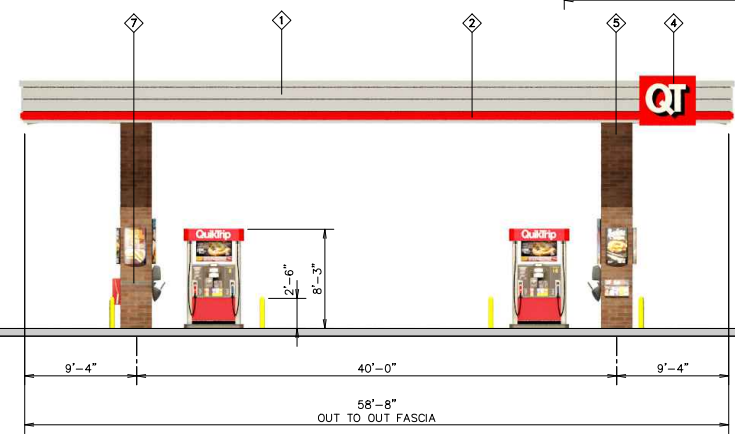
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①	FINISH	MANUFACTURER	SPECIFICATION
1	BRONZESTONE	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
2	MIDNIGHT	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
3	BRUSHED ALUMINUM	REYNOLDS	FASCIA
4	QT RED	SHERWIN-WILLIAMS	STANDING SEAM AWNING
5	RED POLYCARBONATE	ALLEN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

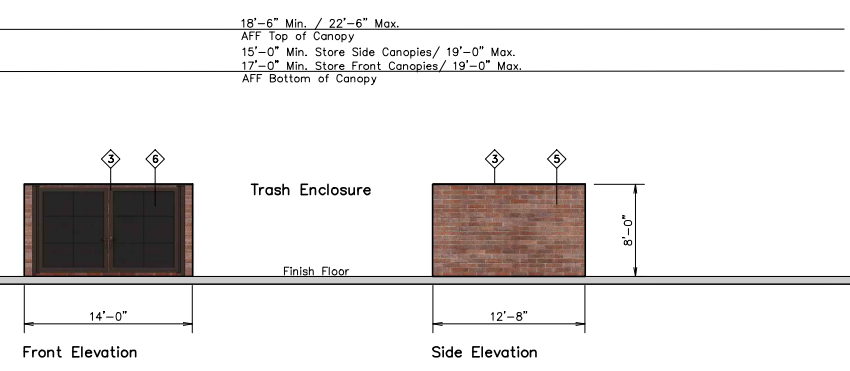




Front Elevation

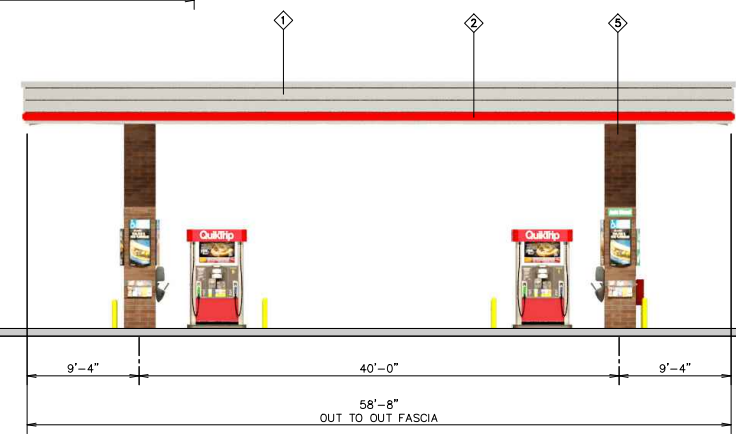


Left Elevation



Front Elevation

Side Elevation



Right Elevation



**QuikTrip**

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

Store # 1741 DS8 Canopy w/ Brick Columns

Address: 1825 Jonesboro Road

City, State: McDonough, GA

Serial # 07-1741-GD08

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

Drawn By: BP

Rev/Notes:

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



# Battle Law

## STATEMENT OF INTENT

and

Other Material Required by  
DeKalb County Zoning Ordinance

For  
Special Land Use Permit

Pursuant to

DeKalb County Zoning Ordinance

Of

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

for

**2.145+/- acres of Land**

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

Submitted for Applicant by:

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

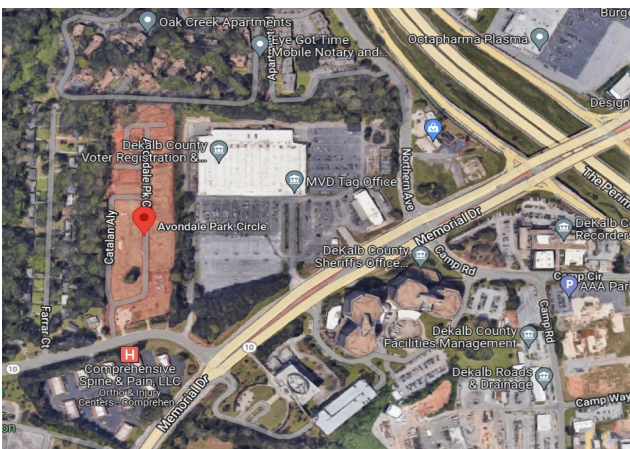


# Battle Law

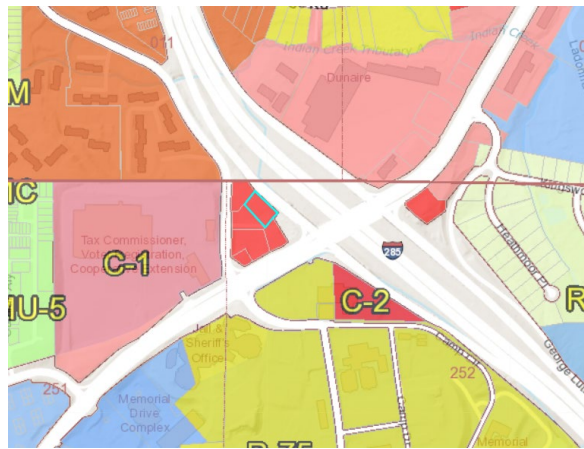
## I. LETTER OF INTENT

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

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



**Map 1.A – Aerial Map**



**Map 1.B – DeKalb County Zoning Map**

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

## II. DEKALB COUNTY SPECIAL LAND USE PERMIT CRITERIA

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

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





## Battle Law

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

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

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

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

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

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

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

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



## Battle Law

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

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

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

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

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

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

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

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





## Battle Law

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

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

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

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

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

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

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

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

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

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



## Battle Law

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

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

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

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

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

There is adequate provision of refuse and service areas.

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

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

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

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

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



## Battle Law

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

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

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

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

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

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

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

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

### **III. CONCLUSION**

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



## Battle Law

### **IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

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

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

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

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

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



## Battle Law

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

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

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

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

*MLB*

---

Michele L. Battle, Esq.  
Attorney for the Applicant





## Battle Law

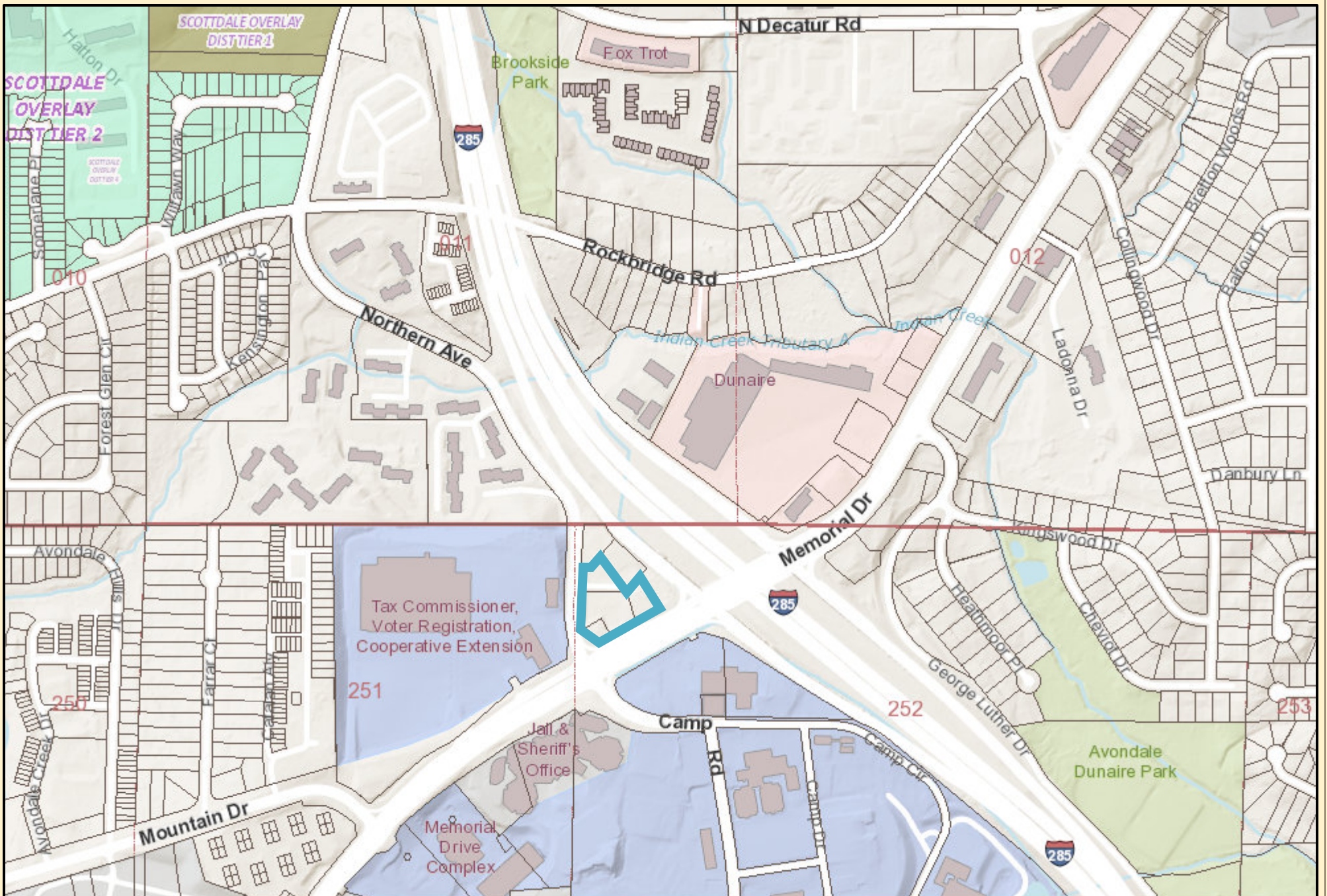
Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of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

Submitted on the 22nd Day of December 2022.

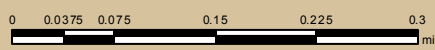
*MLB*

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Michele L. Battle, Esq.  
Attorney for the Applicant



# DeKalb County Parcel Map



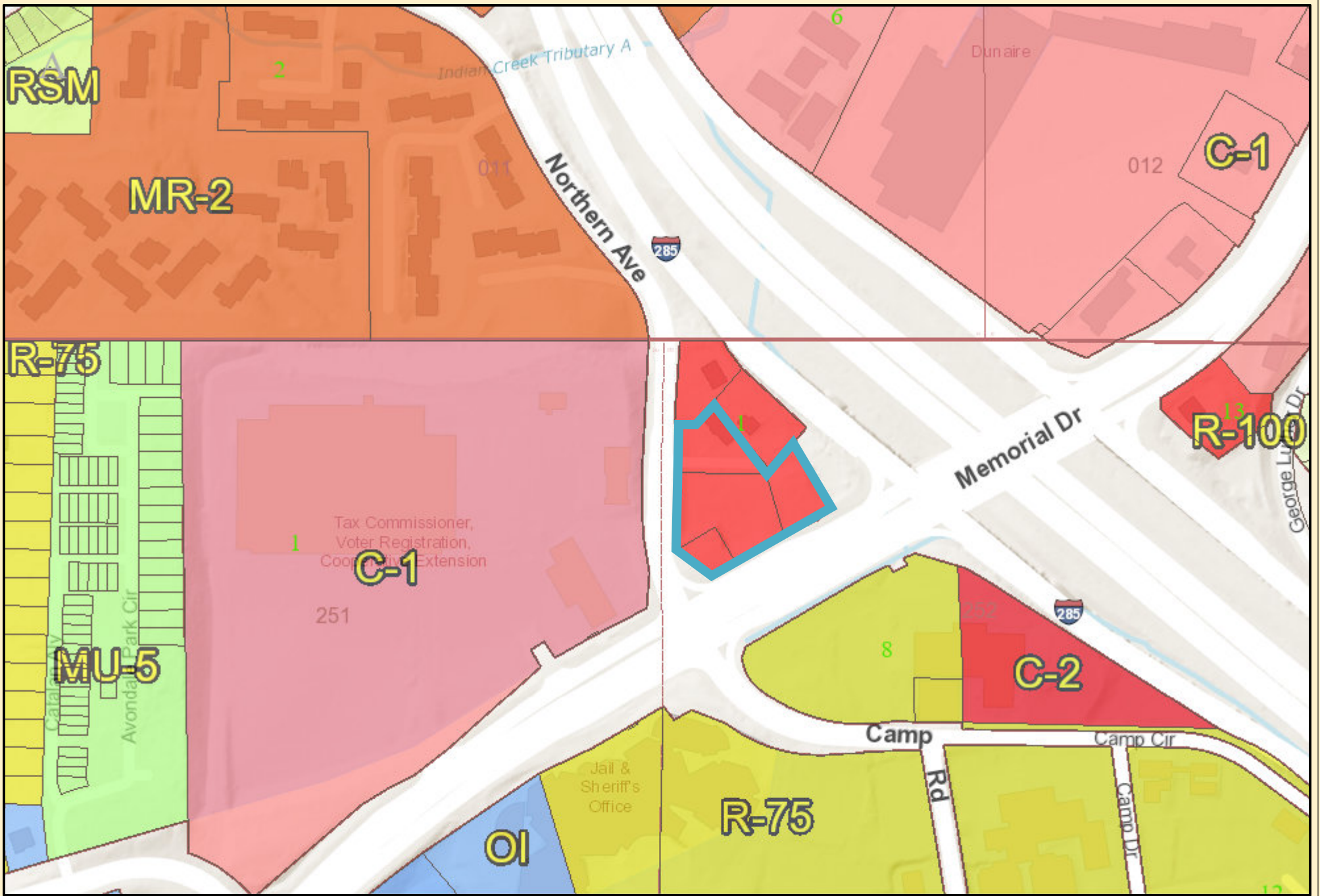
Date Printed: 2/26/2023



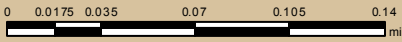
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# DeKalb County Parcel Map



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SUB

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CRC 012

13

MU-5

1

Tax Commissioner,  
Voter Registration,  
Cooperative Extension

RC

251

Northern Ave



Memorial Dr

8

252

Camp Rd

Camp Cir

Jail &  
Sheriff's  
Office

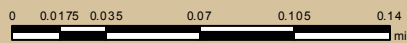
12

9

Mountain Dr



# DeKalb County Parcel Map



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