



DeKalb County Department of Planning & Sustainability

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

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

**Planning Commission Hearing Date: July 11, 2023
Board of Commissioners Hearing Date: July 27, 2023**

STAFF ANALYSIS

Case No.:	Z-23-1246464	Agenda #: 2023-0592
Address:	5646 & 5650 Covington Highway	Commission District: 05 Super District: 07
Parcel ID(s):	16-006-03-001, 16-006-02-013	
Request:	Rezone the property located at 5646 and 5650 Covington Highway from RSM (Residential Small Mix) Zoning District to C-1 (Local Commercial) Zoning District to allow for a retail commercial development.	
Property Owner(s):	Munit Emlaelu	
Applicant/Agent:	Mare Properties, LLC c/o Dennis J. Webb, Jr. (Smith, Gambrell, and Russell, LLP)	
Acreage:	1.81	
Existing Land Use:	Suburban, Commercial Redevelopment Corridor	
Surrounding Properties:	North: R-100, MR-1 East: MR-1, MU-4, C-1 South: C-1, C-2 West: RSM, C-1	
Comprehensive Plan:	Suburban, Commercial Redevelopment Corridor	
	Consistent <input checked="" type="checkbox"/>	Inconsistent <input type="checkbox"/>

Staff Recommendation: Three-Cycle Deferral.

The applicant, Mare Properties, LLC c/o Dennis J. Webb, Jr., is seeking to rezone the subject property from Residential Small Mix (RSM) to Local Commercial (C-1) to build a retail commercial development including a neighborhood market, restaurant, and retail space. The subject site will also sell alcohol which requires a Special Land Use Permit (SLUP). The applicant has filed a companion application SLUP-23-1246465. Currently, the subject site(s) are vacant lots that are located within the Hidden Hills Overlay- Tier 1. The site may be adequate for the proposed use. However, given inadequacies between the site plan and application, community feedback, and the overall intended use(s). Staff is recommending a Three-Cycle Deferral for the applicant to address the inefficiencies.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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

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

Case No.: Z-23-1246464

Parcel I.D. #: 16 006 03 001

Address: 5646 Covington Hwy

Stone Mountain, GA 30088

WATER:

Size of existing water main: 6 inch (~~ade~~quate/inadequate)

Distance from property to nearest main: adjacent

Size of line required, if inadequate: _____

SEWER:

Outfall Servicing Project: Lower Snap finger Creek

Is sewer adjacent to property: Yes () No () If no, distance to nearest line: 700 feet

Water Treatment Facility: Snapfinger WTP (adequate () inadequate

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

COMMENTS:

Sewer cap requirement depends on scope on work

Signature: Yola Lewis

6/16/2023

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

General Comments:

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

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

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

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

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

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

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

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

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

6/16/2023

N.9

SLUP-23-1246463 / 15 224 09 062

1193 Sherrington Drive

Amendment

- Review general comment.

N.10

Z-23-1246464 / 16 006 03 001 and 16 007 02 013

5646 Covington Highway

Amendment

- Review general comments.
- Indication of septic system installed on surrounding properties. Strong possibility septic may be on this property. No records for this location.

N.11

SLUP-23-1246465 16 006 03 001 & 16 007 02 013

5646 Covington Hwy

Amendment

- Review general comments.
- Septic indicated on surrounding property

Zoning Comments June 2023

NOTE: County records indicate Shepherds Lane has an existing 60-foot ROW (not 40-feet) and LaVista Road has a 70-foot ROW (not 60 feet). Verify "ROW", as this will greatly impact lot yield.

N1. 1481 LaVista Road LaVista Rd is SR 236. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). LaVista Road is classified as a minor arterial. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. A variance is required to not install the bike facilities. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.)

NOTE: County records indicate Shepherds Lane has an existing 60-foot ROW (not 40 feet) and LaVista Road has a 70-foot ROW (not 60 feet). Verify ROW as this will greatly impact lot yield.

Tract A: Driveway must be located on the southern property line, as shown on zoning plans.

Shepherds Lane is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 5-foot sidewalk. Requires pedestrian scale streetlights. (hefowler@dekalbcountyga.gov). (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.)

N2. 1890 Wee Kirk Road. No Comments.

N3. 4746 Flat Shoals Road. Property does not front public property- no comment. Interior roads private.

N4. 2998 LaVista Road. LaVista Rd is SR 236. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). LaVista Road is classified as a minor arterial. If the owner is widening to the south, they are required to install curb and gutter and sidewalk on the southern right of way of LaVista Rd. Sidewalk width is to match the current GDOT project under construction. Left turn lane is required, as shown on zoning plan. Add right turn channelization island on the northern ingress/egress access point. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. A variance is required to not install the bike facilities. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Eliminate parking spots on interior speed table.

N5. 3401 Rainbow Drive. Rainbow Drive and Columbia Drive are both classified as minor arterials. Requires a right of way dedication of 40 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with 6-foot sidewalk with 4-foot bike lanes OR (preferred) 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path/sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Ensure there is pedestrian connectivity between the proposed development and the public sidewalk infrastructure. Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase.

N6. 928 Fairwind Court. No Comments.

N7. 3355, 3375, and 3395 Northeast Expressway. I-85 Frontage requires GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). Woodcock Blvd is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 6-foot sidewalk. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.). Provide necessary construction easements and right of way for the connection to the future Peachtree Creek Greenway.

N8. 3070 Clifton Springs Road. No Comments.

N9. 1193 Sherrington Drive. No Comments.

N10 & N11. 5646 Covington Highway. Covington Hwy is SR 12 and a major arterial. GDOT review and approval required prior to permitting. (mwilson@dot.ga.gov). Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 10-foot multi-use path. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the path. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.) Young Rd is classified as a collector road. Requires a right of way dedication of 35 from centerline OR such that all public infrastructure is within right of way, whichever greater. Please note that the multiuse path on the plan is not entirely on right of way. Requires a 5-foot landscape strip with a 10-foot multi-use path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. (hefowler@dekalbcountyga.gov). Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase.

N12. 3837 Redan Road. Must coordinate with the GDOT MMIP Express Lanes project prior to permitting. Project manager Tim Matthews TMatthews@dot.ga.gov. Redan Road is classified as a local road. Requires a right of way dedication of 27.5 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Requires a 5-foot landscape strip with a 6-foot sidewalk. Street Lighting required. (hefowler@dekalbcountyga.gov) No poles may remain within the limits of the sidewalk. (See Zoning Code 5.4.3 and Land Development Code 14-190 for infrastructure requirements.). Ensure that the access points meet the minimum sight distance standards per AASHTO. Note required confirming sight distance on plans at Land Disturbance Permit phase. Please provide a copy of the deed where the Old Redan Right of Way was abandoned to the property owner as County records show that this is right of way. This issue of ownership should be resolved prior to any zoning actions by the county.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

- **Storm Water Management**

- **Flood Hazard Area/Wetlands**

- **Landscaping/Tree Preservation**

- **Tributary Buffer**



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV**

**COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: Z-23-1246464 Parcel I.D. #: 16-006-03-.001

Address: 5646 Covington Hwy
Stone Mountain,
Ga, 30088

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:

<p><u>Did not see any traffic Engineering concerns</u> <u>At this time.</u></p>

Signature: Jerry White

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

REZONING APPLICATION CHECKLIST

Email one (1) copy of your application as one (1) PDF file to Planner. Submit application through our online portal www.epermits.dekalbcountyga.gov

You MUST email us that you've submitted the application online. For questions, email: plansustain@dekalbcountyga.gov

- _____ 1. Schedule a mandatory **Pre-Application Conference** with Planning & Sustainability staff by appointment. Obtain Pre-Application form (to be completed in pre-application meeting). Please email lahill@dekalbcountyga.gov for appointment.
- _____ 2. Hold a **Pre-Submittal Community Meeting** with surrounding neighborhood associations and residents. Provide documentation of the meeting (**meeting notice and sign in sheets**). Letter(s) from homeowners' association(s) may also be provided.
- _____ 3. Submit **Application** (Email to planner and submit online permits.dekalbcountyga.gov Please assemble materials in the following order).
 - x _____ **A. Application form** with name and address of applicant and owner, and address of subject property;
 - _____ **B. Pre-submittal community meeting notice and sign-in sheet** and other documentation of meeting, if any;
 - _____ **C. Letter of application and impact analysis**
 - 1. **Letter of application** identifying a) the proposed zoning classification, b) the reason for the rezoning or special use or modification request, c) the existing and proposed use of the property, d) detailed characteristics of the proposed use (e.g. floor area, height of building(s), number of units, mix of unit types, number of employees, manner and hours of operation), d)(optional) statement of conditions discussed with the neighborhood or community, if any.
 - 2. **Impact analysis** of the anticipated impact of the proposed use and rezoning on the surrounding properties in response to the standards and factors specified in Article 7.3 of the DeKalb County Zoning Ordinance, as attached. If a Major Modification, please include previously approved conditions and Board of Commissioner meeting minutes.
 - _____ **D. Authorization Form**, if applicant is not the owner. Must be signed by all owners of the subject property and notarized. Authorization must contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property. Please include warranty deed, if property ownership is less than 2 years.
 - _____ **E. Campaign disclosure statement** (required by State law).
 - _____ **F. Legal boundary survey** of the subject property, (showing boundaries, structures, and improvements), prepared and sealed within the last year by a professional engineer or land surveyor registered in the State of Georgia. *(If survey shows property on opposite sides of a public street right-of-way, file a separate application for each property.)*
 - _____ **G. Site Plan**, printed to scale, folded, of any existing and or proposed development/redevelopment. For projects larger than 1 acre, site plan should be at least 1:50 scale. The site plan must include the following:
 - _____ a. complete boundaries of subject property;
 - _____ b. dimensioned access points and vehicular circulation drives;
 - _____ c. location of all existing and proposed buildings, structures, setbacks and parking;
 - _____ d. location of 100-year floodplain and any streams;
 - _____ e. notation of the total acreage or square footage of the subject property;
 - _____ f. landscaping, tree removal and replacement, buffer(s); and
 - _____ e. site plan notes of building square footages, heights, density calculations, lot coverage of impervious surfaces, parking ratios, open space calculations, and other applicable district standards.
 - _____ **H. Written Legal Description** of metes and bounds of the subject property (can be printed on site plan or survey).
 - _____ **I. Building Form Information.** Elevation (line drawing or rendering), or details of proposed materials, in compliance with Article 5 of the Zoning Ordinance.
 - _____ **J. Completed, signed Pre-application Form** (Provided at pre-application meeting.)



DEPARTMENT OF PLANNING & SUSTAINABILITY

Rezoning Application to Amend the Official Zoning Map of DeKalb County, Georgia

Date Received: _____ Application No: _____

Applicant Name: Mare Properties, LLC c/o Dennis J. Webb, Jr. (Smith, Gambrell, and Russell, LLP)

Applicant E-Mail Address: dwebb@sgrlaw.com

Applicant Mailing Address: 1105 W. Peachtree St. NE, Suite 1000, Atlanta, GA 30309

Applicant Daytime Phone: 404.815.3620 Fax: 404.685.6920

Owner Name: Munit Emlaelu

If more than one owner, attach list of owners.

Owner Mailing Address: 1168 4th PL NE, Atlanta, GA 30309

Owner Daytime Phone: _____

Address of Subject Property: 5646 Covington Highway

Parcel ID#: 16 006 03 001 & 16 007 02 013

Acreage: 1.81 acres Commission District: 5 & 7

Present Zoning District(s): RSM (Small Lot Residential Mix) District

Proposed Zoning District: C-1 (Local Commercial) District

Present Land Use Designation: SUB and CRC

Proposed Land Use Designation (if applicable): n/a

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION

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

Date Received: _____ Application No: _____

APPLICANT NAME: Mare Properties c/o Dennis J. Webb, Jr. (Smith, Gambrell and Russell, LLP)

Daytime Phone: 404.815.3620 E-Mail: dwebb@sgrlaw.com

Mailing Address: 1105 W. Peachtree St. NE, Suite 1000, Atlanta, GA 30309

Owner Name: Munit Emlaelu
(If more than one owner, attach contact information for each owner)

Daytime Phone: _____ E-Mail: _____

Mailing Address: 1168 4th PL NE, Atlanta, GA 30309

SUBJECT PROPERTY ADDRESS OR LOCATION: 5646 Covington Highway

DeKalb County, GA 30088

16 006 03 001 and 16 007 02 013

Parcel ID: _____ Acreage or Square Feet: 1.81

Commission Districts: 5 & 7

Existing Zoning: RSM Proposed Special Land Use (SLUP): Alcohol Outlet to Retail less than 12,000 sq.ft.

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

Owner: X Agent: _____

Signature of Owner:

Munit Emlaelu

 dotloop verified
05/04/23 10:22 AM EDT
FHAF-NBOP-ACG4-NUWM

Pre-Application Form



Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

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: Kylie Thomas Phone: 404-815-3620 Email: kathomas@sgrlaw.com

Property Address: 5646 Covington Hwy, Stone Mountain 30088

Tax Parcel ID: 16-006-03-001 Comm. District(s): 5 & 7 Acreage: 1.54

Existing Use: _____ Proposed Use: Convenience store/commercial use.

Supplemental Regs: _____ Overlay District: HHOVD/Tier 1 DRI: _____

Rezoning: Yes No _____

Existing Zoning: RSM Proposed Zoning: C-1 Square Footage/Number of Units: _____

Rezoning Request: Convenience store, commercial use(s), shopping center- Rezone to C-1 and SLUP for convenience store and alcohol use

Land Use Plan Amendment: Yes _____ No _____

Existing Land Use: SUB 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): CZ-02-039

Condition(s) to be modified:

WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION

Pre-submittal Community Meeting: _____ Review Calendar Dates: _____ PC: _____ BOC: _____
 Letter of Intent: _____ Impact Analysis: _____ Owner Authorization(s): _____ Campaign Disclosure: _____
 Zoning Conditions: _____ Community Council Meeting: _____ 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

Review of Site Plan

Density: _____ Density Bonuses: _____ Mix of Uses: _____ Open Space: _____
 Enhanced Open Space: _____ Setbacks: front _____ 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: _____

Comments: _____

Planner: Rachel Bragg, Zoning Administrator Date: 05/01/2023

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

Community Meeting Documents

1105 W. Peachtree St. NE, Suite 1000
Atlanta, Georgia 30309-3608
Tel: 404 815-3500
www.sgrlaw.com



Dennis (Den) J. Webb, Jr.
Direct Tel: 404-815-3620
Direct Fax: 404-685-6920
dwebb@sgrlaw.com

April 11, 2023

Re: COMMUNITY MEETING Regarding Proposed Development at 5646
Covington Highway, Atlanta, Georgia 30035.

Dear Neighbor:

Our Law Firm represents Mare Properties. Mare Properties will be filing an application to rezone the above-referenced property from RSM (Small Lot Residential Mix) to C-1 (Local Commercial), with a Special Land Use Permit (SLUP), in order to develop a shopping center that includes a convenience store without fuel pumps. You are receiving this notice because you own property within 500' of this parcel.

You are invited to participate in a virtual Community Meeting on Wednesday, April 26, 2023 at 7:00 PM.

ZOOM: <https://sgrlaw.zoom.us> ; Meeting ID: **959 4283 2948**; Passcode: **570364**

It is anticipated that this application will be presented at the DeKalb County Planning Commission meeting on July 11, 2023 and the Board of Commissioners' meeting on July 27, 2023. Further details on these meetings will be made available on the County's website as these dates get closer: www.dekalbcountyga.gov.

Should you have any questions regarding this application, please feel free to contact me.

Thank you,

A handwritten signature in blue ink, appearing to read 'D J Webb, Jr.'.

Dennis (Den) J. Webb, Jr.
Representative for Mare Properties



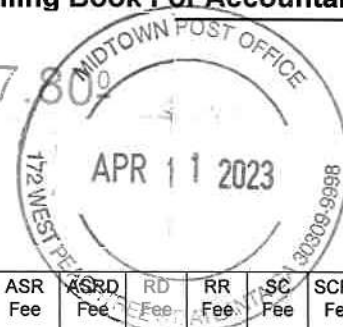
Firm Mailing Book For Accountable Mail

Hasler

04/11/2023

US POSTAGE

\$07.80



Name and Address of Sender	Check type of mail or service	
Kylie Thomas Smith, Gambrell & Russell, LLP 1105 West Peachtree Street, NE Suite 1000 Atlanta, GA 30309	<input type="checkbox"/> Adult Signature Required	<input type="checkbox"/> Priority Mail Express
	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail
	<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Return Receipt for Merchandise
	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation
	<input type="checkbox"/> Collect on Delivery (COD)	<input type="checkbox"/> Signature Confirmation Restricted Delivery
	<input type="checkbox"/> Insured Mail	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Priority Mail		

At
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USPS Tracking/Article Number	Addressee (Name, Street, City, State, & ZIP Code™)	Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
1.	DEKALB COUNTY 1300 COMMERCE DR DECATUR GA 30030	.60	.54											
2.	PARKER PROPERTY INVESTMENTS LLC 5649 COVINGTON HWY DECATUR GA 30035	.60	.54											
3.	RED ALLIGATOR LLC 171 MELACON RD MARKSVILLE LA 71351	.60	.54											
4.	DAVIS GRADY J 1857 BARKERS CREEK RD WHITTIER NC 28789	.60	.54											
5.	MARVIN HEWATT ENTERPRISES INC PO BOX 1565 LAWRENCEVILLE GA 30046	.60	.54											
6.	EMLAELU MUNIT 1168 14TH PL NE ATLANTA GA 30309	.60	.54											
7.	HIDDEN CREEK COMMUNITY ASSOC 55 MARIETTA ST NW ATLANTA GA 30303	.60	.54											
8.	SIMMONS WILLIAM T JR 2631 YOUNG RD STONE MOUNTAIN GA 30088	.60	.54											

9.	BEREAN CHRISTIAN CHURCH INC 2201 YOUNG RD STONE MOUNTAIN GA 30088	.60	.54																
10.	ROCK ROSE STONERIDGE PROPERTY LLC 5650 BRECKENRIDGE PARK DR STE 302 TAMPA FL 33610	.60	.54																
11.	LOS LLC 230 CLEVELAND AVE ATLANTA GA 30315	.60	.54																
12.	GDCI GA 7 LP 5755 DUPREE DR STE 130 ATLANTA GA 30327	.60	.54																
13.	BRUCE D. KENNETH 7010 ATLANTA HWY RUTLEDGE GA 30663	.60	.54																
14.																			
15.																			
16.																			
17.																			
18.																			
19.																			

Attendee Report – Mare Properties Community Meeting 5646 Covington Hwy.
 Report Generated: 4/28/2023 14:03
 Actual Start Time: 4/26/2023 18:31
 Actual Duration (minutes): 57
 Unique Viewers: 4
 Total Users: 6

	Name	Join time	Leave time	Time in session
Host	Dennis (Den) Webb	4/26/2023 18:46	4/26/2023 19:28	42
Engineer	Brent Thomas	4/26/2023 18:54	4/26/2023 19:28	34
Applicant	DK	4/26/2023 19:07	4/26/2023 19:28	44
Guest	Cheryl Simmons	4/26/2023 19:03	4/26/2023 19:28	25
Guest	William Simmons	4/26/2023 18:57	4/26/2023 19:28	31
Moderator	Dustin Quinteros	4/26/2023 18:31	4/26/2023 19:28	57

Letter of Application
and
Impact Analysis

DEPARTMENT OF PLANNING & SUSTAINABILITY

IMPACT ANALYSIS

(Please respond to the following standards and factors on a separate sheet.)

Section 27-7.3.5. The following standards and factors are found to be relevant to the exercise of the county's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map:

- A. Whether the zoning proposal is in conformity with the policy and intent of the Comprehensive Plan.
See attached Statement of Intent.
- B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.
See attached Statement of Intent.
- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
See attached Statement of Intent.
- D. Whether the zoning proposal will adversely affect the existing use of usability of adjacent or nearby properties.
See attached Statement of Intent.
- E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
See attached Statement of Intent.
- F. Whether the zoning proposal will adversely affect historic building, sites, districts, or archaeological resources.
See attached Statement of Intent.
- G. Whether the zoning proposal will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
See attached Statement of Intent.
- H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.
See attached Statement of Intent.

**STATEMENT OF INTENT/
WRITTEN JUSTIFICATION**

and

Other Material Required by
DeKalb County Zoning Ordinance for the
Rezoning and SLUP Applications

of

MARE PROPERTIES, LLC.

for

± 1.81 Acres of Land
located in Land Lots 006 and 007, 16th District

**RSM to C-1
SLUP for Alcohol Sales**

Submitted for the Applicant by:

Dennis J. Webb, Jr.
Kathryn M. Zickert
J. Alexander Brock
Smith, Gambrell & Russell, LLP
1105 W. Peachtree Street, NE
Atlanta, GA 30309
404-815-3500

I. INTRODUCTION

This Application seeks to rezone ± 1.81 acres of land consisting of two parcels located in the northeast quadrant of the intersection of Covington Highway and Young Road (“Subject Property”). The Subject Property is more particularly located at 5646 Covington Highway, DeKalb County, Atlanta, Georgia (Parcel IDs 1600603001 and 1600702013). The Subject Property is currently zoned RSM (Residential Small Lot) and within the Greater Hidden Hills Overlay, Tier 1 (the “Overlay”). The Applicant seeks to rezone the property to C-1 (Local Commercial District) to allow a proposed retail commercial development. In particular, the applicant and developer, Mare Properties, LLC. (“Mare” or “Applicant”), intends to develop the Subject Property with single-story building containing a $\pm 2,925$ square foot neighborhood market and $\pm 12,440$ square feet of retail shops (a total floor area of $\pm 15,365$ square feet), along with parking and appurtenant site improvements (“Proposed Development”). The proposed neighborhood market will also sell alcohol and the Applicant is submitting a concurrent application for a Special Land Use Permit (“SLUP”) to allow alcohol sales.

In keeping with the Overlay, the proposed Development offers a new-urbanist design. The building is brought to the street, with no parking between the structure and the right of way. Further, a 10-foot sidewalk and street trees are provided on Young Road. Pedestrians will be able to walk directly from the sidewalk into the stores.

The Proposed Development and the requested C-1 zoning are appropriate given what exists in the surrounding area today. To the north and east of the Subject Property is a property zoned RSM and owned by the Our Shepherds Baptist Church, which contains a vacant building (formerly a church). To the west, the Subject Property abuts the right-of-way of Young Road. To the south, the Subject Property borders the right-of-way of Covington Highway and an undeveloped lot zoned R-100 (Residential Medium Lot). Further south, across Covington

Highway, are multiple properties zoned C-2 (General Commercial District) and C-1 containing, among other things, a Texaco gas station and Parker & Son screen and glass contractors.

The Subject Property is located in one quadrant of an intersection of Covington Highway, a four-lane Major Arterial,¹ and Young Road, a Collector.² This intersection of two heavily traveled roadways is more conducive to commercial development than the residential allowed by the current RSM zoning. It should be noted that the property was previously rezoned to R-A8 in 2003 pursuant to CZ-02039³. The CZ-02039 zoning envisioned the development of twelve townhome residential units on the Subject Property, however that development never materialized. The property is currently undeveloped and consists of forested areas and the property has remained undeveloped for at least the last 68 years.⁴ Its odd shape and current RSM zoning are likely the reason that the Subject Property remains undeveloped, while the section of Covington Highway corridor at Young Road has enjoyed primarily commercial growth. Absent a rezoning to a more fitting district the Subject Property is likely to remain undeveloped.

In addition, the Proposed Development will act as a transition in use and intensity from the heavily traveled Covington Highway to the south and the existing residential areas to the north. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. The Proposed Development

¹ See the DeKalb County Recommended Functional Classification Map.

² *Id.*

³ It was subsequently rezoned to RSM when DeKalb County adopted its updated Zoning Map in 2015.

⁴ Determined from a review of aerial photographs dating back to 1955.

will also provide on-site transition, which might either supplement or replace off-site transition and consists of measures imposed on a particular property to protect neighborhoods from adverse effects. To achieve the onsite transition, the proposed site design will include appropriate setbacks and buffers along the residential district to the north and east.

In sum, the proposed C-1 zoning will allow the development of attractive and beneficial retail that is appropriate and harmonious with the existing development in the area. This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, a Written Justification for the Application as required by the DeKalb County Zoning Ordinance §§ 27-7.3.5 and 27-7.4.6.

III. IMPACT ANALYSIS

A. THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN

The portion of the Subject Property containing the Proposed Development is located within the Suburban character area per the DeKalb County Future Land Use Map.⁵ The DeKalb County 2050 Comprehensive Plan (“Comp Plan”) notes that the C-1 zoning is compatible with the Suburban character area. One of the Comp Plan’s stated intents for the Suburban character area is to “allow limited non-residential development...outside of existing, stable single-family neighborhoods, particularly in locations with high levels of pedestrian connectivity, to meet the needs of surrounding residents.” *See DeKalb County 2050 Comprehensive Plan, pg. 41.* The area further north of the Subject Property, along Young Road contains a number of residential developments. Additionally, the existing Park at Stonehaven apartments are located west of the

⁵ Parcel 1600603001 is within the Suburban character area and Parcel 1600702013 is within the Commercial Redevelopment Corridor (CRC) character area. The Proposed Development, however, will be entirely located within the Suburban Character Area. Both the Suburban and CRC support the proposed C-1 zoning.

Subject Property across Young Road. The addition of retail within walking distance of existing residential development aligns well with the goals of the Comprehensive Plan.

The Proposed Development also fosters a number of general policies for the Suburban character area in the County's Comprehensive Plan:

- Walkability - Locate development and activities within easy walking distance of transportation facilities.
- Streetscape - Create an enhanced sense-of-place by using design principles that promote good streetscapes and a strong public realm.
- Connectivity - Enhance connectivity by providing pedestrian and bicycle infrastructure.

B. THE PROPOSED REZONING PERMITS A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

The Proposed Development is suitable given the surrounding existing development. The Subject Property is located between property containing a former church (now vacant) to the north and east, and a commercial corridor along Covington Highway to the south. The overall area consists of a mix of multi-family residential, commercial, and institutional (church) developments. The Proposed Development will add retail and convenience goods within walking distance of nearby residential and act as a transition between the intensity of Covington Highway to the south and the residential uses further north.

C. THE SUBJECT PROPERTY DOES NOT HAVE A REASONABLE ECONOMIC USE AS PRESENTLY ZONED.

The current RSM zoning restricts the development of the Subject Property to primarily residential with limited other uses. As noted in the paragraphs above, the small, triangular shape of the property does not lend itself to the efficient layout of a residential development. Additionally, the property's location at the intersection of two major roadways limits its

attraction for small-scale residential development. The size, shape and location of the property limits its appeal for development under the current RSM district and absent a rezoning to a more appropriate district, the Subject Property is likely to remain undeveloped.

D. THE PROPOSED REZONING WILL NOT ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

See Paragraph II.B above.

E. THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY

The nearby properties along Covington Highway, particularly at its intersection with Young Road, are primarily zoned for either commercial or high-density residential uses. The Subject Property's RSM zoning has not kept pace with the other commercial development in the area. The proposed C-1 district will allow development of the property that is commensurate with the other properties fronting the intersection of Covington Highway and Young Road.

F. THE ZONING PROPOSAL WILL NOT ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS OR ARCHAEOLOGICAL RESOURCES

The Applicant knows of no historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the zoning requested.

G. THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

The Proposed Development will not significantly impact existing transportation facilities. The Applicant used the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition) to calculate vehicle trips for Convenience Market (ITE 852) and Specialty Retail Center (ITE 826). According to ITE, the 2,925 square foot convenience market and 12,440 square foot retail shops are expected to generate approximately 4,179 trips during a weekday, ±167 trips

during a weekday a.m. peak hour, and ±378 trips during a weekday p.m. peak hour. The proposed trips, however are not anticipated to negatively affect adjacent roadways. The Proposed Development has direct access to Young Road Road, which is classified as a Collector.⁶ Moreover, the property is at Young Road's signaled intersection with Covington Highway, a four-lane roadway that is classified as a Major Arterial.⁷ The Applicant is not aware of any capacity issues and it is anticipated that the adjacent and nearby roadways should easily handle the traffic generated by the proposed project. The Applicant notes that it is providing a deceleration lane onto the property so as not impacting the northbound travel lane.

The Proposed Development is a commercial use and will have no impact on local schools. As for utilities, the Subject Property has access to water and sewer.

H. WHETHER THE ZONING PROPOSAL ADVERSELY IMPACTS THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.

The Subject Property is not located within any floodplain⁸ and there are no streams onsite.⁹ Additionally, the Applicant will be providing a storm water manager to effectively treat and detain storm water runoff from the Proposed Development. Finally, the survey for the property does not reveal the presence of steep slopes or other environmentally sensitive areas (outside of the floodplain) located on site. Nonetheless, the Applicant will employ appropriate best management practices for erosion and sediment control during construction.

III. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

The proposed neighborhood market will sell alcohol as a part of its other items. Consequently, the following is an analysis of the criteria listed in DeKalb County Zoning Ordinance § 27-7.4.6 to allow an alcohol outlet.

⁶ See the DeKalb County Recommended Functional Classification Map.

⁷ *Id.*

⁸ Refer to FEMA FIRM Panel 13089C0156J, dated 5/16/2013.

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 size of the Subject Property can adequately accommodate the proposed retail and the required parking. The property's size, however, does not have a direct bearing on the alcohol sales.

B. COMPATIBILITY OF THE PROPOSED USE WITH ADJACENT PROPERTIES AND LAND USES AND WITH OTHER PROPERTIES AND LAND USES IN THE DISTRICT.

There is a school to the north, the Decatur Adventist Junior Academy, however it is located \pm 2,054 feet from the proposed neighborhood market (i.e. more than the 200-yard minimum separation per DeKalb County Code §27-4-101.1). The proposed alcohol outlet also meets the minimum separation requirements for churches¹⁰ and substance abuse centers.

C. ADEQUACY OF PUBLIC SERVICES, PUBLIC FACILITIES, AND UTILITIES TO SERVE THE USE CONTEMPLATED.

There are adequate public services, public facilities, and utilities to serve the Proposed Development. *See Also* Paragraph II.G above.

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.

See Paragraph II.G above.

⁹ Refer to the survey prepared by Travis Pruitt & Associates, dated April 28, 2023.

¹⁰ According to the DeKalb County tax records, the property to the north an east is owned by the Our Shepherds Baptist Church. However, the existing building on the property is vacant and the property is no longer used as a place of worship.

E. WHETHER OR NOT EXISTING LAND USES LOCATED ALONG ACCESS ROUTES TO THE SITE WILL BE ADVERSELY AFFECTED BY THE CHARACTER OF THE VEHICLES OR THE VOLUME OF TRAFFIC GENERATED BY THE PROPOSED USE.

No. The character of the vehicles will be similar to other commercial businesses in the area. Also, the volume of traffic generated is not expected to adversely affect other existing land uses.

F. 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.

The Subject Property is situated at the intersection of Young Road and Covington Highway. The property does not have frontage on Covington Highway and would not have adequate separation from the intersection to allow a curb cut on Covington Highway even if it did. It can adequately accommodate a drive entrance on Young Road, however. The Applicant is proposing a deceleration lane at its Young Road entrance and sidewalks along the Young Road frontage (there are existing sidewalks within the right-of-way of Covington Highway that will remain).

G. WHETHER THE PROPOSED USE WILL CREATE ADVERSE IMPACTS UPON ANY ADJOINING LAND USE BY REASON OF NOISE, SMOKE, ODOR, DUST, OR VIBRATION GENERATED BY THE PROPOSED USE.

No, the proposed use will not create such adverse impacts. The Subject Property is located along a commercial corridor and is surrounded entirely by largely commercial uses that will not be adversely impacted by the renovated restaurant.

H. WHETHER THE PROPOSED USE WILL CREATE ADVERSE IMPACTS UPON ANY ADJOINING LAND USE BY REASON OF THE HOURS OF OPERATION OF THE PROPOSED USE.

No. Hours of use will remain the same and mirror those of the similar businesses in the area.

I. WHETHER THE PROPOSED USE WILL CREATE ADVERSE IMPACTS UPON ANY ADJOINING LAND USE BY REASON OF THE MANNER OF OPERATION OF THE PROPOSED USE.

The proposed retail will hold normal business hours (not late night) and the manner of operation will consistent with other retail businesses in the area.

J. WHETHER THE PROPOSED PLAN IS OTHERWISE CONSISTENT WITH THE REQUIREMENTS OF THE ZONING DISTRICT CLASSIFICATION IN WHICH THE USE IS PROPOSED TO BE LOCATED.

The proposed use will be fully compliant with the proposed C-1 district regulations.

K. WHETHER THE PROPOSED USE IS CONSISTENT WITH THE POLICIES OF THE COMPREHENSIVE PLAN.

See Paragraph II.A above.

L. WHETHER THE PROPOSED PLAN PROVIDES FOR ALL REQUIRED BUFFER ZONES AND TRANSITIONAL BUFFER ZONES WHERE REQUIRED BY THE REGULATIONS OF THE ZONING DISTRICT IN WHICH THE USE IS PROPOSED TO BE LOCATED.

Yes, the Proposed Development will incorporate a 50-foot zoning buffer along the property line adjacent to the existing RSM district.

M. WHETHER THERE IS ADEQUATE PROVISION OF REFUSE AND SERVICE AREAS.

The Proposed Development will include adequate refuse areas to accommodate the proposed retail and convenience market.

N. WHETHER THE LENGTH OF TIME FOR WHICH THE SPECIAL LAND USE PERMIT IS GRANTED SHOULD BE LIMITED IN DURATION.

Because the proposed retail and alcohol sales are suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

O. WHETHER THE SIZE, SCALE AND MASSING OF PROPOSED BUILDINGS ARE APPROPRIATE IN RELATION TO THE SIZE OF THE SUBJECT PROPERTY AND IN RELATION TO THE SIZE, SCALE AND MASSING OF THE ADJACENT AND NEARBY LOTS AND BUILDINGS.

The proposed building is one-story in height and its size is proportional to the property area. Moreover, the building's size is appropriate in light of adjacent and nearby properties.

P. WHETHER THE PROPOSED USE WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.

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

Q. WHETHER THE PROPOSED USE SATISFIES THE REQUIREMENTS CONTAINED WITHIN THE SUPPLEMENTAL REGULATIONS FOR SUCH SPECIAL LAND USE PERMIT.

Yes. The proposed alcohol outlet meets the requirements of Zoning Code § 27-4.2.8. Specifically, the alcohol outlet will:

(a) Alcohol outlets shall not be located:

- 1. Within three hundred (300) feet of any school building, school grounds, educational facility, college campus, or adult entertainment establishment; or**
- 2. Within six hundred (600) feet of a substance abuse treatment center owned, operated, or approved by the state or any county or municipal government.**

There are no school buildings or educational facilities within 300 feet nor are there any treatment centers within 600 feet of the proposed convenience market

(b) For alcohol sales as an accessory use to retail, the area devoted to the sale and storage of alcohol shall not exceed twenty (20) percent of gross floor area.

The Applicant's alcohol sales will be limited to twenty (20) percent of gross floor area or less.

R. WHETHER THE PROPOSED USE WILL CREATE A NEGATIVE SHADOW IMPACT ON ANY ADJOINING LOT OR BUILDING AS A RESULT OF THE PROPOSED BUILDING HEIGHT.

The proposed building will be one-story in height, which will not create any negative shadow impacts on any adjoining properties.

S. WHETHER THE PROPOSED USE WOULD BE CONSISTENT WITH THE NEEDS OF THE NEIGHBORHOOD OR THE COMMUNITY AS A WHOLE, BE COMPATIBLE WITH THE NEIGHBORHOOD, AND WOULD NOT BE IN CONFLICT WITH THE OVERALL OBJECTIVE OF THE COMPREHENSIVE PLAN.

The Proposed Development would serve customers from the surrounding neighborhood and is within walking distance of the Park at Stonehaven apartments. The neighborhood market with alcohol sales will fill a need within the community. The proposed redevelopment is not in conflict with the objectives of the Comp Plan as outlined in the paragraphs above.

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

The Applicant respectfully submits that the existing zoning on the Subject Property is unconstitutional and that a refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property to an intervening classification, 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.

A refusal to approve the proposed rezoning and Special Land Use Permit, or any attempt to rezone the Subject Property to an intervening classification, would discriminate unfairly between the owner of the Subject Property and other property owners similarly situated, in

violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning and Special Land Use Permit, or any attempt to rezone the Subject Property to an intervening classification, would amount to a taking of property, 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.

A refusal to approve the proposed rezoning and Special Land Use Permit, or any attempt to rezone the Subject Property to an intervening classification, would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning and Special Land Use Permit, or any attempt to rezone the Subject Property to an intervening classification, would be invalid inasmuch as the Zoning Ordinance of DeKalb County is unlawful, null and void because its adoption and map adoption/maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

DeKalb County's Zoning Ordinance lacks adequate standards for the Board of Commissioners to exercise its power to review this Application. Specifically, the "standards and factors" set out in Sections 27-7.3.5 and 27-7.4.6 are not sufficient to contain the discretion of the Board of Commissioners and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other

things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia.

Any limitation on the time for presentation of the issues before the Board of Commissioners, which has the power to zone and rezone property, is a violation of the guarantees of free speech under the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State of Georgia. Further, said limitations are in violation of the right to petition and assemble, in violation of the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph IX of the Constitution of Georgia, as well as the due process clauses of the United States and Georgia Constitutions.

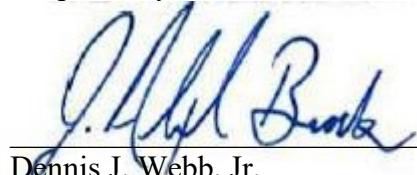
The Applicant raises the defenses of lack of standing and failure to exhaust administrative remedies.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning and Special Land Use Permit applications at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County.

This 4th day of May, 2023.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Dennis J. Webb, Jr.", is written over a horizontal line.

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

Smith, Gambrell & Russell, LLP
1105 W. Peachtree Street, N.E., Suite 1000
Atlanta, Georgia 30309
404-815-3500

Authorization Form

Campaign Disclosures

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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


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

Yes _____ No ✓ *

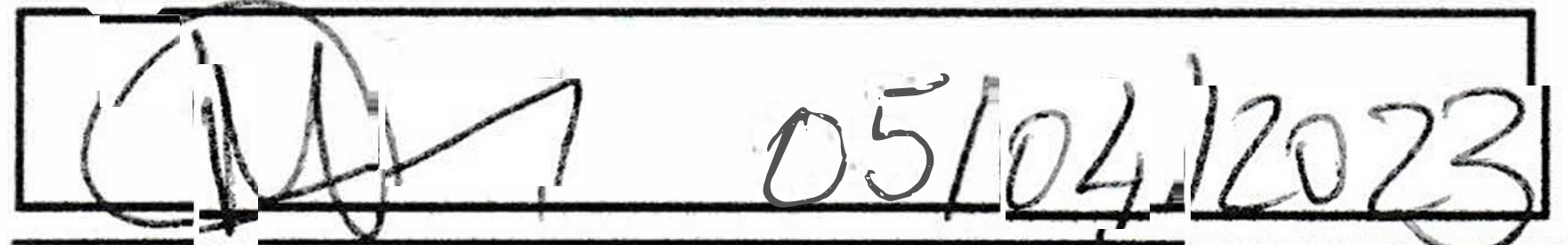
If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

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

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



Notary


Signature of Owner /Date (Munit Emlaelu)

Check one: Owner Agent _____



09-26-26

Expiration Date/ Seal

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



DEPARTMENT OF PLANNING & SUSTAINABILITY

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

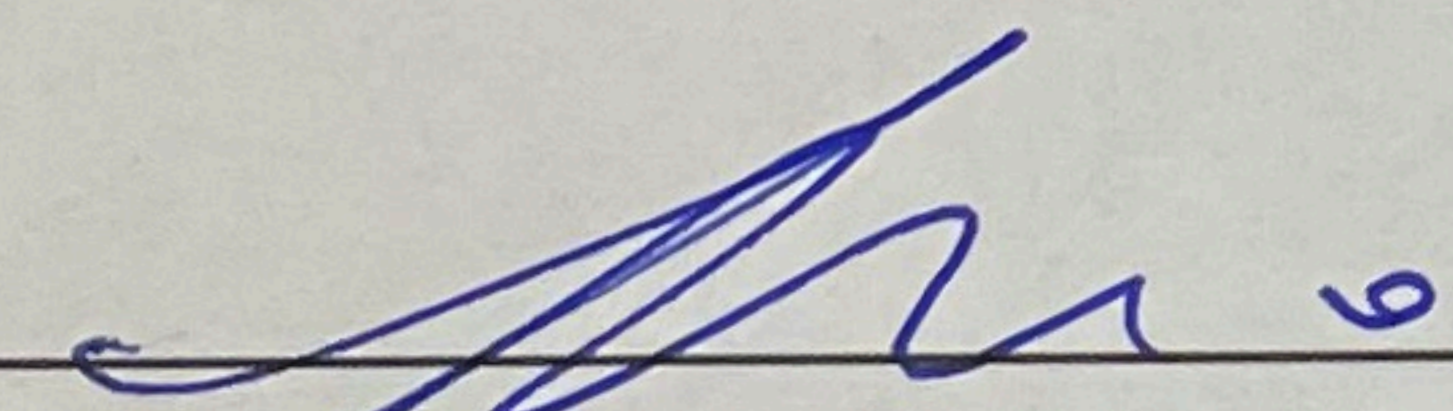
Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filing of this application?

Yes No *

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2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

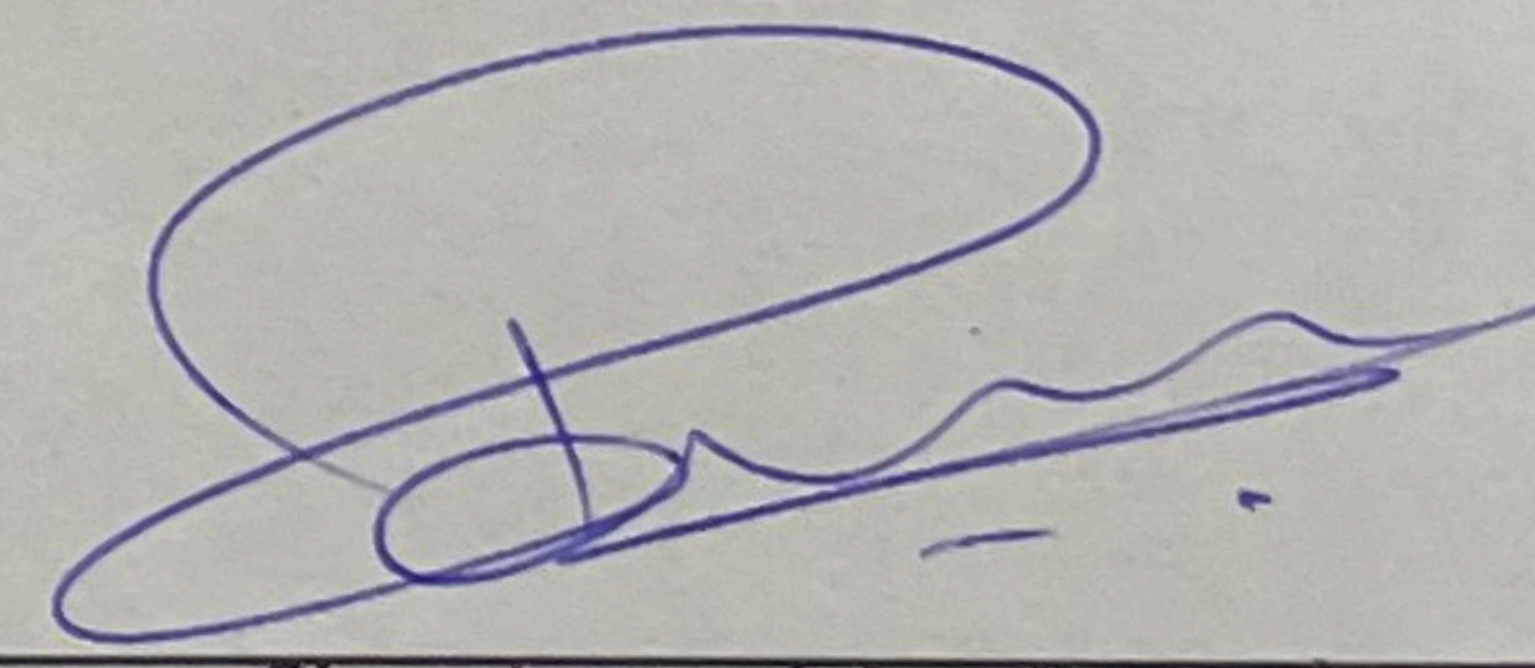
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Notary (5-4-2023)

Soyoung Chi
NOTARY PUBLIC
Gwinnett County, GEORGIA
My Commission Expires 07/17/2026

Expiration Date/ Seal



Signature of Applicant/Date
(Authorized Agent for Mare Properties)

Check one: Owner _____ Agent/ Applicant

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

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Beverly D Campbell
Notary

DJW 5.3.2023
Signature of Applicant/Date
Dennis J. Webb, Jr. (Smith, Gambrell, and Russell, LLP)

Check one: Owner Agent/ X
Applicant

June 27, 2023
Expiration Date/ Seal



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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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Yes x No ___*

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Beverly D. Campbell

Notary

Kathryn M Zickert 5.3.2023
Signature of Applicant/Date

Kathryn M. Zickert (Smith, Gambrell, and Russell, LLP)

Check one: Owner _____ Agent/ X _____
Applicant

June 27, 2023

Expiration Date/ Seal



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

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Beverly D. Campbell
Notary

J. Alexander Brock 5.3.2023
Signature of Applicant/Date
J. Alexander Brock (Smith, Gambrell and Russell, LLP)

Check one: Owner _____ Agent/ X Applicant

June 27, 2023
Expiration Date/ Seal



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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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Beverly D. Campbell
Notary

Kirk R. Fjelstul 5.3.2023
Signature of Applicant/Date
Kirk R. Fjelstul (Smith, Gambrell, and Russell, LLP)
Check one: Owner ___ Agent/ X Applicant

June 27, 2023
Expiration Date/ Seal



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

1105 W. Peachtree St. NE, Suite 1000
Atlanta, Georgia 30309-3608
Tel: 404 815-3500
www.sgrlaw.com



J. Alexander Brock
Direct Tel: 404-815-3603
Direct Fax: 404-685-6903
jabrock@sgrlaw.com

May 4, 2023

Via Email: bhsander@dekalbcountyga.gov

ATTN: Barbara Sanders-Norwood
DeKalb County Board of Commissioners
1300 Commerce Drive
Decatur, Georgia 30030

This letter is intended to provide campaign contributions as required by state law for Kathryn M. Zickert, Dennis J. Webb, Jr., J. Alexander Brock and Smith, Gambrell & Russell, LLP. This information is being provided in conjunction with a Rezoning application that will be filed for the property at 5646 Covington Highway. Please be advised that over the past two years (2020-2022) our total contributions have been as follows:

Jan. 2021 Robert Patrick \$500.00 [Kathryn M. Zickert]
June 2021 Robert Patrick \$500.00 [Kathryn M. Zickert]
April 2022 Friends of Larry Johnson for \$1,000.00 [SGR-PAC]
April 2022 Michelle for DeKalb for \$2,000.00 (Michelle Long Spears) [SGR-PAC]
April 2022 Friends of Lorraine Johnson for \$1,000.00 [SGR-PAC]
April 2022 Friends of Lorraine Johnson for \$500.00 [Kathryn M. Zickert]
April 2022 Friends of Lorraine Johnson for \$500.00 [Dennis J. Webb, Jr.]
April 2022 Michelle for DeKalb for \$500.00 (Michelle Long Spears) [Dennis J. Webb, Jr.]
June 2022 Michelle for DeKalb for \$1,600 (Michelle Long Spears) [SGR-PAC]
June 2022 Michelle for DeKalb for \$500 (Michelle Long Spears) [Dennis J. Webb, Jr.]
June 2022 Michelle for DeKalb for \$250 (Michelle Long Spears) [Dennis J. Webb, Jr.]
August 2022 Michelle for DeKalb for \$500 (Michelle Long Spears) [Dennis J. Webb, Jr.]

Please let me know if you require any additional information.

Sincerely,

A handwritten signature in blue ink that reads "J. Alexander Brock".

J. Alexander Brock

Survey

LEGAL DESCRIPTION

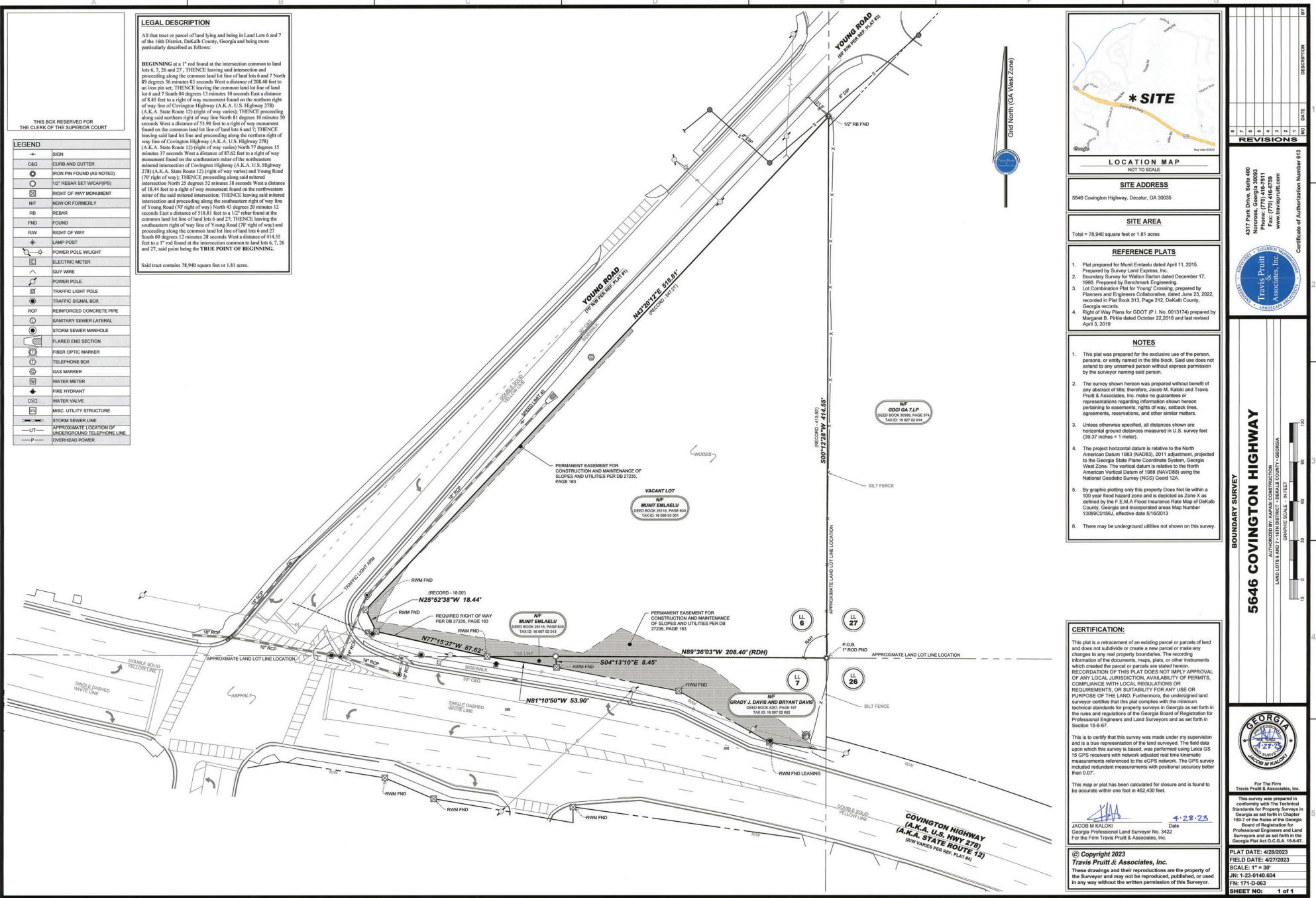
All that tract or parcel of land lying and being in Land Lots 6 and 7 of the 16th District, DeKalb County, Georgia and being more particularly described as follows:

BEGINNING at a 1" rod found at the intersection common to land lots 6, 7, 26 and 27; **THENCE** leaving said intersection and proceeding along the common land lot line of land lots 6 and 7 North 89 degrees 36 minutes 03 seconds West a distance of 208.40 feet to an iron pin set; **THENCE** leaving the common land lot line of land lot 6 and 7 South 04 degrees 13 minutes 19 seconds East a distance of 4.44 feet to a right of way monument found on the northern right of way line of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies); **THENCE** proceeding along said northern right of way line North 81 degrees 10 minutes 59 seconds West a distance of 53.96 feet to a right of way monument found on the common land lot line of land lot 6 and 7; **THENCE** leaving said land lot line and proceeding along the northern right of way line of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies) North 77 degrees 15 minutes 37 seconds West a distance of 87.62 feet to a right of way monument found on the southeastern corner of the northeastern intersected intersection of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies) and Young Road (7' right of way); **THENCE** proceeding along said intersected intersection North 24 degrees 52 minutes 38 seconds West a distance of 18.44 feet to a right of way monument found on the northeastern corner of the said intersected intersection; **THENCE** leaving said intersected intersection and proceeding along the southeastern right of way line of Young Road (7' right of way) North 43 degrees 28 minutes 12 seconds East a distance of 518.81 feet to a 1/2" iron pin found at the common land lot line of land lots 6 and 27; **THENCE** leaving the southeastern right of way line of Young Road (7' right of way) and proceeding along the common land lot line of land lots 6 and 27 South 09 degrees 12 minutes 28 seconds West a distance of 414.55 feet to a 1" rod found at the intersection common to land lots 6, 7, 26 and 27, said point being the **TRUE POINT OF BEGINNING**.

Said tract contains 78,940 square feet or 1.81 acres.

THIS BOX RESERVED FOR THE CLERK OF THE SUPERIOR COURT

LEGEND table with symbols for SIGN, CURB-AND GUTTER, IRON PIN FOUND, etc.



SITE ADDRESS: 5646 Covington Highway, Decatur, GA 30035

SITE AREA: Total = 78,940 square feet or 1.81 acres

- REFERENCE PLATS: 1. Plat prepared for Munit Emlaolu dated April 11, 2015. 2. Boundary Survey for Walton Barton dated December 17, 1986. 3. Lot Combination Plat for Young Crossing, prepared by Planners and Engineers Collaborative, dated June 23, 2022. 4. Right of Way Plans for GDOT (P) 1, No. 00131174 prepared by Margaret B. Pirkle dated October 22, 2018 and last revised April 3, 2019.

- NOTES: 1. This plat was prepared for the exclusive use of the person, persons, or entity named in the title block. 2. The survey shown hereon was prepared without benefit of any abstract of title. 3. Unless otherwise specified, all distances shown are horizontal ground distances measured in U.S. survey feet. 4. The project horizontal datum is relative to the North American Datum 1983 (NAD83), 2011 adjustment. 5. By graphic plotting only this property does not lie within a 100 year flood hazard zone. 6. There may be underground utilities not shown on this survey.

CERTIFICATION: This plat is a re-attachment 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.

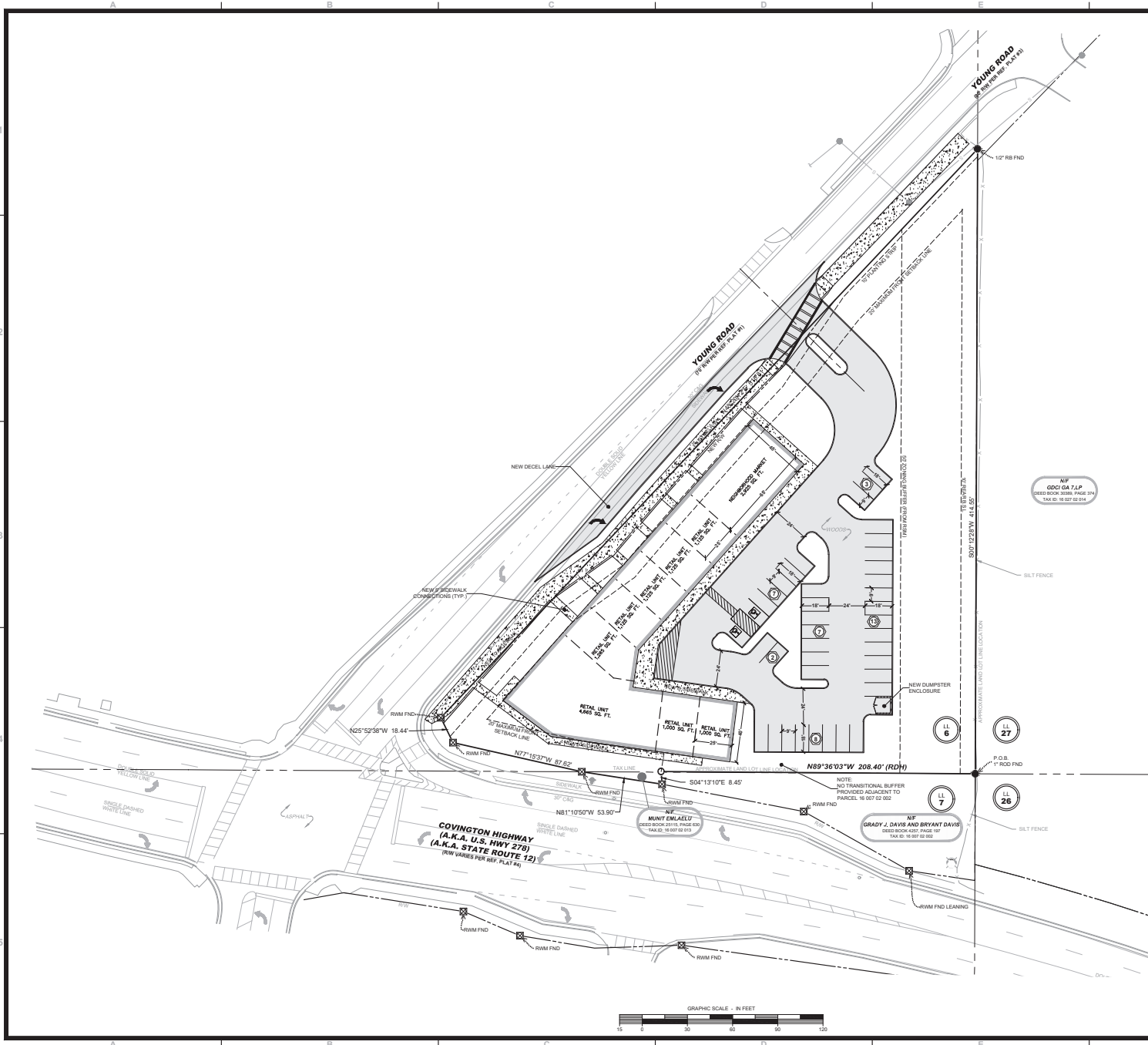
This is to certify that this survey was made under my supervision and is a true representation of the land surveyed. The field data upon which this survey is based, was performed using Leica GS 15 GPS receivers with network adjusted real time kinematic measurements referenced to the eGPS network.

JACOB M KALOKI Date 4-28-23 Georgia Professional Land Surveyor No. 3422 For the Firm Travis Pruitt & Associates, Inc.

Copyright 2023 Travis Pruitt & Associates, Inc. These drawings and their reproductions are the property of the Surveyor and may not be reproduced, published, or used in any way without the written permission of this Surveyor.

Right margin containing REVISIONS table, TRAVIS PRUITT & ASSOCIATES, INC. logo, BOUNDARY SURVEY 5646 COVINGTON HIGHWAY, and GEORGIA Professional Land Surveyor seal.

Site Plan



EX. SITE ZONING: RSM
PROPOSED ZONING: C-1
OVERLAY: HIDDEN HILLS (TIER 1)
SITE AREA: 1.81 ACRES
TAX PARCEL ID: 16 006 03 001
16 007 02 013

BUILDING SETBACK LINES:
 FRONT YARD: 0-20' (OVERLAY)
 REAR YARD: 10' (OVERLAY)
 SIDE YARD: 0' (OVERLAY)

TRANSITIONAL BUFFER:
 FROM RSM: 50'
 FROM H: 10-50': 50'

BUILDING SUMMARY:
 1-STORY
 TOTAL BUILDING FOOTPRINT: 15,365 SQ. FT.
 BUILDING HEIGHT: 11.5 FT.
 CONVENIENCE STORE AREA: 2,925 SQ. FT.
 TOTAL RETAIL AREA: 12,440 SQ. FT.

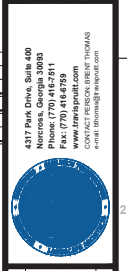
PARKING SUMMARY

DESCRIPTION	MIN.	MAX.	PROVIDED
REGULAR PARKING	32	74	38
ADA PARKING	2	3	2
TOTAL PARKING SPACES:	34	74	40

CONVENIENCE STORE WITHOUT PUMP:
 *MINIMUM 3 SPACES PER 100 SQ. FT.
 2,925/1,000 = 9 SPACES REQUIRED
 *MAXIMUM 4 SPACES PER 1000 SQ. FT.
 2,925/1,000 = 2 MAX

RETAIL:
 *MINIMUM 1 SPACE PER 500 SQ. FT.
 12,440/500 = 25 SPACES REQUIRED
 *MAXIMUM 1 SPACE PER 200 SQ. FT.
 12,440/200 = 62 SPACES REQUIRED

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		

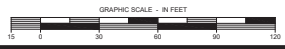


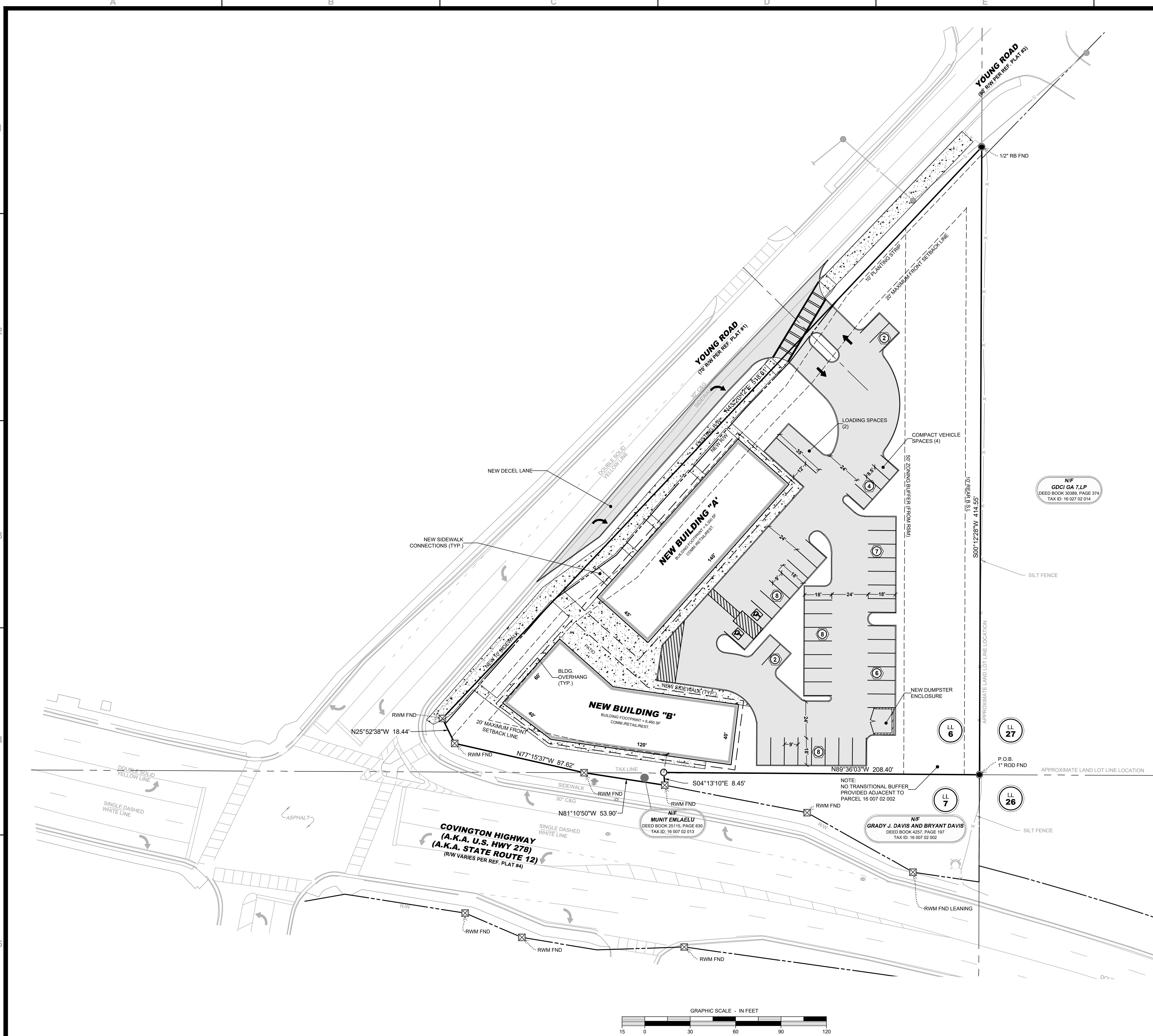
5646 COVINGTON HIGHWAY
 5646 COVINGTON HIGHWAY (LAND LOT 21, DISTRICT 16 - DEKALE, GEORGIA)

NOTE: ALL CURB RADI ARE 5:11 UNLESS OTHERWISE NOTED.
 NOTE: ALL DIMENSIONS ARE TO FACE OF CURB, FACE OF BUILDING, OR CENTER OF STRUCTURE, UNLESS OTHERWISE NOTED.

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For The Firm
 Travis Pruitt & Associates, Inc.
 DATE: 04/02/2023
 SCALE: 1" = 50'
 CN: 230148CP1
 JN: 23-0140
 FW: 171-D-035
 SHEET NO: 1 OF 1





EX. SITE ZONING: RSM
PROPOSED ZONING: C-1
OVERLAY: HIDDEN HILLS (TIER 1)
SITE AREA: 1.81 ACRES
IMPERVIOUS AREA: 1.00 ACRES (55%)
TAX PARCEL ID: 16 006 03 001
16 007 02 013

BUILDING SETBACK LINES:
 FRONT YARD: 0-20' (OVERLAY)
 REAR YARD: 10' OVERLAY
 SIDE YARD: 0' (OVERLAY)

TRANSITIONAL BUFFER:
 FROM RSM: 50'
 FROM R(R-100): 50'

BUILDING "A" SUMMARY:
 1-STORY
 TOTAL BUILDING FOOTPRINT: 6,300 SQ. FT.
 BUILDING HEIGHT: ±18 FT.

BUILDING "B" SUMMARY:
 1-STORY
 TOTAL BUILDING FOOTPRINT: 6,460 SQ. FT.
 BUILDING HEIGHT: ±18 FT.

TOTAL BUILDING AREA: 12,760 SQ. FT.

PARKING SUMMARY

DESCRIPTION	MIN.*	MAX.**	PROVIDED
REGULAR PARKING:	33	78	43
ADA PARKING:	2	3	2
TOTAL PARKING SPACES:	35	81	45

RETAIL
 *MINIMUM 1 SPACE PER 500 SQ. FT.
 10,760/500 = 22 SPACES REQUIRED
 **MAXIMUM 1 SPACE PER 200 SQ. FT.
 10,760/200 = 54 SPACES REQUIRED

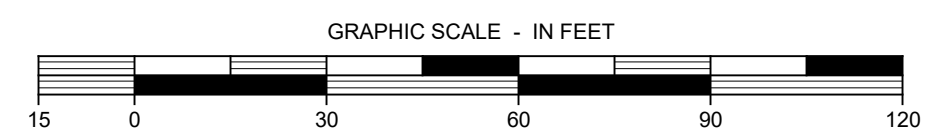
RESTAURANT
 *MINIMUM 1 SPACE PER 150 SQ. FT.
 2,000/150 = 13 SPACES REQUIRED
 **MAXIMUM 1 SPACE PER 75 SQ. FT.
 2,000/75 = 27 SPACES REQUIRED

BUILDING & PARKING USES NOTE:
 BUILDINGS A & B WILL BE DIVIDED INTO MULTIPLE TENANT SPACES. THE PROPOSED USE BREAKDOWN AND SQUARE FOOTAGES USED FOR PARKING CALCULATIONS ARE BASED ON SPECULATIVE TENANT OCCUPATION.

NOTE: ALL CURB RADII ARE 5 FT., UNLESS OTHERWISE NOTED.

NOTE: ALL DIMENSIONS ARE TO FACE OF CURB, FACE OF BUILDING, OR CENTER OF STRUCTURE, UNLESS OTHERWISE NOTED.

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NO	DATE	DESCRIPTION
1		

4377 Park Drive, Suite 400
 Norcross, Georgia 30093
 Phone: (770) 416-7511
 Fax: (770) 416-6759
 www.travispruitt.com
 CONTACT PERSON: BRENT THOMAS
 e-mail: labornar@travispruitt.com



SITE PLAN

5646 COVINGTON HIGHWAY

5646 COVINGTON HIGHWAY LAND LOT 27, DISTRICT 16, DEKALB, GEORGIA

For The Firm
 Travis Pruitt & Associates, Inc.
 DATE: 04/06/2023
 SCALE: 1" = 30'
 CN: 230140CP2
 JN: 23-0140
 FN: 171-D-039
SHEET NO: 1 OF 1

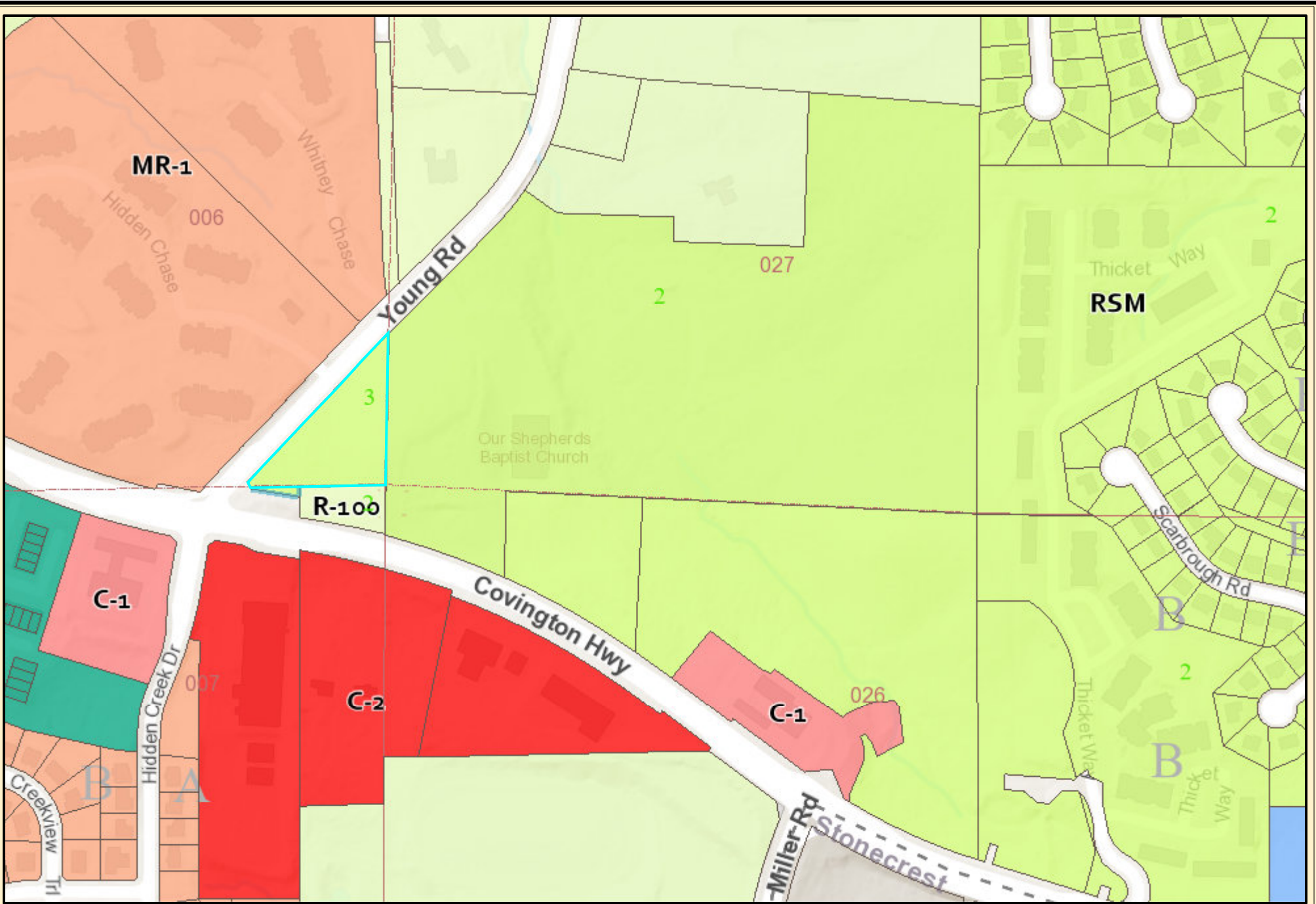
Legal Description

**DESCRIPTION OF
5646 Covington Highway**

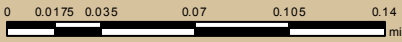
All that tract or parcel of land lying and being in Land Lots 6 and 7 of the 16th District, DeKalb County, Georgia and being more particularly described as follows:

BEGINNING at a 1" rod found at the intersection common to land lots 6, 7, 26 and 27 ,
THENCE leaving said intersection and proceeding along the common land lot line of land lots 6 and 7 North 89 degrees 36 minutes 03 seconds West a distance of 208.40 feet to an iron pin set;
THENCE leaving the common land lot line of land lot 6 and 7 South 04 degrees 13 minutes 10 seconds East a distance of 8.45 feet to a right of way monument found on the northern right of way line of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies); THENCE proceeding along said northern right of way line North 81 degrees 10 minutes 50 seconds West a distance of 53.90 feet to a right of way monument found on the common land lot line of land lots 6 and 7; THENCE leaving said land lot line and proceeding along the northern right of way line of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies) North 77 degrees 15 minutes 37 seconds West a distance of 87.62 feet to a right of way monument found on the southeastern miter of the northeastern mitered intersection of Covington Highway (A.K.A. U.S. Highway 278) (A.K.A. State Route 12) (right of way varies) and Young Road (70' right of way); THENCE proceeding along said mitered intersection North 25 degrees 52 minutes 38 seconds West a distance of 18.44 feet to a right of way monument found on the northwestern miter of the said mitered intersection;
THENCE leaving said mitered intersection and proceeding along the southeastern right of way line of Young Road (70' right of way) North 43 degrees 20 minutes 12 seconds East a distance of 518.81 feet to a 1/2" rebar found at the common land lot line of land lots 6 and 27; THENCE leaving the southeastern right of way line of Young Road (70' right of way) and proceeding along the common land lot line of land lots 6 and 27 South 00 degrees 12 minutes 28 seconds West a distance of 414.55 feet to a 1" rod found at the intersection common to land lots 6, 7, 26 and 27, said point being the **TRUE POINT OF BEGINNING**.

Said tract contains 78,940 square feet or 1.81 acres.



DeKalb County Parcel Map



Date Printed: 6/30/2023

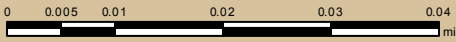


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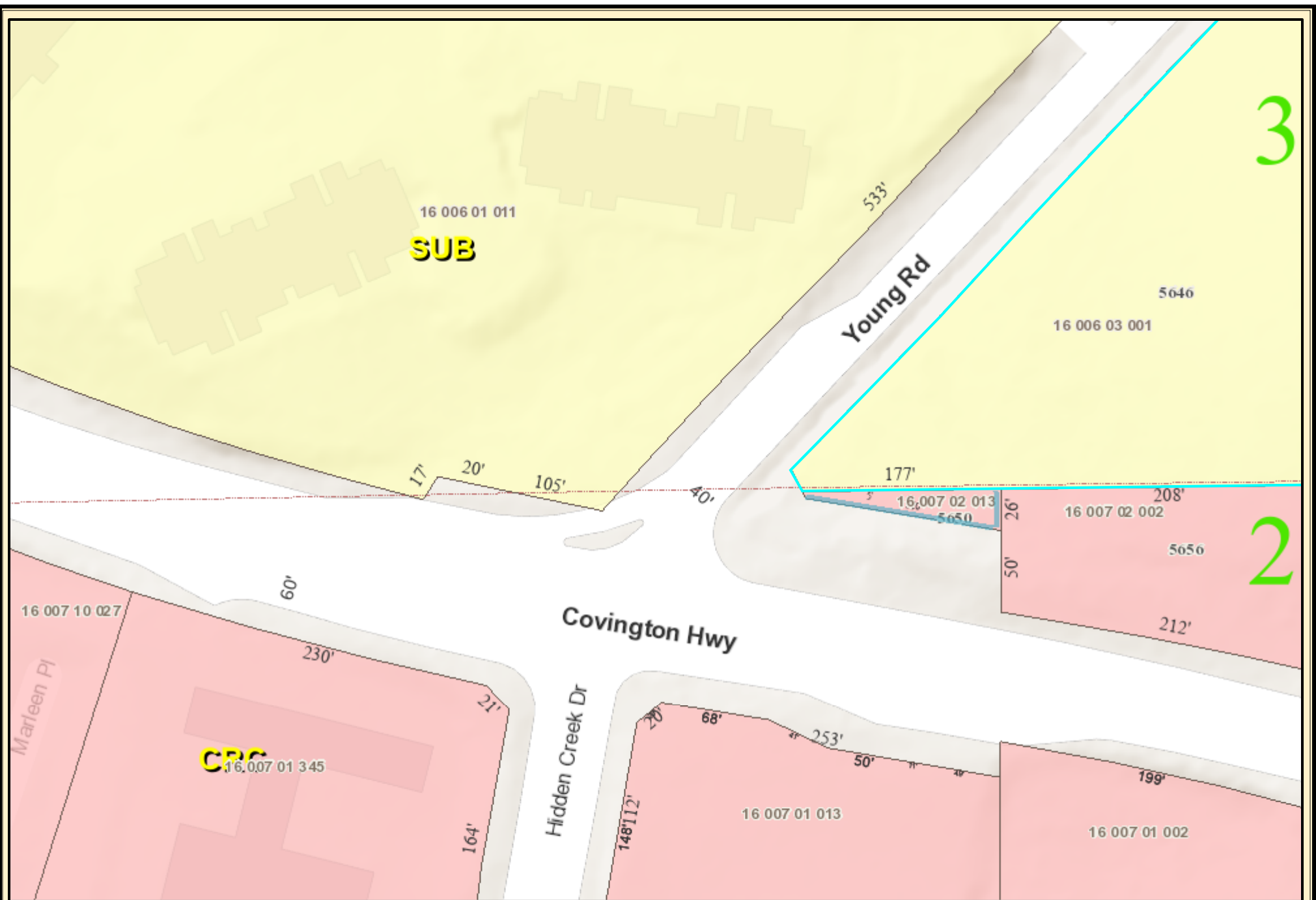
DeKalb County Parcel Map



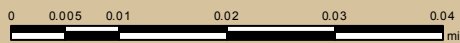
Date Printed: 6/30/2023



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DeKalb County Parcel Map

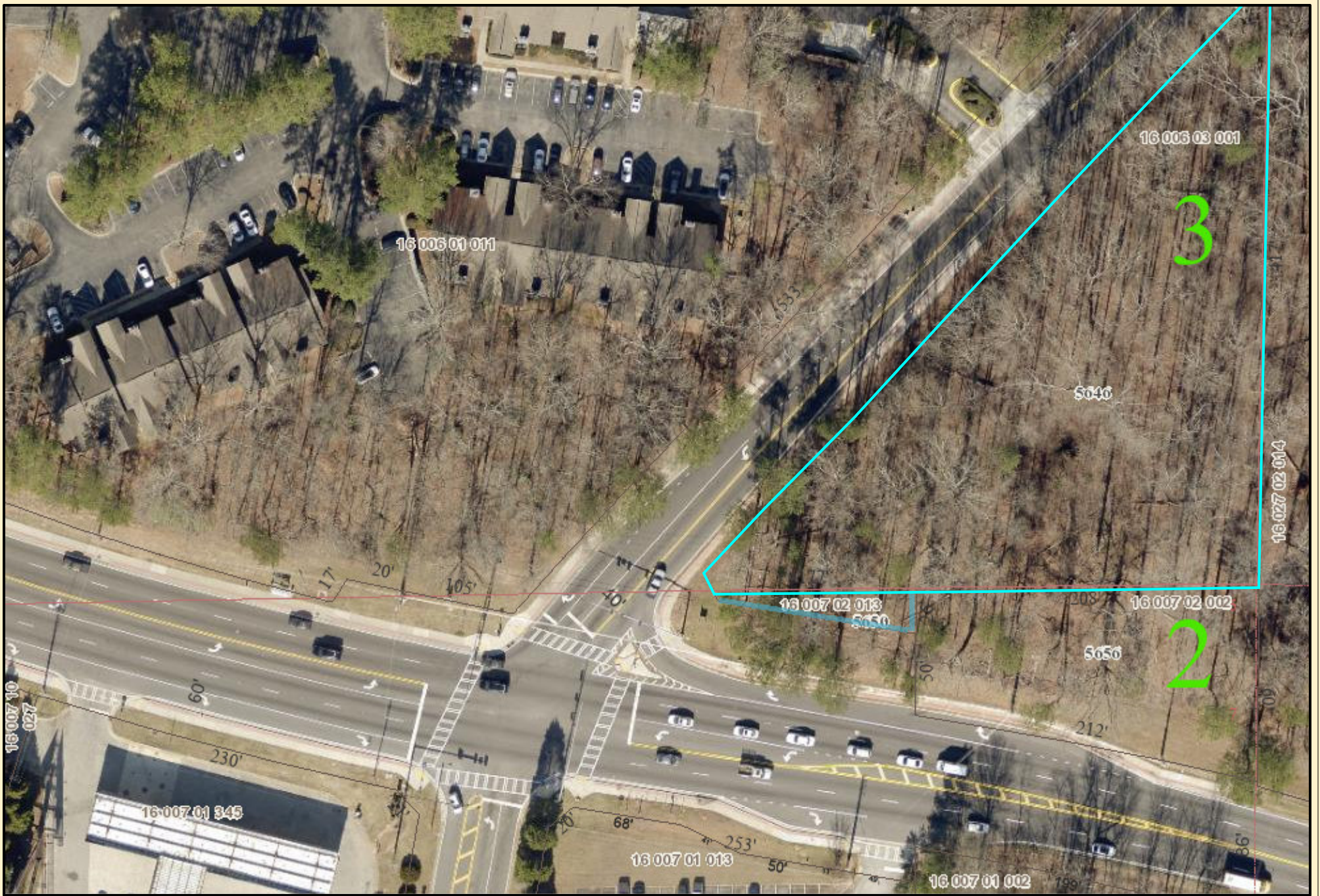


Date Printed: 6/30/2023

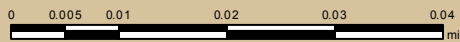


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DeKalb County Parcel Map



Date Printed: 6/30/2023



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