



**DeKalb County Department of Planning & Sustainability**

**330 Ponce De Leon Avenue, Suite 300**

**Decatur, GA 30030**

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

Michael Thurmond  
Chief Executive Officer

**Planning Commission Hearing Date: September 1, 2020**

**Board of Commissioners Hearing Date: September 24, 2020**

**STAFF ANALYSIS**

**Case No.:** SLUP-20-1244105 **Agenda #:** N.1

**Location/Address:** West side of North Druid Hills Road, approximately 750 feet south of Lavista Road at 2933 North Druid Hills Road in Atlanta, Georgia **Commission District: 2 Super District: 6**

**Parcel ID:** 18 111 03 018

**Request:** For a Special Land Use Permit (SLUP) to construct a new drive-through restaurant (Jamba Juice and Auntie Anne’s) within the C-1 (Local Commercial) district

**Property Owner/Agent:** Huckleberry Properties, Inc.

**Applicant/Agent:** Focus Brands c/o Julie Sellers

**Acreage:** .46 acres

**Existing Land Use:** Currently Undeveloped (concrete slabs on site from previous commercial business)

**Surrounding Properties Adjacent Zoning:** Chase Bank (with a drive-through) to the south; Wendy’s drive-through restaurant to the north; PNC drive through bank, Americus Bank (no drive-through), and Wells Fargo drive-through bank to the east across North Druid Hills Road, and Toco Hills Shopping Center to the west.

**Comprehensive Plan:** **Town Center (TC)**  **Consistent**  **Inconsistent**

<b>Proposed Building Sq. Ft.:</b> approximately 1,261 square feet	<b>Existing Building Sq. Footage:</b> Undeveloped
<b>Proposed Lot Coverage:</b> NA	<b>Existing Lot Coverage:</b> NA

**SUBJECT PROPERTY**

The subject property is a .46-acre tract on the west side of North Druid Hills Road (a major thoroughfare) within the C-1 (Local Commercial) District. The subject site contains vacant land that was previously developed with a Wing Stop restaurant. The site has curb, gutter, and sidewalks. The site is an outparcel of the Toco Hills Promenade Shopping Center, and is surrounded by several existing commercial uses, with many of those commercial uses containing drive-through facilities. A Chase Bank (with a drive-through facility) is to the south, a Wendy’s drive-through restaurant is to the north, a PNC drive through bank, Americus Bank (no drive-through), and Wells Fargo drive-through bank are to the east across North Druid Hills Road, and Toco Hills Shopping Center is to the west.

**ZONING HISTORY**

The .46-acre site is an outparcel of the Toco Hills Promenade Shopping Center on a site zoned C-1 (Local Commercial). The property appears to have been zoned C-1 since adoption to the first zoning ordinance and map in 1956.

**PROJECT ANALYSIS**

Pursuant to the submitted site plan, the applicant intends to develop a 1,261 square foot Jamba Juice/Auntie Anne’s drive-through restaurant. The Special Land Use Permit (SLUP) request is to develop one drive-through lane with exterior service windows. Per Chapter 27- Article 4.2.23.7, drive-through facilities require a Special Land Use Permit in Activity Center character areas. The proposed building is one-story with an average height of 20 feet. The building will consist of stone with a brick veneer and will comply with the building material requirements of the zoning ordinance. Two points of access are proposed onto North Druid Hills Road, which consist of a one-way entrance and a one-way exit. There is also an inter-parcel connection with the Toco Hills Promenade Shopping Center at the southwest corner of the subject property.

The subject site is located within a Town Center Character Area designated by the 2035 DeKalb County Comprehensive Plan calling for a high density mix of commercial, office, and residential uses within a pedestrian-focused community. The TC Character Area also calls for promoting new and redevelopment at or near activity centers as a means of reducing vehicle miles traveled (VMT) clearly defining road edges by locating buildings near the roadside with parking in the rear (TC Land Use Policy #13 and #20). The proposed SLUP is not consistent with these policies since the proposed automobile-oriented drive-through restaurant is not a pedestrian friendly land use, and the site plan is based on an automobile focused design which locates the building sixty feet away from the sidewalk along North Druid Hills Road with parking located in front of the proposed building.

**IMPACT ANALYSIS:**

**Section 27-7.4.6 of the DeKalb County Code states that the following criteria shall be applied in evaluating and deciding any application for a Special Land Use Permit.**

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

Located on .46 acres, adequate land area is available to operate a restaurant with a drive-through lane

and comply with all required yards, open space, and off-street parking required within the C-1 (Local Commercial) District. However, the site plan does not comply with the minimum five-foot wide landscape strip required along the perimeter of the site.

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

The proposed drive-through restaurant is consistent with the surrounding drive-through facilities in the area including a Wendy's drive-through restaurant to the north, a Chase Bank drive-through facility to the south, and Wells Fargo and PNC banks with drive-through facilities to the west across North Druid Hills Road. However, the proposed drive-through is inconsistent with the Town Center Character area policies which encourage a pedestrian community within a high density mix of residential, office, and commercial uses.

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

Given that the area along North Druid Hills Road is developed with various commercial uses, it appears that there are adequate public facilities and utilities for the proposed drive-through lane.

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

North Druid Hills Road is a major arterial. Given that, there is sufficient traffic carrying capacity for the proposed drive-through lane.

**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.**

Given the surrounding drive-through businesses, it does not appear that the character of the vehicles nor traffic generated by the drive-through lane will adversely impact existing land uses along access routes to the site.

**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:**

Two points of access are proposed along North Druid Hills Road, and there is one interparcel access connection to the adjacent Toco Hills Promenade shopping center. Emergency vehicles can access the site from either the entrance only access off North Druid Hills Road or the interparcel connection to Toco Hills Promenade shopping center. According to the site plan, it appears traffic will flow in a circular pattern to access the drive-through lane and available parking spaces. There are existing sidewalks along the frontage of North Druid Hills Road.

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

The proposed drive-through lane should not create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration.

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

The hours of operation for the proposed drive-through lane should not create adverse impacts upon adjoining land uses.

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

The manner of operation for the proposed drive-through lane should not create adverse impacts upon adjoining land uses.

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

Drive-through lanes are permitted uses within the C-1 zoning district with an approved Special Land Use Permit (SLUP). While the proposed site plan complies with most of the C-1 zoning requirements, there does not appear to be compliance with the required 5-foot wide perimeter landscape strip. However, the existing site appears to be non-conforming as it was previously developed with a Wing Stop restaurant which did not comply with the current perimeter landscape requirement.

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

The site is located within a Town Center Character Area designated by the DeKalb County 2035 Comprehensive Plan. Although there are existing drive-through establishments along North Druid Hills Road in the surrounding area, the proposed drive-through restaurant does not meet the intent and vision of the Town Center Character Area calling for a pedestrian community focused within a high density mix of residential, office, and commercial uses.

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

The proposed site does not abut any residential zoned properties. Therefore, buffer zones are not required.

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

Adequate refuse areas will be provided based on the submitted information by the applicant.

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

There does not appear to be any compelling reasons for limiting the duration of the requested Special Land Use Permit.

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

The proposed one-story building with a drive-through lane is compatible in size and massing of adjacent and nearby drive-through commercial buildings in the area.

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

Based on the submitted information, it does not appear that the proposed drive-through lane will not adversely affect historic buildings, sites, districts, or archaeological resources.

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

The proposed drive-through lane complies with most of the following supplemental regulations per Sec.27-4.2.23 of the DeKalb County Zoning Code:

- a. Drive-through facilities shall not be located within sixty feet of a residentially zoned property. *The nearest residential zoning is the R-100 zoning to the southeast approximately 320 feet away.*
- b. No drive-through facility shall be located on property less than ten thousand square feet in area, unless part of a mixed-use development. Stacking spaces for queuing of cars shall be provided for the drive-through area as required in Article 6. All driveway entrances, including stacking lane entrances, must be at least fifty (50) feet from an intersection. The distance is measured along the street from the junction of the two street curb lines to the nearest edge of the entrance. *Six stacking spaces are provided. The property contains 20,037 square feet (.46 acres). The nearest intersection is at Azalea Circle, which is located approximately 642 feet to the south of the subject property.*
- c. Drive-through lanes and service windows serving drive-through lanes shall only be located to the side or rear of buildings. *The proposed drive through lane and two service windows are located to the side and rear of the proposed building.*
- d. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing. *There will be no drive-through canopies based on the site plan.*
- e. Speaker boxes shall be pointed away from any adjacent residential properties and shall require masonry sound attenuation walls with landscaping or other speaker volume mitigation measures. Speaker boxes shall not play music but shall only be used for communication for placing orders. *There are no adjacent residential properties, the subject property is an outparcel of the C-1 zoned Toco Hills Promenade Shopping Center. Based on the submitted information, speaker boxes will be directed away from residential properties. No information has been submitted regarding whether the speaker boxes will have sound attenuation walls with landscaping or other speaker volume mitigation measures. Speaker boxes shall not play music but shall only be used for communication for placing orders.*
- f. All lighting from drive-through facilities shall be shaded and screened so as to be directed away from any adjacent residential property. *There are no adjacent residential properties. All lighting from the proposed drive-through shall be shaded and screened so as to be directed away from adjacent properties.*
- g. Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with the following requirements. Stacking spaces shall be a minimum of ten (10) feet wide and twenty-five (25) feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the “pick-up” window). *It cannot be determined if there is compliance as no information has been submitted by the applicant on this issue. Non-compliance shall require variances to be considered by the Board of Zoning Appeals.*
- h. All drive-through facilities with the exception of drive-through restaurants shall provide at least three stacking spaces for each window or drive-through service facility. *The proposed establishment is a drive-through restaurant so this requirement does not apply. However, there are six stacking spaces provided on the site plan.*

- i. The following standards shall apply to all stacking spaces and drive-through facilities:
- i. Drive-through lanes shall not impede on- and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create unsafe conditions where crossed by pedestrian access to a public entrance of a building. *The proposed drive-through lane does not impede on-and off-site traffic movements, does not cross or pass through off-street parking areas, and does not appear to create unsafe conditions where crossed by pedestrian access to a public entrance of a building. The site plan appears to indicate that there are no public entrances of the building which involve crossing a drive-through lane.*
  - ii. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated. *Based on the submitted site plan there does not appear to be any striping or curbing to clearly separate the proposed drive-through lane from the parking area.*
  - iii. All drive-through facilities shall include a bypass lane with a minimum width of ten (10) feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle. *Based on the submitted site plan, a proposed by-pass lane is provided that appears to be a minimum of ten feet wide at its narrowest point.*
  - iv. Drive-through lanes must be set back five (5) feet from all lot lines and roadway right-of-way lines. *The proposed drive-through lane is at least 20 feet away from all property lines and roadway right-of-way lines.*
  - v. Owner and operator are responsible for daily litter clean-up to ensure the property remains free of trash, litter, and debris. *The owner and operator shall be responsible for daily litter clean-up to ensure the property remains free of trash, litter, and debris.*
  - vi. Drive-through restaurants shall not be located within five hundred (500) feet of an elementary, middle, or high school. *No information has been submitted by the applicant to determine compliance with this requirement.*
  - vii. Drive-through restaurants located in activity centers require a special land use permit. In all other character areas, a special land use permit is required unless the facility can meet at least two of the following criteria: a. Facility is located within four hundred (400) feet of an intersection of a major arterial street and a major or minor arterial street, or within one thousand (1,000) feet of an interstate highway interchange. b. Facility is accessible only through inter-parcel access or through a shared driveway. c. Facility is part of a major development as defined in Art. 8.1.16. *The proposed drive-through restaurant is located within a Town Center activity center and is requesting a Special Land Use Permit.*

**R. Whether or not 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 one-story drive-through restaurant will not create a negative shadow impact on any adjoining lot or building.

**S. Whether the proposed use would be consistent with the needs of the neighborhood or 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 drive-through restaurant is inconsistent with the needs of the community as a whole to provide a more pedestrian oriented development to access commercial, office and residential uses.

**COMPLIANCE WITH DISTRICT STANDARDS PER TABLE 2.2:**

The site must comply with minimum development standards of the C-1 (Local Commercial) District per Table 2.2 of the DeKalb County Zoning Ordinance.

STANDARD	REQUIREMENT	EXISTING/PROPOSED	COMPLIANCE
LOT WIDTH (C-1)	A minimum 100 feet of lot width on a public street frontage	Approximately 150 feet of frontage along North Druid Hills Road	Yes
LOT AREA (C-1)	20,000 Square Feet	.46 acres or 20,037 Square feet	Yes
MAX LOT COVERAGE	90%	Information Not Provided.	Non-compliance will necessitate variances.
BUILDING MATERIALS	Brick, stone, stucco, architectural concrete, glass.	Stone with brick veneer	Yes
BUILDING JOGS	Building façades shall not exceed forty (40) feet in length without projections, recesses or other architectural features.	Information not provided.	Non-compliance will necessitate variances.
BUILDING FENESTRATION	Structures built to the edge of the street right-of-way or located within mixed-use and non-residential districts shall have windows and/or doorways that occupy at least twenty-five (25) percent of the width of the first floor	Information not provided.	Non-compliance will necessitate variances.

	street-level front façade		
ROOFS	Flat roofs shall provide parapets to screen mechanical equipment from street view and from the primary drive facing the front façade	Information not provided.	Non-compliance will necessitate variances.
FRONT BUILDING SETBACK	Minimum 20 Feet and Maximum 60 feet for a major arterial (North Druid Hills Road) within a Town Center Character Area	60 foot building setback from North Druid Hills right-of-way	Yes
SIDE INTERIOR BUILDING SETBACK	15 Feet	Proposed 50 feet (approx.)	Yes
REAR BUILDING SETBACK	20 Feet	Proposed 40 Feet (approx.)	Yes
HEIGHT	2 stories/35 feet	1 story/20 feet	Yes
PARKING	1 parking space for every 150 square feet of building area, but no less than 10 parking spaces.	14 parking spaces	Yes.
PARKING CONFIGURATION	Non-residential buildings in an Activity Center shall have no more than one (1) double row of parking within the front yard where there is no intervening building between parking and the street.	Only one row of parking is provided in front of the proposed building.	Yes



PARKING CONFIGURATION	Non-residential buildings in an Activity Center shall be allowed to locate parking along the side or rear or as on-street parking dedicated as right-of-way by the applicant for a land disturbance permit or building permit.	Parking is located to the side and rear of the building.	Yes
OPEN SPACE	10%	Not calculated or depicted on submitted survey	Non-compliance will necessitate variances.
PARKING LOT LANDSCAPING	Internal parking lot landscaping is not required for parking lots of less than 15 parking spaces  Min. 5-ft wide perimeter landscape strip required adjacent to all property lines. A perimeter landscape strip shall include one (1) overstory deciduous shade tree, or three (3) understory or three (3) evergreen trees, for every fifty (50) linear feet at a minimum size of two (2) inch caliper for deciduous trees and eight (8) foot height for evergreen trees.	None provided (parking lot contains 14 parking spaces and is exempt for parking lot landscape requirements).  Not provided	Yes  No. Variances will be required from Board of Zoning Appeals.
BUILDING FAÇADE LANDSCAPING	Beginning fifteen (15) feet from the principal customer entrance, along the building façade, a landscape area with trees shall be required for the entire	Information not provided.	Non-compliance will necessitate variances.

	length of the building. Each of the trees required herein shall be at least four-and-a-half (4.5) inch caliper and eight (8) feet tall at installation. Trees required herein shall be spaced no more than one hundred (100) feet apart		
SIDEWALKS AND STREETSCAPING	6-ft. sidewalk, 10-ft. landscape strip, street trees 40 ft. on center	Information not provided.	There are currently sidewalks but no street trees along the frontage of North Druid Hills Road. Non-compliance will necessitate variances.
STREET LIGHTS AND PEDESTRIAN LIGHTS	Street lights shall be installed along public right of way within the landscape strip spaced at a maximum distance of 80 ft on center. Pedestrian lights shall be installed along public right of way at a maximum distance of 40 ft on center.	Information not provided.	Non-compliance will necessitate variances.
INTERNAL SIDEWALKS	Continuous internal sidewalks and pedestrian walkways shall be provided to connect the public sidewalk or right-of-way with the principal building entrance of all principal buildings on the site. Such sidewalks shall also connect key pedestrian focal points such as transit stops, street crosswalks, and building entry points.	Internal sidewalk provided connecting to the right-of-way from the principal entrance of the building.	Yes

	Internal pedestrian walkways and sidewalks shall be at least five (5) feet in width.	Information not provided.	Non-compliance will necessitate variances.
INTERNAL SIDEWALKS	<p>Sidewalks shall be provided for the principal building along any façade featuring a public entrance and along any façade leading to a public parking area.</p> <p>Internal pedestrian walkways and sidewalks shall be differentiated from vehicular driveways and parking spaces through the application of colors and durable surface materials such as pavers, brick, or scored concrete, in order to enhance pedestrian safety and appearance of the pedestrian walkway or sidewalk.</p>	<p>Site plan is not clear on how many entrances to the building there are—each entrance should have internal sidewalk connecting to public right of way.</p> <p>Information not provided.</p>	<p>Non-compliance will necessitate variances.</p> <p>Non-compliance will necessitate variances.</p>
FENCING	No fences or walls shown on plan	Information not provided.	Non-compliance will necessitate variances.
FENCING HEIGHT	No fences or walls shown on plan.	Information not provided	Non-compliance will necessitate variances.
DUMPSTERS	All dumpsters must be screened from view on all four (4) sides so as not to be visible from adjacent properties	Information not provided	Non-compliance will necessitate variances.

	and the public street. The screen may incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate		
UNDERGROUND UTILITIES	All new utilities shall be underground.	Information not provided	Non-compliance will necessitate variances.
MECHANICAL EQUIPMENT	All mechanical and utility equipment must be screened from view so as not to be visible from any public street.	Information not provided	Non-compliance will necessitate variances.
DETENTION FACILITIES	No detention shown on site plan.	Information not provided	Non-compliance will necessitate variances.

**STAFF RECOMMENDATION: DENIAL**

The site is located within a Town Center (TC) Character Area designated by the DeKalb County 2035 Comprehensive Plan. Although there are existing drive-through establishments along North Druid Hills Road in the surrounding area, adding another drive-through restaurant does not meet the intent and vision of the TC Character Area calling for a pedestrian community focused within a high density mix of residential, office, and commercial uses. Additionally, the proposed auto-oriented drive-through is not consistent with the following policies and strategies of the TC Character Area of the 2035 Comprehensive Plan: 1. Promote new and redevelopment at or near activity centers as a means of reducing vehicle miles traveled (VMT) (TC Land Use Policy #20); and 2. Clearly define road edges by locating buildings near the roadside with parking in the rear (site plan shows one row of parking in front of the building (TC Land Use Policy #13). Therefore, it is the recommendation of the Planning and Sustainability Department that the Special Land Use Permit (SLUP) for a drive-through restaurant on the subject site be **DENIED**.

Should the SLUP request be approved, Staff offers the following conditions for consideration:

1. Allow up to one drive-through lane on the site subject to compliance with C-1 (Local Commercial) zoning standards unless variances are obtained from appropriate regulatory authorities.
2. In an effort to enhance and encourage pedestrian activity, the site shall be designed to move the building closer to the street with a maximum front building setback of 20 feet, and no parking shall be located between the front façade of the building and the right-of-way. Internal sidewalks shall connect the principal entrance of the building with the public sidewalk along North Druid Hills Road. Internal sidewalks shall also connect parking areas behind the building with building entrances located on the rear of the building.

3. Building façades shall not exceed forty (40) feet in length without projections, recesses or other architectural features.
4. Structure shall have windows and/or doorways that occupy at least twenty-five (25) percent of the width of the first floor street-level front façade
5. Right of way dedication from centerline of North Druid Hills Road may be required.
6. The approval of this SLUP application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the Zoning Board of Appeals, or other entity.
7. Drive-through lanes and service windows serving drive-through lanes shall only be located to the side or rear of buildings.
8. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.
9. Stacking spaces shall be provided. Stacking spaces shall be a minimum of ten (10) feet wide and twenty-five (25) feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the “pick-up” window).
10. At least three (3) stacking spaces for each pick up window shall be provided.
11. Drive-through lane shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create unsafe conditions where crossed by pedestrian access to a public entrance of a building.
12. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
13. The drive-through restaurant shall include a bypass lane with a minimum width of ten (10) feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle.
14. Drive-through lane must be set back five (5) feet from all lot lines and roadway right-of-way lines.
15. Owner and operator are responsible for daily litter clean-up to ensure the property remains free of trash, litter, and debris.
16. Right of way dedication of 50 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Six-foot wide sidewalks, bike lanes (or ten-foot wide multiuse path in lieu of bike lanes), streetlights required. Developer needs to combine driveways or request grandfather in the existing driveway locations as part of zoning- as they do not meet current DeKalb County Code spacing. This may become an issue when the Land Development Permit is sought. Maintain inter-parcel access. Verify intersection and turning sight distances meet AASHO requirements at permitting.

**Attachments:**

- 1. Department and Division Comments**
- 2. Application**
- 3. Site Plan**
- 4. Zoning Map and Land Use Map**
- 5. Aerial Photograph/Site Photographs**

# Transportation Comments.

- ~~AS~~ 1. N.1 North Druid Hills is classified as a major arterial. Right of way dedication of 50 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Six-foot wide sidewalks, bike lanes (or ten-foot wide multiuse path in lieu of bike lanes), streetlights required. Developer needs to combine driveways or request grandfather in the existing driveway locations as part of zoning- as they do not meet current DeKalb County Code spacing. This may become an issue when the Land Development Permit is sought. Maintain inter-parcel access. Verify intersection and turning sight distances meet AASHO requirements at permitting.
2. N.2 & N.3 Clairmont Road is SR 155. GDOT review and approval required prior to permitting. Clairmont Road is classified as a major arterial. Right of way dedication of 50 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Six-foot wide sidewalks, bike lanes (or ten-foot wide multiuse path in lieu of bike lanes), 10-foot landscape area, streetlights required. Briarcliff Road is classified as a minor arterial. Right of way dedication of 40 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Six-foot wide sidewalks, bike lanes (or ten-foot wide multiuse path in lieu of bike lanes), 10-foot landscape area, streetlights required. Verify intersection and turning sight distances meet AASHO requirements at permitting. Access points are to remain as far away from the intersection of Clairmont Rd and Briarcliff Rd as possible. Coordinate and donate right of way necessary for GDOT PIs 0015680 and 0015956. Provide pedestrian connections between site destinations and sidewalks on public right of way. Verify intersection and turning sight distances meet AASHO requirements at permitting. One site driveway appears to be off the property, access easement required for permitting.
3. N.4 Chamblee Tucker Road is classified as a minor arterial. Right of way dedication of 40 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Six-foot wide sidewalks, bike lanes (or ten-foot wide multiuse path in lieu of bike lanes), 10-foot landscape area, streetlights required. Throat length for driveway must meet minimum County standards. At the existing signal, add pedestrian facilities and signal heads across driveway. Modify U-Turn pavement markings into left turn pavement markings and verify storage length will hold 95 percentile queues.
4. N.5 & N.6 Pleasant Hill Way is classified as a local road. Right of way dedication of 27.5 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Twelve-foot travel lanes, five-foot wide sidewalks, six-foot landscape area, streetlights required. Improvements required on the development side of the road, but the road must be at least 20-foot wide. Request intersection analysis at Pleasant Hill Way and Pleasant Hill Road to include future level of service and intersection/left turn sight distance to verify that the intersection is capable of safely handling the additional traffic. Add sidewalks on park frontage leading to the park and connecting the two parcels.
5. N.7 Scott Blvd is SR 10. GDOT review and permit required prior to permitting. Pensdale Rd is classified as a local road. Right of way dedication of 27.5 foot from centerline or such that all public infrastructure is within the right of way, whichever greater, required. Twelve-foot travel lanes, five-foot wide sidewalks, six-foot landscape area, streetlights required. Applicant is encouraged to seek requested variances during the zoning process for infrastructure improvements.



**DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM**

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

**COMMENTS FORM:  
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: SLUP-20-1244105 Parcel I.D. #: 18 111-03-018

Address: 2933  
North Druid Hills Rd  
Atlanta Ga

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) 6:7<sup>TH</sup> 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>Plans and Field reviewed, no problem that would interfere with traffic flow.</u></p> <p><u>J</u></p>

Signature: Jerry White



DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM

**NOTE:** PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER [michelle.alexander@dekalbcountyga.gov](mailto:michelle.alexander@dekalbcountyga.gov) OR JOHN REID [JREID@DEKALBCOUNTYGA.GOV](mailto:JREID@DEKALBCOUNTYGA.GOV)

COMMENTS FORM:  
PUBLIC WORKS WATER AND SEWER

Case No.: STUP 18-134105

Parcel I.D. #: 18-114-03-018

Address: 2933 North Druid Hills Road

Atlanta, Georgia

**WATER:**

Size of existing water main: 6" DI & 12" DI Water Main *MR* (~~adequate~~/inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

**SEWER:**

Outfall Servicing Project: Shoal Creek Basin

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

Water Treatment Facility: Snappinger WTF ( ) adequate ( ) inadequate

Sewage Capacity: \* (MGPD) Current Flow: 21.77 (MGPD)

**COMMENTS:**

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

Signature: *[Handwritten Signature]*





770.414.2355 (o)  
404.298.4446 (f)  
DeKalbCountyga.gov

Watershed Management  
4572 Memorial Drive  
Decatur, GA 30032

Chief Executive Officer  
Michael Thurmond

Board of Commissioners

District 1  
Nancy Jester

District 2  
Jeff Rader

District 3  
Larry Johnson

District 4  
Stephen Bradshaw

District 5  
Mereda Davis Johnson

District 6  
Kathie Gannon

District 7  
Lorraine Cochran-Johnson

**MEMORANDUM**

**DATE:** August 11, 2020  
**TO:** LaSondra H. Hill  
Planning & Sustainability Division  
**FROM:** Michelle L. Otts, P.E. Engineering Manager  
Division of Planning & Development  
**RE:** **SEPTEMBER 2020** Rezone Application(s) for Planning Commission and  
Board of Commissioners Public Hearing

Attached is the Water and Sewer information requested for the rezoning cases in question.

Please be aware that projects may be located within a Sanitary Sewer capacity restricted area.

If additional information is required, please call me directly at @ 404-371-4918.

Michelle L. Otts, P.E.  
Engineering Manager  
Division of Planning & Development



## DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

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**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site. Recommend Low Impact Development features/ Green Infrastructure be included in the proposed site design to protect as much as practicable the statewaters and special flood hazard areas.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist.

- Tributary Buffer

State water buffer was not reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

Note: Recommend that, a state water determination request shall be submitted to the County or a qualified professional (environmental consultant) shall visit the site to make a determination to ensure that there is no creek or state water with buffer on property. Contours on the County GIS map depict a flow path through the property.

- Fire Safety

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.

# DEKALB COUNTY

## Board of Health

### New Cases:

N.1

SLUP-20-12244105 2020-0833 / 18-111-03-018  
2933 North Druid Hills Road, Atlanta, GA 30329

- Please review general comments.
- Septic system installed on location surrounding 2933 North Druid Hills. The location with septic system installed was 2814 North Druid Hills Road on 08/02/1963.

N.2

LP-20-1244107 / 2020-0834 / 18-196-04,18-196-04-033, 18-196-04-034, 18-196-04-035, 18-196-04-037, 18-196-04-038, 18-196-04-039, 18-196-04-040, 18-196-04-041  
2814 Clairmont Road, Atlanta, GA 30329

- Please review general comments.
- Septic installed on property 2920 Clairmont Road on 04/07/1974 within the vicinity of property 2814 Clairmont.

N.3

Z-20-1244108 / 2020-0835 / 18-196004-029, 18-196-04-033, 18-196-04-034, 18-196-04-035, 18-196-04-037, 18-196-04-038, 18-196-04-039, 18-196-04-040, 18-196-04-041  
2814 Clairmont Road, Atlanta, GA 30329

- Please review general comments.

N.4

SLUP-20-1244110 / 2020-0836 / 18-283-02-012, 18-283-02-007, 18-283-02-008  
3214 Chamblee-Tucker Road, Chamblee, GA 30341

- Please review general comments.
- Septic system installed on property 04/13/1961

N.5

LP-20-1244114 / 2020-0837 / 16-252-02-002  
8400 Pleasant Hill Way, Lithonia, GA 30058

- Please review general comments.
- Septic system installed on property near vicinity at 8406 Pleasant Hill Way

N.6

Z-20-1244113 / 2020-0838 / 16-254-02-002  
8400 Pleasant Hill Way, Lithonia, GA 30058

- Please review general comments.

N.7

Z-20-1244119 / 2020-0839 / 18-050-12-005  
1377 Scott Blvd., Decatur, GA 30030

- Please review general comments.

08/13/2020

To: Current Planning  
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.

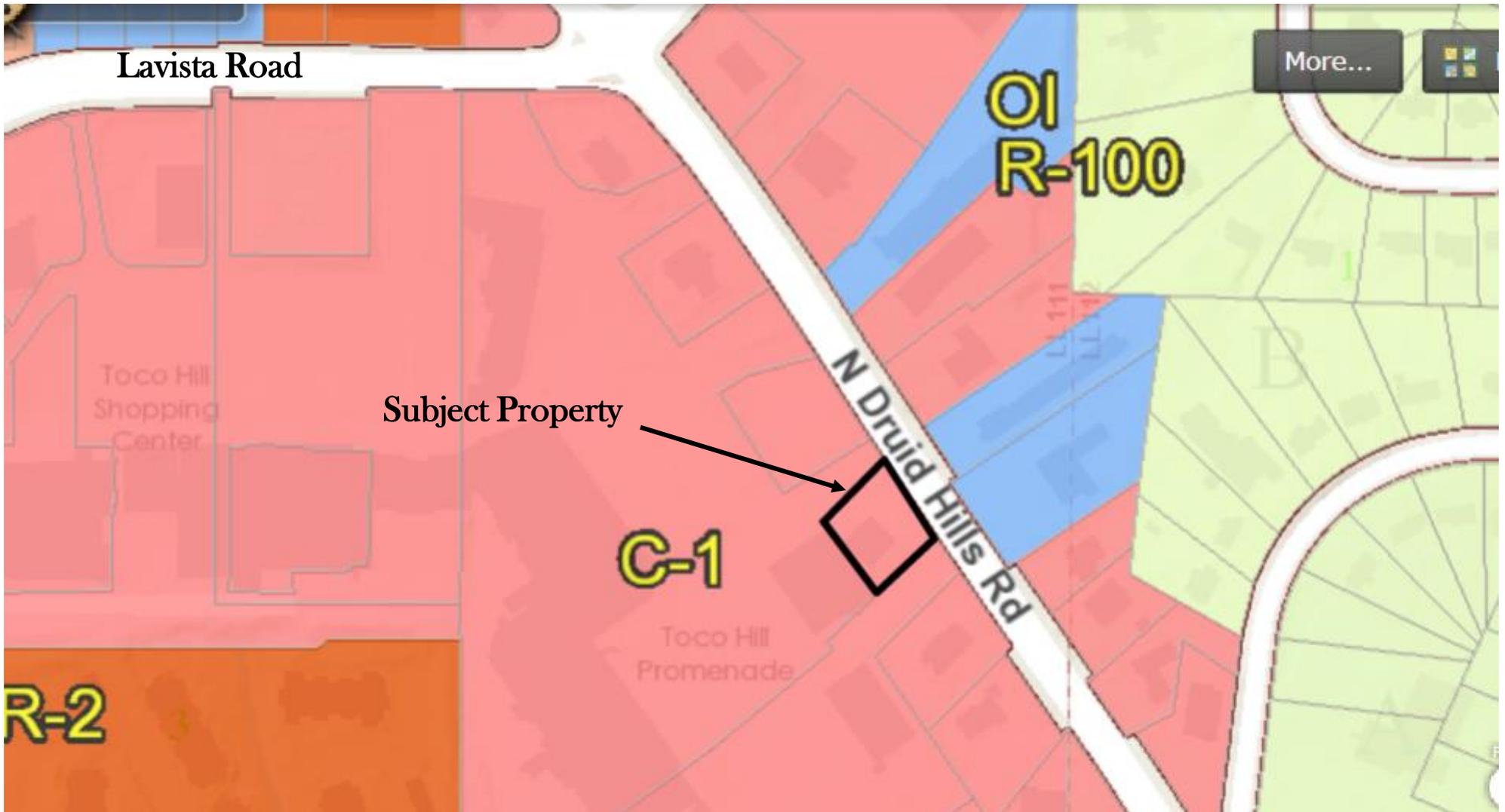
Any proposal, which will alter wastewater flow to an on-site sewage disposal system, must be reviewed by this office prior to construction.

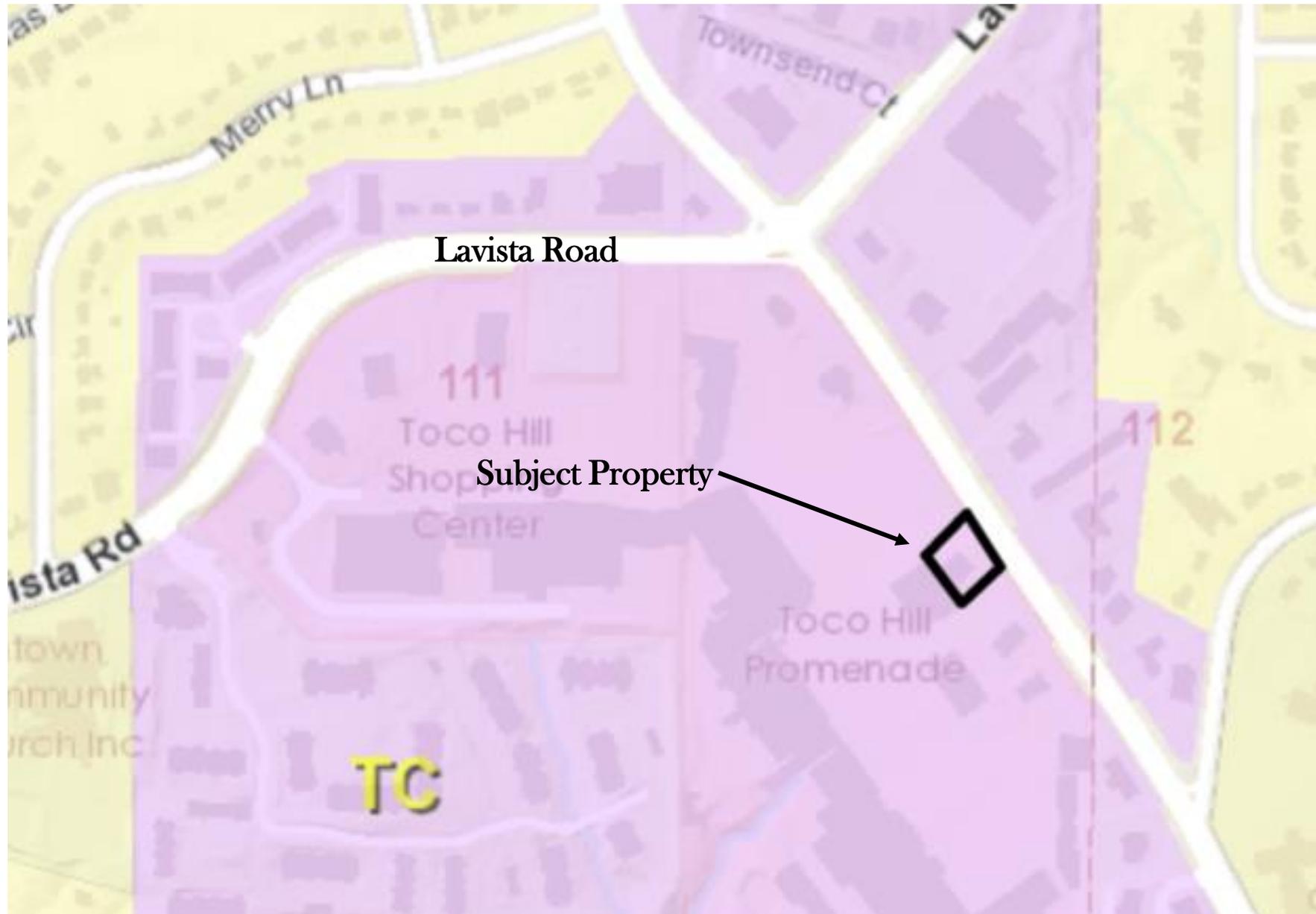
This office must approve any proposed food service operation or swimming pool prior to starting construction.

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. Recommendation: Provide trash can with liner at each bus stop with bench and monitor for proper removal of waste.

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

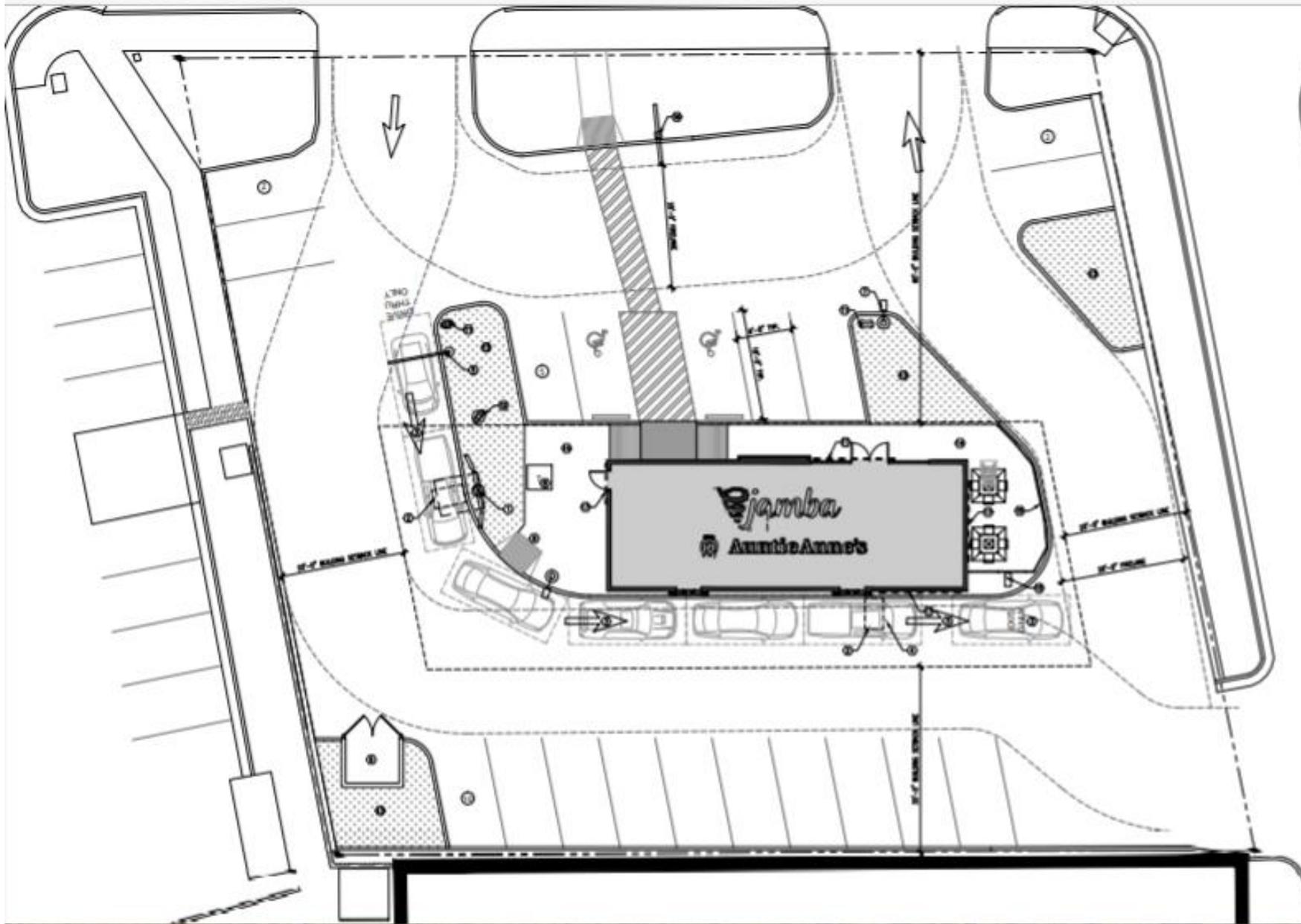








NORTH DRUID HILLS ROAD



**SPECIAL LAND USE PERMIT APPLICATION**

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

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

APPLICANT NAME: Focus Brands c/o Julie L. Sellers

Daytime Phone #: (404) 665-1242 Fax #: \_\_\_\_\_

Mailing Address: 1776 Peachtree Street NW, Suite 390N, Atlanta GA 30309

E-mail: jsellers@dillard sellers.com

OWNER NAME: Huckleberry Properties, Inc.

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

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

Mailing Address: 5 Brewster Street, Glen Cove NY 11542-2549

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

SUBJECT PROPERTY ADDRESS OR LOCATION: 2933 North Druid Hills Road

DeKalb County, GA, 30329

District(s): 4 Land Lot(s): 111 Block(s): \_\_\_\_\_ Parcel(s): 18 111 03 018

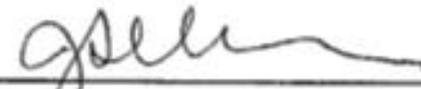
District 2

Acreage or Square Feet: +/- 0.46 Commission District(s): Super District 6 Existing Zoning: C-1

Proposed Special Land Use (SLUP): Development of Jamba Juice restaurant with a drive-thru facility

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

Owner: \_\_\_\_\_ Agent:  (Check One)

Signature of Applicant: 

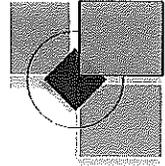
Printed Name of Applicant: Julie L. Sellers

# DeKalb County Department of Planning & Sustainability



Lee May  
Interim Chief Executive Officer

Andrew Baker  
Director

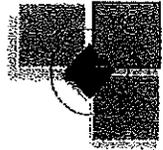


## **SPECIAL LAND USE PERMIT APPLICATION CHECKLIST** (SUBMIT 4 COMPLETE, COLLATED SETS OF APPLICATION DOCUMENTS)

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 1/2" 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. - mailed

### **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.**



**SPECIAL LAND USE PERMIT APPLICATION**

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

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

**APPLICANT NAME:** Focus Brands c/o Julie L. Sellers

Daytime Phone #: (404) 665-1242 Fax #: \_\_\_\_\_

Mailing Address: 1776 Peachtree Street NW, Suite 390N, Atlanta GA 30309

E-mail: jsellers@dillardsellers.com

**OWNER NAME:** Huckleberry Properties, Inc.  
 (If more than one owner, attach contact information for each owner)

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

Mailing Address: 5 Brewster Street, Glen Cove NY 11542-2549

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

**SUBJECT PROPERTY ADDRESS OR LOCATION:** 2933 North Druid Hills Road  
 \_\_\_\_\_, DeKalb County, GA, 30329

District(s): 4 Land Lot(s): 111 Block(s): \_\_\_\_\_ Parcel(s): 18 111 03 018

Acreage or Square Feet: +/- 0.46 Commission District(s): Super District 6 Existing Zoning: C-1

Proposed Special Land Use (SLUP): Development of Jamba Juice restaurant with a drive-thru facility

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

Owner: \_\_\_\_\_ Agent:  \_\_\_\_\_  
 (Check One) Signature of Applicant: [Signature]  
 Printed Name of Applicant: Julie L. Sellers

Notary Signature and Seal:

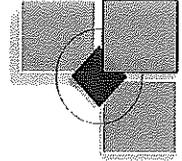
Jennifer R Taylor  
 NOTARY  
 JENNIFER R TAYLOR  
 330 West Ponce de Leon Avenue - Suites 100-500 - Decatur, Georgia - 30030  
 (voice) 404.371.2155 - (Planning Fax) (404) 371-4556 (Development Fax) (404) 371-3007  
 Web Address <http://www.dekalbcountyga.gov/planning>  
 Email Address: [planning@development@dekalbcountyga.gov](mailto:planning@development@dekalbcountyga.gov)



## DeKalb County Department of Planning & Sustainability

Lee May  
Interim Chief Executive Officer

Andrew A. Baker, AICP  
Director



A. **Filing Fee:** \$400. Filing fees shall not be refunded at any time following the deadline for amendments.

B. **Criteria:** Sec. 27-873. Special land use permits; criteria to be applied. The following criteria shall be applied by the Department of Planning and Sustainability, the Planning Commission, and the Board of Commissioners in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the Board of Commissioners unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application:

- A. Adequacy of the size of the site for use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located;
- B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;
- C. Adequacy of public services, public facilities, and utilities to serve the use contemplated;
- D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;
- E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use;
- F. Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular references to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency;
- G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use;
- H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
- I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use;
- J. Whether or not the proposed plan is consistent with all of the requirements of the zoning district classification in which the use is proposed to be located;
- K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan;
- L. Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;
- M. Whether or not there is adequate provision of refuse and service areas;
- N. Whether the length of time for which the special land use permit is granted should be limited in duration;
- O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of the adjacent and nearby lots and buildings;
- P. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;
- Q. Whether the proposed use satisfies the requirements contained within the Supplemental Regulations for such special land use permit.
- R. Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.
- S. Whether the proposed use would result in a disproportional proliferation of that or similar uses in the subject character area.
- T. Whether the proposed use would be consistent with the needs of the neighborhood or of the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objectives of the comprehensive plan.

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



DeKalb County  
GEORGIA

404.371.2155 (o)  
404.371.4556 (f)  
DeKalbCountyGa.gov

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION

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

Date: 6/12/2020

TO WHOM IT MAY CONCERN:

(I) (WE), Huckleberry Properties, Inc.  
Name of Owner(s)

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

Focus Brands c/o Julie Sellers

Name of Applicant or Agent

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

Amanda L. Link  
Notary Public

Stefan Cushman  
Owner Stefan Cushman, Vice President

**Amanda L. Link**  
Notary Public, State of Maine

My Commission Expires January 19, 2024  
Notary Public

Owner

Notary Public

Owner

Notary Public

Owner

Dear Property Owner:

We invite you to join us for a Community Meeting video conference to learn about a redevelopment plan for an outparcel in the Toco Hills Shopping Plaza for a Jamba Juice location. We anticipate filing a Special Land Use Permit Application for approval of a drive thru and are providing you this notice because your property may be within 500 feet of the redevelopment site.

REQUEST: Special Land Use Permit Application

STREET LOCATION: 2933 North Druid Hills Road  
(former site of the Wing Stop)

PROPOSED DEVELOPMENT: Jamba Juice restaurant with a drive-thru facility

**COMMUNITY MEETING**

**July 1, 2020**

**6:30pm**

Due to the COVID-19 outbreak and in accordance with social distancing guidelines, the meeting will take place by video conference. Online access through **GoToMeeting**:

<https://global.gotomeeting.com/join/706232773>

**You can also dial in using your phone.**

United States: [+1 \(312\) 757-3121](tel:+13127573121) **Access Code:** 706-232-773#

Other public hearings will likely include:

COMMUNITY COUNCIL

August 11, 2020

6:30 p.m.\*

PLANNING COMMISSION HEARING

September 1, 2020

6:30pm\*

BOARD OF COUNTY COMMISSIONERS HEARING

September 22, 2020

6:30pm\*

\*Location to be determined by DeKalb County

If you have questions about the application or development plans, please contact Julie L. Sellers at (404) 665-1242 or [jsellers@dillardssellers.com](mailto:jsellers@dillardssellers.com).

NGO JOSEPH  
1404 FAMA DR NE  
ATLANTA GA 30329

AZCUY JOSE G  
1334 AMANDA CIR  
DECATUR GA 30033

AZCUY JOSE G  
1340 AMANDA CIR  
DECATUR GA 30033

PNC BANK  
130 S JEFFERSON ST STE 300  
CHICAGO IL 60601

NORTHERN REALTY LLC  
45 OTTAWA AVE SW STE 600  
GRAND RAPIDS MI 49503

TWENTY NINE SIXTY THREE NORTH  
6000 LAKE FORREST DR STE 400  
ATLANTA GA 30328

TOCO HILLS ( E&A) LLC  
1221 MAIN ST # 1000  
COLUMBIA SC 29201

TOCO HILL INC  
P.O. BOX 528  
COLUMBIA SC 29201

FOUR WAY REALTY  
PO BOX 8905  
ASHEVILLE NC 28814

ZARINA INVESTMENTS LLLP  
3987 MERRIWEATHER WOODS  
ALPHARETTA GA 30022

BOLLINENI VANAJAKSHI  
1976 AZALEA CIR  
DECATUR GA 30033

MILLER PALMORE DEBRA  
1962 AZALEA CIR  
DECATUR GA 30033

PARK CHONG WOO  
2996 N DRUID HILLS RD NE  
ATLANTA GA 30329

TOCO HILL INC  
PO BOX 15518  
ATLANTA GA 30333

JERRY TILLEM RESIDUAL TRUST  
201 ALLEN RD # 300  
ATLANTA GA 30328

TRIPLE L AND P REAL ESTATE LLC  
2910 N DRUID HILLS RD  
ATLANTA GA 30329

SUBURBAN PARTNERS LLC  
3549 HILL FOREST TRL NW  
ACWORTH HI 30101

HUCKLEBERRY PROPERTIES  
5 BREWSTER ST  
GLEN COVE NY 11542

TOCO HILLS ( E&A) LLC  
1221 MAIN ST # 1000  
COLUMBIA SC 29201

PARK CHONG WOO  
2996 N DRUID HILLS RD NE  
DECATUR GA 30033

KRAUS RICHARD  
2968 N DRUID HILLS RD NE  
ATLANTA GA 30329

FIRST NATIONAL BANK OF ATLANTA  
PO BOX 26665  
RICHMOND VA 26665

TOCO HILL INC  
P O BOX 15518  
ATLANTA GA 30333

TOCO INSTANT PRINTING INC  
2960 N DRUID HILLS RD NE  
ATLANTA GA 30329

LIMESTONE WELLS LLC  
200 S BISCAYNE BLVD FLOOR 6TH  
MIAMI FL 33131



## Attendee Report

### Summary

	<b>Total Attendees (includes organizers)</b>	<b>Total Organizers</b>	
<b>Total Meetings</b>	1	5	1

### Details

Meeting Date	Join Time	Leave Time	Meeting Title	Meeting ID	Attendee Name	Attendee Email Address
Jul 01, 2020	06:31 PM EDT	06:56 PM EDT	Community Meeting 2933 N Druid Hills	706-232-773	Ronnie Lester	rlester@focusbrands.com
Jul 01, 2020	06:32 PM EDT	06:51 PM EDT	Community Meeting 2933 N Druid Hills	706-232-773	Debbie	debbie@topofthekey.com
Jul 01, 2020	06:29 PM EDT	06:56 PM EDT	Community Meeting 2933 N Druid Hills	706-232-773	Katria Montepare	kmontepare@focusbrands.com
Jul 01, 2020	06:12 PM EDT	06:56 PM EDT	Community Meeting 2933 N Druid Hills	706-232-773	Julie Sellers	jtaylor@dillardsellers.com
Jul 01, 2020	06:38 PM EDT	06:56 PM EDT	Community Meeting 2933 N Druid Hills	706-232-773	+14043791970	

Legal Description:

### DESCRIPTION OF PROPERTY:

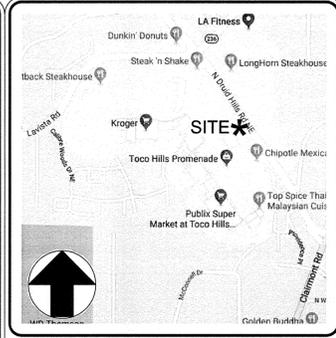
*All that tract or parcel of land lying and being in Land Lot 111 of the 18th District, DeKalb County, Georgia and being more particularly described as follows:*

*To find the Point of Beginning commence at the southeastern end of the mitered intersection of the southern right of way line of Lavista Road (right of way width varies) and the southwestern right of way line of North Druid Hills Road (right of way width varies); thence proceeding along said right of way line of North Druid Hills Road southeasterly a distance of 549.93 feet to a 3/8 inch rebar found, said point being the Point of Beginning.*

*From the Point of Beginning, as thus established, continuing along said right of way line of North Druid Hills Road South 34 degrees 32 minutes 20 seconds East a distance of 149.37 feet to a 1/2 inch rebar set; thence leaving North Druid Hills Road and proceeding South 44 degrees 26 minutes 41 seconds West a distance of 133.85 feet to a nail set; thence North 34 degrees 25 minutes 35 seconds West a distance of 150.00 feet to a 3/8 inch rebar found; thence North 44 degrees 41 minutes 06 seconds East a distance of 133.44 feet to a 3/8 inch rebar found, said point being the Point of Beginning.*

Grid North (GA West Zone)

**DESCRIPTION OF PROPERTY:**  
 All that tract or parcel of land lying and being in Land Lot 111 of the 18th District, DeKalb County, Georgia and being more particularly described as follows:  
 To find the Point of Beginning commence at the southeastern end of the mitered intersection of the southern right of way line of Lavista Road (right of way width varies) and the southwestern right of way line of North Druid Hills Road (right of way width varies); thence proceeding along said right of way line of North Druid Hills Road southeasterly a distance of 549.93 feet to a 3/8 inch rebar found, said point being the Point of Beginning.  
 From the Point of Beginning, as thus established, continuing along said right of way line of North Druid Hills Road South 34 degrees 32 minutes 20 seconds East a distance of 149.37 feet to a 1/2 inch rebar set; thence leaving North Druid Hills Road and proceeding South 44 degrees 26 minutes 41 seconds West a distance of 133.85 feet to a nail set; thence North 34 degrees 25 minutes 35 seconds West a distance of 150.00 feet to a 3/8 inch rebar found; thence North 44 degrees 41 minutes 06 seconds East a distance of 133.44 feet to a 3/8 inch rebar found, said point being the Point of Beginning.



**LOCATION MAP**  
 not to scale

**SITE ADDRESS:**  
 2933 North Druid Hills Road NE, Atlanta, GA 30329

**SITE AREA:**  
 0.45 acres or 19,641 square feet

**PARKING SUMMARY:**  
 Regular Parking Spaces: 28  
 Handicap Parking Spaces: -  
 Total Parking Spaces: 28

**ZONING: C-1**  
 Front Yard Setback: 60'  
 Side Yard Setback: 20'  
 Rear Yard Setback: 30'  
 This information is reported from public information obtained from DeKalb County records on October 18, 2018. It is not the intent of the surveyor to interpret or make conclusions regarding the zoning designation shown hereon.

**NOTES:**  
 1. This plat was prepared for the exclusive use of the person, persons, or entity named in the title block. Said use does not extend to any unnamed person without express permission by the surveyor naming said person.  
 2. Unless otherwise specified, all distances as shown are horizontal ground distances in U.S. survey feet (39.37 inches = 1 meter).  
 3. The project horizontal datum is relative to the North American Datum 1983 (NAD83), 2011 adjustment, projected to the Georgia State Plane Coordinate System, West zone.  
 Flood Hazard Note:  
 4. By graphic plotting only, this property does not lie within a 100 year flood hazard zone and is depicted as zone X as defined by the F.E.M.A Flood Insurance Rate Map of DeKalb County, Georgia and incorporated areas map number 13089C0058J, effective date May 16, 2013.

**CERTIFICATION:**  
 This plat is a retracement of an existing parcel or parcels of land, and does not subdivide or create a new parcel. 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, NOR 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.  
 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 has a closure precision of one foot in 1,243,055 feet, and an angular error of 5" per angle point, and was adjusted using the compass rule method. Angular and linear measurements were made using a Leica TS 15 Robotic Total Station. A portion of this survey was performed using Leica GS 15 GPS receivers with network adjusted real time kinematic measurements referenced to the eGPS network. The GPS survey included redundant measurements with positional accuracy better than 0.07'.  
 This map or plat has been calculated for closure and is found to be accurate within one foot in 200,170 feet.

To CBRE Capital Markets, Inc., Critchfield, Critchfield & Johnston, Ltd., Huckleberry Properties, Inc., and Fifth Third Bank:  
 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, 6(a), 7(b)(1), 8, 9, 13 and 20 (\$5,000,000) of Table A thereof. The fieldwork was completed on October 22, 2018.  
*James F. Higgins* 10-30-2018  
 James F. Higgins Date  
 Georgia Reg. Land Surveyor No. 2802  
 For the Firm Travis Pruitt & Associates, Inc.

**UTILITY STATEMENT:**  
 1. There may be underground utilities not shown on the survey.

© Copyright 2018  
 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.

NO.	DATE	NAMES IN CAPTION	AB	BY
1	10/30/18			
2				
3				
4				
5				
6				
7				
8				

4317 Park Drive, Suite 400  
 Norcross, Georgia 30093  
 Phone: (770)416-7511  
 Fax: (770)416-6759  
 www.travispruitt.com

ALTA/NSPS LAND TITLE SURVEY  
 CBRE Capital Markets, Inc., Critchfield, Critchfield & Johnston, Ltd., Huckleberry Properties, Inc., & Fifth Third Bank  
 AUTHORIZED BY Mr. Scott Israel representing CBRE Capital Markets, Inc.  
 LAND LOT 111 - 18th DISTRICT - DEKALB COUNTY, GEORGIA  
 GRAPHIC SCALE 1" = 40' - IN FEET

For The Firm  
 Travis Pruitt & Associates, Inc.  
 This survey was prepared in conformity with The Technical Standards for Property Surveys in Georgia as set forth in Chapter 180-7 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in the Georgia Plat Act O.C.G.A. 15-6-67.

PLAT DATE: OCTOBER 25, 2018  
 FIELD DATE: OCTOBER 22, 2018  
 SCALE: 1"=20'  
 LSV: BT  
 JN: 1-18-0398.600  
 FN: 164-D-056  
 Sheet No. 1 of 1

\*P.O.C.  
 549.93' TO THE SOUTHEASTERN END OF THE MITERED INTERSECTION OF THE SOUTHERN R/W LINE OF LAVISTA ROAD (R/W VARIES) AND THE SOUTHWESTERN R/W LINE OF NORTH DRUID HILLS ROAD (R/W VARIES) PER PLAT BOOK 225, PAGE 25.

PUNCH HOLE FOUND AT STATION 13+00 "A" (8) G.D.O.T. MAP M-9215(2)

N32°20'37"W 160.81'  
 R/W LINE PER G.D.O.T. MAP M-9215(2) & PLAT BOOK 225, PAGE 25

**TITLE EXCEPTIONS:**

- This survey relied upon information contained within a certificate of title number CT#2-36156/7376.004 prepared by Calloway Title and Escrow, LLC, with an effective date of February 28, 2018, with respect to the property surveyed described in "Exhibit A", and the exceptions listed in "Schedule B":
- Easement reserved in Warranty Deed recorded in Deed Book 2132, Page 389.  
 Comment: Does not affect the subject property.
  - Easement as evidenced by Assignment recorded in Deed Book 2222, Page 553, and Assignment recorded in Deed Book 2242, Page 324.  
 Comment: Ingress and egress easement is shown on the survey.
  - Right of way easement to Georgia Power Company recorded in Deed Book 2242, Page 72.  
 Comment: Affect the subject property as shown on the survey.
  - Lease as evidenced by Memorandum of Lease recorded in Deed Book 6471, Page 157.  
 Comment: Document does not contain a description of the property; referenced Exhibit A is not attached to the document.
  - Deed to Secure Debt and Security Agreement recorded in Deed Book 25416, Page 170.  
 Comment: Document describes the subject property.
  - Execution contained in QuitClaim Deed recorded in Deed Book 9345, Page 456.  
 Comment: Document describes the subject property.
  - Execution contained in QuitClaim Deed recorded in Deed Book 9345, Page 459.  
 Comment: Document describes the subject property.
  - Deed recorded in Deed Book 11785, Page 540.  
 Comment: Document describes the subject property.
  - Matters disclosed by the plat recorded in Plat Book 36, Page 28.  
 Comment: Shown on the survey.
  - Matters disclosed by the plat recorded in Plat Book 225, Page 25.  
 Comment: Shown on the survey.

**REFERENCE PLATS:**

- Property survey plat dated March 5, 1963, revised March 14, 1963, recorded in Plat Book 36, Page 28.
- State of Georgia Department of Transportation right of way map project M-9215(2), G.D.O.T. P.I.# 740060, dated December 6, 1978, last revised February 8, 1980.
- Lot division plat for Chase North Druid Hills and LaVista Road recorded in Plat Book 225, Page 25.
- Plot of ALTA/ACSM Land Title Survey for Parcel Cellular, Inc., of Georgia, prepared by Land Development Technologies, Inc., dated April 19, 1993, revised July 2, 1993.

**LEGEND**

- IRON PIN FOUND (AS NOTED)
- PROPERTY CORNER
- NAIL FOUND
- PUNCH HOLE FOUND
- BOLLARD
- SIGN
- ⊛ LAMP POST
- ⊛ POWER POLE W/LIGHT
- ⊛ TRIPLE LIGHT STAND
- ⊛ ELECTRIC BOX
- ⊛ ELECTRIC METER
- ⊛ POWER POLE
- ⊛ LANDSCAPE LIGHT
- CLEAN OUT
- ⊛ GAS VALVE
- ⊛ IRRIGATION CONTROL VALVE
- ⊛ WATER METER
- ⊛ WATER VALVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- N/F NOW OR FORMERLY
- R/W RIGHT OF WAY
- RDH RECORD DISTANCE HELD
- BSL BUILDING SETBACK LINE
- IPS 1/2" REBAR SET W/CAP
- NS NAIL SET
- CONC. CONCRETE
- C&G CURB AND GUTTER
- P OVERHEAD POWER LINE

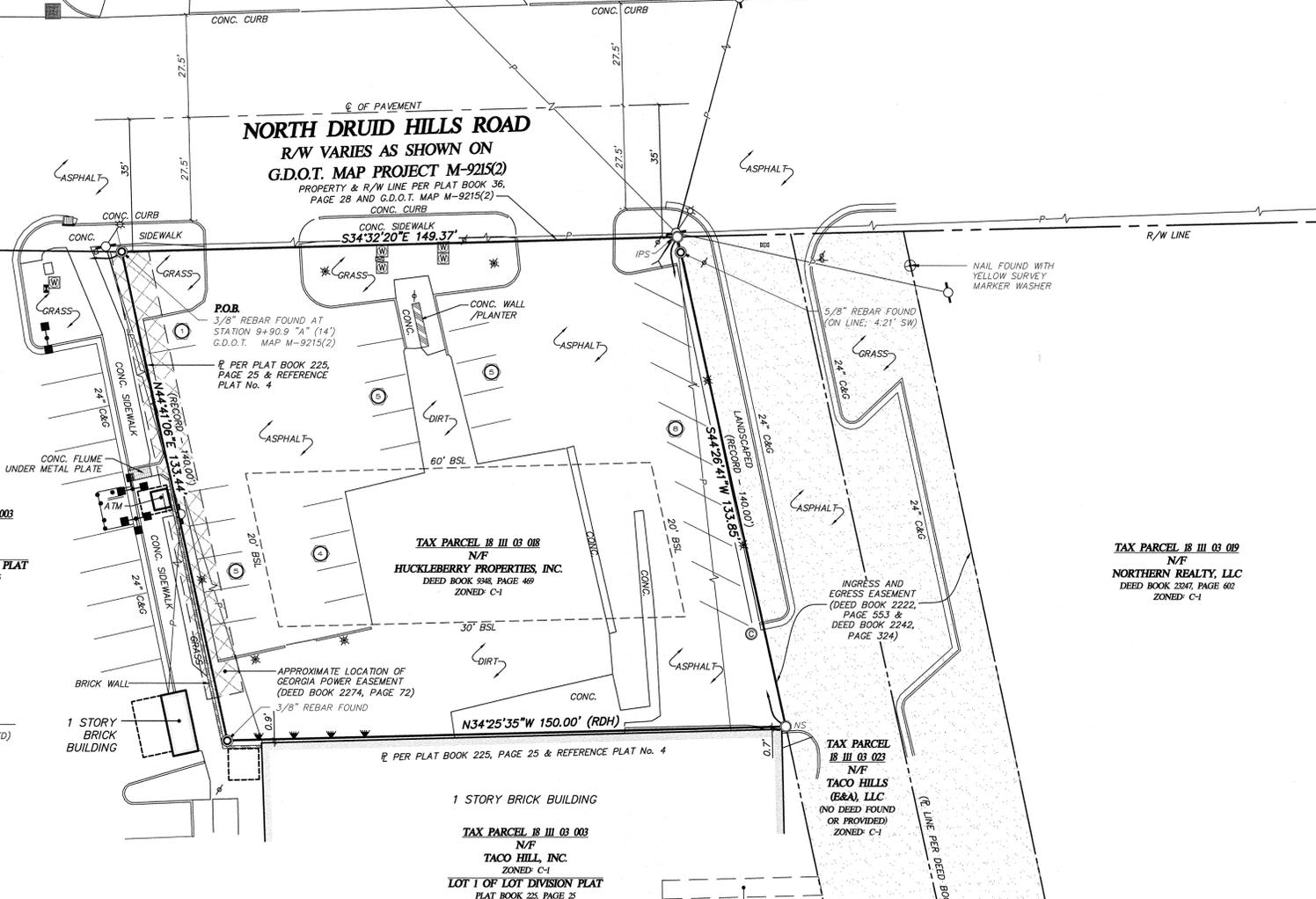
TAX PARCEL 18 III 03 003  
 N/F  
 TACO HILL, INC.  
 ZONED C-1  
 LOT 1 OF LOT DIVISION PLAT  
 PLAT BOOK 225, PAGE 25

TAX PARCEL 18 III 03 008  
 N/F  
 HUCKLEBERRY PROPERTIES, INC.  
 DEED BOOK 9348, PAGE 469  
 ZONED C-1

TAX PARCEL 18 III 03 009  
 N/F  
 NORTHERN REALTY, LLC  
 DEED BOOK 2247, PAGE 402  
 ZONED C-1

TAX PARCEL 18 III 03 023  
 N/F  
 TACO HILLS (E&A), LLC  
 (NO DEED FOUND OR PROVIDED)  
 ZONED C-1

TAX PARCEL 18 III 03 023  
 N/F  
 TACO HILLS (E&A), LLC  
 DEED BOOK 1832, PAGE 216  
 ZONED C-1







**JAMBA – TOCO HILLS – ATLANTA, GA**

EXTERIOR VIEWS

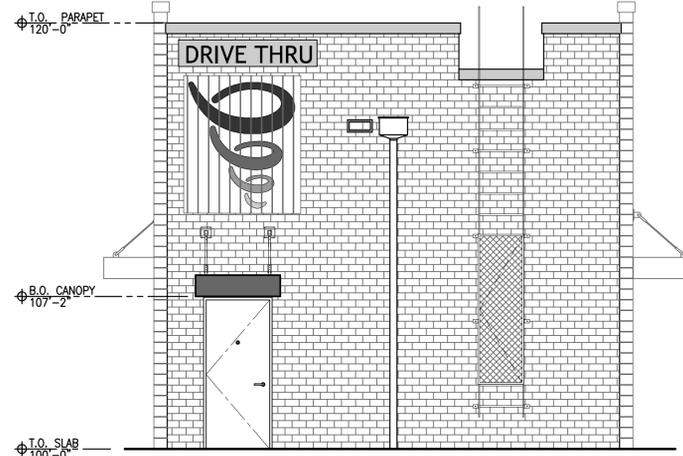
06-29-2020



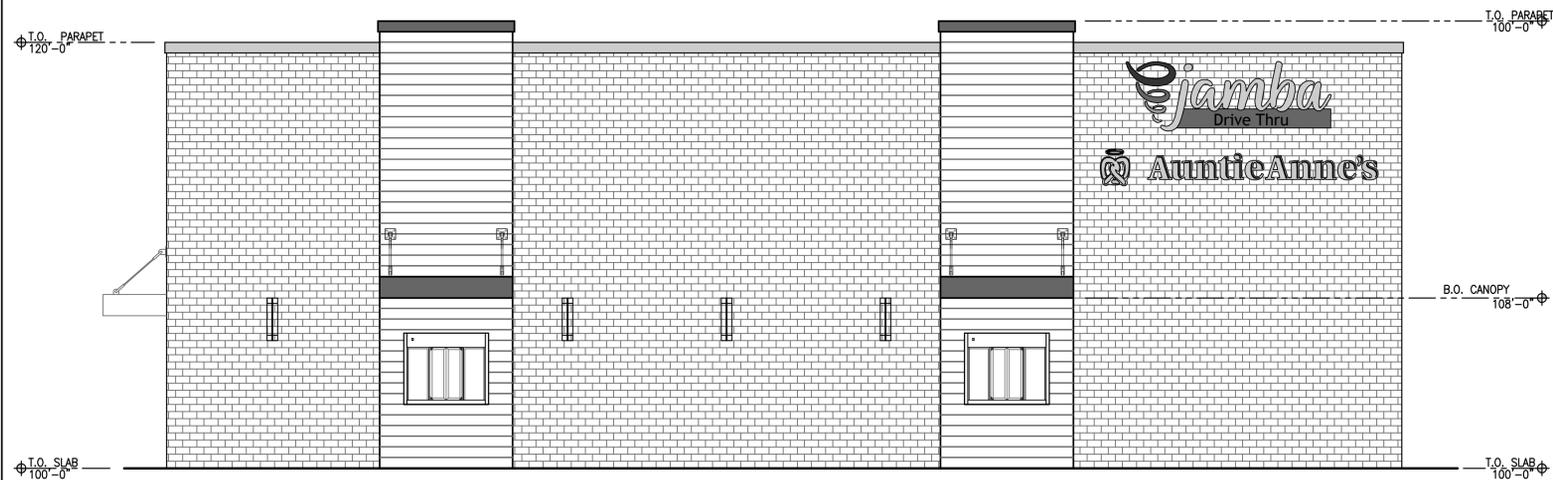




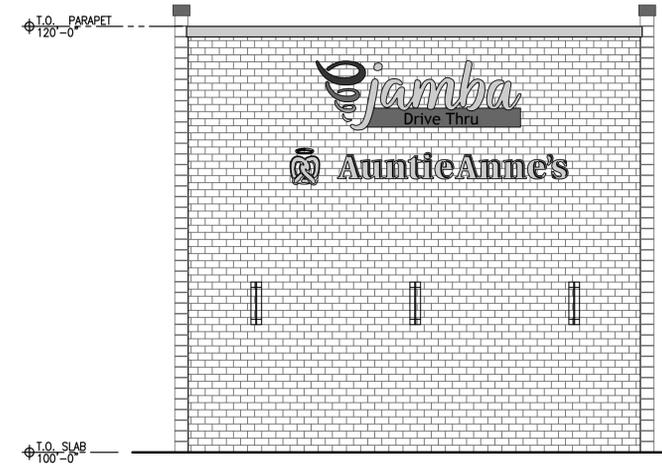
EXTERIOR ELEVATION 1  
1/4"=1'-0"



EXTERIOR ELEVATION 2  
1/4"=1'-0"



EXTERIOR ELEVATION 3  
1/4"=1'-0"



EXTERIOR ELEVATION 4  
1/4"=1'-0"

DATE	DESCRIPTION

SHEET TITLE:  
**EXTERIOR ELEVATIONS OPTION 1**

SHEET NUMBER:  
**A2.0**

PROJECT NUMBER:  
**JAJ19021**





**LETTER OF INTENT AND IMPACT ANALYSIS**

**Dekalb County**

**Special Land Use Permit Application**

**Applicant:**  
Focus Brands

**Property:**  
2933 North Druid Hills Road

**Parcel ID No:**  
18 111 03 018

**Submitted for Applicant by:**

Julie L. Sellers  
DILLARD SELLERS  
1776 Peachtree Street NW, Suite 390N  
Atlanta, Georgia, 30309  
(404) 665-1242  
jsellers@dillardsellers.com

## **Introduction**

Applicant, Focus Brands, request approval of a Special Land Use Permit for the property located at 2933 North Druid Hills Road, Atlanta, Georgia (tax parcel no. 18 111 03 018) (the “Property”). The Property is approximately +/- 0.46 acres of vacant land that was previously a Wing Stop restaurant. The property is zoned C-1, Local Commercial District, and is within the Town Center Activity Center Character Area.

On June 18, 2020 a pre-application meeting took place via video conference with the Planning Department staff. A pre-application community meeting was held via video conference on July 1, 2020. The attached notice was emailed to the Community Council District 2 members and sent via regular mail to the addresses attached. The sign in sheet from the community meeting is also attached.

Focus Brands is an Atlanta-based corporation that includes several national restaurant brands, including Jamba Juice and Auntie Anne’s. Focus Brands seeks approval of this application to open a corporate operated restaurant with menu offerings of Jamba Juice and Auntie Anne’s with a drive through facility. Restaurant drive-thru use within the Activity Center Character Area is subject to the grant of a Special Land Use Permit, pursuant to Dekalb County, Georgia Code of Ordinances Table 4.1. As our country continues to experience the impacts of a pandemic and residents are being urged to physically distance, the benefits and importance of drive through facilities has been highlighted. Even prior to the pandemic, drive through facilities provide a beneficial option for residents with physical and mobility impairments and families with children.

The restaurant will operate in accordance with all provisions of the County’s Zoning Code §4.2.23. The establishment of a drive-thru restaurant will provide a use that is compatible

with the surrounding C-1 zoning and existing local commercial uses. The Property is bordered by multiple businesses, including a Wendy's drive-thru restaurant to the East and a Chase Bank drive-thru facility to the West. Thus, the commercial nature of this portion of North Druid Hills Road is consistent with the inclusion of a drive-thru facility. As shown on the attached site plan, the restaurant will utilize the existing curb cuts onto North Druid Hills and has access to one interparcel connection for vehicular traffic.

As set forth below, the Applicant satisfies the County's requirements for a special land use permit for drive-thru facilities. For these reasons, the Applicant respectfully requests its application be granted as submitted.

#### **Documented Impact Analysis**

The Applicant's application satisfies the applicable criteria set forth in the Dekalb County Zoning Code, Section 27-1836; 27-7.4.6.

**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 site is adequate for the contemplated use. All required yards, open space, off-street parking, and all other applicable requirements required by the C-1 zoning district are satisfied. The proposed development is an approximate +/- 0.46 acre site with all requirements being met.

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

As an outparcel of the Toco Hills shopping center, the drive through is appropriate and compatible with the surrounding area and land use within the district

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

Adequate public services, facilities, and utilities exist to serve a drive-thru restaurant.

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

North Druid Hills Road has two travel lanes in each direction and multiple turning lanes. There is sufficient capacity to support a drive-thru restaurant use and such use will not increase traffic or create congestion in the area.

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

No, traffic generated by the proposed drive-thru restaurant will not adversely impact existing land uses along access routes to the site.

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

There is adequate ingress and egress to the subject property. Fire and other emergency vehicles will be able to access the property if there is an emergency.

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

No, the proposed drive-thru restaurant will not create adverse impacts upon any adjoining land uses by reason of noise, smoke, odor, dust or vibration.

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

No, the proposed drive-thru restaurant will not create adverse impacts upon any adjoining land uses by reason of hours of operation.

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

No, the proposed drive-thru restaurant will not create any adverse impacts upon any adjoining land use by reason of the manner of operation.

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

Yes, the proposed restaurant and accompanying drive-thru is consistent with all requirements of C-1 classification.

**K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan:**

Yes, the proposed drive-thru restaurants are consistent with the policies of the County's comprehensive plan.

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

Yes, the proposed plan provides for all required buffer zones and transitional buffer zones.

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

Yes, there will be adequate provision of refuse and service areas.

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

No, the length of time for the SLUP should not be limited in duration.

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

The size, scale, and massing of the proposed drive-thru restaurant building is 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.

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

No, the proposed drive-thru restaurant will not adversely affect historic buildings, sites, districts, or archaeological resources.

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

The proposed restaurant with a drive-thru lane complies with the following supplemental regulations per Sec.27-4.2.23 of the DeKalb County Zoning Code:

- a. Not located within sixty feet of a residentially zoned property.

- b. Drive-thru facility located on property greater than ten thousand square feet in area
- c. Drive-thru lanes and service windows serving drive-thru lanes are located on the side and rear of building
- d. No drive-thru canopies according to site plan
- e. Speaker boxes shall be directed away from any adjacent residential properties.
- f. All lighting from drive-thru facilities shall be shaded and screened to be directed away from adjacent residential property.

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

No, the restaurant is designed to be one story and will not create a negative shadow impact on any adjoining lot or building.

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

No, the proposed drive-thru will not result in a disproportionate proliferation of that or similar uses in the subject character area. The location in the Toco Hills shopping center makes this site appropriate for a drive through.

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

Yes, providing a different restaurant option with the fresh fruit and vegetables as well as the pretzel and other menu items in a convenient manner through a drive thru is consistent with the needs of the neighborhood and to the community as a whole. Such drive thru use is compatible with the neighborhood and will not be in conflict with the overall objectives of the comprehensive plan.

**Required Constitution and Ante Litem Notice**

Failure to approve the requested variances would be unconstitutional. Georgia law and the procedures of Dekalb County require the Applicant to raise Federal and State constitutional objections during the application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Dekalb County Unified Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are

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 Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Dekalb County Unified Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as 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 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 be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by Dekalb County to grant the application as requested would constitute a taking of the Applicant's property. Because of this unconstitutional taking, Dekalb County would be required to pay just compensation to the Applicant.

A denial of this application would constitute an arbitrary and capricious act by Dekalb County without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by Dekalb County to approve this conditional use permit for the Property in accordance with the criteria as requested by the Applicant and required by the County would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the 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 approval of the requests 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 Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.



## CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this application be granted to allow the Property to be development with a restaurant with a drive-through facility. If there are any questions about this request, please do not hesitate to contact me at 404-665-1242 or [jsellers@dillardsellers.com](mailto:jsellers@dillardsellers.com).

Sincerely,

DILLARD SELLERS, LLC



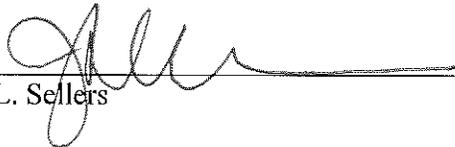
Julie L. Sellers

**CAMPAIGN DISCLOSURE STATEMENT**

Pursuant to the provisions of O.C.G.A. §36-67A-3, please find below a list of the contributions made by JULIE L. SELLERS to officials in DEKALB COUNTY in the past two years, aggregating \$250.00 or more, to local government officials who may review this Application.

<u>NAME OF GOV'T. OFFICIAL</u>	<u>POSITION</u>	<u>AMOUNT OF CONTRIBUTION</u>	<u>DATE OF CONTRIBUTION</u>
Steve Bradshaw	Board of Commissioners	\$250.00	3/26/2018

**DILLARD SELLERS LLC**

  
\_\_\_\_\_  
Julie L. Sellers

Date: \_\_\_\_\_

7/2/20