

Public Hearing: YES ☒ NO ☐

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): Commission District 03 Super District 07

Application of Alex Brock for a Special Land Use Permit (SLUP) request to allow a drive-through restaurant in the C-1 (Local Commercial) zoning district, at 3507 Memorial Drive.

PETITION NO: N8-2022-2258 SLUP-22-1246086

PROPOSED USE: Drive-through restaurant.

LOCATION: 3507 Memorial Drive, Decatur, Georgia 30032

PARCEL NO. : 15-200-02-040

INFO. CONTACT: Planning & Sustainability

PHONE NUMBER: 404-371-2155

PURPOSE:

Application of Alex Brock for a Special Land Use Permit (SLUP) request to allow a drive-through restaurant in the C-1 (Local Commercial) zoning district. The property is located on the south side of Memorial Drive and the west side of Columbia Drive at, 3507 Memorial Drive, Decatur, Georgia. The property has approximately 500 feet of frontage along Memorial Drive, 500 feet of frontage along Columbia Drive and contains 12 acres.

RECOMMENDATION:

COMMUNITY COUNCIL: Approval.

PLANNING COMMISSION: Pending.

PLANNING STAFF: Denial.

STAFF ANALYSIS: The applicant is seeking a special land use permit (SLUP) to “renovate” the site and re-establish a drive-through restaurant within the existing footprint. The previous restaurant ceased operations in 2018. Per the applicant’s letter of intent, “[t]he proposed improvements include the renovation of the existing Sonic to transform it into a ±1,430 square foot Dunkin restaurant and other minor improvements (‘Proposed Development’). It should be noted that the Applicant is reducing the existing restaurant’s footprint by ±37 square feet.” The requested use, “restaurant[] with a drive-thru configuration in activity center character areas,” is subject to SLUP approval with C-1 (Local Commercial) zoning and when located in an activity center. The subject property is located in the Belvedere Town Center (TC) activity center. The subject property is also included the study area for the *Belvedere Master Active Living (Small Area) Plan (2013)*. While the TC activity center generally promotes mixed-use development, reduced automobile travel; walkability; and increased transit usage, the small area plan provides more targeted recommendations. Near the core of this town center activity center, it is the desire of the community to see the site redeveloped in a manner consistent with the *Comprehensive Plan* (up to 80DUs/acre, and a mixture of residential and nonresidential uses at the core). The proposed SLUP to allow for a drive-through facility—a primarily automobile dependent use—may inherently pose challenges to the transition and evolution of the surrounding area towards many of the land use goals of this activity center. The Belvedere small area plan specifically highlights Belvedere Shopping Plaza, however, it only provides a hypothetical future concept (pg. 34). Furthermore, the *Belvedere Master Active Living Plan* includes the following applicable zoning and redevelopment design guideline recommendations: • Buildings should be sited close to streets with active ground floor uses and pedestrian amenities that will help strengthen pedestrian connections (pg. 37); • Outparcels should be located to front along primary driveways at intersections with

adjacent corridors (pg. 37); • Buildings should be oriented with windows and main entrances facing streets. Loading areas and other facilities should be screened from view of the main vehicular and pedestrian connections (pg. 37); • Commercial and residential uses should be either vertically integrated within mixed-use buildings, and/or horizontally through a finer street network (pg. 37); • Keep and Update the PC District (*existing PC districts were converted to MU-1 or MU-5 zoning districts*); (pg. 40); and • Prohibit drive-through service windows and drive-in facilities between a building and the street (pg. 40). The site should be adequate for the proposed use. Adverse impacts based on the manner and time of operation should be minimal. The applicant appears to have addressed applicable supplemental regulations. The proposed building footprint exceeds the maximum required setback (60 feet). A variance will be needed. While the applicant makes a persuasive argument regarding consistency with surrounding auto-dependent uses, the distance of residential uses, and the reuse of the existing building footprint, the proposal, nevertheless, does not contribute to the future goals for the character area. Despite its relatively small scale, the replacement of a drive through restaurant detracts from the long-term changes that the community desires for this character area. Therefore, upon review of Sections 7.4.6 (G and H) and 4.2.23 of the *Zoning Ordinance*, staff recommends “Denial of the special land use permit request”.

PLANNING COMMISSION VOTE: Pending.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: Approval 6-0-0. The council recommended approval and indicated that the proposed business would restore more business to the area and that the proposed renovation was better than having a boarded up vacant building.



DeKalb County Department of Planning & Sustainability

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

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

**Planning Commission Hearing Date: November 1, 2022
Board of Commissioners Hearing Date: November 17, 2022**

STAFF ANALYSIS

Case No.:	SLUP-22-1246086	Agenda #: 2022-2258
Location/Address:	3507 Memorial Drive	Commission District: 03 Super District: 07
Parcel ID(s):	15-200-02-040	
Request:	Special Land Use Permit to allow a drive-through restaurant.	
Property Owner(s):	Hutton Belvedere, LLC	
Applicant/Agent:	363129 Coffee Café, LLC c/o J. Alexander Brock, Gambrell, & Russell, LLP	
Acreage:	1.089 acres	
Existing Land Use:	Vacant drive-through restaurant.	
Surrounding Properties:	North: C-1 & C-2 East: C-1 South: C-1 & MR-1 West: C-1 & C-2	
Comprehensive Plan:	TC <input type="checkbox"/>	Consistent <input checked="" type="checkbox"/> Inconsistent

Staff Recommendation: Disapproval.

The applicant is seeking a special land use permit (SLUP) to “renovate” the site and re-establish a drive-through restaurant within the existing footprint. The previous restaurant ceased operations in 2018. Per the applicant’s letter of intent, “[t]he proposed improvements include the renovation of the existing Sonic to transform it into a ±1,430 square foot Dunkin’ restaurant and other minor improvements (‘Proposed Development’). It should be noted that the Applicant is reducing the existing restaurant’s footprint by ±37 square feet.”

The requested use, “restaurant[] with a drive-thru configuration in activity center character areas,” is subject to SLUP approval with C-1 (Local Commercial) zoning and when located in an activity center. The subject property is located in the Belvedere Town Center (TC) activity center. The subject property is also included in the study area for the *Belvedere Master Active Living (Small Area) Plan (2013)*. While the TC activity center generally promotes mixed-use development, reduced automobile travel; walkability; and increased transit usage, the small area plan provides more targeted recommendations. Near the core of this town center activity center, it is the desire of the community to see the site redeveloped in a manner consistent with the *Comprehensive Plan* (up to 80DUs/acre, and a mixture of residential and nonresidential uses at the core). The proposed SLUP to allow for a drive-through facility—a primarily automobile dependent use—may inherently pose challenges to the transition and evolution of the surrounding area towards many of the land use goals of this activity center. The Belvedere small area plan specifically highlights Belvedere Shopping Plaza, however, it only provides a hypothetical future concept (pg. 34).

Furthermore, the *Belvedere Master Active Living Plan* includes the following applicable zoning and redevelopment design guideline recommendations:

- Buildings should be sited close to streets with active ground floor uses and pedestrian amenities that will help strengthen pedestrian connections (pg. 37);
- Outparcels should be located to front along primary driveways at intersections with adjacent corridors (pg. 37);
- Buildings should be oriented with windows and main entrances facing streets. Loading areas and other facilities should be screened from view of the main vehicular and pedestrian connections (pg. 37);
- Commercial and residential uses should be either vertically integrated within mixed-use buildings, and/or horizontally through a finer street network (pg. 37);
- Keep and Update the PC District (*existing PC districts were converted to MU-1 or MU-5 zoning districts*); (pg. 40); and
- Prohibit drive-through service windows and drive-in facilities between a building and the street (pg. 40).

The site should be adequate for the proposed use. Adverse impacts based on the manner and time of operation should be minimal. The applicant appears to have addressed applicable supplemental regulations. The proposed building footprint exceeds the maximum required setback (60 feet). A variance will be needed.

While the applicant makes a persuasive argument regarding consistency with surrounding auto-dependent uses, the distance of residential uses, and the reuse of the existing building footprint, the proposal, nevertheless, does not contribute to the future goals for the character area. Despite its relatively small scale, the replacement of a drive-through restaurant detracts from the long-term changes that the community desires for this character area. Therefore, upon review of Sections 7.4.6 (G and H) and 4.2.23 of the *Zoning Ordinance*, staff recommends disapproval of the special land use permit request.



**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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

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

Case No.: SLUP-22-1246086

Parcel I.D. #: 15-200-02-040

Address: 3507 MEMORIAL DR

DECATUR, GA 30032

WATER:

Size of existing water main: 6" CI (adequate/inadequate)

Distance from property to nearest main: _____

Size of line required, if inadequate: unknown

SEWER:

Outfall Servicing Project: Cobb Fowler Creek

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

Water Treatment Facility: SnapFinger () adequate () inadequate

Sewage Capacity: 36 (MGPD)

Current Flow: 28.2 (MGPD)

COMMENTS:

Sewer capacity required

Signature: Yola Lewis



10/17/2022

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

10/17/2022

N5 2022-2255

SLUP-22-1246059 16-102-03-014

6168 Marbut Road, Lithonia, GA 30058

☐ Amendment

- Please review general comments.
- Note: This property may be on septic. Based on our records several surrounding properties have septic system installed. Our office does not have records that indicates installation.

N6 2022-2256

LP-22-1246085 15-083-001-013

2179 Bouldercrest Road, Atlanta, GA 30316

☐ Amendment

- Please review general comments.
- Note: Manufacturing Plant with septic system installed 09/30/1967. Size: 2500----800'x30" Distubution Box with 4" siphon

N7 2022-2257

Z-22-1246088 15-083-01-013

2179 Bouldercrest Road, Atlanta, GA 30316

☐ Amendment

- Please review general comments.

N8 2022-2258

SLUP-22-1246086 15-200-02-040

3507 Memorial Drive, Decatur, GA 30032

☐ Amendment

- Please review general comments.
- Note: This property may be on septic. Based on our records several surrounding properties have septic system installed. Our office does not have records that indicates installation.

Zoning Comments – October 2022

- N1.** No package to review.
- N2. 1845 Lawrenceville Hwy.** Lawrenceville Hwy is a state route. GDOT review and approval required prior to permitting. Lawrenceville Hwy is classified as a major arterial. Requires a right of way dedication of 50 feet from centerline OR such that all public infrastructure is within right of way, whichever greater. Add ADA Ramps and a pedestrian crossing across Jordan Lane. 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. Jordan 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 12-foot travel lane from centerline with curb and gutter. Requires a 5-foot landscape strip with a 5-foot sidewalk. Requires pedestrian scale streetlights. No poles may remain within the limits of the sidewalk. Driveway on Jordan Lane cannot be relocated without Transportation approval- proposed location acceptable.
- N3. 1251 Robinwood Rd.** Build 5 foot sidewalks in front of the subject property and extend to Lawrenceville Hwy within the current right of way. Robinwood Rd 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 12 foot travel lane from centerline with curb and gutter. Requires a 5 foot landscape strip with a 5 foot sidewalk on right of way. Requires pedestrian scale streetlights. Street parking within the right of way must be approved by Roads & Drainage prior to permitting. No poles may remain within the limits of the sidewalk. Interior streets/alleys must be private.
- N4. 3458 Mountain Drive.** Mountain Drive is a state route and requires GDOT review and approval prior to permitting. Requires traffic study to determine required number of lanes and queue lengths at entrances. The study will also determine the need for left turn lanes into the development. Mountain Drive 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. 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. Speed Limit is 45 mph (per plans). Watch minimum driveway separation spacing in Sec 14-200(6). Speed Limits between 36 to 45mph requires 245 feet of separation between driveways. Developments with 151-300 residential units require 3 access points (Land development Code Sec 14-200(5).) Suggest that if you are seeking a variance that you do it within the zoning process. Interior street must be private.
- N5. 6168 Marbut Rd.** No parking allowed on Marbut Road.
- N6/N7. 2179 Bouldercrest Road.** Bouldercrest Road is classified as a major arterial. Requires a right of way dedication of 50 from centerline OR such that all public infrastructure is within right of way, whichever greater. Replace curbing along property frontage. Requires a 5 foot landscape strip with a 10 foot mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. No Parking allowed within the right of way.
- N8. 3507 Memorial Drive.** Memorial Drive is a state route. GDOT review and approval required prior to permitting. No comment. Based on the plan, this site it interior to the property and not adjacent to a right of way.

- N9. 311 South Howard St.** (They have the wrong address on the application. It is 211 South Howard Street.) Memorial Drive is a state route within the City of Atlanta. Both agencies will have to review and approve the requirements prior to permitting. For DeKalb: Memorial Drive requires a right of way dedication of 50 foot 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 mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. DeKalb Transportation will defer to the City of Atlanta comments for right of way improvements. South Howard St is classified as a collector street. South Howard Street requires a right of way dedication of 35 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 mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. Access point must remain at the southern property line on South Howard St. Interior private alley (instead of a shared drive for permitting) must be private. Shared drives not allowed for 6 lots, private alley in this case is allowed.
- N10. 1347 Bermuda Road.** By Code- shared driveways can only be for 2 lots. A variance will be necessary to have 6 lots on a shared driveway. Suggestion: widen to 24 feet and make it a private road. Bermuda Road 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. Requires a 5 foot landscape strip with a 10 foot mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. Watch minimum separation of drives/roads in section 14-200(6) based on the speed limit of the road.
- N11. 8067 Rockbridge Road.** No Access on The Trace. Rockbridge Road is classified as a major arterial. 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 mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. The Trace 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 path. No poles may remain within the limits of the sidewalk. Requires pedestrian scale streetlights. This property is within the interior of a curve. Intersection sight distance exiting the property (based on AASHTO guidance and sealed by a professional engineer) must be met prior to permitting. Guardrail resign must also take place by a professional engineer along the Rockbridge frontage.
- N12. 1065 Fayetteville Rd.** Fayetteville Road is classified as a collector road. Requires a right of way dedication of 35 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 mulituse path. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. Graham Circle 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 12 foot travel lane from centerline of road. Requires a 5 foot landscape strip with a 5 foot sidewalk path. No poles may remain within the limits of the sidewalk. Requires pedestrian scale streetlights. Interior streets are shown on site plan as private. If they become public: Requires a right of way dedication of 55 feet. Requires a 5 foot landscape strip with a 6 foot sidewalk. No poles may remain within the limits of the sidewalk. Requires pedestrian scale streetlights.
- N13. 2255, 3375, 3395 Northeast Expressway.** All access is from GDOT right of way. GDOT review and permits required. Further discussions required around the Peachtree Greenway Trail connection. All public infrastructure must be on right of way.
- N14. 1602 Scott Blvd.** Scott Blvd is a state route. GDOT review and approval required prior to permitting. Scott Blvd is classified as a major arterial. 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 mulituse path. Extend Path to and along Blackmon Drive frontage. No poles may remain within the limits of the path. Requires pedestrian scale streetlights. All interior streets to be private. No access allowed on Blackmon Drive Right in right out only allowed on Scott Blvd- with proper design to prohibit restricted movements.
- N15. 2739 Craigie Ave.** No comment.
- N16. 1259 Sheppard Ct.** No comment.

N17/N18. Not in package to review.

N19. No comment.



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:

- **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 **(sections have been amended recently; please request the amended chapter)**, 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.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

N-8

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

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: SLUP-22-1246086 Parcel I.D. #: 15-200-02-040

Address: 3507

MEMORIAL Dr,
Decatur, GA 30032

Adjacent Roadway(s):

_____	_____
_____	_____
(classification)	(classification)

Capacity (TPD) _____
Latest Count (TPD) _____
Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____
Existing right of way width _____
Proposed number of traffic lanes _____
Proposed right of way width _____

Capacity (TPD) _____
Latest Count (TPD) _____
Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____
Existing right of way width _____
Proposed number of traffic lanes _____
Proposed right of way width _____

Please provide additional information relating to the following statement.

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

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Plans and field reviewed. No problem That
would interfere with Traffic Flow

Signature: Jeray Whit

DEPARTMENT OF PLANNING & SUSTAINABILITY

SPECIAL LAND USE PERMIT APPLICATION

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

Date Received: _____ Application No.: _____

APPLICANT NAME: 363129 Coffee Cafe, LLC c/o J. Alexander Brock, Smith, Gambrell & Russell, LLP

Daytime Phone #: 404.815.3603 Fax #: 404.685.6903

Mailing Address: 1105 W. Peachtree Street, NE, Suite 1000, Atlanta, Georgia 30309

E-mail: jabrock@sgrlaw.com

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

Daytime Phone #: _____ Fax #: _____

Mailing Address: 736 Cherry Street, Chattanooga, Tennessee 37402

E-mail: _____

SUBJECT PROPERTY ADDRESS OR LOCATION: 3507 Memorial Drive, Decatur

, DeKalb County, GA, 30032

District(s): 15th Land Lot(s): 200-201 Block(s): _____ Parcel(s): 15 200 02 040

Acreage or Square Feet: 12.2 +/- Commission District(s): 3,7 Existing Zoning: C-1

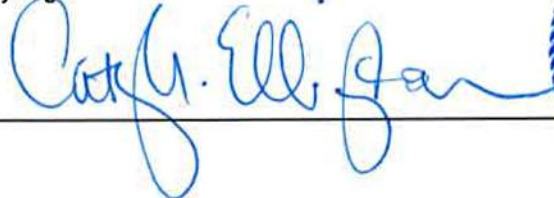
Proposed Special Land Use (SLUP): _____

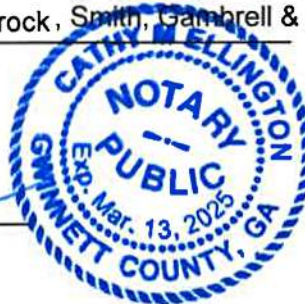
I hereby authorize the staff of the Planning and Development Department to inspect the property that is the subject of this application.

Owner: _____ Agent: X Signature of Applicant: 
(Check One)

Printed Name of Applicant: J. Alexander Brock, Smith, Gambrell & Russell, LLP

Notary Signature and Seal:





Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

SPECIAL LAND USE PERMIT CHECKLIST

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

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

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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

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

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

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

Owner Authorization
& Deed

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: 8/31/2022

TO WHOM IT MAY CONCERN:

(I) (WE), Hutton Belvedere, LLC
Name of Owner(s)

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

J. Alexander Brock, Gambrell & Russell, LLP

Name of Applicant or Agent

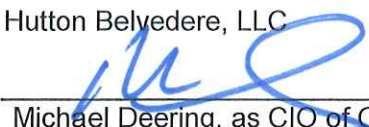
to file an application on (my) (our) behalf.

Owner:



Notary Public

Hutton Belvedere, LLC


Michael Deering, as CIO of Owner

Notary Public

Owner

Notary Public

Owner

Notary Public

Owner



my commission expires: 4/1/2024

After Recording, Return To:
Hutton Belvedere, LLC
Attn: Janette Darnell
736 Cherry Street
Chattanooga, TN 37402

STATE OF GEORGIA
COUNTY OF DeKALB

After recording return to:
Calloway Title and Escrow, LLC
4170 Ashford Dunwoody Rd. Ste. 525
Atlanta, GA 30319

2-40750

Tax Parcel Nos: 15 200 02 040, 15 200 02 038
15 200 02 039, 15 200 02 041, & 15 200 02 030

(Above Space Reserved for Recording)

LIMITED WARRANTY DEED

THIS INDENTURE is made to be effective as of the 20 day of May, 2022, between Ariel Belvedere Owner Holdings LLC, a Delaware limited liability company with a mailing address of 135-20 78th Drive, Flushing, New York 11367 (hereinafter referred to as "Grantor") and Hutton Belvedere, LLC, a Georgia limited liability company with a mailing address of 736 Cherry Street, Chattanooga, Tennessee 37402 (hereinafter referred to as "Grantee"). ("Grantor" and "Grantee" to include their respective successors, administrators, legal representatives and assigns where the context requires or permits).

WITNESSETH: That Grantor, for and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable considerations, in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all that tract or parcel of land lying and being in the City of Decatur, County of Dekalb, State of Georgia (hereinafter referred to as the "Property") as more particularly described on **Exhibit "A"**, attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the said bargained Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever in **FEE SIMPLE**; subject only to the matters (hereinafter referred to as "Permitted Exceptions") set out in the attached **Exhibit "B"**, which Exhibit is incorporated herein by this reference.

AND GRANTOR WILL WARRANT and forever defend the right and title to the above described Property unto Grantee against the lawful claims of all persons claiming by or through Grantor, but not otherwise, except for claims arising under or by virtue of the Permitted Exceptions.


IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be properly signed and sealed effective as of the day and year first above written.

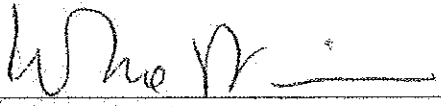
Signed, sealed and delivered
in the presence of:

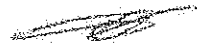
GRANTOR:

**ARIEL BELVEDERE OWNER HOLDINGS
LLC**

Unofficial Witness:


Printed Name: Hannah Weiss

By: 
Name: Moshe Weiss
Title: Authorized Signatory


NOTARY PUBLIC, State of N.Y.

My Commission Expires:

(NOTARIAL SEAL)

Allan J Weiss
Notary Public, State of New York
No. 02WE8015884
Qualified in Nassau County
Commission Expires Dec. 19, 2022

EXHIBIT "A"**Legal Description**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 200 and 201 of the 15th District of DeKalb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at the intersection of a line parallel with and southwesterly 50.00 feet from the centerline of Columbia Drive (right-of-way width varies) and a line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive (a/k/a State Route 154) (100' right-of-way); thence along said line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive, southwesterly a distance of 171.99 feet to a point, said point being the **TRUE POINT OF BEGINNING**; **FROM THE TRUE POINT OF BEGINNING** thus established, thence leaving said parallel line and running South 45 degrees 48 minutes 36 seconds East a distance of 191.92 feet to a PK nail set; thence North 52 degrees 02 minutes 33 seconds East a distance of 185.98 feet to a PK nail set on the southwestern right-of-way line of Columbia Drive; thence along said right-of-way line of Columbia Drive the following courses and distances: South 43 degrees 42 minutes 17 seconds East a distance of 104.28 feet to a point; thence southeasterly along the arc of a curve to the right having a radius of 2,025.46 feet and an arc distance of 444.83 feet, being subtended by a chord line having a bearing of South 33 degrees 44 minutes 24 seconds East and a length of 443.94 feet to a PK nail set; thence leaving the southwestern right-of-way line of Columbia Drive and running South 60 degrees 55 minutes 15 seconds West a distance of 171.72 feet to a 3/8" rebar found; thence South 67 degrees 46 minutes 43 seconds West a distance of 109.41 feet to a point; thence South 53 degrees 02 minutes 49 seconds West a distance of 86.26 feet to a point; thence South 53 degrees 02 minutes 49 seconds West a distance of 1,194.39 feet to a point; thence North 89 degrees 16 minutes 04 seconds West a distance of 37.51 feet to a 1/2" rebar found; thence North 89 degrees 21 minutes 57 seconds West a distance of 74.83 feet to a 5/8" rebar found; thence North 89 degrees 22 minutes 59 seconds West a distance of 74.90 feet to a 1/2" rebar found; thence North 89 degrees 57 minutes 12 seconds West a distance of 75.63 feet to a 1" crimp top pipe found; thence North 87 degrees 50 minutes 07 seconds West a distance of 74.29 feet to a 1/2" rebar found; thence North 85 degrees 41 minutes 15 seconds West a distance of 73.50 feet to a 3/8" rebar found; thence North 0 degrees 49 minutes 50 seconds East a distance of 520.37 feet to a 3/8" rebar found on the southeastern right-of-way line of Memorial Drive; thence along said right-of-way line of Memorial Drive the following courses and distances: North 52 degrees 03 minutes 49 seconds East a distance of 384.58 feet to a point; thence North 52 degrees 03 minutes 49 seconds East a distance of 217.20 feet to a 3/8" rebar found; thence North 52 degrees 02 minutes 58 seconds East a distance of 90.64 feet to a point; thence North 52 degrees 02 minutes 58 seconds East a distance of 288.03 feet to a 1/2" rebar found; thence North 52 degrees 02 minutes 58 seconds East a distance of 375.00 feet to an iron pin set; thence South 45 degrees 48 minutes 36 seconds East a distance of 8.08 feet to the **TRUE POINT OF BEGINNING**,

Said property contains 26.3727 acres and is more particularly shown as Tracts "A", "B", "C" and "E" on that certain ALTA/ACSM Land Title Survey for "Ariel Belvedere Owner, LLC; LLP Associates, LLC; Deutsche Banc Mortgage Capital, L.L.C.; and Chicago Title Insurance Company," dated January 21, 1991, last revised May 19, 2004, prepared by Travis Pruitt and Associates, Inc. and bearing the seal and certification of Christopher W. Hodge, Georgia Registered Land Surveyor Number 2941.

TOGETHER WITH a non-exclusive easement for ingress, egress and drainage over and across the following described property:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 200 of the 15th District of DeKalb County, Georgia, and being more particularly described as follows;

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at the intersection of a line parallel with and southwesterly 50.00' feet from the "centerline of Columbia Drive (right-of-way width varies) and a line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive (a/k/a State Route 154) (100' right-of-way); thence along said line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive, southwesterly a distance of 171.99 feet to a point; thence leaving said parallel line and running South 45 degrees 48 minutes 36 seconds East a distance of 191.92 feet to a PK nail set; thence North 52 degrees 02 minutes 33 seconds East a distance of 185.98 feet to a PK nail set on the southwestern right-of-way line of Columbia Drive; thence along said right-of-way line of Columbia Drive the following courses and distances: South 43 degrees 42 minutes 17 seconds East a distance of 104.28 feet to a point; thence southeasterly along the arc of a curve to the right having a radius of 2,025.46 feet and an arc distance of 444.83 feet, being subtended by a chord line having a bearing of South 33 degrees 44 minutes 24 seconds East and a length of 443.94 feet to a PK nail set; thence leaving the southwestern right-of-way line of Columbia Drive and running South 60 degrees 55 minutes 15 seconds West a distance of 171.72 feet to a 3/8" rebar found; running thence South 29 degrees 03 minutes 50 seconds East a distance of 145.87 feet to a point, said point being the **TRUE POINT OF BEGINNING**; **FROM THE TRUE POINT OF BEGINNING** thus established, running thence South 29 degrees 03 minutes 50 seconds East a distance of 186.43 feet to an iron pin set; running thence South 60 degrees 21 minutes 41 seconds West a distance of 428.10 feet to a 1/2" rebar found; running thence South 57 degrees 09 minutes 00 seconds West a distance of 231.27 feet to 1/2" rebar found; running thence South 07 degrees 48 minutes 18 seconds East a distance of 194.77 feet to an iron pin set; running thence North 89 degrees 16 minutes 38 seconds West a distance of 92.98 feet to a 1/2" rebar found; running thence North 89 degrees 20 minutes 08 seconds West a distance of 75.14 feet to a 1/2" rebar found; running thence North 89 degrees 21 minutes 34 seconds West a distance of 80.59 feet to a 1/2" rebar found; running thence North 89 degrees 17 minutes 26 seconds West a distance of 89.83 feet to a 5/8" rebar found; running thence North 89 degrees 15 minutes 07 seconds West a distance of 225.53 feet to a 1/2" rebar found; running thence North 89 degrees 16 minutes 04 seconds West a distance of 182.17 feet to a point; running thence North 53 degrees 02 minutes 49 seconds East a distance of 1,194.39 feet to a point; running thence South 27 degrees 54 minutes 13 seconds East a distance of 143.02 feet to a point; running thence North 62 degrees 07 minutes 21 seconds East a distance of 197.01 feet to the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 8.1651 acres and is more particularly shown as Tract "D" on that certain ALTA/ACSM Land Title Survey for "Ariel Belvedere Owner, LLC; LLP Associates, LLC; Deutsche Bane Mortgage Capital, L.L.C.; and Chicago Title Insurance Company," dated January 21, 1991, last revised May 19, 2004, prepared by Travis Pruitt and Associates, Inc. and bearing the seal and certification of Christopher W. Hodge, Georgia Registered Land Surveyor Number 2941.

TOGETHER WITH and for the benefit of subject property, those easement rights arising under that certain Declaration of Easements and Covenants by Malon D. Mimms and Mimms Investments, a Georgia general partnership, dated July 7, 1994, recorded in Deed Book 8208, page 3, Records of DeKalb County, Georgia; as amended by that certain Amendment to Declaration of Easements and Covenants Belvedere Shopping Center by Malon D. Mimms and Mimms Investments, a Georgia general partnership, dated August 5, 1994, filed for record August 22, 1994, and recorded in Deed Book 8294, page 273, aforesaid records.

EXHIBIT "B"

1. All taxes for the year 2022 and subsequent years.
2. Rights of tenants in possession under unrecorded leases, which contain no options or rights of first refusal.
3. Permit for Anchors , Guy Poles and Wires from R. T. Hill to Georgia Power Company, a corporation, dated April 28, 1949, recorded in Deed Book 773, Page 288, aforesaid Records.
4. Right-of-Way Easement from D.T. Bonner to Georgia Power Company, dated October 20, 1953, filed for record December 2, 1953 at 3:00 p.m., recorded in Deed Book 1005, Page 76, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

5. Easement from Memorial and Columbia, Inc. to Atlanta Gas Light Company, dated March 4, 1954, filed for record April 15, 1954 at 1:00 p.m., recorded in Deed Book 1034, Page 119, aforesaid Records.
6. Easement from Memorial & Columbia Inc. to Georgia Power Company, dated January 12, 1955, filed for record February 7, 1955 at 3:00 p.m., recorded in Deed Book 1086, Page 24, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

7. Easement from Memorial & Columbia, Inc. to Georgia Power Company, dated October 1955, filed for record November 3, 1955 at 5:00 p.m., recorded in Deed Book 1154, Page 37, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

8. Right-of-Way Easement from Memorial & Columbia Incorporated and Belvedere Plaza, Inc. to the State Highway Department of Georgia, dated February 17, 1960, filed for record March 21, 1960 at 10:00 a.m., recorded in Deed Book 1490, Page 300, aforesaid Records.
9. Right-of-Way Easement from Memorial and Columbia, Incorporated to the State Highway Department of Georgia, dated May 31, 1960, filed for record June 7, 1960 at 10:00 a.m., recorded in Deed Book 1506, Page 696, aforesaid Records.

10. Right-of-Way Easement from Memorial & Columbia, Incorporated, Belvedere Plaza, Incorporated, The Equitable Life Assurance Society of the United States and Trust Company of Georgia to the State Highway Department of Georgia, dated April 11, 1960, filed for record June 7, 1960 at 10:00 a.m., recorded in Deed Book 1506, Page 698, aforesaid Records.
11. Easement from Memorial & Columbia, Inc. to Georgia Power Company, dated May 23, 1960, filed for record June 20, 1960 at 9:00 a.m., recorded in Deed Book 1516, Page 92, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

12. Right-of-Way Easement from The Citizens and Southern National Bank, as Trustee under Indenture of Memorial and Columbia, Inc. to State Highway Department of Georgia, dated June 6, 1960, filed for record June 27, 1960 at 4:00 p.m., recorded in Deed Book 1522, Page 4, aforesaid Records.
13. Easement from Belvedere Plaza, Inc. to Georgia Power Company, dated February 21, 1961, filed for record March 24, 1961 at 10:58 a.m., recorded in Deed Book 1566, Page 298, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

14. Easement from Memorial & Columbia, Inc. to Georgia Power Company, dated February 21, 1961, filed for record March 24, 1961 at 10:58 a.m., recorded in Deed Book 1566, Page 309, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

15. Drainage rights as contained in that certain Right of Way Deed from Memorial & Columbia, Inc. to DeKalb County, a political subdivision of the State of Georgia, dated December 12, 1961, filed for record December 15, 1961 at 11:20 a.m., recorded in Deed Book 1627, Page 294, aforesaid Records.
16. Agreement by and between Memorial & Columbia, Inc., a Georgia corporation and Glenwood National Bank, dated October 17, 1963, filed for record October 22, 1963 at 8:09 a.m., recorded in Deed Book 1824, Page 21, aforesaid Records.
17. Easement from Sidney C. Berger to Georgia Power Company, dated July 31, 1973, filed for record August 29, 1973 at 3:59 p.m., recorded in Deed Book 3064, Page 47, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

18. Right-of-Way Easement from Sidney C. Berger to Georgia Power Company, dated October 23, 1975, filed for record November 10, 1975 at 1:29 p.m., recorded in Deed Book 3412, Page 300, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

19. Right-of-Way Easement from Sidney C. Berger to Georgia Power Company, dated October 10, 1975, filed for record November 10, 1975 at 1:29 p.m., recorded in Deed Book 3412, Page 303, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

20. Easement from HSL/LaJolla Belvedere Enterprises to Georgia Power Company, dated December 5, 1980, filed for record January 15, 1981, recorded in Deed Book 4406, Page 48, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

21. Easement for Right-of-Way from HSL/LaJolla Belvedere Enterprises, a California joint venture composed of Humberto S. Lopez and La Jolla Belvedere Enterprises, a California limited partnership to Georgia Power Company, dated November 13, 1987, filed for record May 3, 1988 at 9:14 a.m., recorded in Deed Book 6122, Page 141, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company must retain all the rights acquired under the above-mentioned document(s) for the purpose of constructing, operating and maintaining its electric transmission facilities as shown on the Survey.

22. Nonexclusive easements for ingress and egress, parking and use of common facilities within a portion of Belvedere Plaza Shopping Center and other rights as set forth in that certain Agreement Between Owners by and between Belvedere Plaza, Inc. and Memorial Development corporation, dated August 23, 1971, as affected by Assignment from L&W Memorial Properties, Ltd., a Georgia limited partnership as successor in interest to Memorial Development Corporation, which documents are attached to Affidavit of Jack N. Halpern, dated February 9, 1990, recorded in Deed Book 6639, Page 774, aforesaid Records.

23. Easement from Mimms Enterprises, Inc. to Georgia Power Company, dated May 12, 1991, filed for record December 10, 1991 at 9:19 a.m., recorded in Deed Book 7123, Page 81, aforesaid Records.
24. Declaration of Restrictive Covenants by Malon D. Mimms and Mimms Investments, a Georgia limited partnership, dated as of November 20, 1992, filed for record February 1, 1993 at 8:30 a.m., recorded in Deed Book 7556, Page 773, aforesaid Records; as re-recorded February 22, 1993 at 8:30 a.m., recorded in Deed Book 7576, Page 436, aforesaid Records; but omitting any restriction based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.
25. Non-Exclusive Easement for Ingress and Egress as reserved and conveyed in that Limited Warranty Deed from Malon D. Mimms, individually and Mimms Investments, a Georgia general partnership to Hal's Columbia, Inc., a Georgia corporation, dated July 16, 1993, filed for record July 30, 1993 at 8:30 a.m., recorded in Deed Book 7770, Page 769, aforesaid Records.
26. Declaration of Easements and Covenants by Malon D. Mimms and Mimms Investments, a Georgia general partnership, dated July 7, 1994, filed for record July 7, 1994 at 2:17 p.m., recorded in Deed Book 8208, Page 3, Records of DeKalb County, Georgia; as amended by that certain Amendment to Declaration of Easements and Covenants Belvedere Shopping Center by Malon D. Mimms and Mimms Investments, a Georgia general partnership, dated August 5, 1994, filed for record August 22, 1994 at 4:25 p.m., recorded in Deed Book 8294, Page 273, aforesaid Records.

Terms, conditions and obligations as contained in that certain Limited Warranty Deed from Malon D. Mimms, an individual and Mimms Investments, a Georgia general partnership, as Tenants in Common to Mimms Investments, a Georgia general partnership, dated October 1, 1998, filed for record October 9, 1998 at 11:08 a.m., recorded in Deed Book 10270, Page 190, aforesaid Records; as affected by that certain Release of Access Rights by and between Ariel Belvedere Owner, LLC, a Delaware limited liability company and TND Columbia Drive Investments, LLC, a Georgia limited liability company, dated as of June 7, 2006, filed for record June 14, 2006 at 11:02 a.m., recorded in Deed Book 18816, Page 129, aforesaid Records.

27. Easement from Mimms Investments, a Georgia general partnership to Georgia Power Company, dated June 15, 1999, filed for record June 24, 1999 at 4:25 p.m., recorded in Deed Book 10787, Page 86, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

28. Order and Judgment – DeKalb County, Georgia, a political subdivision of the State of Georgia vs. Ariel Belvedere Owner, LLC, Deutsche Banc Mortgage Capital, LLC, GE Capital Franchise Finance Corporation, et al, being Civil Action File No. 08CV1529-3, dated March 19, 2008, filed for record March 21, 2008 at 6:13 p.m., aforesaid Records.

29. Order and Judgment – DeKalb County, Georgia, a political subdivision of the State of Georgia vs. Ariel Belvedere Owner, LLC, Deutsche Banc Mortgage Capital, LLC, GE Capital Franchise Finance Corporation, et al, being Civil Action No. 08CV1359-3, dated March 4, 2008, filed for record March 4, 2008 at 3:20 p.m., aforesaid Records.

NOTE: The above referenced Declaration of Taking documents we have provided do not contain legal descriptions. We are in the process of attempting to obtain the legal descriptions referenced in the above documents.

30. Easement and Water Quality Agreement by and between Ariel Belvedere Owner, LLC, a Delaware limited liability company and TND Columbia Drive Investments, LLC, a Georgia limited liability company, dated as of January 30, 2009, filed for record February 4, 2009 at 3:16 p.m., recorded in Deed Book 21250, Page 5, aforesaid Records.
31. Stormwater Detention Facility Inspection and Maintenance Agreement Plan of Kroger Fuel Center Memorial Drive from Ariel Belvedere Holdings to DeKalb County, dated May 1, 2014, filed for record May 21, 2014 at 2:29 p.m., recorded in Deed Book 24387, Page 436, aforesaid Records.
32. Easement from Ariel Belvedere Owner LLC to Georgia Power Company, a Georgia corporation, dated January 13, 2020, filed for record February 20, 2020 at 3:26 p.m., recorded in Deed Book 28120, Page 670, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

33. Easement from Ariel Belvedere Owner LLC to Georgia Power Company, a Georgia corporation, dated January 13, 2020, filed for record February 26, 2020 at 11:24 a.m., recorded in Deed Book 28132, Page 125, aforesaid Records.

NOTE: By letter dated April 21, 2022, the Georgia Power Company claims no further interest in the above mentioned easement, except the right to operate, maintain, rebuild and renew its existing facilities and equipment within its presently maintained right-of-way.

34. Utility and Temporary Construction Easement Agreement by and between Ariel Belvedere Owner Holdings LLC, a Delaware limited liability company and Resonate Atlanta Incorporated, a Georgia corporation, dated as of February 24, 2021, filed for record March 11, 2021 at 12:00 Noon, recorded in Deed Book 29154, Page 345, aforesaid Records.
35. UCC Financing Statement showing Ariel Belvedere Owner Holdings LLC as Debtor and C & A Financial Acquisitions [sic] Inc as Secured Party, filed for record February 17, 2022 at 10:16 a.m., recorded in Deed Book 30131, Page 323, aforesaid Records.
36. Those matters as disclosed by that certain survey entitled "ALTA/NSPS Land Title Survey To Hutton MT 17, LLC, a Delaware limited liability company, Hutton Belvedere, LLC, a Georgia limited liability company, Valley National Bank, a national banking association, ISAOA and Fidelity National Title Insurance Company", prepared by Travis Pruitt & Associates, Inc., bearing the seal and certification of Travis N. Pruitt, Jr., Georgia Registered

Land Surveyor No. 2809, dated September 22, 2021, last revised May 19, 2022, being designated as Job No. 1-21-0336.600, as follows:

- (a) Curbing and accessways crossing the southeasterly and northeasterly boundary lines of subject property;
- (b) Overhead and underground power lines crossing the northeasterly, southeasterly, and southerly boundary lines of subject property;
- (c) Underground gas lines crossing the northeasterly, southerly, southeasterly, westerly, and northwesterly boundary lines of subject property;
- (d) Underground telephone lines crossing the southeasterly, northeasterly, and southerly boundary lines of subject property;
- (e) Telephone boxes crossing the southerly boundary line of subject property;
- (f) Drainage pipes crossing the southerly and southwestly boundary lines of subject property;
- (g) Sanitary sewer line crossing the southerly and northeasterly boundary lines of subject property;
- (h) Power poles with guy wires crossing the southerly northeasterly boundary line of subject property;
- (i) Building in southeasterly portion of subject property encroaching onto sanitary sewer line, underground gas line, and Georgia Power easement recorded in Deed Book 4406, Page 48, aforesaid Records.
- (j) One (1) story masonry, block and metal building in southerly portion of subject property encroaching onto drainage pipes that traverse the westerly and southwestly portions of subject property;
- (k) Fences crossing the westerly boundary line of subject property;
- (l) Parking area crossing a portion of the westerly boundary line of subject property;

Campaign Disclosures

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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

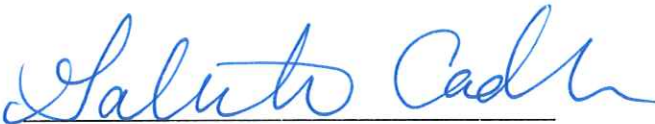
Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filing of this application?

Yes _____ No X *

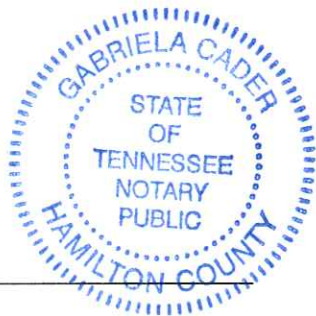
If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

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



4/1/2024
Expiration Date/ Seal

 8/31/2022
Michael Deering, as CIO of

**Hutton Belvedere, LLC, the
Owner**

Check one: Owner X Agent _____

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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?

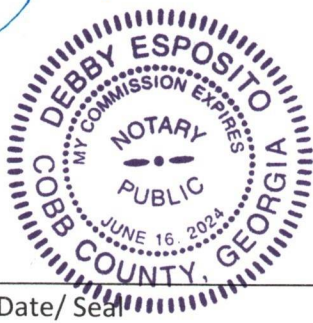
Yes _____ No ☒ *

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.

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Notary



Expiration Date/ Seal

 6/16/2022
Signature of Applicant /Date
363129 Coffee Cafe, LLC
Check one: Owner ☒ Agent _____

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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 filing of this application?

Yes X No *

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

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Notary

December 10, 2022
Expiration Date/ Seal


06.29.2022
Dennis J. Webb, Jr. Signature of Applicant /Date

Check one: Owner Agent X

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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

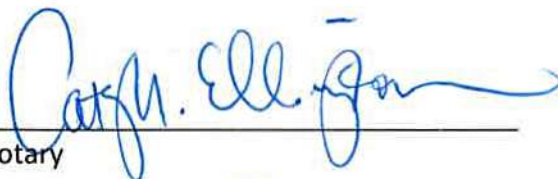
Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filing of this application?

Yes X 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.

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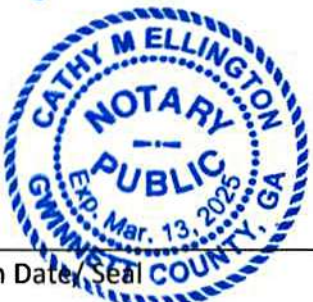


Notary



Kathryn M. Zickert 06.22.2022
Signature of Applicant /Date

Check one: Owner _____ Agent X _____



Expiration Date/Seal

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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

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1. The name and official position of the local government official to whom the campaign contribution was made.
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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



J. Alexander Brock 06.22.2022

Signature of Applicant /Date

Check one: Owner _____ Agent X _____

Expiration Date/ Seal

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

Pre-Application Meeting

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

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

Applicant Name: _ 363129 Coffee Café LLC _ Phone: : (404) 815 3603 _ Email: jabrock@sgrlaw.com _

Property Address: _3507 Memorial Drive_____

Tax Parcel ID: _Portion of _15 200 02 040 _ _ Comm. District(s): _3 & 7 _____ Acreage: 1.09 acres of 11.97
acre tract_____

Existing Use: Vacant Drive-through building _____ Proposed Use_____ Dunkin Donuts drive-through

Supplemental Regs: _Yes—4.2.23_____ Overlay District: _NA _ DRI: _NA_____

Rezoning: Yes _ _ _ No _X _

Existing Zoning: _C-1 (Local Commercial) _____

Proposed Zoning: _NA

Square Footage/Number of Units: _____

Rezoning Request: NA

Land Use Plan Amendment: Yes_ _____ No _ X_____

Existing Land Use: _TC (Town Center)_____ Proposed Land Use: NA_____ Consistent _____ Inconsistent_____

Special Land Use Permit: Yes_X_____ No _ _____ Article Number(s) 27-4.2.23_____

Tear down existing drive through building, and rebuild drive-through restaurant on same footprint and will be slightly
smaller in C-1 zoning district.

Major Modification:

Existing Case Number(s): _NA_____

Condition(s) to be modified:

DEPARTMENT OF PLANNING & SUSTAINABILITY

WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION

Pre-submittal Community Meeting: ☒ Review Calendar Dates: ☒ PC: 09/01/22**
BOC: 09/29/22** Letter of Intent: ☒ Impact Analysis: ☒ Owner Authorization(s): ☒
Campaign Disclosure: ☒ Zoning Conditions: ☒ Community Council Meeting:
08/10/22** Public Notice, Signs: ☒ (**Applicant must pick up and post and/or will be done by Staff**)
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

***Only six rezone/SLUP cases allowed on each agenda cycle; if September agenda cap is hit then may have to go to November 2022 agenda.**

****Filing Deadline for SLUP application for September agenda cycle is 06/30/22**

***Deadline for hosting pre-community meeting with 15 days notice for September 2022 agenda cycle is 06/29/22**

Review of Site Plan

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

Possible Variances: Applicant will need to justify how the proposed drive-through restaurant is consistent with pedestrian-oriented use and connectivity policies of the Town Center (TC) Character Area as well as consistent with adjacent and surrounding uses. Applicant will need to demonstrate compliance with C-1 zoning requirements and the Supplemental Regulations for drive-through restaurants (Sec 4.2.23). Show compliance with C-1 requirements, including but not limited to required parking, transitional buffers, minimum open space, maximum building height, streetscape improvements, and required density bonus provisions (if

DEPARTMENT OF PLANNING & SUSTAINABILITY

applicable), etc. The applicant is encouraged to discuss possible transportation improvements that may be required (if the rezoning is approved by the Board of Commissioners) with the county Transportation Department. The applicant is encouraged to contact Land Development Division of Public Works regarding required storm water management, floodplain, and stream buffer issues.

This only a preliminary review and is not a complete list of zoning requirements, a final and complete review will be done upon official submission of a rezoning application and concept plan.

Planner: __John Reid _____ Date __06/22/22_____

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

Public Notification & Community Meeting

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



J. Alexander Brock.
Direct Tel: 404.815.3620
Direct Fax: 404.815.6903
abrock@sgrlaw.com

June 9, 2022

Re: Petitioner: 363129 Coffee Café, LLC (J. Alexander Brock)
Subject: Community Meeting Notice

Dear Neighbor,

You are receiving this notice because you own property within 500' of 3507 Memorial Drive (the "Subject Property"). The Subject Property currently contains a former Sonic drive-through restaurant. The Petitioner is seeking a Special Land Use Permit to redevelop the Sonic drive-through for a proposed drive-through Dunkin Donuts.

You are invited to participate in a virtual Community Meeting on Wednesday, June 29, 2022 at 7:00 PM.

ZOOM: <https://sgrlaw.zoom.us> ; Meeting ID: **947 9339 8116**; Passcode: **176995**

This application will be presented at the DeKalb County Planning Commission meeting on September 1, 2022 and the Board of Commissioners' meeting on September 29, 2022, both currently scheduled for 5:30 pm via Zoom. Further details on these meetings (including whether the hearings will be live or virtual) 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.

With kind regards,

A handwritten signature in blue ink, appearing to read "J. Alexander Brock".

J. Alexander Brock

Pre-Submittal Community Meeting - Mailing List



Firm Mailing Book For Accountable Mail

Name and Address of Sender
Alex Brock
1105 W. Peachtree St NE
Suite 1000
Atlanta, Ga 30309

Check type of mail or service

<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"/> Priority Mail	

Hasler

06/10/2022

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\$03.76⁰⁰



ZIP 30301
011D11636292



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.	HANCOCK PARK PROPERTIES LLC	.54	.47	Handling Charge - if Registered and over \$50,000 in value											
	PO BOX 2391														
	DECATUR GA 30031														
2.	BURGER KING CORPORATION	.54	.47												
	PO BOX 20783														
	MIAMI FL 33102														
3.	ARIEL BELVEDERE OWNER LLC 1	.54	.47						Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	
	25 QUEENS BLVD STE 224														
	KEW GARDENS NY 11415														
4.	ARIEL BELVEDERE OWNER HOLDINGS	.54	.47					Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling	
	575 PHARR RD # 52846														
	ATLANTA GA 30355														
5.	SCF DECATUR REAL ESTATE HOLDINGS LLC	.54	.47					Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery		
	700 CANAL ST FLOOR 1														
	STAMFORD CT 6902														
6.	AUTOZONE INC	.54	.47					Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery		
	PO BOX 2198 DEPT 8088														
	MEMPHIS TN 38101														
7.	EXCEPTIONAL RESTAURANT COMPANY	.54	.47										Signature Confirmation		
	268 W MAIN ST														
	BUFORD GA 30518														
8.	LOUDERMILK SARAH ANNETTE	.54	.47												
	3063 HAMILTON RD														
	DECATUR GA 30032														
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)													

1 of 7



Name and Address of Sender

Check type of mail or service

- ☐ Adult Signature Required ☐ Priority Mail Express
☐ Adult Signature Restricted Delivery ☐ Registered Mail
☐ Certified Mail ☐ Return Receipt for Merchandise
☐ Certified Mail Restricted Delivery ☐ Signature Confirmation
☐ Collect on Delivery (COD) ☐ Signature Confirmation Restricted Delivery
☐ Insured Mail
☐ Priority Mail

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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.	R AND R ATLANTA REAL ESTATE 2530 RIVA RD STE 400 ANNAPOLIS MD 21401	.54	.47											
2.	SCF RC FUNDING IV LLC 47 HULFISH ST STE 210 PRINCETON NJ 08542	.54	.47											
3.	MEMORIAL AND COLUMBIA LLC 85 MILL ST STE 100 ROSWELL GA 30075	.54	.47											
4.	OBC DECATUR LLC 79 MADISON AVE FLOOR 4 NEW YORK NY 10016	.54	.47											
5.	DHARIWAL HARDIP S 3518 MEMORIAL DR DECATUR GA 30032	.54	.47											
6.	SELIG ENTERPRISES INC 1100 SPRING ST NW STE 550 ATLANTA GA 30309	.54	.47											
7.	ARIEL BELVEDERE OWNER HOLDINGS 125 QUEENS BLVD STE 224 KEW GARDENS NY 11415	.54	.47											
8.	ARIEL BELVEDERE OWNER HOLDINGS 575 PHARR RD # 52846 ATLANTA GA 30355	.54	.47											
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)												

257



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Name and Address of Sender	Check type of mail or service <input type="checkbox"/> Adult Signature Required <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery (COD) <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail <input type="checkbox"/> Priority Mail Express <input type="checkbox"/> Registered Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Signature Confirmation Restricted Delivery	Hasler 06/10/2022 US POSTAGE \$03.76⁰ ZIP 30301 011D11636292 													
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.	SCF DECATUR REAL ESTATE HOLDINGS LLC 700 CANAL ST FLOOR 1 STAMFORD CT 6902	.54	.47												
2.	WAL MART REAL ESTATE BUSINESS PO BOX 8050 MS 0555 BENTONVILLE AR 72716	.54	.47												
3.	EHLER ENTERPRISE AVONDALE LLC 1000 JOHNSON FERRY RD STE E-210 MARIETTA GA 30068	.54	.47												
4.	GOLD STAR REALTY LLC 3990 OLD SPRING HOUSE CT DUNWOODY GA 30338	.54	.47												
5.	MCMEMORIAL LAND LLC 1600 441 HISTORIC HWY N CLARKSVILLE GA 30523	.54	.47												
6.	TUGGLE CHERYL W 2980 BELVEDERE LN DECATUR GA 30032	.54	.47												
7.	TRIANGLE 3557 INVESTMENT LLC 5675 JIMMY CARTER BLVD STE 110 NORCROSS GA 30071	.54	.47												
8.	ASHA BIVEK INC 2635 WEDDINGTON PL MARIETTA GA 30068	.54	.47												
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)													

3 of 7



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Name and Address of Sender	Check type of mail or service <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	Hasler 06/10/2022 US POSTAGE \$03.76 ZIP 30301 011D11636292 JUN 10 2022													
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.	1202 GROUP LLC 1685 SPINNAKER DR ALPHARETTA GA 30005	.54	.47	Handling Charge - if Registered and over \$50,000 in value											
2.	ONGOMA SEBASTIAN 993 HEARTHSTONE PL STONE MOUNTAIN GA 30083	.54	.47												
3.	ALDI INC P.O. BOX 460049 DEPT 501 HOUSTON TX 77056	.54	.47												
4.	LOUDERMILK SARAH ANNETTE 3063 HAMILTON RD DECATUR GA 30032v	.54	.47						Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
5.	UNITED DEVELOPMENT MEMORIAL 210 SANDY SPRINGS PL NE ATLANTA GA 30328	.54	.47												
6.	ILIYAN PROPERTIES LLC 3568 MEMORIAL DR DECATUR GA 30032	.54	.47												
7.	SUNTRUST BANK PO BOX 26665 RICHMOND VA 23261	.54	.47												
8.	CHAPEL HILL HARVESTER CHURCH INC PO BOX 1164 DECATUR GA 30031	.54	.47												
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)													



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Name and Address of Sender	Check type of mail or service <input type="checkbox"/> Adult Signature Required <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery (COD) <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail <input type="checkbox"/> Priority Mail Express <input type="checkbox"/> Registered Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Signature Confirmation Restricted Delivery	<div>Hasler 06/10/2022 US POSTAGE \$03.76⁰ ZIP 30301 011D11636292</div> <div>MIDTOWN POST OFFICE JUN 10 2022 ATLANTA, GA 30309</div>													
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 # 6TH FL DECATUR GA 30030	.54	.47	Handling Charge - if Registered and over \$50,000 in value											
2.	ARIEL BELVEDERE OWNER HOLDINGS 575 PHARR RD # 52846 ATLANTA GA 30355	.54	.47												
3.	HUNSAKER PROPERTIES LLC 1336 COLUMBIA DR ATLANTA GA 30332	.54	.47												
4.	CHAPEL HILL HARVESTER CHURCH I PO BOX 1164 DECATUR GA 30031	.54	.47						Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
5.	KUZMICH CHRIS S 2926 MIDWAY RD DECATUR GA 30030v	.54	.47												
6.	BANK OF THE OZARKS P.O BOX 8811 LITTLE ROCK AR 72231	.54	.47												
7.	SCOTTDAL E EARLY LEARNING INC 479 WARREN AVE SCOTTDAL E GA 30079	.54	.47												
8.	COFER RONALD E 6400 ATLANTIC BLVD STE 190 NORCROSS GA 30071v	.54	.47												
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)													



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Name and Address of Sender		Check type of mail or service		Postage and Fees												
		<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														
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.	YATES CLAYTON 1543 AIKEN CHAFIN LN MCDONOUGH GA 30252	.54	.47													
2.	GRESHAM JOHN E 2968 BELVEDERE LN DECATUR GA 30032v	.54	.47													
3.	SELIG ENTERPRISES INC 1100 SPRING ST NW STE 550 ATLANTA GA 30309	.54	.47													
4.	HUDSON CLAY SAMBROOK 1100 SPRING ST W STE 550 ATLANTA GA 30309	.54	.47													
5.	SHREE GOPINATHDEV LLC 1223 COLUMBIA DR DECATUR GA 30032	.54	.47													
6.	ADE 910 LLC 3535 ROSWELL RD STE 63 MARIETTA GA 30062	.54	.47													
7.	ABEBE KIDANU 4106 BRYMOND DR TUCKER GA 30084	.54	.47													
8.	WAFFLE HOUSE INC 6000 LAKE FORREST DR STE 495 ATLANTA GA 30328	.54	.47													
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)														

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06/10/2022

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6 of 7



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Name and Address of Sender	Check type of mail or service	
	<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"/> Priority Mail	

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06/10/2022

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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.		ESFAN PROPERTIES GROUP LLC 120 RIVER NORTH CT SANDY SPRINGS GA 30328	.54	.47	Handling Charge - if Registered and over \$50,000 in value											
2.																
3.																
4.										Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
5.																
6.																
7.																
8.																
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)														

7057

3507 Memorial Drive - SLUP Pre-Submittal Community Meeting

Attendee Report

Report Generated: 6/30/2022 12:17

Topic

Webinar ID

Actual Start Time

Actual Duration (minutes)

Registered

Cancelled

Unique Views

Total Users

Max Concurrent Views

Enable Registration

Falcons Group

947 9339 8116

6/29/2022 18:58

21

4

0

2

5

2

Yes

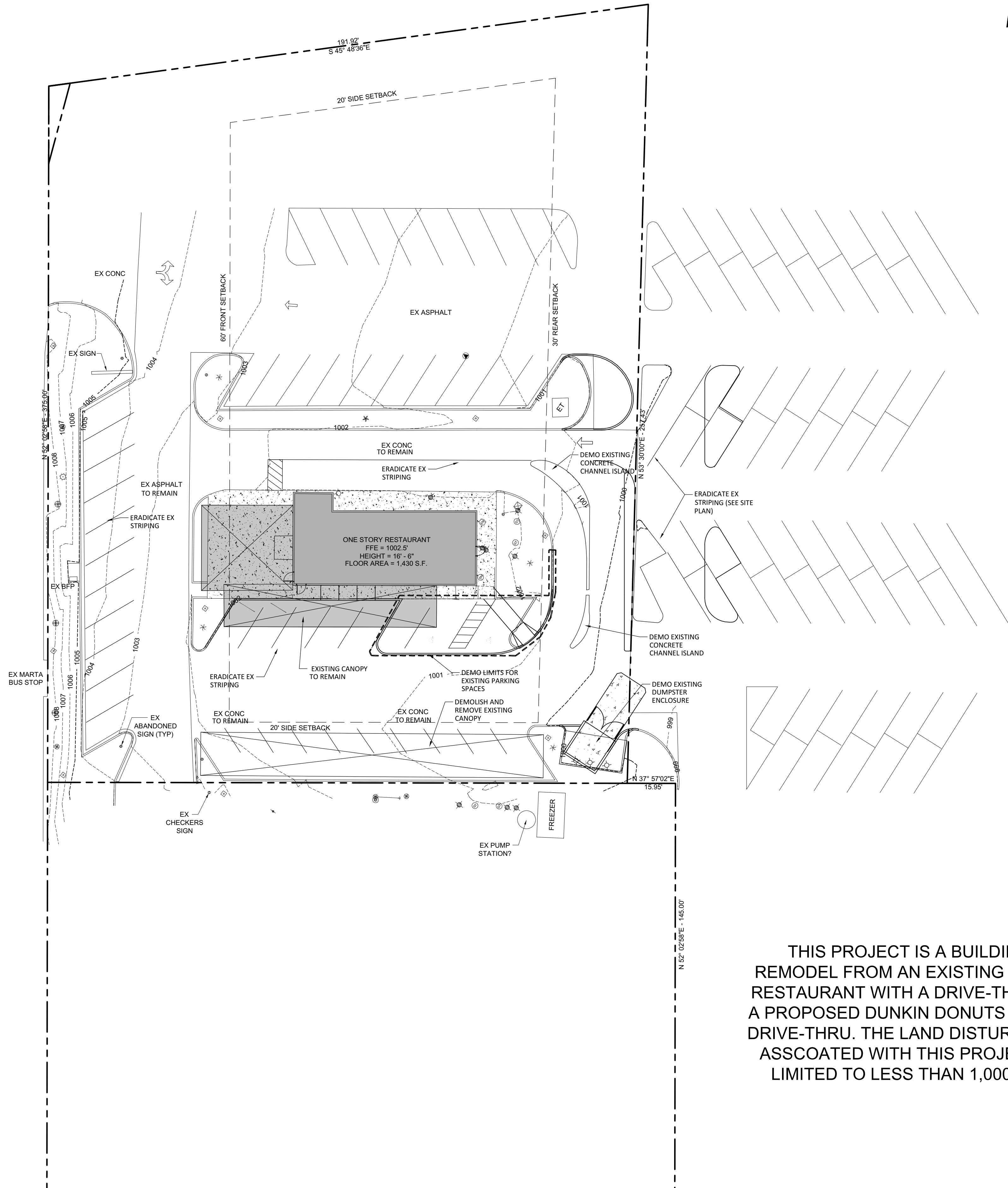
Panelist Details											
Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session (minutes)	Is Guest	Country/Region Name				
Yes	Dustin Quinteros	dquinteros@sgrlaw.com	6/29/2022 18:58	6/29/2022 19:19	21	No	United States				
Yes	Amy Buice	abuice@sgrlaw.com	6/29/2022 18:59	6/29/2022 19:19	20	Yes	United States				
Yes	Sundar Pillai	spillai@thefalconsgrgroup.com	6/29/2022 19:06	6/29/2022 19:19	13	Yes	United States				

Attendee Details											
Attended	User Name (Original Name)	First Name	Last Name	Email	Registration Time	Approval Status	Join Time	Leave Time	Time in Session (minutes)	Is Guest	Country/Region Name
No	Steven Tai	Steven	Tai	stai@sgrlaw.com	6/29/2022 8:31	approved	--	--	--	--	
No	Mahien	Mahien		Mahien_gharah@yahoo.com	6/29/2022 18:57	approved	--	--	--	--	
Yes	Amy Buice	Amy	Buice	abuice@sgrlaw.com	6/29/2022 18:58	approved	6/29/2022 18:58	6/29/2022 18:59		1	Yes United States
Yes	Sundar Pillai	Sundar	Pillai	spillai@thefalconsgrgroup.com	6/29/2022 18:58	approved	6/29/2022 18:58	6/29/2022 19:06		8	Yes United States

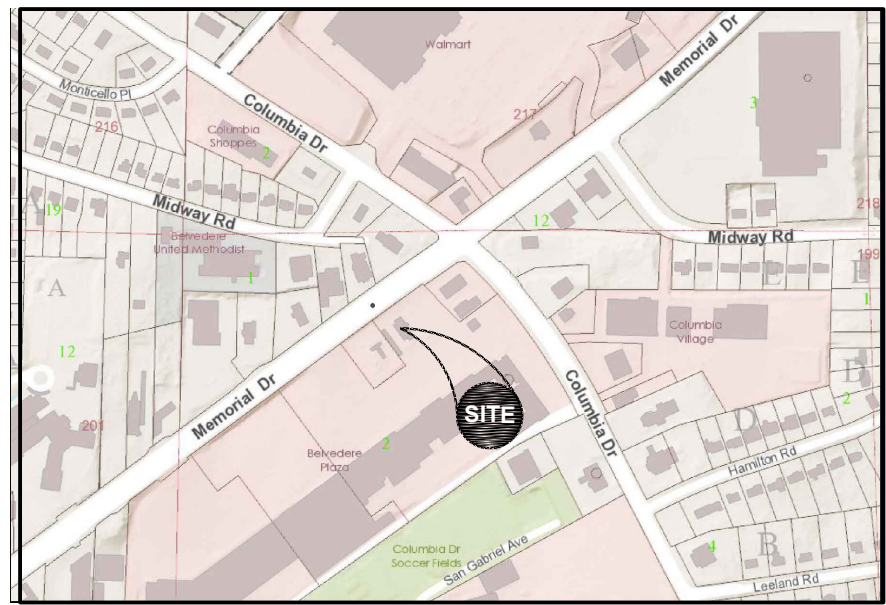
Notes:

No one from the public attended and no comments/questions were recieved.

Site Plan



THIS PROJECT IS A BUILDING
REMODEL FROM AN EXISTING SONIC
RESTAURANT WITH A DRIVE-THRU TO
A PROPOSED DUNKIN DONUTS WITH A
DRIVE-THRU. THE LAND DISTURBANCE
ASSCOATED WITH THIS PROJECT IS
LIMITED TO LESS THAN 1,000 S.F.



LOCATION MAP
NTS

PROJECT NOTES:

DEVELOPER:
The Falcons Group
1995 North Park Place, Suite #430
Atlanta, Ga 30339
Contact: Sunder Pillai
spillai@thefalconsgroup.com

OWNER:
ARIEL BELVEDERE OWNER HOLDINGS
REAL PROPERTY TAX ADVISORS
575 PHARR RD # 52846
ATLANTA, GEORGIA 30355

ENGINEER:
Carter Engineering Consultants, Inc.
3651 Mars Hill Road, Suite 2000
Watkinsville, GA 30677
Contact: Jeff Carter, P.E.
Tel. (770) 725-1200
jeff@carterengineering.net

Property located at 3507 Memorial Highway

Current Zoning: C1

Setbacks: Front: 60-feet Rear: 30-feet Side: 20-feet

Existing use: Sonic Restaurant with drive-thru
Proposed use: Dunkin' Restaurant with drive-thru

Project Tract: 1.089 acres (lease line)
Disturbed Area: 0.023 acres

Boundary, Site Survey and Contour Information obtained from boundary and topographical survey provided by Carter Engineering Consultants, Inc., dated June 25, 2021. Tel. (770) 725-1200.

Contour interval is 1 Foot

F.E.M.A. Flood Insurance Rate Map No. 13089C0069, effective on 05/16/2013 indicates that this property is located in "Zone X".

The underground utilities shown hereon have been located from field information and existing drawings. The surveyor nor engineer warrants that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor nor engineer warrants that the underground utilities shown are in the exact location indicated. The surveyor nor engineer has physically located all the underground utilities.

It is the responsibility of the contractor to field locate all utilities prior to commencing work and notify engineer if a discrepancy is found.

The contractor shall verify the invert elevations of all existing storm and sanitary sewer structures prior to commencement of storm and sanitary sewer construction.

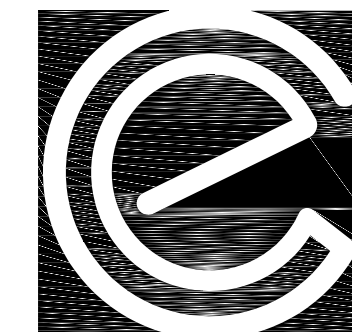
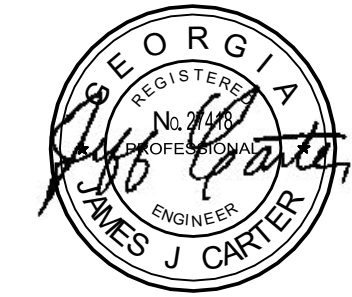
UNDERGROUND UTILITIES DISCLAIMER

Information regarding the reputed presence, size, character and location of existing underground utilities and structures related to underground utilities is shown hereon. There is no certainty of the accuracy of this information and it shall be considered in that light by those using this drawing. The location and arrangement of underground utilities and structures related to underground utilities shown hereon may be inaccurate and utilities and structures related to underground utilities not shown may be encountered. The owner, his employees, his consultants and his contractors shall hereby distinctly understand that the surveyor is not responsible for the correctness or sufficiency of this information regarding the underground utilities and structures related to underground utilities shown hereon.



GRAPHIC SCALE
SCALE 1" = 20'

REVISION BLOCK		DATE	DESCRIPTION
#	DATE	DESCRIPTION	COUNTY SUBMITTAL
1	8/6/21	ADDRESS COUNTY COMMENTS	
2	11/17/21	ADDRESS COUNTY COMMENTS	
3	01/26/22	ADDRESS COUNTY COMMENTS	
4	03/07/22	ADDRESS COUNTY COMMENTS	



CARTER
ENGINEERING
CONSULTANTS

Carter Engineering Consultants, Inc.
3651 Mars Hill Road, Suite 2000
Watkinsville, GA 30677

P: 770.725.1200
F: 770.725.1204
www.carterengineering.net

SITE DEVELOPMENT PLANS
for
DUNKIN' DONUTS
3507 Memorial Highway, Decatur, Georgia

PROJECT NAME:



SHEET TITLE:

DEMOLITION
PLAN

SHEET NUMBER:

002

PROJECT NUMBER:

21046DDD

DATE:

08/06/21

Legal Description and Survey

10270 192

EXHIBIT "A"

DESCRIPTION OF THE LAND

The Belvedere Property

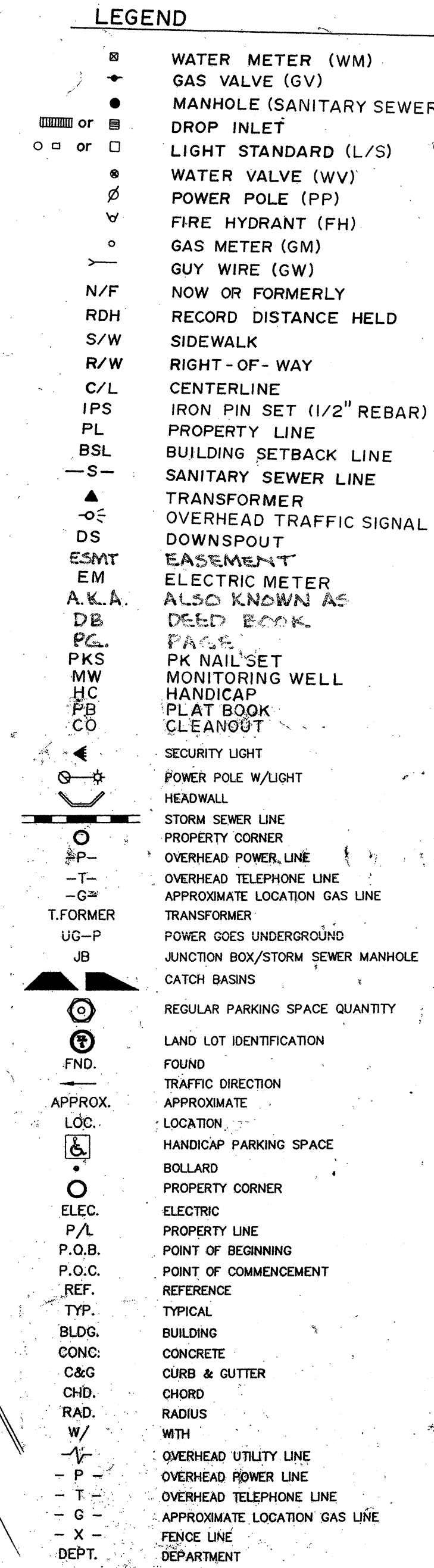
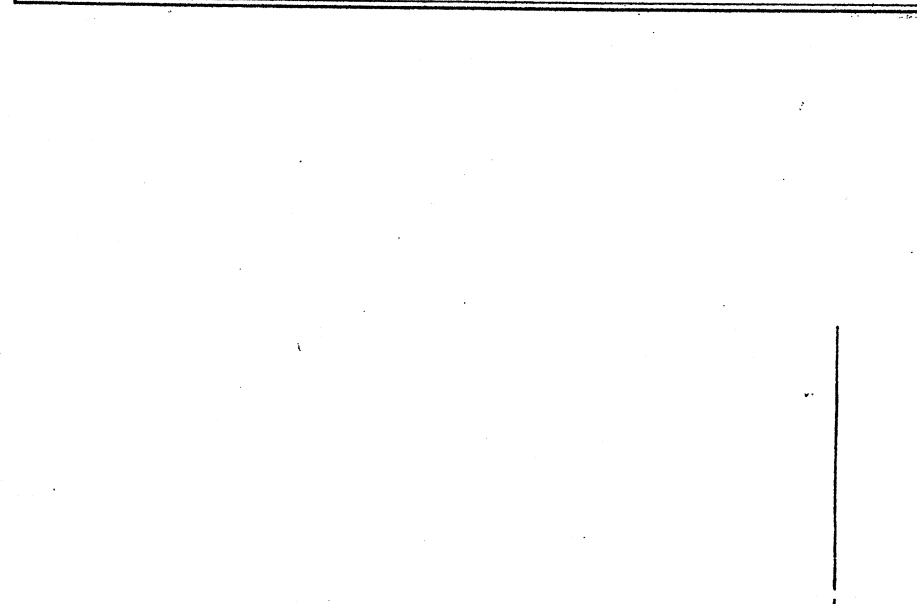
TRACTS "B" and "C"

All that tract or parcel of land lying and being in Land Lots 200 and 201 of the 15th District of DeKalb County, Georgia, and being more particularly described in tracts as follows:

Tract "B": Commencing at the intersection of a line parallel with and southwesterly 50.00 feet from the centerline of Columbia Drive (variable width right-of-way) and a line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive

(variable width right-of-way); proceeding thence along said line parallel with and southeasterly 58.00 feet from the centerline of Memorial Drive, southwesterly 171.99 feet to a point, said point being the True Point of Beginning; leaving said parallel line and proceeding thence South 45° 48' 36" East a distance of 191.92 feet to a point; proceeding thence North 52° 02' 33" East a distance of 190.00 feet to a point on said southwesterly right-of-way line of Columbia Drive; proceeding thence along said southwesterly right-of-way line, southeasterly 548.80 feet along the arc of a curve to the right, said curve having a radius of 2,025.46 feet and being subtended by a chord having a bearing and distance of South 35° 12' 38" East 547.13 feet to a point; leaving said southwesterly right-of-way line and proceeding thence South 60° 55' 15" West a distance of 171.72 feet to an iron pin; proceeding thence South 67° 46' 43" West a distance of 109.41 feet to a point; proceeding thence South 53° 02' 49" West a distance of 479.45 feet to a point; proceeding thence North 37° 56' 22" West a distance of 99.37 feet to a point; proceeding thence South 52° 03' 38" West a distance of 100.00 feet to a point; proceeding thence North 37° 56' 22" West a distance of 580.72 feet to a point on the southeasterly right-of-way line of Memorial Drive (100' right-of-way), said point being Point "A"; proceeding thence along said southeasterly right-of-way line, the following courses: North 52° 02' 58" East a distance of 663.03 feet to a point and South 45° 48' 36" East a distance of 8.08 feet to the true point of beginning.

Said tract or parcel of land contains 12.9239 acres and is more particularly shown as Tract "B" on that certain Above Ground As-Built Survey for Malon D. Minns and Minns Investments, Wachovia Bank of Georgia, N.A. & Ticor Title Insurance Company prepared by Travis Pruitt & Associates, P.C., Travis N. Pruitt, Sr., Georgia Registered Land Surveyor No. 1729, dated January 21, 1991 and last revised June 21, 1993.




TRACT A = 5.0013 ACRES
TRACT B = 11.1382 ACRES
TRACT C = 8.4533 ACRES
TRACT D = 8.1651 ACRES
TRACT E = 1.7799 ACRE

LAND LOTS 200 & 201, 15TH DISTRICT
DEKALB COUNTY, GEORGIA
JANUARY 21, 1991 / SCALE: 1"=60'

GRAPHIC SCALE - IN FEET


30 60 120 180 240



TPA
CONSULTANTS, ENGINEERS, SURVEYORS
& LANDSCAPE ARCHITECTS

TRAVIS PRUITT AND ASSOCIATES, INC.
4317 PARK DRIVE - SUITE 400 - NORCROSS, GEORGIA 30093

REV. NO.	DATE	DESCRIPTION
1	9-9-93	REVISED TRACT B (JN 93265)
2	6-21-93	SHOW SA. POWER EASEMENT (JN 93-265)
3	6-14-93	ADD. ACCESS EASEMENT (JN 93265)
4	6-8-93	REVISED TRACTS B&D, ADDED LIQ. STRIPS IN 93-265
5	5-17-93	UPDATE A AND TRACTS A,B,C,D. (JN 93265)
6	8-6-93	UPDATE PLANNING IN 93265


 FOR THE FIRM
 TRAVIS PRIUITT & ASSOC. INC.

FOR THE FIRM
TRAVIS PRUITT & ASSOC.

Letter of Intent

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
for the
Special Land Use Permit

of

363129 COFFEE CAFÉ, LLC

For

\pm 11.97 Acres of Land
located in
Land Lot 200, 15th District, DeKalb County
Address: 3507 Memorial Drive

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Smith, Gambrell & Russell, LLP
1105 W. Peachtree Street, NE, Ste. 1000
Atlanta, Georgia 30309
404-815-3500

I. INTRODUCTION

This Application seeks a Special Land Use Permit (“SLUP”) to allow for the renovation of an existing drive-thru restaurant for a proposed Dunkin drive-thru located in Land Lot 200, 15th District, DeKalb County and addressed as 3507 Memorial Drive (Parcel ID 15 200 02 040) (the “Subject Property”). The Subject Property is the eastern portion of the existing Belvedere Plaza¹ and the Applicant intends to renovate a ±1.089 acre tract of land located within the Subject Property (“Dunkin Parcel”).² The Dunkin Parcel contains a ±1,467 square foot Sonic drive-thru restaurant with associated parking and site improvements (the “Sonic”). The Sonic was constructed in 2009, which pre-dated DeKalb County’s SLUP requirement for drive-thru uses, and operated as a legally nonconforming drive-thru until it closed in 2018. Since the drive-thru use ceased operations for over six months, it lost its legally nonconforming status and consequently any modification or reconstruction requires a new SLUP application. The proposed improvements include the renovation of the existing Sonic to transform it into a ±1,430 square foot Dunkin restaurant and other minor improvements (“Proposed Development”). It should be noted that the Applicant is reducing the existing restaurant’s footprint by ±37 square feet. The Applicant also intends to leave the vast majority of the parking, paving, drive-thru lanes, curbing and other improvements in place. In fact, out of the ±1.089 acre Dunkin Parcel, only ±0.023 acres (±2.1% of the overall site) is being disturbed. It was the Applicant’s intent to reuse as much of the original building and drive-thru paving for the Proposed Development, focusing on aesthetic improvements. The Applicant intended to proceed with the renovations roughly eight

¹ Belvedere Plaza is composed of five parcels: Parcel IDs 15 200 02 040; 15 200 02 039; 15 200 02 041; 15 200 02 038; and 15 200 02 030.

² The overall Belvedere Plaza, Tract B, is 11.97 acres, but the Applicant intends to lease a ±1.089 acre tract that remains undivided from the overall site.

months ago and submitted for a DeKalb County Building Permit in October 2021.³ The Applicant received approval from all of the reviewing departments, however the final issuance of the permit was halted until a SLUP was obtained for the drive -thru.

The Proposed Development is an appropriate use for the Dunkin Parcel given its zoning and location. The Subject Property is zoned Local Commercial (C-1) district and located within the Town Center activity center character area. The DeKalb County Zoning Code allows the proposed drive-thru restaurant in the C-1 district and in the activity center through the grant of a Special Land Use Permit. The Dunkin Parcel fronts Memorial Drive to the north, a major arterial, and is approximately 192 feet east of that roadway's intersection with Columbia Drive, a minor arterial. *Refer to the DeKalb County 2014 Transportation Plan Recommended Functional Classification Map.* This is a major intersection for vehicular traffic and an ideal location for a drive-thru restaurant as evidenced by its prior use. The Dunkin Parcel is bordered on the south and east by the parking lot of the overall Belvedere Plaza shopping center, zoned C-1. To the west the Subject Property is bordered by property containing a Checkers drive-thru restaurant, zoned C-1.⁴

The Applicant will be improving the existing drive-thru to bring it into closer alignment with the DeKalb County 2035 Comprehensive Plan ("Comp Plan"). As noted above, the Comp Plan's Future Land Use Map designates the Subject Property as being within the Town Center character area. It also is within the Belvedere Activity Center Small Area Plan ("Belvedere

³ DeKalb County Permit Number AP-1245216.

⁴ Many of the nearby businesses along Memorial Drive are vehicle oriented businesses, including other drive -thru restaurants. To illustrate, within 500 feet of the Subject Property are located the Popeye's Louisiana Kitchen drive-thru restaurant, located at 3506 Memorial Drive and zoned C-1; Zaxby's drive-thru restaurant, located at 3490 Memorial Drive and zoned C-1; Burger King drive-thru restaurant, located at 3542 Memorial Drive and zoned C-2; Taco Bell drive-thru restaurant, located at 1170 Columbia Drive and zoned C-1; the American Tire, Lube & Auto automobile service center, located at 3518 Memorial Drive and zoned C-1; the Chevron gas station located at 3557 Memorial Drive (immediately east of the Subject Property) and zoned C-1; and the BP gas station located at 3542 Memorial Drive and zoned C-1

SAP”). The Belvedere SAP expressly states that restaurant is an appropriate use within the area in which the Subject Property is located.

One of the intents of the Town Center character area is to concentrate residential and commercial uses to promote walkability. The Belvedere SAP and the Belvedere Master Area Land Plan (“Belvedere MALP”) note that one key to advancing the walkability of the area is the redevelopment of Belvedere Plaza. However, the Belvedere MALP also recognizes that:

The Belvedere Plaza Shopping Center is a typical example of a suburban shopping center: its form is designed to provide ease of access for the automobile and visibility from Memorial Drive. This pattern remains a successful economic model and this shopping center is currently well leased and anchored by a Kroger grocery store. However, long-term trends suggest that change and redevelopment are possible...(emphasis added)

Currently, the existing Belvedere Plaza is well leased and there is little anticipation of its redevelopment in the near-term. Equally important, there is an absence of nearby residential within an easy pedestrian access, particularly higher density residential, to support walkable commercial or restaurants.⁵ In the current state and in the foreseeable future, the Dunkin Parcel remains very viable for the proposed drive-thru uses and the pandemic has shown that drive-thru facilities have a place in a balanced commercial area.

The Belvedere SAP also includes plans that contemplate the long-term redevelopment of Belvedere Plaza. Interestingly however, the Belvedere SAP plans depict the Dunkin Parcel and the adjacent Checkers drive-thru as remaining in their current configuration even after future redevelopment.⁶ In fact, the Dunkin Parcel is not likely to be viable as a pedestrian-fed commercial use until the redevelopment of the Subject Property or other nearby properties for

⁵ The closest single family detached residences are along Rupert Road, Midway Road, and Hamilton Road which are ± 0.5 miles, ± 0.2 miles, and ± 0.50 miles, respectively, from the Dunkin Parcel. Pedestrians coming from these homes, however, must cross Memorial Drive and/or Columbia Drive, both major roadways with high volumes of traffic, thus detracting from the appeal of pedestrian access.

⁶ The Comp Plan, pg 102, depicts the Belvedere Plaza partial redevelopment, showing the Dunkin Parcel with no modifications.

higher-density residential. Although unstated in the Belvedere SAP and the Belvedere MALP, the lack of nearby residential is likely the reason that the Dunkin Parcel and the adjacent Checkers drive-thru are depicted as remaining in the future redevelopment plans.

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

I. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

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

The size of the Subject Property is adequate for the proposed restaurant. The renovated restaurant will be ±37 square feet smaller than the previous Sonic restaurant and will fit within the footprint of the existing building. In addition, the Applicant is only proposing minor modifications to the existing site improvements and parking to facilitate better vehicular turning movement. Additionally, DeKalb County Staff have already reviewed and approved the plans for the proposed restaurant improvements through the Land Disturbance Permit process. The only item prohibiting the issuance of the Land Disturbance Permit is the instant SLUP application.

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

The proposed Dunkin restaurant will be fully compatible with adjacent properties and land uses. As noted in the previous paragraphs, the Subject Property fronts Memorial Drive, a heavily-traveled major arterial, and is in close proximity to the major intersection of Memorial Drive and Columbia Drive. The Subject Property is entirely surrounded by properties zoned C-1 that are developed as various commercial uses. The surrounding uses consist of drive-thru

restaurants and similar uses, which is fitting given the location along a major vehicular corridor. The proposed use is appropriate given the Subject Property's location and the existing uses in the area.

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

The proposed restaurant will be ± 37 square feet smaller than the building it is replacing; thus it is not anticipated to have any negative impact on public utilities. There are adequate public services, public facilities, and utilities to serve the Proposed Development.

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

The renovated restaurant is replacing a larger drive-thru restaurant. Therefore, there will be no net increase in traffic and it is not anticipated to create congestion in the area. The Subject Property is located on Memorial Drive, a six-lane state highway classified as a major arterial, and is ± 192 feet from the intersection of Columbia Drive, a minor arterial. Both of these major roadways have sufficient traffic-carrying capacity to continue to serve the proposed restaurant.

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

No. The character of the vehicles and volume of traffic generated by the proposed use will be essentially identical to what exists today.

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 Dunkin Parcel is situated within the Belvedere Plaza parking lot with access to both Memorial Drive and Columbia Drive through the existing Belvedere Plaza curb cuts. The

Proposed Development will not be adding any additional curb cuts. The Applicant is removing several existing parking spaces to improve the drive-thru stacking and site circulation. It should be noted that DeKalb County Transportation Department has already reviewed and approved the proposed plans.

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 surrounded entirely by commercial uses that will not be adversely impacted by the renovated restaurant. Additionally, the drive-thru facilities will fully comply with the requirements of Section 27-4.2.3.

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 manner of operation will be similar to what existed on the site for the past thirteen years. Accordingly, the proposed use will not constitute a more intense manner of operation that would adversely impact surrounding properties.

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

As stated in subsection A above, the proposed use will be fully compliant with the C-1 district regulations.

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

The Subject Property is designated as being in the “Town Center” (TC) character area and subject to the Belvedere SAP per the County’s Comp Plan. The Belvedere SAP specifically identifies restaurant uses as an allowed primary use within the Town Center character area. The Belvedere SAP and the Belvedere Master Active Living Plan (MALP) note that the redevelopment of Belvedere Plaza is desired for the long-term transformation of the area. However, the MALP and SAP’s plans for the Belvedere redevelopment depict the Dunkin Parcel as remaining in its current configuration in the future and after the anticipated redevelopment. The Proposed Development will improve the area by reducing the size of the existing drive -thru restaurant on the property.

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.

No buffer or transitional zones are required for the Subject Property.

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

The refuse and service areas will remain in the same place after the renovations and will be adequate to accommodate the proposed restaurant.

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

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

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

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

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

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

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

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

- (a) not be located within 60 feet of a residentially zoned property (the drive-thru window is \pm 543 feet from the nearest residentially zoned property⁷, as measured from the speaker box);
- (b) not be located on a property less than 10,000 square feet in area and will meet the stacking requirements of Article VI (Subject Property is a \pm 1.089 acre (\pm 47,437 square feet) portion of the overall \pm 11.97 acre (\pm 521,413 square feet) tract and will provide 10 stacking spaces);
- (c) provide drive-thru lanes and service windows on the side of the restaurant;
- (d) provide drive-thru canopies and structures constructed of the same materials and of the same architectural quality as the primary buildings;
- (e) meet the requirements for speaker boxes (the speakers are directed away from residential properties);
- (f) have lighting which will be directed away from any residential properties (the lighting will comply and there are no nearby residential properties);

⁷ The nearest residentially zoned property is the Belvedere United Methodist Church property, zoned R-75 and located at 2915 Midway Road.

- (g) provide stacking spaces with a minimum of 10' in width and 25' in length (more than 10 spaces are provided and each space is 10'x25');
- (h) provide sufficient stacking spaces for a drive-thru restaurant (the proposed design provides for 10 stacking spaces, each 10 feet wide and 25 feet long);
- (i)(1) have a drive-thru lane that will not impede on and off-site traffic, cross through off-street parking areas, or create unsafe conditions for pedestrians;
- (i)(2) provide a marked drive-thru lane separated by striping from off-street parking areas;
- (i)(3) include a bypass lane with a minimum width of 10';
- (i)(4) be set back at least 5' from all lot lines and right-of-way lines;
- (i)(5) be cleaned of litter and debris daily, along with the remainder of the property;
- (i)(6) not be located within 500 feet of an elementary, middle or high school;⁸
- (i)(7) be operated pursuant to the SLUP requested herein; and
- (i)(8) use the appropriate distance measurements.

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

The renovated restaurant will be the same height (one story) as the existing restaurant, and 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.

Like the existing restaurant, the renovated restaurant would serve both patrons from the surrounding neighborhood as well as travelers passing through the area. The Subject Property's

⁸ The closest school property is 3414 Memorial Drive, ±1,257 feet from the drive-thru speakerbox, which formerly contained the Hooper Alexander Elementary School that was demolished in 2015 and is now vacant. The next closest school property is the DeKalb School of the Arts, located at 1192 Clarendon Avenue and is ±1,561 feet from the drive-thru speakerbox.

location on a six-lane major arterial make it an appropriate site for continued use as a drive-thru restaurant. The proposed renovation is not in conflict with the objectives of the Comp Plan as outlined in the paragraphs above.

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

The Applicant respectfully submits that the current zoning classification of and rules relative to the Subject Property owner's right to use the Property established in the DeKalb County Zoning Ordinance, to the extent they prohibit this use, are unconstitutional and constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

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

of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the use in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Special Land Use Permit at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 30th day of June, 2018.

Respectfully submitted,



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