

Michael L. Thurmond

Chief Executive Officer

DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability 178 Sams Street, Suite A-3600 Decatur, GA 30030

Wednesday, July 12, 2023 at 1:00 PM

Planning Department Staff Analysis



Cedric Hudson

Interim Director

N1. Case No: A-23- 1246475

Parcel ID(s): 18-115-08-043

Commission District 02 Super District 06

- Applicant: Brett Buckland / Bohler Engineering 211 Perimeter Center Parkway, NE Suite 425 Atlanta, GA 30346
 Owner(s): Dale Bowen Holmes / Thomas Carroll Holmes III 6810 Stringer Lane Flowery Branch, GA 30542
 Project Name: 2240 Lawrenceville Highway - Express Oil Change
 Location: The property is are located at 2240 Lawrenceville Highway in Decatur, Georgia.
 Request: 1) Variance from Chapter 27-5.4.3 (2)(C) to reduce the streetscape requirement
- Request:
 1) Variance from Chapter 27-5.4.3 (2)(C) to reduce the streetscape requirement along the frontage of Lawrenceville Highway from a 10-foot path to an eight (8) foot path in the C-1(Local Commercial) zoning district; and
 - Variance from Chapter 27-5.4.3(2)(D) to reduce the six (6) foot landscape requirement to a two (2) landscape strip only where the deceleration lane is located, setback along Lawrenceville Highway in the C-1 (Local Commercial) zoning district; and

Staff Recommendation: Denial.

STAFF FINDINGS:

Setback Variance Analysis:

The applicant proposes to construct an oil change and minor automobile repair service facility on the subject property. The proposed design will require variances for the foot path and the streetscape improvement along Lawrenceville Highway. It appears the design of the express oil change includes a drive through, and a SLUP (Special Land Use Permit) will be required for this component of the proposed minor auto-repair business.

<u>1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district:</u>

The subject site is an irregular shaped parcel located in the C-1 zoning district which fronts along a Lawrenceville Highway, a major arterial also known as State Route 8. The C-1 zoning requires the installation of a ten (10) foot path and a six (6) landscape strip along Lawrenceville Highway. Since this C-1 zoned site abuts an R-75 residential subdivision along the rear property line, a 50-foot transitional buffer is also required along the rear property line.

The applicant stated in their Letter of Intent applicant that this site has an exceptional physical condition. Therefore, the applicant is requesting two (2) variances because they stated that the site does not have the adequate right of way to install the proposed building and the required improvements along Lawrenceville Highway, due to the required 50-foot transitional buffer along the rear property line.

The transitional buffer along the rear of this parcel does present one exceptional lot specific condition that may result in the strict application of the requirements of these chapters depriving the property owner of the rights and privileges enjoyed by other property owners in the C-1 zoning district. The required 50' transitional buffer is required because the site abuts an R-75 residential subdivision. Additionally, the surrounding area are largely commercial in nature and the site has an abundance of complimentary commercial uses (e.g., auto parts stores, restaurants, major home improvement store, retail store) on adjacent parcels that support the need for pedestrian connectivity.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

The requested variances may go beyond the minimum necessary to afford relief and may constitute grant a grant of special privilege. inconsistent within the limitations upon other properties in the zoning district. The applicant stated in their Letter of Intent that the based on the proposed site plan, there is not enough right of way to place the required improvements. However, staff reviewed the proposed site plan and the staff noted that both the ten (10) foot path and the six (6) foot landscape strip requirements can be met with a re-design of the site plan. There are six (6) parking spaces along the eastern edge of the building that could be removed or relocated on the site. According to the parking regulations, the minimum parking requirement for the site is 12 parking spaces. After the removal of the six (6) parking space, there will still be 17 parking spaces remaining. Furthermore, it seems that 2 parking spaces maybe be added to the side and rear parking strips.

<u>3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:</u>

The granting of the variance will be materially detrimental to the public welfare or injurious to improvements in the zoning district surrounding the site. Given the commercial and future pedestrian nature of the surrounding area along with proposed mixed-use development for the former North Dekalb Mall site, it is likely that that these upcoming future land use changes will spark the need or desire for more pedestrian connectivity. A sidewalk and a landscape strip of any width at this location presents a safer pedestrian experience and will benefit the public. Furthermore, Lawrenceville Highway does contain sidewalks for most of the commercial uses in that area.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

The strict application of the provisions and requirements of this chapter may not cause an undue and unnecessary hardship for the applicant. This property could dedicate adequate right of way to install the required sidewalk and landscape improvements with the removal of the six (6) parking spaces on the east side of the building. This is an instance where those improvements will be directly beneficial for the ever-increasing walking public along the Lawrenceville Highway. This site is only feet away from two (2) highly utilized MARTA bus shelters that service the Goodwill & Home Depot store across from this site. The strict application of the zoning district development standards would likely yield a high community value in this geographical area and may not contribute to unnecessary hardship upon the applicant.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

The future land use designation for this parcel is under the Commercial Revitalization Corridor (CRC). "The 2050 Future Land Use Map of the 2050 DeKalb Unified Plan describes that the intent of the of CRC character area is to promote the redevelopment of declining commercial corridors and to improve the function and aesthetic appeal of more stable commercial corridors. These areas mostly consist of strip -style shopping centers that are in of need aesthetic or functional improvements and are in economic decline or are vacant. They are often characterized by a high degree of vehicular traffic, onsite parking, moderate floor to area ratio and large tracts of land. The proposed density for areas of this type is up 18 dwelling units per acre, with a maximum height of 3 stories."

The requested variances seem to detract from the goals of the *Comprehensive Plan* in this context. Therefore, the requested variances are inconsistent with the spirit and intent of the purpose of the CRC character area of the *Land Use Plan* of the 2050 DeKalb Unified Plan.

FINAL STAFF ANALYSIS:

This property could dedicate adequate right of way to install the required sidewalk and landscape improvements with the removal of the six (6) parking spaces on the east side of the building. This will maybe present a solution to the exceptional physical condition caused by the required transitional buffer along the rear property line. The requested variances may not be the minimum necessary to afford relief and may grant special privileges inconsistent with the limitations upon other properties in the zoning district. It seems that having applicant to re-design the site without the six (6) parking space along the east side of the building is a reasonable request to provide the adequate space to install the public improvements, thereby eliminating the need for both requested variances.

Therefore, staff recommends **DENIAL** for both requested variances.



DeKalb County Department of Planning & Sustainability

Hon. Michael Thurmond Chief Executive Officer

RECEIVED

Andrew Baker, AICP, Director

ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING (VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

By Howard Johnson at 4:37 pm, May 23, 2023

	BOA No					
Applicant and/or Authorized Represer	ntative AUTHORIZED REPRESENTATIVE: BOHLER - BRETT BUCKLAND					
Mailing Address: 21	1 PERIMETER CENTER PKWY NE, STE 425					
City/State/Zip Code:	ATLANTA, GA 30346					
Email: BBUCKLA	AND@BOHLERENG.COM					
Telephone Home:	Business: <u>678-695-6800</u>					
	OWNER OF RECORD OF SUBJECT PROPERTY					
Owner: DALE BC	WEN HOLMES/THOMAS CARROL HOLMES III					
Address (Mailing):	6810 STRINGER LANE, FLOWERY BRANCH, GA 30542					
Email: SHAMROO	CKPLAZA@YAHOO.COM					
Telephone Home:	Business: 770-967-8816					
	ADDRESS/LOCATION OF SUBJECT PROPERTY					
Address: 2240 LA	WRENCEVILLE HWY City: DECATUR State: GA Zip: 30033					
District(s): 1	8Land Lot(s): <u></u> Block: <u>08</u> Parcel: <u>18-115-08-0</u> 43					
Zoning Classi	C-1 (NO fication: OVERLAY) Commission District & Super District: SUPER DISTRICT 6					
CIRCLE TYPE OF H	EARING REQUESTED:					
VARIANCE (From I	Development Standards causing undue hardship upon owners of property.)					
SPECIAL EXCEPT	IONS (To reduce or waive off-street parking or loading space requirements.)					
• OFFICIAL APPEAL	OF ADMINISTRATIVE DECISIONS.					
* PLEASE REVIEW IN SCHEDULING DI	THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT ELAYS. <u>*</u>					

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received:

Fee Paid:



178 Sams Street Decatur, GA 30030

DEPARTMENT OF PLANNING & SUSTAINABILITY

SUBMITTAL INSTRUCTIONS

I hereby authorize the staff of the DeKalb County Planning Department to inspect the premises of the above-described property.

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED AS A RESULT OF THIS APPLICATION IS TRUE AND CORRECT AND THAT IF AM NOT THE PROPERTY OWNER, I AM AUTHORIZED BY THE SAME TO

MAKE SUCH REQUESTS, CLAIMS, AND REPRESENTATIONS AS MAY BE FOUND WITH THIS APPLICATION.

APPLICANT/AGENT SIGNATURE:

but hhur

DATE: 5/19/2023

Section 27-922 Administrative Variances and Special Exceptions

- A. The Director of Planning is hereby authorized to consider and grant or deny, pursuant to the procedures and standards contained in this Section, a variance or a special exception from the following regulations:
 - 1. Reduce by variance any front, side or rear yard setback by an amount not to exceed ten percent (10%) of the district requirement, but not including any transitional buffer zone or any setback which is a condition of zoning or special land use permit, pursuant to the standards specified in Section 27-916.
 - Reduce by variance the required spacing between buildings in districts where multiple buildings are authorized on a single lot in an amount not to exceed 10% of the requirement, but not in an amount which is less than the minimum requirement imposed by Chapter 7 of the DeKalb County Code of Ordinances, pursuant to the standards specified in Section 27-916.
 - 3. Reduce by special exception the off-street parking or loading requirements imposed by this Chapter in an amount not to exceed ten percent (10%) of the district requirement, pursuant to the standards specified in Section 27-913.A.
 - 4. Reduce by special exception the off-street parking requirements imposed by this Chapter for any lot which is located 1,000 feet of the boundary of a Marta Rapid Transit Station in an amount not to exceed 25 percent of the district requirement, pursuant to the standards specified in Section 27-913.B.
- B. Any request for administrative variance or special exception permitted by this Section shall be filed with the Director of Planning. The Director shall review and decide upon each such application pursuant to the applicable standards referred to in each subsection above, and shall make a written decision on each such application no later than 30 days from the date such application was filed. No administrative variance or special exception shall be authorized to delete, modify or change in any manner any condition imposed by the Board of County Commissioners or the Zoning Board of Appeals.



404.371.2155 (o) 404.371.4556 (f) DeKalbCountyGa.gov

Dale Bowen Holmer Owner Trustee Thomas Canall Aluefatte

178 Sams Street Decatur, GA 30030

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZBOA APPLICATION AUTHORIZATION

Completion of this form is required if the individual making the request is not the owner of the property.

DATE: 5/17/2023

CHECK TYPE OF APPLICATION:

- () ADMINISTRATIVE APPEAL
- (X) VARIANCE
- () SPECIAL EXCEPTION

TO WHOM IT MAY CONCERN:

(1) / (WE), DALE BOWEN HOLMES/THOMAS CARROL HOLMES TH

[Name of owner(s)]

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

BOHLER - BRETT BUCKLAND

[Name of Applicant or Representative]

Owner

Owner

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

Tycone Mosley Notary Public Tycone Mosley

Notary Public



1/17

BOHLER//

211 Perimeter Center Pkwy NE, Ste 425 Atlanta, GA 30346 678.695.6800

May 19, 2023

DeKalb County Zoning Board of Appeals 1300 Commerce Drive Decatur, GA 30030

> RE: Letter of Intent for Variance Application Express Oil Change 2240 Lawrenceville Highway Decatur, GA 30033

To Whom it May Concern,

Please accept this Letter of Intent for the variance application submittal for the proposed Express Oil Change at 2240 Lawrenceville Highway, Decatur, GA 30033. The applicant, Express Oil Change, is proposing to develop this parcel for a minor automobile repair service facility and is requesting a variance to reduce the streetscape requirement in the frontage from a 10-foot path to an eight foot path and a six foot landscape strip to a two foot landscape strip only where the deceleration lane is location. This letter is intended to explain how the requested variance is consistent with DeKalb County's Comprehensive Plan and how it will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district.

The existing property is zoned C-1 and abuts a residential district at the rear that requires a 50foot transitional buffer. Per Sec. 5.4.3 of the DeKalb County Zoning Ordinance, there is a streetscape required along the property frontage. There is an existing deceleration lane in the right-of-way that reduces the available streetscape space in the parcel frontage. The proposed use is an allowed use in the zoning district, but there are architectural restrictions that require the bays in the building to face away from the street frontage.

The proposed variance is requested as the literal interpretation and strict application of the applicable provisions of the chapter would cause undue and unnecessary hardship. The existing site has limited depth, and the project is required to maintain the existing deceleration lane and rear 50-foot transitional buffer while orienting the building to face the bays away from the street frontage and providing vehicular access around the building.

The parcel owner is proposing to dedicate three feet of right-of-way along the frontage where the deceleration lane is located in order to provide a two-foot landscape strip and eight-foot path in the most limited location. The proposed streetscape outside of the deceleration lane is proposed to be the full width required by the code. Although the variance is proposing to reduce the buffer between the road and the path from six feet to two feet, the variance is only proposed in the location of the existing deceleration lane, so the deceleration lane will provide an



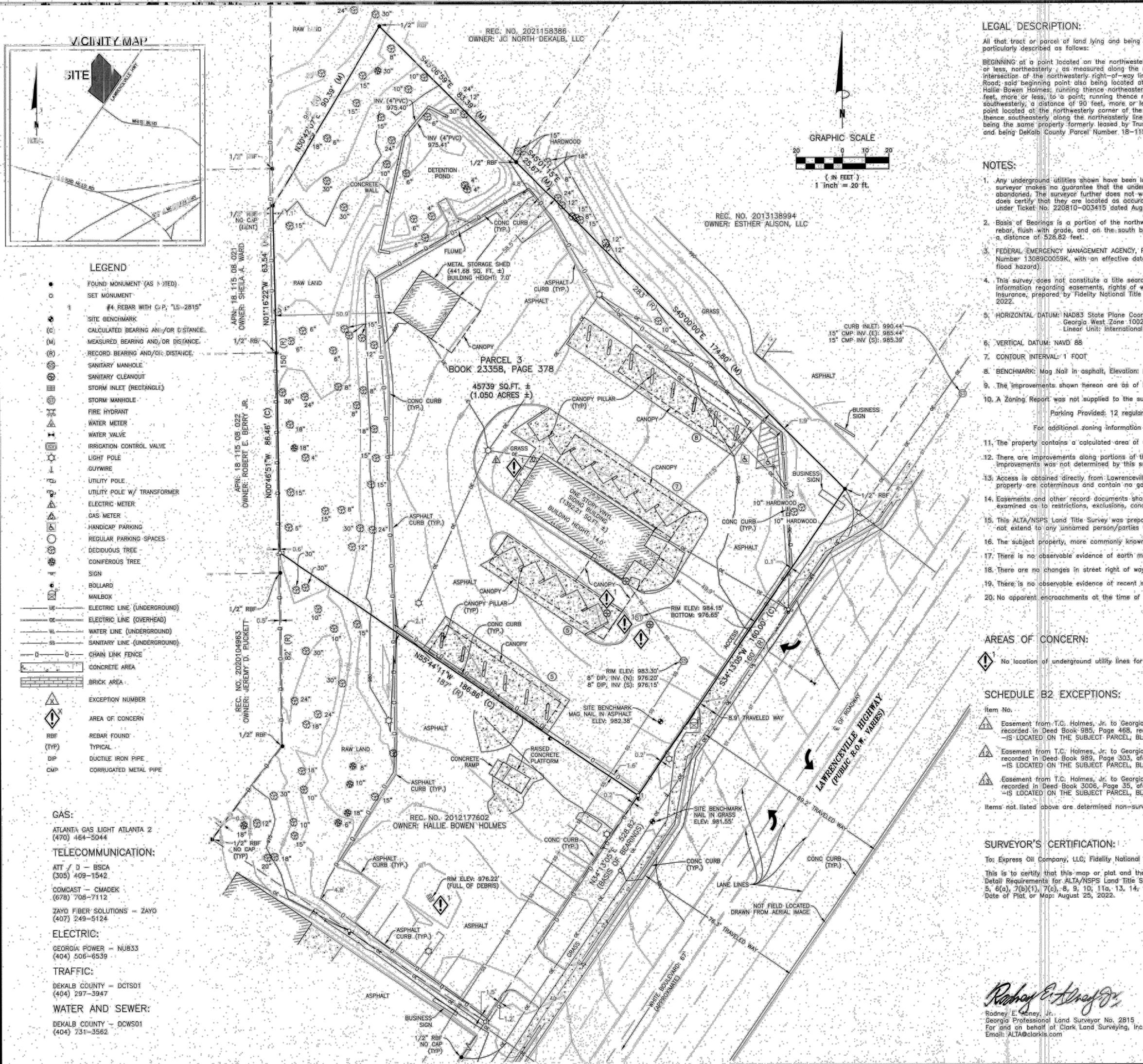
additional buffer between pedestrians and vehicles on the road. This variance will not be materially detrimental to the public welfare or injurious to the property. The requested variance will be consistent with the spirit and purpose of this chapter as it is not proposing to remove the path. The proposed 20% reduction of the path will still allow pedestrians and cyclists to utilize this corridor and the existing deceleration lane will provide a buffer between them and vehicular traffic.

If you have any questions or need additional information, please feel free to contact our office at (678) 695-6800.

Sincerely, BOHLER ENGINEERING GA, LLC

that

Brett Buckland, P.E. Project Manager



LEGAL DESCRIPTION:

particularly described as follows:

BEGINNING at a point located on the northwesterly right-of-way line of Lawrencevi e Highway which point is cated 1,08 or less, northeasterly, as measured along the northwesterly right—or-way line of awrencevill. Highway, form ne coner formula be intersection of the northwesterly right—of—way line of Lawrenceville Highway with the northeasterly right—of—way line of North. Doi: 1 Road; said beginning point also being located at the northeasterly corner of property now or formerly owied I / True under the M Hallie Bowen Holmes; running thence northeasterly along the northwesterly right-of way line of Lawrencevi e Highway a distance of feet, more or less, to a point; running thence northwesterly, a distance of 283 feet, more or less, to a point; running thence southwesterly, a distance of 90 feet, more or less, to a point; running thence so therly, a distance of 1.0 feet, more or less, a point located at the northwesterly corner of the aforementioned property owned by Trust under the Will of Hallie Bowen Holmes; u thence southeasterly along the northeasterly line of said property, a distance of 1.7 feet, more or less, o the point of beginning; being the same property formerly leased by Trust under the Will of T.C. Holmes, u., to O.C. Hupert, by lease dated March 23, 1.9 and being DeKalb County Parcel Number 18-115-08-043 (2011 Field Map Book).

Any underground utilities shown have been located from field survey information, and utility markings, as provided by the client. I a surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilitie shown are in the exact location indicated all in g does certify that they are located as accurately as possible from the information available. Public utility locate request was nace under Ticket No. 220810-003415 dated August 10, 2022. This site was located by standard RF methods and with GPR locating.

2. Basis of Bearings is a portion of the northwest R.O.W. line for Lawrenceville Highway, being monumented at the north by 1/2 include rebar, flush with grade, and on the south by 1/2 inch rebar, flush with grade as shown hereon and measured to bear N34'13'0. E a distance of 528.82 feet.

5. HORIZONTAL DATUM: NAD83 State Plane Coordinates Georgia West Zone 1002 Linear Unit: International Feet.

6, VERTICAL DATUM: NAVD 88 7. CONTOUR INTERVAL: 1 FOOT

8. BENCHMARK: Mag Nail in asphalt, Elevation: 982.38", and Nail in grass, Elevation: 981.55". (NAVD 88). 9. The improvements shown hereon are as of the date of field work, August 11, 2022.

10. A Zoning Report was not supplied to the surveyor at the time of survey. Parking Provided: 12 regular spaces, 1 handicap spaces.

For additional zoning information please contact the DeKalb County Planning Department at (404) 371-2836.

11. The property contains a calculated area of 45,739 square feet (1.050 acres) more or less. 12. There are improvements along portions of the boundary as shown hereon. Owrership and/or maintenance responsibilities of said improvements was not determined by this survey. 13. Access is obtained directly from Lawrenceville Highway 29. The right of way lines of said street and the boundary lines of subject property are coterminous and contain no gaps, gores or overlaps. 14. Easements and other record documents shown or noted on this survey were examined as to location and purpose and were not examined as to restrictions, exclusions, conditions, obligations, terms, or as to the right to grant the same. 15. This ALTA/NSPS Land Title Survey was prepared for the exclusive use of persons/parties listed in certification. Said statement, doe not extend to any unnamed person/parties without an express statement by the surveyor naming said person/parties.

16. The subject property, more commonly known as Cash Car Rentals, has a posted address of 2240 La vrenceville Hwy. 17. There is no observable evidence of earth moving work, building construction or building additions within recent months. 18. There are no changes in street right of way lines either completed or proposed, per documents provided by title company. 19. There is no observable evidence of recent street or sidewalk construction or repairs. 20. No apparent encroachments at the time of survey.

No location of underground utility lines for above ground feature.

SCHEDULE B2 EXCEPTIONS:

Easement from T.C. Holmes, Jr. to Georgia Power Company, dated January 4, 1953, filed August 4, 1953 and recorded in Deed Book 985, Page 468, records of the Superior Court of DeKalb County, Georgia. —IS LOCATED ON THE SUBJECT PARCEL, BLANKET IN NATURE.

Easement from T.C. Holmes, Jr. to Georgia Power Company, dated August 10, 1953, filed September 8, 1953 and recorded in Deed Book 989, Page 303, aforesaid records. —IS LOCATED ON THE SUBJECT PARCEL, BLANKET IN NATURE.

Easement from T.C. Holmes, Jr. to Georgia Power Company, dated April 30, 1973, filed May 17, 1973 and recorded in Deed Book 3006, Page 35, aforesaid records. —IS LOCATED ON THE SUBJECT PARCEL, BLANKET IN NATURE.

Items not listed above are determined non-survey related items and are not plotted hereon.

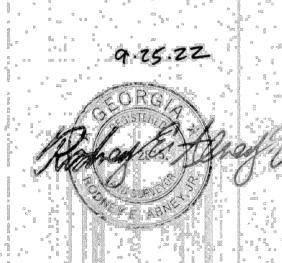
SURVEYOR'S CERTIFICATION: To: Express Oil Company, LLC, Fidelity National Title Insurance Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Stand Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4 5, 6(a), 7(b)(1), 7(c), 8, 9, 10, 11a, 13, 14, 16, 17 & 19 of Table A thereof. The field work was completed on August 11, 2022. Date of Plat or Map: August 25, 2022.

All that tract or parcel of land lying and being in Land Lot 115 of the 18th District of Derollo County, County and being in Land Lot 115 of the 18th District of Derollo County, County and being in Land

FEDERAL EMERGENCY MANAGEMENT AGENCY, FEMA FIRMette published August 2, 2022, referencing Flood Insurance Rate Map, Map Number 13089C0059K, with an effective date of August 15, 2019, indicates this parcel of land is located in Zone X (Area of min na

4. This survey does not constitute a title search by Clark Land Surveying, Inc. to determine ownership or easements of record. For a information regarding easements, rights of way and title of record, Clark Land Surveying, Inc. relied upon a Commitment for Title Insurance, prepared by Fidelity National Title Insurance Company, Commitment 110, OSH091 717, with an effective date of August 4,





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