

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

Date Received:	Application No:				
Applicant Name: Quil	Trip Corporatio	n c/o Battle Law P.0	3 .		
Applicant E-Mail Addres	_{ss:} mlb@battlela	wpc.com			
Applicant Mailing Addre	ss: 3562 Habers	ham at Northlake	Bldg. J, Suite 100		
Tucker, GA 300					
Applicant Daytime Phon	e: 404-601-7616	Fax:			
Owner Name: The K	yu Yong Cho ar	nd Joo Ah Cho Revo	ocable Trusts		
	If more than o	ne owner, attach list of owner	S.		
Owner Mailing Address:	8360 Kennings	ton Way Duluth GA	. 30097		
Owner Daytime Phone:	Owner Daytime Phone:				
Address of Subject Prop	_{erty:} 4822 Covin	gton Hwy			
Decatur, GA 30					
Parcel ID#: 15 163 ()1 008				
Acreage: 0.29		Commission Distric	t: <u>5; 7</u>		
Present Zoning District(s	;): <u>C-1</u>				
Proposed Zoning Distric	t: <u>C-2</u>				
Present Land Use Desig	nation: CRC				
Proposed Land Use Des	ignation (if applicable):				



404.371.2155 (o) 404.371.4556 (f) www.dekalbcountyga.gov Development Services Center 178 Sams Street Decatur, GA 30030

Chief Executive Officer Michael Thurmond DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director Cedric Hudson

REZONING APPLICATION CHECKLIST

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

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

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

J. Completed, signed Pre-application Form (Provided at pre-application meeting.)

compliance with Article 5 of the Zoning Ordinance.



3562 Habersham at Northlake, Bldg. J, Ste 100 Tucker, Georgia 30084

Zoom Instructions:

Go to https://battlelawpc.zoom.us/join and Enter the Meeting ID that you have been provided with in the appropriate field and click "Join". To join by phone, please dial (646) 558-8656. If you are unable to attend or would like to learn more about the proposed project, please call our office at the number below.

We encourage you to come out and participate!

For More Information Contact Mark Schwabacher at: Phone: 404-601-7616 ext. 8 Fax: 404-745-0045 Email: mas@battlelawpc.com

COMMUNITY MEETING TO DISCUSS A REZONING TO ALLOW FOR A CONVENIENCE STORE WITH FUEL STATION

Project Title: 4822 Covington Hwy When: August 8, 2023

Time: 6:00 PM Eastern (US and Canada)

Register in advance for this meeting: https://battlelawpc.zoom.us/join

> Meeting ID: 871 3203 4527 Password: 399031

PROPOSED LOCATION(S):

Parcel Number - 15 163 01 008

CHO KYU YONG REVOCABLE TRUST	4832 COVINGTON HWY	DECATUR GA 30035
DECATUR 2015 LLC	136 ASTON HALL	MACON GA 31210
DISCOUNT GROUP INC	4913 CLARKE ST	METAIRIE LA 70006
BLUE VINTAGE PROPERTIES LLC	3001 HORSEBARN DR	DURHAM NC 27705
HEDOC CORP INC	4842 COVINGTON HWY	DECATUR GA 30035
STAR 2021 SFR1 BORROWER LP	591 W PUTNAM AVE	GREENWICH CT 6830
ENGLISH NOTASHA	2292 TALMAI DR	SNELLVILLE GA 30078
BONNER RHONDA	1206 HUNTERS DR	STONE MOUNTAIN GA 30083
4781 COVINGTON HIGHWAY LLC	388 E WESLEY RD NE	ATLANTA GA 30305
FERRELL LAMAR CHEVROLET INC	4770 COVINGTON HWY	DECATUR GA 30035
CAREY PAUL INC	PO BOX 450233	ATLANTA GA 31145
PAUL FAMILY PARTNERSHIP LLLP	P.O. BOX 450233	ATLANTA GA 31145
MCGHEE AUTO SALES INC	4888 COVINGTON HWY	DECATUR GA 30035
DECATUR 2015 LLC	136 ASTON HALL	MACON GA 31210
PERTAH HEMRAJ L	4982 ROCK HAVEN DR SW	LILBURN GA 30047
THE KYU YONG CHO REVOCABLE TRUST AND THE	8360 KENNINGSTON WAY	DULUTH GA 30097
MALEA VIOREL	4767 COVINGTON HWY	DECATUR GA 30035
PAUL FAMILY PARTNERSHIP LLLP	PO BOX 450233	ATLANTA GA 31145
FLEMING LI	5583 GLENRIDGE BND	LITHONIA GA 30058
STAR 2021 SFR2 BORROWER LP	591 W PUTNAM AVE	GREENWICH CT 6830
PROMISE HOMES BORROWER I LLC	26050 MUREAU RD STE 110	CALABASAS CA 91302
THACH JOANNE WRIGHT	1789 MCLAIN LN	DECATUR GA 30035
JOHNSON ALLEN LANE JR	1861 MCLAIN LN	DECATUR GA 30035
C AND D PROPERTIES LLC	4414 LUXEMBOURG DR	DECATUR GA 30034
PREMIER PLAZA LLC	3475 OAK VALLEY RD NE UNIT 70	ATLANTA GA 30326
STAR 2021 SFR1 BORROWER LP	591 W PUTNAM AVE	GREENWICH CT 6830
CONNER GERALDINE S	1871 CLARKE LN	DECATUR GA 30035
MATHENY THOMAS	1829 MCLAIN LN	DECATUR GA 30035
LEONARD LAUETA	12 KINGSTONE RD	AVONDALE ESTATE GA 30002
4918 COVINGTON HWY LLC	0 PO BOX 737	CUMMING GA 30028
RS RENTAL II LLC	1955 SOUTH VAL VISTA DR STE 126	MESA AZ 85204
CONNER RICKY LEE	1865 CLARKE LN	DECATUR GA 30035
PAUL FAMILY PARTNERSHIP LLLP	PO BOX 450233	ATLANTA GA 31145
HOPEK ROBERT LEON II LIVING TRUST	1815 MCLAIN LN	DECATUR GA 30035
HWJ LLC	2205 BONNAVIT CT	ATLANTA GA 30345
WASDIN ALAN	2790 EBENEZER RD SE	CONYERS GA 30094
1 & C INVESTMENT LLC	320 UNIVERSITY DR	ATHENS GA 30606
GLENHAVEN METHODIST CHURCH	705 COPPER TRACE WAY	WHITE GA 30184
THE KYU YONG CHO REVOCABLE TRUST AND THE	8360 KENNINGSTON WAY	DULUTH GA 30097
PAUL FAMILY PARTNERSHIP LLLP	PO BOX 450233	ATLANTA GA 31145
SPEAF1 LLC	3009 CYPRESS KNEE CT	RALEIGH NC 27607
JOHNSON ALLEN L JR	1861 MCLAIN LN	DECATUR GA 30035

Re: Community Meeting Notice

Mark Schwabacher <MAS@battlelawpc.com>

Thu 7/27/2023 4:02 PM

To:dennisallen05@comcast.net <dennisallen05@comcast.net>;andrewse199@gmail.com <andrewse199@gmail.com>;kbarksdal22@gmail.com <kbarksdal22@gmail.com>;e7hubbard@gmail.com><e7hubbard@gmail.com>;hlove1223@aol.com <hlove1223@aol.com>;oneiloooo4@comcast.net <oneiloooo4@comcast.net>;Perry_leona@bellsouth.net <Perry_leona@bellsouth.net>;dpriestbrown@bellsouth.net <dpriestbrown@bellsouth.net>;mtaylor7907@gmail.com <mtaylor7907@gmail.com>

Hello members of DeKalb Community Council District 5,

The meeting below for the rezoning for 4810 and 4822 Covington Highway to C-2 was in fact scheduled for Tuesday, August 8th. That is the date communicated on the notices that were mailed out. I apologize for my mistake.

Please find the Zoom meeting details below:

Topic: Covington Highway Quiktrip Community Meeting Time: Aug 8, 2023 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting https://battlelawpc.zoom.us/j/87132034527?pwd=MW5yOVJaZldmcHkrRTFyZStHR0VnZz09

Meeting ID: 871 3203 4527

Passcode: 399031

Thank you,



Mark Schwabacher.

(he/him/his)

Law Clerk

Phone: 404-601-7616 Mobile: 203-216-3967

Email: mas@battlelawpc.com

3562 Habersham at Northlake

Bldg. J, Suite 100 Tucker, GA 30084

www.battlelawpc.com



Meeting ID	Topic	Start Time	End Time	User Email mas@battlelawpc.com	Duration (Minute	es) 37	•	3
8/13203452/	Covington	8/8/2023 17:34	8/8/2023 18:11	mas@pattlelawpc.com		3/	•	J
Name (Original Name)	User Emai	l Join Time	Leave Time	Duration (Minutes)	Guest		Recording Consent	In Waiting Room
Josh Mahoney	jsm@battl	8/8/2023 17:34	8/8/2023 18:11	3	7 No			No
Jordan Battie	jnb@battl	8/8/2023 17:41	8/8/2023 18:11	3	0 No		Yes	No
bqualis		8/8/2023 17:53	8/8/2023 17:54		1 Yes			Yes
bqualls		8/8/2023 17:54	8/8/2023 18:11	1	8 Yes		Yes	No



1 STATEMENT OF INTENT

and

Other Material Required by DeKalb County Zoning Ordinance For A Rezoning from C-1 to C-2

of

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

for

+/- **0.29 Acres of Land**Being 4822 Covington Hwy,
Decatur, Georgia and
Parcel No. 15 163 01 008

Submitted for Applicant by:

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

1



I. LETTER OF INTENT

The QuikTrip Corporation (the "Applicant") is seeking to develop a new convenience store with fuel pumps on 3.04 acres of land being Tax Parcel Nos. 15 190 05 016, 15 163 01 008, and 15 163 01 009 having frontage on 4810, 4822, and 4832 Covington Highway. The larger parcels, 4810 and 4832 Covington Highway, are zoned C-2 while the smaller parcel, 4822 Covington Highway (the "Subject Property"), is zoned C-1. The Applicant is seeking a rezoning of the smaller parcel to C-2. Having both adjacent parcels share the same zoning will allow the Applicant to proceed with development and combine the parcels. This document serves as a statement of intent, analysis of the criteria under the DeKalb County Zoning Ordinance and contains notice of constitutional allegations as a reservation of the Applicant's rights.

II. DEKALB COUNTY IMPACT ANALYSIS CRITERIA (Section 27-7.3.5)

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;

The proposal to rezone the Subject Property to C-2 is in conformity with the policy and intent of the comprehensive plan. The Subject Property has the Commercial Redevelopment Corridor (CRC) future land use designation. The CRC designation has the purpose of promoting redevelopment of commercial areas. The Subject Property is currently vacant. The rezoning proposal promotes the CRC goal of redeveloping underutilized commercial areas.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;

The proposal to rezone the Subject Property will permit a use that is suitable in view of the use and development of adjacent and nearby properties. First, the Subject Property is a small triangle of C-1 enclosed by larger C-2 parcels. Rezoning the Subject Property to C-2 will bring the parcel in-line with the other parcels adjacent to it. Second, the Covington Highway Corridor already hosts a number of businesses similar in character to the proposed convenience store with fuel pumps.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Subject Property does not have a reasonable economic use as currently zoned. The small size of the parcel and its position near, but not on, an intersection presents a hardship preventing the parcel from operating independently. The Subject Property is currently vacant paved space.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby properties;



The zoning proposal will not adversely affect the existing use or usability of nearby properties on Covington Highway. The surrounding parcels are all zoned C-2 already.

E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

The Applicant is not aware of any other existing or changing conditions that provide grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic building, sites, districts, or archaeological resources;

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

G. Whether the zoning proposal will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

The proposed convenience store with fuel pumps is designed to capture existing traffic in the area, and the Applicant does not expect to create additional traffic that will burden existing streets or utilities.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

The Subject Property is already paved. The proposed use does not further adversely impact the environment or surrounding natural resources.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that this Application for a rezoning from C-1 to C-2 be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONTITUTIONAL RIGHTS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would



destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

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

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

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

A refusal to allow the rezoning 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 rezoning 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 Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.



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

Michele L. Battle, Esq. Attorney for the Applicant



Notary Public

DEPARTMENT OF PLANNING & SUSTAINABILITY

AUTHORIZATION

Date: 7/13/2023	application with the County is not the	p. 2p. 2, 2
The	Kyu Yong Cho Revocable Trust And	
	Name of c	owner(s)
being (owner) (ovauthority to	wners) of the subject property describ	ed below or attached hereby delegate
	Battle Law P.	C.
	Name of Agent o	r Representative
to file an applicat	Ion on (my) (old) behales	Que la companya de la companya della companya della companya de la companya della
etary Public	OBER 9, 20 EL	Owner Ton All Co
Stary Public	O POTARI SE A TONO SER O TONO SER	Owner / Owner
otary Public	COUNTYINE	Owner

Owner



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 <u>must</u> 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.
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. <u>and</u> to the Board of Commissioners of DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.
Notary Signature of Applicant /Date 31, 202 Check one: Owner X Agent

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

Expiration Date/ Seal



DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIG	GN CONTRIBUTION
In accordance with the Conflict of Interest in Zoning Ac be answered.	t, OCGA Chapter 36-67A, the following questions <u>must</u>
Have you, the applicant, made \$250.00 or more in campitwo years immediately preceding the filling of this applites No $\frac{X}{x}$ *	
f the answer is yes, you must file a disclosure report wit	h the governing authority of DeKalb County showing:
 The name and official position of the local governments made. 	nent official to whom the campaign contribution was
 The dollar amount and description of each campaign preceding the filing of this application and the date of 	contribution made during the two years immediately of each such contribution.
The disclosure must be filed within 10 days after the atto the C.E.O. and to the Board of Commissioners of De GA 30030.	• •
	4/12
Notary	Signature of Applicant /Date
	Check one: OwnerAgent
	Michael S. Burk
	Real Estate Project Manager
Expiration Date/ Seal	Check one: OwnerAgent_k Michael S. Burk Real Estate Project Manager Quiktrip Corporation

^{*}Notary seal not needed if answer is "no".











