



Lorraine Cochran-Johnson

Chief Executive Officer

DeKalb County Zoning Board of Appeals

Department of Planning & Sustainability

178 Sams Street,
Decatur, GA 30030

Wednesday July 9, 2025

Planning Department Staff Analysis



Cedric Hudson

Interim Director

N5. Case No: A-25-1247585

Parcel ID(s): 15 107 13 030

Commission District 03 Super District 07

Applicant: Venture South Investments, LLC c/o Battle Law P.C.
1816 Candler Road NE
Decatur, GA 30032

Owner: Venture South Investments, LLC c/o Battle Law P.C.
1816 Candler Road NE
Decatur, GA 30032

Project Name: 1816 Candler – Additional ground sign

Location: 1816 Candler Road NE, Decatur, GA 30032

Requests: Application by Venture South Investments, LLC c/o Battle Law PC to request variance from Section 27 3.33.19 of the DeKalb County Zoning Ordinance to allow 4 (an increase from the allowed 2) ground signs in the C-2 (General Commercial) zoning district and I-20 Overlay District Tier 2.

Staff Recommendation: Approval with condition

Condition:

1. The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance and condition(s) of approval.
2. All ground signs approved under this variance shall comply with the I-20 Overlay District Design Guidelines and Section 3.33.19 of the DeKalb County Zoning Ordinance

STAFF FINDINGS:

The applicant, Venture South Investments, LLC c/o Battle Law, P.C., requests a variance from Section 27-3.33.19 of the DeKalb County Zoning Ordinance to allow multiple ground signs on a commercial property located within the C-2 (General Commercial) zoning district and I-20 Overlay District Tier 2. The site, located at 1816 Candler Road NE, is part of a proposed retail shopping center redevelopment that will consolidate seven parcels, including 1816 Candler and adjacent parcels along Glenwood Road, into a single parcel to accommodate a grocery store anchor and additional retail uses.

The I-20 Overlay currently limits properties to a single ground sign per lot, which would restrict visibility and tenant identification for the proposed project across its large, corner-oriented site. The applicant requests the variance to allow two ground signs to accommodate the grocery anchor's operational requirements and ensure adequate visibility from multiple traffic approaches.

1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), 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, as distinguished from a special privilege or convenience sought by the property owner.

The subject property consists of seven parcels to be combined into a single, irregularly shaped lot spanning a major intersection at Candler Road and Glenwood Road. The site's extensive frontage along two heavily trafficked corridors and its corner orientation create a unique condition that affects the visibility and functional placement of signage. This large, multi-access site differs from smaller commercial parcels where a single sign may be sufficient.

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 applicant's request for a second ground sign is limited to the minimum necessary to provide effective site identification and tenant visibility. The variance is narrowly tailored to address a practical need arising from the site's size, layout, and redevelopment goals without seeking additional signage beyond what is reasonable for a corner commercial project of this scale.

The variance will not result in excessive signage clutter, as the applicant is only requesting one additional sign beyond what is allowed under the overlay's current standard. It is consistent with the size and frontage of the site and its multi-access configuration, supporting the site's viability for retail use.

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:

The proposed variance is not expected to result in any material detriment to the public welfare or adjacent properties. On the contrary, the establishment of a full-service grocery store within a designated food desert area provides a community benefit.

Improved site identification through appropriate signage will support the redevelopment's success while maintaining consistency with corridor redevelopment goals. The design and placement of the signs will be reviewed to ensure they align with the corridor's character and do not obstruct visibility, traffic flow, or pedestrian safety.

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

Strict interpretation of the overlay's single sign restriction would create a practical hardship for the applicant by limiting the viability of the proposed retail redevelopment. The hardship is tied to the size and configuration of the assembled parcels and the need for clear, accessible signage to support a grocery anchor within a revitalizing corridor.

Requiring the project to maintain multiple parcels solely for signage rights would undermine the goals of coordinated, efficient redevelopment and impose unnecessary operational burdens.

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

The variance request aligns with the goals of the I-20 Overlay and the DeKalb County Comprehensive Plan by supporting the redevelopment of a declining commercial corridor with new investment that enhances community services, employment opportunities, and tax base growth. The additional sign will support a grocery store in a food desert area while promoting economic development and increasing the corridor's vitality.

The Comprehensive Plan encourages flexibility in development standards to facilitate redevelopment while maintaining corridor aesthetics and functionality. The proposed signage will be designed to complement the site and surrounding area while providing the necessary visibility for anchor tenants critical to the project's viability.

FINAL STAFF ANALYSIS:

Staff recommends approval with condition of the variance request, recognizing that the additional ground sign may be necessary to support the redevelopment of this large, multi-frontage site while maintaining corridor character and supporting critical community-serving uses.

Condition:

1. The following information about this variance shall be noted on any site plan prepared for the subject property: case number, approval date, type of variance, and condition(s) of approval.

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

Applicant and/or
Authorized Representative: _____

Mailing Address: _____

City/State/Zip Code: _____

Email: _____

Telephone Home: _____ Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: _____

Mailing Address: _____

Email: _____ Telephone: _____ Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: _____ City: _____ State: _____ Zip: _____

District(s): 15 Land Lot(s): _____ Block: _____ Parcel: _____

Zoning Classification: _____ & C-1 Commission District & Super District: _____

CHECK TYPE OF HEARING REQUESTED:

_____ VARIANCE (From Development Standards causing undue hardship upon owners of property.)

_____ SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)

_____ OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

***PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW
GUIDELINES MAY RESULT IN SCHEDULING DELAYS.***

Additional Properties owned by HLC, LLC:

3221 Glenwood Rd, Decatur, GA 30032 – 15 170 13 088

3181 Glenwood Rd, Decatur, GA 30032 – 15 170 13 027

3187 Glenwood Rd, Decatur, GA 30032 – 15 170 13 026

3197 Glenwood Rd, Decatur, GA 30032 – 15 170 13 095

3203 Glenwood Rd, Decatur, GA 30032 – 15 170 13 024

3211 Glenwood Rd, Decatur, GA 30032 – 15 170 13 087

DEPARTMENT OF PLANNING & SUSTAINABILITY

AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.
I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application.

05/22/2025

DATE:


APPLICANT/AGENT SIGNATURE


TO WHOM IT MAY CONCERN:

(I)/ (WE): **Mack Wilbourn**

Name of Owner(s)

being (owner/owners) of the property described below or attached hereby delegate authority to the above signed agent/applicant.


Notary Public


Owner Signature



DEPARTMENT OF PLANNING & SUSTAINABILITY

AUTHORIZATION OF THE PROPERTY OWNER

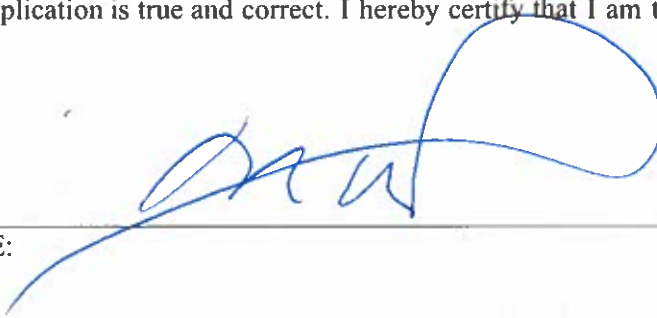
I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property.

I hereby certify that the information provided in the application is true and correct. I hereby certify that I am the owner of the property subject to the application.

05/22/2025

DATE:

SIGNATURE:



Overall Legal Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 170 of the 15th District, Dekalb County, Georgia, and being more particularly described as follows:

COMMENCE at a concrete right-of-way monument at the northeasterly mitered corner of the southern right-of-way line of Glenwood Road (r/w varies) and the easterly right-of-way line of Candler Road (100' r/w); thence following the right-of-way line of Candler Road S37°16'30"W a distance of 16.58 feet to the POINT OF BEGINNING on the proposed right-of-way line of Glenwood Road; thence following the proposed right-of-way line of Glenwood Road and running S87°49'00"E a distance of 556.93 feet to a point where the new right-of-way line intersects the right-of-way line of Glenhill Place (60' r/w); thence following the right-of-way line of Glenhill Place and running S02°16'24"W a distance of 86.44 feet to a ¾" open top pipe found; thence continuing along said right-of-way line and running S01°41'42"W a distance of 44.48 feet to a point, thence following a curve to the left, said curve having an arc of 243.15 feet with a radius of 265.00 feet, and being subtended by a chord of S24°10'29"E a distance of 234.71 feet to a point; running thence S50°20'16"E a distance of 218.80 feet to a point; thence following a curve to the right, said curve having an arc of 107.85 feet with a radius of 287.67 feet, and being subtended by a chord of S40°17'11"E a distance of 107.22 feet to a 5/8" rebar found; thence leaving said right-of-way line and running S85°12'31"W a distance of 186.55 feet to a capped rebar set; running thence S85°07'14"W a distance of 94.63 feet to a capped rebar set at the corner of a Fiber Optic Hub site; running thence N25°48'16"W a distance of 49.26 feet to a point; running thence S85°59'43"W a distance of 47.25 feet to a point; running thence S25°48'16"E a distance of 50.04 feet to a point; thence leaving the Fiber Optic Hub site and running S85°07'14"W a distance of 42.49 feet to a ½" rebar found; running thence N39°10'42"W a distance of 183.60 feet to a ½" rebar found; running thence N40°18'24"W a distance of 111.02 feet to a capped rebar set; running thence S81°40'37"W a distance of 193.73 feet to a capped rebar; running thence N85°31'24"W a distance of 50.90 feet to a capped rebar set on the easterly right-of-way line of Candler Road (100' r/w) thence following said right-of-way line and running N25°30'20"W a distance of 66.74 feet to a capped rebar set; running thence N24°33'13"W a distance of 136.90 feet to a point running thence N27°18'07"W a distance of 50.63 feet to a point; running thence N27°14'37"W a distance of 104.85 feet to a point; running thence N37°16'30"E a distance of 116.85 feet to the POINT OF BEGINNING

Said tract or parcel of land contains 6.993 Acres

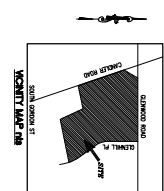
Right-of-Way Dedication

Legal Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 170 of the 15th District, Dekalb County, Georgia, and being more particularly described as follows:

BEGINNING at a concrete right-of-way monument at the northeasterly mitered corner of the southern right-of-way line of Glenwood Road (r/w varies) and the easterly right-of-way line of Candler Road (100' r/w); thence following the right-of-way line of Glenwood Road and running S87°49'00"E a distance of 58.23 feet to a point; running thence S88°55'12"E a distance of 99.98 feet to a concrete r/w monument; running thence S08°59'23"E a distance of 15.61 feet to a point; running thence N81°23'54"E a distance of 70.87 feet to a point; running thence S87°03'29"E a distance of 26.67 feet to a point; running thence N09°54'26"W a distance of 16.22 feet to a point; running thence S86°30'27"W a distance of 13.66 feet to a point; running thence S87°47'40"E a distance of 143.00 feet to a point; running thence S87°47'41"E a distance of 145.70 feet to a point at the intersection of Glenhill Place (60' r/w); thence leaving the right-of-way line of Glenwood Road and following the right-of-way line of Glenhill Place, running S02°16'24"W a distance of 28.35 feet to a point; thence leaving said right-of-way line and running N87°49'00"W a distance of 556.93 feet to a point on the right-of-way line of Candler Road (100' r/w); running thence N37°16'30"W a distance of 16.58 feet to a concrete right-of-way monument and the POINT OF BEGINNING.

Said tract or parcel of land contains 0.264 Acres



REVISIONS			
NO.	DATE	BY	DESCRIPTION

 **SCI** *Development Services*
ENGINEERS - SURVEYORS - LAND PLANNERS
2020 WESTSIDE COURT - SUITE E - SHALLENVILLE, GEORGIA 30078
(770) 736-7066 FAX (770) 736-4623
MAIL@SURVEYCONCEPTS.NET

ABSTRACT SURVEY FOR:
Venture South Investments LLC, a Georgia limited liability company,
and Steward Title Guaranty Company

LAND LOT 170 15th DISTRICT
DEKALB COUNTY, GEORGIA

DATE	2/26/25	DESIGN	DCP	CHECKED	JAS
SCALE	1"=30'				
SHEET TITLE					
ASBUILT SURVEY					
PROJECT NUMBER					
56607					
A-1					
DRAWING NUMBER					
S-22722001					





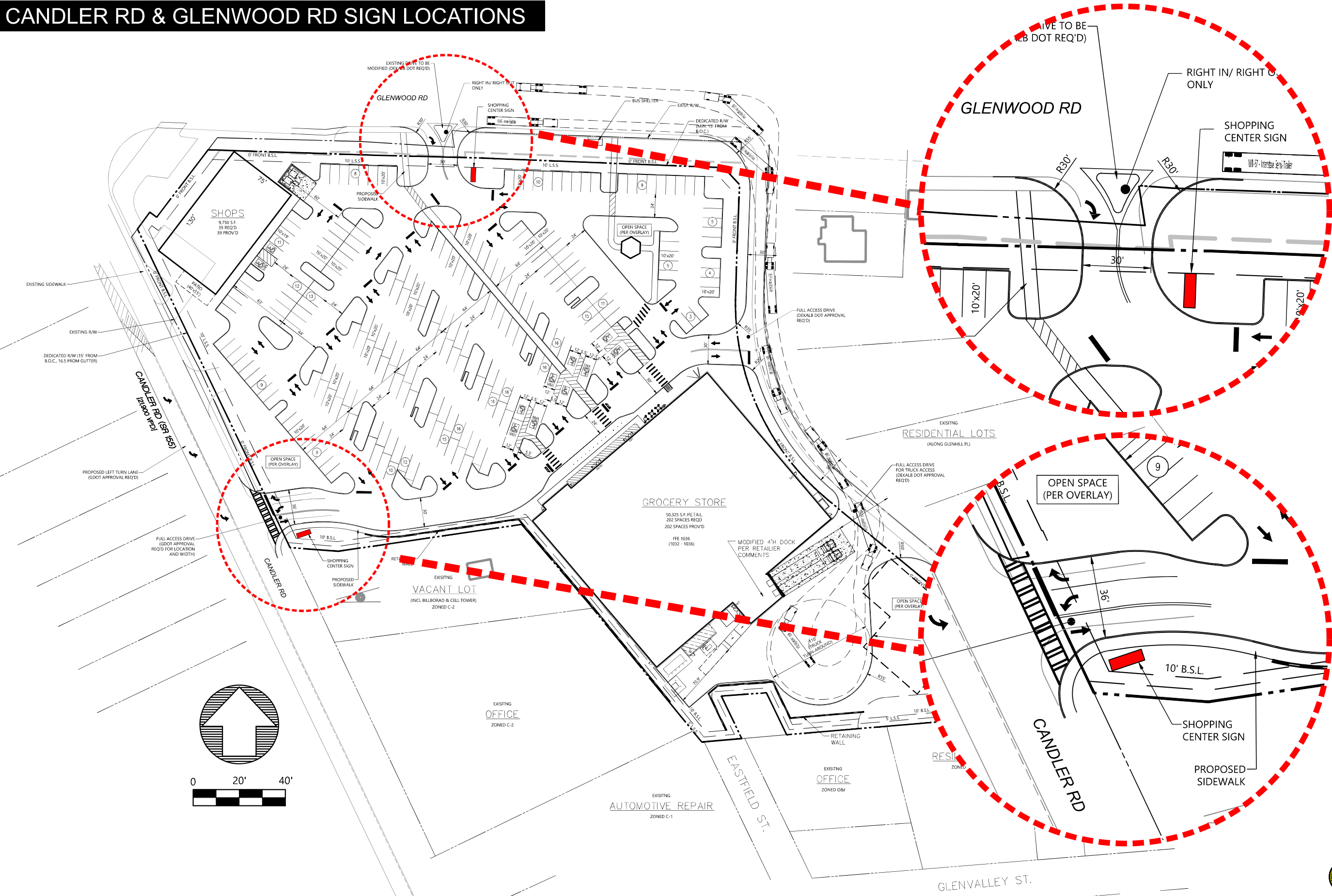
MASTER SIGN PLAN

1816 Candler Road
Atlanta (Unincorporated Dekalb), GA 30032

(Parcel ID# 15 170 13 030)
(Jurisdiction Dekalb County)

PROJECT REVISIONS		
DATE:	REV #	NOTES:
00/00/00	1	XX
00/00/00	2	XX
00/00/00	3	XX
00/00/00	4	XX
00/00/00	5	XX
00/00/00	6	XX
00/00/00	7	XX
00/00/00	8	XX
00/00/00	9	XX

CANDLER RD & GLENWOOD RD SIGN LOCATIONS



MFG / Nat'l Account Svcs:
4806 Wright Drive, Bldg. A
Smyrna, GA. 30082
(O) 770.989.1290

Corporate:
3548 Atlanta Rd.
Smyrna, GA. 30080
(O) 770.431.0807

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Engineered Drawings and
Specs to follow upon
Acceptance of Approval

PROJECT ADDRESS:
1816 Candler Rd
Atlanta, GA 30032
Unicorporated DeKalb

SIGN CODE INFO:
XX

SQ. FT. ALLOWED:
XX

SQ. FT. SHOWN:
XX

SALES REP:
DAVID FRUSHTICK
David@Comsigns.com
404-502-6336

PM INITIALS:
SF

DRAWN BY INITIALS:
MP

DATE: 01/30/25

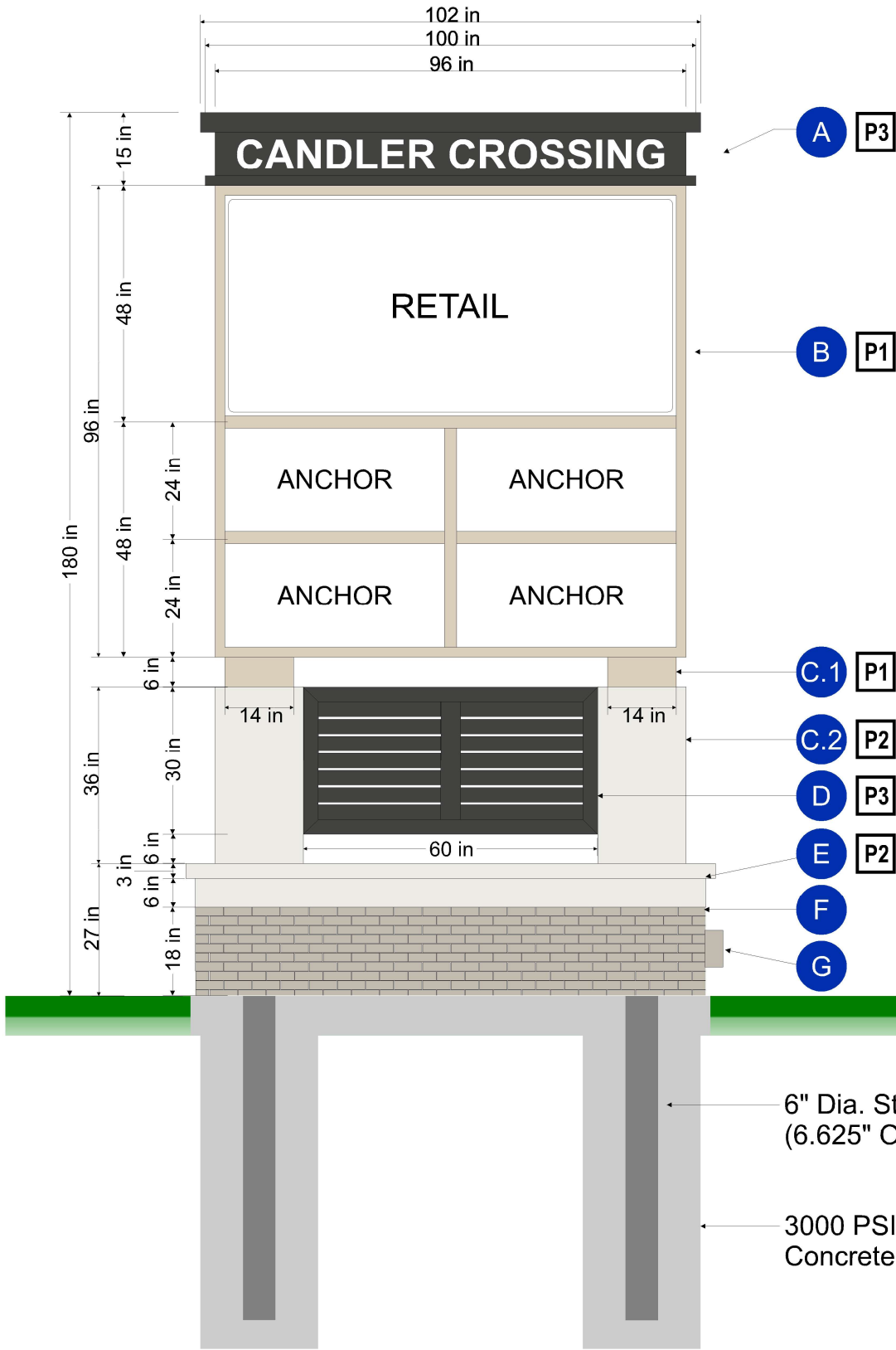
Authorized Signature:

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Date: _____ PAGE
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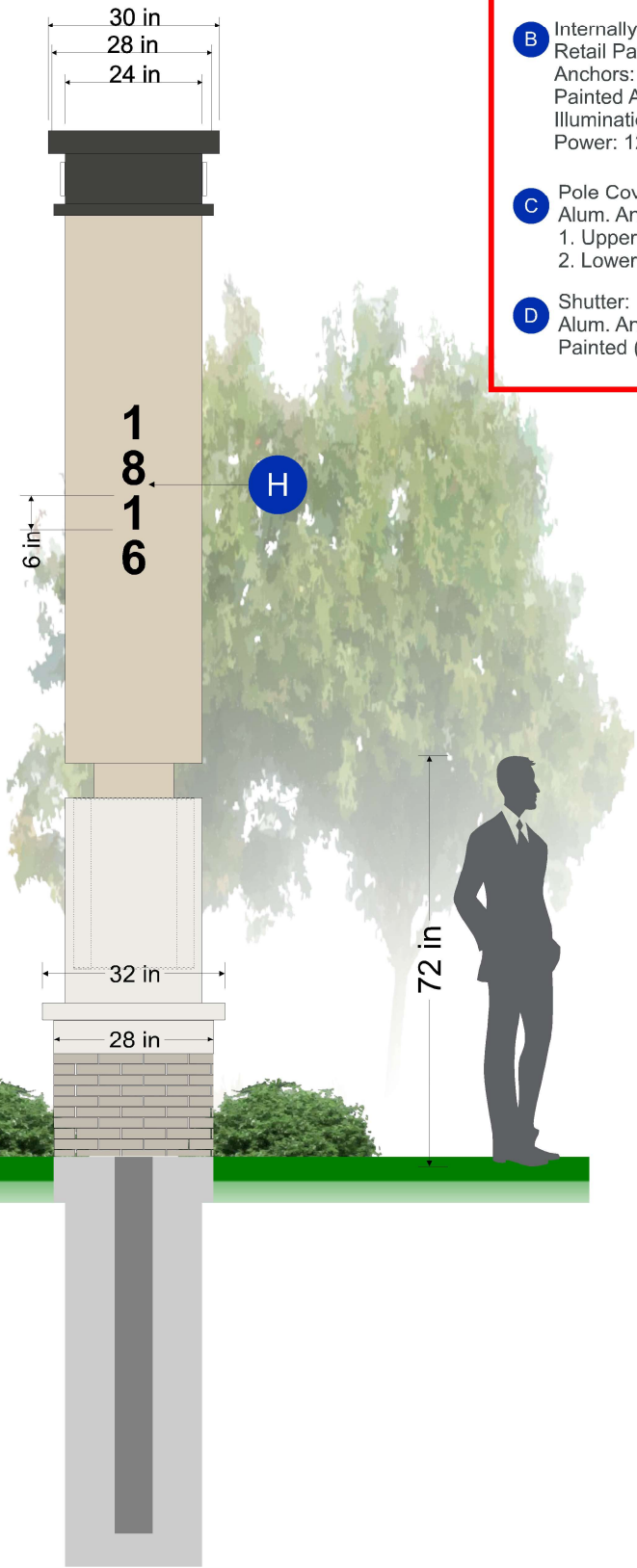


CANDLER RD LOCATION

QTY: 1 - 15'-0" TALL D/F MULTI-TENANT MONUMENT
64 SF TENANT AREA



6" Dia. Steel Pipe
(6.625" O.D.)
3000 PSI
Concrete Footing



STRUCTURE & SIGN DESCRIPTIONS

- A** Header:
Alum. Angle Framed w/ Alum. Skin
Painted (P3) Smooth
Copy: 1/2" Deep Flat Cut White Acrylic
- B** Internally illuminated Tenant Cabinet:
Retail Panel: White Panformed Polycarb
Anchors: Flat White Acrylic
Painted Alum. Cabinet (P1) Smooth
Illumination: White Low Voltage LED's
Power: 120v
- C** Pole Covers:
Alum. Angle Framed w/ Alum. Skin
1. Upper Short Section: Painted (P1) Textured
2. Lower Longer Section: Painted (P2) Textured
- D** Shutter:
Alum. Angle Framed w/ Alum. Skin
Painted (P3) Smooth
- E** Brick Base Cap
Alum. Angle Framed w/ Alum. Skin
Painted (P2) Smooth
- F** Base
Alum. Angle Framed w/ Alum. Skin
& Surrounded w/ Brick Shell
Manufacturer: Palmetto Brock
Finish Color: Pewter Grey
- G** Junction Box:
Final Electrical Connection By Others
Paint Box to Match Brick Color
- H** Address Numerals:
1/2" Thick Black Acrylic
Pin Mounted Flush on Street Side Only

- P1** PAINT TO MATCH SW 6148 WOOL SKEIN
- P2** PAINT TO MATCH SW 7005 PURE WHITE
- P3** PAINT TO MATCH SW 7069 IRON ORE
- M1** BRICK & MORTAR
Manufacturer: Palmetto Brick
Finish Color: Pewter Grey



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SALES REP:
DAVID FRUSHTICK
David@Comsigns.com
404-502-6336

PM INITIALS:
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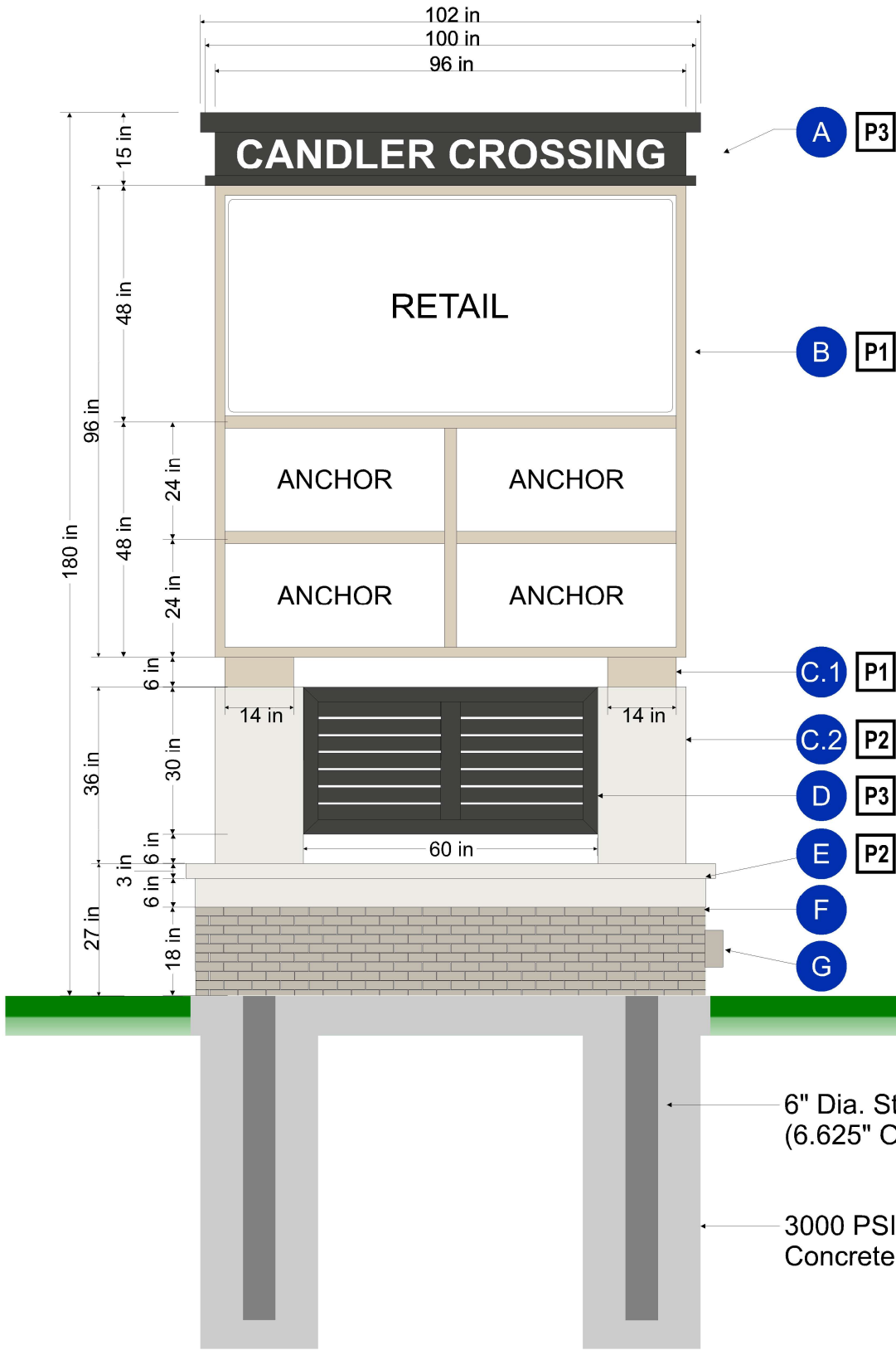
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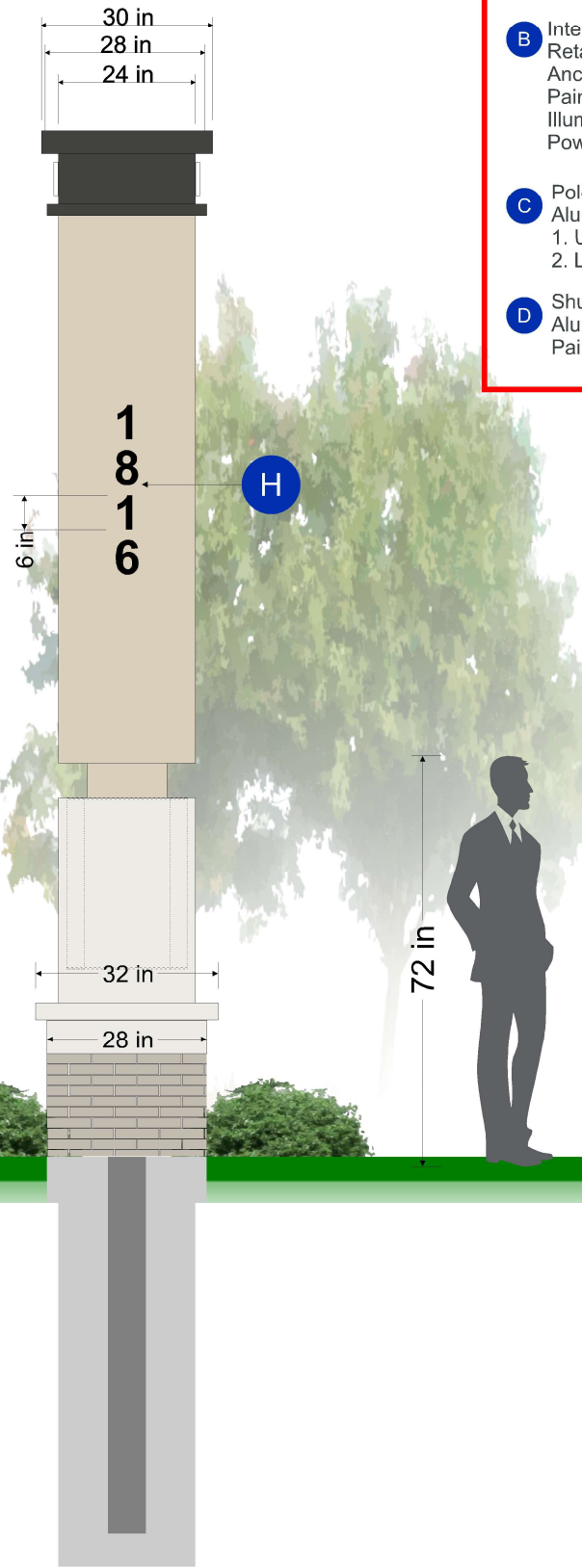


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SF

DRAWN BY INITIALS:
MP

DATE: 01/30/25

Authorized Signature:

FINAL APPROVAL
X _____
Date: _____ PAGE
X _____ 3





Battle Law

STATEMENT OF INTENT AND JUSTIFICATION

and

Other Material Required by
DeKalb County Zoning Ordinance
For
A Variance for/to
Section 3.33.19 C. to Allow for Two (2) Ground Signs

of

**Venture South Investment, LLC
c/o Battle Law, P.C.**

for

+/-7.256 Acres of Land
Being 1816 Candler Road and 3181, 3187, 3197, 3202, 3211 & 3221 Glenwood Road and 1816
Candler Road
DeKalb County, Georgia

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



Battle Law

I. LETTER OF INTENT

Venture South Investment, LLC (the “Applicant”) is seeking to develop an assemblage of properties being 3181, 3187, 3197, 3202, 3211 & 3221 Glenwood Road and 1816 Candler Road (the “Subject Property”) as a retail shopping center with a grocery store anchor based upon the submitted site plan. The Subject Property is currently zoned C-2 and C-1 respectively, and currently all of the Subject Property, with the exception of 3221 Glenwood Road, are located within the I-20 Corridor Overlay District. Under the Overlay District, only one ground sign is allowed per lot, however, it is the intent of the Applicant to file for a combination plat to merge the seven (7) lots into one lot. The proposed project, however, must have two (2) ground signs in order to meet the specification for the grocery store tenant.

This document serves as a statement of intent, analysis of the criteria under the [Applicable Criteria] and contains notice of constitutional allegations as a reservation of the Applicant’s rights.

II. DEKALB COUNTY VARIANCE CRITERIA

- 1. There is an extraordinary or exceptional physical condition pertaining to the particular piece of property, which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition, 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, as distinguished from a special privilege or convenience sought by the property owner;*

The Subject Property is an irregularly shaped parcel made up of 7 parcels to be assembled for the retail project. This project is a transformational project at the intersection of Candler Road and Glenwood Road, that will provide a much needed grocery store in a food desert area. The Applicant is seeking relief from the Section 3.33.19 C. of the Overlay District to preserve two ground signs for the development upon the completion of the lot combination plat that will be required for the proposed project. While this request does not fit squarely into the variance criteria there is no question that not providing for the preservation of two signs for the site will have a detrimental impact on the project as the grocery store will not locate on the sign without adequate signage, and there is no logic to maintaining or creating a separate lot in order to maintain the right to two ground signs.

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

The requested variances do not go beyond the minimum to afford relief.

- 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;*



Battle Law

The grant of the variances will not be detrimental to the public welfare or injurious to the property or improvements in the zoning district. In fact, the failure to grant the requested variance will be injurious to the public welfare as the grocery store is needed within the 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 would create an undue and unnecessary hardship on the Applicant, the proposed tenant and the overall community.

5. *The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.*

The requested variances would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application for the variance be approved. The Applicant welcomes any questions and feedback from the planning staff.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL 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.



Battle Law

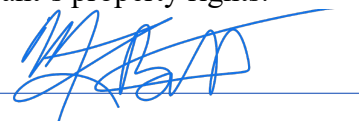
A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of 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 Zoning Board of Appeals 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 Variance 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 land use amendment and/or variance in questions 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 land use amendment and/or variance 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

Filing Guidelines for Applications to the Zoning Board of Appeals

1. Submit Application Materials:

- a. To ensure proper processing and payment, please create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted).
 - If you have an existing account, you may use that account and create a *new application number* by selecting the proper application type.
 - Fill out *all* Account Portal Questions
 - Put your **email address under “WEB ACCOUNT”**
 - **SAVE APPLICATION NUMBER (124XXXX)** – send to staff when you email your complete application.
- b. After portal submittal, email one (1) combined PDF document of the completed application and materials to plansustain@dekalbcountyga.gov and ljcarter@dekalbcountyga.gov along with application number.
- c. Please confirm we have received your application.
- d. For any questions, please contact plansustain@dekalbcountyga.gov

2. Order of Submitted Materials:

- a. Application Form
- b. Signatures and authorization (including permission to go on property)
- c. Letter of Intent
- d. Surveys, site plans.
- e. Other relevant materials (e.g., photographs, letters of support, citation, etc.)

3. Authorization:

- a. If property owner is different from the applicant, the form to authorize the application must be signed by the owner and stamped by a notary.
- b. If property is owned by more than one property owner, all property owners must authorize the request.

4. Letter of Intent:

- a. **Explain what you are asking for and why.**
- b. A typed statement indicating the request and clarifying justification for the proposal based on the criteria as indicated in Section 27-7.5.3 or 7.5.4 of the DeKalb County Zoning Ordinance (see attached information).
- c. Reference the section of the code you are requesting to vary and the amount of requested change, (such as to reduce the rear yard setback from forty (40) feet to twenty (20) feet to construct an addition).

5. Surveys and site plans of the Subject Property:

- a. Must be stamped by a professional engineer or surveyor, registered in the State of Georgia.
- b. All plans and surveys must include the following information:
 1. Must show all property lines with dimensions.
 2. Must show the location of all existing and proposed buildings, structures, parking and setbacks (their relationship to the property boundaries).
 3. Must show any other features related to the request such as trees, fences, topography, streams, etc.
 4. Must be to-scale
 5. Must show lot area and lot coverage (impervious materials, including paving and structures).

6. Application Fee is \$300. You will be able to pay by credit card on the epermitting portal. A receipt will be provided.

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Writing the Letter of Intent

Please address the following criteria as appropriate:

7.5.1 Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this chapter and chapter 21 where the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in this section to the facts of each case. The board may attach reasonable conditions to any approved variance in accordance with section 7.3.9. Once imposed, conditions shall become an integral part of the approved variance and shall be enforced as such. No changes to an approved condition attached to a variance shall be authorized except by re- application to the zoning board of appeals in full compliance with the applicable provisions of this division. No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter and the comprehensive plan. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

- A. Variances from the provisions or requirements of this chapter other than variances described in section 7.5.4 shall be authorized only upon making all of the following findings in writing:
 - 1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), 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, as distinguished from a special privilege or convenience sought by the property owner.
 - 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.
 - 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.
 - 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.
 - 5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.
- B. Appeals of decisions regarding building architectural design standards shall be evaluated using the same criteria as section 7.6.7(B).

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- C. Appeals to the height standards, but not to add stories, shall be evaluated using the criteria as follows:
1. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.
 2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.
 3. Adequacy of public services, public facilities, and utilities to serve the proposed use.
 4. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.
 5. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.
 6. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

7.5.2 Applications for variances to reduce or waive off-street parking or loading space requirements.

The zoning board of appeals shall hear and decide applications for variances to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section. All such applications shall be heard and decided based on the notice requirements of section 7.2.4. The zoning board of appeals may waive or reduce the required number of parking or loading spaces in any district only upon an expressed finding that:

- A. The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces;
- B. The lot upon which the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA RapidTransit Station;
- C. The provision of the full number of parking spaces would have a deleterious effect on a historic building, site, district or archaeological resource;
- D. The use has a characteristic that differentiates it from the typical use example used in the formulation of this Zoning Ordinance;
- E. The location of the proposed development is relatively isolated where the opportunity for diversity of use, pedestrian access, and alternative modes is not available; or
- F. The developer is providing the additional spaces for general public parking (for hourly or daily parking charges) to serve surrounding development.

Section 21-27. Sign Variances.

- (a) Where a literal application of this article, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted by the zoning board of appeals after receiving evidence that the applicant meets all of the following criteria:
 - 1. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area;
 - 2. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;
 - 3. The exceptional circumstances are not the result of action by the applicant;
 - 4. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;
 - 5. Granting of the variance would not violate more than one (1) standard of this article; and
 - 6. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.
- (b) No variance shall be granted to the height of a sign or the aggregate area of signs permitted on a lot.
- (c) No variance shall be granted which increases the size of a sign more than twenty (20) percent of that allowed by this chapter. (Ord. No. 13-03, Pt. I, 6-10-03)

7.5.3 Appeals of decisions of administrative officials.

- A. *General Power.* The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of this Zoning Ordinance or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. Administrative officials must make final decisions covered by this section within one hundred and eighty (180) days of receipt of all necessary information to make such decision. A failure to act prior to the passage of one hundred and eighty (180) days shall not be construed to be a final order, requirement or decision within the meaning of this division. If a decision is not made by the 181st day, the requested decision is deemed denied, and becomes appealable. All such appeals shall be heard and decided following the notice requirements of section 7.2.4, and pursuant to the following criteria and procedural requirements.
- B. *Appeals of decisions of administrative officials.* Appeals of decisions of administrative officials may be filed by (1) any person aggrieved by; (2) any elected member of the DeKalb County Governing Authority affected by; or (3) an owner of property within two hundred and fifty (250) feet of the nearest property line of the property that is the subject of any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this Zoning Ordinance, or as otherwise authorized by local law or the Code of DeKalb County as Revised 1988. by filing with the secretary of the zoning board of appeals an application for appeal, specifying the grounds thereof, within fifteen (15) days after the action was taken by the official that is the subject of the appeal.
- C. *Appeal stays all legal proceedings.* An appeal of a decision of an administrative official stays all legal proceedings in furtherance of the action or decision appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life or property. In such a case, legal proceedings shall be stayed only pursuant to a restraining order granted by a court of competent jurisdiction directed to the officer from whom the appeal is taken and on due cause shown.

- D. *Appeal stays land disturbance or construction activity in certain situations.* If the action or decision appealed from permits land disturbance or construction activity to commence or continue on residentially zoned property, the appeal stays the land disturbance or construction activity until the zoning board of appeals issues a decision on the appeal. Thereafter, land disturbance or construction activity in such cases shall only be stayed by an order from a court of competent jurisdiction. In all cases involving non-residentially zoned property, the appeal to the zoning board of appeals does not stay land disturbance or construction activity; such activity shall only be stayed by an order from a court of competent jurisdiction.
- E. Thereafter, in such situations land disturbance or construction activity shall only be stayed by an order granted by a court of competent jurisdiction.
- F. *Time of hearing.* The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of section 7.2.4 as well as written notice to the appellant. Any party may appear at the hearing in person, by an agent, by an attorney, or by the submission of written documentation.
- G. *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal and shall issue a written decision explaining the reasons for its decision. The zoning board of appeals shall decide the appeal within a reasonable time, but in no event more than sixty (60) days from the date of the hearing. An appeal shall be sustained only upon an expressed finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, erroneously applied the Zoning Ordinance to the facts, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by any applicable laws are met.

7.5.4 Limitations of authority of the zoning board of appeals.

No variance shall be granted by the zoning board of appeals to:

- A. Allow a structure or use not listed as a permitted use or a special use in the applicable zoning district or a density of development that is not authorized within such district. This prohibition does not apply to any variance from the supplemental regulations of Article 4 of this Zoning Ordinance or from any other accessory feature or characteristic of a permitted or special use, unless said variance is otherwise prohibited by the regulations of this chapter.
- B. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the board of commissioners.
- C. Reduce, waive or modify in any manner the minimum lot width unless the purpose is to reverse a lot merger.
- D. Reduce, waive or modify in any manner the minimum lot area established by this chapter.
- E. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of planning.
- F. Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit.

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- G. Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of Article 8 of this chapter.
- H. Permit customer contact for a home occupation authorized by this chapter.
- I. Allow any variance to increase the height of a building which will result in adding a story.

Summary of Zoning Board of Appeals Application Process:

1. **Timeline.** It takes ~45-60 days to submit your application and receive an initial decision from the Zoning Board of Appeals regarding your request.
2. **Pre-application Meetings.** DeKalb County now mandates pre-application meetings. Please email plansustain@dekalbcountyga.gov to schedule a virtual appointment to meet with a Planner assigned to the Zoning Board of Appeals. During the virtual meeting, we will review and provide feedback regarding your request, review the application process, and answer any questions.
3. **Application Submittals.** Create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted). Email a combined PDF document of the completed application and materials to plansustain@dekalbcountyga.gov and lrcarter@dekalbcountyga.gov along with the application number.
4. **Public Hearing Signs.** You will need to post at least one sign per street frontage of the property. Staff will prepare a sign template. You will need to coordinate sign printing and posting with a sign company of your choice, at least 30 days prior to the ZBA hearing. Sign(s) must remain posted until final Board of Appeals action regarding the request. If the application is deferred, you may update the sign(s).
5. **Revisions or amendments.** An application must be submitted in writing and must be received at least 14-days before the scheduled meeting to be addressed by the staff report.
6. **Staff Report.** Staff prepares reports and recommendations for each application. These recommendations are based on the attached criteria established by the [DeKalb County Zoning Code](#). Final staff reports are available to the applicant and the public prior to the scheduled Board of Appeals meeting. Find current reports on our website, here: <https://www.dekalbcountyga.gov/planning-and-sustainability/public-hearing-agendas-info>
7. **Monthly Meetings.** The Zoning Board of Appeals meets once a month, generally on the second Tuesday of each month at 1:00 P.M., via Zoom. Find agendas on our website, [HERE](#).
8. **Applicant and/or Representative must be Present.** Applicants or their representatives must be present at the public hearing to present the request to the Zoning Board of Appeals.
9. **Public Hearing portion of Meeting.** Applicants and others in favor of an application are given a total of five (5) minutes to present to the Board. That is five minutes combined, no matter how many people wish to speak. Applicants should be prepared to explain their variance, why they are requesting it and answer questions from the board. Anyone speaking in opposition also has a total of five (5) minutes to address the application in front of the board. Be prepared to raise your hand or announce yourself when the chair asks for those in support or opposition to the application.
10. **Applicant and/or Representative must be Present.** Applicants or their representative must be present at the public hearing to present the request to the Zoning Board of Appeals.
11. **Executive Session.** After the public hearing, the Board of Appeals will close the public hearing, go into executive session for discussion, and will then take an action on an application. Applicants are not allowed to address the Board of Appeals during Executive Session unless they are asked
12. **Zoning Board of Appeals Actions.** The Board of Appeals is authorized to:
 - a. Approve the application as submitted;
 - b. Approve a revised application;
 - c. Approve an application with conditions;
 - d. Deny an application (if an application is denied, no variance can be considered on the same site within 24 months);
 - e. Allow an application to be “Withdrawn without Prejudice” at the request of the applicant.

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13. **Compliance with standards upon denial.** In such case that a variance request is initiated due to an existing code violation and such application is denied, the violation shall be required to be brought into compliance within thirty (30) days of such denial or as specified by the board if a greater time period is approved.
14. **Successive applications.** Section 27-920 of the DeKalb County Zoning Ordinance states: An application for a variance or special exception affecting all or a portion of the same property which was denied by the Zoning Board of Appeals shall not be submitted more than once every twenty- four (24) months measured from the date of final decision by the zoning board of appeals. The Zoning Board of Appeals may waive or reduce this twenty-four-month time interval by resolution provided that if the application for a variance or special exception was denied by the Zoning Board of Appeals, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.
15. **Appeals of Decisions.** Any person aggrieved by a final decision of the board, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County. Such petition shall be filed within 30 days after the final decision of the board is rendered.