



DeKalb County Department of Planning & Sustainability

330 Ponce De Leon Avenue, Suite 300

Decatur, GA 30030

(404) 371-2155 / plandev@dekalbcountyga.gov

Planning Commission Hearing Date: September 6, 2018, 6:30 P.M.

Board of Commissioners Hearing Date: September 25, 2018, 6:30 P.M.

STAFF ANALYSIS

Case No.: 2018-2445/ Z-18-1235092 **Agenda #:** N.9

Location/Address: The west side of Candler Road and the south side of Kelly Lake Road within Tier 2 of the I-20 Overlay District at 2537 Candler Road, Atlanta, Georgia. **Commission District: 3 Super District: 6**

Parcel ID: 15-137-02-001

Request: To rezone property from C-1 (Local Commercial) District and MR-2 (Medium Density Residential-2) District to MR-2 (Medium Density Residential-2) District to develop 224 apartment units at a density of 17.36 units per acre within Tier 2 of the I-20 Overlay District.

Property Owners: Gladden Ruth Bolton Estate

Applicant/Agent: Flatiron Partners/ Kathryn M. Zickert

Acreage: 12.90 Acres

Existing Land Use: Vacant Single-Family Residences & Accessory Structures Cell Tower & A Large Undeveloped Tract of Land

Surrounding Properties: Commercial properties; Express Oil Change; Eastwyck Apartments Park on Candler Apartment Homes; Single-Family Residences

Adjacent & Surrounding Zoning: C-1 & C-2 (Commercial District) & MR-2 (Residential) along Candler Road R-75 & RSM (Residential) along Kelly Lake Road

Comprehensive Plan: Commercial Redevelopment Corridor Consistent X

Proposed Units: 224 Apartment Units	Existing: N/A
Proposed Lot Coverage: 56%	Existing Lot Coverage: N/A

SUBJECT PROPERTY

The 12.90-acre site has frontage on Candler Road (a major arterial) and Kelly Lake Road within Tier 2 of the I-20 Overlay District. Per information in the submitted application, the property was historically used as a dairy farm, but has remained vacant for several years. The site is currently occupied by several single-story buildings and a cell tower. A large portion of the site is undeveloped and heavily wooded with mature vegetation. A site visit by Planning Staff revealed what appeared to be several deteriorated and crumbled buildings behind a lattice fence. The site is within a Commercial Redevelopment Corridor designated by the Comprehensive Plan. The Candler Road frontage is adjacent to and nearby several commercial uses along Candler Road. Such uses include but not limited to is a U-Haul Rental Facility; Express Oil Change; New Orleans Seafood; Coin Laundry and a package store. There are several apartment communities on Candler Road near the subject site. They include the Park on Candler Apartment Homes; Eastwyck Apartments and Spring Valley Apartments.

The site currently carries multiple zonings: part of it is zoned C-1 (Local Commercial) District and MR-2 (Medium Density Residential 2) District. The C-1 zoned property has frontage on Candler Road and Kelly Lake Road. The MR-2 zoned portion of the property has frontage on Kelly Lake Road behind the C-1 zoned property.

PROJECT ANALYSIS:

Per the submitted application, the request is to rezone the property from the C-1 (Local Commercial) and MR-2 (Medium Density Residential 2) Districts to the MR-2 (Medium Density Residential 2) District to develop 224 apartment units at a density of 17.36 units per acre. The existing cell tower will remain. The complex will consist of nine (9) apartment buildings and provide an amenity area with a pool and playground. Given that the site is located within the I-20 Overlay District, architectural development standards will apply.

The submitted site plan depicts access to one (1) full service curb-cut on Candler Road and Kelly Lake Road. Given the large volume of traffic on Candler Road, the Transportation Division has conditioned that the access on Candler Road be limited to a right-in, right-out only.

ZONING ANALYSIS:

The current C-1 zoned property allows for general commercial and retail uses. The current MR-2 (Medium Density Residential-2) District allows apartments at a density of 12-24 units per acre.

The proposed zoning district and use is compatible with adjacent and nearby properties in the area. Along the north side of Kelly Lake Road across from the site is Whispering Pines Apartments zoned MR-2. South of the site along Candler Road is zoned MR-2 and developed with the Park on Candler Apartment Homes. On the east side of Candler Road is Eastwyck Apartments and Spring Valley Apartments zoned MR-2. The rezoning request expands the current MR-2 District on the site by removing the commercial component from the property.

IMPACT ANALYSIS:

Section 27-7.3.4 of the DeKalb County Code states that the following standards and factors shall govern the review of all proposed amendments to the Official Zoning Map.

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

Located within a Commercial Redevelopment Corridor (CRC) character area, the request for apartments is consistent with the following 2035 Comprehensive Plan Policy: Focus development on parcels that abut or have access to the designated Commercial Redevelopment Corridor. However, the policy intent focus on mixed-use development.

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 proposed rezoning to the MR-2 (Medium Density Residential-2) District for 224 apartments is suitable given the use of nearby apartments in the area at Candler Road and Kelly Lake Road intersection which include Whispering Pines; Spring Valley Apartments; the Park on Candler Apartment Homes. However, the proposed zoning for apartments is not suitable for the area along Kelly Lake Road which is primarily developed with single-family detached residences.

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

The property as currently zoned C-1 (Commercial) and MR-2 (Medium Density Residential-2) District has a reasonable use as currently zoned.

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

The rezoning request to the MR-2 (Medium Density Residential-2) District for apartments should not adversely affect the use or usability of adjacent and nearby commercial and apartment uses in the area on Candler Road. However, the proposed rezoning for 224 apartments has frontage on Kelly Lake Road. The area along Kelly Lake Road is dominated by single-family residences. The apartments will increase traffic on Kelly Lake Road (a local street) and may adversely affect residents travelling to access Candler Road.

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 property is currently in a rapidly deteriorating state. Development on the site would greatly improve the esthetic appeal along Candler Road and Kelly Lake Road. However, apartments fronting on Kelly Lake Road may not be appropriate given the single-family detached residential character of the area.

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

There are no known historic buildings, sites, districts or archeological resources that would be adversely affected by the rezoning request to the MR-2 District.

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

The addition of 224 apartments along Candler Road and Kelly Lake Road will impact traffic and increase enrollment in area schools. Candler Road, a four-lane major arterial should be able to absorb the impact of an additional 25 residences. The proposed use is likely to generate some increase in area schools. When fully constructed, this development would be expected to house 114 students: 61 at Kelley Lake ES, 15 at McNair MS, 17 at McNair HS, and 21 at other DCSD schools. All three neighborhood schools have capacity for additional students.

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

The request for residential zoning on the site should not adversely impact the environment or surrounding natural resources.

COMPLIANCE WITH MR-2 (MEDIUM DENSITY RESIDENTIAL-2) DISTRICT STANDARDS PER TABLE 2.4:

Medium and High Density-Residential Zoning Districts & Tier 2 of the I-20 Overlay District

STANDARD	REQUIREMENT	PROPOSED	COMPLIANCE
UNIT SIZE	Min. 650 Square Feet	Min. 675 Square Feet	Yes
FRONT SETBACKS	0 Feet from right-of way of public street when distance between property line & back of curb is 15 feet or greater	0 Feet	Unable to determine
INTERIOR SIDE YARD 3.33.9.A.2 I-20 Overlay	10 Feet	10 Feet	Yes
REAR YARD 3.33.9.A.3 I-20 Overlay	Min. 10 Feet	20 Feet	Yes
LOT WIDTH	100 Feet	165 Feet on Candler Rd 468 Feet on Kelly Lake Rd	Yes
HEIGHT 3.33.9.B I-20 Overlay Tier 2	Max. 8 Stories	4 Stories	Yes

LOT COVERAGE	Max. 75%	Max 56 %	Yes
TRANSITIONAL BUFFER 3.33.11.A Per I-20 Overlay District	30 Feet Adjacent to R-75 zoned property	50 Feet Adjacent to R-75 zoned property	Yes
OPEN SPACE 3.33.10.A I-20 Overlay	Min. 20% Per I-20 Overlay	>15%	No. Applicant must re- design or seek variance from ZBOA
PARKING 3.33.9.E.4 I-20 Overlay	Min. (1.25) space per dwelling unit = 280 parking spaces	448 parking spaces	Yes

STAFF RECOMMENDATION: WITHDRAWAL WITHOUT PREJUDICE

The proposed rezoning request to rezone property from C-1 (Local Commercial) District and MR-2 (Medium Density Residential-2) District to MR-2 (Medium Density Residential-2) District to develop 224 apartment units is compatible with other MR-2 zoned properties on Candler Road and developed with apartments in the area but may not be compatible with stable single-family detached residential development along Kelly Lake Road. However, the applicant has submitted a letter requesting withdrawal of the application. Therefore, it is the recommendation of the Planning and Sustainability Department that the application be **“Withdrawn Without Prejudice”**.

Attachments:

1. Department and Division Comments
2. Application
3. Site Plan
4. Zoning Map
5. Land Use Plan Map
6. Aerial Photograph

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1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Tel: 404 815-3500
www.sgrlaw.com

SMITH, GAMBRELL & RUSSELL, LLP
Attorneys At Law

J. Alexander Brock
Direct Tel: (404) 815-3603
Direct Fax: (404) 685-6903
jabrock@sgrlaw.com

August 23, 2018

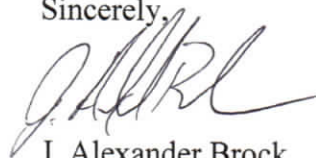
Karen Hill
DeKalb County Planning & Sustainability Dept.
330 Ponce de Leon Ave.
Decatur, GA 30030

Re: Notice of Withdrawal without Prejudice - Rezoning
Application (Z-18-1235092)

Dear Ms. Hill:

On behalf of the Applicant, Flat Iron Partners, we hereby request withdrawal without prejudice of the application to rezone 2537 Candler Road (Application No. Z-18-1235092). Please remove this Application from consideration by the DeKalb County Board of Commissioners.

Sincerely,



J. Alexander Brock
Attorney At Law

JAB/1767

CC: Marian Eisenberg, DeKalb County Planning
Jay Bernstein, Flat Iron Partners
Charles Irick, Flat Iron Partners
Kathryn M. Zickert, Smith Gambrell & Russell, LLP



Atlanta | Austin | Jacksonville | London | Munich | New York | Southampton | Washington, D.C.

NEXT STEPS

Following an approval of this request, one or several of the following may be required:

- ✓ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✓ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✓ • **Certificate of Occupancy** *(Required prior to occupation of a commercial space and for use of property for any business type. The issuance follows the review of submitted plans if required based on the type occupancy.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat & Final Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- ✓ • **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- ✓ • **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.

SEPTEMBER 2018 REZONING AGENDA – TRANSPORTATION COMMENTS

N1. Lawrenceville Hwy is a major arterial on a state route. Dedicate right of way at least 50 from centerline. Install sidewalks along property frontage (ensure sidewalks are within right of way). GDOT review and permits required. Street lights required 1 foot behind sidewalks on right of way.

N2. Clairmont Road is a major arterial on a state route. Dedicate right of way at least 50 from centerline. GDOT review and permits required.

N3. Briarcliff Road is a minor arterial and state route. GDOT review and permits required. No access allowed onto Briarcliff Road.

N4. No Comments.

N5. No Comments.

N6. No Comments.

N7. No Comments.

N8 & N9. Columbia Drive is a minor arterial. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.) 40 feet right of way dedication from centerline. 6-foot sidewalks, 4-foot bike lanes. Street lights behind the sidewalk within right of way. As shown in the application, interior roads must be private.

N10. Candler Road is a major arterial and a state route. GDOT review and permits required. Kelly Lake Road is a local road. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.) Right of way dedication of 50 from centerline on Candler Road, 6-foot sidewalks. Right of way dedication on Kelly Lake Road 27.5 feet from centerline, 5-foot sidewalks. Extend sidewalks along Kelly Lake Road within existing right of way to Candler Road. Street Lights required on back of sidewalk within right of way along both frontages. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect.) The access point on Candler Road should be limited to right in-right-out.

N11. Treadway Road is classified local. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.) Public local roads require a 27.5 foot right of way from the centerline (for a total of 55 feet), 5-foot sidewalks, 5-foot landscape strip and street lights within the right of way. The right of way width show on the application does not seem to meet the 55 feet for the interior streets. Cul-de-sac appears to be substandard also. These will need to be corrected prior to permitting and will impact storm detention, setbacks, etc.

N12. McClendon is a collector street. Allow only one standard size commercial curb cut on McClendon Dr. Install sidewalks along property frontage. Street lights required behind sidewalk within right of way at permitting.

N13. Memorial Drive is a major arterial and a state route. GDOT review and permits required.

N14. Memorial Drive is a major arterial and a state route. GDOT review and permits required. Eliminate a curb cut on 6158 and restore streetscape.

N15. Snapfinger Road is a major arterial. Site limited to right in/right out access point.

N16. Rockbridge Road is a minor arterial. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.) 40 feet right of way dedication from centerline. 6-foot sidewalks, 4-foot bike lanes. Street lights behind the sidewalk within right of way. Construct sidewalks along Rockbridge Road to Allgood Circle within right of way. Limited to one access point onto Rockbridge Road.

N17. Bermuda Road is a collector road. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.) 35 feet right of way dedication from centerline. 6-foot sidewalks, 4-foot bike lanes. Street lights behind the sidewalk within right of way. Add roundabout at the intersection of Stewart Mill Road and Bermuda Road. Gordon Burkett at Keep DeKalb Beautiful is working on the concept for this project. Add sidewalks and street lights along Bermuda Road (within right of way) to the intersection of Stewart Mill Road. Complete all requirements of GRTA's notice of decision that are within DeKalb County. Design to restrict truck movements from using Stewart Mill Road to get to Rockbridge Road.

N18. Norris Lake is a collector road. Pleasant Hill is a minor arterial. Pleasant Hill Way is a local road. Pleasant Hill Way appears to be public in some areas where the development is proposed. I assume they are planning a right of way abandonment. Provide ped/bike access from the neighborhood into the park, as approved by the Parks and Recreation Department. Frontage on Pleasant Hill Way must be improved to Code also. 339 lots requires a traffic study be completed prior to zoning. Traffic study should include the access points and the intersection of Norris Lake Road/Humphries at Pleasant Hill Road. Left turn lane required on Pleasant Hill Road. Add sidewalks along frontage of Norris Lake Road and extend to the intersection of Norris Lake Road/Humphries at Pleasant Hill Road. Add sidewalks along frontage of Pleasant Hill Road and extend to the intersection of Norris Lake Road/Humphries at Pleasant Hill Road. Consider moving the roundabout to Pleasant Hill Road. **Request deferral until the study is received.** Norris Lake requires right of way dedication of 35' from centerline, 6-foot sidewalks, 4-foot bike lanes and street lights on back of curb within the proposed right of way. Pleasant Hill Road requires right of way dedication of 40' from centerline, 6-foot sidewalks, 4-foot bike lanes and street lights on back of curb within the proposed right of way. Pleasant Hill Way right of way dedication of 27.5' from centerline, 12-foot travel lane on the development side from centerline, 5 foot sidewalks and street light on back of curb within the proposed right of way.

N19. No Comments.

N20 & N21. Rock Chapel Road is a major arterial and state route. GDOT review and permits required at permitting. See Section 5.4.3 of the Zoning Code for required improvements and Section 14-190 of the Land Development Code for required infrastructure improvements at time of permit. (The Zoning Code trumps the Land Development Code- but when the Zoning Code is silent, the Land Development Code takes effect. Overlay Districts trump both of the above.)

N22. S. Stone Mountain Lithonia Road is a minor arterial. Add sidewalks and street lights behind sidewalks and within right of way along property frontage and dedicate 40 feet of right of way from centerline.

N23. Stephenson Road is a collector road. Dedicate 35 feet of right of way from centerline, add sidewalks and street lights behind sidewalks and within right of way.

N24. Briarcliff Road is a minor arterial and a state route. GDOT has already permitted the right in only driveway. The right-out driveway was probably not allowed due to restricted sight distance when exiting due to the curve (trying to verify with GDOT). No other comments.

**DeKalb County School District
Zoning Review Comments**

Analysis Date: 8/17/2018

Submitted to: DeKalb County

Case #: Z-18-1235092

Name of Development: Candler Road Development

Parcel #: 15-137-02-001

Location: 2537 Candler Road

Description: Proposed development of 224 affordable apartment units on currently vacant property.

Impact of Development: When fully constructed, this development would be expected to house 114 students: 61 at Kelley Lake ES, 15 at McNair MS, 17 at McNair HS, and 21 at other DCSD schools. All three neighborhood schools have capacity for additional students.

	Kelley Lake			Other	Private	
Current Condition of Schools	ES	McNair MS	McNair HS	DCSD Schools	Schools	Total
Capacity	492	1,074	1,594			
Portables	2	0	0			
Enrollment (Fcst. Oct. 2018)	317	660	687			
Seats Available	175	414	907			
Utilization (%)	64.4%	61.5%	43.1%			
New students from development	61	15	17	21	0	114

New Enrollment	378	675	704
New Seats Available	114	399	890
New Utilization	76.8%	62.8%	44.2%

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.273333	0.060000	0.000000	0.333333
Middle	0.066667	0.006667	0.000000	0.073333
High	0.076667	0.026667	0.000000	0.110000
Total	0.4167	0.0933	0.0067	0.5167
Student Calculations				
Proposed Units	224			
Unit Type	APT			
Cluster	McNair			
Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	61.23	13.44	0.00	74.67
Middle	14.93	1.49	0.00	16.42
High	17.17	5.97	0.00	23.14
Total	93.33	20.90	0.00	114.23
Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Kelley Lake ES	61	13	0	74
McNair MS	15	2	0	17
McNair HS	17	6	0	23
Total	93	21	0	114



KLT

(10)

**DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM**

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

**COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: 15-137-02-001 Parcel I.D. #: 15-137-02-001
Address: 2537
Candler Rd

Adjacent Roadway (s):

_____	_____
(classification)	(classification)

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

Please provide additional information relating to the following statement.

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

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

COMMENTS:

Traffic Recommended Right Turn In and out
only with an Island. Kelly Lake Rd to be
MAIN ENTRANCE/EXIT. Candler Road is a
STATE ROUTE and must have GDOT Approval.
ENTRANCE NEEDS TO BE LINED UP WITH TRAFFIC
SIGNAL. PA

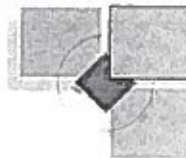
Signature: [Signature]



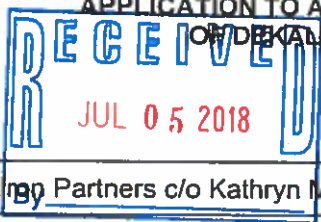
DeKalb County Department of Planning & Sustainability

Michael L. Thurmond
Chief Executive Officer

Andrew A. Baker, AICP
Director



APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA



Z/CZ No. 2-18-1235092
Filing Fee: _____

Date Received: _____ Application No.: _____

Applicant: Flatiron Partners c/o Kathryn M. Zickert E-Mail: kmzickert@sgrlaw.com

Applicant Mailing Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

Applicant Phone: 404-815-3704 Fax: 404-685-7004

Owner(s): Gladden Ruth Bolton Estate E-Mail: angelrudy@hotmail.com
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: P.O. Box 673, Midway, GA 31320

Owner(s) Phone: 404-402-9217 Fax: _____

Address/Location of Subject Property: 2537 Candler Road

District(s): 15 Land Lot(s): 137 Block: 02 Parcel(s): 001

Acreage: 12.90 Commission District(s): 6 / 3

Present Zoning Category: C-1 and MR-2 Proposed Zoning Category: MR-2

Present Land Use Category: CRC

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted.

Disclosure of Campaign Contributions

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

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes ☐ No ☒

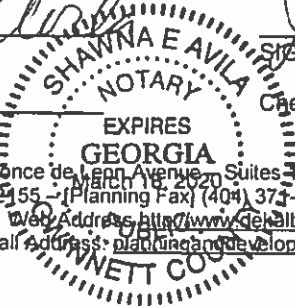
If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

NOTARY

3-16-20
EXPIRATION DATE / SEAL



SIGNATURE OF APPLICANT / DATE

Check One: Owner ☐ Agent ☒

330 West Peachtree Avenue, Suite 300-500 - Decatur, Georgia - 30030
[voice] 404.371.2155 - [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007
Web Address: <http://www.dekalbcountyga.gov/planning>
Email Address: planninganddevelopment@dekalbcountyga.gov

Hill, Karen F.

From: Avila, Shawna E. <SAVILA@SGRLAW.COM>
Sent: Tuesday, July 17, 2018 8:41 AM
To: Hill, Karen F.
Subject: RE: Public Notice for Community Meeting Per 2537 Candler Road Rezoning

See below.

COMMUNITY MEETING

Application to rezone property located at 2537 Candler Road from C-1/MR-2 to MR-2 for the purpose of constructing a multi-family residential development.

Date: Monday, July 2, 2018
Time: 7:00 p.m. to 8:00 pm
Place: Scott Candler Public Library
1917 Candler Road
Decatur, Georgia 30032

What is a Community Rezoning Meeting? Community rezoning meetings are designed to inform the surrounding communities of current rezoning and special use permit applications. It's an opportunity for the community to learn about the proposed project, ask questions, present concerns, and make suggestions.

SHAWNA E. AVILA | Paralegal

404-815-3558 phone
404-685-6858 fax
www.sgrlaw.com
SAVILA@SGRLAW.COM

Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592



SMITH, GAMBRELL & RUSSELL, LLP

From: Hill, Karen F. [<mailto:KFHill@dekalbcountyga.gov>]
Sent: Tuesday, July 17, 2018 8:40 AM

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Annie Robinson	2466 Kelly Lake Dr.	
Alex Brock	SGR - 1230 Peachtree	
Mary Datcher	2444 Kelly Lk Dr	
Jim D Juniper Mrs Juniper	2676 Kelly Lake Rd	
Joyce Dedean	2445 Kelly Lake Drive	
C.H. Singletary	2421 Kelly lake Drive	
Prince L. La Putna	2429 Kelly Lake Dr. Decatur	
Theresa Florence	2412 Kelly Lake Dr. Decatur	

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Joann Hale	2404 Kelly Lake Dr	3jheirs@comcast.net
Charlie Irick	2727 Flitgrave Rd.	
James Bernstein	14105 Sweet Place	
Dorothy Relf	2421 LaFortune Dr	
Julian Relf	2421 LaFortune Dr	
Marta Laval	2670 Kelly Lake Ct	
Julius & Wonne Cauthon	2399 Kelly Lake Dr.	drbonbon@bellsouth.net
Julius & Margie Cauthon	2632 Kelly Lake Rd Decatur 30032	mrcauthon48@icloud.com

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
JANICE Cranston	2403 Kelly Lake Dr Decatur GA 30032	404-212-8671
DAVE COLLIER	2743 Kelly Lake Rd Decatur 30032	770-570-5982
Barry Gladden	2743 Kelly Lake Rd	404 241 5179
John Upshaw	2627 Kate Korte	404-797-7288
Helena's Share Booth	2395 LaFortune Dr	41857-9493
John Seaton	2760 Kelly Lake Rd	4 (241-0305)
Emily Miller	2536 Kelly Lake Rd	4-241-4380
Daphne Gail Smith	2378 LaFortune Dr.	daphne@bellsouth.net (41) 519-3286

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
MD. JACKSON	3004 Gena Drive Decatur, GA. 30032	Roadwaymcl@yahoo.com
Richard Smith	2372 Lafortune Dr. 30032	404-243-5636
Laura Muhammad	2385 Lafortune Dr 30032	
ANA Reuven	2729 Kelly Lake Rd 30032	4) 549-7224
JACQUELYN ANTHONY	2388 Kelly Lake Dr 30032	404-243-9272

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Mrs. Annie M. McCoy	2682 Kelly Lake Rd Decatur, Ga 30032	④ 244 6615
Theresa D. Drake	2452 Kale Terrace Decatur Ga 30032	4/243-0167
John Gates	2377 LaFontaine Dr. Decatur	

CANDLER ROAD - REZONING

July 2, 2018 @ 7:00 p.m.
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Cathy Sidwell	2382 Lafayette Dr Dec, GA 30032	4381-6539
Enche Daniel Walker	2774 Oak Village Trail Decatur, GA 30032	walkerd1620@bellsouth.net walkerd1620@bellsouth.net 770-617-5224
Joe shy	2664 Kelly Lake Rd	
Bruce Allen	2677 Kelly Lake Ct	
Ellen Peck	2615 Candler Woods Dr.	
Vertonia Jarrett	2632 Candler Woods Dr	VERTONIAJ@GMAIL.COM vertoniaj@gmail.com
Naomi G. Ward	2510 Candler Woods Dr Dec, GA 30032	Naomi.42@att.net
Carl deFfar	2603 Hale Terr. Decatur, GA 30032	carl.deFfar@gmail.com

Enche
@
E.Atl.

BOUNDARY LEGAL

ALL THAT TRACT OR PARCEL OF LAND LYING OR BEING IN LAND LOTS 137 AND 120, OF THE 15TH LAND DISTRICT DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT THE POINT OF INTERSECTION OF THE SOUTHEASTERLY RIGHT OF WAY OF KELLY LAKE ROAD (HAVING AN APPARENT 60' RIGHT OF WAY WIDTH) WITH THE SOUTHWESTERLY RIGHT OF WAY OF CANDLER ROAD (ALSO KNOWN AS GEORGIA HIGHWAY 155, HAVING A 100' RIGHT OF WAY WIDTH), THENCE RUNNING ALONG SAID RIGHT OF WAY OF CANDLER ROAD S 28°01'09"E A DISTANCE OF 134.44' TO A POINT;

THENCE CONTINUING ALONG SAID RIGHT OF WAY AND RUNNING THE FOLLOWING COURSES AND DISTANCES:

- S 28°13'14" E A DISTANCE OF 99.87' TO A 1/2" REBAR FOUND;
- S 28°14'22" E A DISTANCE OF 212.35' TO A POINT;
- ALONG A CURVE TO THE LEFT WITH AN ARC LENGTH OF 200.74', WITH A RADIUS OF 4105.00', WITH A CHORD BEARING OF S 29°31'27" E, WITH A CHORD LENGTH OF 200.72' TO A POINT;
- S 29°57'15"E A DISTANCE OF 27.56' TO A 1/2" REBAR FOUND;

THENCE LEAVING SAID RIGHT OF WAY S 80°30'53" W A DISTANCE OF 327.58' TO A NAIL FOUND;

THENCE S 68°35'50" W A DISTANCE OF 21.81' TO A NAIL FOUND;

THENCE S 31°07'35" E A DISTANCE OF 144.98 TO A 1" OPEN TOP FOUND, BEING THE POINT OF BEGINNING:

FROM THE POINT OF BEGINNING AS THUS ESTABLISHED N 80°18'47" E A DISTANCE OF 349.96' TO A 1" OPEN TOP FOUND ON THE SAID SOUTHWESTERLY RIGHT OF WAY OF CANDLER ROAD;

THENCE RUNNING ALONG SAID RIGHT OF WAY S 30°55'48" E A DISTANCE OF 165.56' TO A POINT;

THENCE LEAVING RIGHT OF WAY S 52°40'07" W A DISTANCE OF 46.30' TO A 1/2" REBAR FOUND;

THENCE S 54°19'37" W A DISTANCE OF 41.81' TO A POINT;

THENCE S 60°44'37" W A DISTANCE OF 41.27' TO A POINT;

THENCE S 22°39'23" E A DISTANCE OF 91.57' TO A 1/2" REBAR FOUND ON THE APPROXIMATE LAND LOT LINE BETWEEN LAND LOTS 137 AND 120 OF SAID DISTRICT, COUNTY AND STATE;

THENCE RUNNING ALONG SAID APPROXIMATE LAND LOT LINE N 89°32'40" W A DISTANCE OF 648.34' TO A 3/4" REBAR FOUND;

THENCE N 89°42'58" W A DISTANCE OF 218.92' TO A POINT;

THENCE LEAVING SAID APPROXIMATE LAND LOT LINES S 12°59'39" E A DISTANCE OF 228.20' TO A 1" OPEN TOP FOUND;

**STATEMENT OF INTENT/
WRITTEN JUSTIFICATION**

and

Other Material Required by
DeKalb County Zoning Ordinance for the
Rezoning Application

of

FLATIRON PARTNERS

for

\pm 12.90 Acres of Land
located in Land Lots 120 and 137, 15th District

C-1 and MR-2 to MR-2

Submitted for the Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, GA 30309
404-815-3704

I. INTRODUCTION

This Application seeks to rezone ± 12.90 acres of land located approximately 1,000 feet north of the intersection of Candler Road and Interstate 20 (“Subject Property”) from C-1 (Local Commercial) and MR-2 (Medium Density Residential) to MR-2. The Subject Property was formerly comprised of several separate parcels that were the subject of a combination plat that created the current single parcel.¹ Although, the parcels were combined into one single property, the different zoning districts remained, creating a mixed zoning district. The instant application intends to rectify this by rezoning the Subject Property into a single MR-2 district.

In addition to being zoned C-1 and MR-2, the Subject Property is also within the I-20 Corridor Compatible Use Overlay District, Tier 2 (“I-20 Overlay”). The I-20 Overlay is the controlling zoning for the property, however DeKalb County Code of Ordinances § 27-3.33.5 states that “[t]he principal uses of land and structures which are allowed in the I-20 Corridor Overlay District are as provided by the applicable zoning district, subject to the limitations and standards contained within this division” and specifically that any Multi-Family Residential District “shall be used in accordance with the underlying zoning district.” Accordingly, the uses on the property are currently limited to what is allowed under the C-1 and MR-2 districts, however the C-1 district does not allow multifamily residential as a permitted use. Therefore, the Applicant must rezone the property to MR-2 to allow a proposed multifamily project.

The Subject Property was historically used as a dairy farm, but has remained vacant for a number of years. The site is currently occupied by several single story buildings, a cell tower and a large undeveloped portion. The single-story buildings comprise single family residences

¹ The Applicant and DeKalb County Planning Staff were unable to identify an application number associated with combination plat through research of DeKalb County records. Staff has indicated that the parcels were likely combined prior to 1997.

and barn structures that date from the property's past use as a dairy farm. As the area developed, the previous farm use became obsolete and the property has fallen into disuse. Currently, the structures are vacant and in various stages of deterioration, with several being completely destroyed. The Applicant seeks to completely remove the existing farm structures and replace them with 224 multifamily apartment units and appurtenant site improvements ("Proposed Development") that are more compatible with the surrounding developments. The Applicant intends for the existing cell tower to remain.

The Subject Property is in an area that is highly developed with a mix of commercial, multifamily and single family developments. To the east of the Subject Property is the right-of-way of Candler Road as well as several properties zoned C-1 and C-2 (General Commercial) fronting Candler Road, including a U-Haul Rental Facility zoned C-2 (Parcel ID: 15 137 02 008), a former fast food restaurant (now vacant) zoned C-1 (Parcel ID: 15 137 02 011), and an Express Oil Change facility zoned C-1 (Parcel ID: 15 137 02 006). Further east, across Candler Road, lies the Eastwyk Apartment complex, zoned MR-2 (Parcel ID: 15 136 01 005). To the south of the Subject Property is the Park on Candler Apartment Homes, zoned MR-2 (Parcel ID: 15 120 01 002). To the west lies single family residential, zoned R-75 (Residential Medium Lot 75) and a property at 2743 Kelley Lake Road zoned MR-2 that contains a single family residence (Parcel ID: 15 137 02 005). In addition, there are a number of MR-2 districts that are less than half of a mile from the Subject Property, such as the Spring Valley Apartment Homes (Parcel ID: 15 137 15 031), Eastwyk Apartments (Parcel ID: 15 136 01 005), The Park on Candler Apartment Homes (Parcel ID: 15 120 01 002), Whispering Pines Apartments (Parcel ID: 15 137 03 005), and Candler East Apartments (Parcel ID: 15 137 03 006). In fact, a portion of the

existing property is already zoned MR-2 and would allow the multifamily zoning as a right. It is the remaining C-1 portion of the property that necessitates the instant application.

The Subject Property is well suited for multifamily development and the proposed MR-2 district. The Proposed Development will complement the existing surrounding uses, while continuing the positive growth of the area. The Subject Property is a short distance from nearby retail, grocery, restaurant and other commercial uses essential to the support of multifamily residential. Additionally, the schools servicing the Subject Property are well below capacity and are fully capable of handling the students generated from the Proposed Development. Refer to Subsection G below for further analysis. Moreover, the Subject Property is close to Interstate 20 and is located directly on Candler Road, providing quick access for the future residents to major employment centers in Atlanta and Decatur. The suitability of the area for multifamily residential is evidenced by the number of existing multifamily and MR-2 zoning districts already in the vicinity.

It should be noted, however, that all of the nearby multifamily developments are roughly fifty (50) years-old and are in dire need of rehabilitation or redevelopment. In contrast, the Proposed Development will bring an infusion of attractive new housing units in an area characterized by general decay. In fact, DeKalb County has specifically targeted this area for revitalization and encourages projects that will rehabilitate or redevelop underutilized properties. *See* DeKalb County Ordinance § 24-101, *et seq.* (“Enterprise Zone Ordinance”). The Proposed Development fits neatly within the goals of the Enterprise Zone Ordinance by redeveloping an abandoned and blighted property into one that will add much needed workforce housing in an attractive new apartment community. The Applicant anticipates that the Proposed Development

will spur further redevelopment in the surrounding area, thereby increasing the prosperity of the Candler Road Corridor.

This document is submitted as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, a Written Justification for the Application as required by the DeKalb County Zoning Ordinance §27-832, and a Written Statement as required by §27-649.3(2).

II. HISTORY

The Subject Property is zoned C-1 and MR-2 and designated as “Commercial Redevelopment Corridor” on the County’s Future Land Use Map. As stated in previous paragraphs, the Subject Property was formerly several separate parcels, with different and distinct zoning districts that were combined into a single parcel. *See* Footnote 1 above. Although the parcels were combined into one single property, the different zoning districts remained, creating a mixed zoning district. The applicant seeks to rezone the property into a single MR-2 district to allow redevelopment.

III. IMPACT ANALYSIS

A.

THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN

Yes, the proposed MR-2 is in conformity with the Comprehensive Plan. The Subject Property is designated as “Commercial Redevelopment Corridor” (CRC). The CRC character area allows the MR-2 zoning. The CRC Character Area promotes the redevelopment of declining commercial corridors and improvement of the function and aesthetic appeal of more stable commercial corridors. CRC areas mostly consist of strip-style shopping centers that are in

need of aesthetic or functional improvements, are in economic decline or are vacant. *See DeKalb County 2035 Comprehensive Plan*, pg. 70.

This proposal fosters a number of general policies and strategies for Commercial Redevelopment Corridors in the County's Comprehensive Plan, including:

- Density—Cluster high density development at nodes & along major corridors outside of established residential areas.
- Aesthetics—Create and implement performance and aesthetic standards to improve visual appearance.
- Development—Focus development on parcels that abut or have access to the designated Commercial Redevelopment Corridor.

B.

THE PROPOSED REZONING PERMITS A USE THAT IS
SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND
NEARBY PROPERTY

Yes, the proposed multifamily use is suitable in view of the use and development of the adjacent and nearby property. The Subject Property is immediately adjacent to a number of commercial uses along Candler Road and in the nearby vicinity of several residential neighborhoods to the west. The proposed MR-2 zoning will allow a transition from the more intense commercial uses along Candler Road to the single family residential developments to the west. In fact, the western portion of the Subject Property is already zoned MR-2 lending support to the suitability of the proposed zoning.

The proposed uses will be in harmony with the current character of the property, as well as with the character of the adjacent properties. Redevelopment of the Subject Property will add much needed new multifamily housing that will offer an infusion of improved housing to support

the surrounding businesses. Appropriate attention to scale, buffering, setbacks, landscaping, and tree preservation has been given by the Applicant to ensure that this Project will blend harmoniously with its surroundings. The proposed development is therefore consistent with and suitable in light of the current and future development patterns; in fact, the Applicant hopes that the intended final appearance of this development will act as a catalyst for future redevelopment in the area.

C.

THE SUBJECT PROPERTY DOES NOT HAVE A
REASONABLE ECONOMIC USE AS PRESENTLY ZONED.

The mixed zoning severely limits the allowable uses of the Subject Property and does not have a reasonable economic use as presently zoned. There are few permitted uses that are allowed under both the C-1 and MR-2 zonings and none that make economic sense for a 12.90 acre property.² As a result, this application seeks to correct the mixed zoning designation to allow a development suitable for the Subject Property and in harmony with the character of the surrounding area. There is no better catalyst to the economic growth of the region than to rezone a dysfunctional and underutilized property to allow the development of an attractive new residential community that will provide housing for the area's employees.

D.

THE PROPOSED REZONING WILL NOT ADVERSELY AFFECT THE EXISTING
USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

In advance of filing this Application, the Applicant has engaged and will continue to engage in discussions with the community in the vicinity to make sure its proposal is acceptable to the neighbors. As stated in earlier paragraphs, the Proposed Development will result in a use

² DeKalb County Code of Ordinances §27-4.1.3, Table 4.1 states that a both C-1 and MR-2 would allow, *inter alia*, a community garden, care facilities, homeless shelter, government facilities, and museums.

that will be compatible and complementary to the existing surrounding uses.

The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. All of these devices have been utilized in this Application.

E.

THERE ARE OTHER EXISTING OR CHANGING CONDITIONS
AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY

As stated in previous paragraphs, the former dairy farm use of the property has not kept pace with the development of the surrounding area and as a result the property has remained vacant for a number of years. Additionally, the mixed zoning of the Subject Property has prevented it from being redeveloped in any meaningful way. The Applicant's proposal will result in a practical, useful, and marketable development, revitalizing a deteriorating and abandoned property, and creating an asset for the Candler Road corridor as a whole. The development will blend in with the commercial and residential sites in the surrounding area.

F.

THE ZONING PROPOSAL WILL NOT ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS OR ARCHAEOLOGICAL RESOURCES

No such sites, buildings, or resources are on or near the Parcel.

G.

THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

No. The proposed development will not overly burden existing streets or transportation facilities. According to the Institute of Traffic Engineers (ITE) Trip Generation Manual (Ninth Edition) (Land Use Category 221: Low-Rise Apartment), the proposed multi-family units should generate approximately 114 trips during a weekday a.m. peak hour and 139 trips during a weekday p.m. peak hour. As indicated above, the Subject Property has direct access to Candler Road and Kelly Lake Road, respectively classified as major arterial and a local roadway. *See DeKalb County 2014 Transportation Plan*, Figure 5-2, Functional Classification Map: DeKalb County. Moreover, the Subject Property is a short distance from I-20, which will minimize the impact on local streets of any regional travel generated by the development (i.e. residents traveling to Atlanta or further east into the suburbs). Further, the project is served by mass transit with excellent access to two MARTA bus routes (Bus Route 9 and 15) and in close proximity to two MARTA bus stops on Candler Road. It is anticipated that a large number of the proposed workforce housing residents will utilize mass transit on a daily basis, which will help mitigate any impacts from the Proposed Development.

As for utilities, the Subject Property has access to water and sewer. Finally, the school children living in the residential portion of the development will attend Kelley Lake Elementary School, Ronald E. McNair Middle School, and Ronald E. McNair High School. All three

schools are listed as under capacity according to DeKalb County Schools' FTE Enrolment Report, dated October 3, 2017.³ As a result, the proposed development is not expected to have a significant impact on local schools.

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

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

The Applicant respectfully submits that the Board of Commissioners' failure to approve the requested rezoning would be unconstitutional and would discriminate in an arbitrary,

³ The DeKalb County Schools' FTE Enrolment Report lists Kelley Lake Elementary School at 70% capacity; Ronald E. McNair Middle School at 59% capacity; and Ronald E. McNair High School at 44% capacity.

capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

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

The multifamily residences at issue in this Rezoning will provide housing opportunities to persons protected by the Fair Housing Act. A denial of this Rezoning will result in disparate treatment of individuals based on race and familial status in violation of the Fair Housing Act of the United States and Georgia.

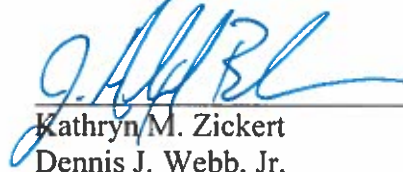
V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from

Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 3rd day of July, 2018.

Respectfully Submitted,



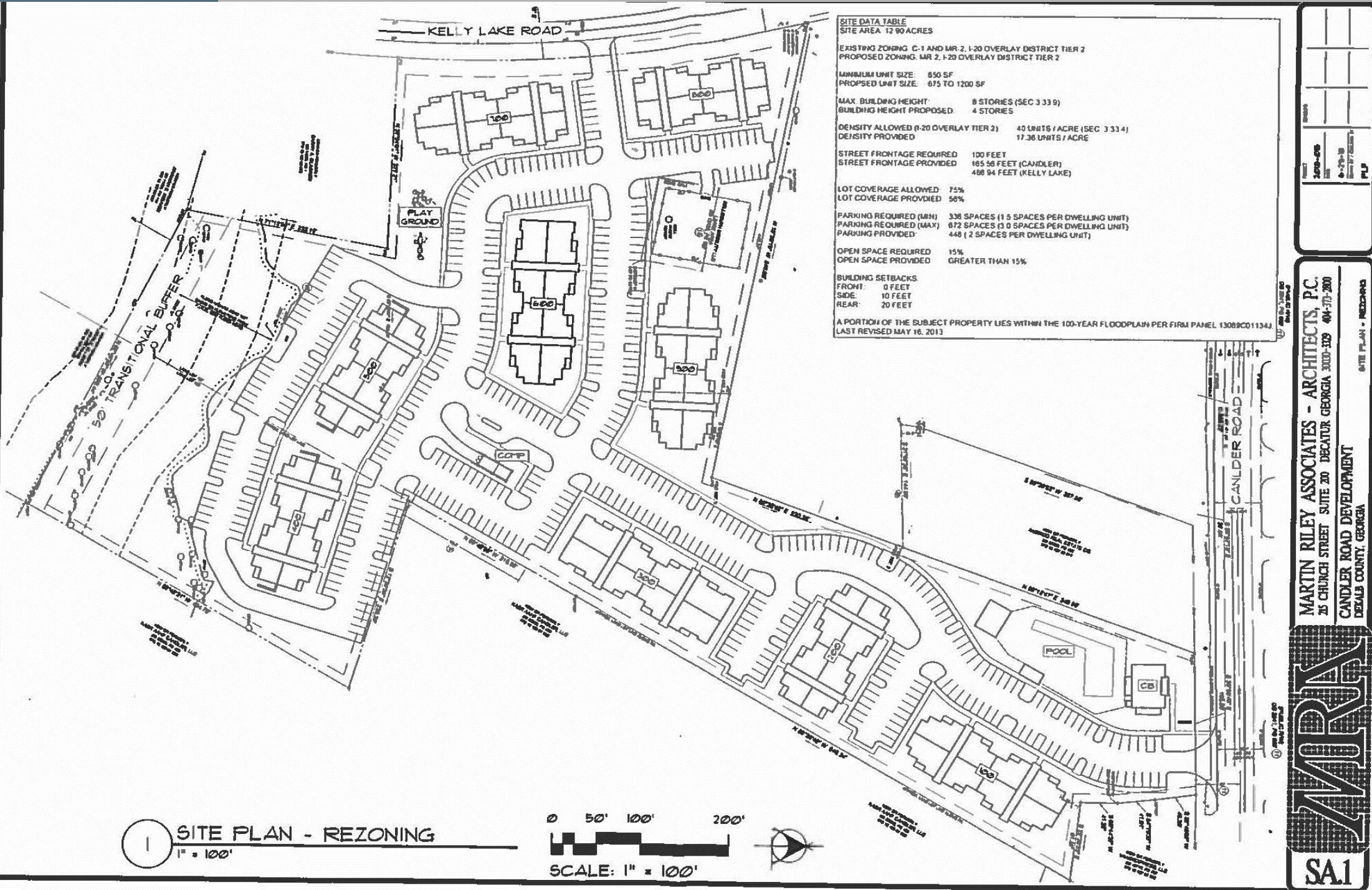
Kathryn M. Zickert

Dennis J. Webb, Jr.

J. Alexander Brock

Smith, Gambrell & Russell, L.L.P.

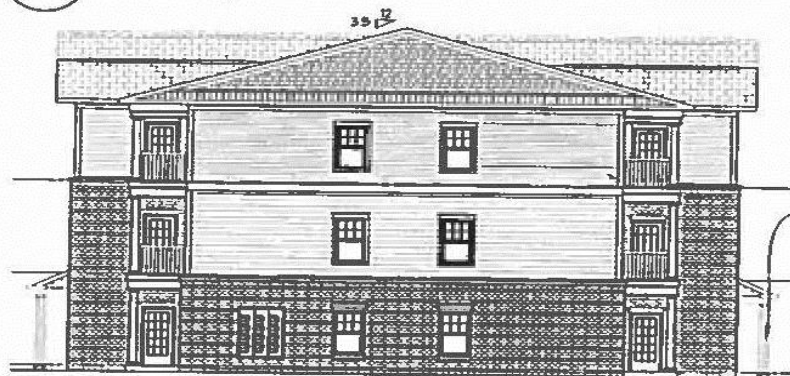
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1230 Peachtree Street, NE
Atlanta, GA 30309
404-815-3704





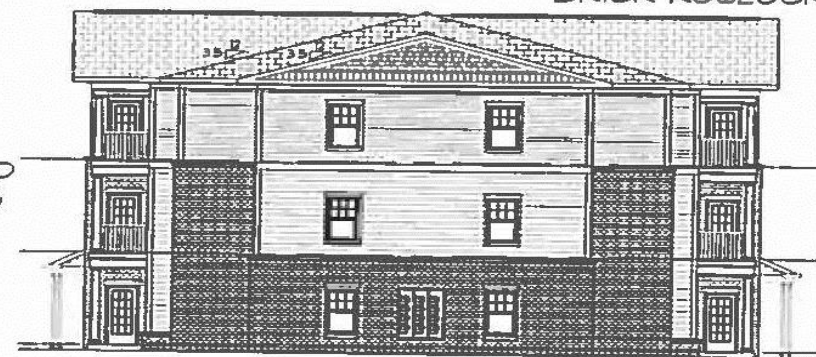
4 TYPICAL FRONT / REAR ELEVATION

1/16" = 1' - 0"



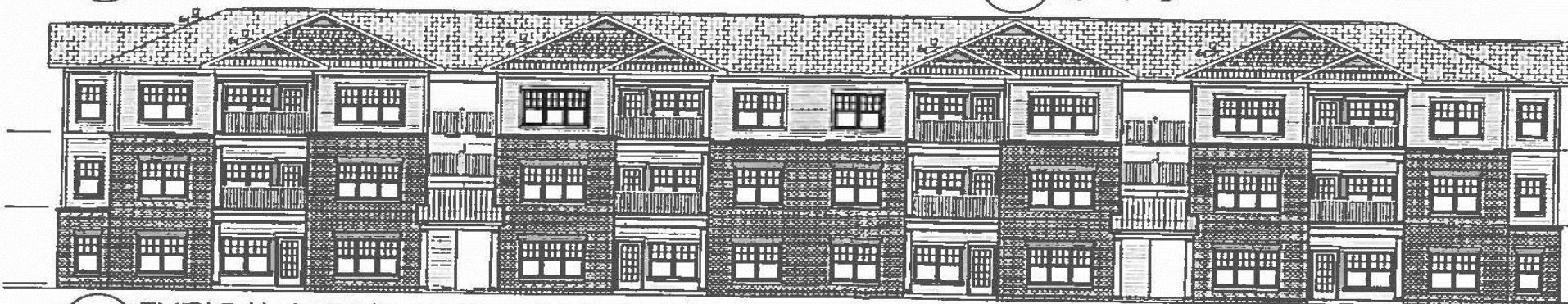
2 TYPICAL SIDE ELEVATION

1/16" = 1' - 0"



3 TYPICAL SIDE ELEVATION

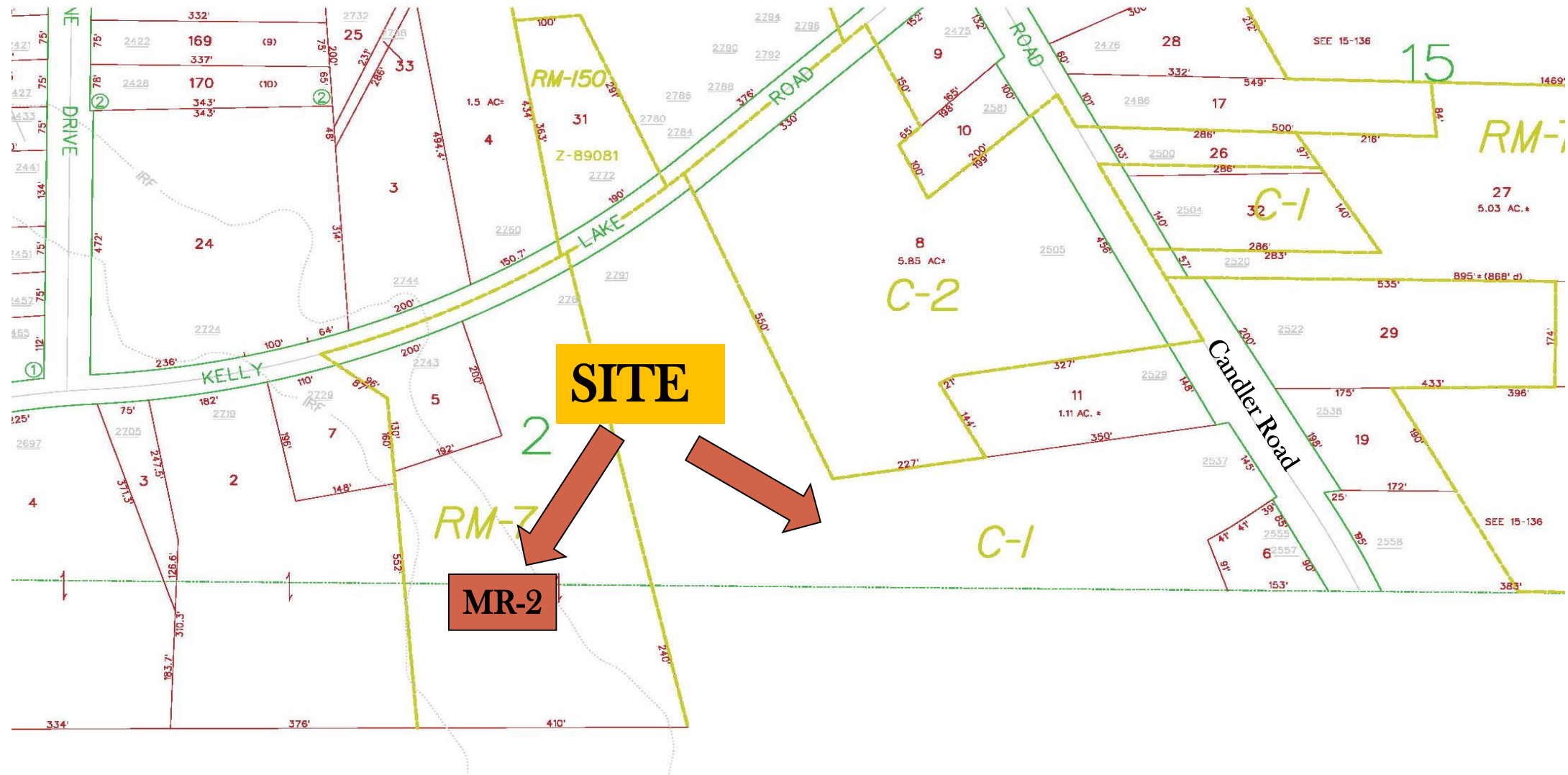
1/16" = 1' - 0"

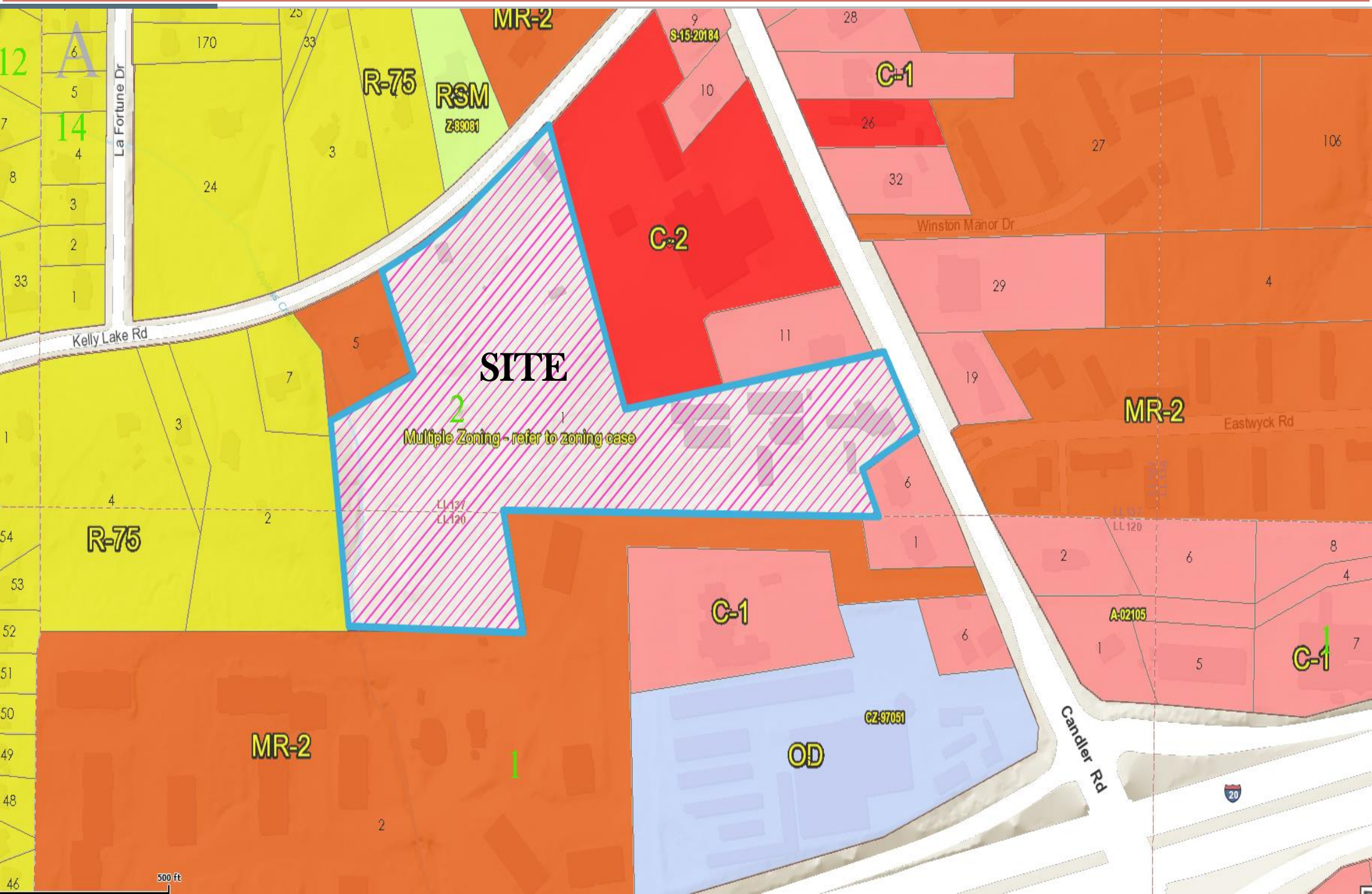


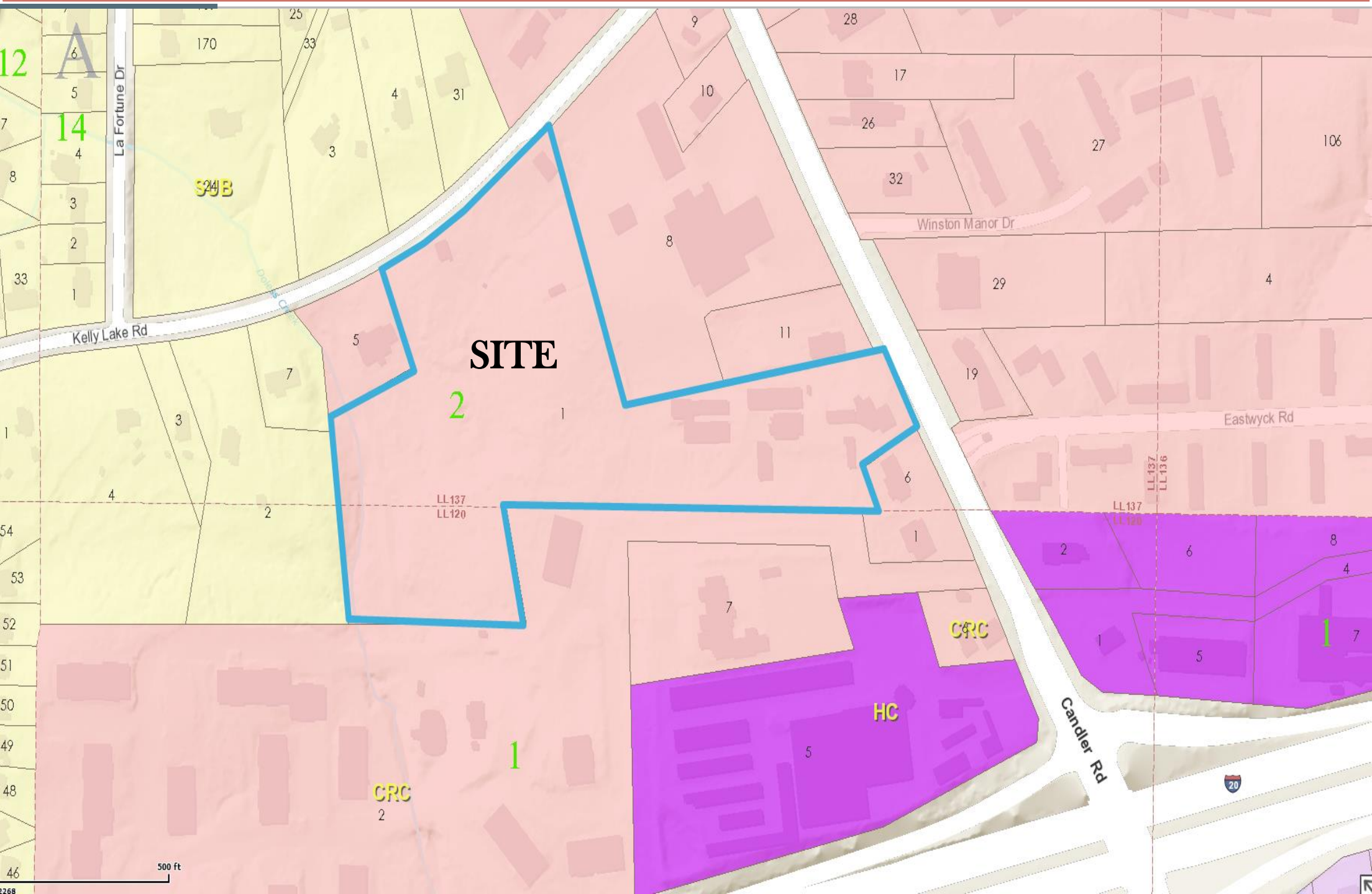
1 TYPICAL FRONT / REAR ELEVATION

1/16" = 1' - 0"

0 8' 16' 32'
SCALE: 1/16" = 1' - 0"







N.9

Z-18-1235092

Aerial





Candler Road
Frontage





Kelly Lake Road
Frontage

