



# DeKalb County Government

Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

## Agenda Item

**File #:** 2020-0086

5/28/2020

**File Status:** Preliminary Item

**Public Hearing:** YES ☒ NO ☐

**Department:** Planning & Sustainability

**SUBJECT:**

**COMMISSION DISTRICT(S):** 3 & 6

**Application of Eden Rock Moreland, LLC for a Special Land Use Permit (SLUP) for a proposed drive-through restaurant in a C-2 (General Commercial) District, at 1250 Moreland Avenue.**

**PETITION NO:** N5. SLUP-20-1243754 (2020-0086)

**PROPOSED USE:** Restaurant with a drive-through lane

**LOCATION:** 1250 Moreland Avenue

**PARCEL NO. :** 15-144-02-054

**INFO. CONTACT:** Matthew Williams

**PHONE NUMBER:** 404-371-2155

**PURPOSE:**

Application of Eden Rock Moreland, LLC for a Special Land Use Permit for a proposed restaurant with a drive-through in a C-2 (General Commercial) District in accordance Chapter 27, Article 4 of the DeKalb County Zoning Ordinance, Table 4.1. The property is located on the south east corner of Moreland Avenue and Lynwyn Lane, at 1250 Moreland Avenue, Atlanta, GA. The property has approximately 150 feet of frontage along Moreland Avenue and approximately 255 feet of frontage along Lynwyn Lane and contains 1 acre.

**RECOMMENDATION:**

**COMMUNITY COUNCIL:** Denial.

**PLANNING COMMISSION:** Approval with modified conditions.

**PLANNING STAFF:** Approval

**STAFF ANALYSIS:** The proposed restaurant with a drive-through lane is compatible with nearby commercial uses along Moreland Avenue. The site is in the Commercial Redevelopment Corridor Character Area where the proposed drive-through restaurant is consistent with the following policy and intent of the character area: creating mixed uses that offer a variety of retail and commercial services along Moreland Avenue. Therefore, it is the recommendation of Planning and Sustainability Department that the Special Land Use Permit (SLUP) to

allow a restaurant with a drive-through be “Approved, with Staff’s conditions”.

**PLANNING COMMISSION VOTE: Approval with modified conditions 8-0-0.** V. Moore moved, E. Patton seconded for Approval, with the following modifications to conditions: Remove condition #3; and, on condition #2, replace the words “stream buffer” with “flood plain”.

**COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial 8-0-0.**

## Recommended Conditions

SLUP – 20 – 1243754

1. A restaurant with a drive-through lane as depicted on the site plan received by the Department of Planning and Sustainability dated 12/31/2019. Said site plan is conceptual and is subject to compliance with C-2 (General Commercial) zoning standards unless variances are obtained from appropriate regulatory authorities.
2. Minimum 10-foot planted buffer strip between edge of rear parking lot and flood plain to screen drive-through lane from nearby residentially zoned properties.
3. The approval of this SLUP application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the Zoning Board of Appeals, or other entity.



Michael Thurmond  
Chief Executive Officer

## 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: March 3, 2020, 6:30 P.M**

**Board of Commissioners Hearing Date: May 28, 2020, 5:30 P.M.**

### STAFF ANALYSIS

**Case No.:** SLUP-20-1243754 **Agenda #:** N.5

**Location/Address:** 1250 Moreland Avenue **Commission District:** 03 **Super District:** 06

**Parcel ID:** 15-144-02-054

**Request:** A Special Land Use Permit (SLUP) for a proposed drive-through restaurant in a C-2 (General Commercial) District.

**Property Owner/Agent:** Eden Rock Moreland, LLC

**Applicant/Agent:** Eden Rock Moreland, LLC c/o Dennis J. Webb, Jr.

**Acreage:** 0.90

**Existing Land Use:** Used Car Lot

**Surrounding Properties/Adjacent Zoning:** **North and South:** C-2 (General Commercial) District; Tire Repair Shop and Child Day Care Center. **East:** R-75 (Residential Medium Lot-75) District; Single family residences

**Comprehensive Plan:**

**Commercial Redevelopment Corridor (CRC)**



**Consistent**



**Inconsistent**

<b>Proposed Density:</b> N/A	<b>Existing Density:</b> N/A
<b>Proposed Square Ft.:</b> N/A	<b>Existing Units/Square Feet:</b> N/A
<b>Proposed Lot Coverage:</b> 69.3%	<b>Existing Lot Coverage:</b> 69.3%



## **SUBJECT PROPERTY**

The subject property is a corner lot located at the corner of Moreland Avenue and Lynwyn Lane. The subject site contains .90 acres with 150 feet of frontage along Moreland Avenue (Major Arterial) and 255 feet of frontage along Lynwyn Lane. The current use for the site is a used car lot. The surrounding property to the north across Lynwyn Lane is used tired shop adjacent to single family residences. The surrounding property to the south is a pre-school academy. The property west of the subject site, across Moreland Avenue in the City of Atlanta, is a vacant restaurant. The subject property abuts the right-of-way of Gypsum Court to the east of the site, which contains single family residences. The subject property is zoned C-2 (General Commercial) District.

## **ZONING HISTORY AND ANALYSIS**

The site is currently zoned C-2 (General Commercial) District along the Moreland Avenue corridor. The southern property line abuts C-2 zoning district which contains a pre-school academy. Across Moreland Avenue to the west of the subject site in the City of Atlanta. To the north, across Lynwyn Lane, is a used tire shop which is also zoned C-2 abutting a couple of single-family residences which are zoned R-75 (Residential Medium Lot-75) District.

## **PROJECT ANALYSIS**

The applicant is requesting a Special Land Use Permit (SLUP) to allow for a restaurant with a drive through lane in the C-2 (General Commercial) District. The submitted site plan depicts one story 2,040 square foot building with a drive through lane that provides access to one drive through window. The site plan maintains parking spaces along the northern and southern property lines with the addition of two handicap spaces. The handicap spaces will be in front of the building next to the proposed outside patio. An existing sidewalk will be maintained that will provide pedestrian access from Moreland Avenue to the restaurant. The existing ingress and egress from Moreland Avenue will be maintained for entry/exit for the new proposed restaurant with a drive through lane. An egress will be established from an existing curb cut off Lynwyn Lane for exiting the subject property.

This SLUP request to allow a drive through on the site is compatible with other commercial uses along Moreland Avenue. A proposed restaurant with a drive-through lane complies with the following supplemental regulations per Sec.27-4.2.23 of the DeKalb County Zoning Code:

- a. Not located within sixty feet of a residentially zoned property.
- b. Drive-through facility located on property greater than ten thousand square feet in area
- c. Drive-through lanes and service windows serving drive-through lanes are located on the side and rear of building
- d. No drive-through canopies according to site plan
- e. Speaker boxes shall be directed away from any adjacent residential properties.
- f. All lighting from drive-through facilities shall be shaded and screened to be directed away from adjacent residential property.

The proposed restaurant with a drive-through lane does not comply with supplemental regulations (a) Not located within sixty feet of a residentially zoned property. The rear property line at Lynwyn Lane and Gypsum Court measures

only fifty feet from the residentially zoned properties at 1225 Lynwyn Lane and 1202 Lynwyn Lane. A variance will be required in order to comply with all supplemental regulations.

## **IMPACT ANALYSIS**

**Section 27-7.4.6 of the DeKalb County Code states that the following criteria shall be applied in evaluating and deciding any application for a Special Land Use Permit.**

- A. 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:**

Located on .90 acres, adequate land area is available to operate a restaurant with a drive-through lane. All required yards, open space, and off-street parking are satisfied within the C-2 (Local Commercial) District.

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

The proposed restaurant with a drive-through lane is compatible with nearby commercial uses, properties and land use along Moreland Avenue. Restaurants, such as Popeyes Louisiana Kitchen, Church's Chicken, Sonic Drive In and Burger King, with a drive through lane located north and south along Moreland Avenue.

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

Given that the area along Moreland Avenue is developed with various commercial uses, it appears that there are adequate public streets and services are available for the proposed restaurant with a drive-through lane. DeKalb County Public Works – Water and Sewer notes that the existing two-inch GA water main is inadequate to service the proposed restaurant. They recommend the applicant contact the City of Atlanta to review the availability of water infrastructure along Moreland Avenue.

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

Moreland Avenue is a major arterial and Lynwyn Lane is a local street. DeKalb County Department of Public Works -Traffic Engineering found that the proposed use would not disrupt traffic flow. DeKalb County Department of Public Works – Transportation requires 50-foot right of way dedication from centerline, six-foot sidewalks, bike lanes and streetlights along Moreland Avenue and 27.5-foot right of way dedication from centerline, five-foot sidewalks, bike lanes and streetlights along Lynwyn Lane.

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

The character of the vehicles nor traffic generated by the restaurant with a drive-through lane will not adversely impact existing land uses along access routes to the site.

- F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency:**

There are two access points to the site with street frontage along Moreland Avenue and Lynwyn Lane. One access point is via the existing ingress and egress to the site from Moreland Avenue. The second access point is also existing from Lynwyn Lane. Emergency vehicles can access the site from either access point. According to the site plan, it appears traffic will flow in a circular pattern to access the drive-through lane and available parking spaces.

**G. Whether or not the proposed use would create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration that would be generated by the proposed use:**

The proposed restaurant with a drive-through lane should not create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration.

**H. Whether or not the proposed use would create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use:**

The hours of operation for the proposed restaurant with a drive-through lane should not create adverse impacts upon adjoining land uses.

**I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.**

The manner of operation for the proposed restaurant with a drive-through lane should not create adverse impacts upon adjoining land uses.

**Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.**

Restaurants with a drive-through lane are a permitted use within the C-2 (General Commercial) District with a Special Land Use Permit (SLUP).

**J. Whether or not the proposed use is consistent with the policies of the comprehensive plan.**

Located within the Commercial Redevelopment Corridor (CRC) Character Area designated by the DeKalb County 2035 Comprehensive Plan, the proposed restaurant with a drive-through lane is consistent with the following area policies: infill development by utilizing vacant properties in the neighborhood as an opportunity for infill development of compatible structures.

**K. 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.**

The proposed restaurant with a drive-through lane does not abut any residential zoned properties. Therefore, transitional buffer zones are not required.

**L. Whether or not there is adequate provision of refuse and service areas.**

Adequate provision of refuse areas will be provided on site.

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

There does not appear to be any compelling reasons for limiting the duration of the requested Special Land Use Permit.

**N. 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.**

The proposed one-story restaurant with a drive-through lane is compatible in size and massing of adjacent and nearby commercial buildings in the area.

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

The proposed restaurant with a drive-through lane will not adversely affect historic buildings, sites, districts, or archaeological resources.

**P. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.**

The proposed restaurant with a drive-through lane complies with all except (g.) of the following supplemental regulations per Sec.27-4.2.23 of the DeKalb County Zoning Code:

- g. Not located within sixty feet of a residentially zoned property.
- h. Drive-through facility located on property greater than ten thousand square feet in area
- i. Drive-through lanes and service windows serving drive-through lanes are located on the side and rear of building
- j. No drive-through canopies according to site plan
- k. Speaker boxes shall be directed away from any adjacent residential properties.
- l. All lighting from drive-through facilities shall be shaded and screened to be directed away from adjacent residential property.

A variance will be required in order to comply with all supplemental regulations.

**R. 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.**

The proposed one-story restaurant with a drive-through lane does not create a negative shadow impact on any adjoining lot or building.

**S. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

The proposed restaurant with a drive-through lane provides a service to the community and is compatible with existing commercial development in the area. The proposed use complies with the overall objectives of the comprehensive plan by creating mixed uses that offer a variety of retail and commercial services and amenities along Moreland Avenue.

**COMPLIANCE WITH DISTRICT STANDARDS**

The site zoned C-2 (General Commercial) District must comply with minimum development standards per Article 2 – Table 2.2 Non-Residential Zoning Districts Dimensional Requirements of the DeKalb County Zoning Ordinance.

STANDARD	REQUIREMENT	PROPOSED	COMPLIANCE
LOT WIDTH (M)	MINIMUM OF 100 FEET ON A PUBLIC STREET FRONTAGE	150 FEET FRONTAGE ALONG MORELAND AVENUE; 255 FEET FRONTAGE ALONG LYNWYN LANE	YES
LOT AREA (M)	30,000 SQUARE FEET	38,000 SQUARE FEET	YES
LOT COVERAGE	Max. 80%	69%	YES

FRONT BUILDING SETBACK	60 FEET	60 Feet	YES
SIDE BUILDING SETBACK	INTERIOR 20 FEET CORNER 50 FEET	INTERIOR 20 FEET CORNER 50 FEET	YES YES
REAR SETBACK	30 FEET	30 FEET	YES
HEIGHT	2 story / 35 FEET	42.6 FEET	YES
OPEN SPACE	MINIMUM 20%	20%	YES
PARKING – ARTICLE 6	1 PER 250 SF (MIN 10) 1 PER 150 SF (MAX)	39 SPACES	YES

**STAFF RECOMMENDATION:**

The proposed restaurant with a drive-through lane is compatible with nearby commercial uses along Moreland Avenue. The site is in the Commercial Redevelopment Corridor Character Area where the proposed drive-through restaurant is consistent with the following policy and intent of the character area: creating mixed uses that offer a variety of retail and commercial services along Moreland Avenue. Therefore, it is the recommendation of Planning and Sustainability Department that the Special Land Use Permit (SLUP) to allow a restaurant with a drive-through be **APPROVED** with conditions.

1. A restaurant with a drive-through lane as depicted on the site plan received by the Department of Planning and Sustainability dated 12/31/2019. Said site plan is conceptual and is subject to compliance with C-2 (General Commercial) zoning standards unless variances are obtained from appropriate regulatory authorities.
2. Minimum 10-foot planted buffer strip between edge of rear parking lot and flood plain to screen drive-through lane from nearby residentially zoned properties.
3. The approval of this SLUP application by the Board of Commissioners has no bearing on the requirements for other regulatory approvals under the Zoning Board of Appeals, or other entity.

**Attachments:**

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

## NEXT STEPS

***Following an approval of this zoning action, 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 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** *(Certificate of Appropriateness 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 or Special Exception** *(Required seeking 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 changes to zoning conditions approved by the Board of Commissioner on 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 require submittal of application, fees and supporting documents. Please consult with the appropriate department/division.**



## DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

### DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control, to include Runoff Reduction Volume where applicable is required as a condition of land development permit approval. Use Volume Three of the G.S.M.M. for best maintenance practices. Use the NOAA Atlas 14 Point Precipitation Data set specific to the site.. Recommend Low Impact Development features/ Green Infrastructure be included in the proposed site design to protect as much as practicable the statewaters and special flood hazard areas.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was not indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application. Encroachment of flood hazard areas require compliance with Article IV of Chapter 14 and FEMA floodplain regulations.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 as well as Chapter 27 Article 5 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was not reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.





(N-5)

**DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM**

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO  
MICHELLE ALEXANDER [MMALEXANDER@DEKALBCOUNTYGA.GOV](mailto:MMALEXANDER@DEKALBCOUNTYGA.GOV) OR JOHN REID  
[JREID@DEKALBCOUNTYGA.GOV](mailto:JREID@DEKALBCOUNTYGA.GOV)

**COMMENTS FORM:  
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: SLUP-20-124378 Parcel I.D. #: 15-144-02-054

Address: 1250  
Moreland Ave  
Atlanta, Ga

Adjacent Roadway (s):

_____	_____
_____	_____
(classification)	(classification)

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

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

Please provide additional information relating to the following statement.

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

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

**COMMENTS:**

Plans and Field Reviewed, Found nothing that would disrupt traffic flow.

Signature: [Signature]



DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO MICHELLE M ALEXANDER [malexander@dekalbcountyga.gov](mailto:malexander@dekalbcountyga.gov) OR JOHN REID [jreid@dekalbcountyga.gov](mailto:jreid@dekalbcountyga.gov)

COMMENTS FORM:  
PUBLIC WORKS WATER AND SEWER

Case No.: SLUP-20-1243754

Parcel I.D. #: 15-144-24-054

Address: 1250 Moreland Avenue

Atlanta, Georgia

WATER:

Size of existing water main: 2" GA Water Main (adequate inadequate)

Distance from property to nearest main: Adjacent to Property

Size of line required, if inadequate: N/A

SEWER:

Outfall Servicing Project: Intrenchment Creek Basin

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

Water Treatment Facility: Intrenchment WTF ( ) adequate ( ) inadequate

Sewage Capacity; \* (MGPD)

Current Flow: 11.620 (MGPD)

COMMENTS:

\* Please note that the sewer capacity has not been reviewed or approved for this project. A Sewer Capacity Request (SCR) must be completed and submitted for review. This can be a lengthy process and should be addressed early in the process.

THE EXISTING 2" WATER LINE CANNOT SERVICE  
THIS PROPOSED USE.

RECOMMEND CONTACTING CITY OF ATLANTA  
TO SEE THEIR WATER INFRASTRUCTURE ALONG  
MORELAND AVE.

MEO

Signature: Cab [Signature]

Chief Executive Officer  
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director  
Andrew A. Baker, AICP

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

Applicant Name: Platinum Donuts <sup>Per Webb</sup> Phone: 485-3620 Email: dwebb@sglaw.com  
Property Address: 1250 Moreland Ave  
Tax Parcel ID: 15 144 02 054 Comm. District(s): 3:6 Acreage: \_\_\_\_\_  
Existing Use: auto body; used cars Proposed Use: donut ice cream drive thru  
Supplemental Regs: 4 Overlay District: NA DRI: \_\_\_\_\_  
Rezoning: Yes \_\_\_\_\_ No X  
Existing Zoning: C-1 Proposed Zoning: \_\_\_\_\_ Square Footage/Number of Units: \_\_\_\_\_  
Rezoning Request: \_\_\_\_\_

Land Use Plan Amendment: Yes \_\_\_\_\_ No \_\_\_\_\_

Existing Land Use: CRC Proposed Land Use: drive thru Consistent X Inconsistent \_\_\_\_\_

Special Land Use Permit: Yes ✓ No \_\_\_\_\_ Article Number(s) 27- \_\_\_\_\_

Special Land Use Request(s) 4.2.23

**Major Modification:**

Existing Case Number(s): \_\_\_\_\_

Condition(s) to be modified:

DEPARTMENT OF PLANNING & SUSTAINABILITY

**WHAT TO KNOW BEFORE YOU FILE YOUR APPLICATION**

Pre-submittal Community Meeting: \_\_\_\_\_ Review Calendar Dates: \_\_\_\_\_ PC: \_\_\_\_\_ BOC: \_\_\_\_\_  
Letter of Intent: \_\_\_\_\_ Impact Analysis: \_\_\_\_\_ Owner Authorization(s): \_\_\_\_\_ Campaign Disclosure: \_\_\_\_\_  
Zoning Conditions: \_\_\_\_\_ Community Council Meeting: \_\_\_\_\_ Public Notice, Signs: \_\_\_\_\_  
Tree Survey, Conservation: \_\_\_\_\_ Land Disturbance Permit (LDP): \_\_\_\_\_ Sketch Plat: \_\_\_\_\_  
Bldg. Permits: \_\_\_\_\_ Fire Inspection: \_\_\_\_\_ Business License: \_\_\_\_\_ State License: \_\_\_\_\_  
Lighting Plan: \_\_\_\_\_ Tent Permit: \_\_\_\_\_ Submittal Format: NO STAPLES, NO BINDERS PLEASE

**Review of Site Plan**

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

Comments: \_\_\_\_\_

Planner: \_\_\_\_\_

*Marian Eisenberg*

Date

*12/6/2019*

**Filing Fees**

<b>REZONING:</b>	RE, RLG, R-100, R-85, R-75, R-60, MHP, RSM, MR-1	\$500.00
	RNC, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4, MU-5	\$750.00
	OI, OD, OIT, NS, C1, C2, M, M2	\$750.00
<b>LAND USE MAP AMENDMENT</b>		\$500.00
<b>SPECIAL LAND USE PERMIT</b>		\$400.00

*Primemile, Suite 3404  
1330 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3502  
Phone: 404.815.3502  
www.sgrllp.com*

**SMITH, GAMBRELL & RUSSELL, LLP**

*Attorneys at Law*

*Dennis J. Webb, Jr.  
Direct Tel: 404-815-3620  
Direct Fax: 404-685-6920  
dwebb@sgrllp.com*

December 4, 2019

Re: Community Meeting

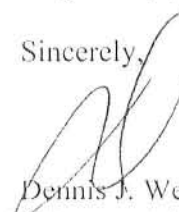
Dear Neighbor:

You are receiving this notification because you are a property owner within 500 feet of 1250 Moreland Avenue. Platinum Donuts, LLC, will be submitting a Special Land Use Permit Application to DeKalb County for the purpose of reactivating an existing drive-through for a donut shop and ice cream parlor. A community meeting has been scheduled to inform the surrounding property owners about the proposed project, and to allow them to ask questions, present concerns, and make suggestions. Details about this meeting are as follows:

Date: Thursday, December 19, 2019  
Time: 7:00 p.m. to 8:00 p.m.  
Place: Haitian Ministry Theophile Church  
Cafeteria (the building behind the sanctuary)  
930 Custer Avenue, SE  
Atlanta, Georgia

Should you have any questions regarding this application, please feel free to contact me.

Sincerely,



Dennis J. Webb, Jr.  
Attorney at Law

DJW/vmo



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



PARCEL ID	OWNER	PROPERTY ADDRESS	MAILING ADDRESS	CITY	STATE/ZIP
15 144 02 025	KEAUDRA FLOYD	1240 MORELAND AVE SE	2399 ROLLING ACRES DR SW	CONYERS	GA 30316
15 144 02 020	MATTHEW GARVEY	1243 EASTLAND RD SE	1243 EASTLAND RD SE	ATLANTA	GA 30316
15 144 02 022	MELVIN V JACKSON JR	1239 EASTLAND RD SE	1239 EASTLAND RD SE	ATLANTA	GA 30316
15 144 02 023	NOBLE REALTY INC	1230 MORELAND AVE SE	P.O. BOX 398	FAIRBURN	GA 30213
15 144 02 030	ALLEN MCARTHUR	1230 LYNWYN LN SE	1230 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 039	BOBBIE K SANFORD	1239 LYNWYN LN SE	4118 SNAPPFINGER WOODS DR	DECATUR	GA 30316
15 144 02 027	KAYLE DOUGHERTY	1202 LYNWYN LN SE	1202 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 019	HERB REALTY LLC	EASTLAND RD SE	110 N DEVEREUX CT NW	ATLANTA	GA 30327
15 144 02 021	STEPHANIE M DURDEN	EASTLAND RD	1241 EASTLAND RD	ATLANTA	GA 30316
15 144 02 028	JOHNNIE M SCOTT	1218 LYNWYN LN SE	1218 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 031	ALLEN MCARTHUR	1236 LYNWYN LN SE	1230 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 056	NOBLE REALTY INC	1259 LYNWYN LN SE	P.O. BOX 398	FAIRBURN	GA 30213
15 144 02 058	JOHNNIE MAE GRIGGS	1225 LYNWYN LN SE	1225 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 055	HERITAGE CHILD DEVELOPMENT CENTI	1256 MORELAND AVE SE	1445 FOXHALL LN	ATLANTA	GA 30316
15 144 02 018	CHARLIE M WILLIAMS	1251 EASTLAND RD SE	1251 EASTLAND RD SE	ATLANTA	GA 30316
15 144 02 024	KORDMAN & ASSOCIATES INC	1234 MORELAND AVE	P.O. BOX 398	FAIRBURN	GA 30316
15 144 02 029	ANNIE BELL SIMMS	1224 LYNWYN LN SE	1224 LYNWYN LN SE	ATLANTA	GA 30316
15 144 02 057	KORDMAN & ASSOCIATES INC	1266 MORELAND AVE SE	P.O. BOX 398	FAIRBURN	GA 30213
15 144 02 064	ALPHONSIO DAVIS	1233 LYNWYN LN SE	1233 LYNWYN LN SE	ATLANTA	GA 30316
15 144 04 003	NOBLE REALTY INC	1270 MORELAND AVE	P.O. BOX 398	FAIRBURN	GA 30213
15 144 02 032	AMY M POTTER	1242 LYNWYN LN SE	1242 LYNWYN LN SE	ATLANTA	GA 30316
14 0009 LL0730	CK SPACEMAX MORELAND LLC	1291 MORELAND AVE SE	300 GALLERIA PKWY, SUITE 200	ATLANTA	GA 30339
14 0009 LL0813	MORELAND BOTTLE SHOP INC	1383 MORELAND AVE SE	1391 MORELAND AVE SE	ATLANTA	GA 30316
14 0009 LL0821	MORELAND BOTTLE SHOP INC	1385 MORELAND AVE SE	1391 MORELAND AVE SE	ATLANTA	GA 30316
14 0009 LL0789	MORELAND BOTTLE SHOP INC	1391 MORELAND AVE SE	1391 MORELAND AVE SE	ATLANTA	GA 30316
14 0009 LL1621	RENATA GRAYDON	1325 HEIGHTS PARK DR	1325 HEIGHTS PARK DR	ATLANTA	GA 30316
14 0009 LL1639	JOSEPH KEIFFER CAROTHERS	1326 HEIGHTS PARK DR	1326 HEIGHTS PARK DR	ATLANTA	GA 30316
	HEIGHTS AT GRANT PARK, LLC AND				
14 0009 LL1647	MATTHEW L. BROWN	1330 HEIGHTS PARK DR	4062 PEACHTREE ST NE, SUITE A-277	ATLANTA	GA 30319
14 0009 LL1514	RH LOT HOME BUILDERS INC	0 HEIGHTS PARK DR	4062 PEACHTREE RD NE, SUITE A-277	ATLANTA	GA 30319
14 0009 LL0748	BMI HOLDINGS LLC	1341 MORELAND AVE SE	934 GLENWOOD AVE, SUITE 250	ATLANTA	GA 30316

# EDEN ROCK MORELAND LLC

December 19, 2019 @ 7:00 p.m.  
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Den Webb	1230 Peachtree St, Apt. 30309	djwebb@sgrlaw.com
Joe ISAAC	1445 Foxhall Lane S.E	JoeISAAC45@yahoo.com
Rita Bass	"	Basscuri1771@yahoo.com
Amy Potter	1242 Lynwyn Ln	apotterbrown@gmail.com
Ellen Cheng	1254 Lynwyn Lane	ellenmonster@gmail.com



Chief Executive Officer  
Michael Thurmond

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

Director  
Andrew A. Baker, AICP

**SPECIAL LAND USE PERMIT CHECKLIST**

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

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

**INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED**

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



DEPARTMENT OF PLANNING & SUSTAINABILITY

**SPECIAL LAND USE PERMIT APPLICATION**  
Amendments will not be accepted after 5 working days after the filing date.

Date Received: \_\_\_\_\_ Application No.: \_\_\_\_\_

**APPLICANT NAME:** Eden Rock Moreland, LLC, c/o Dennis J. Webb, Jr.

Daytime Phone #: 404-815-3620 Fax #: 404-685-6920

Mailing Address: 1230 Peachtree Street, Suite 3100, Atlanta, Georgia 30309

E-mail: dwebb@sgrlaw.com

**OWNER NAME:** Eden Rock Moreland, LLC (If  
more than one owner, attach contact information for each owner)

Daytime Phone #: 404-800-5696 Fax #: \_\_\_\_\_

Mailing Address: 550 Pharr Road, Suite 200, Atlanta, Georgia 30305

E-mail: brandon@edenrockre.com

**SUBJECT PROPERTY ADDRESS OR LOCATION:** 1250 Moreland Avenue, Atlanta, Georgia 30316

\_\_\_\_\_, DeKalb County, GA, \_\_\_\_\_

District(s): 15th Land Lot(s): 144 Block(s): \_\_\_\_\_ Parcel(s): \_\_\_\_\_

Acreage or Square Feet: 0.8784 Commission District(s): 3 Existing Zoning: C2

Proposed Special Land Use (SLUP): Add a Drive-Thru Window

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

Owner: \_\_\_\_\_ Agent: ☒ **Signature of Applicant:** [Signature]  
(Check One)

**Printed Name of Applicant:** Eden Rock Moreland, LLC

Notary Signature and Seal:

[Signature]  


DEPARTMENT OF PLANNING & SUSTAINABILITY

**SPECIAL LAND USE PERMIT APPLICATION AUTHORIZATION**

The property owner should complete this form or a similar, signed and notarized form if the individual who will file the application with the County is not the property owner.

Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN:

(I) (WE), Eden Rock Moreland, LLC  
Name of Owner(s)

being (owner) (~~owners~~) of the subject property described below or attached hereby delegate authority to  
Dennis J. Webb, Jr., the law firm of Smith, Gambrell & Russell, LLP and Platinum Donuts, LLC  
Name of Applicant or Agent

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

Joseph Gerl  
Notary Public Joseph Gerl

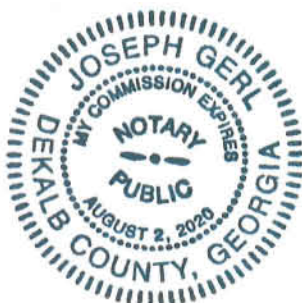
[Signature]  
Owner Eden Rock Moreland, LLC

Brandon Ashkanti  
Manager

Notary Public \_\_\_\_\_ Owner \_\_\_\_\_

Notary Public \_\_\_\_\_ Owner \_\_\_\_\_

Notary Public \_\_\_\_\_ Owner \_\_\_\_\_





Real Estate Transfer Tax \$310.00

Filed and Recorded:

6/11/2019 11:25:44 AM

Debra DeBerry

Clerk of Superior Court  
DeKalb County, Georgia

Recording requested by and  
after recording return to:

Clifford A. Barshay, Esq.  
Candler Abstract Company  
1100 Peachtree Street, Suite 800  
Atlanta, Georgia 30309

STATE OF GEORGIA  
COUNTY OF Fulton

### LIMITED WARRANTY DEED

THIS INDENTURE is made as of this 5<sup>th</sup> day of June, 2019, between ANNA SCOTT KING, CHRISTINE M. BIRD and BRUCE L. WHITMER, as Co-Trustees of the ELK PROPERTIES TRUST (hereinafter collectively referred to as "Grantor") and EDEN ROCK MORELAND, LLC, a Georgia limited liability company (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective successors and assigns where the context requires or permits).

### WITNESSETH:

GRANTOR, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all those certain tracts or parcels of land lying and being in DeKalb County, Georgia (hereinafter referred to collectively as the "Land") as more particularly described in the attached EXHIBIT "A," which exhibit is incorporated herein.

TOGETHER WITH all rights, members, structures, easements, alleys, ways, appurtenances, improvements, chattels, timber, shrubbery, trees, plants, fixtures, privileges, tenements or hereditaments incident or appurtenant thereto (the foregoing, together with the Land, are herein referred to as the "Property").

TO HAVE AND TO HOLD the Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever in FEE SIMPLE.

AND GRANTOR WILL WARRANT and forever defend the right and title to the Property unto Grantee, its successors and assigns, against the claims of any persons owning, holding or claiming by, through or under Grantor.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Grantor has hereunto caused this Indenture to be executed under seal by its duly authorized representative as of the date and year first above written.

Signed, sealed, and delivered in the presence of :

**GRANTOR:**

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

By: *[Signature]* (SEAL)  
Name: Anna Scott King  
Trustee of Elk Properties Trust

(NOTARIAL SEAL)

Signed, sealed, and delivered in the presence of :

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

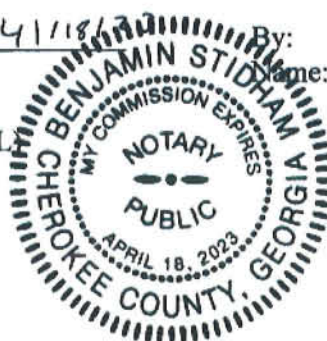
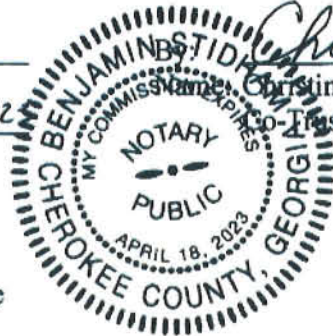
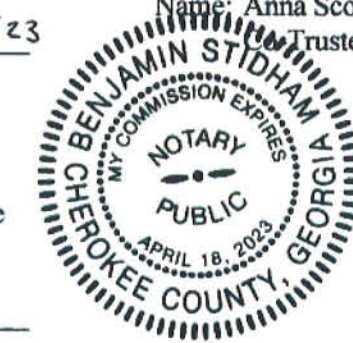
(NOTARIAL SEAL)

Signed, sealed, and delivered in the presence of :

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

(NOTARIAL SEAL)



By: *[Signature]* (SEAL)  
Name: Bruce L. Whitmer  
Co-Trustee of Elk Properties Trust

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in the City of Atlanta in Land Lot 144 of the 15th District of DeKalb County, Georgia and being more particularly described as follows:

Beginning at a point of intersection of the East right-of-way line of Moreland Avenue with the South right-of-way line of Lynwyn Lane (said Moreland Avenue having been widened as shown in Deed Book 1714, Page 634, Records of DeKalb County); running thence South along the East right-of-way line of Moreland Avenue 150 feet to a point; running thence East 255 feet to a point on the West right-of-way line of a proposed 50 foot street; running thence North along the West right-of-way line of said proposed street 150 feet to the point of intersection of the West right-of-way line of said proposed street with the South right-of-way line with the South right-of-way line of Lynwyn Lane; running thence West along the South right-of-way line of Lynwyn Lane 255 feet to the point of beginning; being improved property and known as 1250 Moreland Avenue, S.E., Atlanta, Georgia.

And being the same property acquired by Edward Lewis King, Jr. by Warranty Deed, dated September 15, 1983, from Equipment Exchange, Inc., recorded at Deed Book 4837, Page 188, DeKalb County, Georgia Records.

2019089917

DEED BOOK

27601 Pg 429



Real Estate Transfer Tax \$0.00

Filed and Recorded:

6/11/2019 11:25:44 AM

Debra DeBerry

Clerk of Superior Court  
DeKalb County, Georgia

Recording requested by and  
After recording return to:

Clifford A. Barshay, Esq.  
Candler Abstract Company  
1100 Peachtree Street, Suite 800  
Atlanta, Georgia 30309

STATE OF GEORGIA  
COUNTY OF Fulton

### QUITCLAIM DEED

THIS INDENTURE, made as of the 5<sup>th</sup> day of June, 2019, between ANNA SCOTT KING, CHRISTINE M. BIRD and BRUCE L. WHITMER, as Co-Trustees of the ELK PROPERTIES TRUST (hereinafter collectively referred to as "Grantor"), and EDEN ROCK MORELAND, LLC, a Georgia limited liability company (hereinafter referred to as "Grantee") (hereinafter referred to as "Grantee") (the words "Grantor" and "Grantee" to include their respective heirs, legal representatives, successors, and assigns where the context requires or permits).

### WITNESSETH:

That the said party of the first part for and in consideration of the sum of ONE AND NO/100 DOLLARS (\$1.00) and other valuable consideration, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release and forever quit-claim to the said party of the second part, its successors and assigns, all the right, title, interest, claim or demand which the said party of the first part has or may have had, if any, in and to the following described property, without recourse, representation or warranty of any kind:

All that tract or parcel of land lying and being in DeKalb County, Georgia more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Land"),

Together with all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

For the same consideration, Grantor hereby conveys unto Grantee, all interest, if any, of Grantor in strips and gores between the Land and abutting properties and any land lying in or under the bed of any street, alley, road or right of way, open or proposed, abutting or adjacent to the Land (all of said Land and interest being collectively referred to as the "**Property**").

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first written above.

Signed, sealed, and delivered in the presence of:

**GRANTOR:**

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

By: *[Signature]* (SEAL)  
Name: Anna Scott King  
Co-Trustee of Elk Properties Trust

(NOTARIAL SEAL)

Signed, sealed, and delivered in the presence of:

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

(NOTARIAL SEAL)

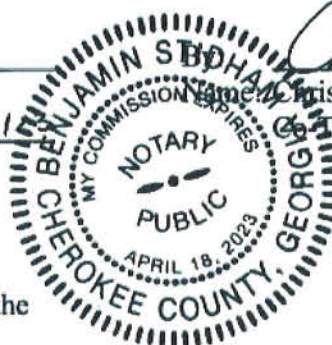
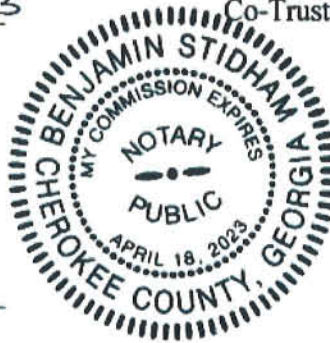
Signed, sealed, and delivered in the presence of:

*[Signature]*  
Unofficial Witness

*[Signature]*  
Notary Public  
My Commission Expires: 4/18/23

(NOTARIAL SEAL)

By: *[Signature]* (SEAL)  
Name: Bruce L. Whitmer  
Co-Trustee of Elk Properties Trust



**EXHIBIT "A"****LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 144, 15TH LAND DISTRICT, DEKALB COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 CAPPED REBAR SET AT THE SOUTHEASTERN RIGHT OF WAY INTERSECTION OF MORELAND AVENUE - U.S. 23 (VARIABLE R/W) AND LYNWYN LANE (50' R/W) SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERN RIGHT OF WAY LINE OF LYNWYN LANE (50' R/W) S 89°25'06" E A DISTANCE OF 255.01' TO A #4 REBAR FOUND AT THE SOUTHWESTERN RIGHT OF WAY INTERSECTION OF LYNWYN LANE (50' R/W) AND GYPSUM COURT (50' R/W); THENCE ALONG THE WESTERN RIGHT OF WAY LINE OF GYPSUM COURT (50' R/W) S 00°40'55" W A DISTANCE OF 150.27' TO A T-POST FOUND; THENCE LEAVING THE AFORESAID RIGHT OF WAY LINE N 89°21'39" W A DISTANCE OF 254.70' TO A #4 CAPPED REBAR SET ALONG THE EASTERN RIGHT OF WAY LINE OF MORELAND AVENUE - U.S. 23 (VARIABLE R/W); THENCE ALONG THE EASTERN RIGHT OF WAY LINE OF MORELAND AVENUE - U.S. 23 (VARIABLE R/W) N 00°33'55" E A DISTANCE OF 150.01' TO A #4 CAPPED REBAR SET AT THE SOUTHEASTERN RIGHT OF WAY INTERSECTION OF MORELAND AVENUE (VARIABLE R/W) AND LYNWYN LANE (50' R/W) SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID PARCEL HAVING AN AREA OF 38,263 SQUARE FEET, OR 0.8784 ACRES

EXHIBIT "A"

**LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in the City of Atlanta in Land Lot 144 of the 15th District of DeKalb County, Georgia and being more particularly described as follows:

Beginning at a point of intersection of the East right-of-way line of Moreland Avenue with the South right-of-way line of Lynwyn Lane (said Moreland Avenue having been widened as shown in Deed Book 1714, Page 634, Records of DeKalb County); running thence South along the East right-of-way line of Moreland Avenue 150 feet to a point; running thence East 255 feet to a point on the West right-of-way line of a proposed 50 foot street; running thence North along the West right-of-way line of said proposed street 150 feet to the point of intersection of the West right-of-way line of said proposed street with the South right-of-way line with the South right-of-way line of Lynwyn Lane; running thence West along the South right-of-way line of Lynwyn Lane 255 feet to the point of beginning; being improved property and known as 1250 Moreland Avenue, S.E., Atlanta, Georgia.

And being the same property acquired by Edward Lewis King, Jr. by Warranty Deed, dated September 15, 1983, from Equipment Exchange, Inc., recorded at Deed Book 4837, Page 188, DeKalb County, Georgia Records.











**STATEMENT OF INTENT**

and

Other Material Required by  
DeKalb County Zoning Ordinance

Special Land Use Permit Application

of

PLATINUM DONUTS, LLC

for

±0.8784 acres of land located in  
Land Lot 144, 15th District  
1250 Moreland Avenue

Submitted for Applicant by:

Kathryn M. Zickert  
Dennis J. Webb, Jr.  
J. Alexander Brock  
Smith, Gambrell & Russell, LLP  
Promenade Suite 3100  
1230 Peachtree Street, NE  
Atlanta, Georgia 30309  
(404) 815-3500

## **I. INTRODUCTION**

This Application seeks a Special Land Use Permit to allow for the redevelopment of a ± 0.8784 acre tract of land located in Land Lot 144, 15<sup>th</sup> District, DeKalb County, known as 1250 Moreland Avenue (the “Subject Property”) for a proposed Dunkin Donuts/Baskin Robins coffee shop/ice cream parlor with a drive-thru. The Applicant plans to renovate the existing ±1,890 square foot structure and update the site with certain improvements, including a ±700 square foot outdoor dining area (“Proposed Development”). The Subject Property is zoned C-2 (General Commercial District) and the Proposed Development is entirely consistent with the current zoning. The drive-thru use, however, is subject to the grant of a Special Land Use Permit (“SLUP”) pursuant to DeKalb County, Georgia Code of Ordinances (“DeKalb Code”) Table 4.1 and § 27-4.2.23.

The Subject Property is currently occupied by a used car dealership, however, in the past the property and the existing building housed a drive-thru restaurant. The re-establishment of the drive-thru restaurant use will bring back a use that is compatible with the surrounding zoning and existing uses. The Subject Property is bordered to the south by the Early Achievers Preschool day care, zoned C-2. To the west, the Subject Property abuts the right-of-way of Moreland Avenue and further to the west, across Moreland Avenue is property within the City of Atlanta, zoned MRC-1 (Mixed Residential Commercial-1) that formerly contained the El Mexicano Restaurant. To the north, the Subject Property abuts the right-of-way of Lynwyn Lane and further to the north, across Lynwyn Lane, is Thank God Used Tires, zoned C-2, as well as single family residential lots located at 1202 and 1208 Lynwyn Lane, zoned R-75 (Residential Medium Lot-75). To the east, the Subject Property abuts the right-of-way of Gypsum Court and further to



the east, across Gypsum Court is a property containing a single family residence and zoned R-75. It should be noted that the property is immediately surrounded on all sides by right-of-way or other commercial properties. The closest residential properties are located across right-of-way and those to the east are buffered by significant natural vegetation; the Subject Property contains floodplain along its eastern boundary, which will remain undisturbed in the proposed site design, and the undisturbed buffer will lessen any noise and visual impacts of the proposed drive-thru on the adjacent residences.

In addition to being compatible with the neighboring uses, the Proposed Development will help improve the surrounding community. Much of the recent development along Moreland Avenue has been focused to the north, closer to I-20, while the remainder of the corridor has remained stagnant. The Subject Property is an excellent example of this stagnation. The Lanier Motors used car dealership has occupied the Subject Property for the past 12 years, with several other car dealerships predating Lanier's occupation. The building that houses the car dealership is in disrepair and the lot is surrounded on all four sides with a barbed wire security fence, creating an unattractive, unwelcoming visual along a heavily traveled thoroughfare.

The Applicant intends to keep the existing structure and renovate it with a modern, more fashionable façade to improve the overall appearance of the site, as reflected in the drawings submitted with the application. Also, the Proposed Development will include many site improvements, including the removal of the security fence along the frontage and the addition of a new patio area with outdoor seating. The effect of this is to create a much more appealing and inviting use that will not only improve the aesthetic appeal, but will encourage foot traffic into

the site. In all, this is the exact type of development needed to spur further redevelopment along this portion of Moreland Avenue.

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

## **II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS**

- A. 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.**

The Subject Property is  $\pm 0.8784$  acres, which is more than adequate land area for the proposed use, including the provision of all required yards, open space, off-street parking, and all other applicable requirements of the C-2 district in which the use is proposed to be located. The appropriateness of the site for a drive-thru restaurant use is evidenced by a number of factors, including its location on a major arterial and the fact that the Subject Property and the existing building previously contained a drive-thru restaurant.

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

As noted in the paragraphs above, the Proposed Development is appropriate given the surrounding land uses. The Subject Property is surrounded by commercial properties and/or right-of-ways on three sides. The Subject Property also contains areas of flood plain to the east which will remain undisturbed throughout and after development. The flood plain will act as a natural vegetated buffer between the proposed drive-thru and the adjacent residential, mitigating

visual and sound effects.

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

The Subject Property is currently served by water and sewer and access to other public services and facilities. It is anticipated that adequate service will continue for the Proposed Development.

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

According to the ITE Trip Generation Manual, the ±1,890 square foot donut shop with a drive-thru (ITE category 940, Bread/Donut/Bagel Shop with Drive-Thru) will generate a net increase of 68.76 trips during the weekday A.M. peak hour, and 30.60 trips during the weekday P.M. peak hour.<sup>1</sup> The surrounding roadways are more than adequate to handle the amount of traffic coming from the Proposed Development. In particular, Moreland Avenue is classified as a Major Arterial per the DeKalb County 2014 Transportation Plan Existing Conditions Map, which indicates that it is intended to accommodate large amounts of vehicular traffic. Consequently, the trips generated by the Proposed Development will have little to no noticeable impact on the roadways.

Furthermore, the impact of any trips is further reduced by the operation of the proposed use. Most drive-thru restaurants have their busiest operating hours at lunch and/or dinner times, however the proposed Dunkin Donuts is anticipated to have much higher traffic in the morning hours than at lunch or dinner. Moreover, most of those trips are not generated trips, but trips

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<sup>1</sup> The proposed trips are a net increase over the existing use of automobile sales (ITE category 841).



captured as pass-by trips. In other words, the cars are already on the street going to another destination (e.g. people on the way to work) that stop to get coffee or donuts along their way. As a result, the Proposed Development will, in reality, produce less trips than shown above due to capturing business from cars that would be on the roadways regardless.

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

The Subject Property is located directly on Moreland Avenue, a major arterial which is intended to carry a large volume of traffic. The Proposed Development will utilize three already existing curb cuts: two on Moreland Avenue and one on Lynwyn Lane. It is anticipated, however, that the overwhelming majority of the traffic entering and exiting the site will be from Moreland Avenue, which can easily handle the cars entering and exiting the site. In addition, the adjacent Lynwyn Lane is a dead-end street with no through traffic and the only cars entering or exiting the site from the curb-cut on Lynwyn Lane are likely from residents on Lynwyn Lane.

**F. Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular references to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.**

As noted in the previous paragraphs, the Subject Property is served by three curb cuts which will remain after the renovation of the site. These same curb cuts adequately serve the existing used car dealership and adequately served the prior restaurant use in the past. Therefore, there will be adequacy of ingress and egress to the Subject Property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire, or other emergency.

**G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.**

No. As stated in previous paragraphs, the Proposed Development is surrounded on three sides by other commercial uses or right-of-ways. The residential further to the east will be buffered from the impact of the drive-thru by the existing natural vegetation in the floodplain, as well as mitigating measures as required by DeKalb Code §27-4.2.3. In addition, the Proposed Development will replace a much more intrusive existing commercial use. In particular, the Lanier Motors dealership contains an automobile repair shop at the rear of the existing building, the side closest to the residences along Gypsum Court. Automobile repair is typically a use that typically produces noise, smoke, odor, dust, and vibration in its normal operation. In contrast, the proposed drive-thru will not generate any smoke, odor, dust, or vibration and the little noise produced by the speaker box will be mitigated as discussed in the paragraphs above.

**H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.**

No. The proposed hours of operation will be similar to those of other businesses in the area.

**I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.**

No. As noted in the paragraphs above, the impacts from the proposed drive thru-will be mitigated by the existing buffers and proposed measures required by the supplemental use ordinance, thereby limiting its effects on the residential properties to the east.

**J. Whether or not the proposed plan is consistent with all of the requirements of the zoning district classification in which the use is proposed to be located.**

Yes. The Subject Property is zoned C-2 and is allowed in that district subject to the grant

of a SLUP. It should also be reiterated that Proposed Development will be fully compliant with the site dimensional requirements of the C-2 district.

**K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan.**

The Subject Property is designated as “Commercial Redevelopment Corridor” (CRC) by the County’s Comprehensive Land Use Plan. The CRC character area allows for retail and commercial uses and encourages renovations of existing buildings to improve the aesthetic appearance along major roadways. The proposed use is fully allowed within this character area, and promotes the following specific goals and strategies of the County’s Land Use Plan.

- 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.
- Architectural Standards—Upgrade the appearance of existing older commercial buildings with façade improvements.

**L. Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located.**

Yes. The Proposed Development will adhere to the site dimensional and landscaping requirements prescribed by the DeKalb County Code of Ordinances for the C-2 district.

**M. Whether or not there is adequate provision of refuse and service areas.**

Yes. The proposed site plan shows adequate provision for refuse and service areas.

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



No. The proposed use is a permanent use and a time limitation is neither necessary nor appropriate.

**O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of the adjacent and nearby lots and buildings.**

Yes. The existing structure is of adequate size for the proposed use and is consistent with the size and scale of other surrounding commercial developments.

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

No. The proposed use will not adversely affect historic buildings, sites, districts, or archaeological resources.

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

Yes. The drive-thru facility meets the requirements of Zoning Code § 27-4.2.23. Specifically, the drive-thru facility will:

- (a) not be located within 60 feet of a residentially zoned property (the drive-thru facility is  $\pm 144$  feet from the nearest residentially zoned property, as measured from the speaker box);
- (b) not be located on a property less than 10,000 square feet in area and meet the stacking requirements of Article VI (Subject Property is  $\pm 38,263$  square feet (0.8784 acres) and provides 8 stacking spaces);
- (c) provide drive-thru lanes and service windows on the side of the restaurant;
- (d) have canopies constructed of the same materials and be of the same architectural quality as the primary buildings;

- (e) meet the requirements for speaker boxes (the speakers are directed away from residential properties and will face a vegetated buffer to the east);
- (f) have lighting which will be directed away from any residential properties;
- (g) provide sufficiently sized stacking spaces for a drive through restaurant (the proposed design provides for stacking spaces that are 10 feet wide and 25 feet long);
- (h) provide a sufficient number of stacking spaces (3 spaces required and 8 spaces are provided);
- (i) incorporate the standards applicable to all stacking spaces and drive-through facilities:
  - (1) The proposed drive-thru lane provides sufficient stacking depth so that it will not impede on and off-site traffic, cross through off-street parking areas, or create unsafe conditions for pedestrians;
  - (2) The Proposed Development will provide a marked drive-thru lane separated by striping from off-street parking areas;
  - (3) The Proposed Development includes a bypass lane with a minimum width of 10' ( $\pm 12'$  provided);
  - (4) The proposed drive-thru will be set back at least 5' from all lot lines and right-of-way lines;
  - (5) The proposed drive-thru will be cleaned of litter and debris daily, along with the remainder of the property;
  - (6) The proposed drive-thru is not located within 500 feet of an elementary, middle or high school;



(7) Not Applicable; and

(8) The above analysis uses the appropriate distance measurements.

**R. Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.**

There will be no negative shadow impact on any adjoining lot. The existing structure is a single-story building that will remain at the same height after the proposed renovations. Given the size, location, trees, and distance, the proposed restaurant will not create a negative shadow impact on any adjoining lot or building.

**S. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

As noted in the paragraphs above, the proposed use is compatible with the objectives of the Comprehensive Plan, most specifically with providing opportunities for façade renovation and aesthetically pleasing development in DeKalb County. In addition, the Proposed Development will bring a much needed boost to the vitality of this section of Moreland Avenue.

### **III. PRESERVATION OF CONSTITUTIONAL RIGHTS**

As owner of the property, the Applicant respectfully submits that the current zoning classification of and rules relative to a drive-thru restaurant's right to use the Subject Property established in the DeKalb County Zoning Ordinance, to the extent they prohibit this use, are unconstitutional, and constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Property owners in violation of the due process and equal protection rights of the property owner 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 the owner's 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.

Further, the Applicant respectfully submits that the Board of Commissioners' failure to approve the requested Special Land Use Permit would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Property 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 development 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 development 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.

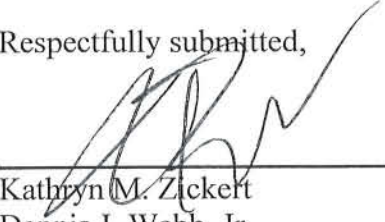
Opponents to this request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal by failing to assert legal and constitutional objections.

#### IV. CONCLUSION

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

This \_\_\_\_ day of January, 2020.

Respectfully submitted,



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

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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

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

Yes ☒ No ☐

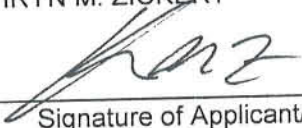
If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

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 to the Board of Commissioners of DeKalb County, 1300 Commerce Drive, Decatur, GA 30030.

\_\_\_\_\_  
Notary

KATHRYN M. ZICKERT

  
\_\_\_\_\_  
Signature of Applicant/Date

Check one: Owner ☐ Agent ☒

\_\_\_\_\_  
Expiration Date/Seal

\*Notarization is not needed if the response is "No".





404.371.2155 (o)  
404.371.4556 (f)  
DeKalbCountyGa.gov

**Clark Harrison Building**  
330 W. Ponce de Leon Ave  
Decatur, GA 30030

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DENNIS J. WEBB, JR

Signature of Applicant/Date

Check one: Owner \_\_\_\_\_ Agent ✓

Notary

Expiration Date/Seal

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**CAMPAIGN CONTRIBUTION LIST**

CANDIDATE	AMOUNT	DATE	CONTRIBUTOR
Jeff Rader	\$500.00	01/29/2018	Kathryn M. Zickert
Jeff Rader	\$500.00	01/29/2018	Dennis J. Webb, Jr.
Jeff Rader	\$2,000.00	01/29/2018	Smith, Gambrell & Russell, LLP
Steve Bradshaw	\$500.00	06/04/2019	Dennis J. Webb, Jr.



**DEPARTMENT OF PLANNING & SUSTAINABILITY**

**DISCLOSURE OF CAMPAIGN CONTRIBUTION**

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Yes \_\_\_\_\_ No X

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\_\_\_\_\_  
Notary

  
Signature of Applicant/Date

Check one: Owner \_\_\_\_\_ Agent X

\_\_\_\_\_  
Expiration Date/Seal

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DeKalb County

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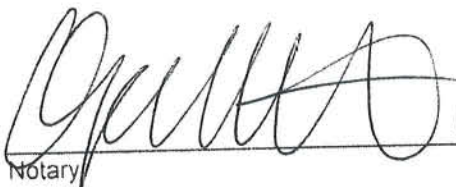
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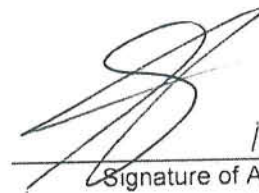
Yes \_\_\_\_\_ No \_\_\_\_\_

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 12/30/19  
Notary

 12/30/19  
Signature of Applicant/Date

Check one: Owner ☒ Agent ☐

05/31/2022  
Expiration Date/Seal



\*Notarization is not needed if the response is "No".

**DEPARTMENT OF PLANNING & SUSTAINABILITY**

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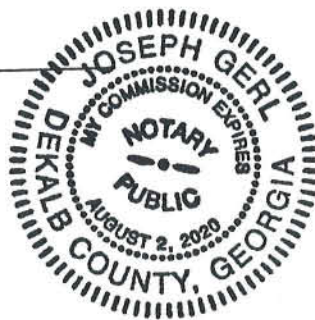
Yes \_\_\_\_\_ No X

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Joseph Gerl  
Notary Joseph Gerl



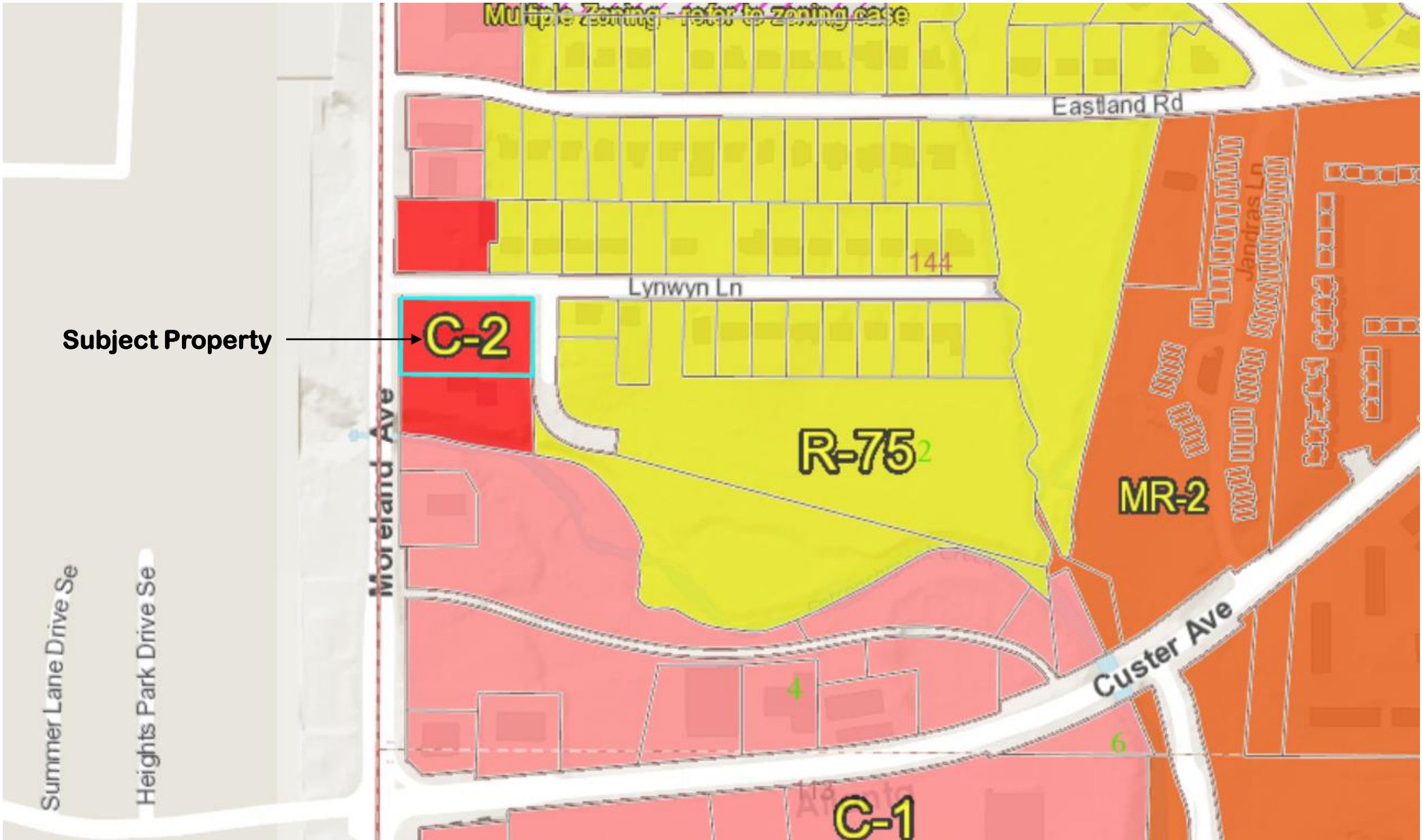
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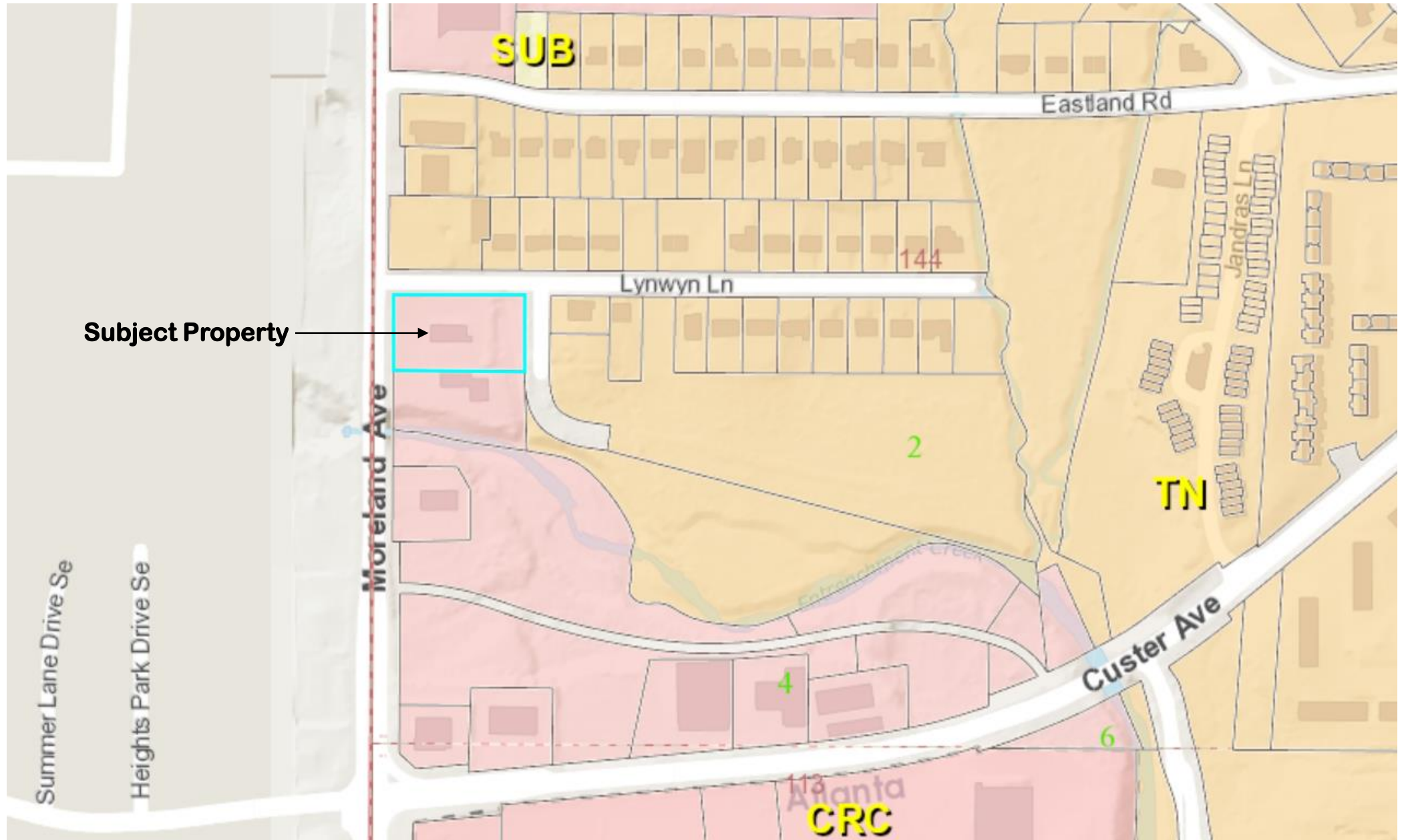
[Signature]  
Signature of Applicant/Date

Check one: Owner X Agent \_\_\_\_\_

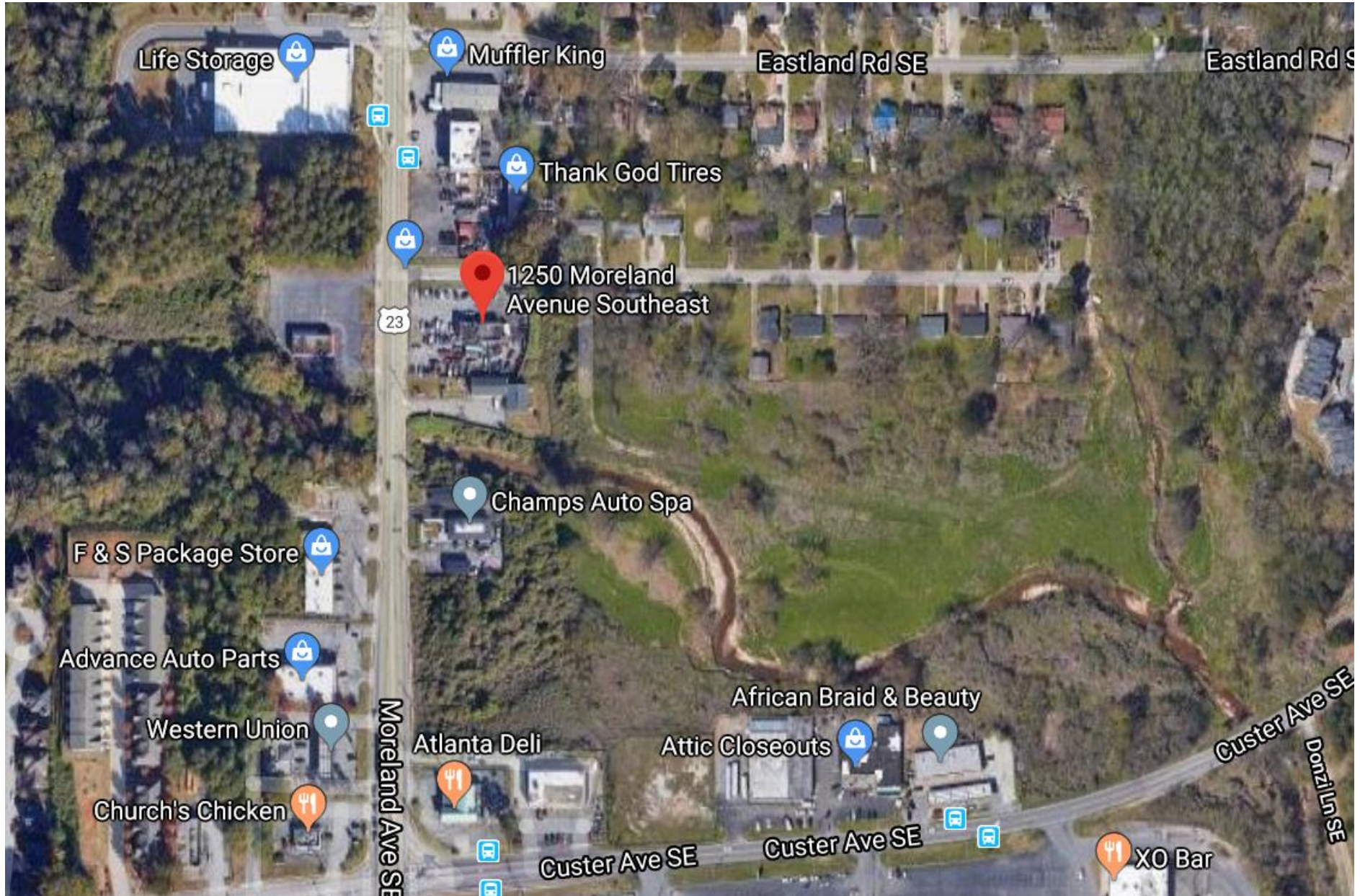
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**View from  
Moreland Avenue**

**View from Moreland  
Avenue and Lynwyn  
Lane**



