



DeKalb County Government

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

Agenda Item

File #: 2019-4713

1/28/2020

File Status: Preliminary Item

Public Hearing: YES ☒ NO ☐

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): 3 & 7

Application of Mack III Development, LLC c/o Battle Law, P.C. for a major modification to remove conditions of CZ-91039, CZ-90052, and CZ-89033 to allow for a mixed-use development in accordance with the I-20 Overlay District, at 1816 Candler Road.

PETITION NO: N7. CZ-20-1243619 (2019-4713)

PROPOSED USE: Mixed Use Development

LOCATION: 1816 Candler Road

PARCEL NO. : 15 170 13 030

INFO. CONTACT: Marian Eisenberg

PHONE NUMBER: 404-371-4922

PURPOSE:

Application of Mack III Development, LLC c/o Battle Law, P.C. for a major modification to remove conditions of CZ-91039, CZ-90052, and CZ-89033 to allow for a mixed-use development in accordance with the I-20 Overlay District. The property is located on the east side of Candler Road at 1816 Candler Road. The property has approximately 362 feet of frontage along Candler Road, 46 feet of frontage along Glenwood Road and 614 feet of frontage along Glenhill Place and contains 5.60 acres.

RECOMMENDATION:

COMMUNITY COUNCIL: Denial.

PLANNING COMMISSION: Approval with Conditions.

PLANNING STAFF: Approval with modified conditions.

STAFF ANALYSIS: The 2035 Comprehensive Land Use Plan designates the subject property within the Commercial Redevelopment Corridor (CRC) Character Area. The intent of this character area is to promote the redevelopment of declining commercial corridors and to improve the function and aesthetic appeal of more stable commercial corridors. While the subject property abuts strip-style shopping centers, the proposed mixed-use development realizes the policies and intent of the comprehensive plan through enhancing this corridor by adding density, streetscaping and mixed-use redevelopment. The current zoning conditions restrict the use for

the subject property to truck storage buildings and outdoor storage which underutilizes the land use. Therefore, staff recommends, “Approval for the major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District, with conditions”.

PLANNING COMMISSION VOTE: Approval with modified conditions 9-0-0. V. Moore moved, E. Patton seconded for Approval with conditions, per Staff recommendation with an added sentence to condition #1 to read: This application does not preclude variance applications”; and an added condition #2 to read: “No access to Glenhill Place”.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: Denial 7-2-1. Members in opposition thought that the number of units, described by the applicant as approximately 200, would be too high. They wanted to see specifics of the proposal, including a site plan and elevations.

Recommended Conditions

CZ-20-1243619

1. Must comply with the Interstate 20 Corridor Compatible Use Overlay District with plans that show building setbacks, height of building and structures, density, density bonus (if applicable), required parking, open space calculations, transitional buffer zone and transitional height, elevations complying with architectural regulations and landscaping requirements. Variances may be obtained from appropriate regulatory authorities.
2. Access to and from Glenhill Place shall be prohibited.



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: January 07, 2020, 6:30 P.M
Board of Commissioners Hearing Date: January 28, 2020, 6:30 P.M.

STAFF ANALYSIS

Case No.: CZ-20-1243619 **Agenda #:** N. 7

Location/Address: 1816 Candler Road **Commission District:** 03 **Super District:** 07

Parcel ID: 15-170-13-030

Request: A major modification to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District.

Property Owner/Agent: Mack III Development, LLC

Applicant/Agent: Mack III Development, LLC c/o Battle Law P.C.

Acreage: 5.60 acres

Existing Land Use: Vacant building(s) and undeveloped land

**Surrounding Properties/
Adjacent Zoning:** The properties to the west, across Candler Road, and north, across Glenwood Road, are zoned C-2 (General Commercial) District consisting of various commercial uses. The properties to the east, across Glenhill Place, are zoned C-1 (Local Commercial) District and R-75 (Residential Medium Lot-75) District consisting of offices and single-family detached residences. The properties to the south are zoned O-I (Office Institutional) District and R-75 (Residential Medium Lot-75) District consisting of single-family residences.

Comprehensive Plan: Commercial Redevelopment Corridor (CRC)



Consistent



Inconsistent

Proposed Density: N/A	Existing Density: N/A
Proposed Square Ft.: N/A	Existing Units/Square Feet: N/A
Proposed Lot Coverage: N/A	Existing Lot Coverage: N/A

Zoning History

In 1989, the subject property was rezoned from R-75 (Residential Medium Lot-75) to C-2 (General Commercial) by The Georgia Power Company to allow for the development of truck storage buildings and outdoor storage with the following zoning conditions:

CZ-89033

1. The existing structures are removed.
2. The new use is for truck storage buildings and outdoor storage as requested.
3. No access is permitted to Glenhill Place per Public Works memorandum of 2/2/89.
4. The east and south property lines are fenced, and vegetation screen is planted along the inside of the new fence.

CZ-90052

1. The existing structures are removed.
2. Use is limited to parking, storage, or offices for Georgia Power Company.
3. Property lines on the north, south, and east are fenced and vegetation screening is planted along the inside of the new fence.
4. Variances to buffers are considered only when a site plan is prepared and submitted to the county.
5. No access to Glenhill Place.

CZ-91039

1. The property is used for parking, storage, or offices for the expansion of Georgia Power Company.
2. The fencing and vegetation planting is continued on these two tracts consistent with the adjoining parcels.
3. No access to Glenhill Place.

Project Analysis

The subject property is in the Interstate 20 Corridor Compatible Use Overlay District. This requires an addition development review for compliance with the overlay district. The submitted conceptual site plan depicts a mixed use building that borders Candler Road and Glenwood Road with office and retail on the first floor and multi-family units on the upper floors. An entry/exit is proposed off Candler Road and Glenhill Place. The interior of the mixed-use development is showing surface parking with a possible parking deck/ramp. A park is proposed at the corner of Glenwood Road and Glenhill Place and along the southern border.

The underlying zoning is C-2 (General Commercial) which allows for the current uses on the subject property. The proposed mixed-use development would not be permitted due to multi-family dwellings not being a permitted use in the C-2 zoning district. However, the Interstate 20 Corridor Compatible Use Overlay District allows for the proposed mixed-use development with multi-family dwellings.

The Interstate 20 Corridor Compatible Use Overlay District requires plans that shows building setbacks, height of building and structures, density, density bonus (if applicable), required parking, open space calculations, transitional buffer zone and transitional height, elevations complying with architectural regulations and landscaping requirements.

Land Use and Zoning Analysis

Section 27-832 of the Zoning Ordinance, “Standards and factors governing review of proposed amendments to the official zoning map” states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.

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

The major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the I-20 overlay district is in conformity with the policy and intent for the 2035 Comprehensive Land Use Plan. The 2035 Comprehensive Land Use Plan designates the subject property within the Commercial Redevelopment Corridor (CRC) Character Area. The intent of this character area is to promote the redevelopment of declining commercial corridors and to improve the function and aesthetic appeal of more stable commercial corridors. While the subject property abuts strip-style shopping centers, the proposed mixed-use development realizes the policies and intent of the comprehensive plan through enhancing this corridor by adding density, streetscaping and mixed-use redevelopment. The current zoning conditions restrict the use for the subject property to truck storage buildings and outdoor storage which underutilizes the land use.

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 major modification to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District would be a suitable use and development that is compatible with adjacent and nearby properties. The subject property is surrounded by C-1 (Local Commercial) and C-2 (General Commercial) zoning districts to the north and west. The southern property line abuts O-I (Office-Institutional) and R-75 (Residential Medium Lot – 75). Glenhill Place separates the subject property from single family residences which are also zoned R-75 (Residential Medium Lot – 75).

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

No change is proposed to the underlying zoning of the property. The zoning conditions restrict the economic use of the property by limiting development to truck storage buildings and outdoor storage when the conditions were approved in 1989, 1990 and 1991. The current vacant land and buildings has no reasonable economic use as currently zoned with conditions.

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

Adjacent and nearby properties are currently either undeveloped and wooded or commercial businesses. The major modification to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District will not adversely affect the existing or usability of adjacent or nearby properties.

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:

There are no other existing or changing conditions affecting the use and development of the subject property. The major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 at 1816 Candler Road to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District.

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

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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 major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the I-20 overlay district will not result in an excessive or burdensome use on the existing streets, transportation facilities, utilities and schools but will have the following impacts;

The DeKalb County Department of Public Works – Transportation Division has the following comments in addition to following I-20 Overlay District Tier 2 requirements:

Candler Road is classified as a major arterial.

- Georgia Department of Transportation review required for Candler Road
- Minimum Right-Of-Way (ROW) dedication 50 feet from centerline (or all public infrastructure on right-of-way including street lights, whichever is greater)
- Six-foot sidewalks; Ten-foot landscape strip, street trees
- Four-foot bike lane
- Pedestrian scale street lights

Glenwood Road is classified as a major arterial.

- Minimum Right-Of-Way (ROW) dedication 40 feet from centerline (or all public infrastructure on right-of-way including street lights, whichever is greater)
- Six-foot sidewalks; Ten-foot landscape strip, street trees
- Four-foot bike lane
- Pedestrian scale street lights

Glenhill Place is classified as a local residential.

- Minimum Right-Of-Way (ROW) dedication 27.5 feet from centerline (or all public infrastructure on right-of-way including street lights, whichever is greater.)
- Five-foot sidewalk; Six-foot landscape street; street trees
- Pedestrian scale street lights

If using, Glenhill Place for access, the developer needs to add a left turn lane on Glenwood Road, must extend the left turn lane on Glenwood Road at Candler Road to provide LT storage into the development. Traffic study required. Provide a direct pedestrian path from public sidewalks on right-of-way to the destinations within the subject property to support transit. A professional engineer to verify sight distance at all access points per

ASSHTO guidelines must be submitted with permitting. Per the submitted site plan, access is proposed on Glenhill Place.

The DeKalb County Planning and Sustainability Department – Land Development Division provided the following comments: Stormwater management is required per Chapter 14-40; A hydrology report with a detention pond. The submitted sketch does not show detention pond or indicate if it is underground. The volume generated by this new development will require a dedicated lane into or possible exiting the development to the intersection.

The Dekalb County School District did not provide a school impact assessment because the applicant did not submit the necessary proposed units for this mixed-use development.

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

The major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the I-20 overlay district would not adversely impact the environment or surrounding natural resources.

Staff Recommendation: APPROVAL WITH CONDITIONS

The 2035 Comprehensive Land Use Plan designates the subject property within the Commercial Redevelopment Corridor (CRC) Character Area. The intent of this character area is to promote the redevelopment of declining commercial corridors and to improve the function and aesthetic appeal of more stable commercial corridors. While the subject property abuts strip-style shopping centers, the proposed mixed-use development realizes the policies and intent of the comprehensive plan through enhancing this corridor by adding density, streetscaping and mixed-use redevelopment. The current zoning conditions restrict the use for the subject property to truck storage buildings and outdoor storage which underutilizes the land use. Therefore, staff recommends approval for the major modification request to remove zoning conditions CZ-89033, CZ-90052, and CZ-91039 to allow for mixed use development, Candler Crossing, in the Interstate 20 Corridor Compatible Use Overlay District with the following condition.

1. Must comply with the Interstate 20 Corridor Compatible Use Overlay District with plans that show building setbacks, height of building and structures, density, density bonus (if applicable), required parking, open space calculations, transitional buffer zone and transitional height, elevations complying with architectural regulations and landscaping requirements. Variances may be obtained from appropriate regulatory authorities.
2. Access to and from Glenhill Place shall be prohibited.

Attachments:

1. Department and Division Comments
2. Application
3. Site Plan
4. Zoning Map
5. Land Use Plan Map
6. Aerial Photograph
7. 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.

Zonings

N1. No Comment

N2. Provide pedestrian connections from the apartments to the sidewalks on public right of way for each access point. Ensure that all access points have the required AASHTO sight distance. Landscaping may need to be modified to obtain. If middle driveway on Rockbridge does not have existing sight distance, eliminate access point. Submit sight distance calculation by a professional engineer at time of permitting. Add streetlighting at access points. Make sure driveway aprons meet current ADA requirements. See GDOT driveway detail.

N3. No comment.

N4. GDOT review and approval required prior to permitting. Provide a direct pedestrian path from the right of way to the subject building.

N5. Windy Hill Road is classified as a local residential road. Please see Section 14-190 for requirements to bring your side up to current standards. Widen 12 feet from centerline of road, dedicate 27.5 feet of right of way from centerline. 5-foot sidewalks, 6-foot landscape strip and pedestrian scale street lighting required. Fill in any gaps in sidewalk from subject property down to Tilson Road. Verify by a professional engineer that sight distance at the new road meets all applicable AASHTO standards.

N6. GDOT review and approval needed prior to permitting. Wilkinson Dr and Warren St are both local roads. Please see Section 14-190 for requirements to bring your side up to current standards. 24-foot wide road, header curb, dedicate 27.5 feet of right of way from centerline, 5-foot sidewalks, 6-foot landscape strip and pedestrian scale street lighting required. Provide direct pedestrian paths to destinations within the subject property. GDOT approval needed for driveway throat length off Memorial Drive.

N7. GDOT review and approval required for Candler Road (SR 155). Candler Road is classified as a major arterial. Falls within the I-20 Overlay District Tier 2. Follow infrastructure requirements of the overlay district. At a minimum- ROW dedication 50 feet from centerline (or all public infrastructure on right of way- including street lights, whichever ever greater), 6-foot sidewalk, 10 foot landscape strip, Street trees, 4 foot bike lane, pedestrian scale street lights required. Glenwood is classified as a minor arterial. At a minimum-ROW dedication 40 feet from centerline (or all public infrastructure on right of way- including street lights, whichever ever greater), 6-foot sidewalk, 10 foot landscape strip, pedestrian scale, 4-foot bike lane, street trees, street lights required. Glenhill is classified as a local residential. At a minimum- ROW dedication 27.5 feet from centerline (or all public infrastructure on right of way- including street lights, whichever ever greater), 5-foot sidewalk, 6-foot landscape strip, Street trees, pedestrian scale street lights required. If using Glenhill for access, the developer needs to add a left turn lane on Glenwood. Develop must extend the left turn lane on Glenwood at Candler to provide LT storage into the development. Traffic study required. Provide a direct pedestrian path from the public sidewalks on right of way to the destinations within the subject property to support transit. Professional engineer to verify sight distance at all access points per AASHTO guidelines- to be submitted with permitting.

N8. Requires GDOT approval and permits prior to DeKalb permit submittal. Verify that you have the required number of driveways per # of units- Section 14-200(5). If not, Board variance required. Young Road is classified as a collector street. See overlay infrastructure standards. At a minimum-ROW

dedication 40 feet from centerline (or all public infrastructure on right of way- including street lights, which ever greater), 6-foot sidewalk, 10 foot landscape strip, pedestrian scale, 4- foot bike lane, street trees, street lights required. Covington Hwy is classified as a major arterial. See overlay infrastructure standards. At a minimum- ROW dedication 50 feet from centerline (or all public infrastructure on right of way- including street lights, which ever greater), 6-foot sidewalk, 10 foot landscape strip, Street trees, 4 foot bike lane, pedestrian scale street lights required. Traffic study to determine need to for left turn/right turn lanes on Young Road. Professional engineer to verify that driveway on Young Road has required AASHTO sight distance prior to permitting. Provide a direct pedestrian connection from public right of ways to interior of the subject property to support transit.

N. 9. Only one access point on Houston Mill Road. Provide sidewalks to Lavista Road. Professional engineer to verify sight distance per AASHTO prior to permitting due to curves. Houston Mill is classified as a collector road. At a minimum- ROW dedication 17.5 feet from centerline (or all public infrastructure on right of way- including street lights, which ever greater), 6-foot sidewalk, 10 foot landscape strip, Street trees, 4 foot bike lane, pedestrian scale street lights required. Provide a direct pedestrian connection from public right of ways to interior of the subject property to support walkability.

N10 & N11. Follow the infrastructure requirements in the overlay district. Redan Road is classified at a minor arterial. At a minimum-ROW dedication 40 feet from centerline (or all public infrastructure on right of way- including street lights, which ever greater), 6-foot sidewalk, 10 foot landscape strip, pedestrian scale, 4- foot bike lane, street trees, street lights required. Access point right in/right out only due to location. Only one access point. Professional engineer to verify sight distance per AASHTO prior to permitting. Provide a direct pedestrian connection from public right of ways to interior of the subject property to support transit.

CZ-20-1243619 1816 Candler Road

15 170 13 030

Storm water management is required as per Chapter 14-40, over 5000 square feet of impervious.

The report shall have a Hydro report with a detention pond. The sketch submitted shows no detention pond, or indicated if it is underground.

The Volume of traffic generated by this new development will require a dedicated lane into or possible exiting the development to the intersection.



DeKalb County
GEORGIA



404.371.2155 (o)
404.371.4556 (f)
DeKalbCountyGa.gov

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

MAJOR MODIFICATION APPLICATION

Existing Conditional Zoning No.: CZ-91039, CZ-90052 & CZ-89033

CZ-20-1243619

APPLICANT NAME: Mack III Development, LLC. c/o Battle Law, P.C.

Daytime Phone#: 404-601-7616 Fax #: 404-745-0045 E-mail: mlb@battlelawpc.com

Mailing Address: One West Court Sq. , Suite 750, Decatur, GA 30030

OWNER NAME: Mack III Development, LLC c/o Battle Law P.C.
one owner, attach contact information for each owner

(If more than

Daytime Phone#: 404-745-0045 Fax #: 404-745-0045 E-mail: mlb@battlelawpc.com

Mailing Address: One West Court Sq, Suite 750, Decatur, GA 30030

SUBJECT PROPERTY ADDRESS OR LOCATION: 1816 Candler Road

Decatur, DeKalb County, GA,

District(s): 15 Land Lot(s): 170 Block(s): 13 Parcel(s): 030

Acreage or Square Feet: Commission District(s): 3 & 6 Existing Zoning: C-2(cond)

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

Have you, the applicant, made a campaign contribution of \$250.00 or more to a DeKalb County government official within the two year period that precedes the date on which you are filing this application?

Yes No If "yes", see page 4. (Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A)

Owner: ☒ Agent: ☐
(Check One)

Signature of Applicant: Mack III Development, LLC By:

Printed Name of Applicant: Mack III Development, LLC

Major Modification Application

DEPARTMENT OF PLANNING & SUSTAINABILITY



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: 10/30/2019

TO WHOM IT MAY CONCERN:

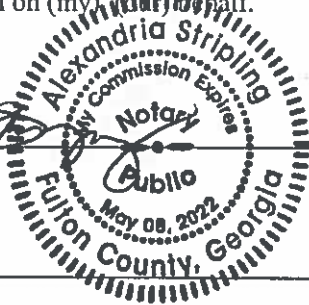
(I), (WE), Mack Wilbourn
Name of Owner(s)

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

Michelle Battle - Battle PC (Law)
Name of Applicant or Representative

to file an application on (my) ~~(our)~~ her half.

[Signature]
Notary Public



[Signature]
Owner

Notary Public

Owner

Notary Public

Owner

Notary Public

Owner



STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
DeKalb County Zoning Ordinance
for the
Application for Major Change of Condition for
CZ-89033, CZ-90052 and CZ-91039

by

MACK III DEVELOPMENT, LLC

for

1.90± Acres of Land
Being a Portion of 1816 Candler Road
Land Lot 170, 15th District, DeKalb County

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, GA30030
404-601-7616



I. STATEMENT OF INTENT

The Applicant, Mack III Development, LLC, is the owner of the property located at 1816 Candler Road being Tax Parcel 15 170 13 030 (the "Current Tax Parcel"). The Current Tax Parcel is zoned C-2 and is located within Tier II of the I-20 Corridor Overlay District (the "Overlay District"). Portions of the Current Tax Parcel are subject to the conditions approved by the DeKalb County Board of Commissioners in CZ-89033, CZ-90052 and CZ-91039. The Applicant is seeking to remove these conditions so that the Subject Property may be developed in accordance with the Overlay District.

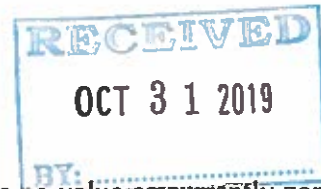
The Current Tax Parcel was previously owned by Georgia Power before it was conveyed to DeKalb County for use as a Police Precinct. Georgia Power assembled the Current Tax Parcel from several parcels, including multiple parcels located within the Glenhill Place subdivision. A copy of the Subdivision Plat is attached hereto as Exhibit "A". In connection with the assemblage of the Current Tax Parcel, Georgia Power submitted to DeKalb County three rezoning applications for the following properties, which are identified on the tax plat attached hereto as Exhibit B:

Rezoning Case No.	Former Property Address	Former Tax Parcel ID No.	Acreage
CZ-89033	1821 Glenhill Place	15 170 13 021	.79
CZ-90052	0 Glenhill Place	15 170 13 016 & 15 170 13 017	.56
CZ-91039	1825 & 1831 Glenhill Place	15 170 13 018 & 15 170 13 019	.55
TOTAL ACREAGE		The above reference property is referred to herein as the "Subject Property".	1.90

The Applicant is seeking to remove the following conditions approved with each Application, copies of which are attached hereto as Exhibits "C", "D" and "E", so that the Current Tax Parcel can be developed in accordance with the Overlay District regulations. It is the Applicant's intent to develop a mixed-use retail/office/residential project on the Current Tax Parcel.

III. IMPACT ANALYSIS

- (a) Suitability of use: The Subject Property is suitable for the proposed mixed use project as contemplated by the Overlay District requirements.
- (b) Effect on adjacent property: The uses of the Subject Property as contemplated in this Application will have no adverse impact on the adjacent property owners. In fact, the remove of the existing conditions will allow for development which will be a game changer for the entire Candler Road/Glenwood Corridor, and significantly help surrounding property values, while bring much needed amenities and a diversity of house type to the area.



- (c) Economic use of current zoning: The Subject Property has ~~no value as currently zoned~~. The Subject Property has been incorporated into the larger Current Tax Parcel. As current zoned, the Subject Property cannot be incorporated into the large development planned by the Applicant due to the current zoning restrictions.
- (d) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed rezoning will not cause excessive use of streets, transportation facilities, utilities, or schools in the area.
- (e) Effect on historic building, sites, etc. The approval of this Major Change of Condition Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.
- (f) Environmental Impact. The approval of this Major Change of Condition Application will not result in any adverse environmental impact.
- (g) Conformity with Comprehensive Plan or Land Use Plan: The Subject Property is currently zoned C-2 which is in conformity with the Commercial Redevelopment Corridor Land Use designation for the Subject Property.
- (h) Others: The following constitutional allegations are given in order to preserve the rights of the Applicant to appeal any adverse decisions that may be rendered by DeKalb County with respect to this Application:

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONTITUTIONAL RIGHTS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land



while not substantially advancing legitimate state interests.

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

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

A refusal to allow the amendments to the zoning conditions 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 modification of the zoning conditions in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

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



IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Major Change of Condition 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.

Respectfully submitted,

Michèle L. Battle
Attorney For Applicant

EXHIBIT "A"

Copy of Glenhill Subdivision Plat Attached

EXHIBIT "B"

Prior Tax Plat

413



LP-89011 & CZ-89033



SUBJECT TRACT



ADJOINING

EXHIBIT "C"

CZ-89033 Approved Zoning Minutes

REV. 12/84

DEKALB COUNTY
BOARD OF COMMISSIONERSITEM NO. 2

ZONING AGENDA/MINUTES

PREL. ACTION ☒ .HRG. XMEETING DATE March 28, 1989RESOLUTION ORDINANCE XPROCLAMATION SUBJECT: Rezoning Application - Georgia Power Company

DEPARTMENT: Planning

PUBLIC HEARING: X Yes NoATTACHMENT: X Yes No 7 ppINFORMATION CONTACT: Mac Baggett or *MB*
Charles Coleman
PHONE NUMBER: 371-2155 *CC*

PURPOSE: CZ-89033 - To consider the application of Georgia Power Company to rezone property located on the west side of Glenhill Place, 115' south of Glenwood Avenue, from R-75 to C-2 (conditional). The application is conditioned for development of truck storage buildings and outdoor storage.

DISTRICT: 1. 2. X 3. 4. 5. N/A

SUBJECT PROPERTY: 15-170-13-21 (1821 Glenhill Place). The property has frontage of 201' and contains .79 acre.

RECOMMENDATION(s): PLANNING DEPARTMENT: Approval with conditions (revised 3/7/89). The request is consistent with commercial zoning on two sides of the subject property and is considered an appropriate extension of the C-2 district. Although the lot is zoned R-75, it has been used for nonresidential purposes for the past 30 years. Staff recommendation includes the following conditions:

1. The existing structures are removed.
2. The new use is for truck storage buildings and outdoor storage as requested.
3. No access is permitted to Glenhill Place per Public Works memorandum of 2/23/89.
4. The east and south property lines are fenced, and vegetation screening is planted along the inside of the new fence.

PLANNING COMMISSION: Approval per staff.

COMMUNITY COUNCIL: No recommendation.

FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACTION:

MOTION was made by Commissioner Mosby, seconded by Commissioner Collins, and passed 5-2-0, to approve the application as conditioned by the Planning Department with the exclusion of Condition No. 3.

Opposed: Commissioners Sutton, Williams.

ADOPTED: MAR 28 '89
(DATE)

CERTIFIED: MAR 28 '89
(DATE)

Robert E. Lanier

PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS

David J. ...

CLERK,
DEKALB COUNTY BOARD OF COMMISSIONER

MINUTES:

Mr. Bill Roth, District Manager, Georgia Power Company, 4621 Brierwood Place, Doraville, represented the applicant. He stated that they have no problem with the conditions except for No. 3. which prohibits access to Glenhill Place. Their present access to Glenwood Road is between two buildings close to the intersection where they have had some accidents. He feels that access to Glenhill Place would improve the safety of the area and eliminate some potential accidents.

	FOR	AGAINST	ABSTENTION	ABSEN
DISTRICT 1 - Jean Williams	☐	☒	☐	☐
DISTRICT 2 - Sherry Sutton	☐	☒	☐	☐
DISTRICT 3 - Nathaniel Mosby	☒	☐	☐	☐
DISTRICT 4 - Robert J.(Bob) Morris	☒	☐	☐	☐
DISTRICT 5 - John S. Fletcher, Jr.	☒	☐	☐	☐
AT-LARGE - Robert Lanier	☒	☐	☐	☐
AT-LARGE - Annie Collins	☒	☐	☐	☐

EXHIBIT "D"

CZ-90052 Approved Zoning Minutes

ZONING - AGENDA/MINUTES

MEETING DATE July 24, 1990

PREL. _____
ACTION _____
PUB. HRG. X

RESOLUTION _____
ORDINANCE X
PROCLAMATION _____

SUBJECT: Rezoning Application - Georgia Power Company

COMMISSION DISTRICT: 3

DEPARTMENT: Planning

PUBLIC HEARING: X Yes _____ NoATTACHMENT: X Yes _____ No 8 ppINFORMATION CONTACT: Mac Baggett or *mc*
Charles Coleman
PHONE NUMBER: 371-2155 *cc*PURPOSE:

CZ-90052 - To consider the application of Georgia Power Company to rezone property located on the west side of Glenhill Place, approximately 500' south of Glenwood Avenue from R-75 to C-2 (conditional). The property has frontage of 230' and contains .56 acre. The application is conditioned on the use of the property for parking, storage or office facilities with no access to Glenhill Place.

SUBJECT PROPERTY:

15-170-13-16 & 17 (1847 and 1841 Glenhill Place).

RECOMMENDATION(s):

PLANNING DEPARTMENT: Approval with conditions. The request is consistent with the recommended Comprehensive Plan amendment and with the recent zoning change on Glenhill Place. Staff recommends approval subject to the same conditions applied to CZ-89033 as follows:

1. The existing structures are removed.
2. Use is limited to parking, storage, or offices for Georgia Power Company.
3. Property lines on the north, south, and east are fenced and vegetation screening is planted along the inside of the new fence.
4. Variances to buffers are considered only when a site plan is prepared and submitted to the county.
5. No access to Glenhill Place.

PLANNING COMMISSION: Approval per Planning Department recommendation.COMMUNITY COUNCIL: Approval.

A) 5230

B) Rezoning Application
Georgia Power Co.C) Glenhill Place
Glenwood Avenue

D) Approved

247

PAGE 2

FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACTION:

MOTION was made by Commissioner Mosby, seconded by Commissioner Williams, and passed 6-0-0, to approve the application as recommended by the Planning Department. Commissioner Sutton out of the room and not voting.

ADOPTED: JUL 24 '90
(DATE)

Robert E. Lanier
PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS

CERTIFIED: JUL 24 '90
(DATE)

Donald K. Smith
CLERK,
DEKALB COUNTY BOARD OF COMMISSIONERS

MINUTES:

Mr. Bill Roth, 150 East Ponce de Leon, Decatur, Georgia, 30030, was present but did not speak for the application.

No one spoke in opposition.

ATTACHMENT/

	FOR	AGAINST	ABSTENTION	ABSENT
DISTRICT 1 - Jean Williams	✓			
DISTRICT 2 - Sherry Sutton				✓
DISTRICT 3 - Nathaniel Mosby	✓			
DISTRICT 4 - Robert J. (Bob) Morris	✓			
DISTRICT 5 - John S. Fletcher, Jr.	✓			
AT-LARGE - Robert Lanier	✓			
AT-LARGE - Annie Collins	✓			

EXHIBIT “E”

CZ-91039 Approved Zoning Minutes

DEKALB COUNTY
BOARD OF COMMISSIONERS

274

ZONING - AGENDA/MINUTES

ITEM NO. 3PREL. _____
ACTION _____
● .HRG. XMEETING DATE September 24, 1991RESOLUTION _____
ORDINANCE X
PROCLAMATION _____

SUBJECT: Rezoning Application - Georgia Power Company

COMMISSION DISTRICT: 3

DEPARTMENT: Planning

PUBLIC HEARING: X Yes _____ NoATTACHMENT: X Yes _____ No 12 pp

INFORMATION CONTACT:

PHONE NUMBER: Charles Coleman
371-2155 *cc*

(Deferred from the 9/10/91 public hearing)

PURPOSE:

CZ-91039 - To consider the application of Georgia Power Company to rezone property located on the southwest side of Glenhill Place, 315' south of Glenwood Road, from R-75 to C-2 (conditional). The property has frontage of 178.9' and contains .55 acre. The application is conditioned on use of the property for parking, storage, or offices for expansion of the adjacent facility based on a site plan with variances. (The application was deferred for additional applicant/neighborhood meetings.)

SUBJECT PROPERTY:

15-170²-13-18 & 19 (1831 and 1825 Glenhill Place).

RECOMMENDATION(s):

PLANNING DEPARTMENT: Approval with conditions. The proposal is consistent with the recommended land use and compatible with recent zoning decisions on adjoining properties. Staff recommends approval subject to the following conditions:

1. The property is used for parking, storage, or offices for the expansion of Georgia Power Company.
2. The fencing and vegetation planting is continued on these two tracts consistent with the adjoining parcels.
3. No access to Glenhill Place.

PLANNING COMMISSION: Approval per Planning Department recommendation.

COMMUNITY COUNCIL: Approval subject to the lighting footprint being restricted to the property and no access to the residential street.

275

FOR

USE

BY

COMMISSION

OFFICE/CLERK

ONLY

ACTION:

MOTION was made by Commissioner Jean Williams, seconded by Commissioner Collins, and passed 4-0-1-2, to approve the application as recommended by the Planning Department and as further conditioned by the applicant. The conditions agreed to by the applicant provide for the following: 1. An eight-foot stone and cedar wall with columns every 20 feet. This wall would not only shield the Georgia Power property from the residents on the east side of Glenhill Place, but also it would extend along the south boundary of the property as well. 2. Replacement of any trees which cannot be maintained. 3. Shielding of the lights so that no light will escape from Georgia Power's property and shine onto property of the residents of the east side of Glenhill Place, if the wall does not provide such shielding. Commissioner Morris abstained; Commissioners Sherry Sutton and Hosea Williams absent and not voting.

(Continued below under MINUTES.)

ADOPTED:

SEP 24 1991

(DATE)

CERTIFIED:

SEP 24 1991

(DATE)

PRESIDING OFFICER

DEKALB COUNTY BOARD OF COMMISSIONERS

CLERK

DEKALB COUNTY BOARD OF COMMISSIONERS

MINUTES:

The applicant was present but did not speak again for the application.

Mr. Roger A. Washington, 1828 Glenhill Place, Decatur, Georgia, 30032, spoke in opposition. He reiterated his previous comments and stated that Georgia Power was supposed to accomplish two years ago what they were being told to do now.

Commissioner Fletcher stated that if Georgia Power implemented the three conditions as stated by Mr. Carrollton, this was all the County could ask them to do. Commissioner Fletcher further stated that the zoning enforcement division should make certain these conditions are met and, if there have been any Code violations by Georgia Power, they should be pursued and dealt with promptly.

ATTACHMENT/

	FOR	AGAINST	ABSTENTION	AB
DISTRICT 1 - Jean Williams	✓			
DISTRICT 2 - Sherry Sutton				✓
DISTRICT 3 - Hosea Williams				✓
DISTRICT 4 - Robert J. (Bob) Morris			✓	
DISTRICT 5 - John S. Fletcher, Jr.	✓			
AT-LARGE - Annie Collins	✓			
AT-LARGE - Jacqueline Scott	✓			

MACK III DEVELOPMENT, LLC

LEGAL DESCRIPTION

ALL that tract or parcel of land lying and being in Land Lot 170 of the 15th District of DeKalb County, Georgia, being more particularly described as portions of Reserved Lot, and Lots 3-8 of Glenhill Subdivision, as more particularly shown and described on a plat recorded in Plat Book 15, Page 10, Clerk's Office, Superior Court of DeKalb County, Georgia.

The portion of the Reserved Lot referenced above, along with Lots 3 and 4, which were previously known as 1821 Glenhill , is more specifically described as follows:

All that tract or parcel of land lying and being in Land Lot 170 of the 15th Land District of DeKalb County, Georgia, being more particularly described as follows:

BEGINNING at an open top pipe found on the westerly right of way of Glenhill Place (60 foot right of way), being located 115.0 feet southerly from the point of intersection of the westerly right of way of Glenhill Place with the southerly right of way of Glenwood Avenue; thence along the right of way of Glenhill Place south 01°44'16" west 44.61 feet to a one half inch rebar placed; thence continuing along said right of way along the arc of a curve to the left an arc distance of 156.28 feet, said arc having a radius of 265.00 feet and a chord of south 15°09'17" east 154.03 feet, to a one half inch rebar placed; thence south 66°39'42" west 114.78 feet to a one half inch rebar found; thence north 40°01'46" west 126.85 feet to a one half inch rebar found; thence north 10°11'43" west 83.78 feet to a one half inch rebar placed; thence north 10°15'01" west 65.57 feet to a one half inch rebar placed; thence south 88°14'11" east 174.64 feet to an open top pipe found marking the TRUE POINT OF BEGINNING.

B Battle Law, P.C.
Commercial Real Estate & Zoning
ONE WEST COURT SQUARE, SUITE 750
DECATUR, GA 30030

What is a Community Meeting?

Community meetings are designed to inform the surrounding communities of current rezoning, and special land use permit applications. It's an opportunity for the community to learn about the proposed projects, ask questions, present concerns, and make suggestions. We take this opportunity to encourage you to come out and participate. Owner? Renter? Doesn't matter. All are welcome.

For More Info Contact Batoya Clements at:

Phone: 404-601-7616 ext. 2

Fax: 404-745-0045

Email: bdc@battlawpc.com

**YOU RECENTLY RECEIVED A
COMMUNITY MEETING NOTICE
REGARDING A
Rezoning Application for the
Development of a
Mixed-Use Project**

**PLEASE NOTE THE CORRECTED
ADDRESS BELOW:**

**Community Meeting
Wednesday, October 30, 2019
6:30 pm until 8:00 pm
3203 GLENWOOD ROAD, SUITE D
DECATUR, GA 30032**

SUBJECT PROPERTIES:

**1816 Candler Road,
3211 & 3221 Glenwood Road
Decatur, GA 30032**

COMMUNITY MEETING

SIGN IN SHEET

1816 Candler Road, 3211, 3211 Glenwood Road
3203 Glenwood Road, Suite D, Decatur, GA 30032
Wednesday, October 30, 2019 6:30 PM – 8:00 PM

Please print legibly

First Name	Last Name	Address	City, State	Zip Code	Phone Number	Email Address
RON	Bivins	3377 Herringwood Ct	Decatur GA	30034	(404) 277-8678	rbivins@mcbrides.com
Kedra	Phillips	1730 County Line Rd	Atlanta GA	30031	404-277-8370	phillip34@yahoo.com
ANDY + MIKE	WALBURN	3261 GLENWOOD RD	DECATUR GA	30032	404 289 0456	ANDY@BUILDERS.COM
SEVE	Woronko	1852 GLENHILL PL	DECATUR	30032	404 358 2771	STUSSEY5150@GMAIL.COM
Kelly	Jordan	420 Oakdale Rd	ATL	30307	706 331 7225	kellyjordan@earthlink.net
Ashley + Ryan	Sanford	2514 Eastwood Drive	Decatur	30032		Ashleyknows@gmail.com
WALTER	GEORGE	1876 CANDLER RD	DECATUR	30032	404-286-1906	tyf@allsouth.net
George	SPOTA	1847 Candler Rd	Decatur	30031	404-316 0101	
Melvin	Phillips	3333 Glenwood Rd	Decatur	30032	404-914-2578	melvinphillips@gmail.com

COMMUNITY MEETING

SIGN IN SHEET

1816 Candler Road, 3211, 3211 Glenwood Road
3203 Glenwood Road, Suite D, Decatur, GA 30032
Wednesday, October 30, 2019 6:30 PM – 8:00 PM

Please print legibly

First Name	Last Name	Address	City, State	Zip Code	Phone Number	Email Address
Glenn	Curtis, Sr	4153 Sandy Lake Dr	Lithonia	30038	404-660-4547	9pCurtissr@comcast.net
Brenda	Hudson	1760 Alexander Pl	Dec. Ga	30032	678-3083811	brendahudson75@yahoo.com
Barbara & John	Victrum	1733 Candler Rd 2811 Battle Forrest	Dec, Ga	30034	404-289-5300 404/241-2677	drample@bellsouth.net
Mattie	George	3333 White Castle Way	Dec. Ga.	30034	410-981-2854	trudyrob2@yahoo.com
James	Tyler	1858 Glenwood Pl	Dec. Ga	30032	404-664-4324	JTYLER05@YAHOO.COM
L. DEAN	HEARD					AT/RAIDMAN2017@ppho.com
Peggy R.	Ross	3264 Glenwood Rd	Dec, Ga	30032		
Trudy	Robinson	1201 Strawberry Trl.	Ellenwood Ga	30294		trudyrob2@yahoo.com
Annelle Davis Jackson					678-353-9145	annelledjackson@yahoo.com

Campaign Contribution Disclosure Statements

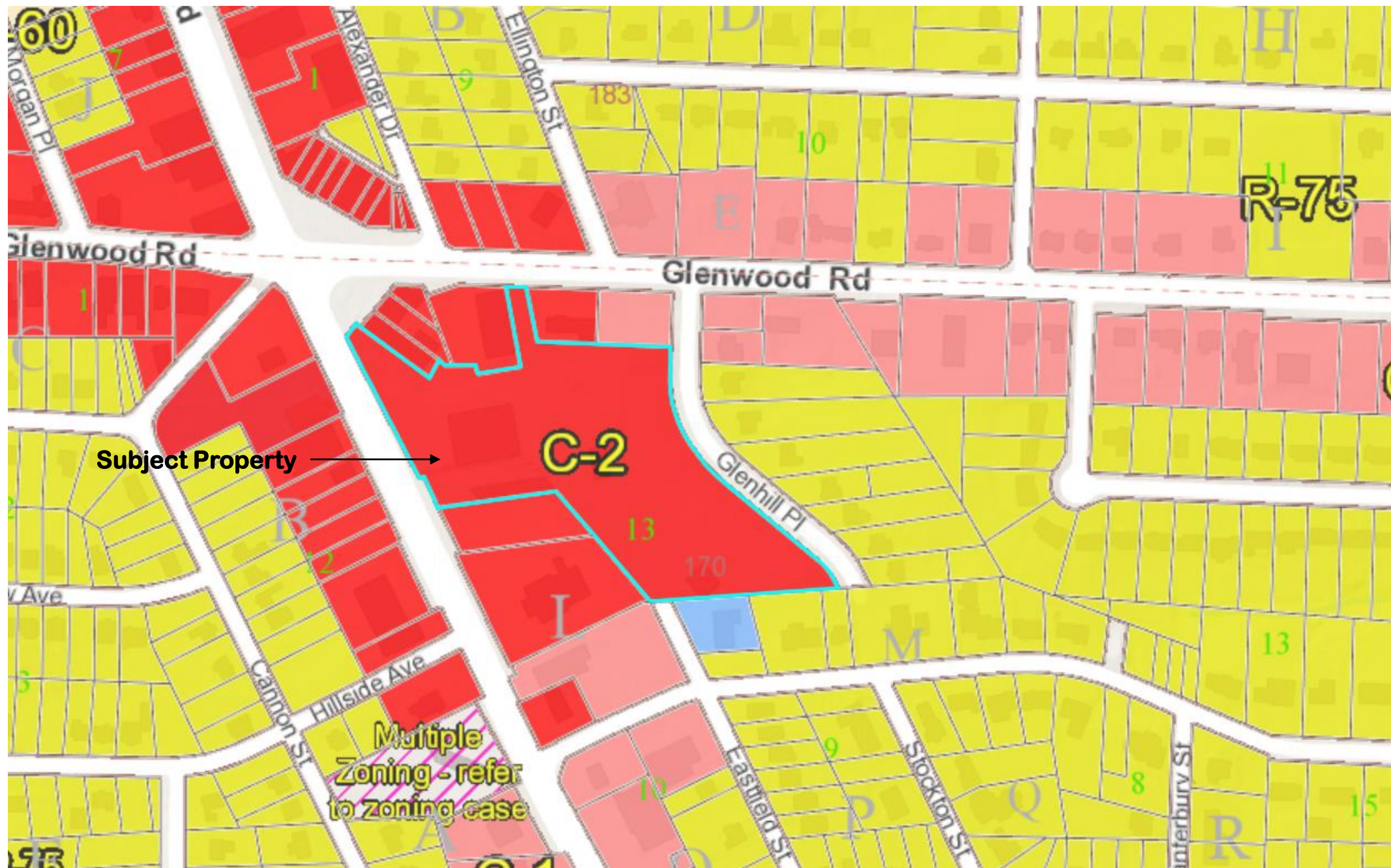
CAMPAIGN CONTRIBUTIONS DISCLOSURE STATEMENT

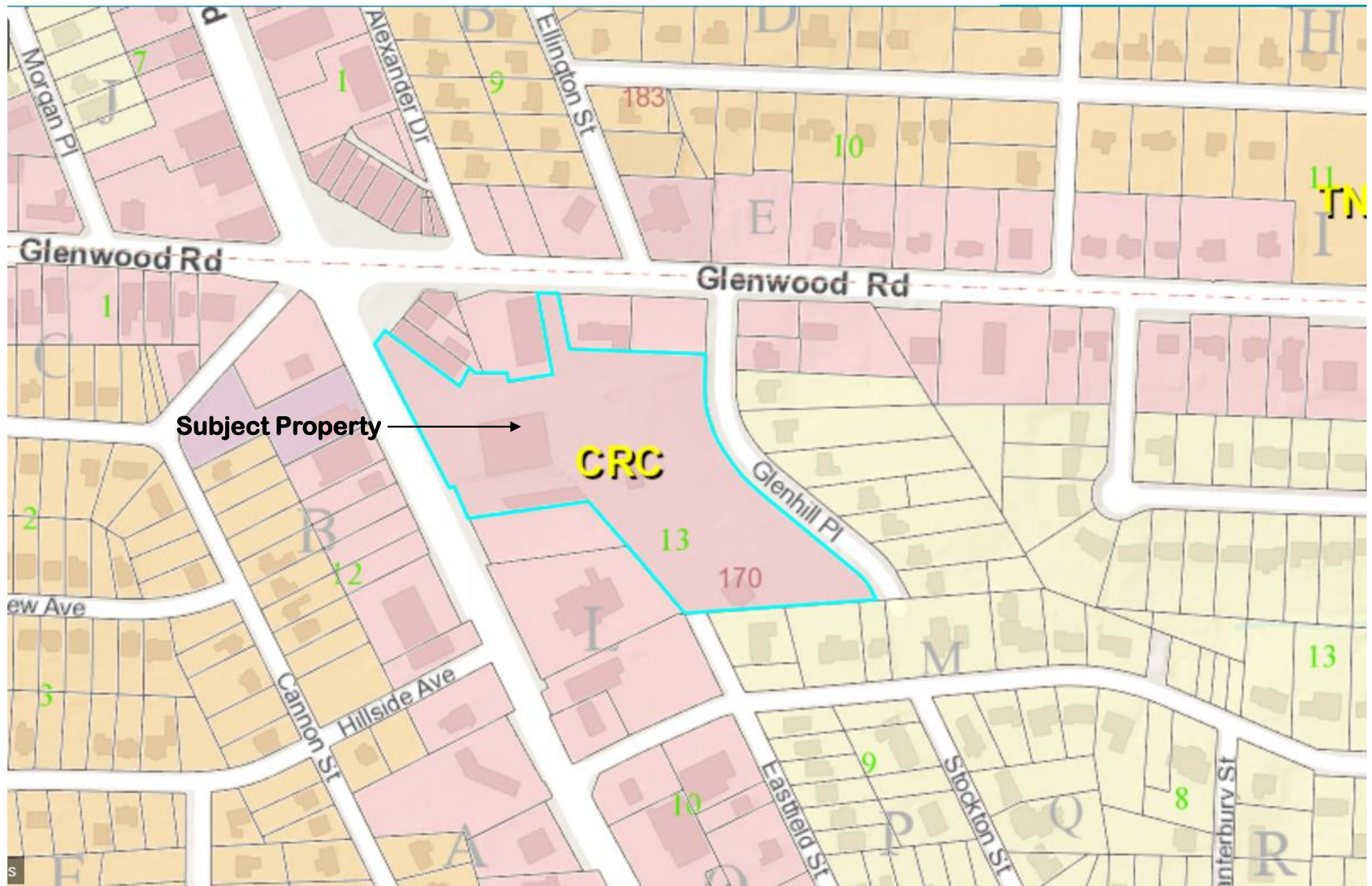
Pursuant to the provisions of 36 O.C.G.A. 67(A), please find below a list of those contributions made by Michele L. Battle or Battle Law, P.C. in the past two years, aggregating \$250.00 or more, to local government officials who will consider this application.

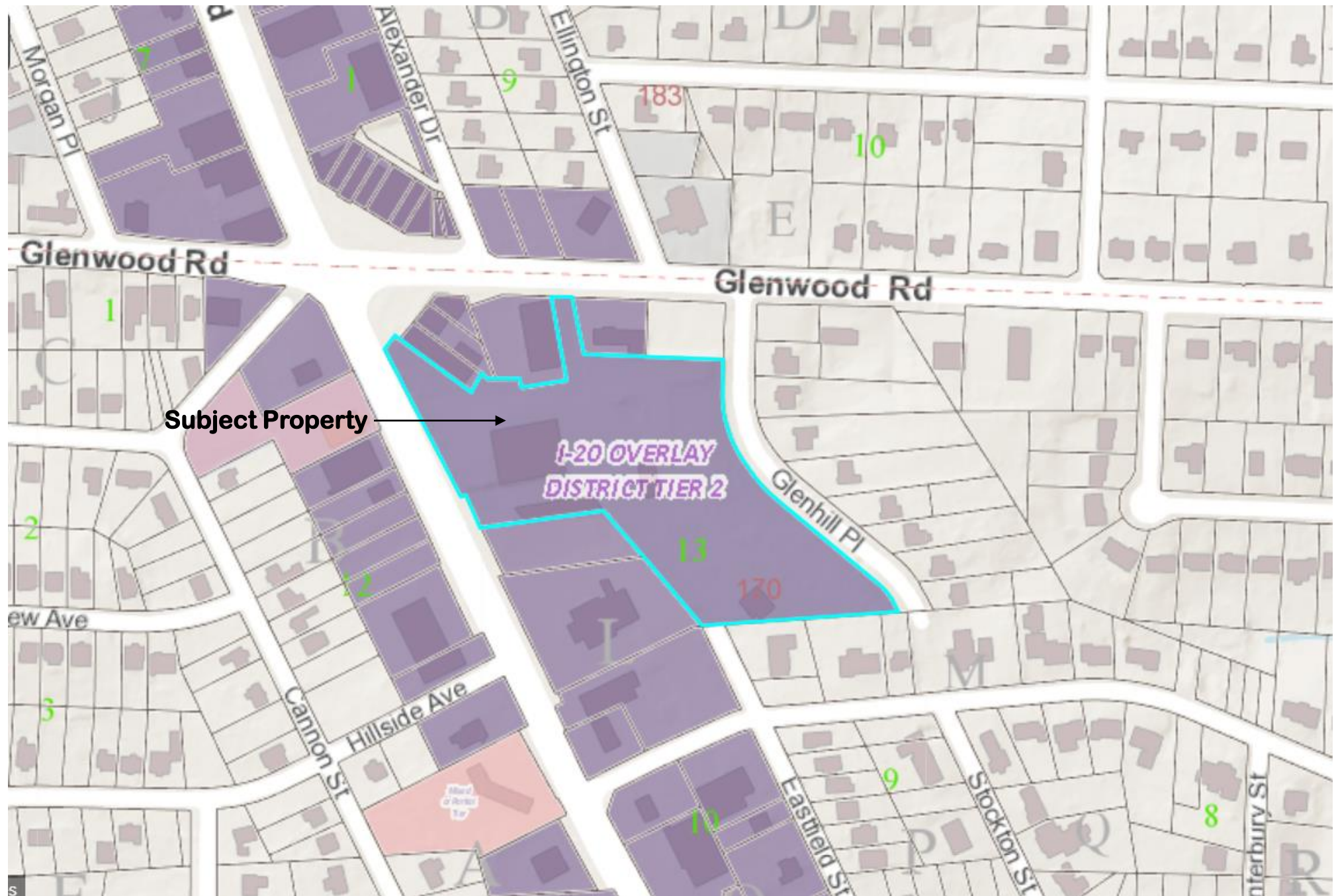
NAME OF GOV'T OFFICIAL	OFFICIAL POSITION	AMOUNT OF CONTRIBUTION
Kathie Gannon	Commissioner	\$350
Mereda Davis Johnson	Commissioner	\$500
Larry Johnson	Commissioner	\$250
Lorraine Cochran-Johnson	Commissioner	\$250

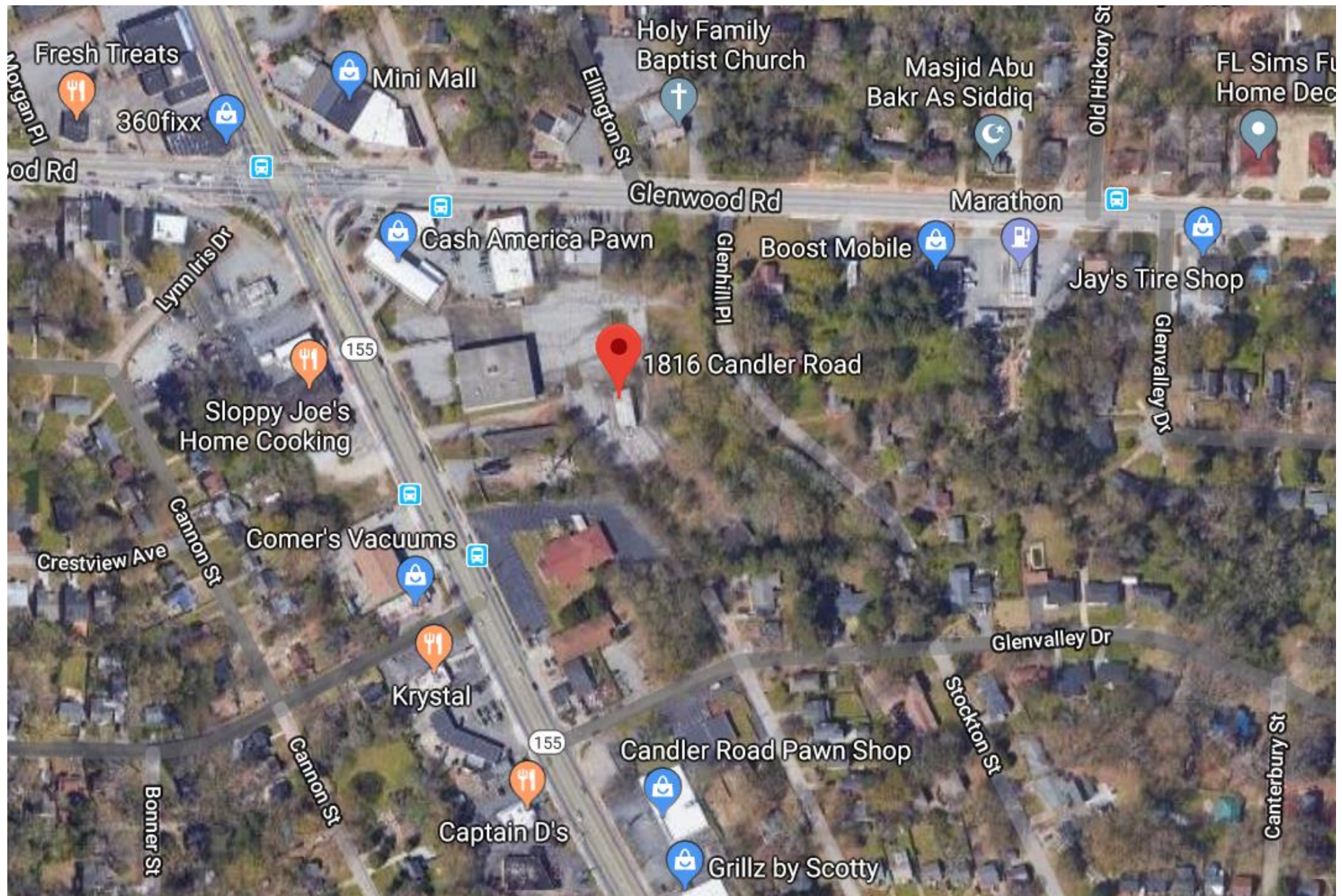
By: 

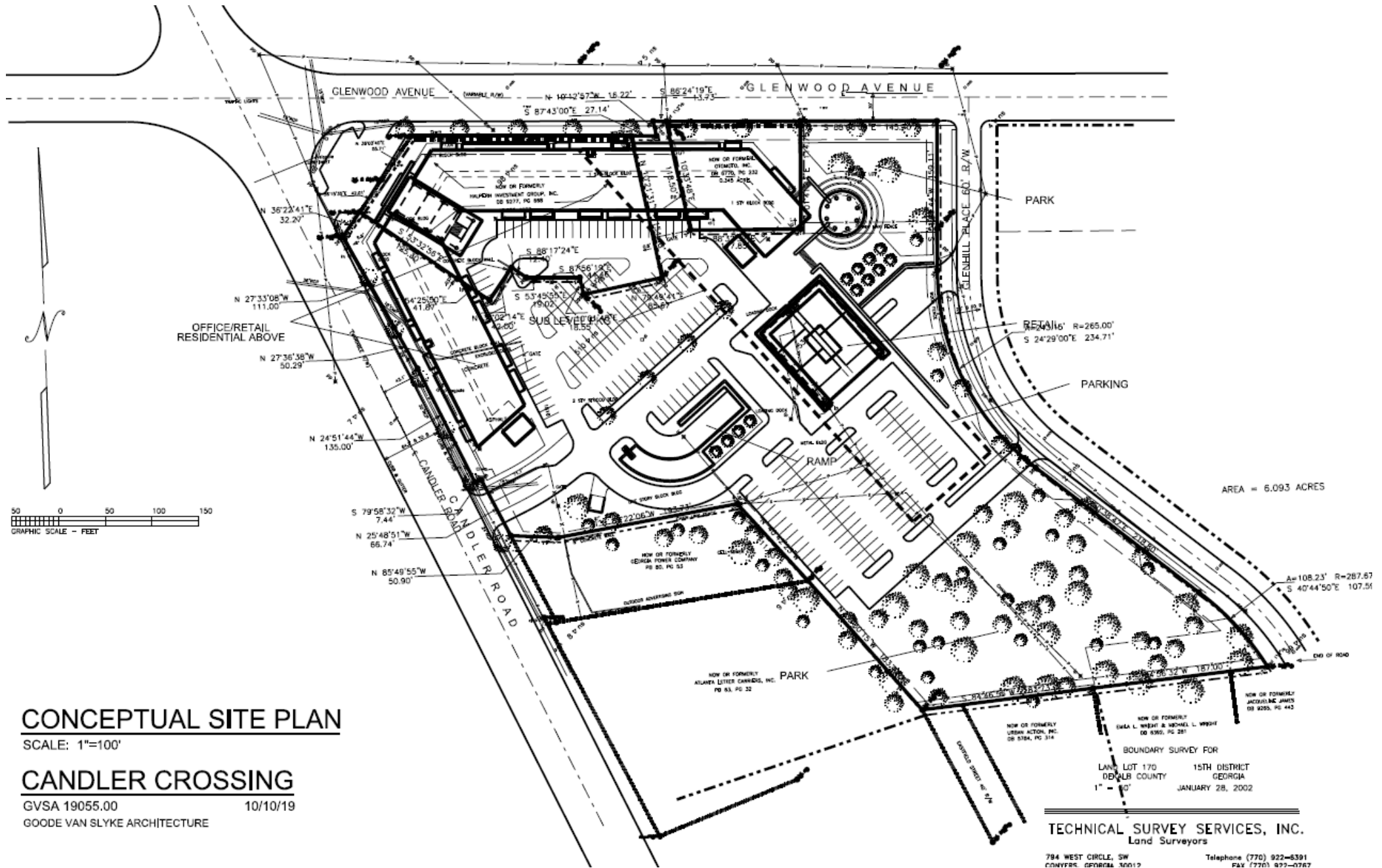
Printed Name: Michele L. Battle













View from Candler Road



View from Glenwood Road at Glenhill Place