



DeKalb County Government

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

Agenda Item

File #: 2019-4076

9/10/2019

File Status: Preliminary Item

Public Hearing: YES ☒ NO ☐

Department: Planning & Sustainability

SUBJECT:

COMMISSION DISTRICT(S): 3 & 6

Application of Otto Tract No. 10, LLC c/o Battle Law to Amend The 2035 Future Land Use Plan Map from Neighborhood Center (NC) to Light Industrial (LIND), at 3101 Clifton Springs Road..

PETITION NO: N9. LP-19-1243387

PROPOSED USE: 350,000 sq. ft. Distribution Center

LOCATION: 3101 Clifton Springs Road, Decatur, Georgia 30034

PARCEL NO. : 15-090-01-013

INFO. CONTACT: Marian Eisenberg

PHONE NUMBER: 404-371-4922

PURPOSE:

Application of Otto Tract No. 10, LLC c/o Battle Law Group to Amend the 2035 Future Land Use Plan Map from Neighborhood Center (NC) to Light Industrial (LIND) for a 350,000 sq. ft. Distribution Center. The property is approximately 26.8 acres and has approximately 511 feet of frontage along the south side of Clifton Springs Road.

RECOMMENDATION:

COMMUNITY COUNCIL: DENIAL

PLANNING COMMISSION: Pending

PLANNING STAFF: FULL CYCLE DEFERRAL

STAFF ANALYSIS: The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics. The property, referred to in the application as 'Tract 1A' is adjacent to industrially zoned property that has a Future Land Use designation of Light Industrial (LIND). The proposal would be consistent with the adjacent property and would not encroach into commercial or residential uses. Staff's recommendation is 'Full Cycle Deferral' of the Future Land Use

Plan Map Amendment at the request of the applicant.

PLANNING COMMISSION VOTE: Pending

COMMUNITY COUNCIL VOTE/RECOMMENDATION: DENIAL 8-0-2. The Council acknowledged that the distribution center would bring jobs but pointed out that plans for other distribution centers have not been realized. The Council expressed concerns about truck traffic related to the distribution center and thought that the proposal would result in too many apartment units.



DeKalb County Department of Planning & Sustainability

**330 Ponce De Leon Avenue, Suite 300
Decatur, GA 30030
(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: September 10, 2019, 6:30 P.M.
Board of Commissioners Hearing Date: September 24, 2019, 6:30 P.M.**

STAFF ANALYSIS

Case No.:	LP-19-1243387	Agenda #: N.9
Location/Address:	3101 Clifton Springs Road, Decatur, GA 30034	Commission District: 3 Super District: 6
Parcel IDs:	15 090 01 013	
Request:	Future Land Use Plan Map Amendment	
Property Owner(s):	Otto Tract No. 10, LLC	
Applicant/Agent:	Battle Law Group	
Acreage:	26.891	
Existing Land Use:	Neighborhood Center (NC)	
Proposed Land Use:	Light Industrial (LIND)	
Surrounding Properties:		
Adjacent Zoning:	North:C-1 (CRC) South: MR-2 (SUB) East: NS (NC) West: M (LIND) Northeast: C-1 (NC)	
(Adjacent Land Use):	Northwest: M (LIND) Southeast: MR-2 (SUB) Southwest: MR-2(SUB)	
Comprehensive Plan:		



Consistent



Inconsistent

Proposed Density: N/A

Existing Density: N/A

Proposed Units/Square Ft.: 1 unit/350,000

Existing Units/Square Feet: N/A

Proposed Lot Coverage: N/A

Existing Lot Coverage: N/A

Companion Application:

The applicant has filed a companion application (Z-19-1243386) to amend the Zoning of the parcel from MU-4 (Mixed Use 4) to M (Industrial).

STAFF RECOMMENDATION: FULL CYCLE DEFERRAL

The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics.

The property, referred to in the application as 'Tract 1A' is adjacent to industrially zoned property that has a Future Land Use designation of Light Industrial (LIND). The proposal would be consistent with the adjacent property and

would not encroach into commercial or residential uses. Staff's recommendation is 'Full Cycle Deferral' of the Future Land Use Plan Map Amendment at the request of the applicant.

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

DeKalb County Long Range Planning Division
Supplemental Land Use Report (for developments in Light Industrial)

Case No. LP-19-1243387 Project Name: Otto Tract No. 10	Existing FLU: Neighborhood Center (NC) Proposed FLU: Light Industrial (LIND)	Staff Recommendation Approval
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Light Industrial Intent - The intent of the Light Industrial Character Area is identity areas appropriate for industrial type uses. The location of these areas shall preserve the appeal and appearance of residential and commercial areas from the prospective intrusion of light industrial land uses. These areas consist of areas used in low intensity manufacturing, including wholesale trade, and distribution activities that do not generate excessive noise, vibration, air pollution or other nuisance characteristics.

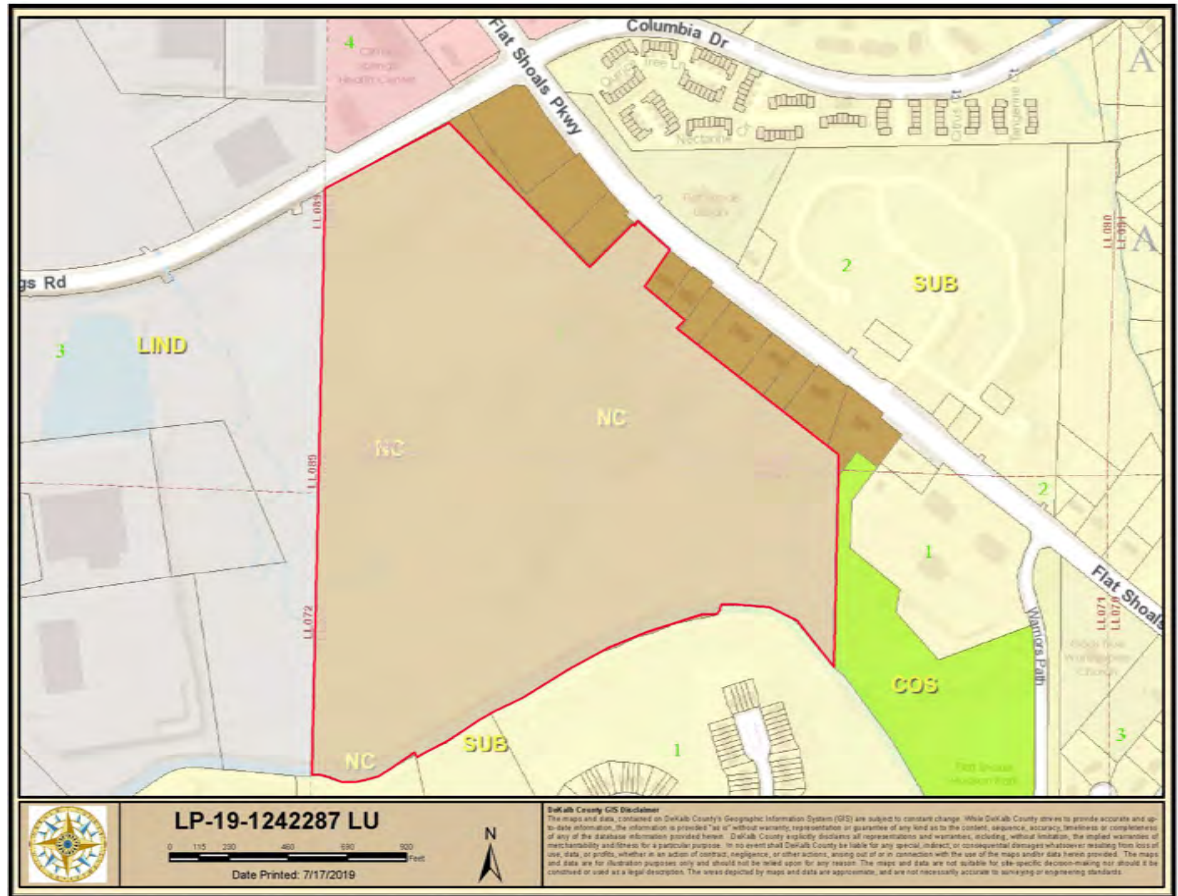
Light Industrial

Land Use

Light Industrial

Primary Uses

- Light Industrial Uses
- Manufacturing
- Warehouse / Distribution
- Wholesale / Trade
- Automotive
- Accessory Commercial
- Educational Commercial
- Community Facilities



DeKalb County Long Range Planning Division
Supplemental Land Use Report *(for developments in Light Industrial)*

Project Description	Address: 3101 Clifton Springs Road		
	Owner / Project Name: Otto Tract No. 10, LLC		
	Use	Square Feet (% of total dev)	Units (if applicable)
	Residential	N/A	N/A
	Commercial (Industrial)	350,000	1
	Office	N/A	N/A
	Retail	N/A	N/A
	Entertainment	N/A	N/A
	Other	N/A	N/A
	Total	350,000	1

Light Industrial Character Area Policies	Support to Staff Recommendation			Justification
	YES	N O	N/A	
1. Infrastructure - Provide appropriate infrastructure support for industrial development in designated industrial areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Buffer - Protect surrounding areas from the negative impacts of noise and light pollutants.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Residential Protection - Prohibit the encroachment of industrial uses into established residential areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Environmental Compatibility - Direct development to industrial districts located in areas with compatible soils drainage and other environmental characteristics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Zoning Compatibility - Protect existing and zoned undeveloped industrial land from unnecessary intrusion by conflicting land uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Re-zoning - Minimize the rezoning of light industrial properties to residential uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Future Designations - Designate specific areas through the use of zoning and other land use tools for industrial development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Retrofit - Develop or, where possible, retrofit property planned industrial parks with adequate water, sewer, storm-water, and transportation infrastructure for all component uses at build-out.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Location of Centers - Locate industrial centers in areas with good access to highways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Landscaping - Incorporate landscaping and site design to soften or shield views of buildings and parking lots, loading docks, etc.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The site includes retention of existing adequate buffers.
11. Regulations Compatibility - Create and implement zoning and development regulations for industrial uses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
12. Truck Routes - Designate truck routes to reduce noise, pollutants and traffic congestion in residential areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
13. Access Management - Provide access controls and management standards in compliance with the DeKalb County Transportation Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
14. Adaptable Reuse - Convert obsolete and empty industrial buildings into multifamily and/or live-work establishments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

DeKalb County Long Range Planning Division
Supplemental Land Use Report *(for developments in Light Industrial)*

Impact Analysis

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

Questions	Compliant			Comments to support zoning proposal
	YES	NO	N/A	
A. Zoning proposal is in conformity with the policy and intent of the comprehensive plan:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There is a companion zoning case to bring the proposal into zoning compliance.
B. The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
C. The property to be affected by the zoning proposal has a reasonable economic use as currently zoned:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
D. The zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
E. 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:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
F. The zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The property is in the Soapstone Ridge Historic District. It is on the upcoming HPC Agenda as well.
G. 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:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
H. The zoning proposal adversely impacts the environment or surrounding natural resources.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Demographic Profile

Quality of Life Elements	Project Area (census tract)	DeKalb County (2016)	Difference (+/-)
Median Household Income	\$47,435	\$51,349	-\$3,914
Owner Occupied Housing	84%	57%	
Renter Occupied Housing	16%	43%	
Median Home Value	\$142,185	\$163,600	-\$21,415
Median Rental Costs (2 BR)			
Age Distribution (majority)	25-44	25-44	

Source:

Economic Development Analysis

(Based on the 2014 DeKalb County Economic Strategic Plan)

Policies	Compliance with the Strategic Plan			Additional comments that justify staff recommendation
	Yes	No	N/A	
Target Industry and Niches <input type="checkbox"/> Click here if no Target Industry applies				
Professional and Business Services (PBS) Niche Markets: Entrepreneur-Enabled Businesses, E-commerce, Engineering, Creative Design, Consulting, Accounting, & Marketing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Life Sciences Services, products, and activities that are broadly related to research, manufacturing and other activities focused upon or utilizing living organisms, with particular attention to activities relating to the maintenance or restoration of health. Niche Markets: Biotechnology, Bioinformatics, Proteomics, Health IT, Senior Care Services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Tourism Tourism as an industry focuses on destinations, travelers, and the businesses that accommodate those travelers. Niche Markets: Cultural Tourism, Bed & Breakfast Inns, Youth Sporting Events, Dynamic Tour Packaging	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
LOGISTICS The process of planning, implementing, and controlling the efficient flow of goods and services through the supply chain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DeKalb County Long Range Planning Division
Supplemental Land Use Report *(for developments in Light Industrial)*

from producer to consumer. Distribution includes all freight carriers (air, trucking, and intermodal) and warehousing. Niche Markets: Specialized Freight Trucking, Back Office Support Services, Truck Terminals, Warehouse Distribution.				
CONSTRUCTION AND SUPPORT TRADES (CST) Construction is the creation of improvement of man-made structures. It can include residential, commercial, and industrial building construction, or civil construction, which encompasses infrastructure and utilities. Niche Markets: Construction Materials Manufacturing, Contracting, Homebuilding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Advanced Manufacturing - Advanced manufacturing is a category of manufacturing that utilizes innovative technologies to make better products and improve the methods to produce those products. Niche Markets: Fabricated Metals Manufacturing, Medical Equipment and Supplies, Laboratory Equipment and Supplies, Light Manufacturing and Assembly.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Improve Business Climate				
Business Climate Action Plan 1. Optimize Incentives 2. Support Entrepreneurs & Small Businesses 3. Support Existing Businesses & Foster Expansion 4. Finalize Implementation of Development Services Overhaul 5. Strengthen the Economic Development Organization 6. Improve Marketing, Branding, and Communication for the County & DADC	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Revitalize Commercial Corridors and Embrace New Employment Centers				
Employment Centers Action Plan. Subject property / project provides the following (check all that apply): <input type="checkbox"/> Incentivize redevelopment and build public/private partnerships <input type="checkbox"/> Secure appropriate zoning. Rezone required? ____ <input type="checkbox"/> Appropriate marketing and branding for employment centers and target industries <input type="checkbox"/> Creation of a new employment center in DeKalb County <input type="checkbox"/> Encourage clustering through target industry support programs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Click "N/A" if the property is not within an employment center.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Northern DeKalb Employment Center Location (check one): <input type="checkbox"/> The I-85 / I-285 interchange <input type="checkbox"/> Northlake Mall	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
West Central DeKalb Employment Center Location (check one): <input type="checkbox"/> Intersection of Briarcliff Road North Druid Hills Road <input type="checkbox"/> Intersection of I-85 and Clairmont Road <input type="checkbox"/> Intersection of N Druid Hills Road and Lavista Road	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Southwest DeKalb Employment Center Location (check one):	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

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<input type="checkbox"/> I-20/ Candler Road <input type="checkbox"/> I-20 / I-285 Interchange <input type="checkbox"/> Memorial Drive <input type="checkbox"/> Moreland Area				
East Central DeKalb Employment Center Location (check one): <input type="checkbox"/> Stone Mountain Industrial Park <input type="checkbox"/> Memorial Drive, I-285 Interchange	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Southeast DeKalb Employment Center Location (check one) <input type="checkbox"/> I-285/Indian Creek MARTA Station <input type="checkbox"/> I-285 / Covington Hwy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Quality of Place Enhancements				
New Employment Centers and the Comprehensive Plan <input checked="" type="checkbox"/> This project will initiate a land use amendment <input type="checkbox"/> The project will provide connectivity for employment centers <input type="checkbox"/> This project will create Gateways	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This proposal will expand the Light Industrial footprint in the Candler LCI Study Area.
Game Changing / Catalytic Projects <input type="checkbox"/> Consider a multi-purpose Convention Center facility <input type="checkbox"/> Consider a multi-purpose sportsplex facility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Infrastructure and Aesthetics <input type="checkbox"/> Utilization of CIDs and TADs to fund infrastructure and beautification projects, especially along South Memorial Drive. <input type="checkbox"/> Highway interchange improvements are packaged to accommodate logistics industry in Moreland area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Transportation Planning Analysis <i>(Based on the DeKalb County 2014 Comprehensive Transportation Plan)</i>				
Policies	Compliant with the CTP			Additional comments that justify staff recommendation
	Yes	No	N/A	
Functional Classification for the project site: <input checked="" type="checkbox"/> Freeway <input type="checkbox"/> Major Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Local	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Freight <input checked="" type="checkbox"/> Located on a truck or sanitation route <input type="checkbox"/> Proximity of Landfill or Transfer Station <input type="checkbox"/> Located on a state route <input type="checkbox"/> Located in proximity of rail lines and / or crossings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Access Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Complete Streets Policy County / Developer will consider installing bicycle and / or pedestrian facilities, and Transit facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Design: The following street design guidelines and best practices are listed on page 16 in the Appendix document of the CTP.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Application: See page 16 in the Appendix document of the CTP	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Exemptions: <input type="checkbox"/> Roadway corridor legally prohibits specific users (e.g. bicyclists and pedestrians on interstate) <input type="checkbox"/> Cost of providing bicycle or pedestrian facilities is excessively disproportionate to the need or probable use <input type="checkbox"/> Absence of current and future need is documented <input type="checkbox"/> Roadways not owned or operated by DeKalb County.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Performance Measures. Success of complete streets include:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

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<input type="checkbox"/> Miles of new on-street bicycle routes <input type="checkbox"/> Miles of new or reconstructed sidewalks <input type="checkbox"/> Percentage completion of bicycle and pedestrian networks as envisioned by the latest DeKalb County Comprehensive Transportation Plan <input type="checkbox"/> Increase in pedestrian and bicycle volumes along key corridors				
Human Services Transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Bicycle and Pedestrian Level of Service Goals and Connectivity <input type="checkbox"/> LOS B (within an activity center) <input type="checkbox"/> LOS C (not within an activity center) <input type="checkbox"/> Existing PATH Trail	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Priority Bicycle Network <input type="checkbox"/> First Tier Priority Network <input type="checkbox"/> Second Tier Priority Network <input type="checkbox"/> Existing PATH <input type="checkbox"/> Future PATH	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
MARTA and TOD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bus Routes <input checked="" type="checkbox"/> Project is on a bus route <input type="checkbox"/> Project is near a bus route <input type="checkbox"/> Project is not close to a bus route	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Transit Stations <input type="checkbox"/> Project is on a transit station site <input type="checkbox"/> Project is near a transit station <input type="checkbox"/> Project is not close to a transit station	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Priority Projects for DeKalb County <input type="checkbox"/> Tier 1 <input type="checkbox"/> Tier 2 <input type="checkbox"/> Tier 3 <input type="checkbox"/> None	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If boxes are checked, list the specific projects here:

**DeKalb County School District
Development Review Comments**

Analysis Date: 8/16/2019

Submitted to: DeKalb County

Case #: Z-19-1243388

Parcel #: 15-090-01-013

Name of Development: 3101 Clifton Springs Road
Location: Clifton Springs Road near Flat Shoals Pkwy

Description: Proposed 300 unit multi-family development

Impact of Development: When fully constructed, this development would be expected to house 68 students: 32 at Oak View ES, 11 at Cedar Grove MS, 14 at Cedar Grove HS, and 11 at other DCSD schools. All three neighborhood schools have capacity for additional students.

Current Condition of Schools	Oak View ES	Cedar Grove MS	Cedar Grove HS	Other DCSD Schools	Private Schools	Total
Capacity	925	1,256	1,247			
Portables	0	0	0			
Enrollment (Fcst. Oct. 2019)	788	764	1,056			
Seats Available	137	492	191			
Utilization (%)	85.2%	60.8%	84.7%			
New students from development	32	11	14	11	0	68

New Enrollment	820	775	1,070
New Seats Available	105	481	177
New Utilization	88.6%	61.7%	85.8%

Yield Rates	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	0.1061	0.0184	0.0012	0.1257
Middle	0.0363	0.0029	0.0000	0.0392
High	0.0473	0.0149	0.0000	0.0623
Total	0.1898	0.0362	0.0012	0.2271

Student Calculations

Proposed Units	300
Unit Type	APT
Cluster	Cedar Grove HS

Units x Yield	Attend Home School	Attend other DCSD School	Private School	Total
Elementary	31.83	5.51	0.36	37.70
Middle	10.89	0.86	0.00	11.75
High	14.20	4.48	0.00	18.68
Total	56.92	10.85	0.36	68.13

Anticipated Students	Attend Home School	Attend other DCSD School	Private School	Total
Oak View ES	32	6	0	38
Cedar Grove MS	11	1	0	12
Cedar Grove HS	14	4	0	18
Total	57	11	0	68



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 OR JOHN REID
JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: LP-19-1243387 Parcel I.D. #: 15-090-01-013

Address: 3101
Clifton Springs Rd
Decatur GA 30034

Flan Shank Pkwy Adjacent Roadway (s):
Major Thoroughfare
(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) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

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

COMMENTS:

Plans and field reviewed. Found no problem that would disrupt traffic flow @ this time because of future development.

Signature: [Signature] Dard M. Ross



404.371.2155 (o)
404.371.4556 (f)
DeKalbCountyGa.gov

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

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

APPLICATION TO AMEND COMPREHENSIVE LAND USE PLAN
OF DEKALB COUNTY, GEORGIA

Application No.: _____ Date Received: LP- 1243387

Applicant's Name: Otto Tract No. 10, LLC. c/o Battle Law, P.C. E-Mail: mlb@battlelawpc.com

Applicant's Mailing Address: One West Court Square Suite 750 Decatur, GA 30030

Applicant's Daytime Phone #: 404.601.7616 Fax: 404.745.0045

(If more than one owner, attach information for each owner as Exhibit "A")

Owner's Name: Otto Tract No. 10, LLC E-Mail: maxieprice1@gmail.com

Owner's Mailing Address: 1261 Hammond Creek Trail Watkinsville, GA 30677

Owner's Daytime Phone #: 770.317.3000 Fax: _____

Address/Location of Subject Property: 3101 Clifton Springs Road, Decatur 30034

District(s): 15 Land Lot(s): 090 Block(s): 01 Parcel(s): 013

Acreage: 26.891 Commission District(s): 3 & 6

Tract 1A

Current Land Use Designation: NC Proposed Land Use Designation: LI

Current Zoning Classification(s): MU-4

PLEASE READ THE FOLLOWING BEFORE SIGNING

- I. This application form must be completed in its entirety. In addition, any application that lacks any of the required attachments or payment of the filing fee shall be determined to be incomplete and shall not be accepted.
- II.
- III. Disclosure of Campaign Contributions: In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered: Have you, the applicant, made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes X No
- IV.

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

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

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

Otto Tract No. 10, LLC

NOTARY SA NICHELLE HIGHMAN By: B. J. D. Jr
EXPIRATION DATE/ SEAL SIGNATURE OF APPLICANT
Check One: Owner X Agent 7-2-19
DATE





404.371.2155 (o)
404.371.4556 (f)
DeKalbCountyGa.gov

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

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: Bethell Law Phone: 404-601-7616 Email: _____

Property Address: 3101 Clifton Springs Rd

Tax Parcel ID: 15-090-01 013 Comm. District(s): 3406 Acreage: 29.53

Existing Use: undeveloped Proposed Use: 27-8 industrial pro

Supplemental Regs: _____ Overlay District: I-20 DRI: _____

Rezoning: Yes ☒ No _____

Existing Zoning: MU-4 Proposed Zoning: M Square Footage Number of Units: _____

Rezoning Request: from proposed commercial portion of MU-4 to the apt portion to industrial for warehouse distribution

Land Use Plan Amendment: Yes ☒ No _____

Existing Land Use: NC Proposed Land Use: LND Consistent _____ Inconsistent _____

Special Land Use Permit: Yes _____ No _____ Article Number(s) 27- _____

Special Land Use Request(s) _____

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:

MSE

Date

6/5/19

Filing Fees

REZONING:	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
LAND USE MAP AMENDMENT		\$500.00
SPECIAL LAND USE PERMIT		\$400.00



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@battlelawpc.com

REZONING, LAND USE AMENDMENT AND SLUP FOR APARTMENTS, WAREHOUSE AND DRIVE THRU USE

Community Meeting
Tuesday, June 26, 2019
6:30 pm until 8:00 pm
Flat Shoals Library
4022 Flat Shoals Parkway
Decatur, GA 30034

PROPOSED LOCATIONS:

4007 & 4025 Flat Shoals Parkway

3101 Clifton Springs Road



DeKalb County

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

LAND USE (FUTURE DEVELOPMENT) MAP AMENDMENT APPLICATION AUTHORIZATION

Completion of this form is required if the individual making the request is not the owner of the property.

DATE: 7-2-19

CHECK TYPE OF APPLICATION:

☒ (X) LAND USE MAP AMENDMENT

☐ () REZONE

☐ () MINOR MODIFICATION

☐ () SPECIAL LAND USE PERMIT

TO WHOM IT MAY CONCERN:

☐ (I) / (WE), Otto Tract No 10, LLC

(Name of owner(s))

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

Otto Tract No. 10, LLC & Battle Law, P.C.

(Name of Applicant or Agent Representing Owner)

to file and application on my/our behalf.

Otto Tract No 10, LLC

Notary Public

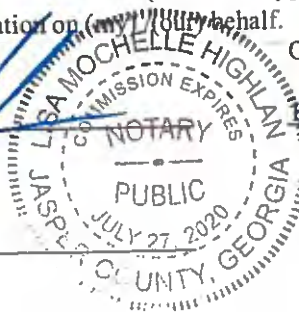
By: B. D. [Signature] Owner

Notary Public

Owner

Notary Public

Owner



**PROPOSED LEGAL DESCRIPTION FOR
TRACT 1A for Clifton Springs Road Warehouse Tract**

All that tract or parcel of land lying and being in LL 71 and LL 90 of the 15th District of Dekalb County Georgia, and being more particularly described as follows:

BEGINNING at a point (POB) established by the intersection of the Land Lot Line common to LL 71, LL 72, LL and LL 90, thence as follows:

N00°44'23"E a distance of 1003.93 feet to a 1/2" rebar found; thence
N01°15'30"E a distance of 96.51 feet to a 1/2" rebar found on the southern right-of-way line of Clifton Springs Road (variable R/W); thence along said r/w line
N60°38'11"E a distance of 511.30 feet to a point; thence leaving said r/w
S46°02'10"E a distance of 574.72 feet to a point; thence
S11°40'52"W a distance of 1076.13 feet to a point; thence
S25°29'43"E a distance of 114.62 feet to a point; thence
S40°44'10"E a distance of 174.27 feet to a point; thence
S30°58'31"W a distance of 195.83 feet to a point; thence
N62°29'19"W a distance of 812.67 feet to a point; thence
N00°53'13"E a distance of 129.79 feet to a point being the Point of Beginning.

Said tract contains approximately 26.891 acres

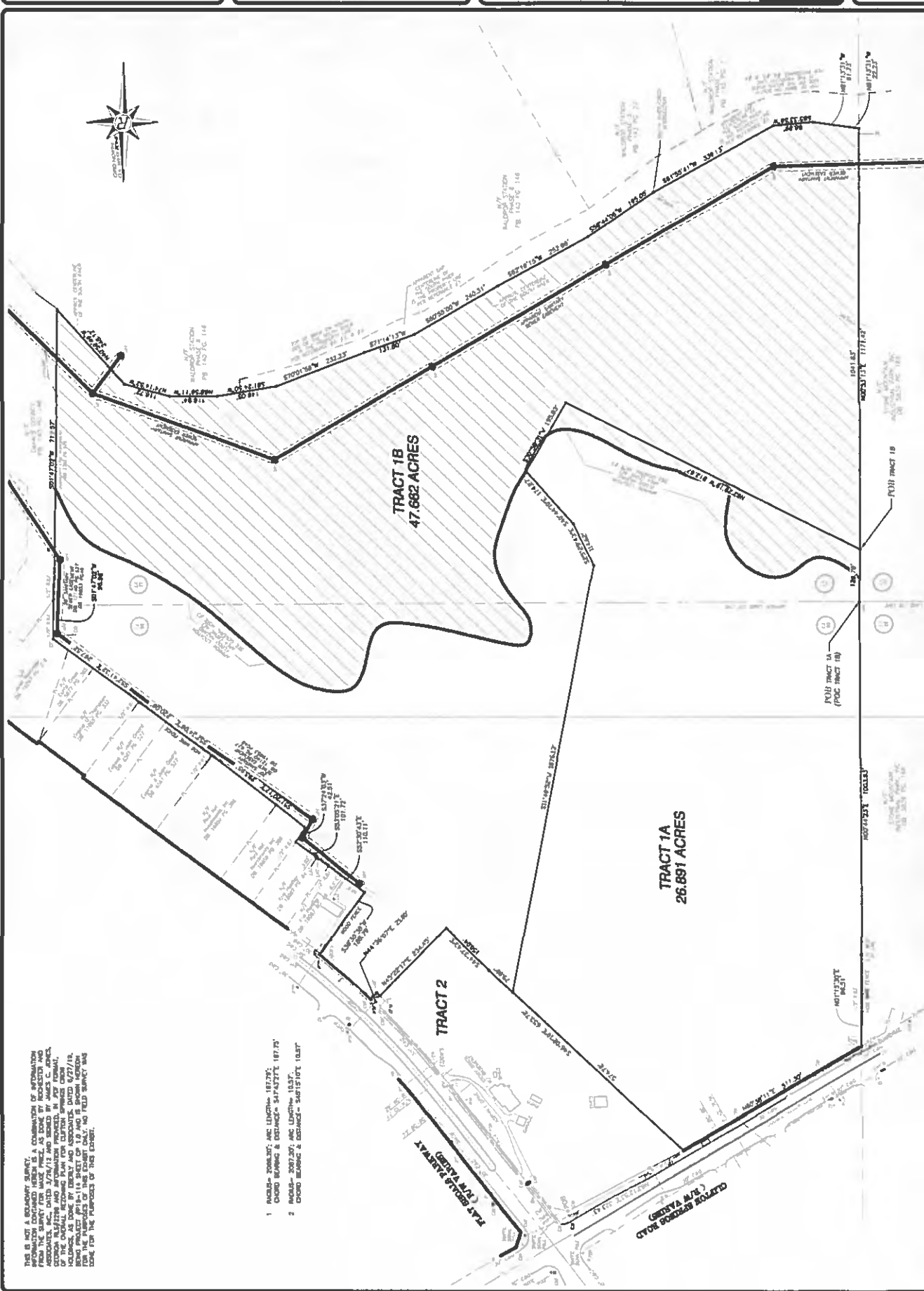
PROPOSED LEGAL DESCRIPTION FOR
TRACT 1B for Clifton Springs Road Apartment Tract

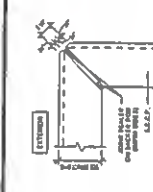
All that tract or parcel of land lying and being in LL 71 and LL 90 of the 15th District of Dekalb County Georgia, and being more particularly described as follows:

Commence at a point (POC) established by the intersection of the Land Lot Line common to LL 71, LL 72, LL and LL 90, thence along the land lot line common to LL 71 and LL 72 S00°53'13"E a distance of 129.79 feet to the Point of Beginning, thence as follows:

S62°29'19"E a distance of 812.67 feet to a point; thence
N30°58'31"E a distance of 195.83 feet to a point; thence
N40°44'10"W a distance of 174.27 feet to a point; thence
N25°29'43"W a distance of 114.62 feet to a point; thence
N11°40'52"E a distance of 1076.13 feet to a point; thence
S46°02'10"E a distance of 79.00 feet to a point; thence
S44°37'43"E a distance of 150.04 feet to a point; thence
N45°22'17"E a distance of 234.45 feet to a point; thence
Along a curve an arc distance of 10.57 feet (said arc having a chord distance of 10.57 feet and running
S45°14'10"E to a point); thence
N44°36'07"E a distance of 21.00 feet to a point on the southerly right of way line of Flat Shoals Parkway
(variable r/w); thence along said r/w
Along a curve an arc distance of 167.79 feet (said arc having a chord distance of 167.75 feet and running
S47°43'27"E to a point); thence leaving said r/w
S36°35'38"W a distance of 188.79 feet to a point; thence
S52°30'43"E a distance of 110.11 feet to a point; thence
S53°05'21"E a distance of 101.72 feet to a point; thence
S37°24'03"W a distance of 42.51 feet to a point; thence
S51°20'17"E a distance of 293.95 feet to a point; thence
S52°34'06"E a distance of 220.09 feet to a point; thence
S52°41'32"E a distance of 267.52 feet to a 1/2" rebar found; thence
S01°47'02"W a distance of 717.57 feet to the center line of the South River which establishes the
southern boundary, thence long said South River centerline
N40°59'49"W a distance of 248.12 feet to a point; thence
N74°14'52"W a distance of 116.72 feet to a point; thence
N88°56'11"W a distance of 116.94 feet to a point; thence
S81°24'50"W a distance of 149.05 feet to a point; thence
S70°01'58"W a distance of 232.23 feet to a point; thence
S71°14'13"W a distance of 131.80 feet to a point; thence
S60°55'00"W a distance of 240.31 feet to a point; thence
S62°19'15"W a distance of 252.96 feet to a point; thence
S56°44'06"W a distance of 195.05 feet to a point; thence
S61°55'41"W a distance of 339.13 feet to a point; thence
S85°33'58"W a distance of 98.89 feet to a point; thence
N81°13'31"W a distance of 91.73 feet to a point; thence
N81°13'31"W a distance of 22.24 feet to a point intersecting the land lot line common to LL 71 and
LL 72; thence leaving said South River Centerline and along said land lot line
N00°53'13"E a distance of 1041.63 to a point being the Point of Beginning.

Said tract contains approximately 47.662 acres





2 TYP. S.C.C.P. MITERED CORNER

- [illegible]

428

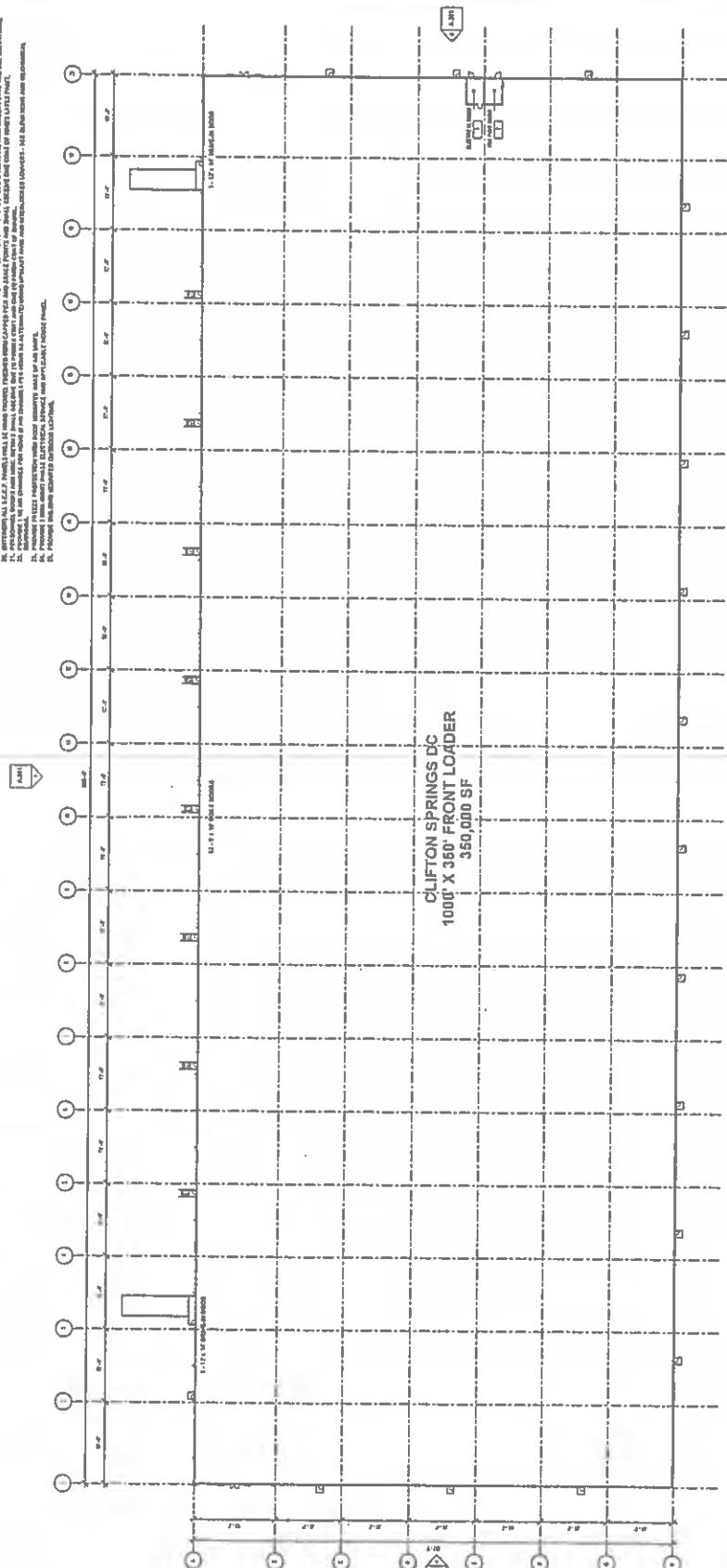
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OVERALL FLOOR PLAN

A.101

NOT ISSUED FOR CONSTRUCTION



1 OVERALL FLOOR PLAN





CLIP-TON SPRINGS DC

DECATUR, GA

Project Name	CLIP-TON SPRINGS DC
Project No.	11/00000001
Revision	
Drawn By	
Check By	
Scale	AS SHOWN
Sheet No.	A.201
Sheet Title	EXTERIOR ELEVATIONS
Notes	NOT BASED FOR CONSTRUCTION

KEYNOTES

- 1. CONCRETE SHALL BE 4000 PSI COMPRESSIVE STRENGTH.
- 2. ALL REINFORCING SHALL BE 60,000 PSI YIELD STRENGTH.
- 3. ALL FORMWORK SHALL BE 1/2" THICK PLYWOOD OR EQUIVALENT.
- 4. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.
- 5. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.
- 6. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.

GENERAL NOTES

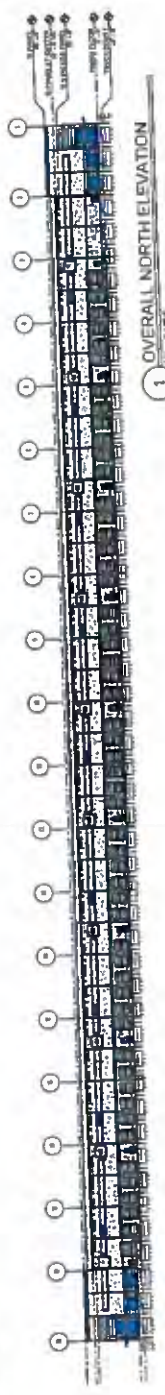
- 1. ALL CONCRETE SHALL BE 4000 PSI COMPRESSIVE STRENGTH.
- 2. ALL REINFORCING SHALL BE 60,000 PSI YIELD STRENGTH.
- 3. ALL FORMWORK SHALL BE 1/2" THICK PLYWOOD OR EQUIVALENT.
- 4. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.
- 5. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.
- 6. ALL JOINTS SHALL BE REINFORCED WITH 4# BARS.

EXTERIOR FINISH SCHEDULE

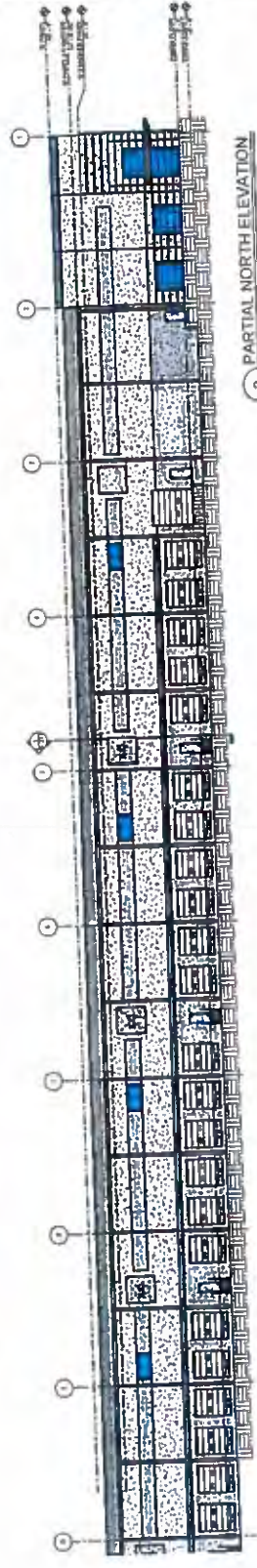
ITEM	DESCRIPTION	UNIT
101	EXTERIOR WALLS, CONCRETE, 4" THICK	SQ. YD.
102	EXTERIOR WALLS, CONCRETE, 6" THICK	SQ. YD.
103	EXTERIOR WALLS, CONCRETE, 8" THICK	SQ. YD.
104	EXTERIOR WALLS, CONCRETE, 10" THICK	SQ. YD.
105	EXTERIOR WALLS, CONCRETE, 12" THICK	SQ. YD.
106	EXTERIOR WALLS, CONCRETE, 14" THICK	SQ. YD.
107	EXTERIOR WALLS, CONCRETE, 16" THICK	SQ. YD.
108	EXTERIOR WALLS, CONCRETE, 18" THICK	SQ. YD.
109	EXTERIOR WALLS, CONCRETE, 20" THICK	SQ. YD.
110	EXTERIOR WALLS, CONCRETE, 22" THICK	SQ. YD.
111	EXTERIOR WALLS, CONCRETE, 24" THICK	SQ. YD.

GLASS SCHEDULE

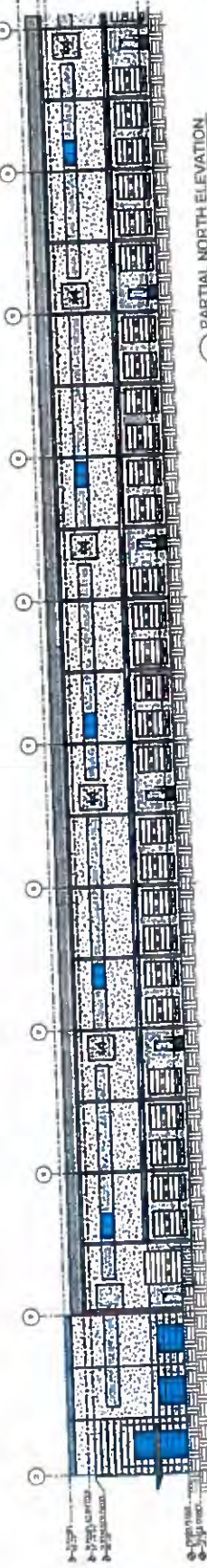
ITEM	DESCRIPTION	UNIT
101	GLASS, 1/2" THICK, CLEAR	SQ. FT.
102	GLASS, 1/2" THICK, TINTED	SQ. FT.
103	GLASS, 1/2" THICK, LOW E	SQ. FT.
104	GLASS, 1/2" THICK, LOW E, TINTED	SQ. FT.
105	GLASS, 1/2" THICK, LOW E, TINTED, IR	SQ. FT.
106	GLASS, 1/2" THICK, LOW E, TINTED, IR, L	SQ. FT.
107	GLASS, 1/2" THICK, LOW E, TINTED, IR, L, H	SQ. FT.
108	GLASS, 1/2" THICK, LOW E, TINTED, IR, L, H, V	SQ. FT.
109	GLASS, 1/2" THICK, LOW E, TINTED, IR, L, H, V, W	SQ. FT.
110	GLASS, 1/2" THICK, LOW E, TINTED, IR, L, H, V, W, D	SQ. FT.
111	GLASS, 1/2" THICK, LOW E, TINTED, IR, L, H, V, W, D, S	SQ. FT.



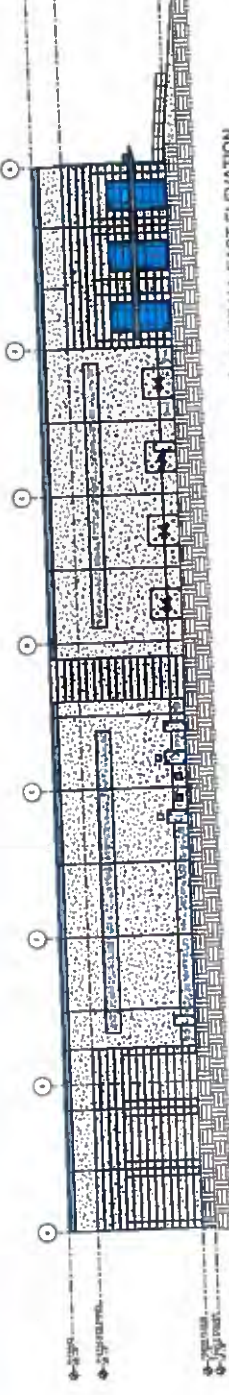
1 OVERALL NORTH ELEVATION



2 PARTIAL NORTH ELEVATION



3 PARTIAL NORTH ELEVATION



4 OVERALL EAST ELEVATION



CLIFTON SPRINGS DC

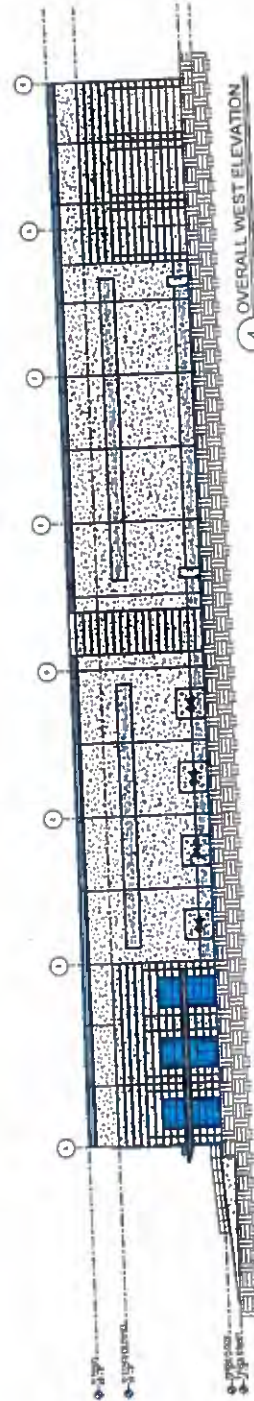
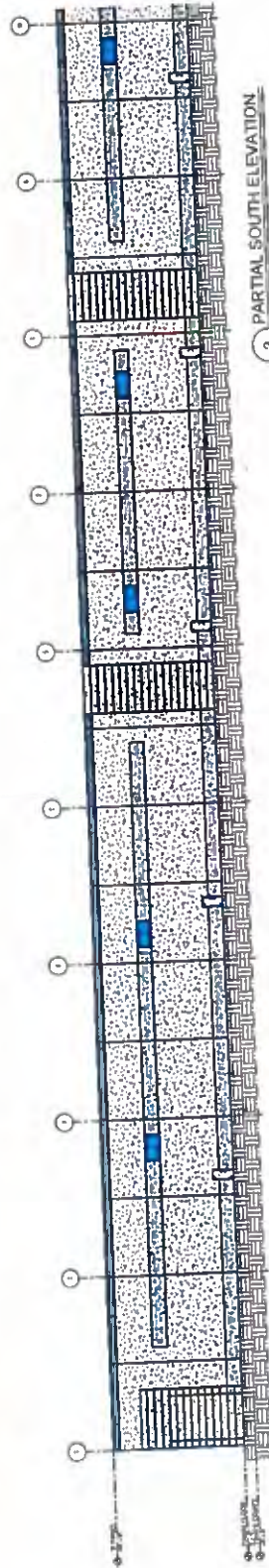
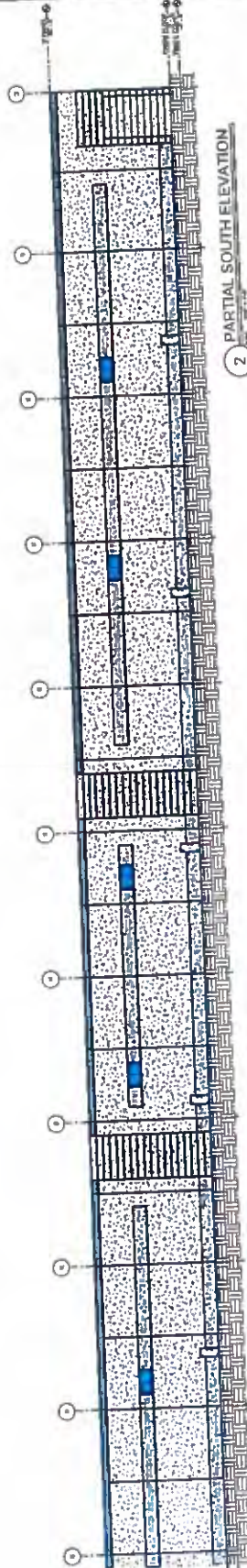
DECATUR, GA

Project Name	CLIFTON SPRINGS DC
Project Number	1000000000
Revision	1.0
Drawn By	10/10/2017
Check By	10/10/2017
Scale	1/8" = 1'-0"
Sheet Size	11" x 17"
Sheet Number	10/10/2017

EXTERIOR ELEVATIONS

A.202

NOT ISSUED FOR CONSTRUCTION



EXTERIOR FINISH SCHEDULE

ALL EXTERIOR FINISHES TO BE ACCORDANCE WITH SCHEDULE

GLASS SCHEDULE

SEE SCHEDULE FOR GLASS SCHEDULE

KEY NOTES

SEE SCHEDULE FOR KEY NOTES

GENERAL NOTES

SEE SCHEDULE FOR GENERAL NOTES

STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
DeKalb County Zoning Ordinance
for the
Application for Land Use Amendment

of

OTTO TRACT NO. 10, LLC

for

+/-26.891 Acres of Land
located in
Land Lot 90, 15th District, DeKalb County

From NC to LIND

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Sq., Suite 750
Decatur, GA 30030
404-601-7616

I. STATEMENT OF INTENT

Otto Tract No. 10, LLC (the “Applicant”) is the owner of the 74.536 acre tract of land located at 3101 Clifton Springs Road (the “Master Tract”) near the intersection of Clifton Springs Road and Flat Shoals Parkway. The Master Tract has a land use designation of Neighborhood Center (NC), is zoned MU-4 (Cond.) and is located within Tier 2 of the I-20 Overlay District. CHI Acquisitions, LLC (“CHI”), is seeking to acquire a +/-26.891 acre portion of the Master Tract, which tract is depicted as Tract IA on the Survey submitted with this Application (the “Subject Property”), for the development of a 350,000 sq. ft. distribution warehouse on the Subject Property. The Applicant is submitting this Land Use Amendment Application to amend the land use designation of the Subject Property from Neighborhood Commercial to Light Industrial (LIND). Simultaneously with the submission of this Application, the Applicant has applied to rezone the Subject Property from MU-4 (COND) to M.

This document is submitted both as a Statement of Intent regarding this Application, a preservation of the Applicant’s constitutional rights, and the Impact Analysis of this Application as required by the DeKalb County Zoning Ordinance. A surveyed plat and conceptual site plan of the Subject Property controlled by the Applicant has been filed contemporaneously with the Application, along with other required materials.

II. PROPERTY HISTORY

The Master Tract was rezoned to MU-4 f/k/a OCR for the development of a mixed-use project that was a Development of Regional Impact (the “DRI Project”). The DRI Project included up to 600 apartment units and in excess of 140,000 sq. ft. of commercial/retail space. It was the intent of the Applicant that the anchor for the commercial/retail space would be a

grocery store or other big box retailer. After the rezoning application for the proposed project was approved on November 13, 2012, the Applicant worked tirelessly to locate a grocery store or big box that would be interested in anchoring the site. Despite meeting with and extending offers to Kroger, Walmart, Lidl, Publix and other similar stores, no store was interested in locating at the site. The Applicant sought the assistance of the DeKalb County Economic Development Department to help locate a retailer, but to no avail. Even the efforts to development the multi-family component of the project became a difficult sell due to the Applicant's inability to get a retailer on board for the DRI Project. Therefore, after 7 years of making a good faith effort to develop the Master Tract, the Applicant was approached by the Applicant to acquire the Subject Property for the development of a distribution warehouse facility.

The use of the Subject Property for a warehouse distribution facility is consistent with the industrial uses in the area off of Clifton Springs Road between Pathersville Road and Flat Shoals Parkway, including Roadrunner Freight Systems at 3290 Colonial Parkway, RoadTex Temperature Control Warehouse at 3245 Colonial Parkway, and Exide Technologies at 3155 North Lanier Parkway, all of which are zoned M and have a land use designation of LIND. Therefore, it is the Applicant, contention that allowing the land use designation for the Subject Property to be amended from NC to LIND is consistent with the adjacent land use of LIND, and will allow for the development of the Subject Property with a use that will generate over 200 jobs for DeKalb County residents in the area. These jobs will then support the revitalization of the Flat Shoal Parkway corridor, as the employees at the facility patronize the retailers, restaurants, and other non-residential uses in the area, as well as seek to either stay or relocate to the area. While this is not the project initially imagined, it is a project that will promote the

continued growth and development of the area, while creating much needed jobs and sustainability.

III. IMPACT ANALYSIS

- (a) **Suitability of use:** The proposed land use amendment from NC to LIND will permit a use that is suitable in view of the other industrial uses adjacent to and nearby the Subject Property, including those identified in Section II above. The Subject Property is abutted by and directly across the street from property with a land use designation of LIND.

- (b) **Effect on adjacent property:** The use of the Subject Property as contemplated in this Application will have no adverse impact on the adjacent property Applicants. The Subject Property is abuts other warehouse distribution businesses North and West of the Subject Property. Additionally, the Subject Property is located between undevelopable floodplain and the QuikTrip at the intersection of Flat Shoals Parkway and Clifton Springs Road. Shoals Parkway between the I-20 interchange and Clifton Springs is a commercial corridor in much need of redevelopment, and the proposed land use amendment will support this revitalization.

- (c) **Effect on public facilities:** The Subject Property is located in an area with public utility availability and convenient access to major thoroughfares. The proposed rezoning will not cause excessive use of streets, transportation facilities, utilities, or schools in the area.

- (d) Effect on historic building, sites, etc. The approval of this Rezoning Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area known to the Applicant.
- (e) Environmental Impact. The approval of this Rezoning Application will not result in any adverse environmental impact. The Applicant will be taking all required steps necessary to properly address the minor development of the parking lot area within the floodplain.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application. Please note that the Applicant's Notice of Constitutional Allegations and Preservation of Constitutional Rights have been submitted with this Application and are attached hereto and by this reference incorporated herein.

This 3rd day of July, 2019.

Respectfully submitted,


Michèle L. Battle, Esq.
Attorney For Applicant

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

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

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

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 I of the Constitution of the State of Georgia.

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

A refusal to allow the rezoning in questions would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the

Georgia Constitution.

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

The existing zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify this unconstitutional 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.

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



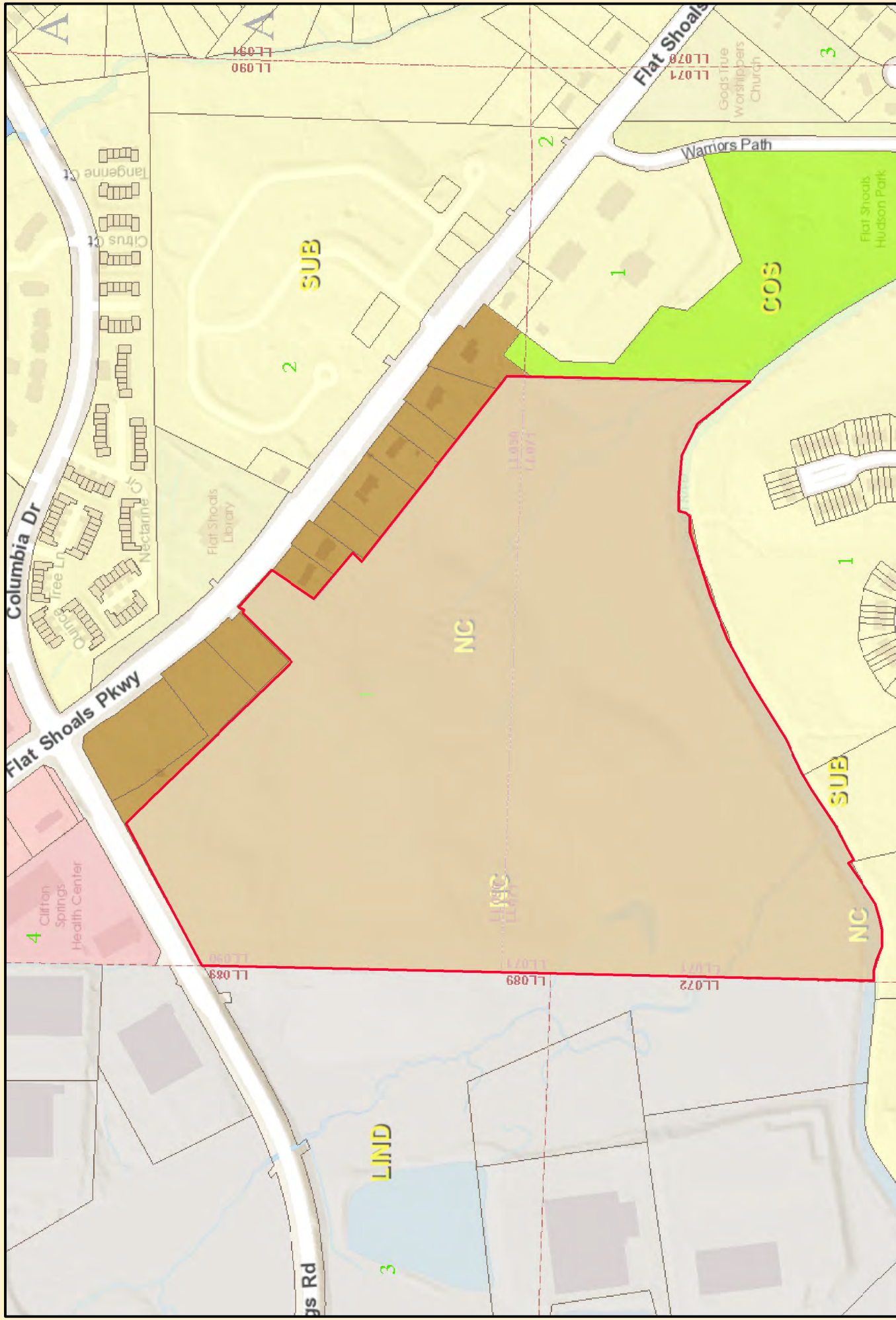
Dekalb County GIS Disclaimer

The maps and data contained on Dekalb County's Geographic Information System (GIS) are subject to constant change. While Dekalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. Dekalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall Dekalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should it be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.

LP-19-1242287 Aerial



Date Printed: 7/17/2019



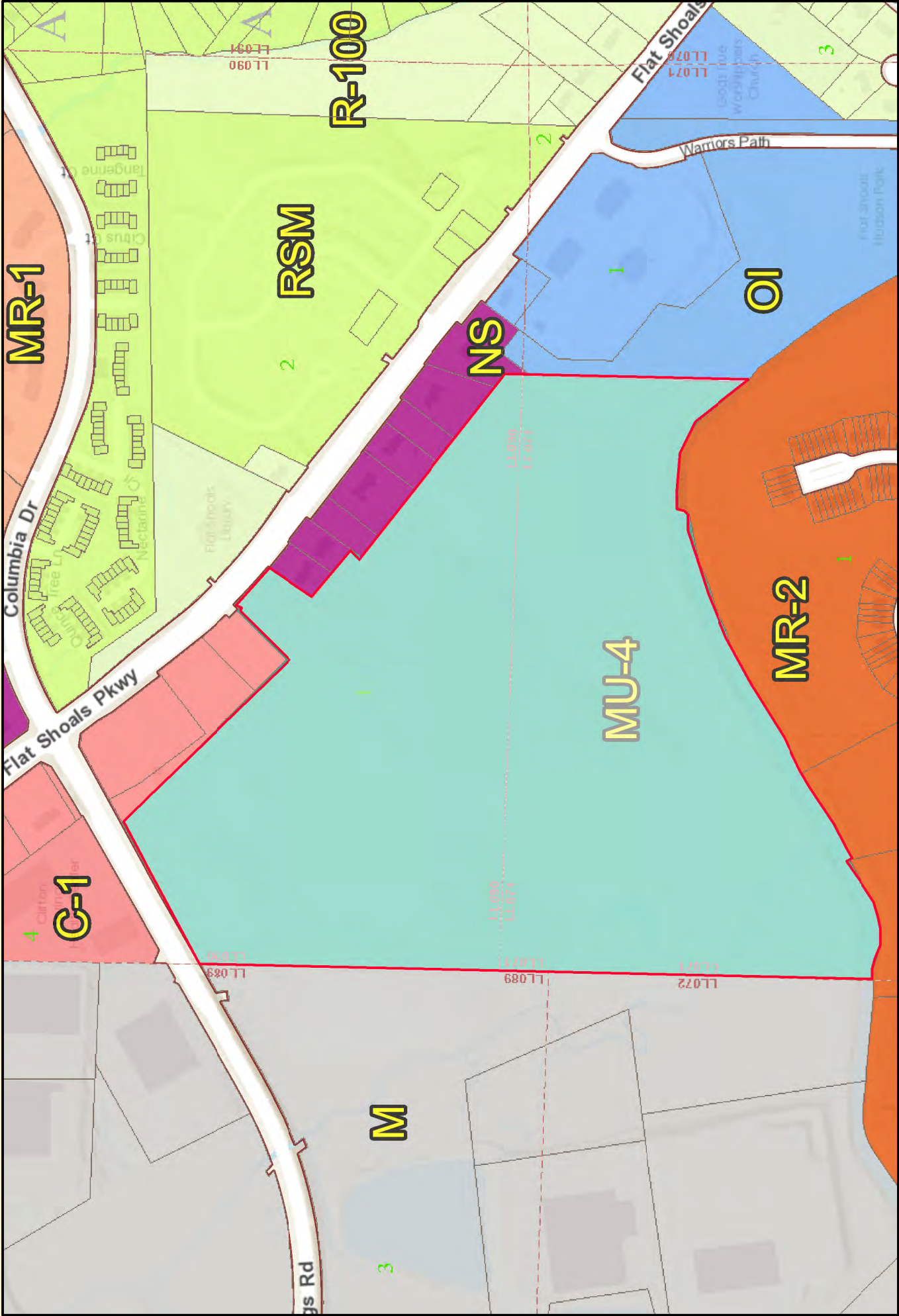
LP-19-1242287 LU



Date Printed: 7/17/2019

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LP-19-1242287 Zoning



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