

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

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

Applicant and/or
Authorized Representative: _____

Mailing Address: _____

City/State/Zip Code: _____

Email: _____

Telephone Home: _____ Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: _____

Address (Mailing): _____

Email: _____ Telephone Home: _____ Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

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

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

Zoning Classification: _____ Commission District & Super District: _____

CHECK TYPE OF HEARING REQUESTED:

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

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

_____ OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

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

Email plansustain@dekalbcountyga.gov with any questions.



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION

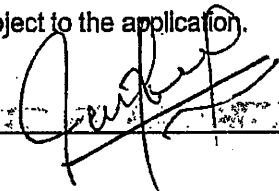
AUTHORIZATION OF THE PROPERTY OWNER

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

I hereby certify that the information provided in the application is true and correct, *to my knowledge/belief.*

I hereby certify that I am the owner of the property subject to the application.

DATE: 12/21/23

Applicant Signature: 

DATE: 12/21/2023

Applicant Signature: 

The Pauls K and Angela J Cho Living Trust f/k/a
The Kyu Yong Cho and Joo Ah Cho Revocable Trusts,
authorizing QuikTrip Corporation and Battle Law P.C.
to file a Variance Application.



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

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

I hereby certify that the information provided in the application is true and correct.

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

DATE: 12/27/2023 Applicant/Agent JM Joshua Mahoney, Esq. for
Signature: authorized agent
Battle Law P.C.

TO WHOM IT MAY CONCERN: The Paulo K and Angela J Cho Living Trust f/k/a
(I) (WE): The Kyu Yong Cho Revocable Trust and the Joo Ah Cho Revocable Trust
(Name of Owners)

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

<u>[Signature]</u> Notary Public		<u>[Signature]</u> Owner Signature
<u>[Signature]</u> Notary Public		<u>[Signature]</u> Owner Signature
_____ Notary Public		_____ Owner Signature



Battle Law

STATEMENT OF INTENT

and

Other Material Required by
DeKalb County Zoning Ordinance
For
A Signage Variance

of

QuikTrip Corporation
c/o Battle Law, P.C.

for

+/- 2.47 Acres of Land
Being 4810 & 4822 Covington Hwy,
Decatur, Georgia and
Parcel Nos. 15 163 01 008 and 15 190 05 016

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com



Battle Law

I. LETTER OF INTENT

The QuikTrip Corporation (the “Applicant”) is seeking to develop a new convenience store with fuel pumps on 2.47 acres of land being Tax Parcel Nos. 1519005016 & 1516301008 having frontage on 4810 and 4822 Covington Highway. The Subject Property is zoned C-2. The Applicant is seeking a signage variance to build three signs on the proposed fuel-pump canopy advertising the QuikTrip fuel and convenience store. Specifically, the variance would increase the total square footage of the permissible signage from 6 square feet to 14 square feet.

This variance is necessary to provide a clear sign on each of the three street directions that approach the Subject Property. None of the three signs will protrude past the length or width of the fuel station canopy.

II. DEKALB COUNTY IMPACT ANALYSIS CRITERIA FOR SIGNAGE VARIANCES

A. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other land or structures in the area;

There are exceptional conditions pertaining to the property where the sign is to be located. The Subject Property has a “pinch point” in the middle at the intersection of Glenwood Road and Covington Highway. The angled intersection limits the available space on the Subject Property for signage advertising the QuikTrip location, which makes the variance necessary. Other properties do not share this odd shape.

B. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;

Granting the requested variance would not grant any privileges to the Applicant.

C. The exceptional circumstances are not the result of action by the applicant;

The shape of the Subject Property is not the result of action by the Applicant.

D. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;

The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated.

E. Granting of the variance would not violate more than one (1) standard of this article;

Granting the variance would not violate more than one standard of this article.



Battle Law

F. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.

Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic. The proposed sign would not exceed the height or width of the fuel station canopy, so it does not add any additional interference with the road.

III. CONCLUSION

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

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

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

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

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.



Battle Law

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

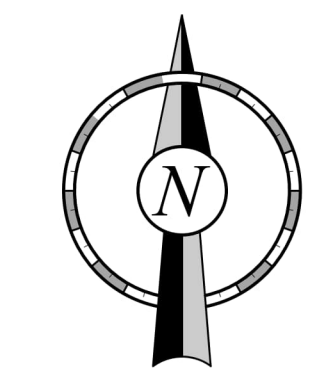
The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional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

MLB

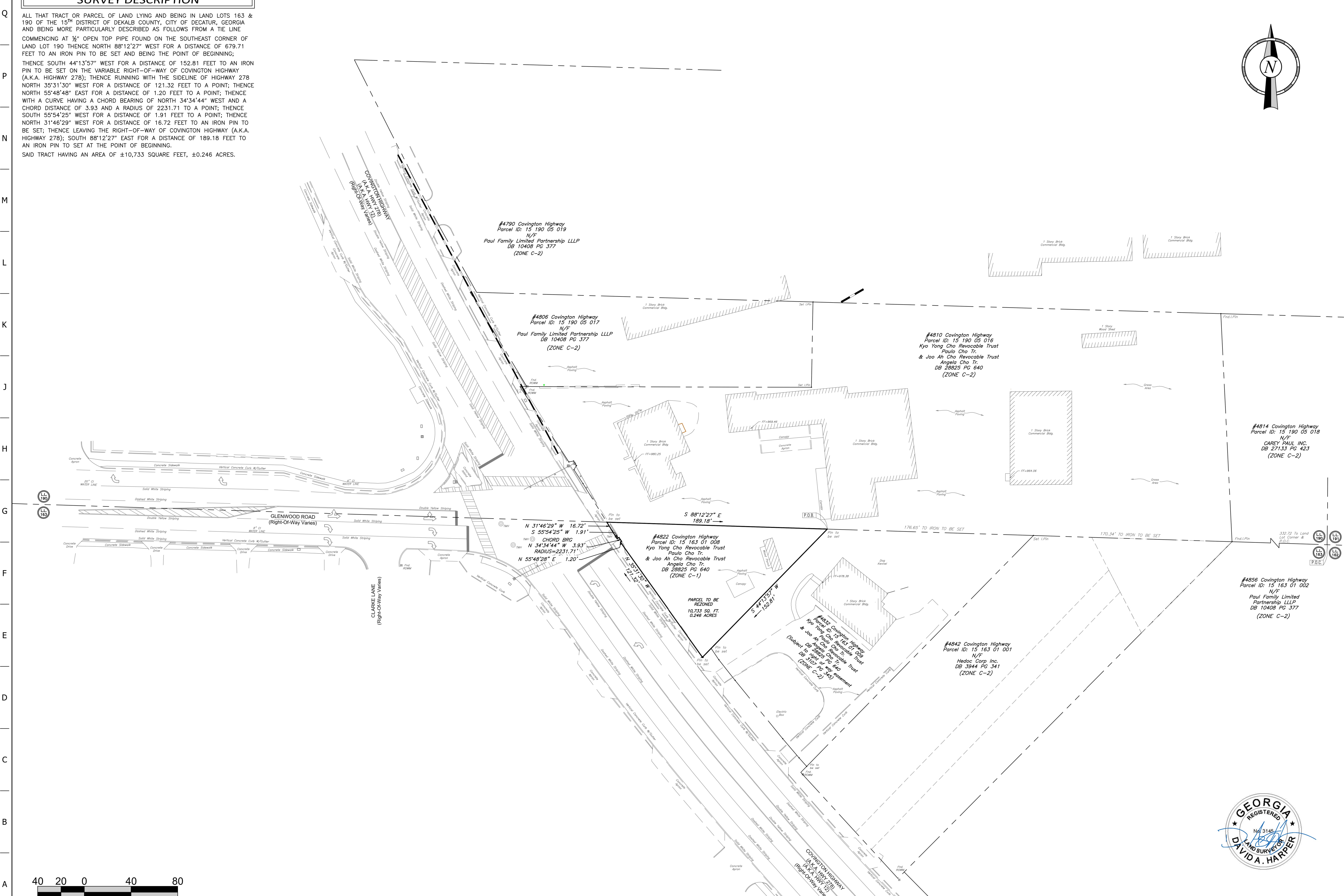
Michele L. Battle, Esq.
Attorney for the Applicant

SURVEY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 163 & 190 OF THE 15TH DISTRICT OF DEKALB COUNTY, CITY OF DECATUR, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS FROM A TIE LINE COMMENCING AT 1/2" OPEN TOP PIPE FOUND ON THE SOUTHEAST CORNER OF LAND LOT 190 THENCE NORTH 88°12'27" WEST FOR A DISTANCE OF 679.71 FEET TO AN IRON PIN TO BE SET AND BEING THE POINT OF BEGINNING; THENCE SOUTH 44°13'57" WEST FOR A DISTANCE OF 152.81 FEET TO AN IRON PIN TO BE SET ON THE VARIABLE RIGHT-OF-WAY OF COVINGTON HIGHWAY (A.K.A. HIGHWAY 278); THENCE RUNNING WITH THE SIDELINE OF HIGHWAY 278 NORTH 35°31'30" WEST FOR A DISTANCE OF 121.32 FEET TO A POINT; THENCE NORTH 55°48'48" EAST FOR A DISTANCE OF 1.20 FEET TO A POINT; THENCE WITH A CURVE HAVING A CHORD BEARING OF NORTH 34°34'44" WEST AND A CHORD DISTANCE OF 3.93 AND A RADIUS OF 2231.71 TO A POINT; THENCE SOUTH 55°54'25" WEST FOR A DISTANCE OF 1.91 FEET TO A POINT; THENCE NORTH 31°46'29" WEST FOR A DISTANCE OF 16.72 FEET TO AN IRON PIN TO BE SET; THENCE LEAVING THE RIGHT-OF-WAY OF COVINGTON HIGHWAY (A.K.A. HIGHWAY 278); SOUTH 88°12'27" EAST FOR A DISTANCE OF 189.18 FEET TO AN IRON PIN TO BE SET AT THE POINT OF BEGINNING. SAID TRACT HAVING AN AREA OF ±10,733 SQUARE FEET, ±0.246 ACRES.



FILE LOCATION: \\Projects\1761\082296.000\06_Project_Data\Field_Data\SURVEY\04_WORKING\DWG\Work\QT_1762 - SHEET 1.dwg TAB NAME: Sheet 1 USER: R3033 SAVED: 08/24/2023 2:25 PM PLOTTED: 08/24/2023 2:33 PM



PROJECT NO.: 082296.000

6745 Sugarloaf Parkway, Suite 100
Decatur, GA 30030
770.447.8992 www.gwacorp.com

QuikTrip No. 1762
4810, 4822 & 4832 COVINGTON HWY, DECATUR, GA 30035
LAND LOTS 163 AND 190 OF THE 15TH DISTRICT
OF DEKALB COUNTY, GA

© COPYRIGHT QUIKTRIP CORPORATION 2011
ANY UNAUTHORIZED USE, REPRODUCTION,
PUBLICATION, DISTRIBUTION, OR SALE IN
WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

PROTOTYPE: P-112 (11/01/22)
DIVISION:
VERSION: 001
DESIGNED BY:
DRAWN BY: MT
REVIEWED BY: EJP

REV	DATE	DESCRIPTION

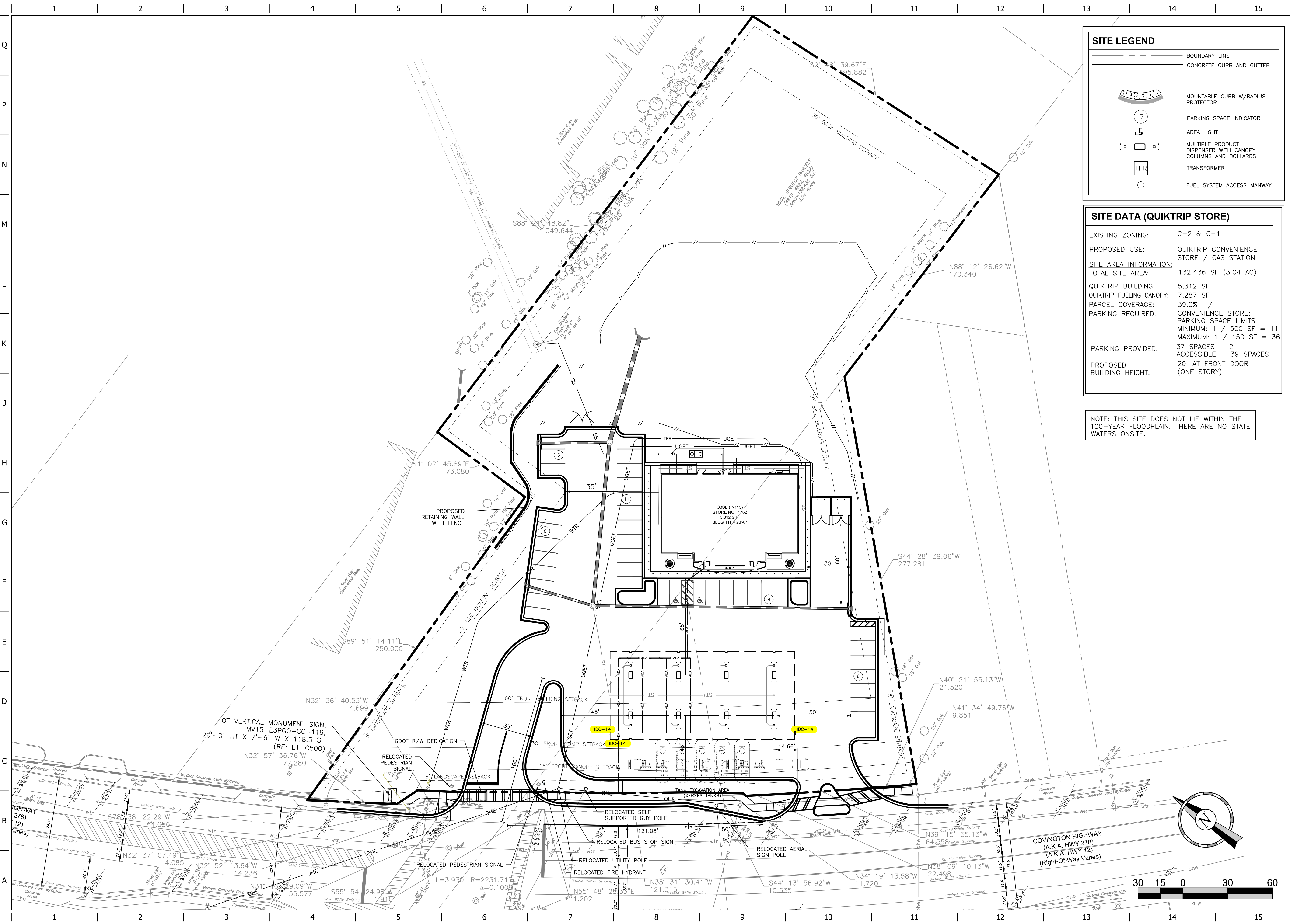
ORIGINAL ISSUE DATE: 08/24/2023

SHEET TITLE:
ZONING PLAN

SHEET NUMBER:
1



FILE LOCATION: \\Projects\ANY\633373\00\09_Design\Drawings\Civil\1762_Civil.dwg TAG NAME: Site (Prelim) USER: E68977 SAVERD/23/2023 11:59 AM PLOTTED: 08/23/2023 1:42 PM



SITE LEGEND

- BOUNDARY LINE
- CONCRETE CURB AND GUTTER
- MOUNTABLE CURB W/RADIUS PROTECTOR
- PARKING SPACE INDICATOR
- AREA LIGHT
- MULTIPLE PRODUCT DISPENSER WITH CANOPY COLUMNS AND BOLLARDS
- TRANSFORMER
- FUEL SYSTEM ACCESS MANWAY

SITE DATA (QUIKTRIP STORE)

EXISTING ZONING: C-2 & C-1

PROPOSED USE: QUIKTRIP CONVENIENCE STORE / GAS STATION

SITE AREA INFORMATION:

TOTAL SITE AREA: 132,436 SF (3.04 AC)

QUIKTRIP BUILDING: 5,312 SF

QUIKTRIP FUELING CANOPY: 7,287 SF

PARCEL COVERAGE: 39.0% +/-

PARKING REQUIRED: CONVENIENCE STORE:
PARKING SPACE LIMITS
MINIMUM: 1 / 500 SF = 11
MAXIMUM: 1 / 150 SF = 36

PARKING PROVIDED: 37 SPACES + 2
ACCESSIBLE = 39 SPACES

PROPOSED BUILDING HEIGHT: 20' AT FRONT DOOR (ONE STORY)

NOTE: THIS SITE DOES NOT LIE WITHIN THE 100-YEAR FLOODPLAIN. THERE ARE NO STATE WATERS ONSITE.

PROJECT NO.: 83373
GSWCC CERTIFICATION NO. 62970
GSWCC CERTIFICATION EXP. 12/10/2025

6745 Sugarloaf Parkway, Suite 100
Duluth, GA 30097
770.447.8999 www.ciacompanies.com

QuikTrip No. 1762
COVINGTON HWY & GLENWOOD RD
DEKALB COUNTY, GA

© COPYRIGHT QUIKTRIP CORPORATION 2011
ANY UNAUTHORIZED USE, REPRODUCTION, PUBLICATION, DISTRIBUTION, OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

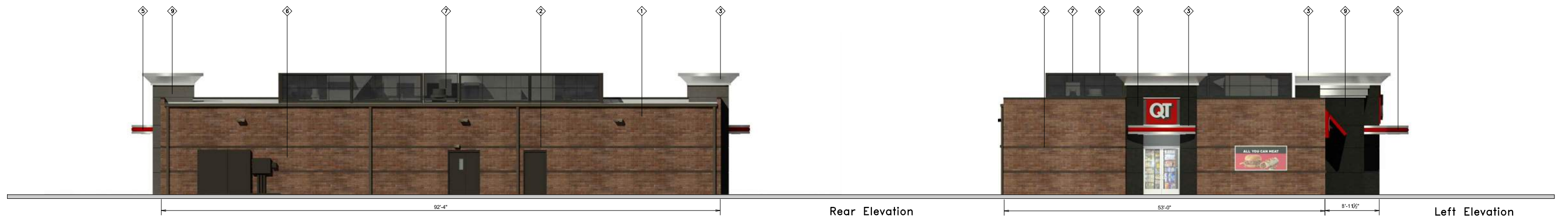
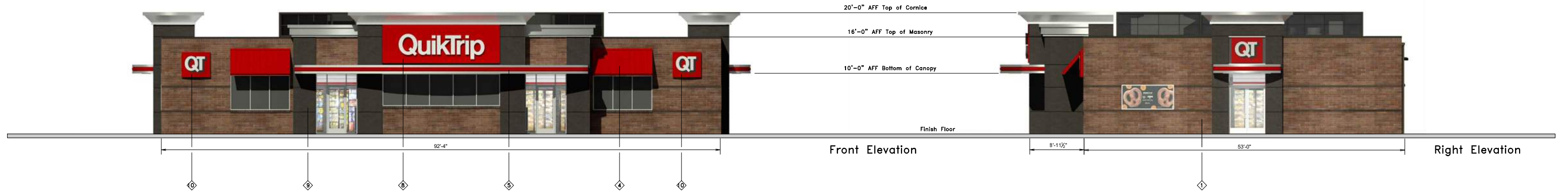
PROTOTYPE: P-113 (02/01/23)
DIVISION:
VERSION: 001
DESIGNED BY:
DRAWN BY:
REVIEWED BY:

REV	DATE	DESCRIPTION

SHEET TITLE:
SITE (PRELIM)

SHEET NUMBER:
1

ORIGINAL ISSUE DATE:



QuikTrip.

4705 South 129th East Ave.
Tulsa, OK 74134-7008
P.O. Box 3475
Tulsa, OK 74101-3475
(918) 615-7700

Store #
07-1762

Serial #
07-1762-G3SE

Scale:
1/16" = 1'-0"

Issue Date:
8/16/2023

Address:
TBD Covington Hwy

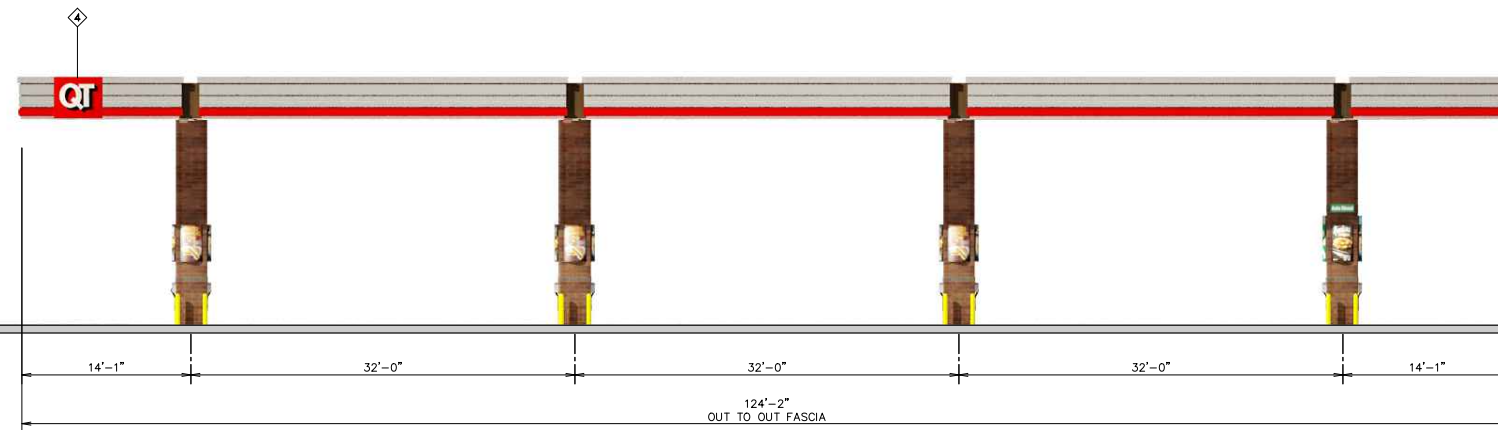
Drawn By:

Rev/Notes:

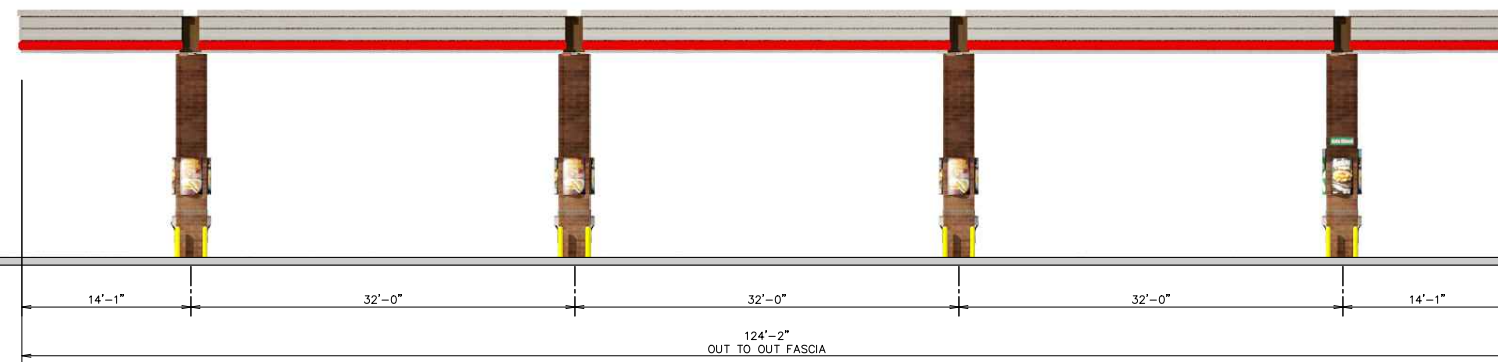
City, State:
Decatur, GA

COPYRIGHT © 2011 QUIKTRIP CORPORATION DESIGN PATENTS
QUIKTRIP PLANS ARE THE EXCLUSIVE PROPERTY OF QUIKTRIP CORPORATION, TULSA,
OKLAHOMA. THESE PLANS ARE PROTECTED IN THEIR ENTIRETY BY DOMESTIC AND
INTERNATIONAL COPYRIGHT AND PATENT STATUTES. ANY UNAUTHORIZED USE, REPRODUCTION,
PUBLICATION, DISTRIBUTION OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

①	FINISH	MANUFACTURER	SPECIFICATION
1	BRONZESTONE	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
2	MIDNIGHT	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
3	BRUSHED ALUMINUM	REYNOLDBOND	FASCIA
4	QT RED	SHERWIN-WILLIAMS	STANDING SEAM AWNING
5	RED POLYCARBONATE	ALLEN INDUSTRIES	ILLUMINATED BAND
6	QT BROWN	SHERWIN-WILLIAMS	METAL PAINT
7	BLACK	ALL COURT FABRICS	POLYPRO 95 MESH
8	CL-60R	ALLEN INDUSTRIES	SIGNAGE
9	GRANITE	STO	A190G EIFS
10	DOB-20	ALLEN INDUSTRIES	ILLUMINATED SIGNAGE



Front Elevation



Rear Elevation



Left Elevation

18'-6" Min. / 25'-6" Max.
 AFF Top of Canopy
 15'-0" Min. Store Side Canopies / 20'-0" Max.
 17'-0" Min. Store Front Canopies / 22'-0" Max.
 AFF Bottom of Canopy



Right Elevation



QuikTrip

4705 South 129th East Ave.
 Tulsa, OK 74134-7008
 P.O. Box 3475
 Tulsa, OK 74101-3475
 (918) 615-7700

Store # 1762 Double Stack 8 Canopy Elevations

Address: TBD Covington Hwy

City, State: Decatur, GA

Serial # 07-1762-GD08

Scale: 1/16" = 1'-0"

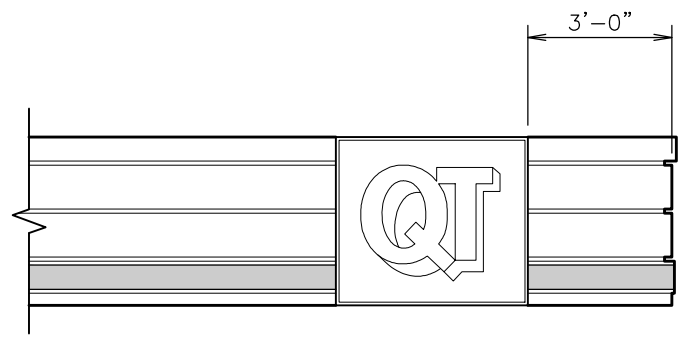
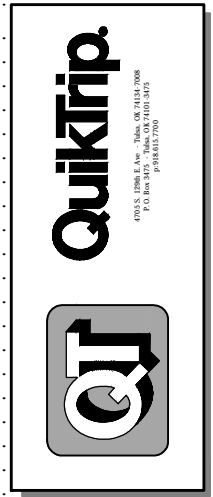
Issue Date: 12.08.23

Drawn By: JK

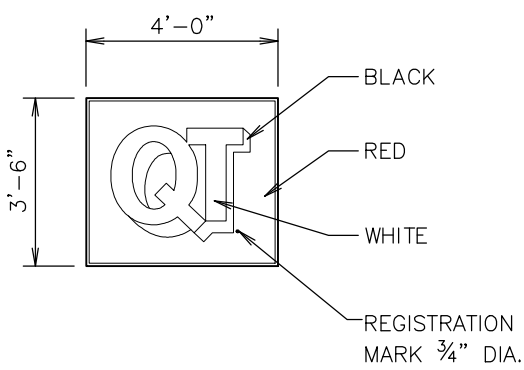
Rev/Notes:

COPYRIGHT © 2011 QUIKTRIP CORPORATION DESIGN PATENTS
 QUIKTRIP PLANS ARE THE EXCLUSIVE PROPERTY OF QUIKTRIP CORPORATION, TULSA,
 OKLAHOMA. THESE PLANS ARE PROTECTED IN THEIR ENTIRETY BY DOMESTIC AND
 INTERNATIONAL COPYRIGHT AND PATENT STATUTES. ANY UNAUTHORIZED USE, REPRODUCTION,
 PUBLICATION, DISTRIBUTION OR SALE IN WHOLE OR IN PART, IS STRICTLY FORBIDDEN.

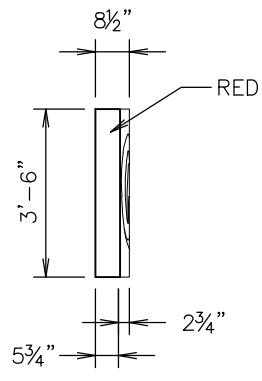
①	FINISH	MANUFACTURER	SPECIFICATION
1	BRUSHED ALUMINUM	REYNOLBOND	CANOPY
2	RED POLYCARBONATE	ALLEN INDUSTRIES	ILLUMINATED BAND
3	QT BROWN	SHERWIN - WILLIAMS	METAL PAINT
4	IDC-14	ALLEN INDUSTRIES	ILLUMINATED SIGNAGE
5	BRONZESTONE	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK
6	BLACK	ALL COURT FABRICS	POLYPRO 95 MESH
7	MIDNIGHT	INTERSTATE BRICK	ATLAS STRUCTURAL BRICK



CANOPY ELEVATION



FRONT ELEVATION



SIDE ELEVATION

Canopy ID
IDC-14

NOTES	
DRAWN BY	
ISSUE DATE	11/07/12

SQUARE FOOTAGE	
TYPEFACE	7
INSIDE CAN	
ENTIRE SIGN	14

SPECIFICATIONS:

LOGO
Flat Solar grade, Clear Cyro Face, .177 thickness, painted on 2nd surface to match 3M Cardinal Red Translucent #3632-53 with Akzo Nobel, no embossment.

LOGO Cabinet
Aluminum Construction, Internally illuminated with GE Tetra PowerStrip DS65/GE PS24 Power Supplies. Painted Akzo Noble, QT Red SIGN9141 Low Gloss.

SCALE:
1/4" = 1'-0"
SERIAL NUMBER:
IDC-14
STORE NUMBER:

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric Hudson

**PRE-APPLICATION FORM
ZONING BOARD OF APPEALS**

Last updated: 12/07/23

Applicant Information

Applicant Name: _____ Phone: _____ Email: _____

Meeting Information

Date/Time: _____ Planner Name: _____

Planner Email: _____

Subject Property

Property Address: _____

Comm. District(s): _____ Tax Parcel ID: _____

Zoning: _____ Land Use: _____ Overlay: _____

Existing Use: _____ Supplemental Regs: _____

Proposed Project

Project Description:

Code sections/Titles needing a variance from:

Filing Guidelines for Applications to the Zoning Board of Appeals

1. Submit Application Materials:

- a. To ensure proper processing and payment, please create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted).
 - If you have an existing account, you may use that account and create a *new application number* by selecting the proper application type.
 - Fill out *all* Account Portal Questions
 - Put your **email address under “WEB ACCOUNT”**
 - **SAVE APPLICATION NUMBER (1246XXX)** – send to staff when you email your complete application.
- b. After portal submittal, email one (1) combined PDF document of the completed application and materials to plansustain@dekalbcountyga.gov and lrcarter@dekalbcountyga.gov along with application number.
- c. Please confirm we have received your application.
- d. For any questions, please contact plansustain@dekalbcountyga.gov

2. Order of Submitted Materials:

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

3. Authorization:

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

4. Letter of Intent:

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

5. Surveys and site plans of the Subject Property:

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

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

Writing the Letter of Intent

Please address the following criteria as appropriate:

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

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

- A. Variances from the provisions or requirements of this chapter other than variances described in section 7.5.4 shall be authorized only upon making all of the following findings in writing:
 - 1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district, as distinguished from a special privilege or convenience sought by the property owner.
 - 2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.
 - 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.
 - 4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.
 - 5. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.
- B. Appeals of decisions regarding building architectural design standards shall be evaluated using the same criteria as section 7.6.7(B).

DEPARTMENT OF PLANNING & SUSTAINABILITY

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

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

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

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

Section 21-27. Sign Variances.

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

7.5.3 Appeals of decisions of administrative officials.

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

DEPARTMENT OF PLANNING & SUSTAINABILITY

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

7.5.4 Limitations of authority of the zoning board of appeals.

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

- A. Allow a structure or use not listed as a permitted use or a special use in the applicable zoning district or a density of development that is not authorized within such district. This prohibition does not apply to any variance from the supplemental regulations of Article 4 of this Zoning Ordinance or from any other accessory feature or characteristic of a permitted or special use, unless said variance is otherwise prohibited by the regulations of this chapter.
- B. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the board of commissioners.
- C. Reduce, waive or modify in any manner the minimum lot width unless the purpose is to reverse a lot merger.
- D. Reduce, waive or modify in any manner the minimum lot area established by this chapter.
- E. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the director of planning.
- F. Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit.
- G. Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of Article 8 of this chapter.
- H. Permit customer contact for a home occupation authorized by this chapter.
- I. Allow any variance to increase the height of a building which will result in adding a story.

Summary of Zoning Board of Appeals Application Process:

1. **Timeline.** It takes ~45-60 days to submit your application and receive an initial decision from the Zoning Board of Appeals regarding your request.
2. **Pre-application Meetings.** DeKalb County now mandates pre-application meetings. Please email plansustain@dekalbcountyga.gov to schedule a virtual appointment to meet with a Planner assigned to the Zoning Board of Appeals. During the virtual meeting, we will review and provide feedback regarding your request, review the application process, and answer any questions.
3. **Application Submittals.** Create a profile and upload at least page 1 of your application to: <https://epermits.dekalbcountyga.gov/> (no more than 10mb permitted). Email a combined PDF document of the completed application and materials to plansustain@dekalbcountyga.gov and ljcarter@dekalbcountyga.gov along with the application number.
4. **Public Hearing Signs.** You will need to post at least one sign per street frontage of the property. Staff will prepare a sign template. You will need to coordinate sign printing and posting with a sign company of your choice, at least 30 days prior to the ZBA hearing. Sign(s) must remain posted until final Board of Appeals action regarding the request. If the application is deferred, you may update the sign(s).
5. **Revisions or amendments.** An application must be submitted in writing and must be received a least 14-days before the scheduled meeting to be addressed by the staff report.
6. **Staff Report.** Staff prepares reports and recommendations for each application. These recommendations are based on the attached criteria established by the [DeKalb County Zoning Code](#). Final staff reports are available to the applicant and the public prior to the scheduled Board of Appeals meeting. Find current reports on our website, here: <https://www.dekalbcountyga.gov/planning-and-sustainability/public-hearing-agendas-info>
7. **Monthly Meetings.** The Zoning Board of Appeals meets once a month, generally on the second Tuesday of each month at 1:00 P.M., via Zoom. Find agendas on our website, [HERE](#).
8. **Applicant and/or Representative must be Present.** Applicants or their representatives must be present at the public hearing to present the request to the Zoning Board of Appeals.
9. **Public Hearing portion of Meeting.** Applicants and others in favor of an application are given a total of five (5) minutes to present to the Board. That is five minutes combined, no matter how many people wish to speak. Applicants should be prepared to explain their variance, why they are requesting it and answer questions from the board. Anyone speaking in opposition also has a total of five (5) minutes to address the application in front of the board. Be prepared to raise your hand or announce yourself when the chair asks for those in support or opposition to the application.
10. **Applicant and/or Representative must be Present.** Applicants or their representative must be present at the public hearing to present the request to the Zoning Board of Appeals.
11. **Executive Session.** After the public hearing, the Board of Appeals will close the public hearing, go into executive session for discussion, and will then take an action on an application. Applicants are not allowed to address the Board of Appeals during Executive Session unless they are asked questions by members of the Board of Appeals.

DEPARTMENT OF PLANNING & SUSTAINABILITY

12. **Zoning Board of Appeals Actions.** The Board of Appeals is authorized to:
 - a. Approve the application as submitted;
 - b. Approve a revised application;
 - c. Approve an application with conditions;
 - d. Deny an application (if an application is denied, no variance can be considered on the same site within 24 months);
 - e. Allow an application to be “Withdrawn without Prejudice” at the request of the applicant.

13. **Compliance with standards upon denial.** In such case that a variance request is initiated due to an existing code violation and such application is denied, the violation shall be required to be brought into compliance within thirty (30) days of such denial or as specified by the board if a greater time period is approved.

14. **Successive applications.** Section 27-920 of the DeKalb County Zoning Ordinance states: An application for a variance or special exception affecting all or a portion of the same property which was denied by the Zoning Board of Appeals shall not be submitted more than once every twenty-four (24) months measured from the date of final decision by the zoning board of appeals. The Zoning Board of Appeals may waive or reduce this twenty-four-month time interval by resolution provided that if the application for a variance or special exception was denied by the Zoning Board of Appeals, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.

15. **Appeals of Decisions.** Any person aggrieved by a final decision of the board, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County. Such petition shall be filed within 30 days after the final decision of the board is rendered.