



DEPARTMENT OF PLANNING & SUSTAINABILITY

MAJOR MODIFICATION APPLICATION

Existing Conditional Zoning No.: CZ-20-1243619

Applicant Name: Venture South Investment, LLC c/o Battle Law P.C.

Applicant Email Address: mlb@battlelawpc.com

Applicant Mailing Address: 3562 Habersham at Northlake, Bldg J, Suite 100, Tucker, GA 30084

Applicant Phone Number: 404-601-7616

Owner Name: Mack III Development, LLC
(If more than one owner, attach list of owners.)

Owner Email Address: mwilbourn@mackii.com

Owner Mailing Address: 3421 Dogwood Dr., Hapeville, GA 30345

Owner Phone Number: 404-768-9977

Subject Property Address: 1816 Candler Road, Decatur, GA 30032

Parcel ID Number(s): 15 107 13 030

Acreage: 5.659 Commission District(s): 3 Super District: 7

Existing Zoning District(s): C-2 Proposed Zoning District(s): N/A

Existing Land Use Designation(s): CRC Proposed Land Use Designation(s): N/A

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

Owner: Agent: X

Signature of Applicant:



Battle Law

3562 Habersham at Northlake, Bldg. J, Ste 100
Tucker, Georgia 30084

Zoom Instructions:

Go to <https://otago.zoom.us/join> and Enter the Meeting ID that you have been provided with in the appropriate field and click "Join" . To join by phone, please dial (646) 558-8656. If you are unable to attend or would like to learn more about the proposed project, please call our office at the number below.

We encourage you to come out and participate!

For More Information Contact
Jordan Battle at:
Phone: 404-601-7616 ext. 8
Fax: 404-745-0045
Email: jeb@battlelawpc.com

COMMUNITY MEETING TO DISCUSS A MAJOR MODIFICATION & REZONING TO ALLOW FOR A MIXED - USE PROJECT

**Project Title: Venture South Invest-ment,
LLC - 1816 Candler Road and 3221
Glenwood**

When: February 10, 2025

Time: 6:00 PM Eastern (US and Cana-da)

Register in advance for this meeting:

<https://otago.zoom.us/join>

Meeting ID: 892 1107 5291

Password: 71077

Parcel(s): 15 170 13 030

First Name	Last Name	Email
Malcolm	Hughes	hfgcpa@bellsouth.net
Dalton	Duriez	dduriez@blueriverdevelopment.com
Zoom user		frtj9zf9yk@privaterelay.appleid.com
Todd	Ellis	tellis@naibg.com
samuel	armstrong	armstrong424@gmail.com
Oge	Ekeh	ogeh22@yahoo.com
Andrew	Andrle	andrewandrle@gmail.com
Eve Jackson		eviejac@gmail.com
james	tyree	jtyree05@yahoo.com
James		jamescrawford.film@gmail.com
Johnny	Ross	jrpizza406@yahoo.com
Mack	Wilbourn	mwilbourn@mackii.com
Vanetta	Keyes	vanetta@vskcpa.com
Travis	Jones	tjones@mackii.com
Jason	Smith	jason@smithworksiron.com
Anna	Turkett	annaturkett@gmail.com
Kelly	Jordan	kellyjordan@earthlink.net
Chandra Armstrong		drbrittarm@yahoo.com
G	Curtis	gpcurtissr@comcast.net
Brian	Kay	BKay@atwell.com
Evan	Conder	e.conder@vsouth.com
Michael	Rossi	mrossi@atwell-group.com
Michael	K	M.kuniansky@vsouth.com
Lauren Smith		lsmithgolf@gmail.com

DEPARTMENT OF PLANNING & SUSTAINABILITY

AUTHORIZATION

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

Date: 2/14/2025

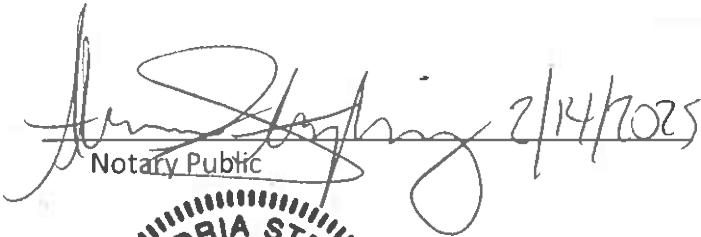
TO WHOM IT MAY CONCERN:

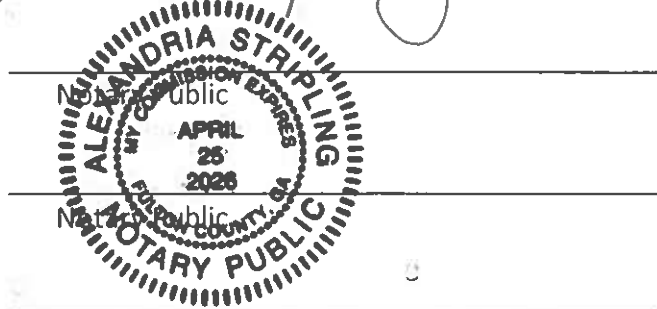
(I), (WE) Mack III Development, LLC
Name of owners(s) (If more than one owner, attach a separate sheet)

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

Venture South Investment, LLC & Battle Law, P.C.
Name of Agent or Representative

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


Notary Public

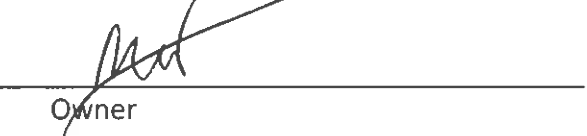


Notary Public

Notary Public

MACK III Development LLC, a Georgia limited liability company

By: Mack Wilbourn
Owner


Owner

Owner

Owner

Owner

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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

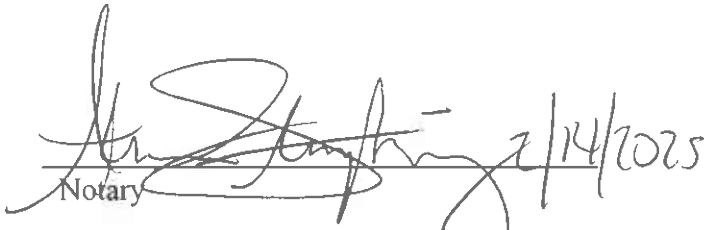
Have you, the applicant, made \$250.00 or more in campaign contribution to a local government official within two years immediately preceding the filing of this application?

Yes No *

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

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

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


Notary 2/14/2025


Signature of Applicant /Date 2/14/2025

Check one: Owner Agent

4/25/2026
Expiration Date/ Seal



*Notary seal not needed if answer is "no".



DeKalb County
GEORGIA

DEPARTMENT OF PLANNING & SUSTAINABILITY

DISCLOSURE OF CAMPAIGN CONTRIBUTION

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Notary

Signature of Applicant /Date

Check one: Owner _____ Agent XX



Expiration Date/Seal

*Notary seal not needed if answer is "no".

DEPARTMENT OF PLANNING & SUSTAINABILITY

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Notary

Evan Conder Digitally signed by Evan Conder
Date: 2025.02.04 11:36:39 -05'00'

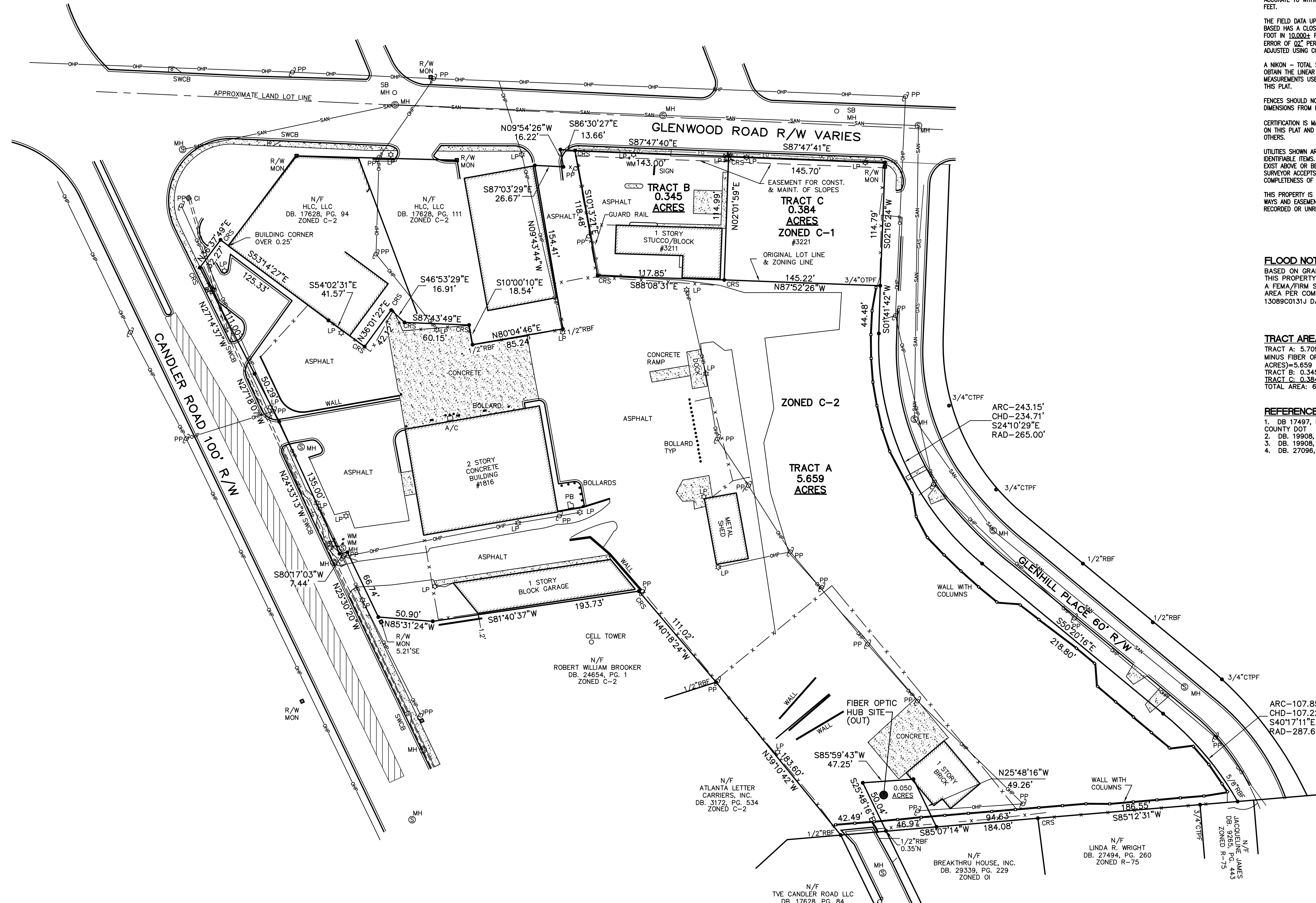
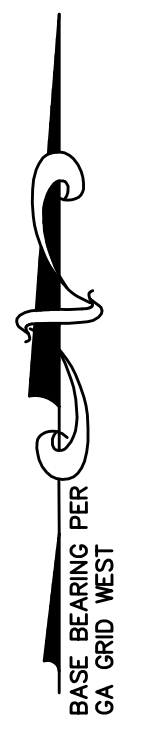
Signature of Applicant /Date

Check one: Owner _____ Agent

Expiration Date/ Seal

*Notary seal not needed if answer is "no".

- LEGEND**
- RBF REBAR FOUND (1/2" REBAR)
 - CRS CAPPED REBAR SET (1/2" REBAR)
 - OTF OPEN TOP FOUND
 - CTF CRIMP TOP FOUND
 - ⊙ JUNCTION BOX
 - LLL LAND LOT LINE
 - ☆ LIGHT POLE
 - MH MANHOLE
 - ⊕ PROPERTY LINE
 - BL BUILDING LINE
 - C.L.F CHAIN LINK FENCE
 - C/O SEWER CLEAN OUT
 - DE DRAINAGE EASEMENT
 - DROP INLET
 - RBF REBAR FOUND
 - R/W RIGHT-OF-WAY
 - SE SANITARY SEWER EASEMENT
 - CRZ CRITICAL ROOT ZONE
 - UE UTILITY EASEMENT
 - ★ FIRE HYDRANT
 - SWC SINGLE WING CATCHBASIN
 - DWB DOUBLE WING CATCHBASIN
 - WV WATER VALVE
 - GV GAS VALVE
 - HW HEADWALL



SURVEY NOTES:

TRACT A
THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 248,632 FEET.

TRACT B
THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 535,322 FEET.

TRACT C
THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 242,628 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

A NIKON - TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

FENCES SHOULD NOT BE PLACED USING SIDE DIMENSIONS FROM HOUSE OR STRUCTURE.

CERTIFICATION IS MADE TO PERSON(S) NAMED ON THIS PLAT AND IS NOT TRANSFERABLE TO OTHERS.

UTILITIES SHOWN ARE LOCATIONS OF GROUND IDENTIFIABLE ITEMS. ADDITIONAL UTILITIES MAY EXIST ABOVE OR BELOW GROUND. THE SURVEYOR ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THIS DATA.

THIS PROPERTY IS SUBJECT TO ALL RIGHT OF WAYS AND EASEMENTS SHOWN OR NOT SHOWN, RECORDED OR UNRECORDED.

FLOOD NOTE:

BASED ON GRAPHIC DETERMINATION, THIS PROPERTY DOES NOT LIE WITHIN A FEMA/FIRM SPECIAL FLOOD HAZARD AREA PER COMMUNITY PANEL NO. 13089C0131J DATED 5/16/13

TRACT AREAS

TRACT A: 5.709 ACRES
MINUS FIBER OPTIC HUB SITE: (0.050 ACRES) = 5.659 ACRES

TRACT B: 0.345 ACRES

TRACT C: 0.384 ACRES

TOTAL AREA: 6.388 ACRES

REFERENCES

- DB 17497, PG. 712 DEKALB COUNTY DOT
- DB 19908, PG. 748
- DB 19908, PG. 742
- DB 27096, PG. 467

REVISIONS					
1.					
2.					
3.					
4.					
5.					

ASBUILT SURVEY FOR:

Mack III Development, LLC, First Horizon Bank and Old Republic National title Insurance Company

LAND LOT 170 15th DISTRICT DEKALB COUNTY, GEORGIA

SCI Development Services
ENGINEERS - SURVEYORS - PLANNERS
2020 WESTSIDE COURT - SUITE E - SNELLVILLE, GEORGIA 30078
(770) 736-7666 FAX (770) 736-4623
MAIL@SURVEYCONCEPTS.NET

ASBUILT SURVEY

DATE	DRAWN	CHECKED
7/10/22	DCP	JAS

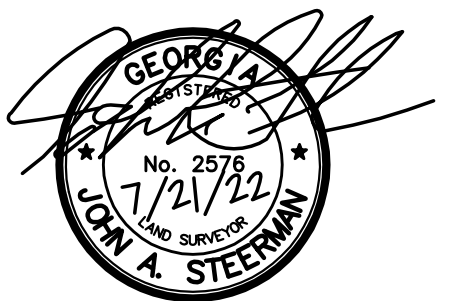
SCALE 1"=50'

SHEET TITLE

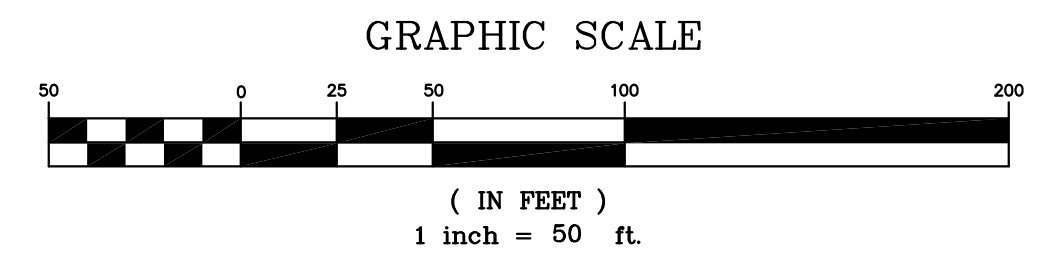
ASBUILT SURVEY

PROJECT NUMBER

55745



IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.



Legal Description

1816 Candler Road

ALL THAT TRACT or parcel of land lying and being in Land Lot 170 of the 15th District, Dekalb County, Georgia, and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, COMMENCE at point at the westerly right-of-way intersection of Glenwood Road (r/w varies) and Glenhill Place (60' r/w); thence following the right-of-way line of Glenhill Place S02°16'24"W a distance of 114.79 feet to a ¾" open top pipe found and the POINT OF BEGINNING; Thence continuing along said right-of-way line and running S01°41'42"W a distance of 44.48 feet to a point, thence following a curve to the left, said curve having an arc of 243.15 feet with a radius of 265.00 feet, and being subtended by a chord of S24°10'29"E a distance of 234.71 feet to a point; running thence S50°20'16"E a distance of 218.80 feet to a point; thence following a curve to the right, said curve having an arc of 107.85 feet with a radius of 287.67 feet, and being subtended by a chord of S40°17'11"E a distance of 107.22 feet to a 5/8" rebar found; thence leaving said right-of-way line and running S85°12'31"W a distance of 186.55 feet to a capped rebar set; running thence S85°07'14"W a distance of 94.63 feet to a capped rebar set at the corner of a Fiber Optic Hub site; running thence N25°48'16"W a distance of 49.26 feet to a point; running thence S85°59'43"W a distance of 47.25 feet to a point; running thence S25°48'16"E a distance of 50.04 feet to a point; thence leaving the Fiber Optic Hub site and running S85°07'14"W a distance of 42.49 feet to a ½" rebar found; running thence N39°10'42"W a distance of 183.60 feet to a ½" rebar found; running thence N40°18'24"W a distance of 111.02 feet to a capped rebar set; running thence S81°40'37"W a distance of 193.73 feet to a capped rebar; running thence N85°31'24"W a distance of 50.90 feet to a capped rebar set on the easterly right-of-way line of Candler Road (100' r/w) thence following said right-of-way line and running N25°30'20"W a distance of 66.74 feet to a capped rebar set; running thence S80°17'03"W a distance of 7.44 feet to a capped rebar set; running thence N24°33'13"W a distance of 135.00 feet to a point; running thence N27°18'07"W a distance of 50.29 feet to a point; running thence N27°14'37"W a distance of 111.00 feet to a capped rebar set; thence leaving said right-of-way line and running N36°37'49"E a distance of 32.27 feet to a capped rebar set; running thence S53°14'27"E a distance of 125.33 feet to a capped rebar set; running thence S54°02'31"E a distance of 41.57 feet to a capped rebar set; running thence N36°01'22"E a distance of 42.12 feet to a capped rebar set; running thence S46°53'29"E a distance of 16.91 feet to a capped rebar set; running thence S87°43'49"E a distance of 60.15 feet to a capped rebar set; running thence S10°00'10"E a distance of 18.54 feet to a ½" rebar found; running thence N80°04'46"E a distance of 85.24 feet to a ½" rebar found; running thence N09°43'44"W a distance of 154.41 feet to a capped rebar set on the southerly right-of-way line of Glenwood Road (r/w varies); thence following said right-of-way line and running S87°03'29"E a distance of 26.67 feet to a point; running thence N09°54'26"W a distance of 16.22 feet to a point; running thence S86°30'27"E a distance of 13.66 feet to a capped rebar set; thence leaving said right-of-way line and

running S10°13'21"E a distance of 118.48 feet to a capped rebar set; running thence S88°08'31"E a distance of 117.85 feet to a capped rebar set; running thence S87°52'26"W a distance of 145.22 feet to a ¾" open top pipe and the POINT OF BEGINNING.

Said tract or parcel of land contains 5.659 Acres




1
SITE PLAN
 SP-2 SCALE: 1" = 100'

**CANDLER RD RETAIL
DECATUR, GA**

JOB NUMBER: 2570202 | DATE: 02.07.2025 | BY: ART / BR

DRAWING: SITE PLAN RENDERING SP-2



PHILLIPS
ARCHITECTURE • CONSULTANTS

5801 PEACHTREE DUNWOODY RD. • SUITE A450 • ATLANTA, GA 30328 • 770.394.1616



CANDLER RD RETAIL
DECATUR, GA

JOB NUMBER: 2570202 | DATE: 01.31.2025 | BY: ART / BR

DRAWING: EXTERIOR PERSPECTIVE



PHILLIPS
ARCHITECTURE · CONSULTANTS

5901 PEACHTREE DUNWOODY RD. • SUITE A450 • ATLANTA, GA 30328 • 770.394.1616



**CANDLER RD RETAIL
DECATUR, GA**

JOB NUMBER: 2570202 | DATE: 01.31.2025 | BY: ART / BR

DRAWING: EXTERIOR PERSPECTIVE



PHILLIPS
ARCHITECTURE • CONSULTANTS

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MASTER SIGN PLAN

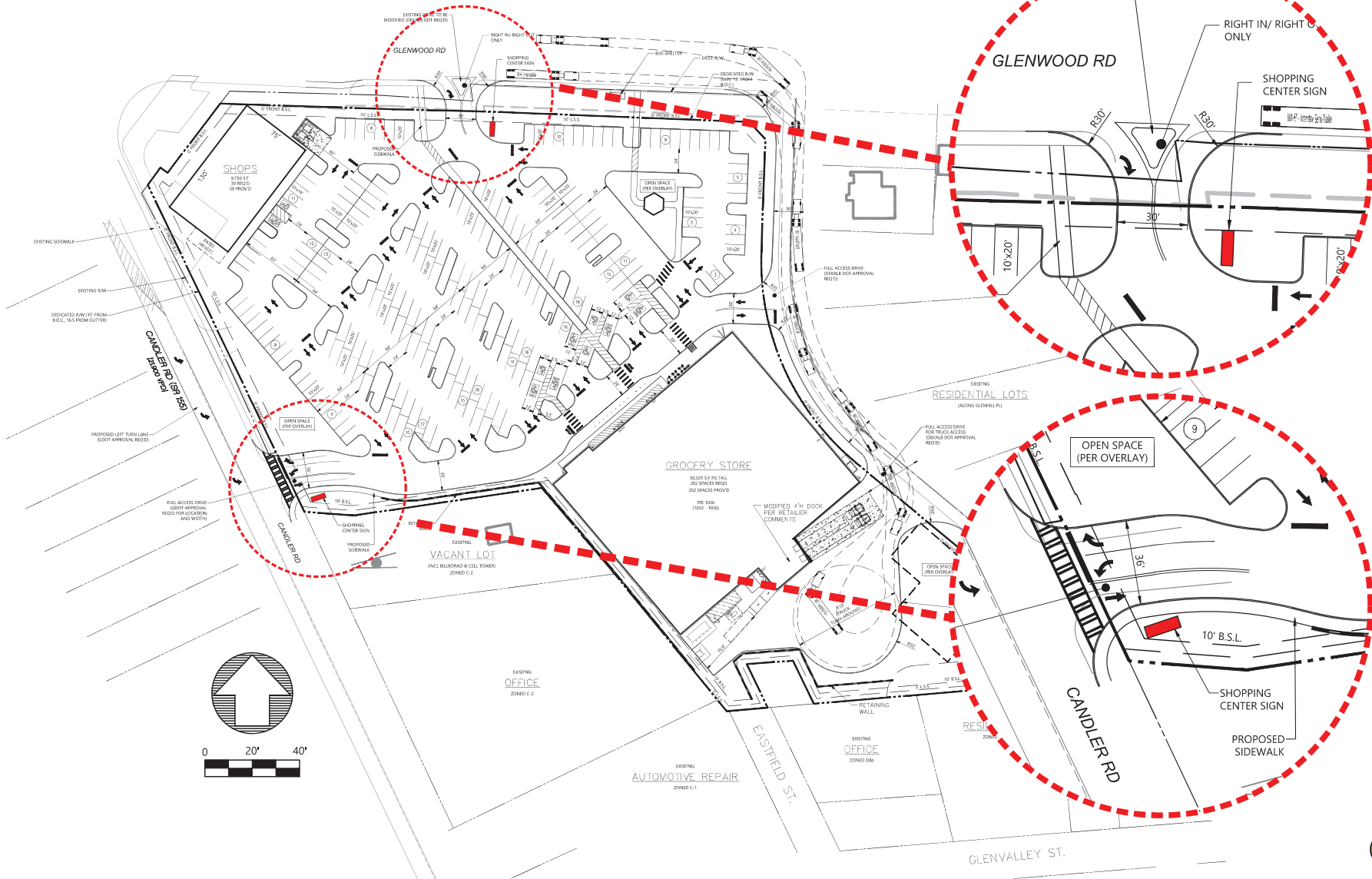
1816 Candler Road
Atlanta (Unincorporated Dekalb), GA 30032

(Parcel ID# 15 170 13 030)
(Jurisdiction Dekalb County)

PROJECT REVISIONS		
DATE:	REV #	NOTES:
00/00/00	1	XX
00/00/00	2	XX
00/00/00	3	XX
00/00/00	4	XX
00/00/00	5	XX
00/00/00	6	XX
00/00/00	7	XX
00/00/00	8	XX
00/00/00	9	XX

PROPOSED: Site Survey

CANDLER RD & GLENWOOD RD SIGN LOCATIONS



MFG / Nat'l Account Svcs:
4806 Wright Drive, Bldg. A
Smyrna, GA 30082
(O) 770.989.1290
Corporate:
3548 Atlanta Rd.
Smyrna, GA 30080
(O) 770.431.0807
comSIGNS.com

This Drawing is the Sole Property of Commercial Signs and may not be copied or reproduced without consent. Engineered Drawings and Specs to follow upon Acceptance of Approval

PROJECT ADDRESS:
1816 Candler Rd
Atlanta, GA 30032
Unincorporated DeKalb

SIGN CODE INFO:
XX

SQ. FT. ALLOWED:
XX

SQ. FT. SHOWN:
XX

SALES REP:
DAVID FRUSHTICK
David@Comsigns.com
404-502-6336

PM INITIALS:
SF

DRAWN BY INITIALS:
MP

DATE: 01/30/25

Authorized Signature	
_____	DATE
_____	PAGE
_____	1

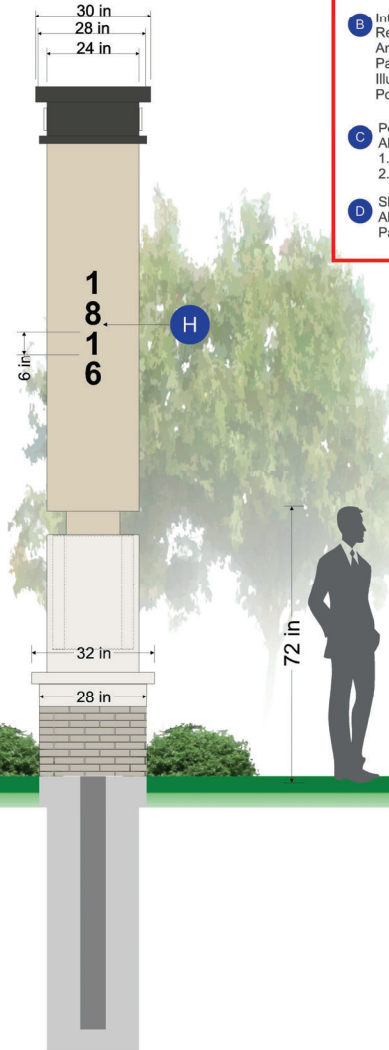
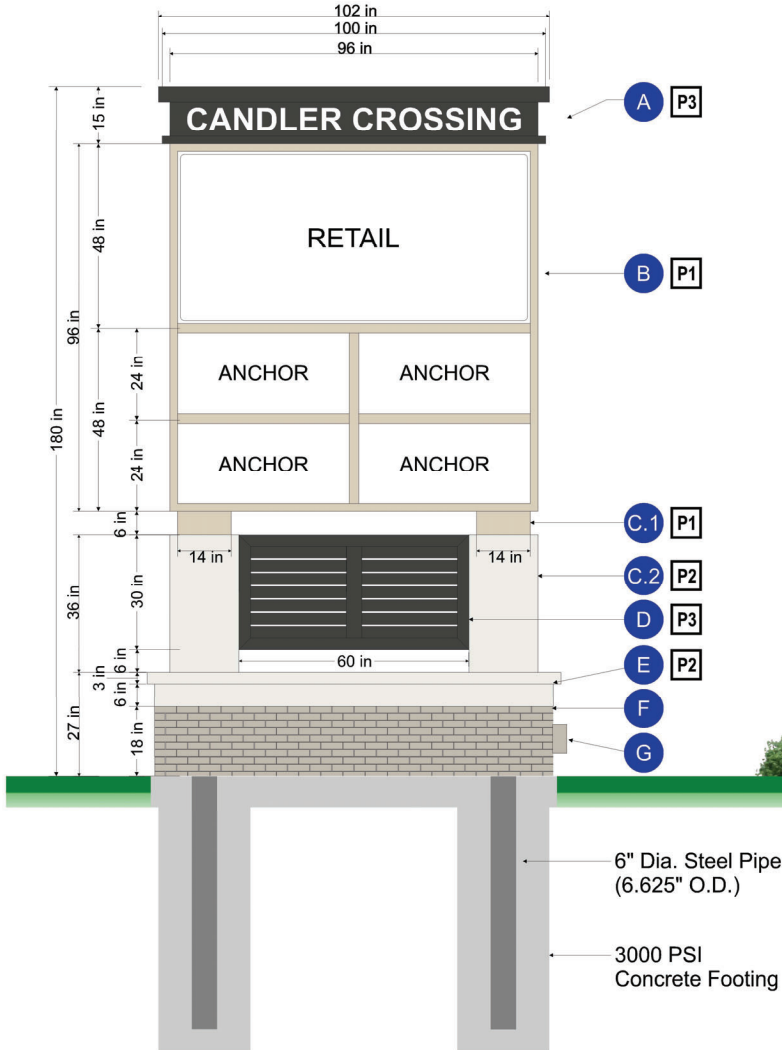


PROPOSED: D/F Monument Sign

P1

CANDLER RD LOCATION

QTY: 1 - 15'-0" TALL D/F MULTI-TENANT MONUMENT
64 SF TENANT AREA



STRUCTURE & SIGN DESCRIPTIONS

A Header: Alum. Angle Framed w/ Alum. Skin Painted (P3) Smooth Copy: 1/2" Deep Flat Cut White Acrylic	E Brick Base Cap Alum. Angle Framed w/ Alum. Skin Painted (P2) Smooth
B Internally illuminated Tenant Cabinet: Retail Panel: White Panformed Polycarb Anchors: Flat White Acrylic Painted Alum. Cabinet (P1) Smooth Illumination: White Low Voltage LED's Power: 120v	F Base Alum. Angle Framed w/ Alum. Skin & Surrounded w/ Brick Shell Manufacturer: Palmetto Brock Finish Color: Pewter Grey
C Pole Covers: Alum. Angle Framed w/ Alum. Skin 1. Upper Short Section: Painted (P1) Textured 2. Lower Longer Section: Painted (P2) Textured	G Junction Box: Final Electrical Connection By Others Paint Box to Match Brick Color
D Shutter: Alum. Angle Framed w/ Alum. Skin Painted (P3) Smooth	H Address Numerals: 1/2" Thick Black Acrylic Pin Mounted Flush on Street Side Only

- P1** PAINT TO MATCH SW 6148 WOOL SKEIN
- P2** PAINT TO MATCH SW 7005 PURE WHITE
- P3** PAINT TO MATCH SW 7069 IRON ORE
- M1** BRICK & MORTAR
Manufacturer: Palmetto Brick
Finish Color: Pewter Grey



MFG / Nat'l Account Svcs:
4806 Wright Drive, Bldg. A
Smyrna, GA, 30082
(O) 770.989.1290
Corporate:
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PROJECT ADDRESS:
1816 Candler Rd
Atlanta, GA 30032
Unincorporated DeKalb

SIGN CODE INFO:
XX

SQ. FT. ALLOWED:
XX

SQ. FT. SHOWN:
XX

SALES REP:
DAVID FRUSHTICK
David@Comsigns.com
404-502-6336

PM INITIALS:
SF

DRAWN BY INITIALS:
MP

DATE: 01/30/25



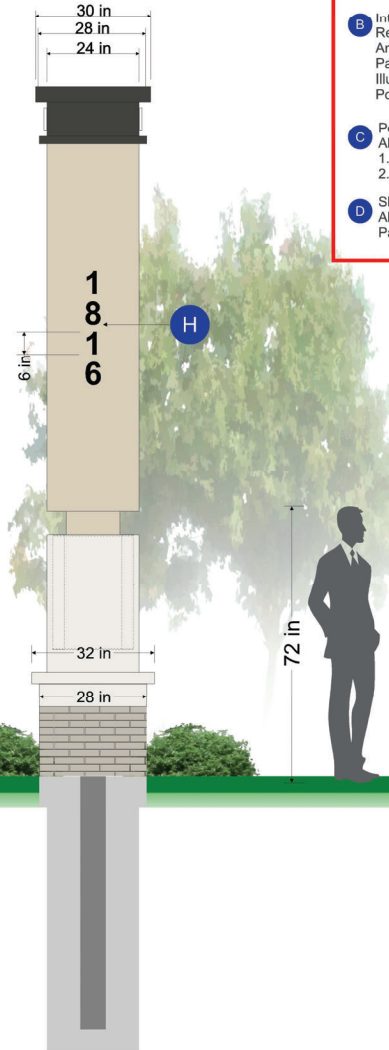
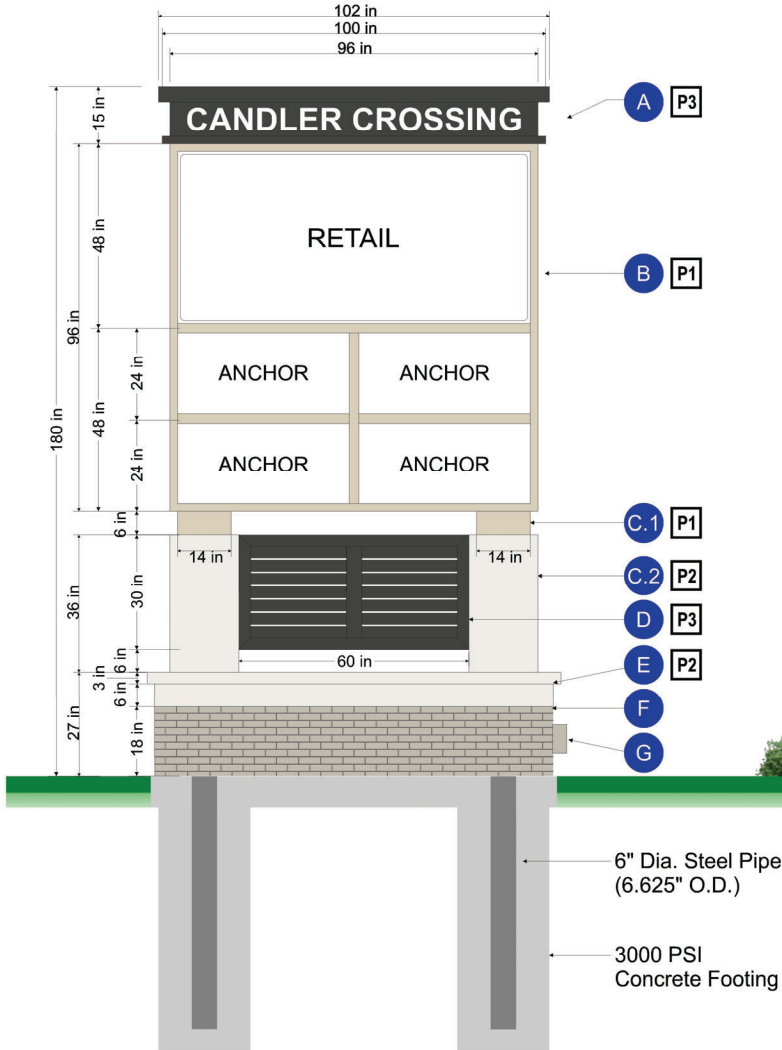
FINAL APPROVAL	DATE	PAGE
X		2

PROPOSED: D/F Monument Sign

P2

GLENWOOD RD LOCATION

QTY: 1 - 15'-0" TALL D/F MULTI-TENANT MONUMENT
64 SF TENANT AREA



STRUCTURE & SIGN DESCRIPTIONS

A Header: Alum. Angle Framed w/ Alum. Skin Painted (P3) Smooth Copy: 1/2" Deep Flat Cut White Acrylic	E Brick Base Cap Alum. Angle Framed w/ Alum. Skin Painted (P2) Smooth
B Internally illuminated Tenant Cabinet: Retail Panel: White Panformed Polycarb Anchors: Flat White Acrylic Painted Alum. Cabinet (P1) Smooth Illumination: White Low Voltage LED's Power: 120v	F Base Alum. Angle Framed w/ Alum. Skin & Surrounded w/ Brick Shell Manufacturer: Palmetto Brock Finish Color: Pewter Grey
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D Shutter: Alum. Angle Framed w/ Alum. Skin Painted (P3) Smooth	H Address Numerals: 1/2" Thick Black Acrylic Pin Mounted Flush on Street Side Only

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Manufacturer: Palmetto Brick
Finish Color: Pewter Grey



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1816 Candler Rd
Atlanta, GA 30032
Unincorporated DeKalb

SIGN CODE INFO:
XX

SQ. FT. ALLOWED:
XX

SQ. FT. SHOWN:
XX

SALES REP:
DAVID FRUSHTICK
David@Comsigns.com
404-502-6336

PM INITIALS:
SF

DRAWN BY INITIALS:
MP

DATE: 01/30/25

FINAL APPROVAL	_____	PAGE 3



01-27-2025

Proposed Retail Development at Candler & Glenwood

Context:

The intersection of Candler Road and Glenwood Road in Decatur (unincorporated DeKalb), Georgia, serves as a significant node within the community, both architecturally and economically.

Architectural Perspective:

The area surrounding this intersection is characterized by a mix of commercial and residential structures. Commercial properties, such as Candler McAfee Center and Candler Plaza, are prevalent near the intersection, featuring retail spaces that cater to local needs. Residential areas nearby showcase a variety of architectural styles, reflecting the neighborhood's development over time.

Economic Perspective:

Economically, the intersection is a focal point for community development initiatives. The establishment of the Southwest DeKalb Tax Allocation District (TAD), which includes areas along Candler and Glenwood Roads, aims to stimulate economic growth through redevelopment incentives.

In summary, the intersection of Candler and Glenwood Roads is a blend of commercial and residential architecture, with ongoing economic development efforts focused on revitalization and community engagement.

Proposal:

This proposed development aims to create a thoughtfully designed commercial neighborhood at the southeast corner of Candler Road and Glenwood Road. The development spans approximately 7.31 acres, bordered by existing commercial and residential uses to the south and Glenhill Place to the east. It features a 50,325-square-foot grocery store and 11,200 square feet of retail shops.

The design prioritizes both functionality and aesthetics, ensuring alignment with the architectural styles, landscaping requirements, and design standards of the I-20 Corridor Overlay District. The project will integrate harmonious building facades, high-quality materials, and well-planned public spaces, addressing community needs and promoting sustainable development practices.

An amendment is required to remove the conditional zoning stipulation that currently prohibits access to Glenhill Place. Additionally, the project includes variance requests to reduce sidewalk width along Glenwood Road and reduce the landscape strip width on building side yards.

The development's design incorporates the I-20 Corridor Design Standards to ensure consistency with architectural, landscaping, and signage requirements. Building facades, materials, and color palettes will harmonize with the overlay district's vision. By promoting shared parking, incorporating green spaces, and



adhering to environmental best practices, the development demonstrates a commitment to sustainable growth. The project will include public spaces that foster community engagement and well-being.

- Total Site Area: Approximately 7.31 acres.
- Right-of-Way Dedication: 0.27 acres
- Commercial Land Use: 7.04 acres
- Includes a 50,325-square-foot grocery store and 11,200 square feet of retail shops.
- Approximate commercial density: 0.2 FAR
- Open Space: 1.42 acres
- Features include landscaped areas, pavilion, sidewalk, benches, street furniture, decorative lighting, bike racks and shaded seating areas.
- Approximate open space percentage: 20%

This development is a carefully crafted project that reflects the goals and intent of the I-20 Corridor Overlay District. By adhering to district standards and prioritizing community needs, the project will serve as a model for sustainable and community-focused growth. We respectfully request the approval of this proposal to bring this vision to life.

Respectfully,
ATWELL, LLC

Marietta, GA

STATEMENT OF INTENT AND
IMPACT ANALYSIS

and

Other Material Required by
DeKalb County Zoning Ordinance
for the
Application for Major Change of Condition for
CZ-20-1243619

by

VENTURE SOUTH INVESTMENT, LLC

for

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

Submitted for Applicant by:

Michèle L. Battle, Esq.
Joshua S. Mahoney, Esq.,
Battle Law, P.C.
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404-601-7616

I. STATEMENT OF INTENT

The Applicant, Venture South Investment, LLC, is seeking to develop a commercial/retail development on an assemblage of seven (7) parcels at the intersection of Glennwood Road and Candler Road owned by Mack III Development, LLC and HLC, LLC (the “Project Site”). The property at 1816 Candler Road being Tax Parcel 15 170 13 030 (the “Subject Property”) is the primary portion of the Project Site. On January 28, 2020 the DeKalb County Board of Commissioner approved the removal of the conditions set forth in CZ-91039, CZ-90052, and CZ-89033 to allow for the development of a mixed-use development in accordance with the I-20 Overlay District subject to the following two conditions:

Recommended Conditions

CZ-20-1243619

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

The Applicant is seeking to remove condition 2 to allow for the development of the Subject Property for a grocery store with retail shops. The Subject Property is currently zoned C-2 and is located within Tier II of the I-20 Corridor Overlay District (the “Overlay District”).

This document is submitted as a Statement of Intent regarding this Application, the Impact Analysis required for this Application as required by the DeKalb County Zoning Ordinance, and a preservation of the Applicant’s constitutional rights. 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.

III. IMPACT ANALYSIS

- (a) Suitability of use: The Subject Property is suitable for the proposed commercial/retail project as contemplated by the Overlay District requirements.
- (b) Effect on adjacent property: The removal of the prohibition of access from Glenhill Place will allow for access to both the parking area for the general public, as well as for access to the rear of the proposed grocery store building for delivery trucks. There is no question that this will have an impact on the residential properties along Glenhill Place. As a result, the Applicant is seeking to acquire all of the residential properties on Glenhill Place, and offer letters have already been delivered to each of the property owners. Without the proposed access points along Glenhill Place the proposed project is not viable.

With respect to the two residential properties that abut the rear of the Subject Property, the Applicant is providing for the required 30 ft transitional buffer. Additionally, the Applicant is providing for underground detention along with ample open space which further protects the adjacent residential property owners along Glenvalley Street. There will be no access to the Subject Property from Glenvalley Street.

- (c) Economic use of current zoning: The Subject Property has value as currently zoned, however, as currently zoned, the Subject Property cannot be incorporated into the large development planned by the Applicant due to the current zoning restrictions.
- (d) Effect on public facilities: The Subject Property is in an area with public utility availability. The proposed Major Modification will not cause excessive use of streets, transportation facilities, utilities, or schools in the area.
- (e) Effect on historic building, sites, etc. The approval of this Major Change of Condition Application will not have any adverse impact on any historic buildings, sites, districts or archaeological resources in the area.
- (f) Environmental Impact. The approval of this Major Change of Condition Application will not result in any adverse environmental impact.
- (g) Conformity with Comprehensive Plan or Land Use Plan: The Subject Property is currently zoned C-2 which is in conformity with the Commercial Redevelopment Corridor Land Use designation for the Subject Property.
- (h) Others: The following constitutional allegations are given in order to preserve the rights of the Applicant to appeal any adverse decisions that may be rendered by DeKalb County with respect to this Application:

NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF 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.

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

A refusal to allow the amendments to the zoning conditions in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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

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

IV. CONCLUSION

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

Respectfully submitted,



Michèle L. Battle
Attorney For Applicant



Chief Executive Officer
Lorraine Cochran-Johnson

DEPARTMENT OF PLANNING & SUSTAINABILITY

Interim Director
Cedric G. Hudson, MCRP

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: _____ Phone: _____ Email: _____

Property Address: _____

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

Existing Use: _____ Proposed Use: _____

Supplemental Regs: _____ Overlay District: _____ DRI: _____

Rezoning: Yes ____ No ____

Existing Zoning: _____ Proposed Zoning: _____ Square Footage/Number of Units: _____

Rezoning Request: _____

Land Use Plan Amendment: Yes ____ No ____

Existing Land Use: _____ Proposed Land Use: _____ 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:

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: _____ Date: _____

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