

PLANNING AND DEVELOPMENT DEPARTMENT
2875 BROWNS BRIDGE ROAD, GAINESVILLE, GA, 30504
MAILING ADDRESS: PO BOX 1435, GAINESVILLE, GA 30503
t: 770-531-6809 | f: 770-531-3902



CONDITIONAL USE APPLICATION

Applicant (Name & Mailing Address)

Rochester/DCCM
425 Oak St.
Gainesville, GA 30501

Phone 678-450-5175

Email Address bdunckel@dccm.com

Proposed Use Outdoor Storage

Property Owner (Name & Mailing Address)

Candler Hall, LLC

2791 Elder Mill Road

Watkinsville, GA 30577

Phone 770-231-4405

Email Address etlopez@atlantapaving.com

Contact Person (Name & Mailing Address)

Bradley Dunckel
425 Oak St.
Gainesville, GA 30501

Phone 770-363-1997

Email Address bdunckel@dccm.com

Tax Parcel Number 05025 000006

Location Address 3024 Dale Road, Gainesville, GA 30507

Status of Applicant

☐ Owner

☐ Option to Purchase

☐ Area Resident

☒ Other

Zoning: L-I

Acreage 36.9 acres

Requested Action

Permissive Use:

☐ HCPC ☒ HCC

Fee: \$ 1,500.00

Receipt #: _____

Check #: _____

I hereby certify that the above information and all attached information are true and correct.

Sign Bradley Dunckel Date: 5/9/25

Applicant must complete all information above. Failure to complete this section will result in the refusal of the application. The Planning Department has 15 days to review all applications and will set the dates for each application. If the application is found insufficient, an agenda date will not be set until the required information is submitted. Please note that the Planning Commission and County Commission dates are tentative.

Application Withdrawal: I hereby **withdraw** the application.

Sign _____ Date: _____

Staff Use Only

Application Date: _____ Taken by: _____

Tentative Planning Commission Date: _____ Tentative County Commission Date: _____

County Commission District: _____

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AUTHORIZATION OF PROPERTY OWNERS

Note: If the applicant is the property owner, please disregard this form.

Name of owner(s) Candler Hall, LLC

Address 2791 Elder Mill Road

Watkinsville, GA 30577

Phone Number 770-231-4405

Name of applicant(s) Rochester/DCCM

Address 425 Oak St.

Gainesville, GA 30501

Phone Number 770-363-1997

I swear that I am the owner of the property which is the subject matter of the attached applications as shown in the records of Hall County, Georgia.

I authorize the person named above to act as applicant in the pursuit of a rezoning, permissive use, or variance of this property.

Signature of Owner(s)

Ernest T Lopez

Personally appeared before me

Ernest T Lopez

who swears that the information contained in this authorization is true and correct to the best of his/her knowledge and belief.

Dawn Sizemore
 Notary Public
NOTARY PUBLIC

Gwinnett County, GEORGIA
My Commission Expires 02/10/2027

5/8/25

Date

First Amended and Restated Operating Agreement

Candler Hall LLC a Georgia Limited Liability Company

This First Amended and Restated Operating Agreement (the "Agreement") is entered into on or as of February 24, 2025 by and among the Members listed on page 9 of this Agreement.

Recitals

- A. On January 24, 2024 Articles of Organization for Candler Hall LLC (the "Company"), a limited liability company under the laws of the State of Georgia, were filed with the Georgia Secretary of State.
- B. The Members hereby adopt and approve this First Amended and Restated Operating Agreement for the Company on the following terms and conditions:

Agreement Article I Organizational Matters

- 1.1 **Name.** The Company shall conduct business under the name "Candler Hall LLC." If the majority of Members approve, the Company may also conduct business under a fictitious name filed with the county clerk of the county where the Company has its principal office.
- 1.2 **Term.** The Company's beginning date is the date that the Articles of Organization were filed. The Company shall automatically terminate at the earlier of twenty-five (25) years or as provided in Article 9.1 of this Agreement. The Members may unanimously to continue the Company as provided in Article 9.
- 1.3 **Office and Agent.** The Company shall continuously maintain an office and a registered agent within the State of Georgia. The principal office of the company shall be at 2791 Elder Mill Road, Watkinsville, GA 30677 or such location as the Members may determine. As required, the Company shall file a Statement of Information with the Georgia Secretary of State stating its registered agent for service of process.
- 1.4 **Business of the company.** The Company shall engage in the following business, and any activities necessary or appropriate to carry out that business, unless all the Members approve a change in the Company's business: Real Estate Investment and all other purposes allowed by law.

Article 2 Capital Contributions

- 2.1 **Capital Contributions.** Each Member shall contribute initial capital to the Company. No Member shall be required to make any additional contributions to the Company without the unanimous consent of the other Members.
- 2.2 **Capital Accounts.** The Company shall keep books and records which clearly show each Member's capital contributions and withdrawals ("Capital Account").

- The Company shall determine the balance of each Member's Capital Account according to Treasury Regulations Section 1.704-1(b)(2)(iv).
- If a Member sells or transfers his Membership Interest in the Company that Member's Capital Account shall carry over to the new owner according to Treasury Regulations Section 1.704-a(b)(2)(iv)(1).

2.3 No Interest. The Company shall not pay any interest on capital contributions.

Article 3 Members

- 3.1 Admission of Additional Members.** Upon unanimous approval of the existing Members, additional members may be admitted into the Company on terms determined by the Members.
- 3.2 Withdrawals or Resignations.** No member may withdraw without the unanimous approval of the Members. However, if a Member's interest is based on providing services to the Company, that Member shall be allowed to withdraw or resign as a Member at any time upon 120 days prior written notice to the Company. In the event of such withdrawal, such Member's Membership Interest will be available for sale as described in Section 7.2. If it is not purchased, the withdrawing Member shall have only an economic interest in the Company after withdrawal. The Withdrawing Member shall have the right to share in the Company's income, gain, losses, deductions, credit or similar items, and to receive distributions from the Company, but not the right to access Company business information or to participate in the Company management, except as required by law. The Withdrawing Member shall not be entitled to a return of the Member's capital, and may not withdraw contracts or personal guarantees that (s)he may have given.
- 3.3 Payments to Members.** There will be no minimum or guaranteed payments to Members. The Company shall reimburse the Members for the actual costs including organization expenses incurred to form the Company.

Article 4 Management and Control of the Company

- 4.1 Management and Powers.** The intent of each Member is to actively engage in the Company management. Accordingly, each Member shall have full, complete and exclusive authority, power and discretion to manage and control the business, property and affairs of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business property and affairs. In the event of the death or disability of one member, the surviving Member shall have all management authority to continue the business of the Company.
- 4.2 Limitations on Power of Members.** Notwithstanding any other provisions of this Agreement, no debt or liability of more than \$100,000 may be contracted on behalf of the Company without the approval of the majority of Membership Interests. The signature of one Member is required to sign contracts and obligations on behalf of the Company. Additionally, the unanimous approval of the Members must be obtained prior to:
- A. The merger of the Company with another business entity.
 - B. The establishment of different Member classes.
 - C. A change in the authorized businesses of the Company (Section 1.4),
 - D. Any act which would make it impossible to carry on the ordinary business of the Company
 - E. The confession of judgment against the Company
 - F. Any other transaction described in this Agreement which requires the approval, consent or

vote of all of the Members.
G. The sale, exchange or other disposition of substantially all of the Company's assets occurring as part of single or multiple transactions or plan.

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4.3 Member Approval. The "vote" or "approval" of the Members shall mean approval by a majority percentage of Membership Interest. Members shall vote or approve by their percentage interest as shown on Exhibit A of this Agreement. No annual or regular meetings of the Members are required. However, if such meetings are held, such meetings shall be noticed, held and conducted pursuant to the Act.

4.4 Devotion of Time. The Members are not required to devote all of their time or business efforts to the Company. Each Member shall devote whatever time or effort (s) he deems appropriate to carry out the Company's business.

4.5 Protection of Trade Secrets. Each Member acknowledges that the customer lists, trade secrets, processes, methods and technical information of the Company and any other matters designated by the majority of the Members are the Company's assets. Each Member agrees not to disclose any of these assets to anyone outside the Company, except with written consent by the Company, even if the Member withdraws from the Company.

4.6 Transactions between the Company and the Members. Any Member may enter into a contract or transaction with the Company with the approval of the majority of other Members. If there is a potential conflict of interest, this approval must be in writing.

Article 5

Allocations of Net Profits and Net Losses and Distribution

5.1 Allocations of Net Loss and Quarterly Distributions

- A. **Net Loss.** Net loss for income tax purposes shall be allocated to Members in proportion to their Membership Interest. Loss allocations to a Member shall be made only to the extent that such loss allocations will not create a Capital Gain for that Member in the event of foreclosure of the Company's assets.
- B. Any loss not allocated to a Member because of the 5.1.A. shall be allocated to the other Members to the extent where it does not create a Capital Gain to another Member.
- C. **Quarterly Distribution of Available Cash.** At the end of each calendar quarter, the available cash of the Company, if any, must be distributed to the Members, pro rata according to their percentage interest. Available cash means cash beyond what is required as reasonable working capital, as determined by the Members.

5.2 Special allocations.

- A. **Minimum Gain Chargeback for Nonrecourse and Recourse Liabilities.** The Company shall allocate income, loss and gain to comply with the minimum gain chargeback requirement contained in Treasury Regulations Section 1.704-2(f) and 1.704-2(i)(5)). Nonrecourse Liability shall be allocated in accordance with Treasury Regulations Section 1.704-2(g)(2). Recourse Liability shall be allocated to Members in accordance with Treasury Regulations Section 1.704-2(i)(4).
- B. **Nonrecourse Deductions.** Notwithstanding Section 5.2, any nonrecourse deductions (as defined in Treasury Regulations Section 1.704-2(b)(1)) for any fiscal year or other period shall be specially allocated to the Members in proportion to their Membership Interests.
- C. **Member Nonrecourse Deductions.** Those items of Company loss, deduction or Code Section 705(a)(2)(B) expenditures which are attributable to Member Nonrecourse Debt shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt according to Treasury Regulations Section 1.704-2(i).
- D. **Qualified Income Offset.** Notwithstanding Section 5.2, if a Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations

Section 1.704-1(b)(2)ii(d)(4),(5) or (6), or any other event creates a deficit balance in such Member's Capital Account in excess of such Member's share of Company Minimum Gain, items of Company income and gain shall be specially allocated to such Member so that such excess deficit balance is eliminated as quickly as possible.

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5.4 Code Section 704(c) Allocations. Notwithstanding any other provision in this Article VI, in accordance with Treasury Regulations Code Section 704(c), income, gain, loss and deduction with respect to any property contributed to the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value on the date of contribution. This shall be solely for tax purposes and shall not affect a Member's Capital Account, share of profits, losses or other items of distributions.

Article 6

Transfer and Assignment of Interests

6.1 Transfer and Assignment of Interests. With the exception of transfers between family members, stated in 6.3, Members who wish to transfer, assign, convey or sell their Membership Interest must obtain unanimous written approval from the other Members. The other Members may approve or reject this request in their sole discretion.

6.2 Substitution of Members. If unanimous written approval is received, the transferee shall:

- (i) Execute an instrument satisfactory to the Members which accepts and adopts the terms and provisions of this Agreement.
- (ii) Pay any reasonable expenses in connection with his or her admission as a new Member.

The admission of a new Member shall not release the Member who assigned the Membership Interest from any liability that Member may have to the Company.

6.3 Family Transfers. The Membership Interest of any Member may be transferred by inter vivos gift or by testamentary transfer to any spouse, parent, sibling, child or grandchild of the Member, or to a trust for the benefit of the Member or such spouse, parent, sibling, child or grandchild of the Member. If the transfer is to a revocable living trust, the transferring Member may also reacquire the Membership in whole or in part upon complying with Section 6.2.

6.4 Transfers in violation of this Agreement and Transfers of Partial Membership Interest. Transfers violating this Article 6 shall only have an economic interest in the Company, with no right to participate in the Company management or exercise any rights of a Member.

Notwithstanding the proceeding sentence, if, in the determination of the Remaining Members, a transfer violating Article 6 would cause the termination of the Company under the Code, in the sole discretion of the Managers, the transfer shall be null and void.

Article 7

Consequences of Death, Dissolution, Retirement or Bankruptcy of Member

7.1 Dissolution Event. Upon the occurrence of the death, withdrawal, resignation, expulsion, bankruptcy or dissolution of any Member ("Dissolution Event"), the Company shall not dissolve. The surviving Member shall have all authority to manage and to continue the business of the Company. The deceased Member's Membership Interest shall automatically pass to the surviving Member.

- 7.2 Purchase Price.** In the event of voluntary withdrawal or event of dissolution other than death, the purchase price for the Former Member's interest shall be the fair market value of the Former Member's Interest as determined by agreement of the former Member and the Purchasing Members. If the Former Member and the Purchasing Members cannot agree on the purchase price within 30 days after the Dissolution Event, the purchase price shall be determined by an independent appraiser. The Purchasing Members as a group, and the Former Member, shall each pay one-half of the cost of the appraisal. If the Dissolution Event results from a breach of this Agreement by the Former Member, the purchase price shall be reduced by an amount equal to the damages suffered by the Company or the Purchasing Members as a result of such breach.
- 7.3 Notice of Intent to Purchase.** Within fifteen (15) days after a Dissolution Event, each Remaining Member shall notify the Members in writing of whether (s)he chooses to purchase a portion of the Former Member's Interest. Each Purchasing Member shall be entitled to purchase a portion of the Former Member's Interest in the same proportion as their Membership Interest compared with the percentage interest of all Purchasing Members. If the Remaining Members fail to purchase the entire interest of the Former Member, the company shall purchase any remaining share of the Former Member's Interest.
- 7.4 Payment of Purchase Price.** The closing shall occur no later than 30 days following the determination of the purchase price. The Purchasing Members may pay all of the purchase in cash, or one fifth (1/5) at closing, with the remainder due in a negotiable promissory note, payable in four equal annual principal installments plus prevailing interest
- 7.5 Closing of Purchase of Former Member's Interest.** At the closing for the sale of a Former Member's Interest, the Former Member shall provide a document conveying their interest and representing that the interest is free of encumbrances.

Article 8

Accounting, Records, Reporting by Members.

- 8.1 Books and Records.** The Company's books and records shall be kept using standard accounting methods for federal income tax purposes. The Company shall maintain at its principal office:
- A. A current Members list showing their full name and last known business or residence, their capital contributions, Capital Account balance and Membership Interest;
 - B. A copy of the Articles of Organization and any and all amendments
 - C. Copies of the Company's federal, state, and local income tax or information returns for the six (6) most recent taxable years;
 - D. A copy of this Operating Agreement and any and all amendments;
 - E. The Company's books and records as they relate to the internal affairs or the company for at least the current and past four (4) fiscal years.
- 8.2 Reports.** By March 30th of each year, the Company shall prepare information necessary for the Members to prepare their annual federal and state income tax returns.
- 8.3 Bank Accounts.** The Members shall maintain Company funds in one or more separate bank accounts in the name of the Company and shall not commingle the funds with any other person or entity. Any Member, acting alone, may endorse and deposit into the Company's accounts any checks made payable to the Company. The Members shall authorize one or more of the Members to sign checks and drafts in the Company's name.
- 8.4 Tax Matters for the Company.** Ernest T. Lopez III is designated as "Tax Matters Partner" to represent the Company (at the Company's expense) in connection with all tax authorities. The Tax Matters Partner may spend Company funds for associated professional services and costs.

Article 9

Dissolution and Winding Up

9.1 Conditions of Dissolution. The Company shall dissolve:

- A. Automatically twenty-five (25) years after filing of the Articles or Organization, unless the Members unanimously vote to continue the company and file a Certificate of Continuation with the Georgia Secretary of State;
- B. If there is a judicial dissolution pursuant to Section 17351 of the Corporations Code;
- C. If the Members unanimously vote to dissolve the Company; or
- D.

Upon the sale of substantially all of the assets of the Company.

9.2 Winding Up. Upon the dissolution, the Company's assets shall be disposed of and its affairs wound up. After determining that all the known debts and liabilities of the Company have been paid, the remaining assets shall be distributed to the Members according to their Capital Account balances, after taking into account income and loss allocations for the Company's final taxable year.

9.3 Limitations on Payments Made In Dissolution. Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely at the assets of the Company for the return of his or her positive Capital Account balance and shall have no recourse against any other Member except as provided in Article 10.

Article 10 Indemnification

10.1 Indemnification of Agents. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason that (s)he was a Member, officer, employee or other agent of the Company to the fullest extent permitted by applicable law. The standard of the fiduciary duty each member is to act in the highest good faith to the members and the Company. A member may not seek to obtain an advantage in the Company affairs by misconduct, misrepresentation, concealment, threat or adverse pressure.

Article 11 Investment Representations

Each Member hereby represents and warrants to, and agrees with, the Members, the other Members and the company as follows:

- 11.1 Preexisting Relationship or Experience.** (S)he has a preexisting personal or business relationship with the Company or one or more of its Members, or by reason of his or her business or financial experience (s)he is capable of evaluating the risks and merits of an investment in the Company and of protecting his or her own interests in connection with this investment.
- 11.2 No Advertising.** (S)he has not seen, received, been presented with or been solicited by a leaflet, public promotional meeting, article or any other form of advertising with respect to the sale of the Membership Interest.
- 11.3 Investment Intent.** (S)he is acquiring the Membership Interest for investment purposes for his or her own account only and not with a view to or for. No other person will have any direct or indirect beneficial interest in or right to the Membership Interest.

Article 12 Miscellaneous

12.1 Complete Agreement. This Agreement and the Articles of Organization constitute the complete and exclusive statement of agreement among the Members and replace and

supersede all prior written and oral agreements among the Members. To the extent that any provision of the Articles of Organization conflict with any provision of this agreement, the Articles of Organization shall control.

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- 12.2 **Binding Effect.** Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and inure to the benefit of the Members and their respect successors and assigns.
- 12.3 **Jurisdiction.** Each Member hereby consents to the exclusive jurisdiction of the state and federal courts sitting in Georgia in any action on a claim arising out of, under or in connection with this Agreement.
- 12.4 **Severability.** If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected.
- 12.5 **Notices.** Any notice to be given or to be served upon the Company or any party hereto in connection with this Agreement must be in writing at the addresses shown below. Any party may designate any other address in substitution of the foregoing address by giving 5 days written notice to all Members.
- 12.7 **Amendments.** All amendments to this Agreement will be in writing and signed by all the Members.
- 12.6 **Multiple Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one or the same instrument.
- 12.7 **Attorney Fees.** In the event that any dispute between the Company, the Members or among the Members should result in litigation or arbitration, the prevailing party in such a dispute shall be entitled to recover from the other party all reasonable fees, cost and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.
- 12.8 **Remedies Cumulative.** The remedies under this Agreement are cumulative and shall not exclude any other remedies to which any person may be lawfully entitled.

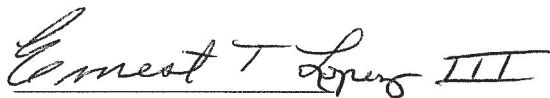
☐

All of the Members of Candler Hall LLC, a Georgia Limited Liability Company, have executed this agreement, effective as of the date written above.

MEMBER:

Ernest T. Lopez III
2791 Elder Mill Road
Watkinsville, GA 30677

Interest – 50%



MEMBER:

Donna L. Lopez
2791 Elder Mill Road
Watkinsville, GA 30677



INTEREST - 50 %

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CAMPAIGN CONTRIBUTIONS DISCLOSURE FORM

This form must be completed by the applicant and property owner, or person representing the property owner, for all zoning actions.

OCGA § 36-67A-3[C] Disclosure of campaign contributions:

(b) When any applicant for zoning action has made, within two years immediately preceding the filing of the applicant's application for the zoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:

(3) The name and official position of the local government official to whom the campaign contribution was made; and

(4) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.

(b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the zoning action is first filed. (Code 1981, Section OCGA § 36-67A-3[C], enacted by GA L. 1986, page 1269, Section 1, GA L. 1991, page 1365, Section 1).

I hereby certify that I have read the above and that:

I have** _____ I have not ☒

within the two years immediately preceding this date, made any contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

****If you have made such contributions, you must provide the data required below within ten (10) days of filing this application.**

Name of Official(s): _____

Office: _____

Dollar Amount: _____

Date of Contribution: _____

Applicant's/Owner's Signature: Bradley Dunckel

Date: 5/8/25

Applicant's/Owner's Name (Printed): Rochester | DCCM - Bradley Dunckel

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 - (3) The name and official position of the local government official to whom the campaign contribution was made; and
 - (4) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- (b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the zoning action is first filed. (Code 1981, Section OCGA § 36-67A-3[C], enacted by GA L. 1986, page 1269, Section 1, GA L. 1991, page 1365, Section 1).

I hereby certify that I have read the above and that:

I have**_____ I have not^X_____

within the two years immediately preceding this date, made any contribution(s) aggregating \$250.00 or more to any local government official involved in the review or consideration of this application.

****If you have made such contributions, you must provide the data required below within ten (10) days of filing this application.**

Name of Official(s): _____

Office: _____

Dollar Amount: _____

Date of Contribution: _____

Applicant's/Owner's Signature: Ernest T Lopez

Date: 5/8/25

Applicant's/Owner's Name (Printed): Ernest T. Lopez, III