

APPLICANT: West Cobb Land Development, LLC
678-923-7745

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Garvis L. Sams, Jr. 770-422-7016

TITLEHOLDER: Indigo Commercial, LLC

PROPERTY LOCATION: Located at the northeasterly intersection
of U.S. Highway 41 and Mars Hill Road.

ACCESS TO PROPERTY: U.S. Highway 41 and Mars Hill Road

PHYSICAL CHARACTERISTICS TO SITE: Closed gas station

PETITION NO: Z-4

HEARING DATE (PC): 02-05-08

HEARING DATE (BOC): 02-19-08

PRESENT ZONING: TS

PROPOSED ZONING: CRC

PROPOSED USE: Offices

SIZE OF TRACT: 1.18 acres

DISTRICT: 20

LAND LOT(S): 109

PARCEL(S): 21

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/ Abandoned commercial building
- SOUTH:** City of Acworth/ Office building
- EAST:** City of Acworth/ Three-Minute Car Wash, retail shopping center
- WEST:** GC/ Executive Detailing and Emissions, Kennesaw Glass and Mirror

OPPOSITION: NO. OPPOSED _____ PETITION NO: _____ SPOKESMAN _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

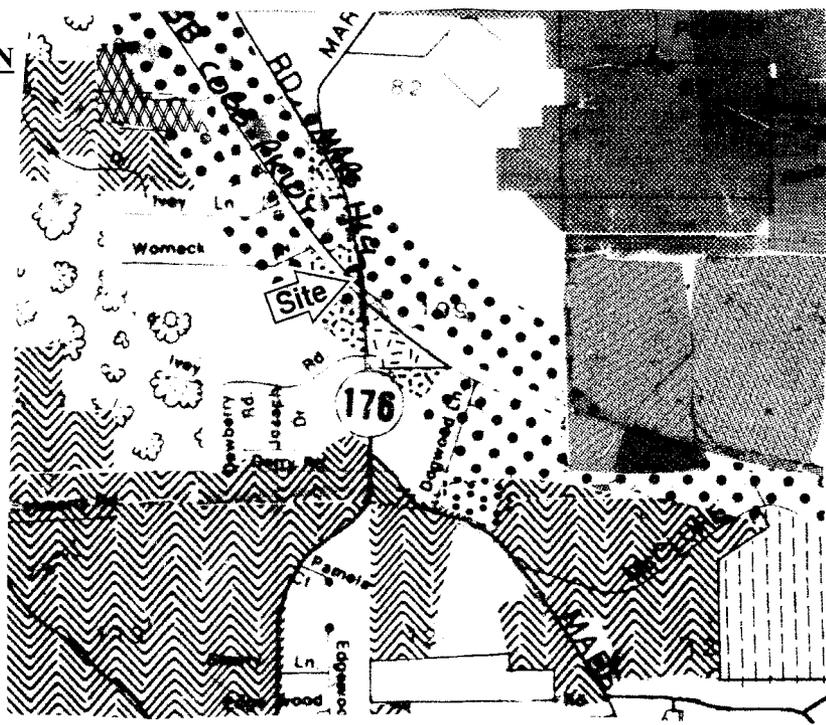
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

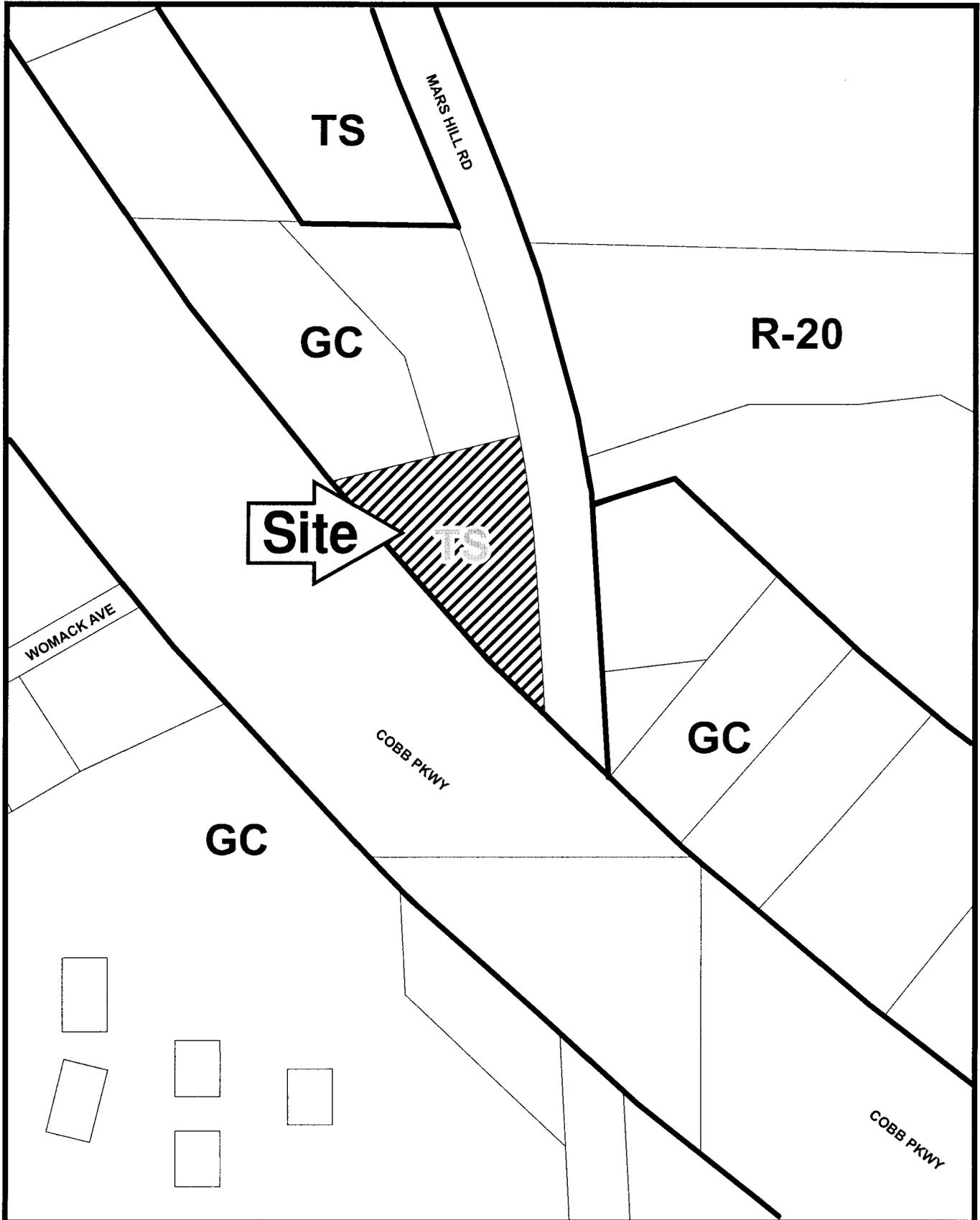
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

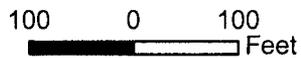
STIPULATIONS:



Z-4



This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  Draft Parcel Boundary
-  Approximate Zoning Boundary

APPLICANT: West Cobb Land Development, LLC

PETITION NO.: Z-4

PRESENT ZONING: TS

PETITION FOR: CRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 10,100

F.A.R.: 0.20 **Square Footage/Acre:** 8,559

Parking Spaces Required: 35 **Parking Spaces Provided:** 65

The applicant is requesting the CRC zoning district to develop an office building. The building would be used for medical offices for a Physicians Immediate Med urgent care clinic on the first floor and professional offices on the second floor. The medical offices would be open seven days a week, from 9:00 am to 9:00 pm. The proposed building would be two stories in height, with a traditional brick exterior. The applicant has submitted a letter of agreeable stipulations (see Exhibit "A").

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT West Cobb Land Development, LLC

PETITION NO. Z-004

PRESENT ZONING TS

PETITION FOR NRC

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 8" DI / W side Mars Hill Rd

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: 125' SE across Mars Hill Rd

Estimated Waste Generation (in G.P.D.): **A D F** 1010 **Peak** 2525

Treatment Plant: Northwest

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Notes FYI: *Sewer extension by developer may be required at plan review to adjacent property N unless access already available*

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

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DRAINAGE COMMENTS

FLOOD HAZARD: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Allatoona Creek FLOOD HAZARD INFO: Zone X

- [] FEMA Designated 100 year Floodplain Flood.
[X] Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
[X] Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
[] Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

Location: _____

- [] The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

- [] Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
[] Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
[X] Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
[] Georgia DNR Variance may be required to work in 25 foot streambank buffers.
[] County Buffer Ordinance: 50' , 75' , 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- [] Potential or Known drainage problems exist for developments downstream from this site.
[X] Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
[X] Minimize runoff into public roads.
[] Minimize the effect of concentrated stormwater discharges onto adjacent properties.
[] Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
[] Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
[] Lake Study needed to document sediment levels.
[] Stormwater discharges through an established residential neighborhood downstream.
[X] Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

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● *****

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. This project is currently under review by Plan Review staff. All Plan Review comments must be addressed. The existing detention pond must be upgraded to current development standards including provision for water quality and channel protection volumes.

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TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Mars Hill Road	18000	Minor Collector	35 mph	Cobb County	60'
Cobb Parkway	26800	Arterial	55 mph	GDOT	100'

*Based on 2004 traffic counting data taken by Cobb County DOT. (Mars Hill Road)
Based on 2006 traffic counting data taken by GDOT. (Cobb Parkway)*

COMMENTS AND OBSERVATIONS

Mars Hill Road is classified as a Minor Collector and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Cobb Parkway is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

The intersection of Mars Hill Road at Cobb Parkway is identified as a future safety and operational improvement project.

Convert the driveway on Mars Hill Road to right-in/right out.

GDOT permits will be required for all work that encroaches upon State right-of-way.

RECOMMENDATIONS

Recommend applicant coordinate with the Department prior to development plan approval to ensure compatibility with the proposed intersection improvement project.

Recommend converting the driveway access along Mars Hill Road to right-in/right-out.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF RECOMMENDATIONS

Z-4 WEST COBB LAND DEVELOPMENT, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area contains a variety of commercial properties that include retail, office and restaurant uses.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal would be consistent with other commercial properties in the area. Additionally, the applicant's proposal would replace an abandoned gas station with an architecturally pleasing office building.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for deleting the applicant's rezoning proposal to the O&I zoning district. The applicant's proposal, the Staff recommended zoning district of O&I is in accordance with the *Cobb County Comprehensive Plan*. The applicant's proposal would be compatible with and consistent to other commercially zoned properties in the area. Deletion to O&I would still allow the applicant to place their proposal at this location, and would be a more compatible zoning district for the use.

Based on the above analysis, Staff recommends DELETION to O&I subject to the following conditions:

- Site plan received by the Zoning Division December 5, 2007, with the District Commissioner approving minor modifications;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations; and
- DOT comments and recommendations.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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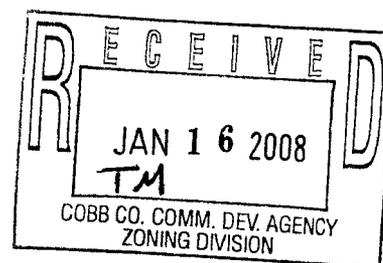
SAMSLARKINHUFF.COM

January 16, 2008

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



Re: Application of West Cobb Land Development, LLC to Rezone a
1.18 Acre Tract from Tourist Services (TS) to Community
Retail Commercial (CRC) (No. Z-4)

Dear John:

You will recall that this firm has been engaged by and represents West Cobb Land Development, LLC, the applicant concerning the above-captioned Application for Rezoning. In that regard, the application is scheduled to be heard and considered by the Cobb County Planning Commission on February 5, 2008 and, thereafter, is scheduled for consideration and final action by the Cobb County Board of Commissioners on February 19, 2008.

With respect to the foregoing and in accordance with our discussions with the County's professional staff, this letter will serve as my client's expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter, to-wit:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning ("subject property").
2. Rezoning of the subject property shall be from Tourist Services (TS) to Community Retail Commercial (CRC) in substantial conformity to that certain site plan for West

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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Cobb Land Development, LLC, by Harper Engineering, Inc., filed contemporaneously with the Application for Rezoning.¹

3. The total site area of the subject property consists of 1.18 acres which shall be developed as an approximately 10,100 square foot two-story Physicians Immediate Med facility and professional offices.
4. The architectural style and composition of the building shall be in substantial conformity to the photograph which is being submitted contemporaneously herewith.
5. Signage shall be ground based, monument style signage with the finish, materials and colors being in substantial conformity to the elevation/rendering or photograph being submitted under separate cover.
6. The submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Department. Additionally, the applicant agrees to the following:
 - a. All dumpsters shall be enclosed by brick on at least three (3) sides consistent with the architectural style and composition as aforementioned. Said dumpsters shall be located in areas which are as unobtrusive as possible.
 - b. All detention/water quality areas shall be attractively landscaped.
 - c. All HVAC equipment shall be screened from the frontage and side views or any view which is visible from adjacent businesses or rights-of-way
7. Environmentally sensitive lighting, themed to the architecture and styling of the building to be constructed, shall be utilized throughout the development.
8. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds.
9. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.

¹ The development proposal has proceeded through and completed Plan Review (LDP #070289).

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Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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10. An agreement to the following items requested by the Cobb County Department of Transportation:
 - a. Keeping in place the deceleration lane on Mars Hill Road.
 - b. Right-in/right-out turning movements at the point of ingress/egress on Mars Hill Road.
11. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
12. The District Commissioner shall retain the latitude to review and approve modifications to the site plan, landscape plan, architecture and these stipulations/conditions during the Plan Review process.

As you know, the subject property is located within the confines of a Community Activity Center (CAC) under Cobb County's Future Land Use Map and Comprehensive Land Use Plan. The requested rezoning of the subject property from TS to CRC is appropriate particularly in terms of the context of development in which the subject property is presently situated.

Please do not hesitate to call should you require any additional documentation or information prior to the formulation of your Zoning Analysis and staff recommendations. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/jbmc
Enclosure

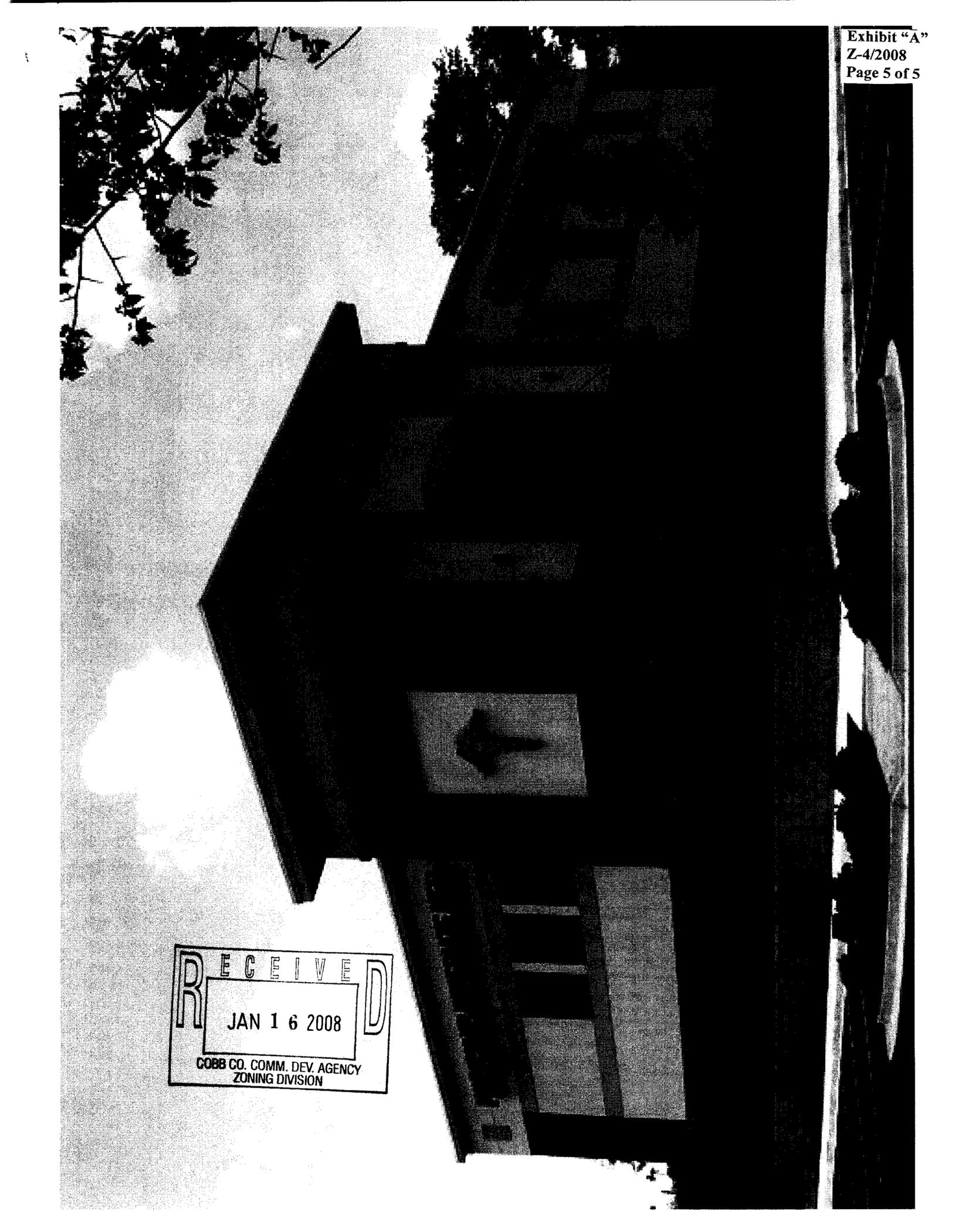
cc: Shown on next page.

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VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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January 16, 2008

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/enclosure
Members, Cobb County Planning Commission – VIA First Class Mail – w/enclosure
& VIA E-Mail – w/enclosure
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosure
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosure
Mr. John M. Morey, P.E. – VIA E-Mail – w/attachment
Mr. David W. Breaden, P.E. – VIA E-Mail – w/attachment
Ms. Karen L. King, Deputy County Clerk – VIA Hand Delivery
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery
Mr. Joe Pafumy – VIA E-Mail – w/attachment
Mr. Paul Harper, P.E. – VIA E-Mail – w/attachment



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