



**APPLICANT:** U.S. 41 and I 285 Company  
212-935-1330

**REPRESENTATIVE:** Gregory Glass 212-935-1330  
Scott A. Ward 770-416-7511

**TITLEHOLDER:** Morton L. Olshan

**PROPERTY LOCATION:** Located on the east side of Akers Mill Road, north of U.S. Highway 41.

**ACCESS TO PROPERTY:** Akers Mill Road

**PHYSICAL CHARACTERISTICS TO SITE:** Vacant lot

**PETITION NO:** Z-4

**HEARING DATE (PC):** 02-03-09

**HEARING DATE (BOC):** 02-17-09

**PRESENT ZONING:** PSC

**PROPOSED ZONING:** GC

**PROPOSED USE:** Restaurant

**SIZE OF TRACT:** 0.79 acre

**DISTRICT:** 17

**LAND LOT(S):** 947, 948, 979, 980

**PARCEL(S):** 2

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 2

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** GC/ Bank of North Georgia
- SOUTH:** PSC/ Akers Mill Shopping Center (Wine Styles, Subway)
- EAST:** PSC/ Akers Mill Shopping Center (Sports Authority)
- WEST:** GC/ Galleria office park

**OPPOSITION:** NO. OPPOSED \_\_\_ **PETITION NO:** \_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_ **CARRIED** \_\_\_\_\_

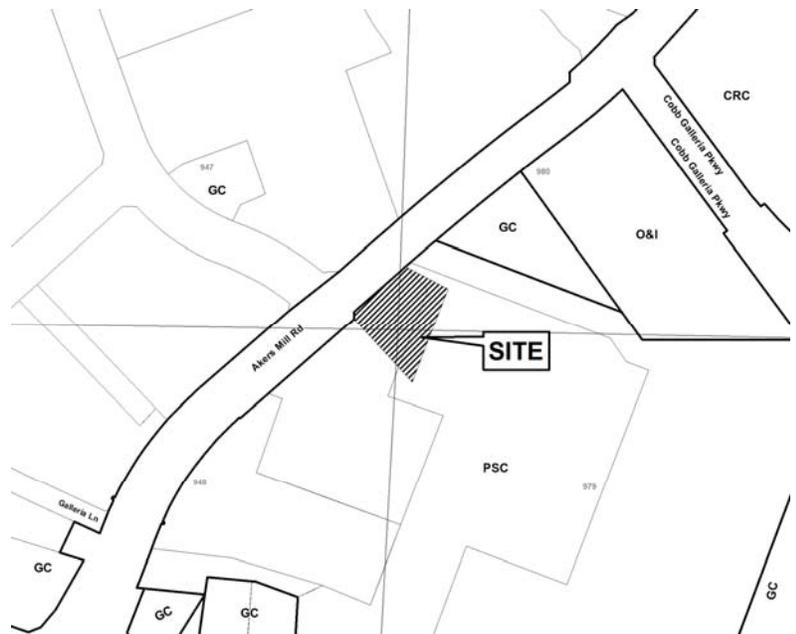
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_ **MOTION BY** \_\_\_\_\_

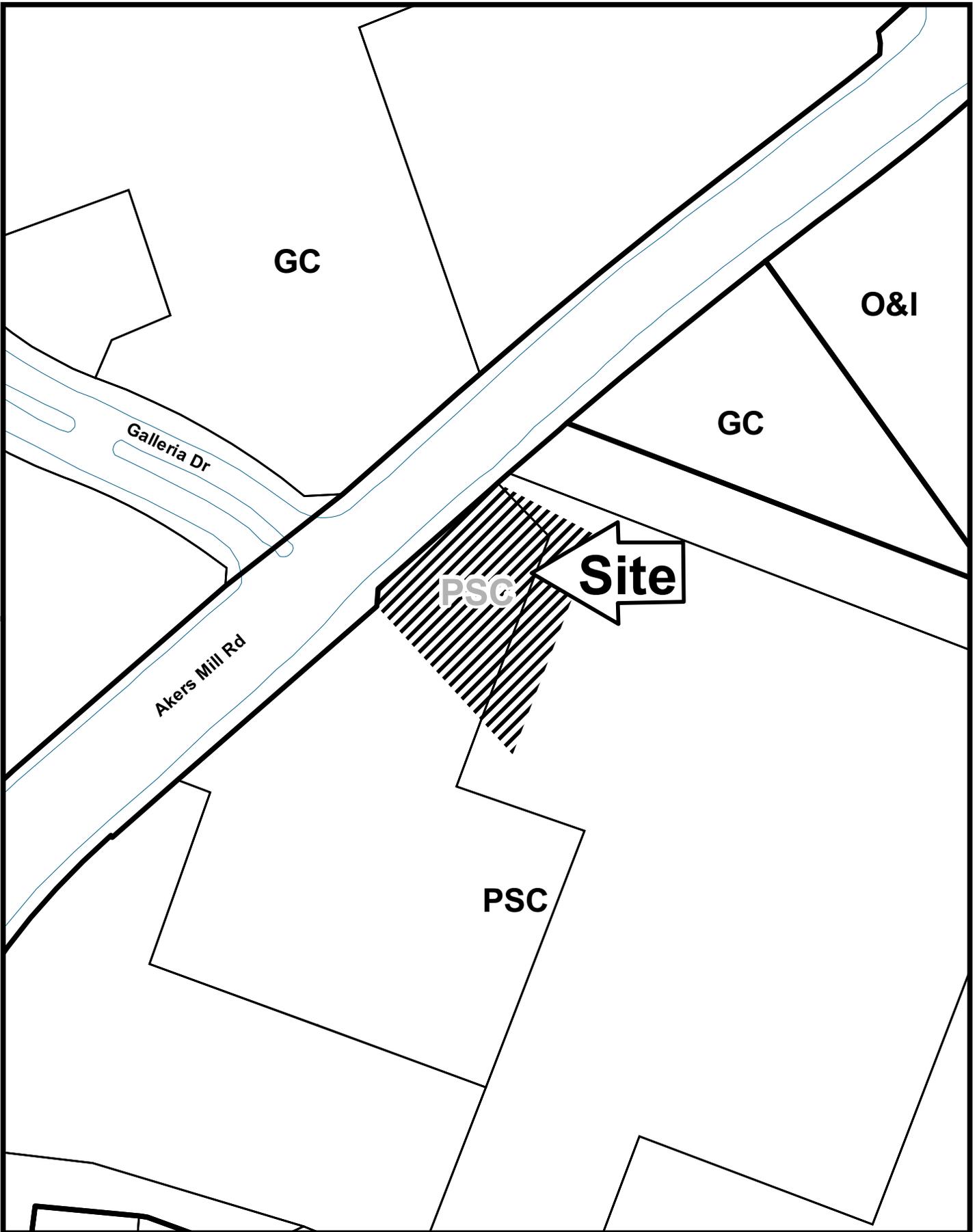
**REJECTED** \_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_ **CARRIED** \_\_\_\_\_

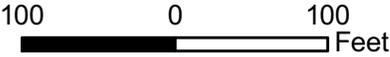
**STIPULATIONS:**



# Z-4



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



- City Boundary
- Zoning Boundary

**APPLICANT:** U.S. 41 and I 285 Company

**PETITION NO.:** Z-4

**PRESENT ZONING:** PSC

**PETITION FOR:** GC

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**PLANNING COMMENTS:** **Staff Member Responsible:** John P. Pederson, AICP

**Land Use Plan Recommendation:** Regional Activity Center- Sub Area for Retail Services

**Proposed Number of Buildings:** 1 **Total Square Footage of Development:** 6,849

**F.A.R.:** 0.20 **Square Footage/Acre:** 8,669

**Parking Spaces Required:** 68 **Parking Spaces Provided:** 33\*

\*The applicant owns Akers Mill Shopping Center which has extra parking spaces adjacent to the property that will be dedicated via easements to meet County minimums.

The applicant is requesting rezoning to GC to develop a restaurant on this outlot. The building would be two-stories in height with a Mexican cantina architectural style. The business is anticipated to be open Monday through Thursday, from 11:00 a.m. to 10:00 p.m., and Friday through Sunday, from 11:00 a.m. to 11:00 p.m. The owner of the property also owns Akers Mill Shopping Center, which will provide extra parking spaces if needed. The applicant has submitted an Impact Analysis which is attached as 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:** No comment.

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**FIRE COMMENTS:**

No comments.

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**STORMWATER MANAGEMENT COMMENTS**

This site has been through the Plan Review process (LDP# 070040). Any outstanding plan review issues must be addressed.

APPLICANT US 41 & 285 Company

PETITION NO. Z-004

PRESENT ZONING PSC

PETITION FOR GC

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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) [12" DI / SE side Akers Mill Rd]\*

Additional Comments: \*Connection to be from private water line serving Akers Mill Shopping Center

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.

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**SEWER COMMENTS:**

In Drainage Basin?  Yes  No

At Development?  Yes  No

Approximate Distance to Nearest Sewer: On site (pvt)

Estimated Waste Generation (in G.P.D.): **A D F** 8,200 **Peak** 20,500

Treatment Plant: Sutton

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:

Architectural plans approval and pre-installed exterior grease traps required for restaurants

Notes FYI: *[dba Cinco Mexican Cantina]*

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.

**APPLICANT: U.S. 41 and 285 Company** \_\_\_\_\_

**PETITION NO.: Z-4** \_\_\_\_\_

**PRESENT ZONING: PSC** \_\_\_\_\_

**PETITION FOR: GC** \_\_\_\_\_

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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
Akers Mill Rd	12600	Arterial	35 mph	Cobb County	100'

*Based on 2005 traffic counting data taken by Cobb County DOT.*

**COMMENTS AND OBSERVATIONS**

Akers Mill Road is classified as an arterial and according to the available information; the existing right-of-way does not meet the minimum requirements for this classification.

This site falls with in the Akers Mill Road Streetscape Improvements project.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way and easements on the east side of Akers Mill Road to accommodate the proposed Akers Mill Road Streetscape Improvements project, GDOT Project Number STP-0006-00(289).

Recommend applicant coordinate with the Department prior to development plan approval to ensure compatibility with the proposed trail and streetscape project.

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

## STAFF RECOMMENDATIONS

### Z-4            U.S. 41 AND I 285 COMPANY

- 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 applicant's property is located in an area that contains a wide variety of commercial properties, such as retail, restaurants, and high-rise office buildings.
- 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 compatible with adjacent properties.
- 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 Regional Activity Center- Sub Area for Retail Services
- 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 approving the applicant's rezoning proposal. The applicant's proposal would be consistent with, and compatible to nearby and adjacent properties. The applicant's proposal would be consistent with the *Cobb County Comprehensive Plan*, which shows this property to be within a Regional Activity Center- Sub Area for Retail Services.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

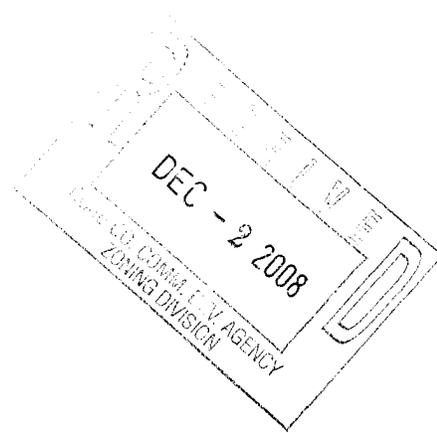
- Site plan received by the Zoning Division December 2, 2008, with the District Commissioner approving minor modifications;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations; and
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

**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.**



December 2, 2008

Cobb County Board of Commissioners  
Cobb County Planning Commission  
c/o Cobb County Community Development Department  
County Zoning Division  
191 Lawrence Street, Building E  
Marietta, GA 30060



Re: Application for Rezoning at 2955 Cobb Parkway  
Marietta, Georgia

Dear Zoning Division:

This letter of intent is being submitted with the rezoning application of Morton L. Olshan. Morton L. Olshan is the owner of the Akers Mill Shopping Center. A boundary survey for the Akers Mill Shopping Center was filed 11/20/08 and recorded in Plat Book 271, Page 247. The entire parcel is 24.46 acres. The subject site is 0.79 acres and is located on the NW portion of the Akers Mill Shopping Center boundary survey. This smaller parcel was submitted to site development as a lot split (parcel subdivision) on November 24, 2008. I have attached a copy of the Plat Review Application. The proposed development use is as "eating & drinking establishment" use. To accomplish the development, as depicted on the site plan, the applicant is requesting to rezone the property from PSC to GC. Even though "eating & drinking establishment" use is permitted in PSC and GC zoning, the site would not be in compliance with PSC zoning requirements. The best zoning for this parcel is GC, due to size and setback constraints imposed by the PSC zoning.

As request, please note our analysis of the impact of the proposed rezoning with respect to each of the following matters:

a- *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;*

This zoning proposal will permit a use that is suitable to adjacent development and nearby property. The current PSC and the proposed GC zoning both allow for "eating and drinking establishment" use and is similar in use to other businesses in the shopping center.

b- *Whether the zoning proposal will adversely affect the existing use or usability of adjacent of nearby property;*

This zoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. The current PSC and the proposed GC zoning both allow for "eating and drinking establishment" use and is similar in use to other businesses in the shopping center.

c- *Whether the property to be affect by the zoning proposal has a reasonable economic use as currently zoned;*

The property is currently a vacant site. The proposed "eating and drinking establishment" use is a reasonable and higher use for this site.

d- *Whether the zoning proposal will result in a use which will or would cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;*

The connecting streets to the Akers Mill Shopping Center are major arterial and major collectors. It is our belief that this use will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

e- *Whether the zoning proposal is in conformity with the policy and intent of the land use plan;*

The Akers Mill Shopping Center currently is broken up into several parcels. The zoning districts are either PSC or GC. Both of these districts were designed to provide locations for retail commercial and services uses. We feel that our site's use is in conformity with other businesses in the overall development.

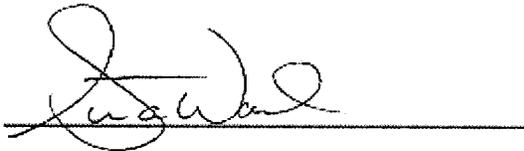
f- *Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.*

Existing conditions of the overall shopping center includes small retail suites, with businesses such as Subway, large "box" type retail stores, such as Sports Authority and Toys "R" Us and stand alone restaurants such as Chick-fil-A and Longhorns. The addition of a mexican restaurant to the shopping center will add to the appeal of this area and will enhance the overall functionality of the Akers Mill Shopping Center.

A warranty deed and evidence of the 2008 tax payments are attached.

Sincerely,

**TRAVIS PRUITT & ASSOCIATES, INC.**



Scott A. Ward, P.E., LEED AP  
Vice President