

PRELIMINARY ZONING ANALYSIS

Planning Commission Hearing Date: May 5, 2009
Board of Commissioners Hearing Date: May 19, 2009

Due Date: March 27, 2009

Date Distributed/Mailed Out: March 12, 2009



Cobb County...Expect the Best!

ADDITIONAL REFERENCES:
FINAL PLAT OF CRABAPPLE SUBDIVISION EXTENSION NO. 3
PREPARED BY ROBERT WEAVER RECORDED IN P.B. 13, PG. 38

APPLICANT: E & E Capital, Inc.

770-732-8823

REPRESENTATIVE: Larry B. Eubanks

770-732-8823

TITLEHOLDER: E & E Capital, Inc.

PROPERTY LOCATION: Located on the north side of Old Powder

Springs Road, east of Old Bankhead Highway.

ACCESS TO PROPERTY: Old Powder Springs Road

PHYSICAL CHARACTERISTICS TO SITE:

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

FUTURE LAND USE MAP: Community Activity Center

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

PLANNING COMMISSION RECOMMENDATION

APPROVED **MOTION BY**

REJECTED SECONDED

HELD

CARRIED

BOARD OF COMMISSIONERS DECISION

APPROVED **MOTION BY**

REJECTED

| | |
|-------------|----------------|
| HELD | CARRIED |
|-------------|----------------|

STIPULATIONS:

PETITION NO: Z-13

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: GC, LRO,

R-20

PROPOSED ZONING: GC

PROPOSED USE: Electrical Contractors

Office

SIZE OF TRACT: 0.976 acre

DISTRICT: 18

LAND LOT(S): 36

PARCEL(S): 38, 70

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4



Application No. Z-13
2009

Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): 10,000 Sq Ft
b) Proposed building architecture: 2 Story Metal Bldg
c) Proposed selling prices(s): N/A Business Growth
d) List all requested variances: Convert 3 Different Zones for this property to only one - GC

.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): Electrical Service + Office Bldg
b) Proposed building architecture: 2 Story Metal Office Bldg
10,000 Sq Ft Total
c) Proposed hours/days of operation: 8:00 AM - 5 PM
d) List all requested variances:

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

Vacant lot # 1150 is presently Zoned GC + R20
Bldg./lot # 1140 is presently Zoned LRD

Z-14
(2009)

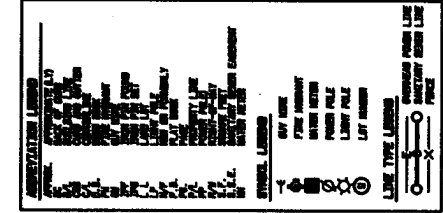
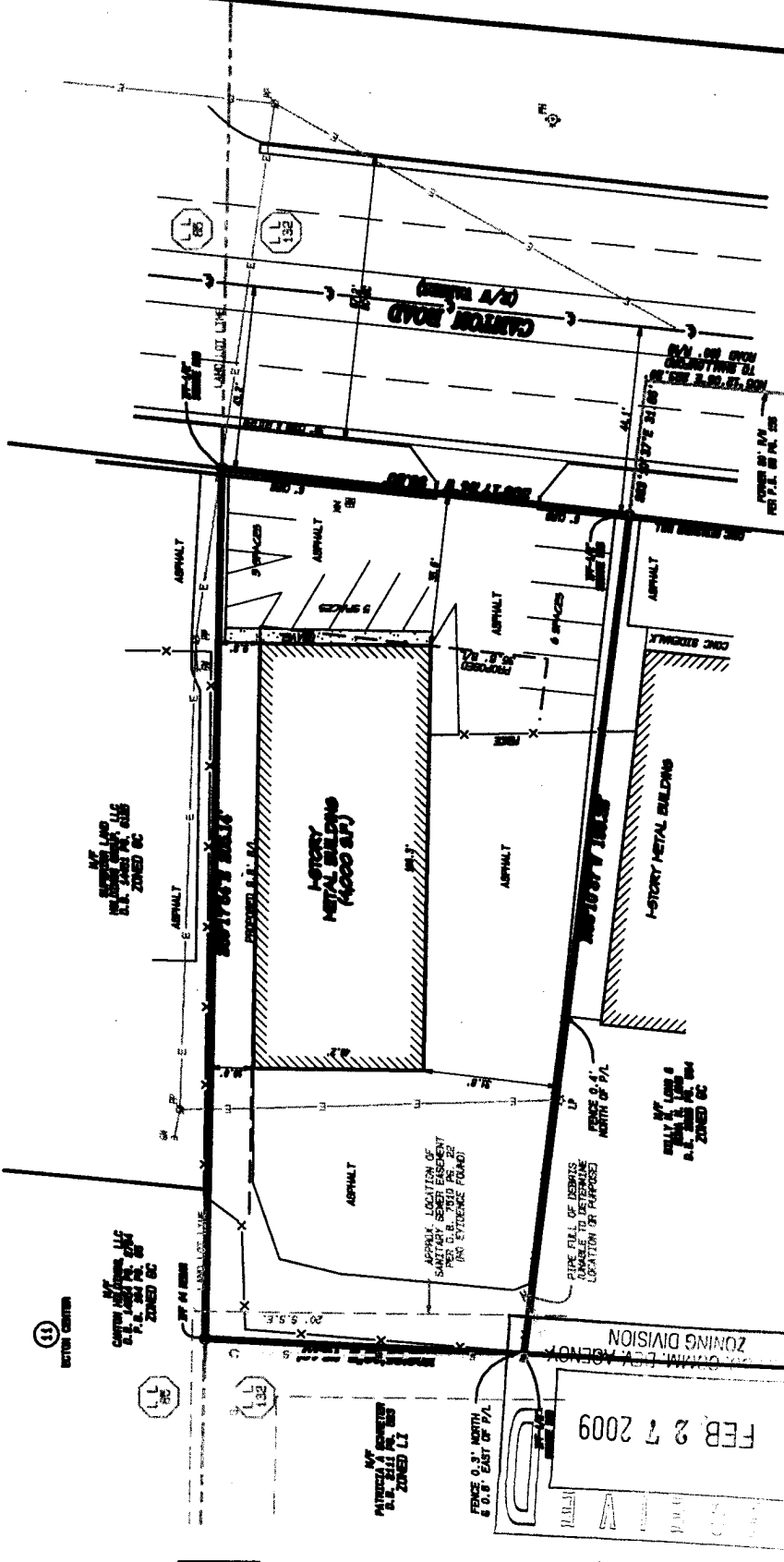
BETTERTON
LAND SURVEYING & ENGINEERING, INC.
SUBDIVISION & COMMERCIAL SITE DESIGN
SOUTH WAREHITA PARKWAY, SUITE A
WAREHITA, GEORGIA 30060
(878) 465-0242



DATE

ZONING PLAT
4655 CANYON ROAD
LOCATED IN
UNINCORPORATED
COUNTY, GEORGIA
TOWN OF ANNA

08158
08158 PRO
JANUARY 2008
1 OF 1
1" = 20'
DECEMBER 12, 2008



ZONING NOTES
1. PROPERTY ZONING: GC
2. PROPOSED ZONING: GC
3. PROPOSED USE: PARTY SUPPLY & RETAIL FACILITY
4. TOTAL AREA: 0.388 ACRES (17,348 S.F.)
5. AREA EXCLUDED FROM FLOOD PLAIN: 0.000 ACRES
6. MINIMUM LOT AREA: 20,000 S.F.
7. TOTAL NUMBER OF LOTS: 3
8. MINIMUM LOT AREA: 20,000 S.F.
9. MINIMUM LOT WIDTH: 60'
10. MINIMUM FLOOR AREA: N/A
11. MINIMUM RETRACTION REQUIREMENTS:
FRONT: 50'
SIDE: 10'
REAR: 10'
12. MINIMUM BUILDING HEIGHT: 35'
13. MINIMUM LOT COVERAGE: N/A
14. MINIMUM FLOOR AREA RATIO: 0.25 FOR RETAIL
15. FLOOR AREA RATIO: 4000 S.F. / 17348 S.F. = 0.23

PARKING CALCULATIONS
FOR RETAIL/RESTAURANT/RETAIL USE
1 SPACE PER 200 SQUARE FEET (NET) OF FLOORSPACE
2,000 S.F. OF RETAIL FLOOR PROPOSED
1,000 S.F. = 1 SPACE / 200 S.F. = 5 SPACES REQUIRED
14 SPACES EXISTING WITHIN
9 SPACES MEETING COUNTY CODE REQUIREMENTS

IN MY OPINION, THIS PLAT IS A TRUE AND CORRECT REPRESENTATION
OF THE PROPERTY AND THE INFORMATION CONTAINED THEREIN IS TRUE AND
CORRECT. I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF GEORGIA
WITH THE NECESSARY STANDARDS AND REQUIREMENTS OF THE LAW.

SURVEY NOTES
1. THIS PLAT WAS CALCULATED FOR CLARITY AND HAS BEEN
PREPARED TO BE ACCURATE WITHIN 1 FOOT IN 100,000 FEET.
2. THE FIELD DATA WERE OBTAINED FROM A TOTAL STATION
SURVEY OF THE PROPERTY AND THE ADJACENT LOTS.
3. THE CORNER MARKS WERE FOUND AND THE CORNER
POINTS WERE RECOVERED.
4. THE DATE OF SURVEY WAS JANUARY 11, 2008.
5. I HAVE THIS DATE, EXAMINED THE OFFICIAL PLAT FLOOD
MAP AND THE CORNER MARKS WERE FOUND AND THE CORNER
POINTS WERE RECOVERED.
6. THE PROPERTY IS NOT LOCATED IN AN AREA HAVING SPECIAL
FLOOD HAZARD OR CORNER MARKS OTHER THAN THE
ONE SHOWN.
7. ALL DIMENSIONS ARE IN FEET AND INCHES.
8. MEASUREMENTS SHOWN HEREON ARE BASED ON REFERENCE PLAT.

SURVEY REFERENCES
1. SURVEY FOR JACOB HICKSON, DATED DECEMBER 15, 1977, PREPARED
BY JACOB HICKSON, ENGINEER, 2000 CANYON ROAD, ANNA, GA 30060.
2. SURVEY FOR TED AND BETTY LYN, DATED JULY 8, 2008.
3. SURVEY FOR TED AND BETTY LYN, DATED JULY 11, 1982.
4. SURVEY FOR TED AND BETTY LYN, DATED JULY 22, 1984.
5. SURVEY FOR TED AND BETTY LYN, DATED SEPTEMBER 4,
1984.
6. SURVEY FOR TED AND BETTY LYN, DATED SEPTEMBER 14,
1984.
7. SURVEY FOR TED AND BETTY LYN, DATED SEPTEMBER 14,
1984.
8. SURVEY FOR TED AND BETTY LYN, DATED OCTOBER 6, 2004.
9. SURVEY FOR TED AND BETTY LYN, DATED OCTOBER 6, 2004.
10. SURVEY FOR TED AND BETTY LYN, DATED JANUARY 22,
1984.
11. SURVEY FOR TED AND BETTY LYN, DATED MAY 27,
1984.
12. SURVEY FOR TED AND BETTY LYN, DATED MAY 27, 1984.

APPLICANT: Mary Landsiedel Shaw

678-332-7088

REPRESENTATIVE: Mary Landsiedel Shaw

678-332-7088

TITLEHOLDER: Mary Landsiedel Shaw

PROPERTY LOCATION: Located on the west side of Canton Road,
north of Shallowford Road.

ACCESS TO PROPERTY: Canton Road

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

PETITION NO: Z-14

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: GC

PROPOSED ZONING: NRC

PROPOSED USE: Office and Retail

SIZE OF TRACT: 0.40 acre

DISTRICT: 16

LAND LOT(S): 132

PARCEL(S): 32

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

FUTURE LAND USE MAP: Neighborhood Activity Center

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

PLANNING COMMISSION RECOMMENDATION

APPROVED ____ **MOTION BY** _____

REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

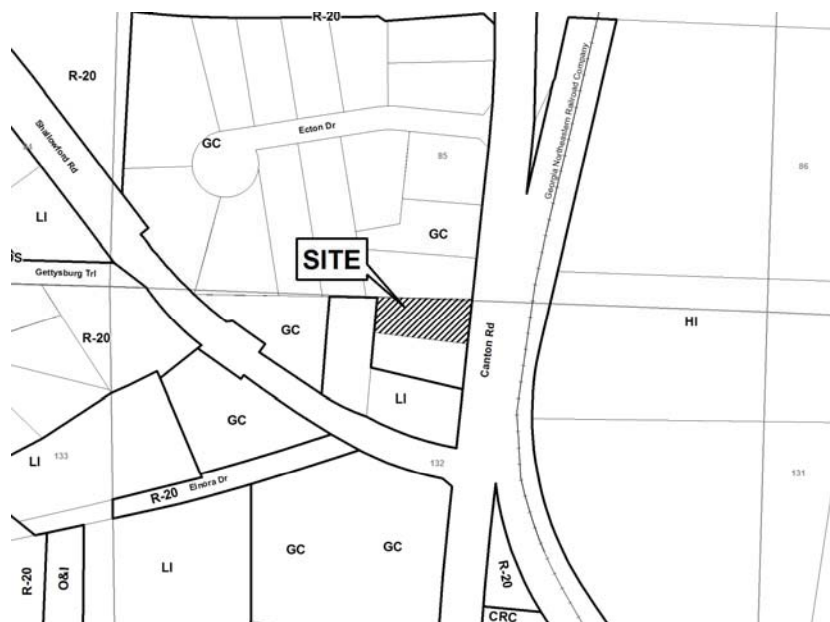
BOARD OF COMMISSIONERS DECISION

APPROVED ____ **MOTION BY** _____

REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

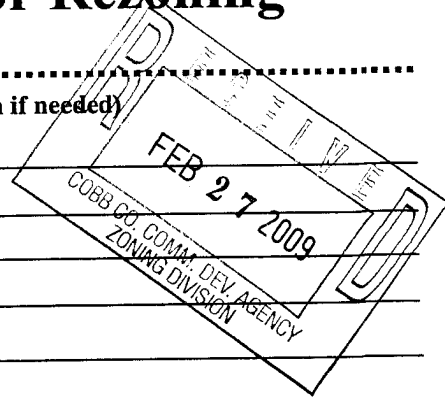
STIPULATIONS:



Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____
- _____
- _____
- _____



.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): Office / Warehouse
- b) Proposed building architecture: 4,000 Sq. FT Steel Building
- c) Proposed hours/days of operation: 9 AM - 5 PM M - F
- d) List all requested variances: NRE - was approved
- _____
- _____
- _____

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

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COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

GLOBAL POSITIONING SYSTEMS INCORPORATION NOTE: A PORTION OF THE FIELD DATA UTILIZED ON THIS PLAT IS BASED ON DATA OBTAINED THROUGH GLOBAL POSITIONING SYSTEMS (GPS). IT INCLUDES NAVD 1988 ELEVATIONS AND HARN (HPD) GEODAS STATE PLANS. WEST ZONE COORDINATES. THE EQUIPMENT USED WAS A TRIMBLE 5800 GPS RECEIVER WITH AN ANTENNA. THE DATA WAS COLLECTED USING A SURVEY NETWORK MANAGED BY THE KENNEDY HUB. THE SURVEY WAS PERFORMED USING CORRECTED MEASUREMENTS. THE TRIMBLE WAS REAL TIME NETWORK OPERATED BY GPS SOLUTIONS, INC. THE HORIZONTAL ACCURACY OF THE FIELD DATA UTILIZED ON THIS PLAT IS 0.04 FEET HORIZONTAL AND 0.07 FEET VERTICAL.

[illegible]

FIELD WORK PERFORMED: 10-23-2008
ZONING PER COBB CO., GA GIS
<http://comdex.cobbcounties.gov>

2:10pm 2009/4/15/3 dom. Mary Ada Orbus. 3/3/2009 11:07:51 AM. CAD09

MIKE TAHER

1780 MARY ADA DRIVE, NW
LAND LOT 210 & 211
30th DISTRICT, 2nd SECTION
OF COBB COUNTY, GEORGIA
PIN: 20021100020

**EXISTING ZONING GC AND R-20
PROPOSED ZONING GC**

LOT 6 &
PART OF LOT 5
PROPERTY OF
JAMES E. MATTHEWS
PR 15 PG 17A

AREA
22,137 SQ FT
0.51 ACRES

JETT, OLIVER J., JR.
DB 14544, PG 4764
FAX ID: 20021000020

N/F
HOLLIS, MELVIN & JILL
TAX ID: 20021000030

PART OF LOT 4
PROPERTY OF
JAMES E. MATTHEWS

N/F
POOLE, RAY
& JUNE K.
DB 1912, PG 110
ZONED: GC
TAX ID: 200221100030

GRAPHIC SCALE

(IN FEET)

REF: 43392

2:10pm 2009/4/15/3 dom. Mary Ada Orbus. 3/3/2009 11:07:51 AM. CAD09

APPLICANT: Ike Taher
770-579-2070

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Melissa P. Haisten 70-422-7016

TITLEHOLDER: Islamic Center of Cobb County, Inc.

PROPERTY LOCATION: Located on the east side of Mary Ada
Drive, west of Greers Chapel Road.

ACCESS TO PROPERTY: Mary Ada Drive

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

PETITION NO: Z-15

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: GC, R-20

PROPOSED ZONING: GC

PROPOSED USE: Accounting Office and
Learning Center/Cultural Center

SIZE OF TRACT: 0.51 acre

DISTRICT: 20

LAND LOT(S): 211

PARCEL(S): 2

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

FUTURE LAND USE MAP: Community Activity Center

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

PLANNING COMMISSION RECOMMENDATION

APPROVED ____ **MOTION BY** _____

REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

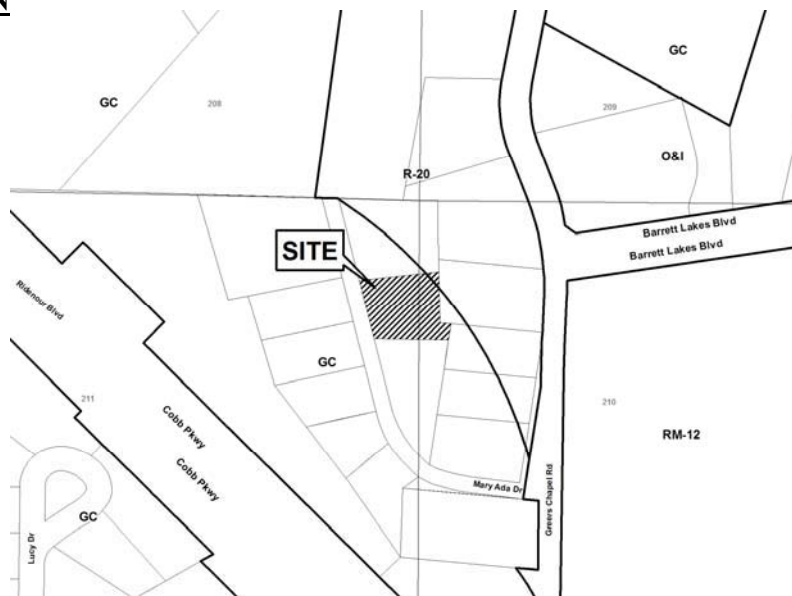
BOARD OF COMMISSIONERS DECISION

APPROVED ____ **MOTION BY** _____

REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

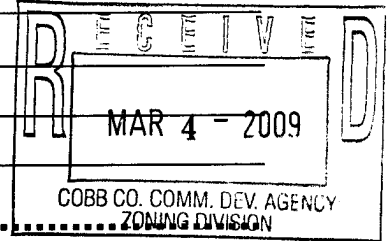
STIPULATIONS:



Summary of Intent for Rezoning*

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): _____
b) Proposed building architecture: _____
c) Proposed selling prices(s): _____
d) List all requested variances: _____



.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): Accounting office and learning center/cultural center.

b) Proposed building architecture: 1 story brick

c) Proposed hours/days of operation: 7:30 a.m. - 8:00 p.m.

d) List all requested variances: None.

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

The proposed use for the existing structure is as an accounting office for one accountant and as a learning center/cultural center.

*The applicant reserves the right to amend the Summary of Intent for Rezoning and the preliminary information provided therein at any time during the rezoning process.

LUP-11
(2009)

SURVEY FOR
JOSEPH LEBRUN
BEING LOT 31, BLOCK B, OF
WADE GREEN FORREST
SUBDIVISION

LOCATED IN LAND LOT 18 OF
THE 20TH DISTRICT 2ND SECTION
OF COBB COUNTY, GEORGIA

SCALE 1" = 40'

DATED FEBRUARY 21, 2009

THIS PROPERTY IS NOT LOCATED IN AN AREA
HAVING ANY SPECIAL FLOOD HAZARD CONDITIONS.

EQUIPMENT USED : ANGULAR WILD T-1000

LINEAR WILD DI-1000

TRAVERSE TYPE WAS OPEN ENDED

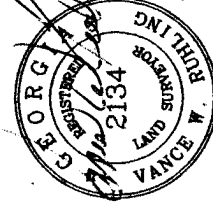
PLAT PRECISION 1/100,000

JOB NUMBER 3222-09

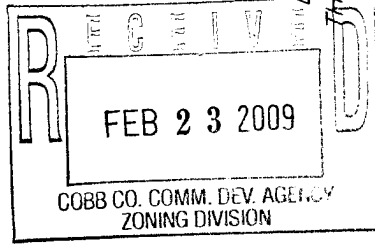
RUHLING AND RUHLING LAND SURVEYORS

2690-B SUMMERS STREET
KENNESAW GEORGIA 30144

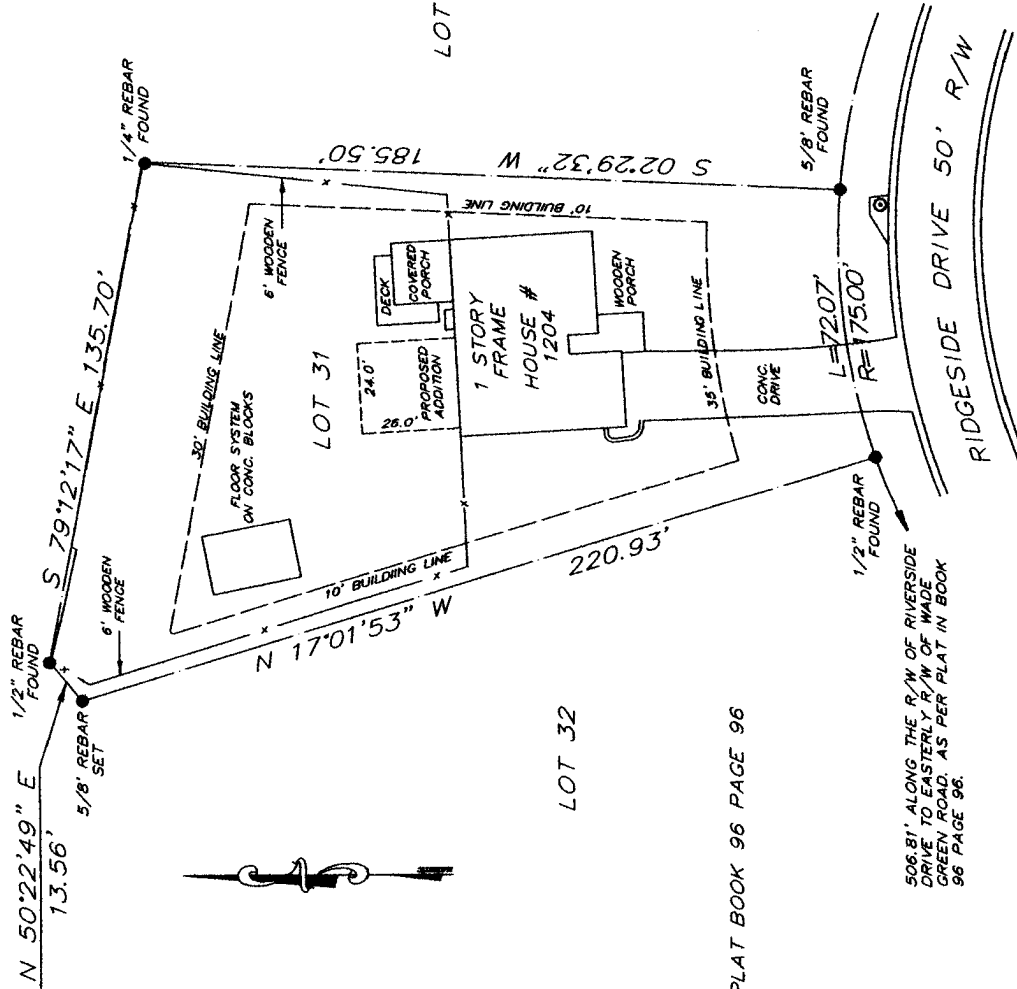
PHONE (770) 422-8768



JOB NUMBER 3222-09



LOT 30



REF: PLAT BOOK 96 PAGE 96

50' 0 50'
SCALE

APPLICANT: Joe LeBrun
678-787-6543

REPRESENTATIVE: Joe LeBrun
678-787-6543

TITLEHOLDER: Joseph P. LeBrun

PROPERTY LOCATION: Located on the north side of Ridgeside
Drive, east of Wade Green Road.

ACCESS TO PROPERTY: Ridgeside Drive

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

PETITION NO: LUP-11

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: R-15

PROPOSED ZONING: Land Use Permit

PROPOSED USE: In-Law Suite

SIZE OF TRACT: 0.50 acre

DISTRICT: 20

LAND LOT(S): 18

PARCEL(S): 179

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 3

**Note: See Exhibit "A" for
Proposed addition sketch**

FUTURE LAND USE MAP: Low Density Residential

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

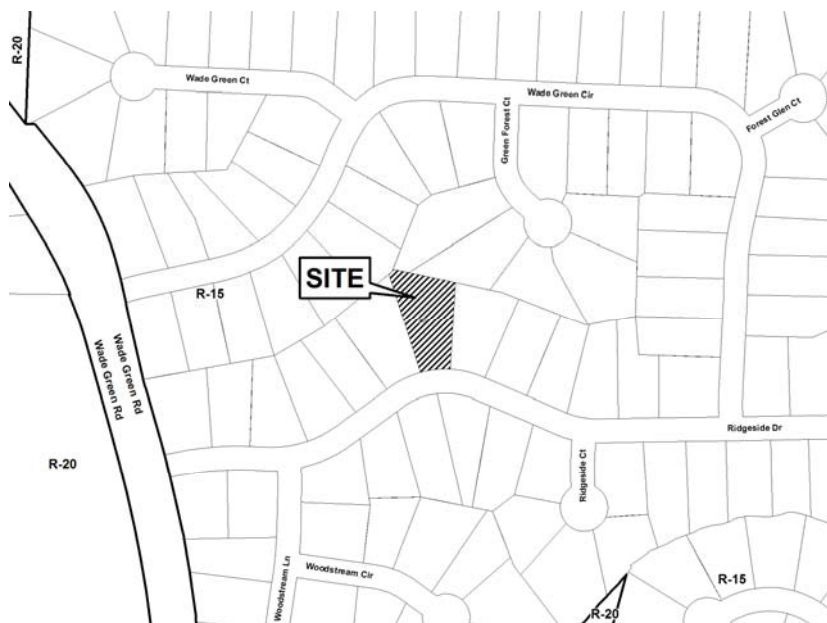
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

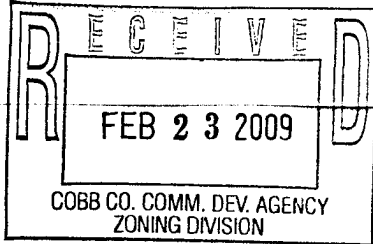
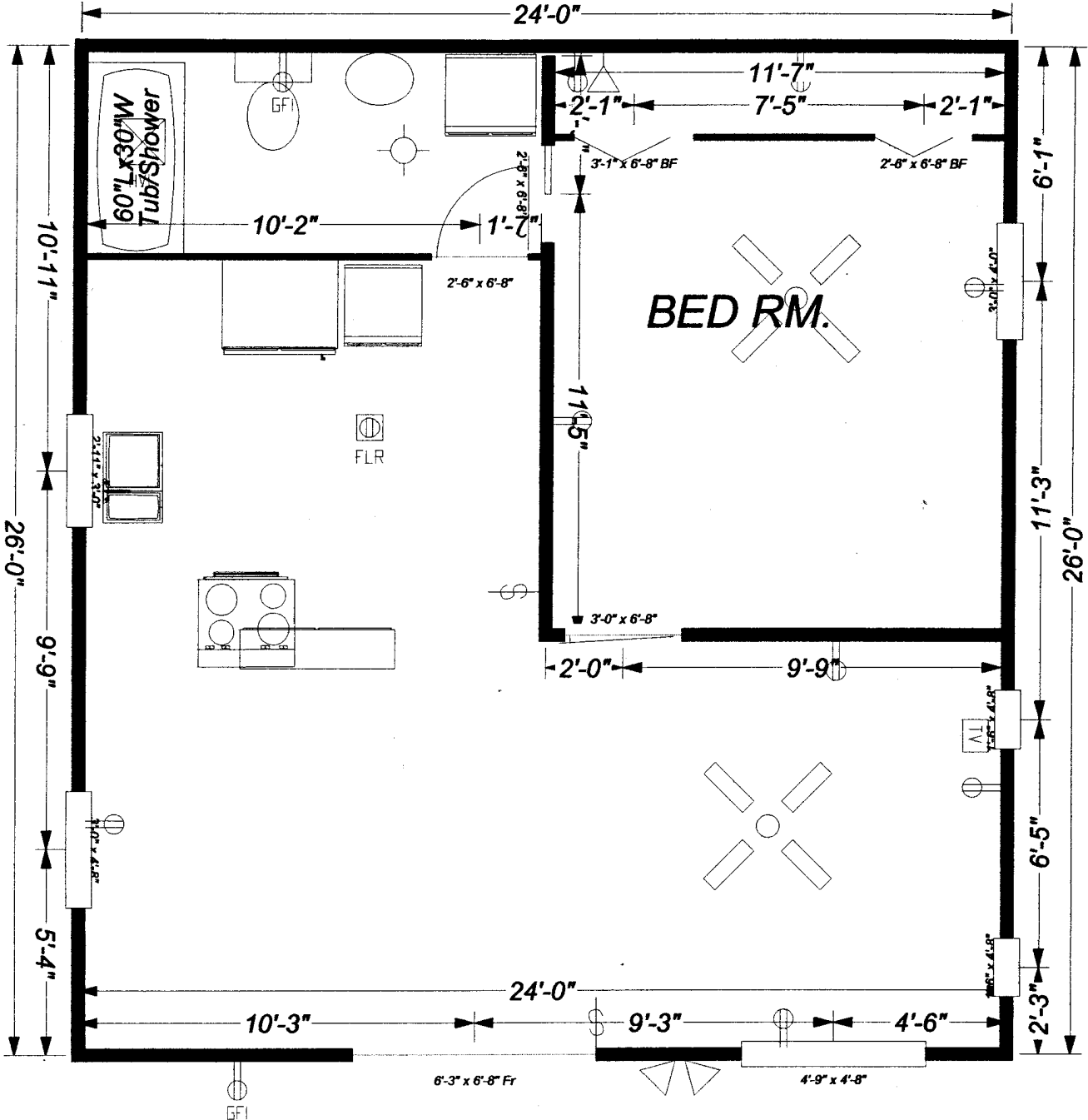
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

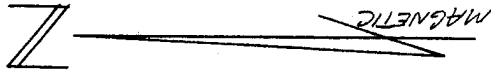
STIPULATIONS:



LUP-11 (2009)
Exhibit "A"
Proposed addition
Sketch



LUP-12
(2009)



AREA = 0.63
3495 CAMPUS LOOP



GRAPHIC SCALE

CAMPUS LOOP ROAD
(FKA FREY LAKE ROAD)

PANEL NO. 1366700037G
LOCATION C08B
ZONE "AE"

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS BEEN CHECKED BY THE SURVEYOR AND FOUND TO BE CORRECT. A CLEAR ERROR OF NO MORE THAN ONE (1) INCH PER MILE AND AN ADJUSTED LONG COMPASS RULE THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE (1) FOOT IN 2000 FEET.

ESSENTIAL USES: TOPCON (ETL-20) & TRANSIT W/200' STEEL TAPE.
IN MY OPINION THIS PLAT IS CORRECT AND REPRESENTATION OF THE LAND DESCRIBED AND HAS BEEN PREPARED IN CONFORMITY WITH THE APPLICABLE STANDARDS AND REQUIREMENTS OF LAW.

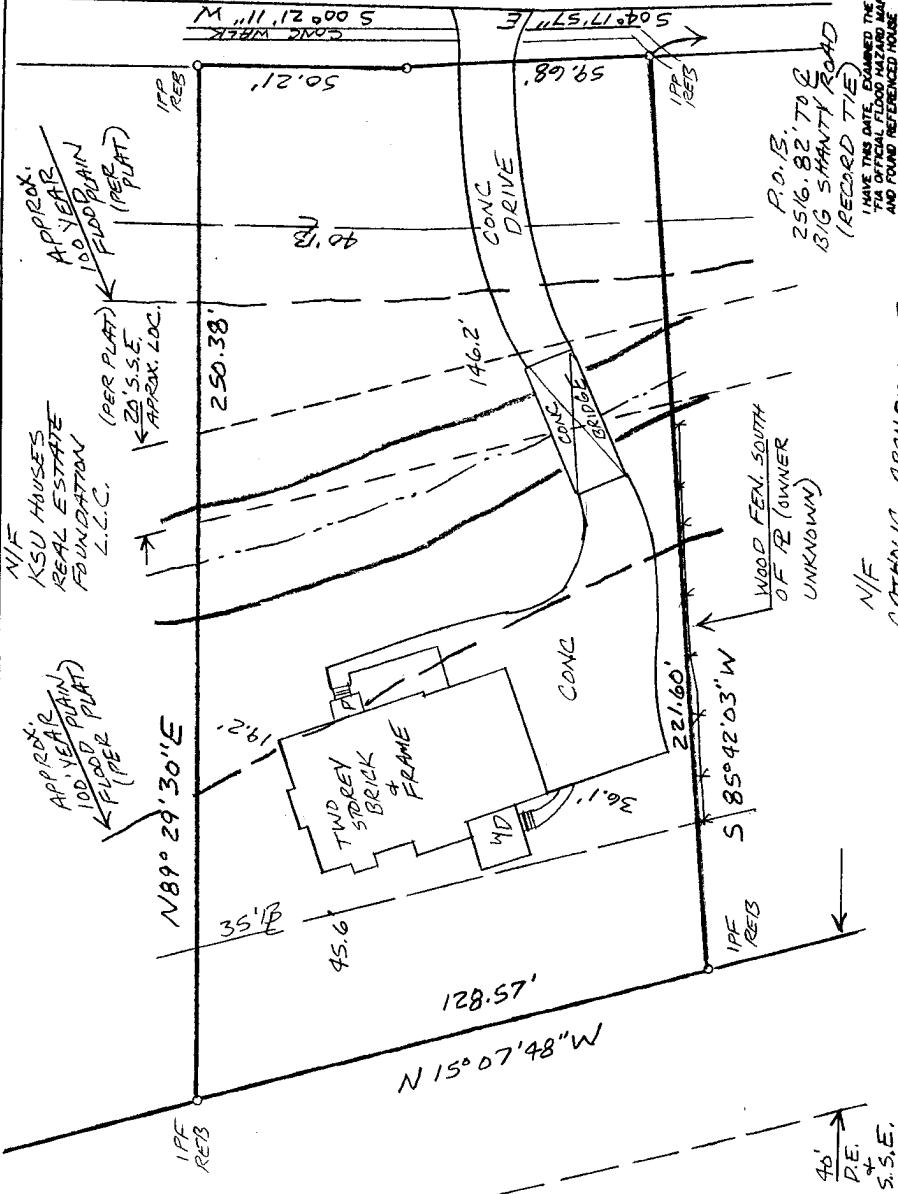
J.A. EVANS
SURVEYING CO., INC.
POWDER SPRINGS, GEORGIA
PH. 770-943-0000

SURVEY FOR:

KENNESAW STATE UNIVERSITY
FOUNDATION, INC.

| LOT | BLK. | UNIT | REVISIONS |
|---------------|-----------------|------|-----------|
| D.B. 13783 | Pg. 2910 | | |
| LAND LOT 97 | | | |
| DISTRICT 20TH | SECTION 2ND | | |
| C08B | COUNTY, GEORGIA | | |
| PLAT BOOK 128 | PAGE 76 | | |
| DATE: 2-4-09 | SCALE: 1" = 30' | | |
| | | | 35-09 |

S.W. 47



APPLICANT: Kennesaw State University Foundation, Inc.
770-423-6901

REPRESENTATIVE: W. Robert Heflin, Jr.
770-423-6901

TITLEHOLDER: Kennesaw State University Foundation, Inc.

PROPERTY LOCATION: Located on Campus Loop Road, south of
Frey Lake Road.

ACCESS TO PROPERTY: Campus Loop Road

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

PETITION NO: LUP-12

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: R-20

PROPOSED ZONING: Land Use Permit

PROPOSED USE: Office

SIZE OF TRACT: 0.6339 acre

DISTRICT: 20

LAND LOT(S): 97

PARCEL(S): 39

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

FUTURE LAND USE MAP: Low Density Residential

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:



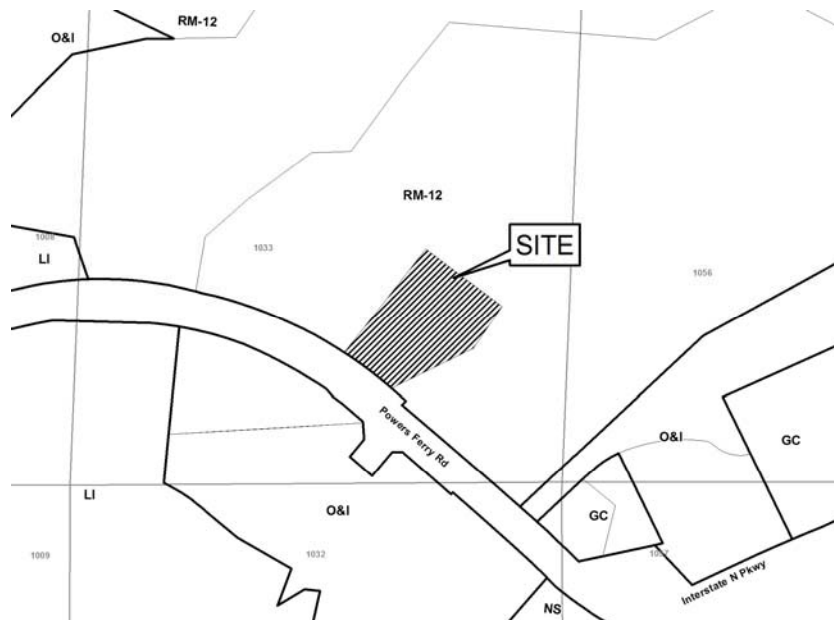
LUP-12
2009

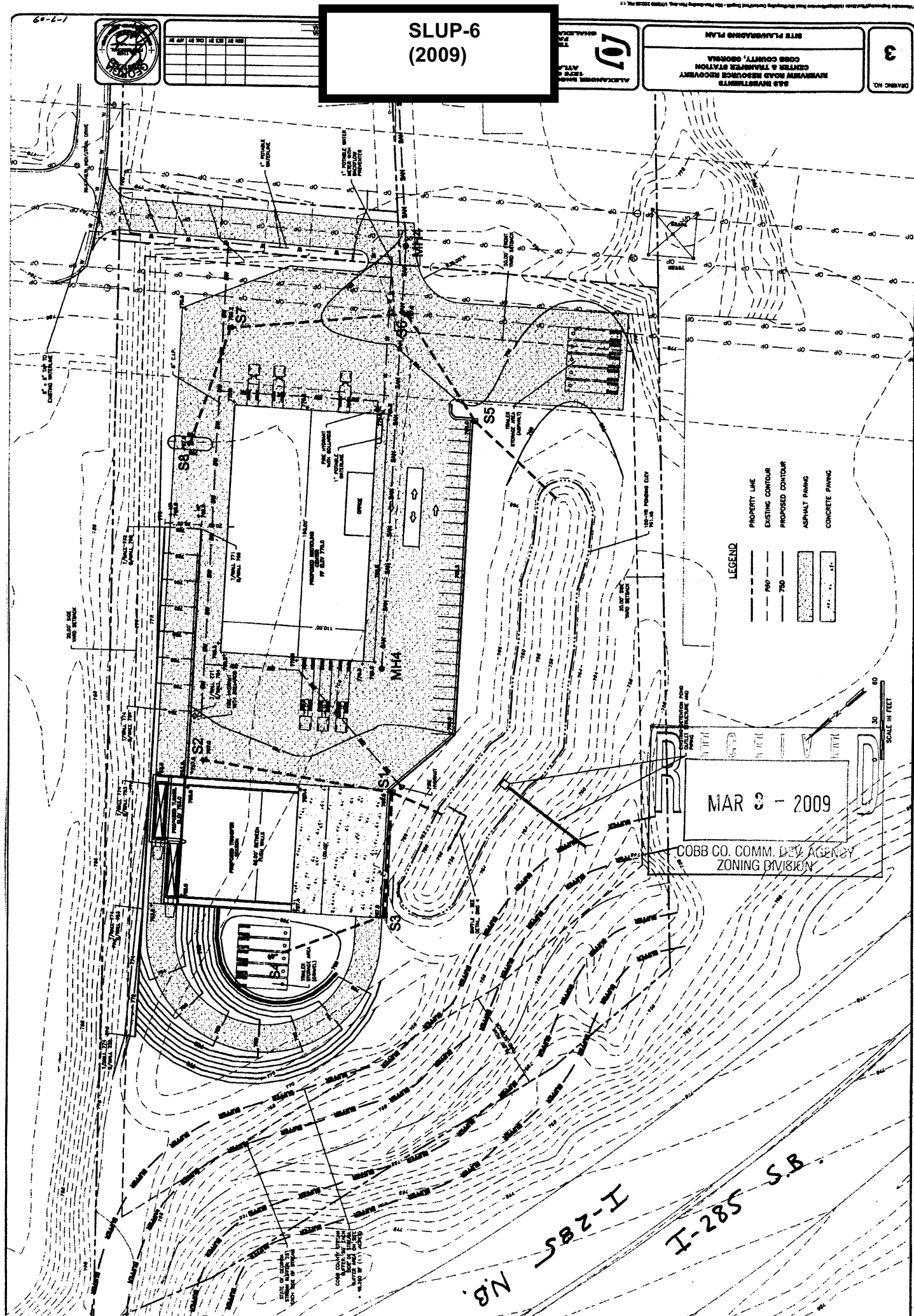
LAND USE PERMIT WORKSHEET

(FOR TEMPORARY COMMERCIAL USE OF RESIDENTIALLY ZONED PROPERTY)

1. TYPE OF BUSINESS? GENERAL OFFICE USE
2. NUMBER OF EMPLOYEES ? 5-6
3. DAYS OF OPERATION? MONDAY - FRIDAY 8:00-6:00 p.m.
4. HOURS OF OPERATION? 8:00 A.M. - 6:00 P.M.
5. NUMBER OF CLIENTS, CUSTOMERS OR SALES PEOPLE COMING TO HOUSE ? 2 / 8 per week (PER DAY; PER WEEK)
6. WHERE DO CLIENTS, CUSTOMERS OR SALE PEOPLE PARK? DRIVEWAY X STREET _____ OTHER (EXPLAIN) _____
7. SIGNS? YES X NO _____. (IF YES, THEN QUANTITY, SIZE, LOCATION) _____
8. NUMBER OF VEHICLES? 5-6
9. TYPE OF VEHICLES? (CARS, TRUCKS, VANS, ETC.) CARS
10. DELIVERIES? YES ____ NO X. (IF YES, THEN HOW MANY PER DAY/WEEK; SEMI-TRUCK, FEDEX, UPS, USPS?) _____
11. DOES APPLICANT LIVE IN THE HOUSE? YES ____ NO X
12. ANY OUTDOOR STORAGE? YES ____ NO X. IF YES, THEN WHAT? _____
13. STORAGE OF INVENORY? YES ____ NO X. IF YES, THEN WHAT? _____
12. ANY ADDITIONAL RELAVENT INFORMATION? _____

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION





SLUP-6
(2009)

SITE PLANNING PLAN

RAILROAD ROAD RECOVERY
STATION & TRAILER STATION
COBB COUNTY, GEORGIA

3

DRAWING NO.

LEGEND

- PROPERTY LINE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- ASPHALT PAVING
- CONCRETE PAVING

MAR 3 - 2009

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

SCALE IN FEET

0 30 60

I-285 S.B.
I-285 N.B.

APPLICANT: S & S Investment Company

404-702-7980

REPRESENTATIVE: Smith, Gambrell & Russell, LLP

Dennis J. Webb and Kathryn M. Zickert 404-815-3620

TITLEHOLDER: S & S Investment Company

PROPERTY LOCATION: Located on the easterly side of I-285, south of South Cobb Drive and at the northwesterly end of Riverview Industrial Drive, northwest of Riverview Road

ACCESS TO PROPERTY: Riverview Industrial Drive

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

PETITION NO: SLUP-6

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: HI

PROPOSED ZONING: Special Land Use Permit

PROPOSED USE: Recycling Resource Recovery Facility and Transfer Station

SIZE OF TRACT: 6.95 acres

DISTRICT: 17, 18

LAND LOT(S): 685, 57

PARCEL(S): 8

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

See Exhibit "A" for the Statement of Intent

FUTURE LAND USE MAP: Industrial

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

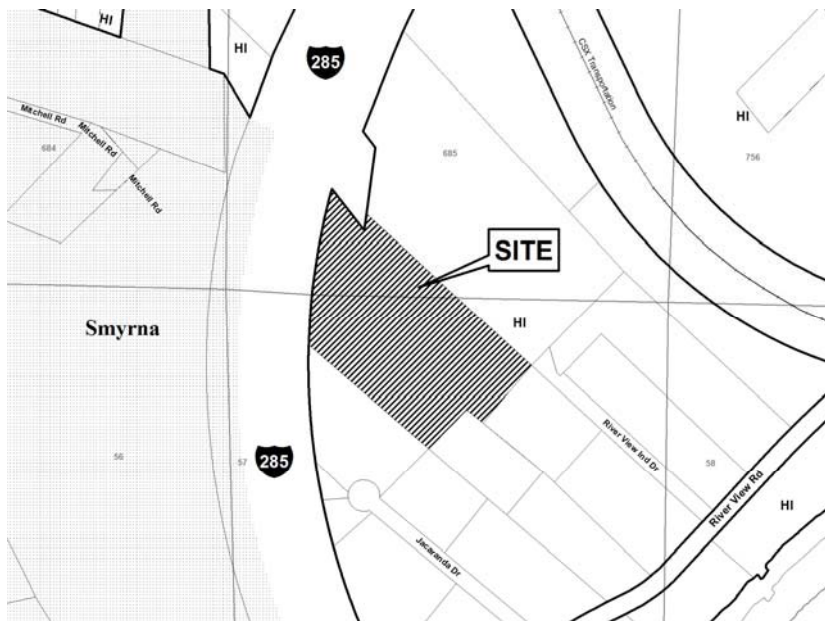
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



STATEMENT OF INTENT

and

Other Material Required by
Cobb County Zoning Ordinance
for the
Special Land Use Permit
Application

of

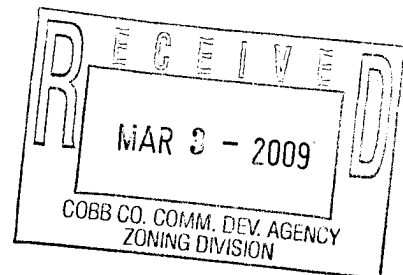
S&S INVESTMENT COMPANY

for

± 6.825 Acres of Land
located in
Land Lot 685, 17th District and Land Lot 57, 18th District, Cobb County
Riverview Road

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
1230 Peachtree Street, N.E.
Promenade II, Suite 3100
Atlanta, Georgia 30309
404-815-3500



I. INTRODUCTION

This Application seeks a Special Land Use Permit ("SLUP") to allow for a recycling center and solid waste transfer station on \pm 6.825 acres of land located on Riverview Road in Land Lot 685, 17th District, and Land Lot 57, 18th District, of Cobb County, Georgia (hereafter the "Subject Property"). The Applicant is a family-owned company that has owned and operated recycling and waste collection facilities in the metropolitan Atlanta area for almost four (4) decades. The Subject Property is zoned HI (Heavy Industrial) and is delineated as "Industrial" on the County's Future Land Use Map ("FLUM"). Both the Zoning District and the FLUM designation would allow for the uses proposed with a SLUP, pursuant to § 134-37 and § 134-231 of the Cobb County Zoning Ordinance.

The Subject Property consists of a partially wooded lot tucked behind several buildings and next to and east of Interstate 285. It has been developed only with a detention pond, which will serve the proposed facilities. The Subject Property is surrounded on the south, east and northwest by a variety of heavy industrial uses, including heavy contractors, junkyards, manufacturers and trucking companies, to name but a few. It also is located in close proximity to major, regional transportation corridors such as Interstate 285, Veterans Memorial Parkway and South Cobb Drive.

The Applicant's proposal for a recycling center is consistent with Cobb County's stated desire to encourage the recycling of materials: "The goal of the citizens of Cobb County is to cooperate by reducing their waste and by 'Reusing, Recycling and Composting', both at home and at work. Everyone must be involved in reducing waste generation and disposal." Draft Cobb County Comprehensive Solid Waste Management Plan (2009-2019), p. ES-2. The County's goal is designed to promote sustainability and divert renewable waste away from landfills. In fact, a 2006 study revealed "that nearly 2.6 million tons – or approximately 40 percent – of the municipal solid waste Georgian's throw away per year are recyclable materials with existing end markets within the state." Gubeno, Thrown Away: A Georgia Waste

Study Reveals Opportunities for Public – Private Sector Partnerships to Recover Recyclable Commodities Before They Go to Landfills, Recycling Today, July, 2006.

To address that issue, the Applicant proposes to construct a \pm 20,000 square foot recycling center at which paper, aluminum/steel cans, plastics and glass – materials that otherwise would become solid waste – are collected, separated and ultimately reused or returned to use in the form of new materials or products. Data indicates that the recyclable materials the Applicant intends to focus on collectively make up approximately fifty-one percent (51%) of Cobb County's waste composition. Draft Comprehensive Solid Waste Management Plan at p. 2-4. It is anticipated that the recycling center will receive roughly 100 tons of material in 25 truck loads per day.

The Applicant also hopes to construct a smaller, \pm 10,000 square foot waste transfer station on the Subject Property, or a facility where trash collection trucks discharge their loads so trash can be relocated onto larger vehicles. (See Cobb County Code of Ordinances § 102-5, where a "Transfer Station" is defined as "a facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation."). A transfer station has a number of benefits. It reduces the truck traffic on the County's highways by serving as a waste delivery consolidation point; in general, for every five (5) vehicles that enter the facility, only one (1) is needed to haul waste on the final leg of the disposal journey. It has beneficial effects on emissions, energy use and road wear and tear. It also can lower collection costs, as crews spend less time traveling to and from distant disposal sites and more time collecting waste, reducing the costs for labor, fuel and collection vehicle maintenance. There are only five (5) private transfer stations now operating in Cobb County, none of which it is believed accept recycling. Draft Comprehensive Solid Waste Management Plan at p. 2-10; 5-6. The Applicant anticipates that the waste transfer station will receive approximately 500 tons of solid waste in roughly 50 truck loads per day.

The Applicant proposes the following hours for the two (2) facilities:

Monday through Friday: 5 a.m. to 6 p.m.

Saturday: 8 a.m. to 1 p.m.

Sunday: Closed

Further, the facilities will comply with all applicable federal, state and local requirements, including the County's Solid Waste Ordinance, which "regulates the storage, collection, transportation and disposal of solid waste within the unincorporated areas of Cobb County." Cobb County Code of Ordinances, §.102-1 *et seq.*

Recently, the Board of Commissioners ("BOC") voted unanimously to approve a SLUP to allow for a timber recycling facility on land almost adjacent to the Subject Property (SLUP-19 (2008)). The staff report recommending "Approval" and on which the BOC's decision was presumably based easily could have been describing the Subject Property when it stated, in part:

The applicant's property is located on Riverview Road, which contains a large amount of Heavy Industrial uses. The applicant's property has been designated as Industrial on the Cobb County Comprehensive Plan since the plan was adopted. The Heavy Industrial Zoning district and the Industrial Future Land Use Category provides for the most intensive land uses in Cobb County. These are uses that may contain large-scale outdoor storage, uses that may be noisy, uses that may cause vibrations, uses that may operate constantly, uses that may generate heavy truck traffic, uses that may emit odors and/or emissions and uses that may require federal and/or state permits. Industrial uses on adjacent and nearby properties include ... warehouses, heavy contractors, trucking companies, distributors, and junkyards. The applicant's proposal is located within close proximity to major, regional transportation corridors such as Interstate 285, Veterans Memorial Parkway, and South Cobb Drive. ... The applicant's ... [property] is tucked away behind existing buildings in a wooded area next to Interstate 285. Additionally, recycling unwanted timber and fuel will be a better alternative than putting wood in a landfill. Based on the above analysis, Staff Recommends Approval.

For these same reasons and the reasons stated herein, the BOC should recommend approval of the requested SLUP.

II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

A. Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.

The Subject Property is bordered on its west side by interstate Interstate 285, one of the busiest roadways in the southeast. It is surrounded on the south, east and northwest by all manner of heavy industrial uses, including warehouses, junkyards, heavy contractors, trucking companies, and distributors, to name just a few. As stated by Staff, the "neighborhood" or area in which the proposed use will be located was specifically designed to "contain large-scale outdoor storage, uses that may be noisy, uses that may cause vibrations, uses that may operate constantly, uses that may generate heavy truck traffic, uses that may emit odors and/or emissions and uses that may require federal and/or state permits." Hence, the proposed use is consistent with uses on adjacent and nearby properties and will have no adverse effect upon them.

B. Whether or not the use is otherwise compatible with the neighborhood.

The neighborhood within which the Subject Property is located is zoned HI (Heavy Industrial) and has a designation of "Industrial" on the County's FLUM. As alluded to previously, both the zoning district and land use category are specifically designed to "contain large-scale outdoor storage, uses that may be noisy, uses that may cause vibrations, uses that may operate constantly, uses that may generate heavy truck traffic, uses that may emit odors and/or emissions and uses that may require federal and/or state permits." Given this fact and the reality that the area already consists of heavy industrial uses like warehouses, heavy contractors, trucking companies, distributors and junkyards, to name just a few, the proposed use is compatible with the neighborhood.

C. Whether or not the use proposed will result in a nuisance as defined under state law.

The proposed use will not result in a nuisance – either public or private – as that term is defined by Georgia law. The proposed buildings will be enclosed. Further, and as the Staff has indicated, the heavy industrial area in which the Subject Property is located specifically allows and is compatible with uses that create noise, smoke, dust, odor or vibration. Finally, the proposed use is located in close proximity to Interstate 285, Veterans Memorial Parkway and South Cobb Drive, limiting heavy truck traffic on minor roadways.

D. Whether or not quiet enjoyment of surrounding property will be adversely affected.

The surrounding properties consist exclusively of heavy industrial uses and are used in a manner similar to that which the Applicant proposes. Further, the proposed use is located in close proximity to Interstate 285, Veterans Memorial Parkway and South Cobb Drive, limiting heavy truck traffic on minor roadways.

E. Whether or not property values of surrounding property will be adversely affected.

The surrounding properties consist exclusively of heavy industrial uses and are used in a manner similar to that which the Applicant proposes. Hence, the values of surrounding properties will not be adversely affected.

F. Whether or not adequate provisions are made for parking and traffic considerations.

The proposal will meet the County's parking requirements. Further, the heavy industrial area in which the Subject Property is located was specifically designed for "uses that may generate heavy truck traffic", given its proximity to Interstate 285, Veterans Memorial Parkway and South Cobb Drive. The Applicant also notes that the proposal will be reviewed as a Development of Regional Impact ("DRI") by both the Atlanta Regional Commission ("ARC") and the Georgia Regional Transportation

Authority ("GRTA"). Traffic impacts will be considered during this process and additional improvements may be required.

G. Whether or not the site or intensity of the use is appropriate.

The Subject Property consists of almost seven (7) acres of land. The Applicant proposes to construct two buildings, one of $\pm 20,000$ sf and one of $\pm 10,000$ square feet. Total impervious coverage is only 40%¹. The size of the Subject Property is more than adequate to accommodate the proposed use.

H. Whether or not special or unique conditions overcome the board of commissioners' general presumption that residential neighborhoods should not allow noncompatible business uses.

The area at issue is not residential and the proposed use is compatible with existing heavy industrial uses.

I. Whether or not adequate provisions are made regarding hours of operation.

The hours of operation will mirror those of the existing heavy industrial uses on adjacent and nearby properties.

J. Whether or not adequate controls and limits are placed on commercial and business deliveries.

Deliveries to the Subject Property will be commensurate in number and type to existing deliveries on adjacent and nearby heavy industrial properties.

K. Whether or not adequate landscape plans are incorporated to ensure appropriate transition.

Not Applicable.

¹ The Applicant also has dedicated 1.16 acres of property along the western boundary as a conservation easement (see Exhibit "B").

- L. Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.**

The surrounding "neighborhood" consists of heavy industrial uses, all of which are comparable to the use proposed.

- M. Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses.**

The application meets all requirements for a special land use permit and all required information has been supplied.

- N. Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.**

The Applicant has addressed all issues raised by law. The Applicant also remains happy to respond to any questions or issues raised by the staff and/or county commission.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Zoning Ordinance of Cobb County Georgia lacks adequate standards for the Board of County Commissioners to exercise its power to issue Special Land Use Permits. In essence, the standards are not sufficient to contain the discretion of the Board of County Commissioners and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Board of County Commissioners, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Resolution also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of State of Georgia, 1983.

The Board of County Commissioners is granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which

must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of Cobb County, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinance presently in effect is contrary to the best interests of the health and welfare of the citizens of Cobb County, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance is unconstitutional in that it renders the Subject Property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of Applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to approve the requested Special Land Use Permit for the Subject Property would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the application for the Special Land Use Permit would be contrary to the best interests of the health and welfare of the citizens of Cobb County, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a Violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Board of County Commissioners who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

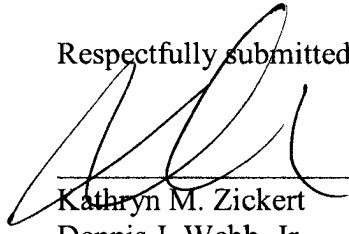
The Zoning Ordinance of Cobb County, Georgia is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

IV. CONCLUSION

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

This 3rd day of March, 2009.

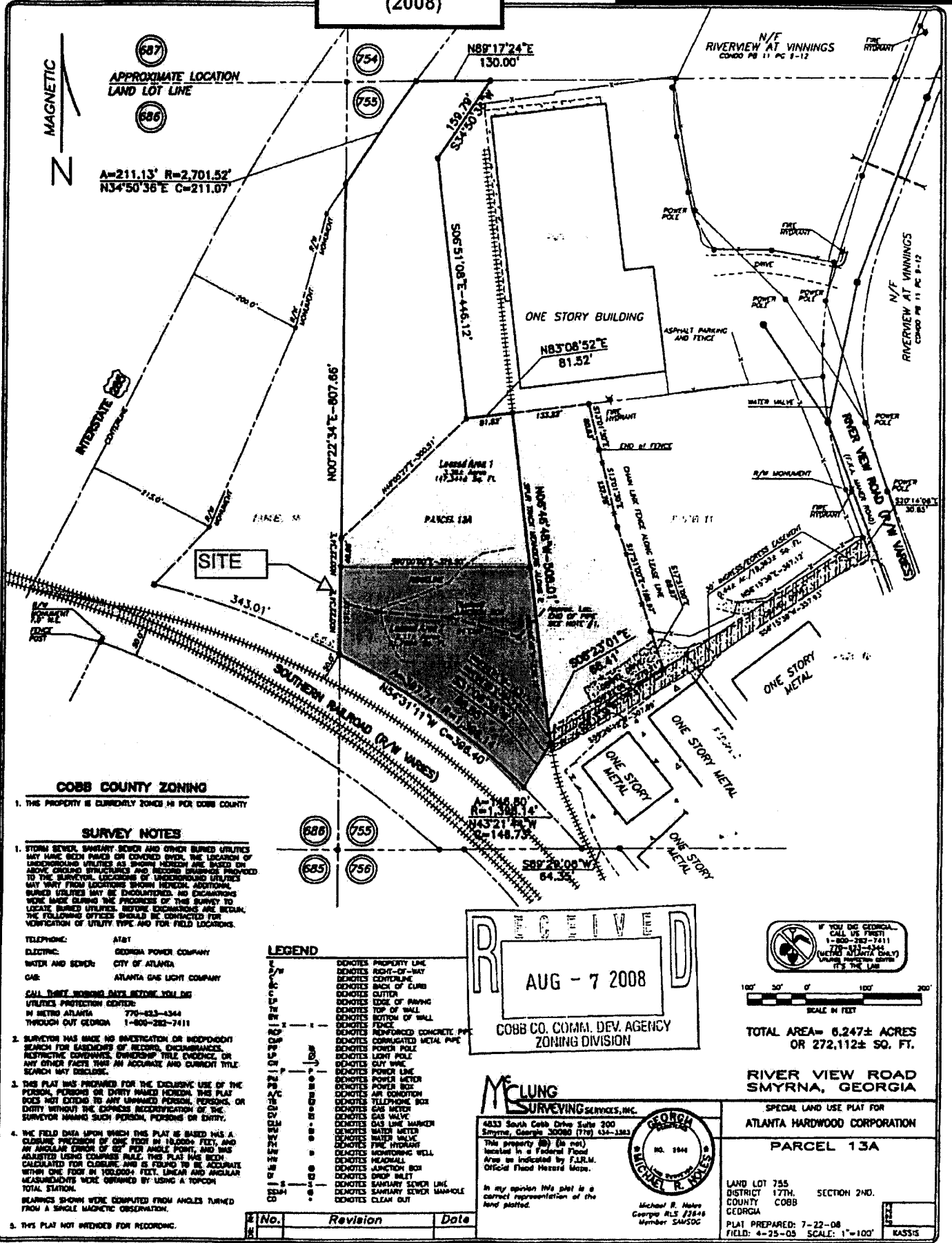
Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
1230 Peachtree Street, N.E.
Promenade II, Suite 3100
Atlanta, Georgia 30309

SLUP-19
(2008)



APPLICANT: Green Forest Recycling, LLC
404-214-4708

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

TITLEHOLDER: Louise G. Howard Family Investments, LLP

PROPERTY LOCATION: Located on the west side of River View
Road, southwesterly of South Cobb Drive.

ACCESS TO PROPERTY: River View Road

PHYSICAL CHARACTERISTICS TO SITE: Vacant lot

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: HI/ Atlanta Hardwood Corporation
SOUTH: HI/ Pace Academy Athletics (under construction)
EAST: HI/ Atlanta Hardwood Corporation
WEST: HI/ wooded

PETITION NO: SLUP-19

HEARING DATE (PC): 10-07-08

HEARING DATE (BOC): 10-21-08

PRESENT ZONING: HI

PROPOSED ZONING: Special Land Use
Permit

PROPOSED USE: Chipping, Grinding And
Reduction Of Trees And Logs

SIZE OF TRACT: 2.11 acres

DISTRICT: 17

LAND LOT(S): 755

PARCEL(S): 7

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 2

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

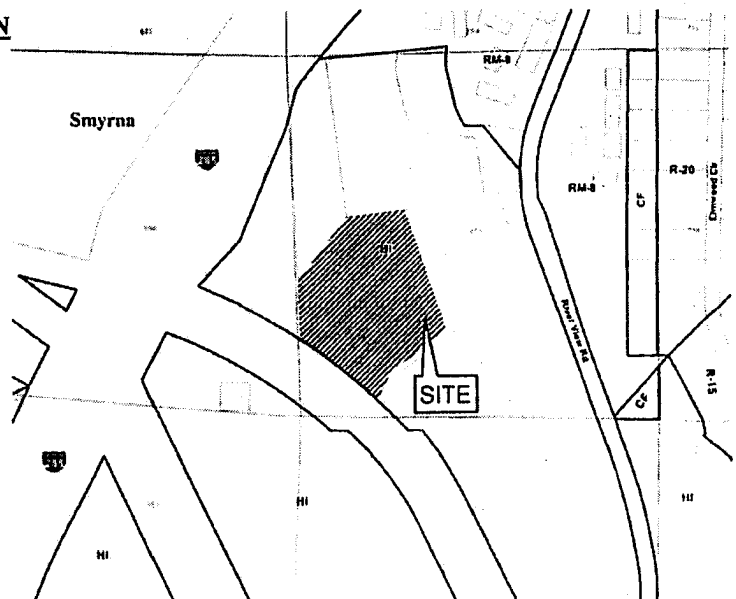
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

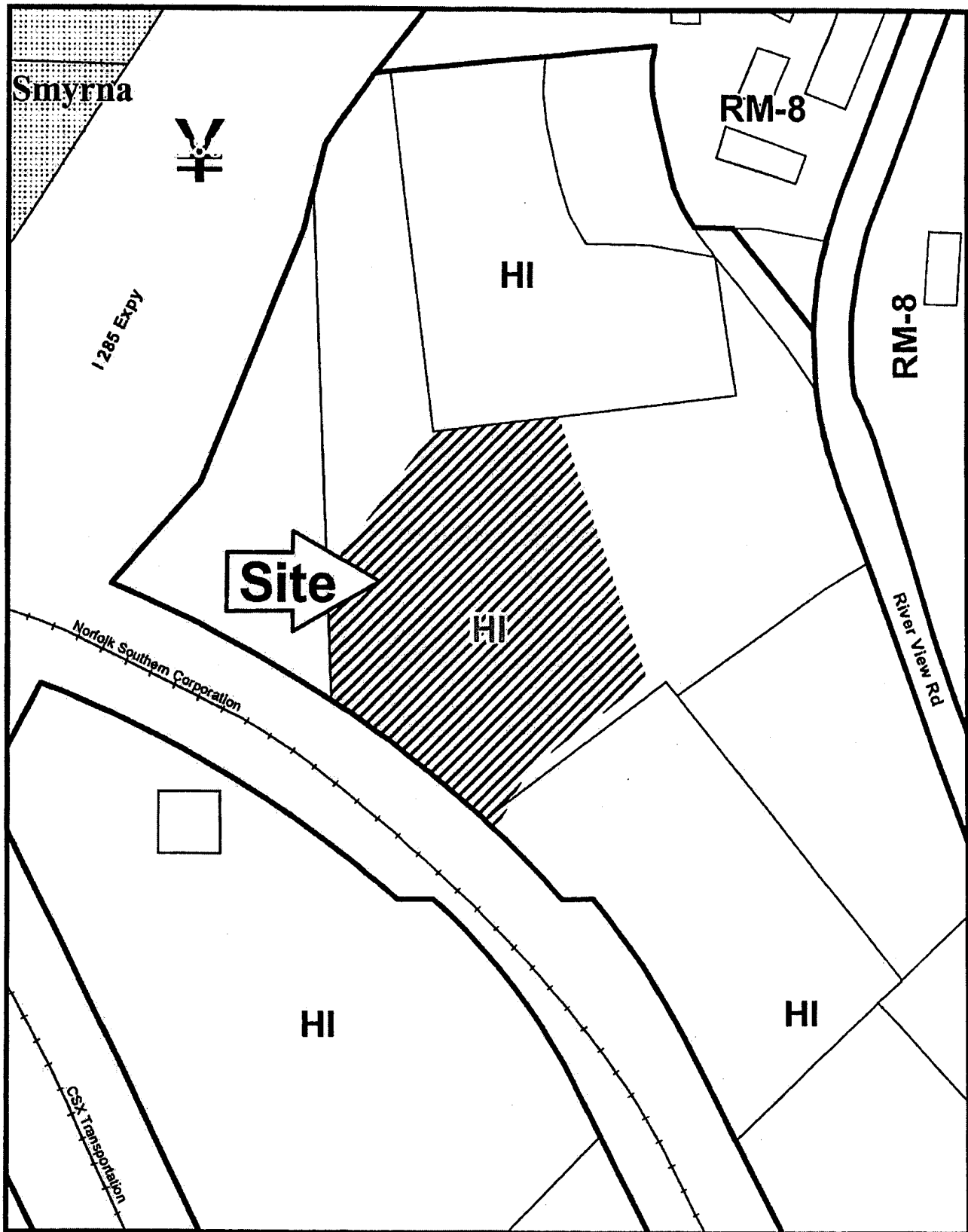
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



SLUP-19



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

200 0 200 Feet

[City Boundary
Zoning Boundary

APPLICANT: Green Forest Recycling, LLC

PETITION NO.: SLUP-19

PRESENT ZONING: HI

PETITION FOR: SLUP

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

The applicant is requesting a Special Land Use Permit to chip, grind and reduce trees and logs on this property. The applicant also owns Atlanta Hardwood Corporation, which owns the property on three sides of this 2.11 acre tract. The applicant would store logs and pulpwood on this property until they are picked up by sawmills. Any timber that cant be sold to the sawmills would be chipped and ground into wood chips, which are used as fuel in Atlanta Hardwood Corporation's wood-fired boiler.

Note: Atlanta Hardwood Corporation was approved to use a wood-fired boiler from SLUP-15 (August 2001) in compliance with EPD and EPA standards.

Historic Preservation: No comment.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

Water and sewer not available to 2.11 acre tract.

DEPARTMENT OF TRANSPORATION COMMENTS:

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

FIRE DEPARTMENT COMMENTS:

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

Commercial: Cul-d-sac without an island to have a 60 foot paved radius or Hammerhead turn-around – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

Fire Hydrant

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

APPLICANT: Green Forest Recycling, LLC

PETITION NO.: SLUP-19

PRESENT ZONING: HI

PETITION FOR: SLUP

DRAINAGE COMMENTS

FLOOD HAZARD: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Unnamed Trib to Chattahoochee River FLOOD HAZARD INFO: Zone X

- ☐ FEMA Designated 100 year Floodplain Flood.
☐ Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
☒ 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 ☒ 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 ☒ 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).
☒ 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.
☒ Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
☐ 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.
☒ Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream receiving system.

APPLICANT: Green Forest Recycling, LLC

PETITION NO.: SLUP-19

PRESENT ZONING: HI

PETITION FOR: SLUP

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.

ADDITIONAL COMMENTS

1. No improvements are proposed for the site. However, it is recommended that Silt Savers (or similar storm inlet protection BMPs) be provided for any existing drop inlets located on the site. It is also recommended that a mulch berm be established along the western perimeter of the property to provide for any potential erosion that may occur on the site.

STAFF RECOMMENDATIONS

SLUP-19 GREEN FOREST RECYCLING, LLC

The applicant's property has been zoned Heavy Industrial since before 1970, without any rezoning conditions or stipulations. The applicant's property is located on Riverview Road, which contains a large amount of Heavy Industrial uses. The applicant's property has been designated as Industrial on the *Cobb County Comprehensive Plan* since the plan was adopted. The Heavy Industrial Zoning district, and the Industrial Future Land Use Category provides for the most intensive land uses in Cobb County. These are uses that may contain large-scale outdoor storage, uses that may be noisy, uses that may cause vibrations, uses that may operate constantly, uses that may generate heavy truck traffic, uses that may emit odors and/or emissions and uses that may require federal and/or state permits. Industrial uses on adjacent and nearby properties include a warehouses, heavy contractors, trucking companies, distributors, and junk yards. The applicant's proposal is located within close proximity to major, regional transportation corridors such as Interstate 285, Veterans Memorial Parkway and South Cobb Drive. The applicant currently operates an intensive wood products business on the property, which has been here for a very long time. The applicant's business would not change drastically from the current use of the property, and the location of the proposal is tucked away behind existing buildings in a wooded area next to Interstate 285. Additionally, recycling the unwanted timber into fuel would be a better alternative than putting the wood into a landfill. Based on the above analysis, Staff recommends APPROVAL subject to the following:

- Site plan received by the Zoning Division on August 7, 2008;
- 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.

B



COMMUNITY DEVELOPMENT AGENCY

191 Lawrence Street
Marietta, Georgia 30060

MEMORANDUM

TO: Julia Schiebel

FROM: Jocelyn Moore, AICF *J Moore*
Planning Division, 770.528.2014

RE: Site Plan Review for April 4, 2002

DATE: April 3, 2002

The following proposed development has been reviewed for Greenspace set-aside and protection per the Cobb Community Greenspace Program:

9:30 am S & S Investments Riverview Industrial Drive
District 17, Land Lot 685

The applicant's site plan and Cobb County Stream Buffer Map note a stream flowing across the site. While the applicant has noted a twenty-five foot buffer, the Cobb Stream Buffer Ordinance requires a fifty foot buffer for this stream. Cobb County Code, Chapter 50, Section 75 requires that a "permanent, natural buffer, shall be recorded on all (stream buffer) areas to all future property owners. Said buffer will also contain a restrictive covenant in favor of Cobb County for conservation uses".

The site is located within the 2,000 foot Metropolitan River Protection Corridor, (MRPA) and must adhere to the requisite impervious surface limitations.

The applicant must:

- ✓ 1. Compute the area of stream buffer and illustrate the buffer on the construction plans *48,240 sq ft* *DN62* and/or final plat.
2. Create a Restrictive Covenant for the stream buffer in favor of Cobb County for conservation uses agreeing to the permanent protection of the buffer area.
3. Provide the Restrictive Covenant to Cobb Community Development (CCD), along with the buffer illustration, for review, approval and acceptance. CCD will forward it to the Chairman of the Board of Commissioners for signature.
4. Following acceptance, the Restrictive Covenant will be returned to the applicant for recording with the Cobb Superior Court Clerks Office. The original, recorded Restrictive Covenant is to be returned to CCD.
- 2/17 5. Reference the deed book and page number on the construction plan/final plat via the following text: "A Restrictive Covenant in favor of Cobb County for conservation uses, per the requirements of Chapter 50, has been placed on the area illustrated as a permanent, natural, undisturbed buffer and recorded in Deed Book (fill in number) and Page (fill in number)."

Attachments: Deed of Conservation Easement; Restrictive Covenant Process

**DEED OF CONSERVATION EASEMENT
(Stream Buffer)**

STATE OF GEORGIA
COUNTY OF COBB

J.C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

THIS CONSERVATION EASEMENT (herein "Conservation Easement") is made this 24th day of May, 2002, by and between S&S Investments whose address is P.O. Box 28953, Atlanta, GA 30358

(hereinafter "Grantor") and Cobb County, Georgia, a Political Subdivision of the State of Georgia, with an address of 100 Cherokee Street, Marietta, Georgia 30090 (hereinafter "Grantee").

RECITALS

A. Grantee is a governmental body empowered to hold an interest in real property under the laws of the State of Georgia.

B. Grantor owns in fee simple certain real property in Cobb County, Georgia, being 1.19 acres, more or less, and more particularly shown and described in Exhibit A attached hereto, hereinafter "Property".

C. Grantor is willing to grant a perpetual Conservation Easement over the Property, thereby restricting and limiting the use of the land (and contiguous water areas of the Property), on the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such Conservation Easement.

D. Grantor and Grantee recognize the conservation value of the Property in its present state and have a mutual desire to afford protection thereto. Both Grantor and Grantee recognize that a perpetual conservation easement is desirable for the following purpose(s): the protection of natural resources and preservation of open space, more specifically the protection of water quality and the maintenance of the stream buffer in its undisturbed and natural state pursuant to the requirements of Chapter 50 of the Official Code of Cobb County, Georgia.

NOW, THEREFORE, as an absolute gift of no monetary consideration but in consideration of the mutual covenants, terms, conditions and restrictions hereinafter set forth, Grantor hereby unconditionally and irrevocably grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity a Conservation Easement of the nature and character and to the extent hereinafter set forth, over the Property more particularly described in Exhibit A together with the right to preserve and protect the conservation values of the Property.

To achieve the conservation purposes, the following conditions and restrictions are set forth:

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an assignable easement in gross, runs with the land, and is enforceable by Grantee against Grantor, his personal representatives, heirs, successors and assigns, lessees, agents and licensees.

ARTICLE II. RIGHTS OF GRANTEE

To accomplish the purposes of this Easement the following rights are conveyed to Grantee by this easement:

A. To preserve and protect the conservation values of the Property; and

B. To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement.

ARTICLE III. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Property inconsistent with the purposes of this Conservation Easement, whether building, grading, excavating, trenching, damming, dumping, etc., is prohibited excepting only any necessary installation of materials and equipment or maintenance, repair, or replacement thereof with respect to the utility and sanitary sewer easements as shown on the attached Exhibit A. Should any such installation, maintenance, repair or replacement with respect to the utility and sanitary sewer easements occur, the Property shall thereafter be restored to its original state as much as is practicable. Development that would significantly impair or interfere with the conservation values of the Property is prohibited.

ARTICLE IV. RESERVED RIGHTS

Grantor reserves to himself, and to his personal representatives, heirs, successors, and assigns, all rights accruing from his ownership of the Property, including the right to engage in, or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purposes of this Easement.

ARTICLE V. GRANTEE'S REMEDIES

If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall have the option of giving written notice to the Grantor of such and give a reasonable time for correction, if necessary. "Reasonable time" shall be in the sole discretion of Grantee. This option shall not preclude Grantee's right to seek judicial enforcement of the Easement, and such written notification and opportunity to correct shall not be a prerequisite to judicial enforcement. All costs incurred by Grantee in enforcing this Easement, including reasonable attorney's fees, shall be borne by Grantor, unless Grantor ultimately prevails when in such event each party shall bear its own costs.

ARTICLE VI. EXHIBITS, DOCUMENTATION AND TITLE

A. **Legal Description.** Exhibit A, Legal Description of the Property, to include the metes and bounds of the Conservation Easement Area is attached hereto and made a part hereof by reference.

B. **Title.** The Grantors covenant and represent that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Property is free and clear of any and all encumbrances except as noted in this Article; and Grantor covenants that the Grantee shall have the use of and enjoyment of all of the benefits derived from and arising out of the aforesaid Conservation Easement.

ARTICLE VII. COSTS, LIABILITIES, TAXES, AND ENVIRONMENTAL COMPLIANCE

A. **Costs, Legal Requirements, and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including taxes and any costs of remediation.

B. **Hold Harmless.** Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation, or requirement, including, without limitation, CERCLA and state hazardous waste statutes, by any person other than any of the Indemnified Parties, in any way

affecting, involving, or relating to the Property: (3) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of Grantor contained herein.

ARTICLE VIII. GENERAL PROVISIONS

A. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the state of Georgia including the Georgia Uniform Conservation Easement Act.

B. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of the Georgia Uniform Conservation Easement Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

E. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

F. **Joint Obligation.** The obligations imposed by this Easement upon Grantor and his heirs, successors and assigns, shall be joint and several.

G. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and his personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

H. **Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

I. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

J. **Counterparts.** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties, each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

ARTICLE IX. DEDUCTIBILITY FOR TAX PURPOSES

Grantor acknowledges that no one on behalf of Grantee has made any representations, express or implied, as to the deductibility of this Conservation Easement under federal, state, or local law or as to any of the tax benefits or burdens which may be borne by the Grantor hereby. Grantor acknowledges that he has had the opportunity to seek legal counsel or the advice of a tax professional prior to the execution hereof and will hold harmless the Grantee for any tax ramifications incurred hereby.

TO HAVE AND TO HOLD unto Cobb County, Georgia, a political subdivision of the State of Georgia, its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, his personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals and caused these presents to be executed in their respective names by authority duly given, and their corporate seal affixed, the day and year above written.

TO BE EFFECTIVE upon the date of recordation in the official records of Cobb County, Georgia.

GRANTOR:
(Corporate Name) S+S Investment

BY: Charles E. Sells
TITLE: PRESIDENT

ATTEST: Vicki Sealock
TITLE: Secretary

Witness:

Bonnie L. [Signature]
Carol Ann [Signature]
NOTARY PUBLIC

COMMISSION EXPIRES FEB. 2, 2004

(Corporate Seal)



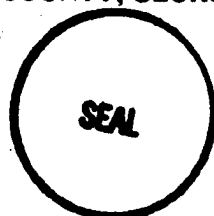
GRANTEE:
COBB COUNTY, GEORGIA

Judith Moore

5/24/02

BY: [Signature]
Vice-CHAIRMAN, COBB COUNTY BOARD OF COMMISSIONERS

ATTEST: Andrea L. Richardson Deputy
COUNTY CLERK, COBB COUNTY, GEORGIA

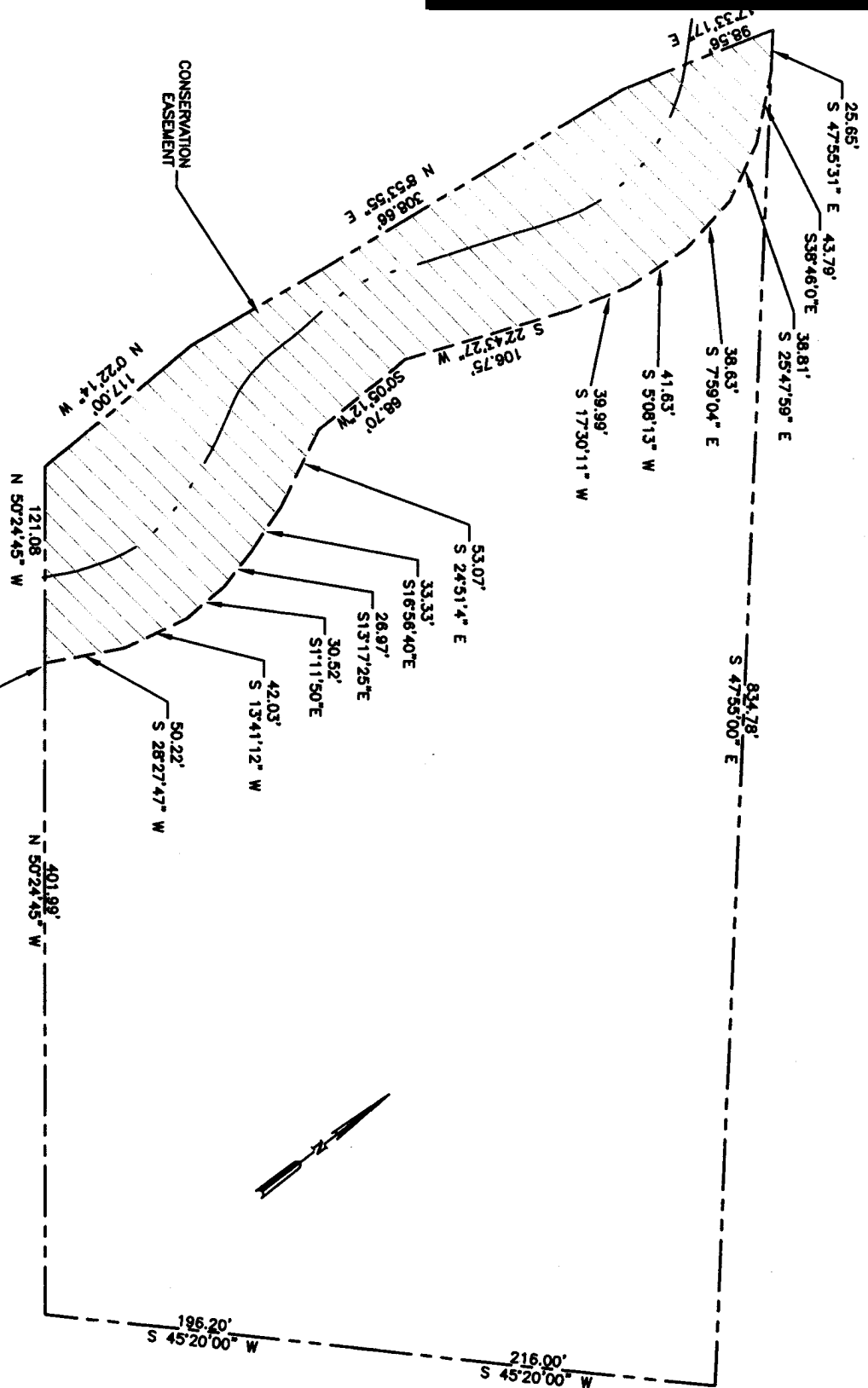


Beginning at a point which is the southeast corner of a 6.78-acre tract of land located in Land Lot 685 of the 17th District and Land Lot 57 of the 18th District, Cobb County, Georgia, and as shown in Plot Book 3, page 176, Cobb County records, thence along the southerly property line of such tract 401.99' NS02°44'57"W to a point, this being the POINT OF BEGINNING of the conservation easement; thence continuing along the southerly property line of such tract 121.08' NS02°44'57"W to a point, such point being the southwestern corner of said tract; thence along the westerly property line of said tract 117.00' N02°22'14"W to a point; thence continuing along the westerly property line of said tract 308.66' N8°53'55"E to a point; thence continuing along the westerly property line of said tract 98.56' N17°33'17"E to a point, such point being the northwestern corner of said tract; thence along the northerly property line of said tract 25.65' S47°55'31"E to a point; thence 43.79' S38°46'0"E to a point; thence 36.81' S25°47'59"E to a point; thence 38.63' S75°04'E to a point; thence 41.63' S5°08'13"W to a point; thence 39.99' S17°30'11"W to a point; thence 53.07' S24°51'4"E to a point; thence 33.33' S16°56'40"E to a point; thence 26.97' S13°17'25"E to a point; thence 30.52' S11°15'0"E to a point; thence 42.03' S13°41'12"W to a point; thence 50.22' S28°27'47"W to a point; thence 121.08' N50°24'45"W to a point; thence 401.99' N50°24'45"W to a point, such point being the POINT OF BEGINNING of the conservation easement, such easement consisting of 1.19 acres.

CONSERVATION EASEMENT

POINT OF BEGINNING

0 50 100
SCALE IN FEET



ALEXANDER ENGINEERING, P.C.
1275 OAKDALE ROAD
ATLANTA, GEORGIA 30307-1052
TEL 404/371-9190
FAX 404/373-0577
GHALEXANDR@AOL.COM

DATE 5/20/02
DWN. GHA
APPR. _____
REVS. _____
PROJECT NO. _____

S&S INVESTMENTS
P. O. BOX 28593
ATLANTA, GA 30358

EXHIBIT A
LEGAL DESCRIPTION OF CONSERVATION EASEMENT

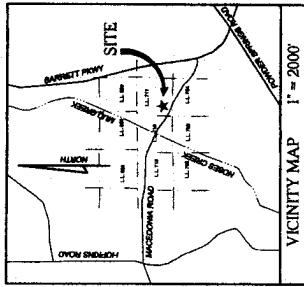
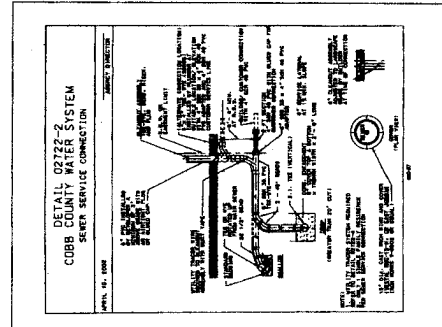
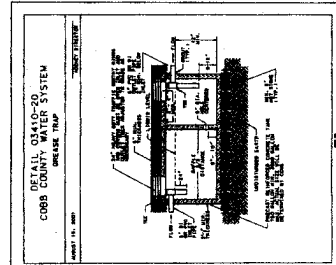
**SLUP-7
(2009)**

SITE & UTILITY PLAN

**JUBILEE CHRISTIAN
CHURCH INTERNATIONAL**
LOCATED IN LAND LOT 717
19TH DISTRICT, 2ND SECTION,
COBB COUNTY, GEORGIA

JENSEN CHRISTIAN CNGT
 700 SANDY PLAINS ROAD
 NARRETTA GA 30144
 878-573-9400
 1985/1986
 GAUSE CONSTRUCTION CO. INC.
 316 PEARL STREET
 NARRETTA GA 30060
 (404) 323-1288

D[™] RUSSELL COMPANY
PROFESSIONAL LAND SURVEYORS
LAND DEVELOPMENT DESIGN
AND CONSTRUCTION SERVICES
10000 W. 10TH AVE.
SUITE 1700 WYOMING
13092-1700
WWW.DRUSSELL.COM

[illegible][illegible]

IF YOU DIG GEORGIA...
CALL US FIRST!
1-800-282-7411
770-623-4344
(METRO ATLANTA ONLY)
UTILITIES PROTECTION CENTER
IT'S THE LAW



WATER PRESSURE TEST RESULTS
TEST DATE: 2/1/88
TESTED: 148 PSI
REMARKS: 132 PSI
FLOW RATE: 0761 GPM
FLOW AVAILABLE PER PSI: 2031 GPM
PERFORMED BY THE CINCINNATI COMPANY, INC.

IMPERVIOUS AREA = 0.56 AC.
DISTURBED AREA = 1.40 ACRES

24 HOUR CONTACT:
WILLIAM GAUSE
PHONE: 404-323-1959

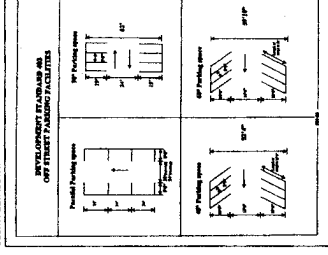
WETLANDS NOTE:
ALL WETLANDS ASSOCIATED WITH THE SUBJECT PROPERTY ARE LOCATED WITHIN THE LIMITS OF THE 100 YEAR FLOODPLAIN AND WILL NOT BE DESTROYED OR ENCLOSED UPON THIS PROJECT.

PARKING LOT LIGHTING NOTE:

THE SITS CONTRACTOR SHALL COORDINATE SERVICE ROUTING OF ALL GAS, TELEPHONE, AND ELECTRICAL LINES WITH THE APPROPRIATE UTILITY COMPANY. ALL CONSTRUCTION MUST COMPLY WITH EACH UTILITY'S STANDARDS AND SPECIFICATIONS AND NOT INTERFERE WITH THEIR PLANTING SITES OR EXISTING TREES TO BE PRESERVED.

[illegible]

PARKING NOTE:
THE PARKING LOT AND PARKING SPACES SHALL CONFORM TO
COUNTY DETAIL 9403.



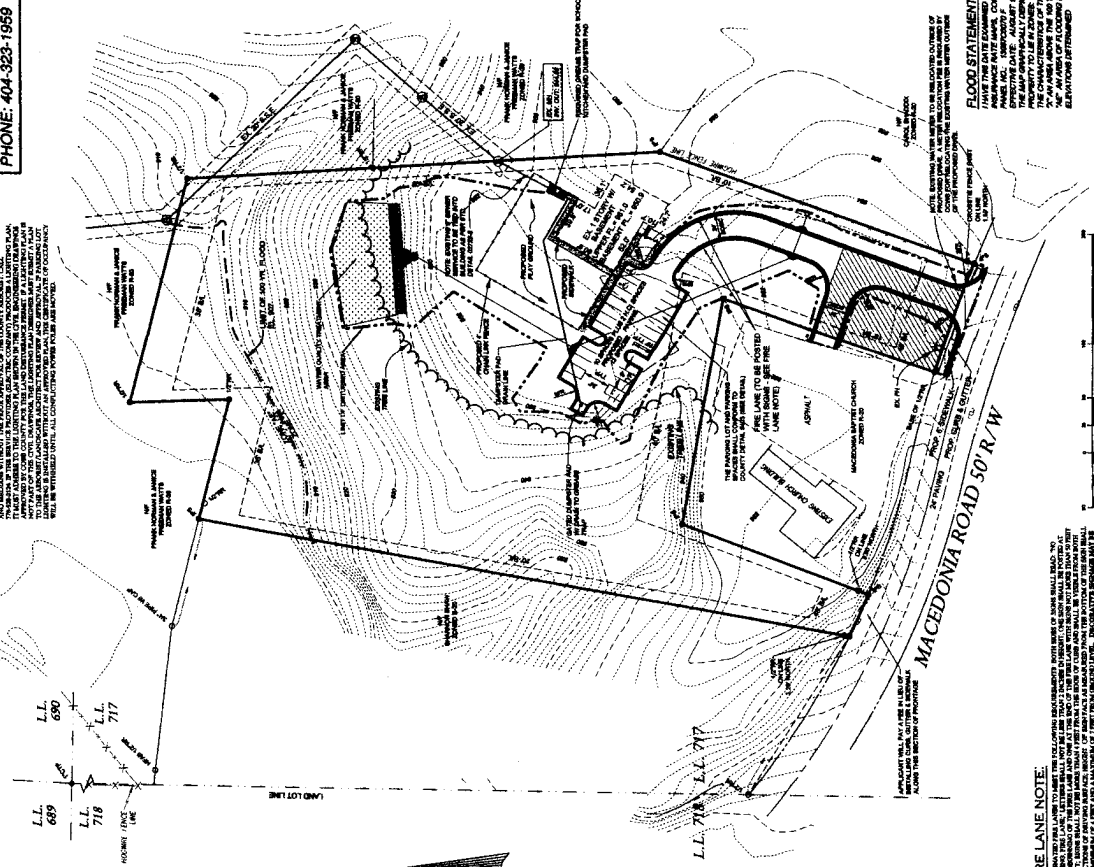
PAVEMENT SECTION DETAIL
NTS

1.71 ACS. TOTAL AREA = 4.68 ACRES
PRESENT ZONING - R-20
SPECIAL LAND USE PERMIT (SLUP-15 OF 2007)
SETBACKS:
FRONT = 40'
SIDE = 10'
REAR = 35'
REAR = 35'
TOTAL NO. OF PARKING SPACES = 25
INCLUDING 2 HANDICAP SPACES)
TOTAL NO. OF SPACES REQ'D. = 24

NOTES:

1. ENGINEER / SURVEYOR CERTAINS THAT MINIMUM REQUIREMENTS ARE SATISFIED WITHIN THE DESIGN AND LAYOUT OF THIS PLAN.
2. ROADWAY AND DRIVEWAY CHANGES ARE TO BE REVIEWED AND APPROVED BY THE COUNTY ENGINEERING DIVISION, 1709 ESR-9001, UTILITY DIVISION, 1709 ESR-1941.
3. MACEDONIA ROAD IS A CURRENT CORP COUNTY UNDER DESIGN. TO ACHIEVE COORDINATION AND COMPLETION OF THE NEW WALKWAY CORP COUNTY CORP ESTABLISHING DIVISION AT 1709 ESR-9001 PRIOR TO PLAN APPROVAL.

= INTERFERENCE, ACCESS, EASEMENT

[illegible]

FIRE LANE NOTE:

[illegible]

APPLICANT: Jubilee Christain Church International

(Glory Tabernacle), Inc.

REPRESENTATIVE: Olajaide Opaleye

678-873-3600

TITLEHOLDER: Jubilee Christain Church International (Glory

Tabernacle), Inc.

PROPERTY LOCATION: Located on the north side of Macedonia

Road, east of Hopkins Road.

ACCESS TO PROPERTY: Macedonia Road

PHYSICAL CHARACTERISTICS TO SITE: _____

CONTIGUOUS ZONING/DEVELOPMENT

NORTH:

SOUTH:

EAST:

WEST:

FUTURE LAND USE MAP: Public Institutional & Low Density Residential

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:

PETITION NO: SLUP-7

HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: R-20

PROPOSED ZONING: Special Land Use

Permit

PROPOSED USE: Amending Previous

Stipulations

SIZE OF TRACT: 4.6 acres

DISTRICT: 19

LAND LOT(S): 717

PARCEL(S): 9

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

