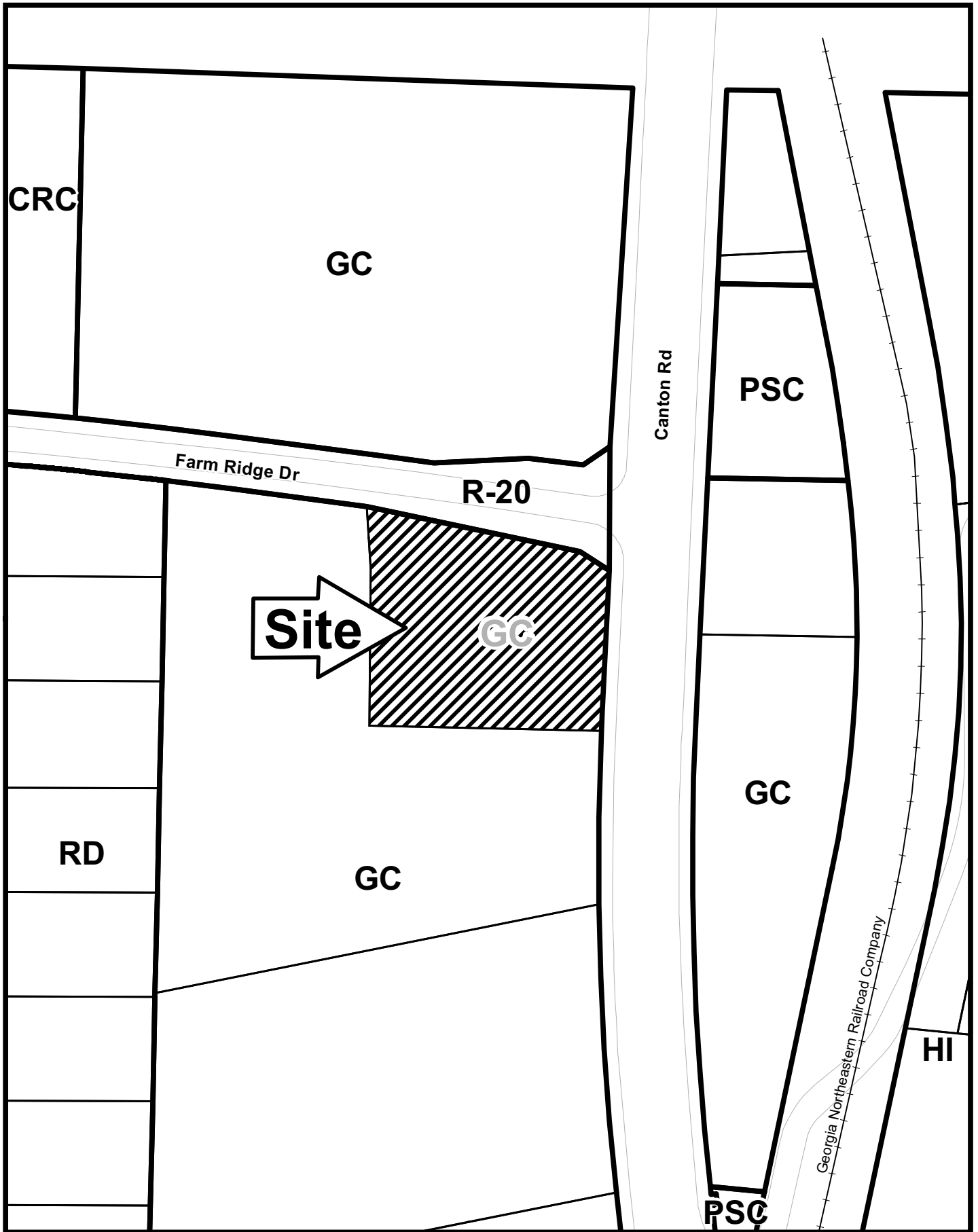
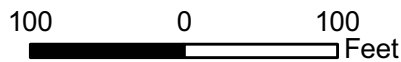




Z-17



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Terry Sams

PETITION NO.: Z-17

PRESENT ZONING: GC

PETITION FOR: GC

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

Land Use Plan Recommendation: Neighborhood Activity Center

Existing Number of Buildings: 1 Total Square Footage of Development: 6,000

F.A.R.: 0.13 Square Footage/Acre: 5,923

Parking Spaces Required: 30 Parking Spaces Provided: 42

The applicant is requesting rezoning to the GC zoning district to have a vehicular service and repair shop on this property. The property is zoned GC outside of a Community or Regional Activity Center, and has lost its grandfather status. The property currently has a commercial building that has been used by a variety of businesses throughout the years. The business is anticipated to be open Monday through Saturday, from 8:00 am to 6:00 pm. The existing building is one story in height with a brick front. The applicant has submitted a Zoning Impact Statement (see Exhibit "A"), and a letter of stipulations (see Exhibit "B").

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.

FIRE COMMENTS:

Must obtain a Certificate of Occupancy through the Cobb County Fire Marshal's Office.

STORMWATER MANAGEMENT COMMENTS:

No site improvements are proposed. However, the proposed vehicular service & repair use is considered a water quality hotspot and could result in the discharge of contaminated runoff. Therefore, it is recommended that the existing detention pond outlet control structure be retrofitted with a snout-type BMP device to provide additional water quality protection.

APPLICANT: Terry Sams

PETITION NO.: Z-17

PRESENT ZONING: GC

PETITION FOR: GC

PLANNING DIVISION COMMENTS:

Master Plan/Corridor Study

According to the 2005 Canton Road Corridor Study, the following are items for consideration for the subject parcel:

- “Grandfathered” General Commercial zoning categories will be encouraged to be developed as neighborhood-scale uses such as mixed-use, office, retail, or residential
- Retail and office uses should be restricted so that there are no twenty-four (24) hour establishments along the corridor
- The parcel is outside the area covered by the Main Street Design Principles
- When the property is redeveloped, the NAC designation areas shall allow a maximum building footprint of 35,000 sq. ft. for retail uses (Subject to zoning criteria of the approved zoning district).
- When the property is redeveloped, all aspects of the Canton Road Design Guidelines will need to be incorporated into the site plan and architecture of the site.
- Limited mixed-use development in NAC areas to two stories in height, with residential densities not to exceed 5 du.
- During the study, the general vicinity around the Jamerson Road to the county line was identified as a potential area for redevelopment.

Based upon these criteria, the request to rezone the property from GC to GC to allow an automobile service use would be incompatible with the purpose and intent of the Canton Road Corridor Study.

Design Guidelines

Is the parcel in an area with Design Guidelines? Yes No

If yes, design guidelines area Canton Road Design Guidelines

Does the current site plan comply with the design requirements?

Yes No Not applicable

APPLICANT Terry Sams

PETITION NO. Z-017

PRESENT ZONING GC

PETITION FOR GC

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 / W side Canton Rd

Additional Comments: Records show address connected to water

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: At NE corner of property

Estimated Waste Generation (in G.P.D.): **A D F** 0 incr **Peak** 0 incr

Treatment Plant: Noonday

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:

Records show address connected to sewer

Notes FYI:

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: Terry Sams _____

PETITION NO.: Z-17 _____

PRESENT ZONING: GC _____

PETITION FOR: GC _____

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
Canton Road	25100	Arterial	45 mph	Cobb County	100'
Farm Ridge Drive	N/A	Local	25 mph	Cobb County	50'

Based on 2007 traffic counting data taken by Georgia DOT (Canton Rd)

COMMENTS AND OBSERVATIONS

Canton 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.

Farm Ridge Drive is classified as a Local and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

Canton Road is identified in the 2005 SPLOST as a roadway safety and operational improvement project.

Install sidewalk along the road frontages.

No access to Canton Road.

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 on the west side of Canton Road, a minimum of 50' from the roadway centerline.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed roadway improvement project along Canton Road.

Recommend installing sidewalk along the road frontages.

Recommend no access to Canton Road.

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

STAFF RECOMMENDATIONS

Z-17 TERRY SAMS

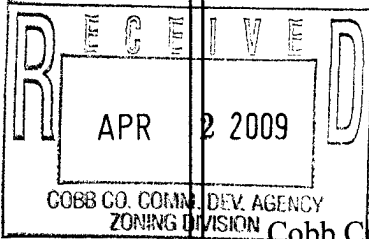
- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area contains a variety of commercial properties including retail, auto repair, offices and restaurants.
- B. It is Staff's opinion 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 properties. This section of Canton Road is predominantly commercial.
- 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 not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center. The GC zoning district is intended for a Community Activity Center and Regional 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 NRC. The applicant's proposal would be in accordance with the *Cobb County Comprehensive Plan* with the NRC zoning district. The applicant's proposal would be compatible with and consistent to other commercially zoned properties in the area. The property has been used commercially for many years without adversely affecting properties in the area. Deletion to NRC would still allow the applicant to have vehicular service and repair.

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

- Site plan received by the Zoning Division April 2, 2009, with the District Commissioner approving minor modifications;
- Subject to the Canton Road Design Guidelines;
- Letter from Mr. Garvis L Sams, Jr. dated May 19, 2009 (Not in conflict with these stipulations);
- Auto repair and service only, with the District Commissioner approving other users;
- No outdoor storage;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations;
- 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.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF TERRY SAMS**



COMES NOW, TERRY SAMS, and, pursuant to §134-121(a)(7) of the
Cobb County Zoning Ordinance, files this his Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Canton Road Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties the preponderance of which are commercial and/or industrial developments located within the confines of a Neighborhood Activity Center and across Canton Road from industrial uses.
- C. The subject property to be affected by the zoning proposal has no economic use as currently zoned and constitutes a non-conforming circumstance.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being within an existing Neighborhood Activity Center (NAC).
- F. There is no substantial relationship between the existing non-conforming zoning classification of GC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Canton Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 1st day of April, 2009.

SAMS, LARKIN & HUFF, LLP

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant

Ga. Bar No. 623950

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

MELISSA P. HAISTEN
JUSTIN H. MEEKS

SAMSLARKINHUFF.COM

May 19, 2009

VIA E-MAIL and
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 Terry Sams to Rezone a 1.013 Acre Tract
from Non-conforming GC to Conditional GC (No. Z-17)

Dear John:

As you know, I represent Terry Sams concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission on June 2, 2009 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on June 16, 2009.

In accordance with the direction received from the County's professional staff and consistent with our ongoing discussions with representatives of the Canton Road Neighbors, Inc. and the Northeast Cobb Homeowners Group, I have been authorized by my client to submit this letter of agreeable stipulations which, if the Application for Rezoning is approved, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, 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.
2. Rezoning of the subject property shall be from General Commercial (GC) to General Commercial (GC) in substantial conformity to that certain site plan filed contemporaneously with the Application for Rezoning.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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3. The total site area consists of 1.013 acres and is proposed to be utilized for the purposes of vehicular service and repair.¹
4. The architectural style and composition of the building shall remain the same as the building which presently exists on the subject property.
5. Additional signage shall be ground-based, monument style with finished materials and color being in substantial conformity to the existing architectural style and composition.
6. The applicant intends to utilize the existing parking and security lighting on the site.
7. The dumpster servicing the vehicular service and repair center shall be enclosed with a minimum 6' high enclosure consistent with the architectural style as aforementioned on three (3) sides, with an opaque wooden door on the access side which shall remain in the closed position except when the dumpster is being emptied. All dumpsters shall have rubber lids to minimize noise.
8. The following otherwise permitted uses under the GC classification shall be prohibited:
 - a. Video arcades as a primary business.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.
 - d. Pawn shops, title pawn shops or check cashing establishments.
 - e. Shooting ranges.
 - f. Houses of worship.

¹ The property is zoned GC but lost its "grandfathered" exemption when it ceased being utilized for a period in excess of six (6) months necessitating the filing of this Application for Rezoning to GC for the purposes of vehicular service and repair.

VIA E-MAIL and
HAND DELIVERY

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- g. Wholesale establishments which sell only to businesses and not to retail customers.
 - h. Any business which principally features sexually explicit products or drug related paraphernalia.
 - i. Commercial produce and agricultural product stands.
 - j. Designated recycling and collection locations.
 - k. Group homes.
 - l. In-home day care.
 - m. Rest homes, personal care homes or convalescent homes.
 - n. Self service laundry facilities.
9. There shall be no outside paging systems, phone bells or loudspeakers.
10. The submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Agency.
11. Compliance with the following recommendations from the Cobb County Department of Transportation with respect to traffic/transportation issues:
- a. The voluntary donation and conveyance of an additional 5' of right-of-way on Canton Road.
 - b. The construction of sidewalk, curb and gutter to connect the existing sidewalk on Farm Ridge Drive with the existing sidewalk on the frontage of the adjacent property.
 - c. Ensuring inter-parcel access (which already exists).

VIA E-MAIL and
HAND DELIVERY

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A LIMITED LIABILITY PARTNERSHIP
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12. Compliance with the recommendations from Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds, including the following:
 - a. The installation of oil/water separator unit within the detention area and the retrofitting of the outlet control structure with a device which ensures adherence to Best Management Practices.
 - b. Exercising heightened sensitivity with respect to down stream hydrological conditions.
13. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
14. 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.
15. Minor modifications to the site plan, landscape plan and this letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

The subject property, being surrounded on all sides by properties zoned GC is located within the confines of a Neighborhood Activity Center ("NAC") which contemplates the uses proposed which also happen to be the uses employed on the property for an extended length of time. Please do not hesitate to call should you require any further information or documentation prior to the formulation of your staff analysis and recommendations. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

gsams@samslarkinhuff.com

GLSjr/jbmc

cc: Shown on next page.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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May 19, 2009

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery
Members, Cobb County Planning Commission – VIA E-Mail
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery
Mr. Mark A. Danneman, Manager – VIA Hand Delivery
Mr. David Breaden, P.E. – VIA E-Mail
Ms. Jane Stricklin, P.E. – VIA E-Mail
Ms. Karen King, Deputy County Clerk – VIA Hand Delivery
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery
Ms. Carol Brown, President, Canton Road Neighbors – VIA E-Mail
Mr. Norm DeWalt, President, Northeast Cobb Homeowners Group – VIA E-Mail
Mr. David Poteet, Northeast Cobb Homeowners Group – VIA E-Mail
Mr. Terry Sams