

SLUP-6 (2009)



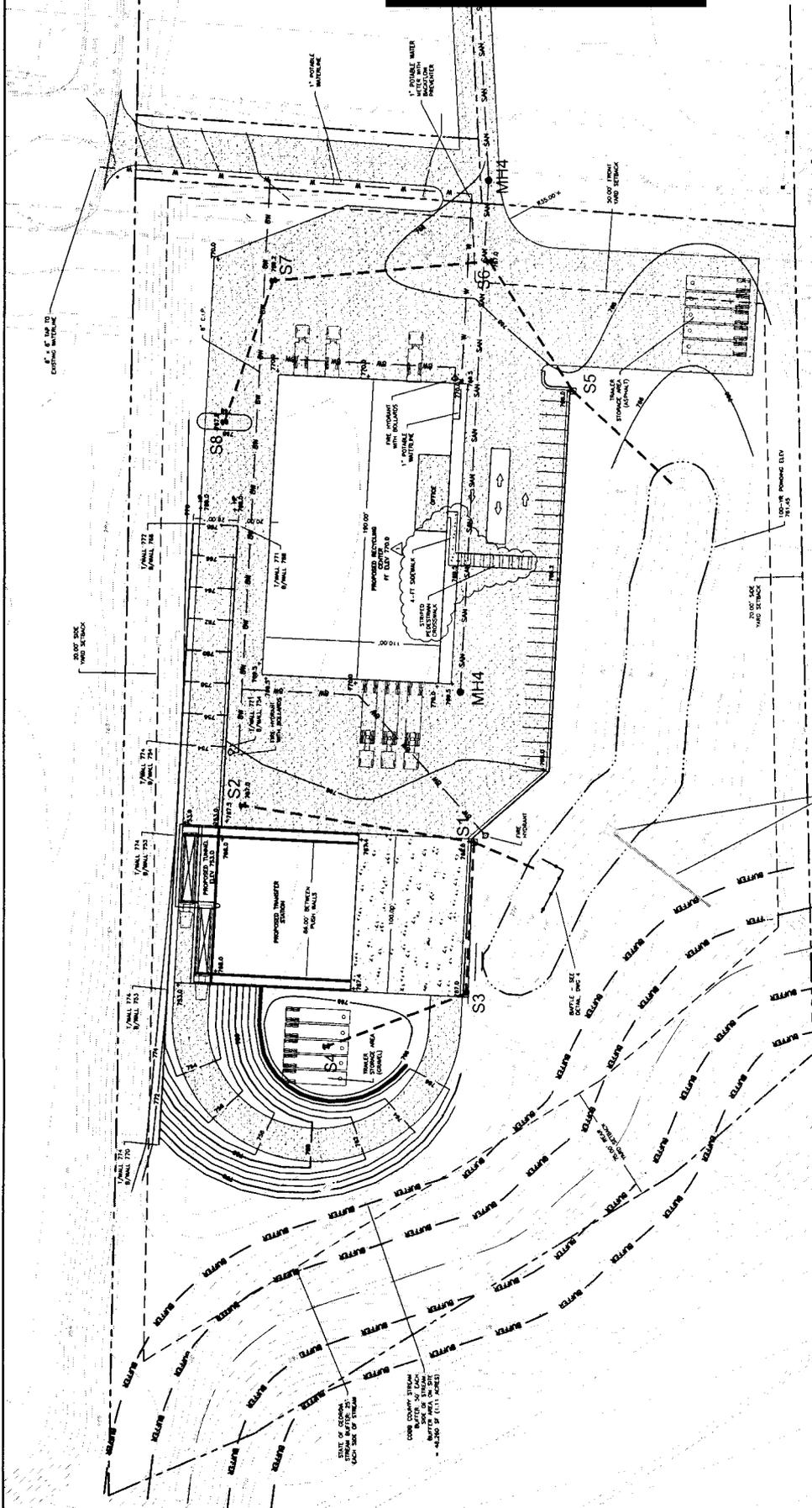
DATE	DESCRIPTION
06/05/09	ISSUED FOR PERMITTING
05/15/09	REVISED PER COMMENTS
05/01/09	ISSUED FOR PERMITTING
04/15/09	REVISED PER COMMENTS
04/01/09	ISSUED FOR PERMITTING
03/15/09	REVISED PER COMMENTS
03/01/09	ISSUED FOR PERMITTING
02/15/09	REVISED PER COMMENTS
02/01/09	ISSUED FOR PERMITTING



225 INVESTMENTS
RIVERVIEW ROAD RESOURCE RECOVERY
CENTER & TRANSFER STATION
COBB COUNTY, GEORGIA

3
GRAPHIC NO.

R E C E I V E D
 JUN 5 2009
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION



LEGEND

—	PROPERTY LINE
- - -	EXISTING CONTOUR
- - -	PROPOSED CONTOUR
▨	ASPHALT PAVING
▩	CONCRETE PAVING



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: graded vacant lot

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** HI/ First Amercian Resourse Center, warehouse
- SOUTH:** HI/ Skyline Forming
- EAST:** HI/ Patterson Services, warehouse
- WEST:** Interstate 285

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

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

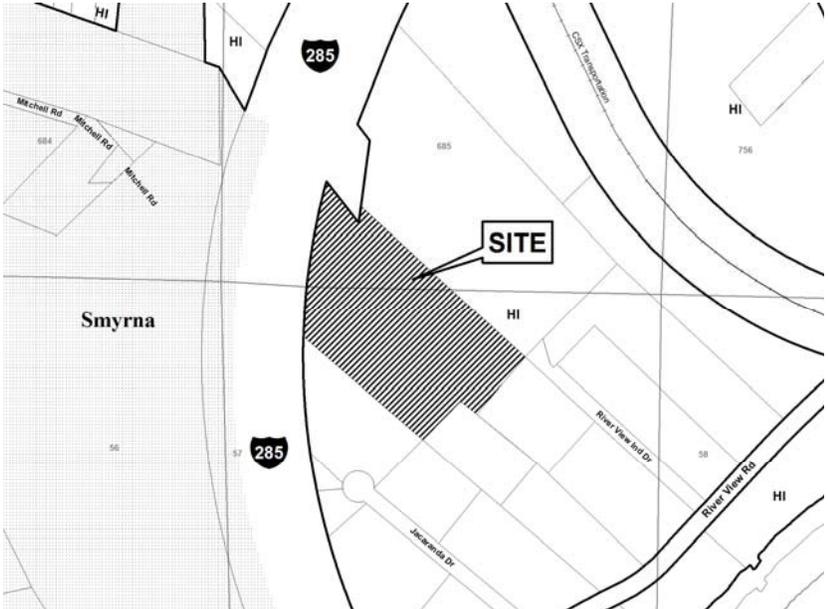
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

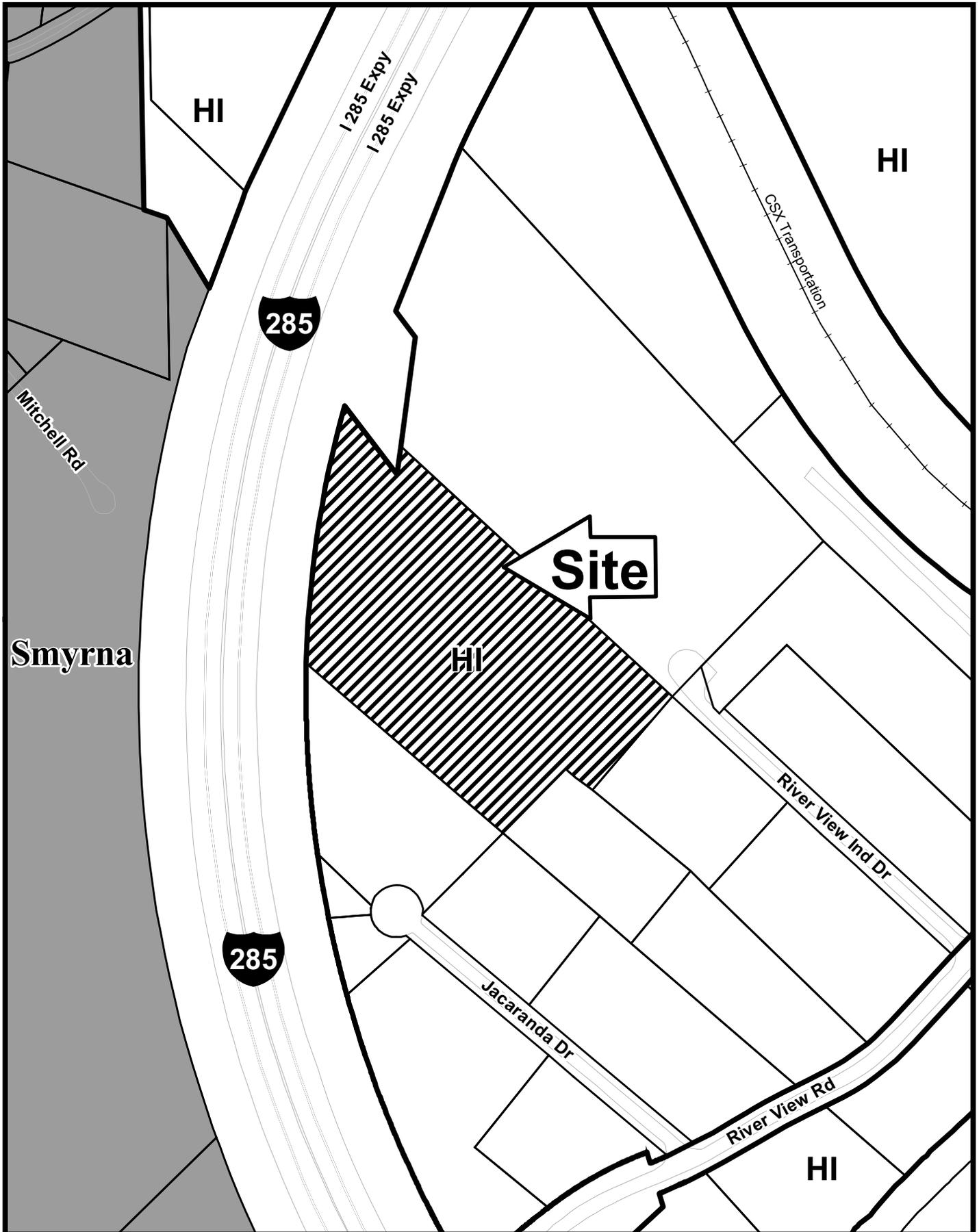
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

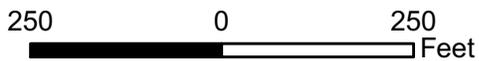
STIPULATIONS:



SLUP-6



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



-  City Boundary
-  Zoning Boundary

APPLICANT: S & S Investment Company

PETITION NO.: SLUP-6

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 develop and operate a waste transfer station and a recycling facility. There will be two one-story buildings on the property. The waste transfer station will occupy a 10,000 square-foot building on the westerly side of the property. The waste transfer station will take municipal solid waste, which is comprised of household and non-residential garbage. The recycling facility will occupy a 20,000 square-foot building on the easterly side of the property. The recycling facility will process paper, aluminum and steel cans, plastics and glass. All waste handling would take place inside the buildings, and will comply with all federal, state and local requirements. The applicant would employ technology to abate and control unpleasant odors, and to eliminate contaminated runoff. The waste transfer station and recycling facility would operate Monday through Friday from 5:00 am to 6:00 pm, and on Saturday from 8:00 am to 1:00 pm. The applicant has operated recycling and waste collection facilities in the Atlanta area for approximately 40-years. The applicant has submitted a Statement of Intent which is attached as Exhibit "A". The Atlanta Regional Commission and Georgia Regional Transportation Authority have both issued findings for the Development of Regional Impact that supports the applicant's request.

Historic Preservation: No comments.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

Water and sewer available. Water meter(s) must be set on Riverview Industrial Dr right-of way. Private easement necessary for the sewer connection as it is shown on proposed site plan.

TRAFFIC COMMENTS:

Recommend curb and gutter along road frontage.

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

FIRE COMMENTS:

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

APPLICANT: S & S Investment Company

PETITION NO.: SLUP-6

PRESENT ZONING: HI

PETITION FOR: SLUP

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: 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: within stream buffer

- 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 **drainage system**.

APPLICANT: S & S Investment Company

PETITION NO.: SLUP-6

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.

INSUFFICIENT INFORMATION

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

ADDITIONAL COMMENTS

1. This site is located within the Chattahoochee River Corridor and is therefore subject to the requirements of the Metropolitan River Protection Act. The project will be required to submit an application to the ARC for a MRPA certificate.
2. All process areas including the Transfer Station and Recycling Center Buildings will be required to have interior drainage systems that will be tied to the sanitary sewer. All exterior surface drainage will be directed to the stormwater management facility. There is an existing detention pond on the site that was constructed under LDP #020085. This pond is proposed to serve as the stormwater facility. Any modifications to meet current design standards must be addressed at Plan Review. As a minimum, the outlet control structure should be retrofitted with a "snout-type" device to provide additional water quality protection.

STAFF RECOMMENDATIONS

SLUP-6 S & S INVESTMENT COMPANY

The applicant's property has been zoned Heavy Industrial without any rezoning conditions or stipulations since the zoning code and zoning map were adopted in 1972. The applicant's property is located in an area predominately zoned and used for Heavy Industrial uses. The applicant's property has been designated as Industrial on the *Cobb County Comprehensive Plan* since it was adopted. The Heavy Industrial Zoning Category, 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, trucking companies, heavy contractors, manufacturing, distributors, junkyards and a log recycler. The applicant's proposal is located within close proximity to major regional transportation corridors such as Veterans Memorial Highway, South Cobb Drive and Interstate 285. The proposal is located off Riverview Road behind other industrial buildings, and is buffered from I-285 by a thick stand of trees that are within a conservation easement. The Atlanta Regional Commission (ARC) and Georgia Regional Transportation Authority (GRTA) have released positive findings regarding the proposal. The applicant's property is located within the boundaries of the Veteran's Memorial Enterprise Zone. The applicant's property is located within the boundaries of the *Industrial Land Inventory and Protection Policy* (Site 16), which is a study the Cobb County Planning Division generated to protect industrial property in the county. It should be noted that the property is within the study limits of the Riverline Master Plan Study area which will be finalized this summer. The Riverline Master Plan Study addresses land use, transportation and preservation issues in the area. There are other waste transfer stations in the county that are situated much closer to residential properties than this proposal. Those waste transfer stations have employed various measures to substantially reduce negative effects on nearby properties; these measures have included odor and noise abatement systems and heavy landscaping. Based on the above analysis, Staff recommends APPROVAL subject to the following:

- Site plan received by the Zoning Division on June 5, 2009;
- Applicant incorporate odor control measures such as odor neutralizing sprays systems at each door, overhead odor neutralizing misters throughout the buildings, and high velocity air dispersion exhaust fans;
- All waste transfer and recycling take place inside the buildings, with the tipping floor to be cleaned at least once daily;
- All liquid waste from inside building be routed to sanitary sewer, with plan to be approved by Water System engineers at Plan Review;
- County Arborist approve a landscape plan at Plan Review that would ensure a visual and noise abatement screen with 5-years of land disturbance;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Development of Regional Impact from ARC and GTRA;
- Applicant meet all State permitting requirements;
- 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.

STATEMENT OF INTENT

and

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

of

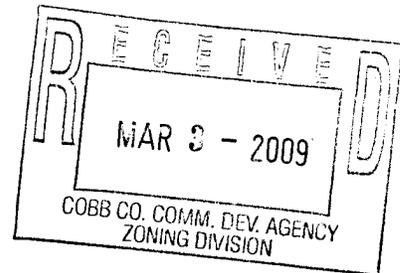
S&S INVESTMENT COMPANY

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.

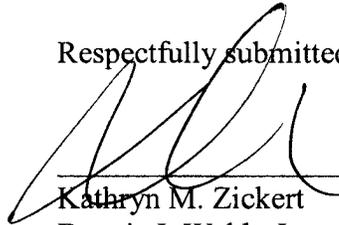
The Zoning Ordinance of Cobb County, Georgia is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

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.

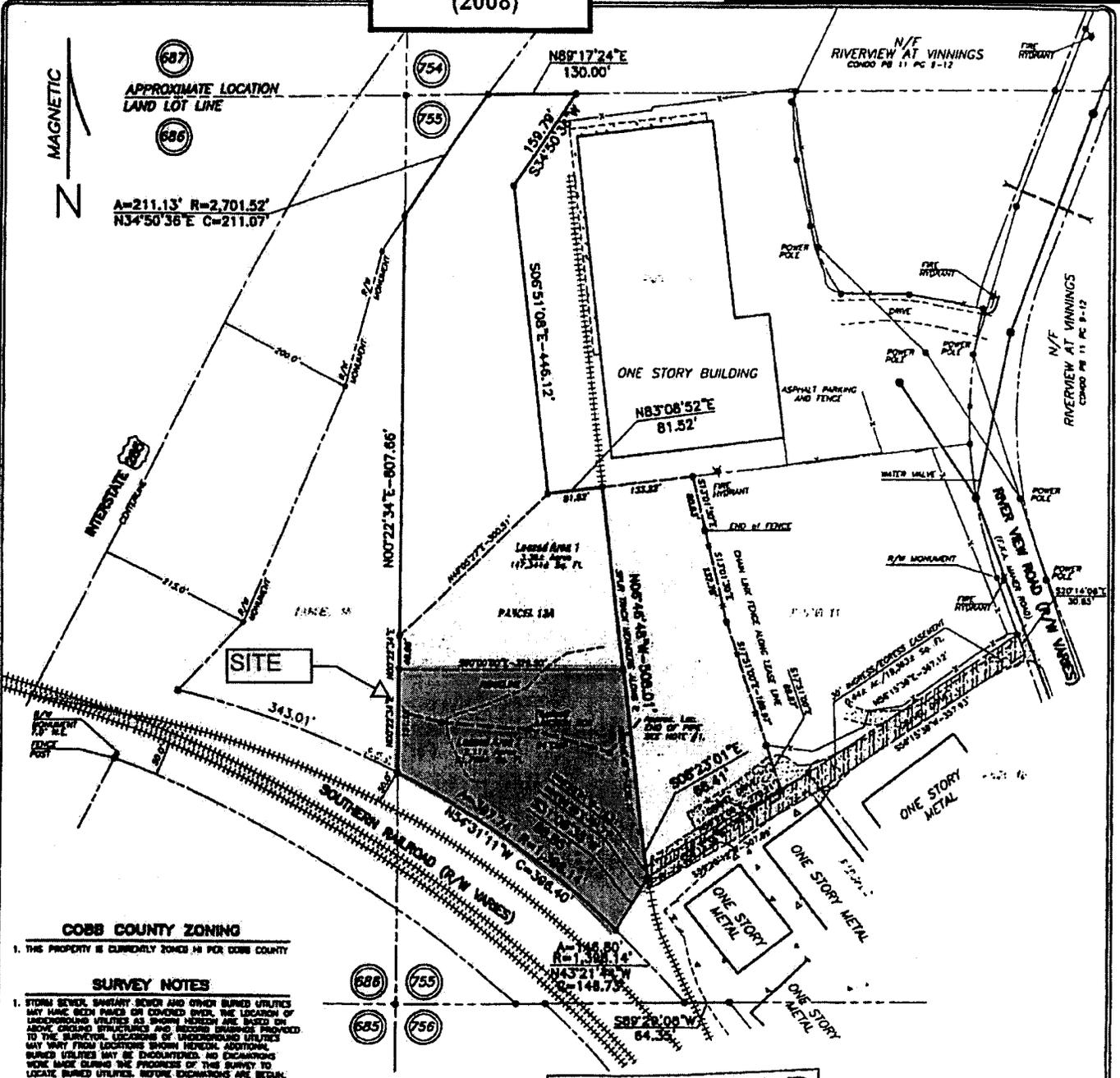
Respectfully submitted,



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)



COBB COUNTY ZONING

1. THE PROPERTY IS CURRENTLY ZONED M FOR COBB COUNTY

SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PLACED OR COVERED SINCE THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON LOCUS, COUNCIL RECORDS AND RECORDS MAINTAINED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.

TELEPHONE: AT&T
ELECTRIC: GEORGIA POWER COMPANY
WATER AND SEWER: CITY OF ATLANTA
GAS: ATLANTA GAS LIGHT COMPANY

CALL THREE SURVEYING LINES BEFORE YOU DIG UTILITIES PROTECTION CENTER:
IN METRO ATLANTA 770-423-4344
THROUGHOUT GEORGIA 1-800-282-7411

2. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EVIDENCE OF RECORDS, ENCUMBRANCES, RESTRICTIVE COVENANTS, EVIDENCE OF TITLE, EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY REVEAL.

3. THIS PLAN WAS PREPARED FOR THE DECLARATIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECONVEYANCE OF THE SURVEYOR NAMED SUCH PERSON, PERSONS OR ENTITY.

4. THE FIELD DATA UPON WHICH THIS PLAN IS BASED HAS A CLOSEST APPROXIMATION OF ONE FOOT IN 10,000+ FEET, AND AN ANGULAR ERROR OF 60" PER ANGULAR POINT, AND HAS ADJUSTED USING COOPER'S RULE. THIS PLAN HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET. LINEAR AND ANGULAR MEASUREMENTS WERE OBTAINED BY USING A TOPCON TOTAL STATION.

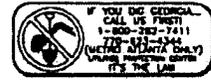
BEARINGS SHOWN WERE COMPUTED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.

5. THIS PLAN NOT INTENDED FOR RECORDING.

LEGEND

- P — PROPERTY LINE
- R — RIGHT-OF-WAY
- S — CENTERLINE
- C — CURB
- D — DITCH
- E — EDGE OF PAVING
- T — TOP OF WALL
- B — BOTTOM OF WALL
- F — FENCE
- R — REINFORCED CONCRETE, PCC
- M — CORRUGATED METAL PIPE
- P — POWER POLE
- L — LIGHT POLE
- W — WIRE
- P — POWER LINE
- M — METER
- P — POWER BOX
- A — AIR CONDITION
- T — TELEPHONE BOX
- G — GAS METER
- V — GAS VALVE
- L — GAS LINE MARKER
- W — WATER METER
- V — WATER VALVE
- H — FIRE HYDRANT
- W — WELLS
- H — HEADCALL
- B — BENCH BOX
- D — DRAIN INLET
- S — SANITARY SEWER LINE
- S — SANITARY SEWER MANHOLE
- C — CLEAN OUT

RECEIVED
AUG - 7 2008
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



TOTAL AREA= 6,247± ACRES
OR 272,112± SQ. FT.

RIVER VIEW ROAD
SMYRNA, GEORGIA

SPECIAL LAND USE PLAN FOR
ATLANTA HARDWOOD CORPORATION

PARCEL 13A

McLUNG SURVEYING SERVICES, INC.
4823 South Cobb Drive Suite 200
Smyrna, Georgia 30080 (770) 434-1343

This property (is) (is not) located in a Federal Flood Area as indicated by F.I.R.M. Official Flood Hazard Maps.

In my opinion this plot is a correct representation of the land plotted.

Michael R. Hayes
Georgia RLS #1848
Member SLSDDC

GEORGIA
NO. 1844
MICHAEL R. HAYES

LAND LOT 755
DISTRICT 17TH.
COUNTY COBB
GEORGIA

SECTION 2ND.

PLAT PREPARED: 7-22-08
FIELD: 4-25-09 SCALE: 1"=100'
KASS/S

No.	Revision	Date

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

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

CONTIGUOUS ZONING/DEVELOPMENT

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

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

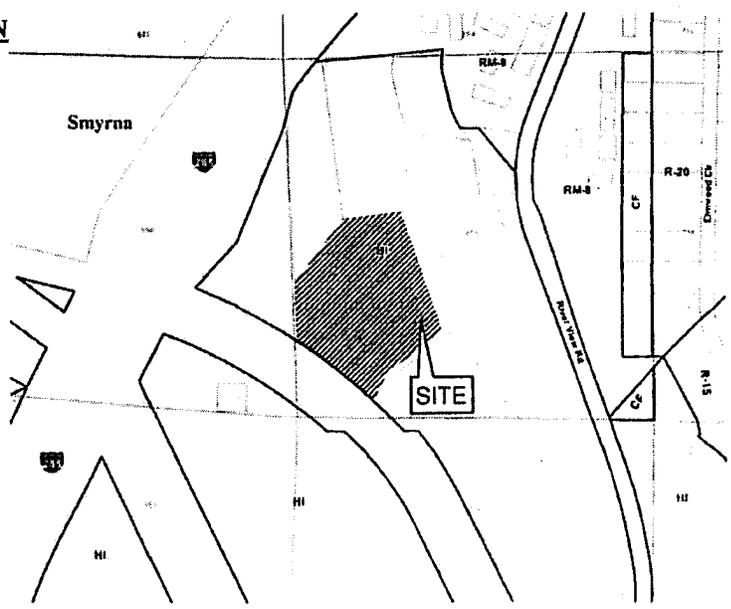
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

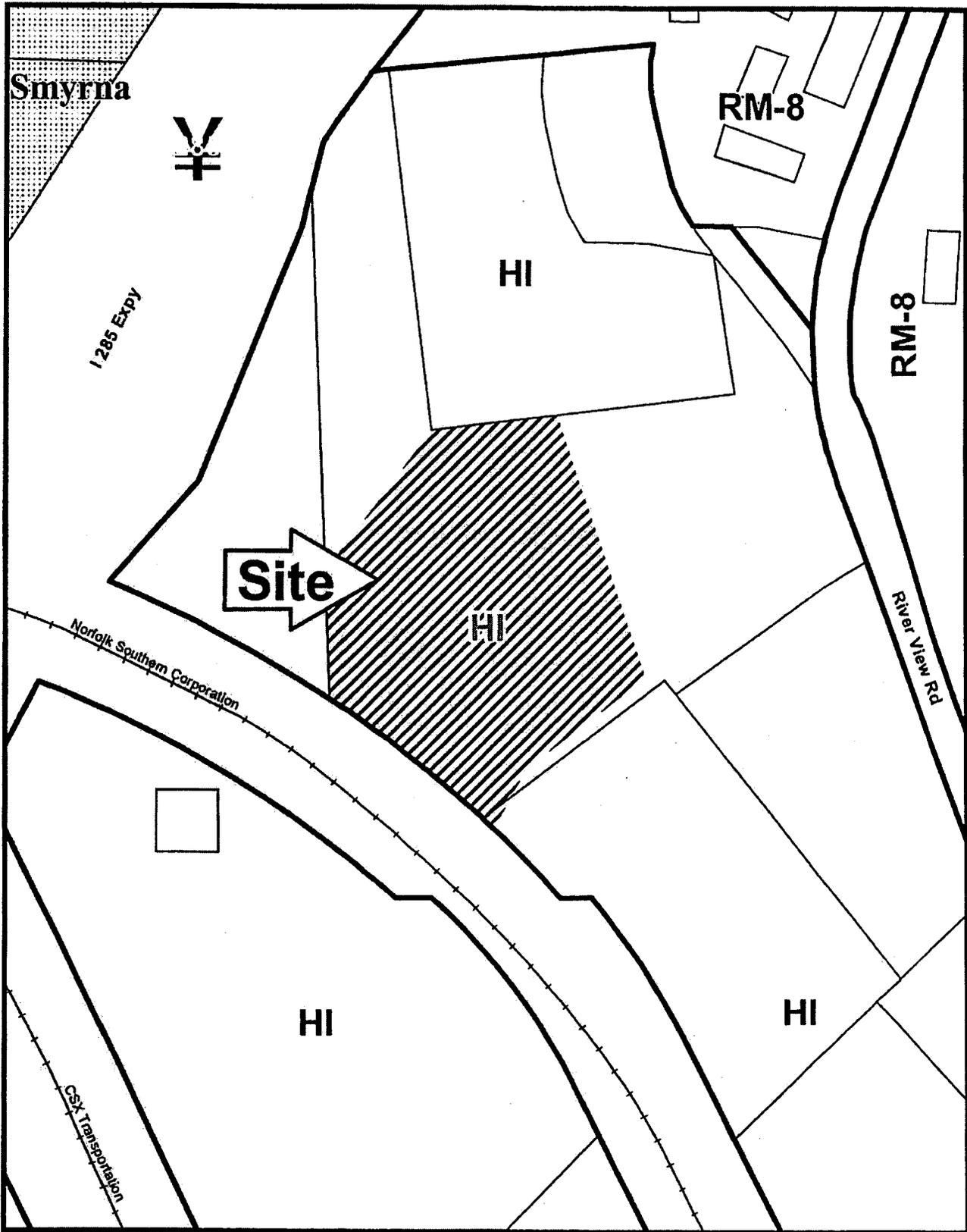
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

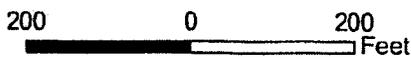
STIPULATIONS:



SLUP-19



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



-  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

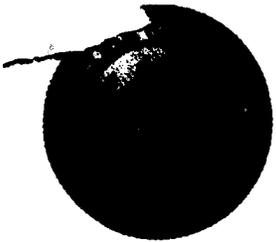
SLUP-19 GREEN FOREST RECYCLING, LLC

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* and/or final plat *DWG 2*
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. Spill
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

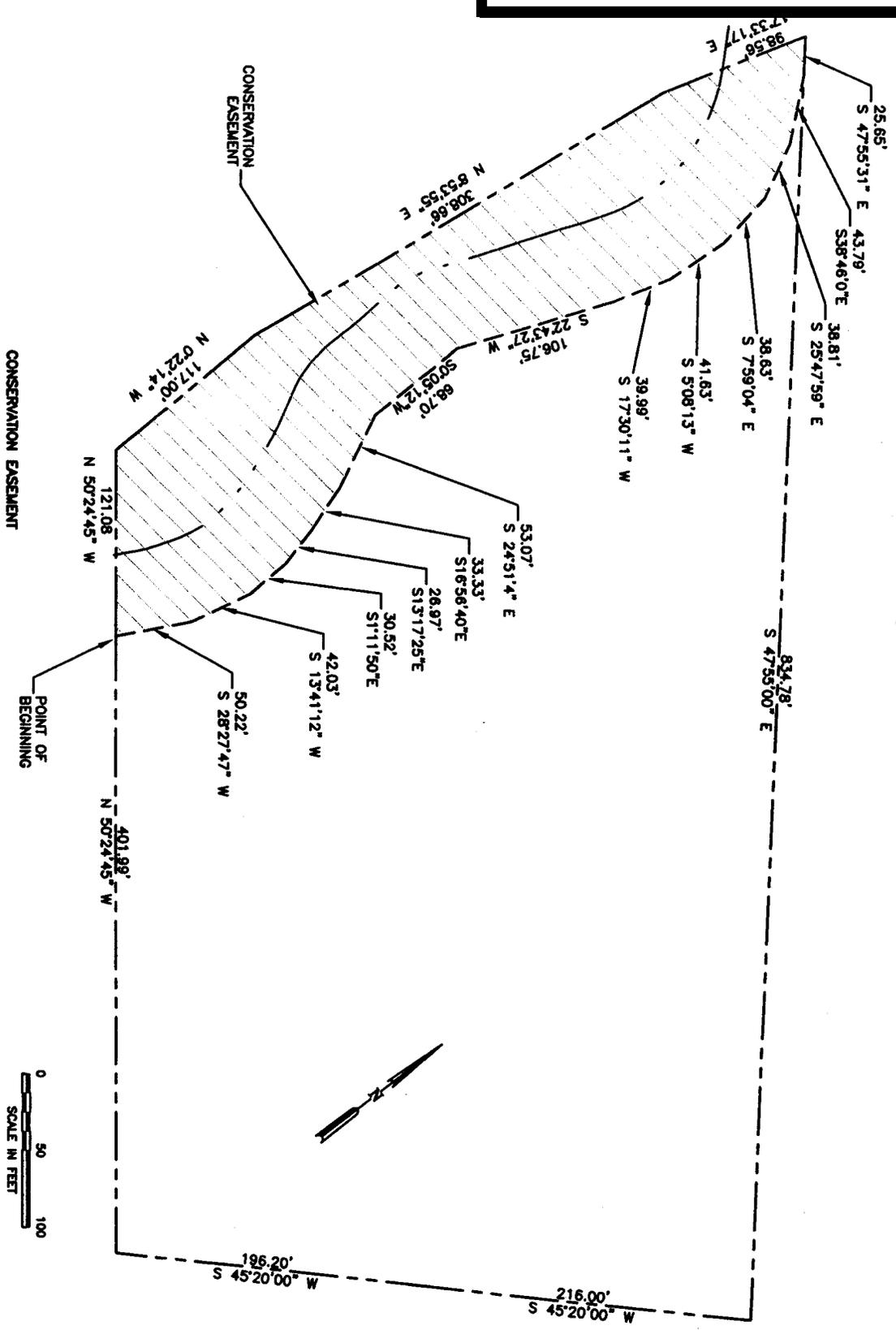
Judith Moore

5/24/02

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

ATTEST: Andrea S. 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 Plat 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 northwesterly 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°46'07" 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 33.33' S16°56'40" E to a point; thence 26.97' S13°17'25" E to a point; thence 30.52' S11°11'50" 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 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°11'50" E to a point; thence 42.03' S13°41'12" W to a point; thence 50.22' S28°27'47" W to a point, such point being the POINT OF BEGINNING of the conservation easement, such easement consisting of 1.19 acres.

ALEXANDER ENGINEERING, P.C.
 1275 OAKDALE ROAD
 ATLANTA, GEORGIA
 30307-1052
 TEL 404/371-9190
 FAX 404/373-0571
 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