

APPLICANT: J&H Property Leasing, LLC	PETITION NO:	Z-38
678-910-6900	HEARING DATE (PC):	12-01-10
REPRESENTATIVE: Mark Houston	HEARING DATE (BOC):	12-14-10
678-910-6900	PRESENT ZONING:	GC
TITLEHOLDER: Merchant Investment Group, Inc., Teena		
Hubbard, H. Lamar Hardin, Thomas Lee Pharr, Joseph Stephen Pharr	PROPOSED ZONING:	CRC
PROPERTY LOCATION: Southwest intersection of Delk Road and		
Powers Ferry Road.	PROPOSED USE: Car	wash, Light Auto
	Servicin	g and a Billboard
ACCESS TO PROPERTY: Delk Road and Powers Ferry Road	SIZE OF TRACT:	0.817 acre
	DISTRICT:	17
PHYSICAL CHARACTERISTICS TO SITE: Existing	LAND LOT(S):	925
convenience store with fuel sales, dry cleaning business and billboard.	PARCEL(S):	31, 43
	TAXES: PAID X D	UE
CONTIGUOUS ZONING/DEVELOPMENT	COMMISSION DISTRICT	': _2
NORTH: GC/Waffle House and Retail Center		
<b>SOUTH:</b> City of Marietta/Kroger		
EAST: GC/Medical Offices and Publix Shopping Ce	enter	

OPPOSITION: NO. OPPOSED\_\_\_PETITION NO:\_\_\_\_SPOKESMAN \_\_\_\_

City of Marietta and GC/Retail Center

PLANNING COMMISSION RECOMMENDATION

APPROVED\_\_\_\_MOTION BY\_\_\_\_ REJECTED\_\_\_SECONDED\_\_\_\_

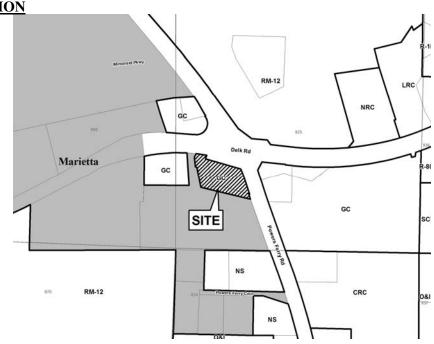
HELD\_\_\_\_CARRIED\_\_\_\_

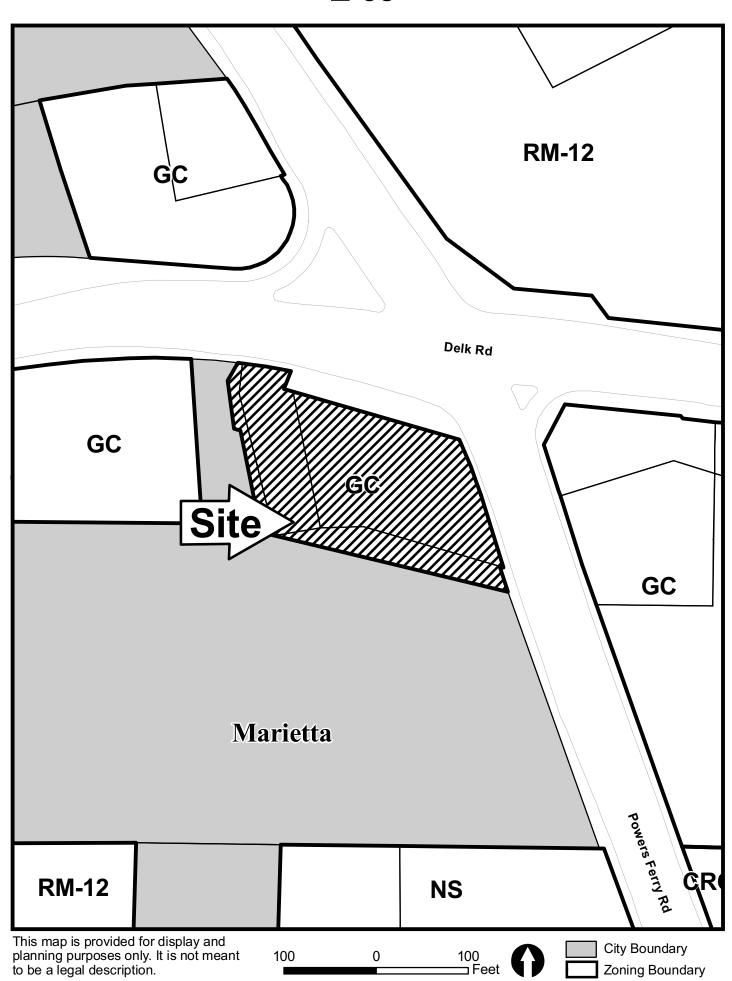
WEST:

# **BOARD OF COMMISSIONERS DECISION**

APPROVED\_\_\_\_MOTION BY\_\_\_\_ REJECTED\_\_\_SECONDED\_\_\_ HELD\_\_\_CARRIED\_\_\_\_

## **STIPULATIONS:**





APPLICANT: J&H Pro	operty Leasing, LLC	PETITION NO.:	Z-38
PRESENT ZONING:	GC	PETITION FOR:	CRC
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ZONING COMMENTS:	Staff Member Responsib	le: Jason A. Campbell	
Land Use Plan Recommenda	tion: Community Activi	ty Center	
<b>Proposed Number of Buildin</b>	gs: 2 Total Square	Footage of Development: 1	0,512
F.A.R.: 0.314 Square I	Footage/Acre: 13,687	_	
Parking Spaces Required: 2	7 Parking Spaces	Provided: 27	
Applicant is requesting the CR for the purpose of having a bill proposed business will be simi Smyrna. The overall height of Applicant is also requesting ap attached renderings. The stipur reduction in the current imperviously will be no earlier than 7 a.m. a outlines the intent to remove the billboard and two of the sign "high and will be located as per be modified to allow for site flagreed to a right-of-way swap right-of-way. Applicant's Sun archaeology surveys and Civresources appear to be affected at this time.  Cemetery Preservation: No	lboard. The stipulation letter lar in architectural design and the building will be less than approval for signage as indicated at lation letter for the proposed vious conditions. The hours and no later than 10 p.m. seven existing full flag monopole faces" may be electronic in a the Concept Site Plan. The ow and canopy and building with Cobb County in order to mary of Intent and stipulation. After consulting various can be the concept Site Plan. The oward canopy and building with Cobb County in order to mary of Intent and stipulation. No further than the consulting various can be the consulting various can be the consulting various. No further consulting various.	submitted with the application of finishes as exists at 5100 S in 45 feet from the finished fleed in the attached stipulation redevelopment indicates the of operation will be variable in days a week. Applicant's see billboard to a center-mount ature. The sign will be no historical to a shown on the construction as shown on the constr	on indicates that the outh Cobb Drive in outh Cobb Drive in our elevation. letter and on the re will be a net to the seasons but stipulation letter tri-face monopole igher than 60 feet setback requirements e plan. Applicant has a depicted in the review.
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FIRE COMMENTS:			

No Comments.

# **APPLICANT** J & H Property Leasing, LLC

# PRESENT ZONING GC

Additional

Comments:

# PETITION NO. Z-038 PETITION FOR CRC

WATER COMMENTS: | NOTE: Comments reflect only what facilities were in existence at the time of this review. Available at Development: Yes No Fire Flow Test Required: Yes No Size / Location of Existing Water Main(s): 8"DI/S side Powers Ferry Rd Additional Comments: Two existing active water accounts on properties to be rezoned 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: NOTE: Comments reflect only what facilities were in existence at the time of this review. In Drainage Basin: ✓ Yes No At Development: Yes No Approximate Distance to Nearest Sewer: At site Estimated Waste Generation (in G.P.D.): 750 Peak = 1875A D F Treatment Plant: Sutton **✓** Available ☐ Not Available Plant Capacity: Line Capacity: **✓** Available ☐ Not Available ☐ 5 - 10 years  $\checkmark$  0 - 5 years Projected Plant Availability: over 10 years Dry Sewers Required: Yes ✓ No \*If off-site easements are required, Developer Off-site Easements Required: Yes\* ✓ No. must submit easements to CCWS for review/approval as to form ans stipulations Flow Test Required: Yes ✓ No. prior to the execution of easements by the property owners. All easement acquisitions Letter of Allocation issued: Yes ✓ No are the responsibility of the Developer Septic Tank Recommended by this Department: Yes ✓ No Subject to Health Department Approval: Yes ✓ No

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 offsite easements, dedication of on and/or offsite 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.

to Cobb County Code Sec. 122-181(a)(15).

Connection of collected roof rainwater to car wash recycling system/sanitary sewer is subject

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PRESENT ZONING: GC	PETITION FOR: <u>CRC</u>
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DRAINAGE COMMENTS	
FLOOD HAZARD: YES NO POSSIBLY,	NOT VERIFIED
DRAINAGE BASIN: Rottenwood Creek  ☐ FEMA Designated 100 year Floodplain Flood. ☐ Flood Damage Prevention Ordinance DESIGNATED F ☐ Project subject to the Cobb County Flood Damage Prev ☐ Dam Breach zone from (upstream) (onsite) lake - need	FLOOD HAZARD. vention Ordinance Requirements.
WETLANDS: ☐ YES ☐ NO ☐ POSSIBLY, NOT	ΓVERIFIED
Location:	
☐ The Owner/Developer is responsible for obtaining any of Engineer.	required wetland permits from the U.S. Army Corps
STREAMBANK BUFFER ZONE: YES NO	DOSSIBLY, NOT VERIFIED
<ul> <li>☐ Metropolitan River Protection Area (within 2000' of obuffer each side of waterway).</li> <li>☐ Chattahoochee River Corridor Tributary Area - County</li> <li>☐ Georgia Erosion-Sediment Control Law and County On</li> <li>☐ Georgia DNR Variance may be required to work in 25</li> <li>☐ County Buffer Ordinance: 50', 75', 100' or 200' each standard to the country of t</li></ul>	review (undisturbed buffer each side). rdinance - County Review/State Review. foot streambank buffers.
DOWNSTREAM CONDITION	
<ul> <li>☑ Potential or Known drainage problems exist for develop</li> <li>☑ Stormwater discharges must be controlled not to exceed drainage system.</li> <li>☑ Minimize runoff into public roads.</li> <li>☑ Minimize the effect of concentrated stormwater dischar</li> <li>☑ Developer must secure any R.O.W required to receive of the control of the</li></ul>	eed the capacity available in the downstream storm ges onto adjacent properties.
Existing Lake Downstream  Additional BMP's for erosion sediment controls will be	required.
<ul> <li>☐ Lake Study needed to document sediment levels.</li> <li>☐ Stormwater discharges through an established residenting Project engineer must evaluate the impact of increased on existing downstream receiving system.</li> </ul>	<del>-</del>

APPLICANT: J & H Property Leasing, LLC	<b>PETITION NO.: <u>Z-38</u></b>
PRESENT ZONING: GC	PETITION FOR: CRC
********	******
DRAINAGE COMMENTS CONTINUED	
SPECIAL SITE CONDITIONS	
<ul> <li>□ Provide comprehensive hydrology/stormwater controls to</li> <li>□ Submit all proposed site improvements to Plan Review.</li> <li>□ Any spring activity uncovered must be addressed by a qu</li> <li>□ Structural fill must be placed under the direction engineer (PE).</li> <li>□ Existing facility.</li> <li>□ Project must comply with the Water Quality requiremen Water Quality Ordinance.</li> <li>□ Water Quality/Quantity contributions of the existing la conditions into proposed project.</li> <li>□ Calculate and provide % impervious of project site.</li> <li>□ Revisit design; reduce pavement area to reduce runoff and</li> </ul>	alified geotechnical engineer (PE).  n of a qualified registered Georgia geotechnical  ts of the CWA-NPDES-NPS Permit and County  ke/pond on site must be continued as baseline
INSUFFICIENT INFORMATION	
<ul> <li>No Stormwater controls shown</li> <li>Copy of survey is not current - Additional comments may exposed.</li> <li>No site improvements showing on exhibit.</li> </ul>	be forthcoming when current site conditions are
ADDITIONAL COMMENTS	

1. The limited area of this site will require underground stormwater management measures to meet detention and water quality requirements.

APPLICANT: <u>J &amp; H Property Leasing, LLC</u>	PETITION NO.: <u>Z-38</u>
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TRANSPORTATION COMMENTS	

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

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Delk Road	28600	Arterial	45 mph	Cobb County	100'
Powers Ferry Road	24800	Arterial	45 mph	Cobb County	100'

Based on 2009 traffic counting data taken by Georgia DOT (Delk Road)
Based on 2009 traffic counting data taken by Cobb County DOT (Powers Ferry Road)

### RECOMMENDATIONS

Delk 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. 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 south side of Delk Road, a minimum of 50' from the roadway centerline.

Powers Ferry 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. 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 Powers Ferry Road, a minimum of 50' from the roadway centerline.

Recommend converting the access on Delk Road to a right-in/right-out driveway.

Recommend converting the southern access on Powers Ferry Road to an out-only driveway.

Recommend applicant verify that minimum intersection sight distance is available along Delk Road and Powers Ferry Road driveways and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement.

Recommend applicant verify that signs do not obstruct visibility per Cobb County Development Standard Detail 109.

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

# STAFF RECOMMENDATIONS

### **Z-38** J&H PROPERTY LEASING, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in an area that contains a mixture of retail, restaurant and convenience store uses.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The subject property has been used as a convenience store with fuel sales and a dry cleaning business for many years.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The applicant's rezoning proposal is in accordance with the *Cobb County Comprehensive Plan*, which indicates this property is in the Community Activity Center land use category. The applicant's proposal is located in an area containing other commercial businesses and the subject property has been used commercially for many years.

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

- Site plan, stipulation letter and renderings received by the Zoning Division October 20, 2010, with the District Commissioner approving minor modifications;
- Water and Sewer comments and recommendations:
- Stormwater Management Division comments and recommendations:
- DOT comments and recommendations; and
- Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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

# Application No. Z-38 Dec. 2610

# Summary of Intent for Rezoning -

Resid	dential Rezoning Information (attac		eeded)
a)	Proposed unit square-footage(s	s):	
b)	Proposed building architecture	) <del>:</del>	DEGEVE
c)	Proposed selling prices(s):		
d)	List all requested variances:		SEP 2 8 2010
			COBBICO COMM. DEV. AGENC
			ZONING DIVISION
	•		
24144 NT	***************************************		***********************
	residential Rezoning Information (a		
a)	•	n, Light Automobile	servicing, Billboard
P)	5. Grage Proposed building architecture	. 0 1 - 1	
b)	rroposed dunding architecture	: Craftsman, Trad. +	rional
c)	Proposed hours/days of operation	on: 0	<b></b>
·)	r roposeu nours/days or operation	/am to 4pm	7 days/wk
d)	List all requested variances:	S. ( )	
-,		See list.	
Oth	er Pertinent Information (List or a	ttach additional information i	f needed)
		<u> </u>	
Is anv	of the property included on the pr	roposed site plan owned by the	e Local, State, or Federal Govern
	of the property included on the property included in the property in th		
Please	e_list_all_Right-of-Ways, Governme	ent owned lots, County owned	
Please		ent owned lots, County owned	

# Fast Trac Car Wash 2, LLC / J & H Property Leasing 2, LLC

Stipulation for Fast Trac Car Wash 2, LLC / J&H Property Leasing 2, LLC

# October 20, 2010

Mr. John P. Pederson Planner III Zoning Division Cobb County Community Development Agency 1150 Powder Springs St Marietta, Georgia 30064 **Hand Delivered** 



Re: Application for Rezoning

Application No.: Z-38 (2010)

Applicants: Fast Trac Car Wash 2, LLC and J&H

Property Leasing 2, LLC

Owners: Merchant Investment Group, Inc.

Thomas Lee Pharr, Joseph Stephen Pharr, H. Lamar Hardin, and Teena

Darlene Kelley aka Teena

Hubbard.

Property: 1120 Powers Ferry Road Marietta,

GA, 2860 Delk Road Marietta, GA, associated easement for the 2860 Delk Road and Cobb DOT Right of ways on Delk Road and Powers

Ferry Road.

Dear John,

As you know, the undersigned and these companies (hereinafter collectively referred to as "Applicants") represent Merchant Investment Group, Inc.

Thomas Lee Pharr, Joseph Stephen Pharr, H. Lamar Hardin, and Teena Darlene Kelley aka Teena Hubbard (hereinafter collectively referred to as "Owners"), in their Application for Rezoning with regard to a total tract of 0.768 acre and associated easements located at the south west corner of the intersection of Delk Road and Powders Ferry Road Land Lot 925, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meetings with planning and zoning staff, discussions and meetings with area businesses and owners, and reviewing the staff comments and recommendations, and reviewing the uses of the surrounding properties, we have been authorized by the Applicants and Owners to submit this letter of agreeable stipulations and conditions, which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The referenced stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property.
- (2) Rezoning of the Subject Property shall be from the General Commercial ("GC") zoning category to the Community Retail Commercial ("CRC") zoning category classification site plan specific to that certain Concept Site Plan prepared for Fast Trac Car Wash by Southview Design and Consulting dates September 27, 2010.
- (3) The subject Property consists of 0.768 acre in addition to associated easements' and right of ways.

### STIPULATIONS APPLICABLE TO THE OVERALL DEVELOPMENT

- (1) The retail buildings, light automobile servicing, repair and carwash shall be similar in architectural design and finishes as exists at 5100 South Cobb Drive Smyrna, Georgia. The overall height of the building will be less than forty-five feet from the finished floor elevation. Photos taken and a Conceptual Design Elements Rendering of the elevations is submitted and incorporated in these stipulations. The combination of the two will be the final design allowing for minor engineering and functional issues to be addressed.
- (2) Signage at the corner of the property will be dual use and similar in elevation submitted (titled dumpster enclosure) and incorporated hereinto. It is depicted in the Design Concept Site Plan and it will contain the refuse dumpster enclosure with a monument type sign elevations. Each of three elevations will indicate a sign for the business and a color programmable display and all proportional to the submitted rendering. The actual language of the signage to be determined by owner and subsequent owner(s) of the business. The maximum height of the enclosure will be less than twenty-five feet from ground level.
- (3) Signage on the main structure will be proportional and located as depicted in the rendering titled Conceptual Design Elements Rendering. The actual language of the sign to be determined by owner and subsequent owner(s) of the business.
- (4) Accessory signage of menus, directional traffic and other necessary signage to be similar or same as exists currently at 5100 South Cobb Drive Smyrna Georgia.
- (5) With the current site conditions in violation of current impervious surface, storm water and water quality standards, the main body of the carwash will capture no less than 3000 square feet of roof rain water that will be held in tanks for use in the carwash processes. This water will be recycled in the throughout the carwash processes. The redevelopment

# Fast Trac Car Wash 2, LLC / J & H Property Leasing 2, LLC

Stipulation for Fast Trac Car Wash 2, LLC / J&H Property Leasing 2, LLC

- will produce a net reduction in the current conditions and satisfy impervious surface requirements, storm water and water quality requirements.
- (6) Lighting will be sensitive to the area by utilizing under canopy lighting similar to 5100 South Cobb Drive and only using Georgia Power box type pole lighting fixtures where needed (entrances/ exits and rear of building).
- (7) The hours of operation will be variable to the seasons but will be no earlier than 7AM and no later than 10 PM seven day each week.
- (8) The landscape plan will be as submitted in the Design Concept Site Plan with the excess tree requirement to be paid to the Cobb County tree bank for subsequent allocation to the Powers Ferry Road corridor revitalization landscape. The landscaping of the current right of way adjacent to the site will be done during construction. If a signaling structure is disrupted or damaged it will be returned to its original condition if necessary. Adjacent (not inclusive in the Concept Site Plan area or public properties) properties will be landscaped with approval from the District Commissioner as needed. Maintenance of adjacent property will be by private agreement.
- (9) The maintenance of the right of way will be outlined in a letter of agreement with Cobb County and J&H Property Leasing 2, LLC. The essence of the letter will allow J& H Property Leasing to maintain the currently depicted landscape plan in the right of way.
- The site plan has three pay stations and options to vacuum either before or after the carwash. With these variables and larger capacity in ordering, the current site plan will be considered to be compliant with the car queue requirements.
- In accordance with limited site conditions and the time sensitive nature of this project, CBS Outdoors, Inc. will initially remove the existing full flag monopole billboard to a center-mount tri-face monopole billboard. A letter of agreement from CBS Outdoors, Inc. will be drafted with Cobb County and approved by the district Commissioner before this sign will be constructed. This letter will outline the appropriate reduction in sign square footage and timeline for removal of existing billboards in Cobb County to become compliant. CBS Outdoor, Inc. will remove no less than 2,688 square feet of signage in accordance with the stipulations required as part of the LED upgrade. Two of the sign "faces" may be electronic in nature. The sign will be no higher than sixty feet high and will be located as per the Concept Site Plan. This sign will be no closer than Two hundred fifty (250 ft) feet from any currently constructed residential housing unit. If CBS Outdoor, Inc does not comply within sixty days of notice of violation of stipulations in this letter of agreement; the new sign will be removed by CBS Outdoor, Inc. until the time CBS Outdoor, Inc. becomes compliant with the agreed stipulations of

# 4 STIPULATION FOR FAST TRAC CAR WASH 2, LLC / J&H PROPERTY LEASING 2 , LLC

said letter of agreement at which time CBS Outdoors, Inc. will then be allowed to operate said sign.

- (12) Setback requirements are modified as per Concept Site Plan to allow for site flow and canopy and building construction. The site plan titled Concept Site Plan is submitted "as is" with minor modifications by Cobb County planning and development staff with approval of the District Commissioner as needed or necessary.
- (13) While not required to do so as part of this rezoning request,
  Applicants agree to a Right of Way swap with Cobb County as set forth in
  the Right of Way Swap Document attached and submitted herein.
- (14) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.

We believe the requested zoning, pursuant to the referenced Concept Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed overall development is a much need improvement and fits together with the upscale nature proposed for the redeveloped area. The Applicants have gone to great detail in planning the development. One of the core principles of this business is of quality. Its image of quality is what gives this business its competitive edge. This will translate into the continued maintenance of the development in an upscale manner. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly your,

Fast Trac Car Wash2, LLC / J&H Property Leasing2, LLC

Mark Houston

C: Cobb County Board of Commissioners:

Tim Lee, Chairman Helen Goreham Bob Ott Thea Powell Woody Thompson

Cobb County Planning Commission: Murray Homan, Chairman Bob Hovey Mike Terry Christi Trombetti

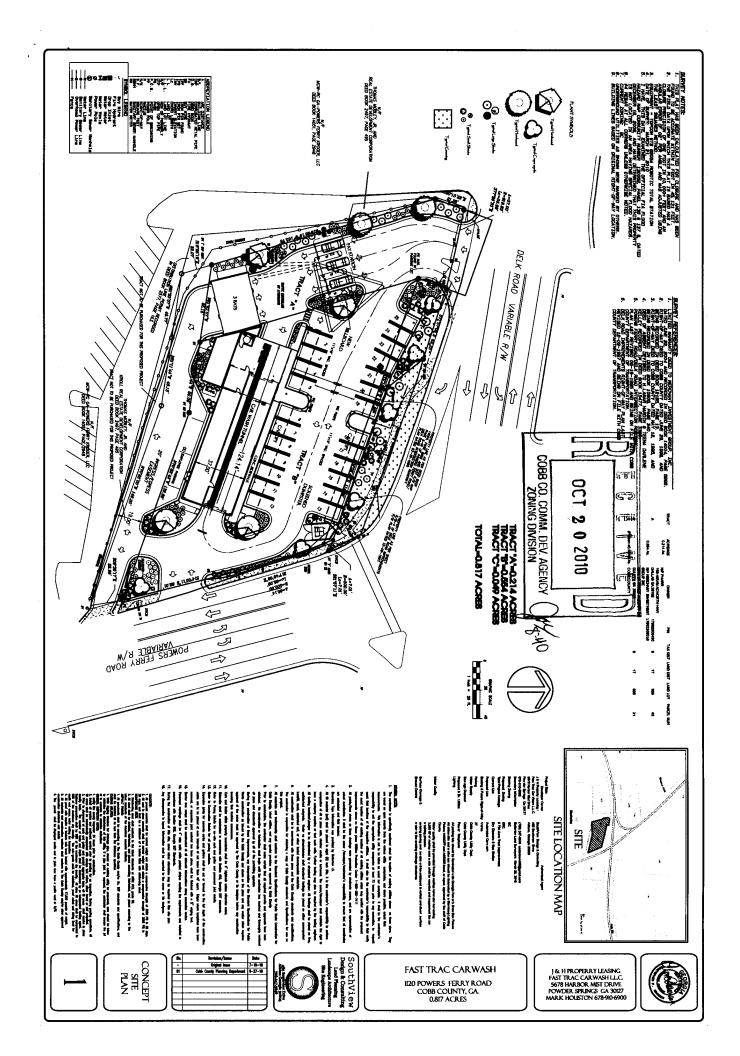
4 Stipulation for Fast Trac Car Wash 2, LLC / J&H Property Leasing 2 , LLC

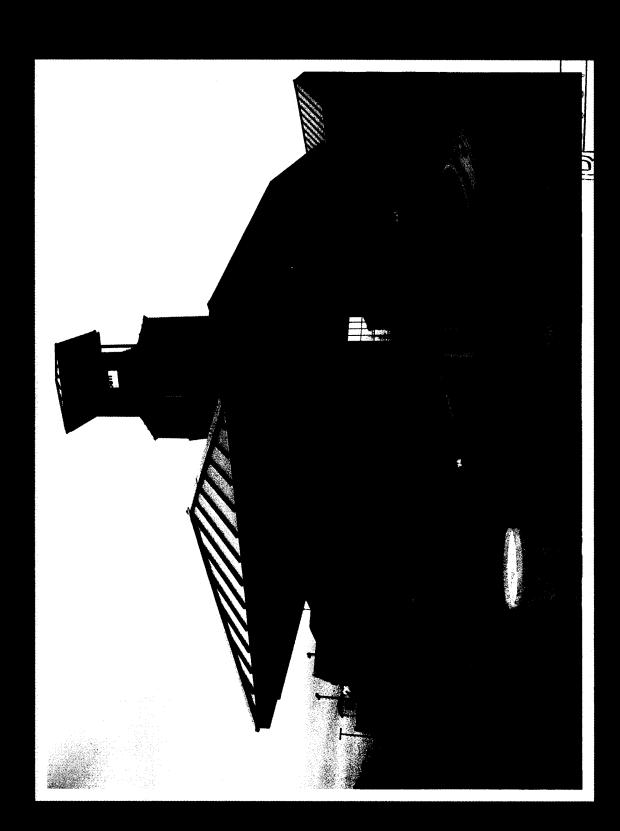
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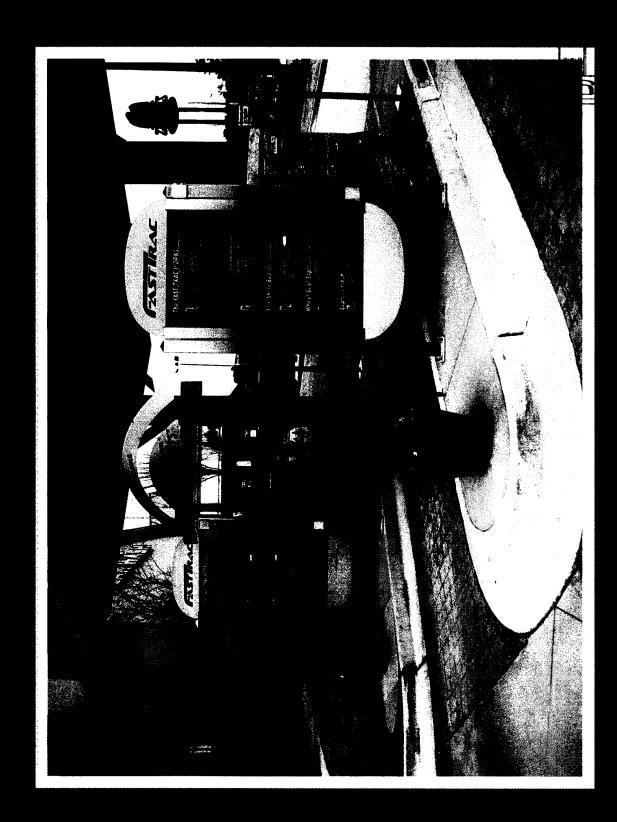
Stipulation for Fast Trac Car Wash 2, LLC / J&H Property Leasing 2, LLC

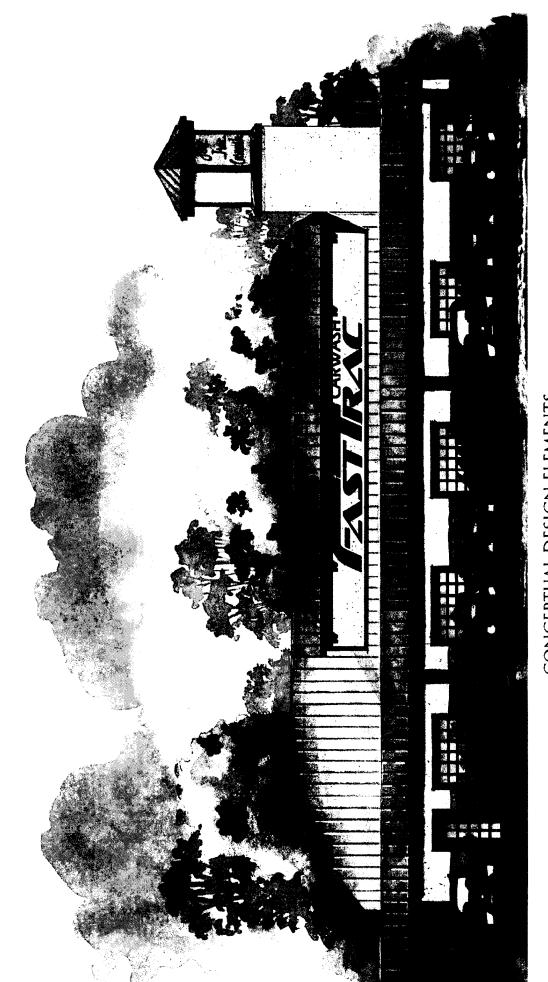
Judy Williams

Eric Jacobsen **East Cobb Civic Association** Linda Carver Terrell Mill Community Association









# CONCEPTUAL DESIGN ELEMENTS

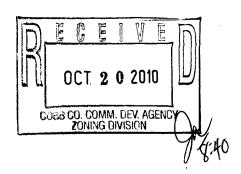
COBB CO. COMM. DEV. AGENCY ZONING DIVISION

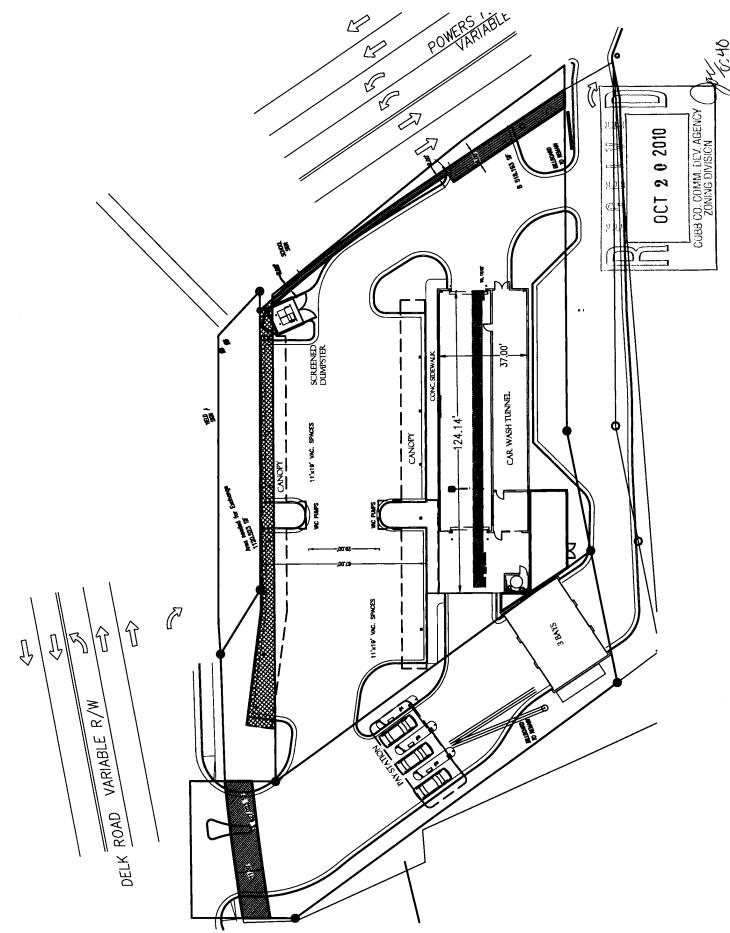


COBB CO. COMM. DEV. AGENCY ZONING DIVISION



Dumpster Enclosure





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