

**JULY 19, 2011 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM #2

PURPOSE

To consider a site plan and stipulation amendment for Smith Auto Spa Vinings, LLC regarding case SLUP-5 of 2005, for property located at the northwest intersection of Paces Ferry Road and Cumberland Parkway in Land Lot 842 of the 17th District.

BACKGROUND

The subject property is zoned GC with stipulations for a climate controlled self-service storage facility per a settlement of litigation agreement concerning SLUP-5 of 2005. The storage concept was for a four story building with a full basement that had four variances relating to building height, floor area ratio and setbacks. The climate controlled self-service storage facility development concept has been abandoned. The property owner has found a new use and would like to amend the stipulations to allow the construction of a high end carwash. The carwash proposal is two stories with a slight building setback variance (30 feet required to 25 feet proposed), a variance to increase the maximum impervious surface from 80% to 90%, and a variance to reduce the required number of parking spaces from 24 to 13 (although there are 36 parking spaces if queue parking spaces are counted). The Board of Commissioners' decision is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the site plan and stipulation amendment.

ATTACHMENTS

Current zoning stipulations (Exhibit A)
Proposed Site plan (Exhibit B)
Proposed building architecture (Exhibit C)
Other Business application (Exhibit D)

ORIGINAL DATE OF APPLICATION: _____ 03-15-05

APPLICANTS NAME: _____ ANNOX SELF STORAGE #1, LLC

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**

BOC DECISION OF 04-21-09 ZONING HEARING:

**OTHER BUSINESS ITEM #1 – TO CONSIDER A SETTLEMENT OF LITIGATION
PROPOSAL REGARDING SLUP-5 (ANNOX SELF STORAGE #1, LLC) OF MARCH
15, 2005**

To consider a Settlement of Litigation proposal regarding SLUP-5 (ANNOX SELF STORAGE #1, LLC) of March 15, 2005, for a Special Land Use Permit for the purpose of a Climate Controlled Self-Service Storage Facility in Land Lot 842 of the 17th District, located at the northwest intersection of Paces Ferry Road and Cumberland Parkway.

Mr. Rob Hosack, Director of Community Development, provided information regarding settlement of litigation proposal; reporting that a Special Land Use Permit was no longer required due to code amendments that now allow this as free standing use, and with the underlying GC zoning category permitting the use. The public hearing was opened, and Mr. Doug Dillard addressed the Board. After presentation and discussion, the following motion was made:

MOTION: Motion by Ott, second by Thompson, to **approve** Other Business Item #1 relative to Settlement of Litigation proposal regarding SLUP-5 (Annox Self Storage #1, LLC) of March 15, 2005, for property located at the northwest intersection of Paces Ferry Road and Cumberland Parkway, in Land Lot 842 of the 17th District, and **authorize** settlement of litigation regarding *Cobb Superior Court Civil Action File No. 06-1-2334-40* **subject to:**

- settlement agreement submitted by Mr. Doug Dillard dated April 13, 2009 *with the following change* (attached and made a part of these minutes):
 - Page No. 2 - Item No. 2 – to now read: *“Right-in/right-out only turning movements with respect to the Property’s point of ingress/egress on Cumberland Parkway as shown on site plan last revised 4-20-2009.”*
- District Commissioner may approve minor modifications
- departmental comments and recommendations, *not in conflict with the settlement agreement*, during the Plan Review process

VOTE: **ADOPTED** unanimously

Min. Bk.
Doc. Type

DILLARD & GALLOWAY, LLC

Meeting Date 4-21-2009

ATTORNEYS AT LAW

3500 LENOX ROAD, N.E.
SUITE 780
ATLANTA, GEORGIA
30326

G. DOUGLAS DILLARD

TELEPHONE
(404) 965-3680
FACSIMILE
(404) 965-3670

PAGE 14 OF

DIRECT DIAL NUMBER
(404) 965-3683

DOTTY@DANDGLAW.COM

April 13, 2009

VIA FACSIMILE AND ELECTRONIC MAIL

Mr. Mark Danneman, Zoning Division Manager
Cobb County Government Building
Zoning Division
100 Cherokee Street
Marietta, GA 30090

Re: Annox Self Storage #1, LLC v. Cobb County, et al., Superior Court of Cobb County,
Civil Action File No. 06-1-2334-99

Dear Mark:

Per our conversation earlier today, please accept the following stipulations which are submitted in compromise and settlement of the above-referenced lawsuit. It is our understanding that the Cobb County Board of Commissioners ("Board") will consider, pursuant to a Consent Remand from the Superior Court of Cobb County, our client's request to allow a Climate Controlled Self-Storage Facility at its property located at the intersection of Paces Ferry Road and Cumberland Parkway (the "Property").

As you know, the Property is already zoned to the General Commercial ("GC") zoning classification, which allows Climate Controlled Self-Storage Facilities as a permitted use. Specifically, our client seeks to develop the Property in accordance with the Site Plan, attached hereto as Exhibit "A," which will require (1) an increase in the allowable Floor Area Ratio ("FAR") to 2.261; (2) a rear yard setback reduction from 30 to 10 feet; (3) a side yard setback reduction from 10 to 5 feet; and (4) an increase in allowable height from 2 stories to 4 stories and a basement. It is our understanding that the Board has the authority to approve these site-specific conditions pursuant to Cobb County Zoning Ordinance § 134-124. As you may know, there is precedent in this district for similar requests involving Climate Controlled Self-Storage Facilities, most notably the Cooke Enterprises rezoning on Windy Hill Road that was approved by the Board on September 16, 2008. Provided that the Property is approved for development in accordance with the attached Site Plan, our client will dismiss the above-referenced lawsuit with prejudice, including any claims for damages against the County.

In addition, our client is willing to abide by the following stipulations which shall become conditions of the Board's approval of the attached site plan, and binding upon the Property thereafter:

Mark Danneman, Zoning Division Manager
April 13, 2009

Petition No. 6
Meeting Date
Continued

July 19, 2011
Exhibit "A"
Other Business Item 02

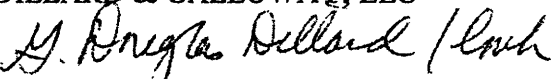
1. The Property shall be developed substantially in accordance with the Site Plan for Dunwoody Self Storage II, prepared by Travis Pruitt & Associates, Inc., attached hereto as Exhibit "A," which reflects a 92,200 square foot Climate Controlled Self-Storage Facility.
2. Right-in/right-out only turning movements with respect to the Property's point of ingress/egress on Cumberland Parkway as shown on Exhibit "A."
3. The architectural style and composition shall be consistent with the rendering prepared by Smallwood, Reynolds, Stewart, Stewart & Associates, attached hereto as Exhibit "B."
4. Use of the Property shall be limited to a Climate Controlled Self-Storage Facility with the exclusion of all other permitted uses under the GC zoning classification.
5. The hours of operation shall be from 9:00 a.m. until 6:00 p.m. Monday through Saturday and 1:00 p.m. until 6:00 p.m. on Sunday.
6. The Applicant shall comply with recommendations from the Stormwater Management Division and provide underground detention on the site.
7. Utilization of low-intensity, environmental-type lighting.
8. The submission of a landscape plan during the Plan Review process subject to the Arborist's review and approval. Additionally, all mechanical equipment and dumpsters shall be screened from view of the adjoining properties and rights-of-way.

As you know, the Property is located within the Cumberland/Galleria Regional Activity Center (RAC) and within a sub-area of the RAC specifically designated for retail services. Moreover, the Property is positioned directly adjacent to major transit corridors and offers a compelling architectural feature at a major signalized intersection, which serves as the gateway to Vinings Village and the Cumberland /Galleria Regional Activity Center.

Please do not hesitate to contact me should you require any additional information prior to consideration of this proposal by the Board of Commissioners.

Regards,

DILLARD & GALLOWAY, LLC


G. Douglas Dillard

LMH

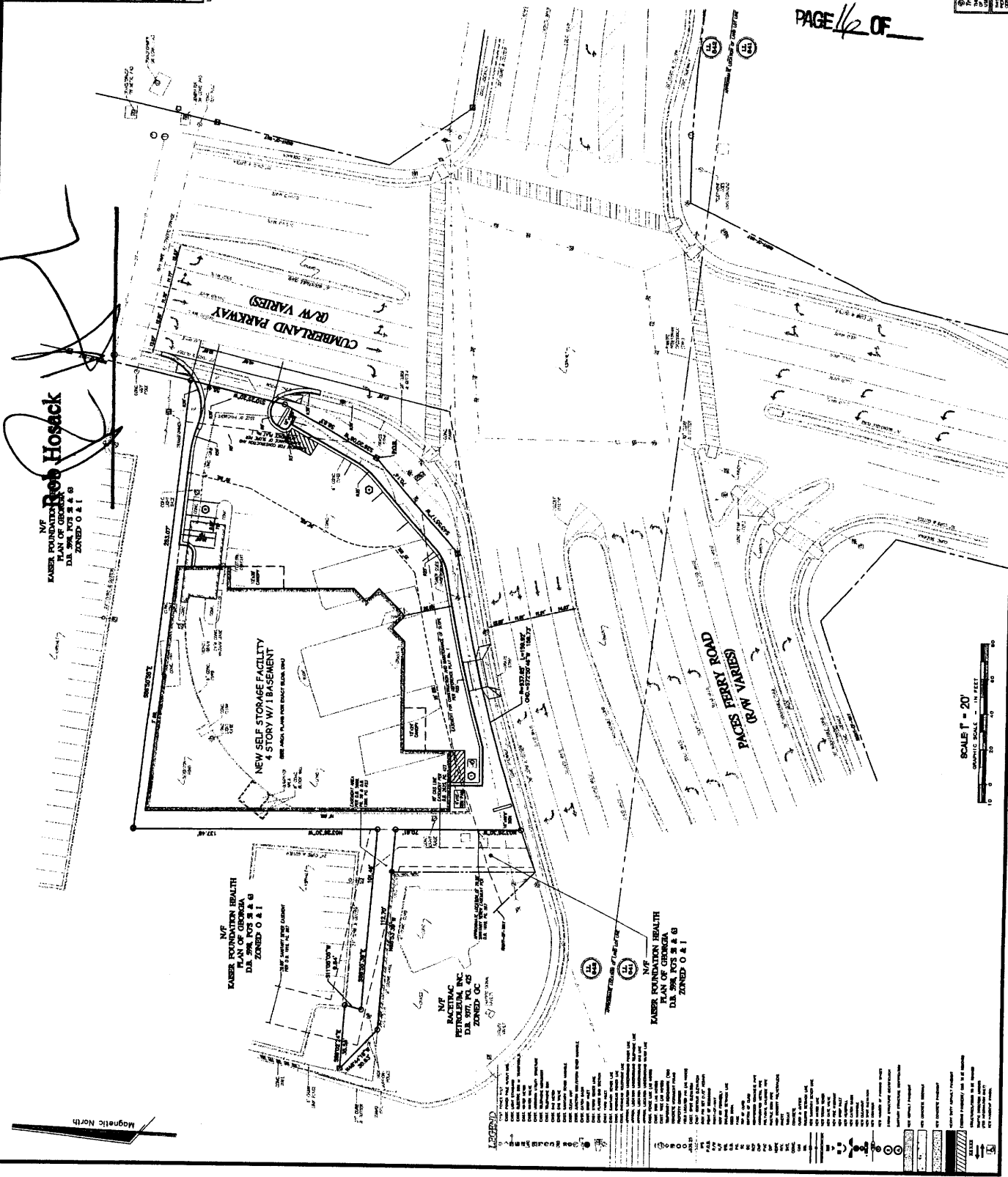
cc: Tom Linder

Kensel due 0 am 7-1-11

NO.	DATE	REVISION
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LAND LOT 842, 17th DISTRICT, 2ND SECTION
 17th DISTRICT, 2ND SECTION
 LAND LOT 842
 ODY SELF STORAGE II
 SITE PLAN FOR:



Petition No. OB#1: SLLIP-5 of 2005
 Meeting Date 4-21-2009
 Continued

PAGE 16 OF

SITE ADDRESS:
 8775 PACE FERRY ROAD SE
 ATLANTA, GA 30339
SITE TOWNSHIP:
 17TH DISTRICT, 2ND SECTION
PROPOSED BUILDING SETBACK LINES:
 FRONT SETBACK: 10 FT
 SIDE SETBACK: 5 FT
 REAR SETBACK: 10 FT
PROPOSED BUILDING SUMMARY:
 NUMBER OF BUILDINGS: 1
 NUMBER OF FLOORS: 4
 TOTAL FLOOR AREA: 1,000,000 SQ FT
PROPOSED PARKING:
 TOTAL SPACES: 100
VARIANCES:
 1. VARIANCE FROM ZONING ORDINANCE SECTION 17-10-101 (MINIMUM FRONT SETBACK) TO 10 FEET.
 2. VARIANCE FROM ZONING ORDINANCE SECTION 17-10-102 (MINIMUM SIDE SETBACK) TO 5 FEET.
 3. VARIANCE FROM ZONING ORDINANCE SECTION 17-10-103 (MINIMUM REAR SETBACK) TO 10 FEET.

NF
 KAISER FOUNDATION HEALTH
 PLAN OF GEORGIA
 DLA 294, POS 2 & 3
 ZONED O & I

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 KAISER FOUNDATION HEALTH
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 DLA 294, POS 2 & 3
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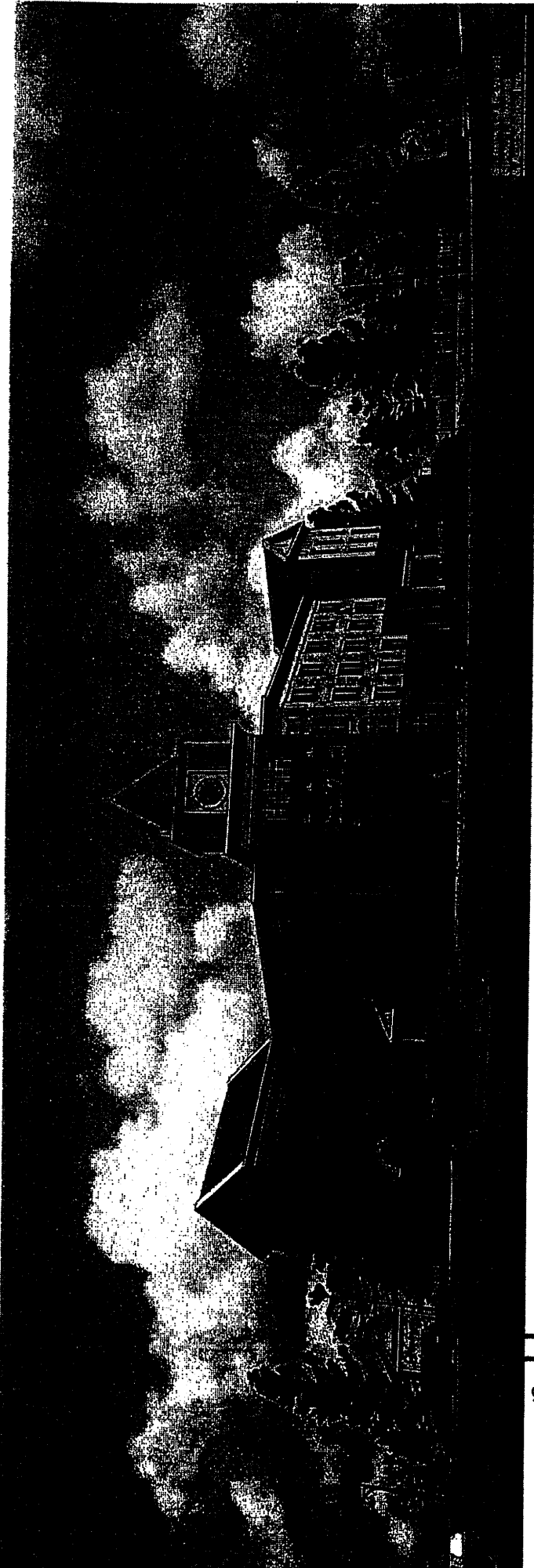
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 DLA 294, POS 2 & 3
 ZONED O & I

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 KAISER FOUNDATION HEALTH
 PLAN OF GEORGIA
 DLA 294, POS 2 & 3
 ZONED O & I

SCALE 1" = 20'
 GRAPHIC SCALE - 1/4" FEET

Professional Engineer Seal and other regulatory stamps.

EXHIBIT
"B"

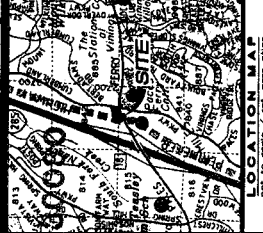


Petition No. OB #1:sup-5
Meeting Date 4-21-09
Continued

CACTUS CARWASH - VININGS

ZONING SITE PLAN

NO.	DATE	DESCRIPTION	BY
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OWNER/DEVELOPER
SMITH AUTO SPA
 4800 INDEPENDENCE RD. SUITE B
 ATLANTA, GA 30349
 ATLANTA, GA 30349
 404-848-4467
 404-848-4467

SITE ADDRESS:
 2837 PACES FERRY ROAD SE, ATLANTA, GA 30339

SITE AREA:
 0.14 ACRES
 46,777 SF.

SITE ZONING: GC

PROPOSED BUILDING SETBACK LINES:
 FRONT YARD: 50 FEET
 SIDE YARD: 10 FEET
 REAR YARD: 25 FEET

BUILDING SUMMARY:

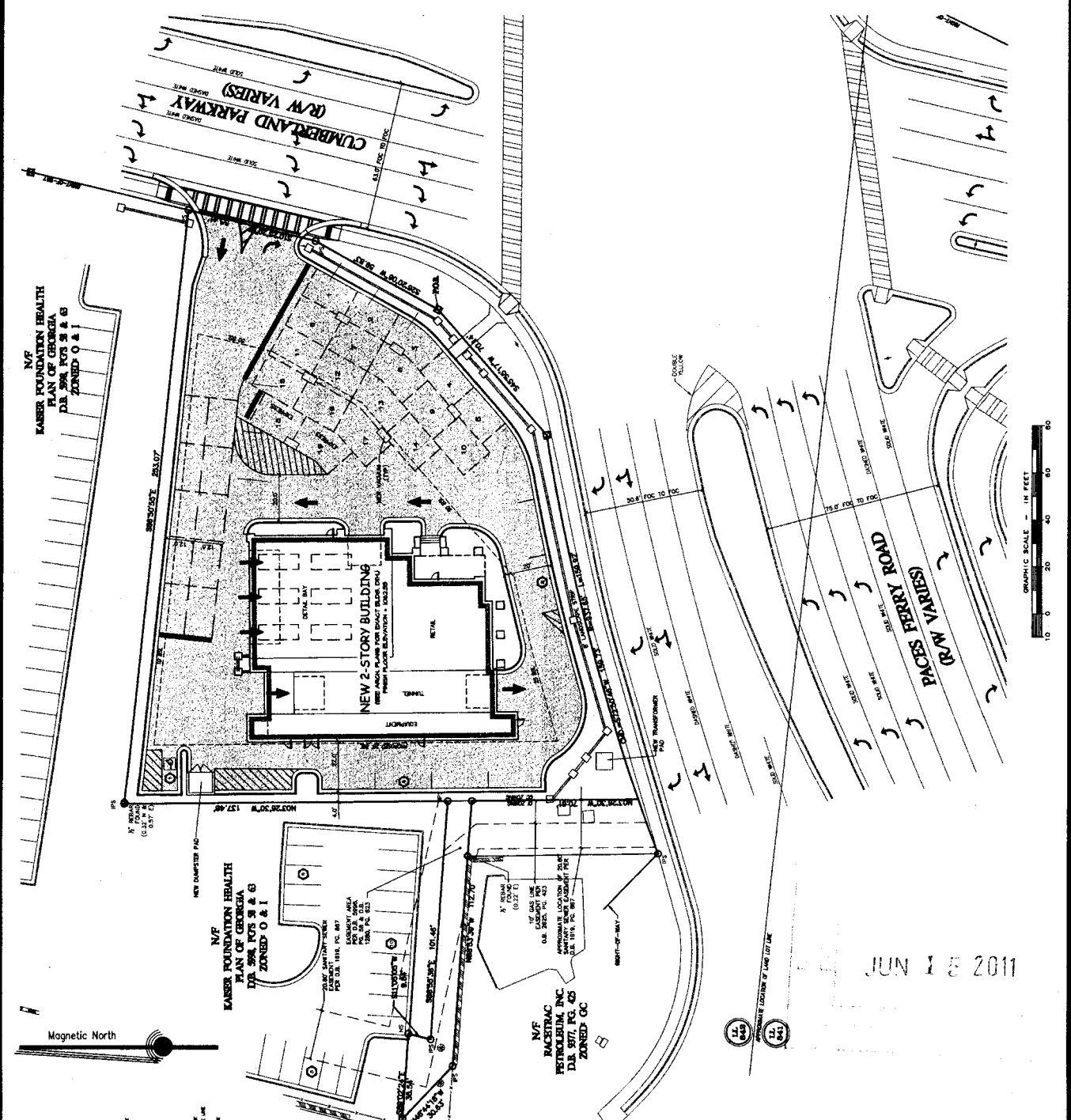
FLOOR	USE	SQUARE FOOTAGE
1ST FLOOR	RETAIL BAY EQUIPMENT ROOM TUNNEL RETAIL	1,018 SF. 1,704 SF. 1,704 SF. 2,109 SF.
2ND FLOOR	OFFICES	2,843 SF.
TOTAL	GRAND TOTAL	6,374 SF.

PARKING SUMMARY:

TYPE	REQUIREMENT	PROVIDED
REGULAR PARKING	21	12
HANDICAPPED PARKING	7	1
TOTAL	28	13

VARIANCES:
 1. PARKING COVERAGE FROM 28% TO 12%
 2. PARKING REDUCTION TO 12 SPACES

NOTES:
 1. THIS PROPERTY DOES NOT USE SEWER. A 100' DRAIN FLOOD CONTROL SYSTEM IS IN PLACE ON THE EAST ALLEY.
 2. THE PROPOSED BUILDING IS TO BE CONSTRUCTED ON THE EXISTING LOT.
 3. THE PROPOSED BUILDING IS TO BE CONSTRUCTED ON THE EXISTING LOT.
 4. THE PROPOSED BUILDING IS TO BE CONSTRUCTED ON THE EXISTING LOT.
 5. THERE ARE NO BREW BUFFERS ON THIS SITE.



JUN 15 2011

LEGEND

[Symbol]	EXISTING BUILDING
[Symbol]	PROPOSED BUILDING
[Symbol]	EXISTING PARKING
[Symbol]	PROPOSED PARKING
[Symbol]	EXISTING DRIVEWAY
[Symbol]	PROPOSED DRIVEWAY
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[Symbol]	PROPOSED SIDEWALK
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[Symbol]	EXISTING STREET LIGHT
[Symbol]	PROPOSED STREET LIGHT
[Symbol]	EXISTING UTILITY
[Symbol]	PROPOSED UTILITY
[Symbol]	EXISTING FENCE
[Symbol]	PROPOSED FENCE
[Symbol]	EXISTING TREE
[Symbol]	PROPOSED TREE
[Symbol]	EXISTING LANDSCAPE
[Symbol]	PROPOSED LANDSCAPE
[Symbol]	EXISTING SIGN
[Symbol]	PROPOSED SIGN
[Symbol]	EXISTING DRIVE
[Symbol]	PROPOSED DRIVE
[Symbol]	EXISTING SIDEWALK
[Symbol]	PROPOSED SIDEWALK
[Symbol]	EXISTING CURB
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[Symbol]	EXISTING TREE
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[Symbol]	EXISTING LANDSCAPE
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[Symbol]	EXISTING DRIVE
[Symbol]	PROPOSED DRIVE

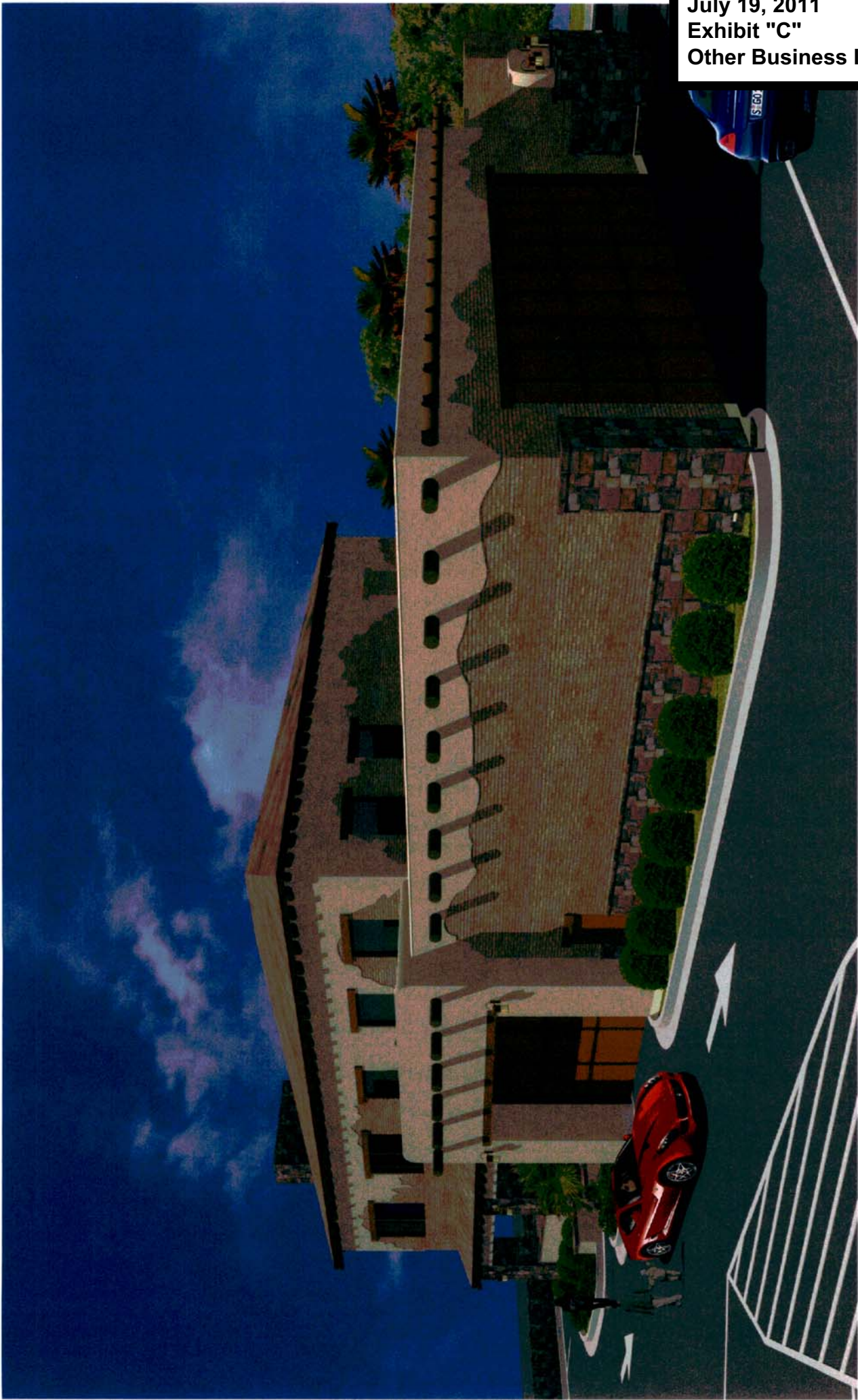




July 19, 2011
Exhibit "C"
Other Business Item 02



July 19, 2011
Exhibit "C"
Other Business Item 02



July 19, 2011
Exhibit "D"
Other Business Item 02

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 07/19/11

Applicant: Smith Auto Spa Vinings, LLC d/b/a Cactus Carwash Phone #: (770) 964-6988
(applicant's name printed)

Address: 4690 Thompson Road, Suite B, Atlanta, GA 30349 E-Mail: natesmith@mindspring.com

SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100

Garvis L. Sams, Jr. Address: Marietta, GA 30064

(representative's name, printed)

[Signature] Phone #: (770) 422-7016 E-Mail: gsams@samslarkinhuff.com

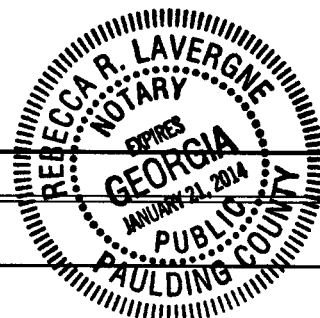
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]

Notary Public

My commission expires: _____



Titleholder(s) SEE ATTACHED Phone #: _____
(property owner's name, printed)

Address _____ **E-Mail:** _____

(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public

My commission expires: _____

ZONED "GC" sep

Commission District: 2 **Zoning Case:** No. Z-35 (2005) & No. SLUP-05 (2005)

Date of Zoning Decision: April 21, 2009 **Original Date of Hearing:** February 21, 2006

Location: Northwest quadrant of the intersection of Paces Ferry Road and Cumberland Parkway
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 842 **District(s):** 17

State specifically the need or reason(s) for Other Business: For the District Commissioner to approve minor modifications to the site plan reducing the height and size of the proposed building; to change the use from Climate Controlled Self Service Storage Facility to high end carwash facility; and, to modify the architectural style and composition of the proposed building.

(List or attach additional information if needed)

ATTACHMENT TO APPLICATION FOR OTHER BUSINESS AGENDA ITEM

Application No.: _____

Hearing Date: 7/19/11

Applicant: Smith Auto Spa Vinings, LLC d/b/a Cactus Carwash

Titleholders: Annox Self Storage # 1, LLC

Annox Self Storage # 1, LLC

By: Tom Linder
Tom Linder

Address: 1105 Mount Vernon Highway

Sandy Springs, GA 30328

Telephone No.: (404) 272-2518

Signed, sealed and delivered
in the presence of:

Rebecca R. Lavergne

Notary Public

Commission Expires: 1/21/14

(Notary Seal)

