

Z-23
(2014)

**EcoWise Civil Design
and Consulting, Inc.**
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(916) 932-3000 FAX (916) 932-3021
WWW.ECOWISECD.COM

FAIRVIEW STREET
TRACT
Troix Properties, LLC

SCALE: 1" = 40'
DATE: MARCH
PROJECT: 14008-00

REVISIONS	
NO.	DATE

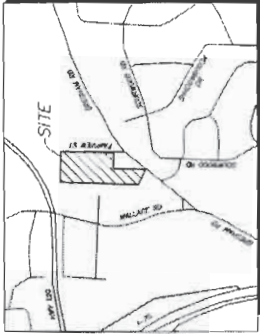
THIS PLAN, SPECIFICATIONS, CONTRACT DOCUMENTS AND SCHEDULES SHALL BE THE ONLY BASIS FOR CONSTRUCTION.



COPY TO BE FILED WITH THE CITY ENGINEER
FOR REVIEW AND APPROVAL OF THE CITY ENGINEER

**CONCEPTUAL
SITE PLAN**
S1

SHEET TITLE AND NUMBER

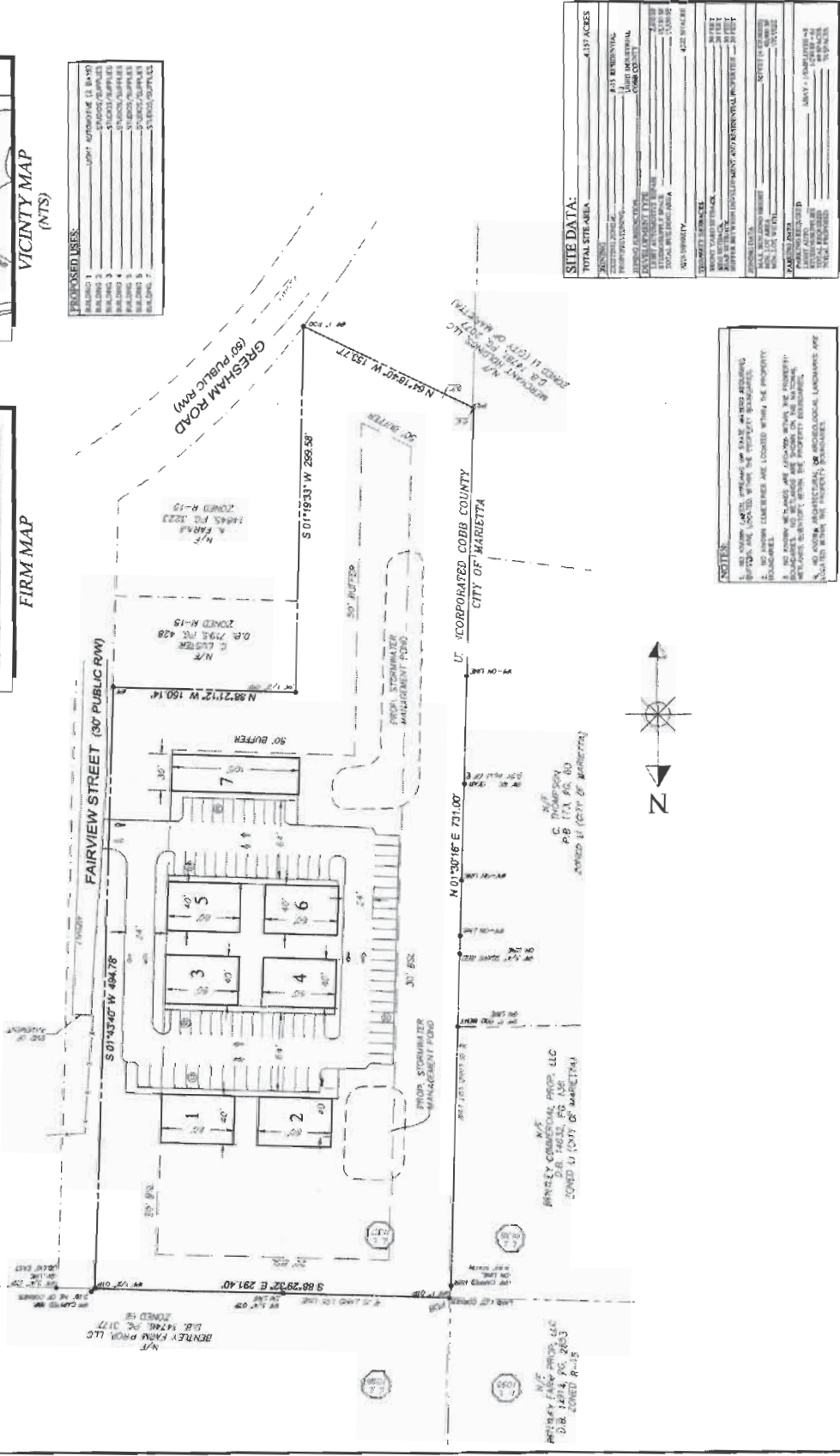


**VICINITY MAP
(NTS)**



FIRM MAP

PROPOSED USES:



NOTES:

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY ENGINEER'S APPROVED AND LOANED WITHIN THE PROPERTY BOUNDARIES.
2. ALL EXISTING UTILITIES ARE SHOWN WITHIN THE PROPERTY BOUNDARIES AND SHALL BE DELETED BY THE PROPERTY OWNER BEFORE CONSTRUCTION.
3. ALL ADJACENT PROPERTY OWNERS SHALL BE ADVISED OF THE PROJECT INFORMATION AND SHALL BE REQUIRED TO SIGN AND RETURN TO THE PROPERTY OWNER.
4. ALL ADJACENT PROPERTY OWNERS SHALL BE REQUIRED TO SIGN AND RETURN TO THE PROPERTY OWNER.

SITE DATA:	
TOTAL SITE AREA:	4.17 ACRES
ZONING:	
PROPOSED ZONING:	
PROPOSED DEVELOPMENT:	
DEVELOPMENT TYPE:	
DEVELOPMENT AREA:	
SOCIAL INFRASTRUCTURE:	
NEW UTILITY:	
EXISTING UTILITY:	

COBB COUNTY SEARCHED
FILED IN OFFICE
2014 MAR -6 PM 2:09
COBB COUNTY ZONING DIVISION

APPLICANT: Troix Properties, LLC
(678) 463-8520

REPRESENTATIVE: Ellen W. Smith (770) 661-1216
Holt Ney Zatcoff & Wasserman

TITLEHOLDER: Providence Bank

PROPERTY LOCATION: West side of Fairview Street, and on the
north side of Gresham Road
(108 and 409 Fairview Street and two other parcels).

ACCESS TO PROPERTY: Fairview Street

PHYSICAL CHARACTERISTICS TO SITE: Unimproved, wooded
acreage

PETITION NO: Z-23

HEARING DATE (PC): 05-06-14

HEARING DATE (BOC): 05-20-14

PRESENT ZONING: R-15, R-20

PROPOSED ZONING: LI

PROPOSED USE: Warehouse And
Related Uses

SIZE OF TRACT: 4.175 acres

DISTRICT: 16

LAND LOT(S): 1137

PARCEL(S): 8, 9, 10, 11

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** HI/Undeveloped
- SOUTH:** R-20/Undeveloped
- EAST:** R-20/Undeveloped/Single-family house and O&I/Cable Company Warehouse
- WEST:** Marietta and R-20/Used as commercial

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

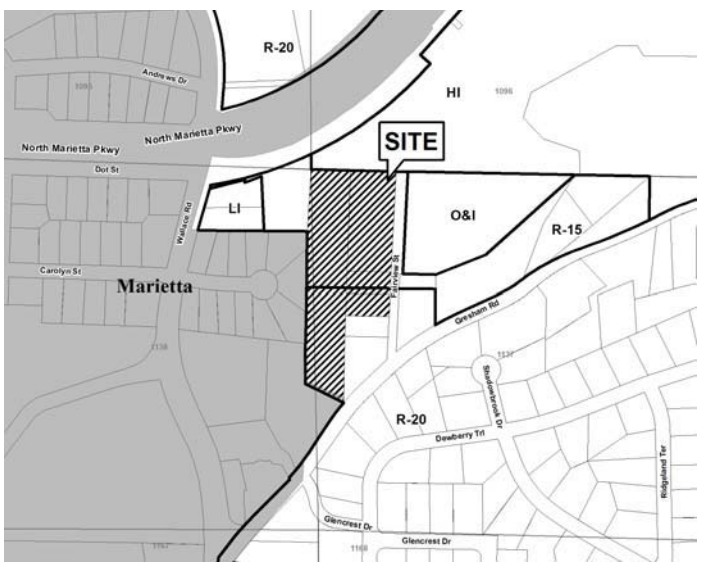
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

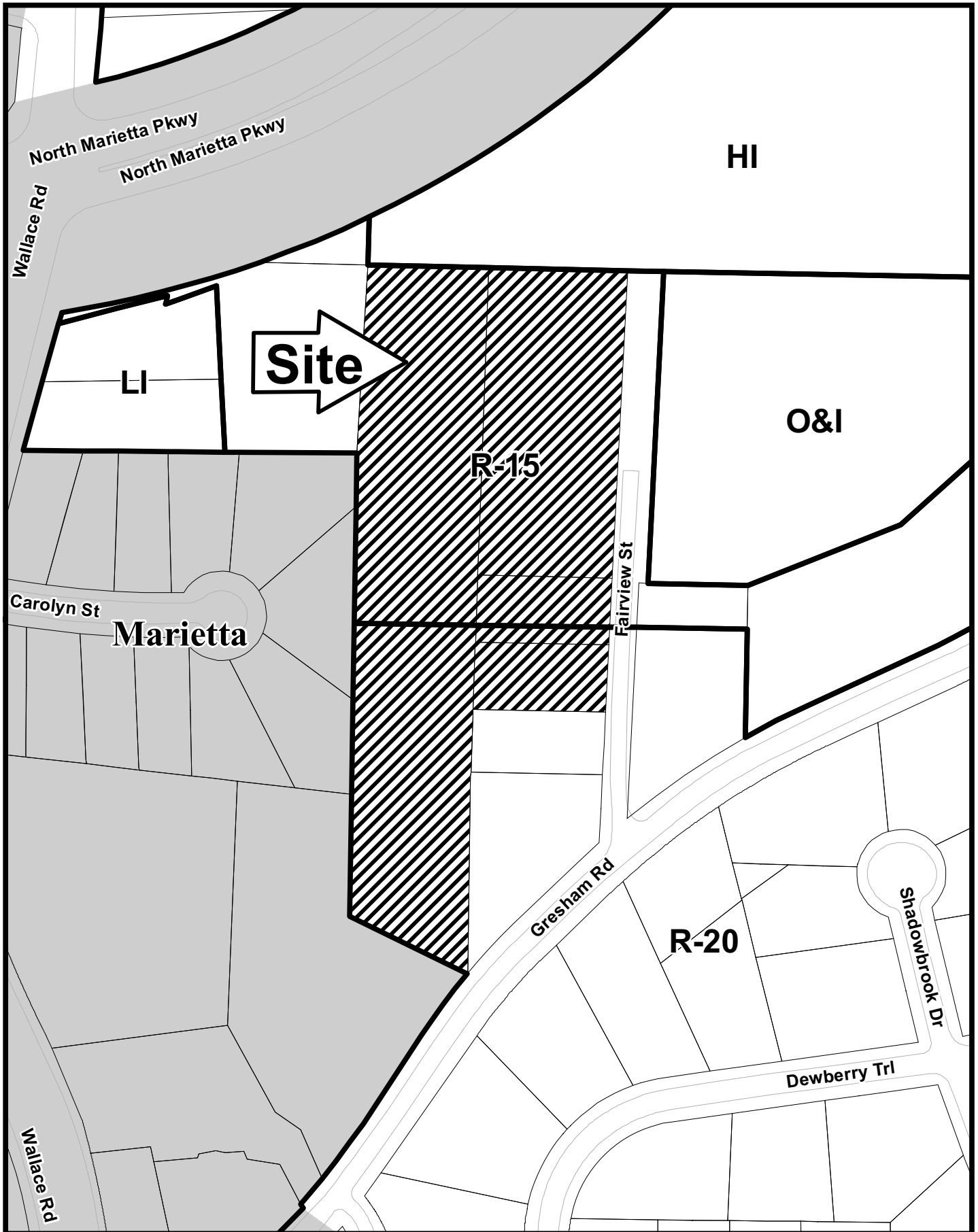
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

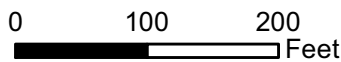
STIPULATIONS:



Z-23



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



City Boundary
Zoning Boundary

APPLICANT: Troix Properties, LLC

PETITION NO.: Z-23

PRESENT ZONING: R-15

PETITION FOR: LI

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Industrial Compatible (IC)

Proposed Number of Buildings: 7 **Total Square Footage of Development:** 17,550

F.A.R.: 0.096 **Square Footage/Acre:** 4,221.79

Parking Spaces Required: 69 **Parking Spaces Provided:** 74

Applicant is requesting the Light Industrial (LI) zoning category for the purpose of developing the property for a warehouse (for landscaping design and installation business with a two-bay repair garage) and related uses. The immediate use will be for the landscaping design and installation business with its garage (in what is depicted as Buildings 5 and 7 on the attached site plan, and the remainder of the development taking place later for uses generally permitted in the LI zoning category (but expressly excluding paint or body repair shops).

Cemetery Preservation: No comment.

FIRE COMMENTS:

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

APPLICANT: Troix Properties, LLC

PETITION NO.: Z-23

PRESENT ZONING: R-15

PETITION FOR: LI

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 and R-15 to LI for warehouse and retail use. The 4.175 acre site is located on the west side of Fairview Street, and on the north side of Gresham Road.

Comprehensive Plan

The parcel is within the Industrial Compatible (IC) future land use category, with R-20 and R-15 zoning designations. The purpose of Industrial Compatible (IC) category is to provide for areas that can support light industrial, office /warehouse, and distribution uses. Typical land uses for these areas include professional business parks and distribution centers.

Master Plan/Corridor Study

Not applicable.

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

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

If yes, design guidelines area _____

Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone? Yes No

The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone? Yes No

The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?

Yes No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes No

APPLICANT Troix Properties LLC

PETITION NO. Z-023

PRESENT ZONING R-15

PETITION FOR LI

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): Gresham Road (Marietta Service Area)

Additional Comments: Water main extension to be reviewed/approved by Marietta Water

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS: 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: +/- 200' in Carolyn Street (Marietta Service Area)

Estimated Waste Generation (in G.P.D.): A D F= 702 Peak= 1755

Treatment Plant: Sutton

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years

Drv Sewers Required: Yes No

Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required: Yes No

Letter of Allocation issued: Yes No

Septic Tank Recommended by this Department: Yes No

Subject to Health Department Approval: Yes No

Additional Sewer main extension to be reviewed/approved by Marietta Water Comments:

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.

APPLICANT: Troix Properties, LLC

PETITION NO.: Z-23

PRESENT ZONING: R-15, R-20

PETITION FOR: LI

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Sope Creek 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 /drainage easement(s) 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: Troix Properties, LLC

PETITION NO.: Z-23

PRESENT ZONING: R-15, R-20

PETITION FOR: LI

STORMWATER MANAGEMENT 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. The existing site is undeveloped and heavily wooded. Slopes vary from approximately 5% near the Fairview Street access to 25% for much of the northern portion of the site. The site drains to the north and west. There is no existing stormwater conveyance to receive concentrated discharge from this site. This will need to be addressed in Plan Review.
2. Due to the steep slopes that exist on the northern portion of the site, retaining walls and drop foundations will likely be required to limit land disturbance.

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
Fairview Street	N/A	Local	25 mph	Cobb County	50'

*Based on 2008 traffic counting data taken by Cobb County DOT (Cobb Parkway)
Based on 2010 traffic counting data taken by Cobb County DOT (Old 41 Highway)*

COMMENTS AND OBSERVATIONS

Fairview Street is classified as a local and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the west side of Fairview Street, a minimum of 25' from the roadway centerline.

Fairview Street is a substandard roadway. Recommend Fairview Street be brought up to the current standard from Gresham Road to the proposed development driveway.

Recommend curb and gutter along the Fairview Street frontage.

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

STAFF RECOMMENDATIONS

Z-23 TROIX PROPERTIES, 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. Other properties in this area (in the City of Marietta and Cobb County) are uses for warehouse and industrial 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. Many of the properties in the area are zoned O&I, HI, LI, R-15 and R-20. Some of the older residentially zoned properties are actually used for commercial purposes.
- 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 the Industrial Compatible (IC) land use category. The proposed LI zoning category is compatible with IC. Nearby properties include a poultry plan, landscape business and a warehouse/storage facility for a cable company.
- 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. Many of the properties in the area, including older, former single-family houses have been developed for industrial and industrial compatible uses.

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

- Site Plan received by the Zoning Division on March 6, 2014, with the District Commissioner approving minor modifications;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation 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.

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2014 MAR -6 PM 2:09
COBB COUNTY ZONING DIVISION



Application #: 7-23
PC Hearing Date: 5-6-14
BOC Hearing Date: 5-20-14

Summary of Intent for Rezoning

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

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

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

- a) Proposed use(s): Small Warehouse including landscaping, storage, automotive service and repair, warehouse and storage
- b) Proposed building architecture: see attached site plan - metal building
- c) Proposed hours/days of operation: Typical ~~max~~
- d) List all requested variances: N/A

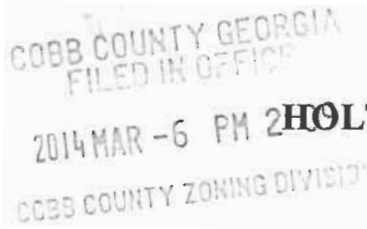
.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

See attached

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?
(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). N/A

.....
Part 5. Is this application a result of a Code Enforcement action? No X; Yes ____ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

TROIX PROPERTIES, LLC
By: [Signature] Date: 3-6-14
Applicant signature: _____
Applicant name (printed): Travis H. Smith, Manager



HOLT NEY ZATCOFF & WASSERMAN, LLP

ATTORNEYS AT LAW

100 GALLERIA PARKWAY, SUITE 1800

ATLANTA, GEORGIA 30339-5960

TELEPHONE 770-956-9600 FACSIMILE 770-956-1490

Ellen W. Smith

e-mail esmith@hnzw.com

March 6, 2014

BY HAND DELIVERY

Zoning Division
Community Development Agency
Cobb County, Georgia
1150 Powder Springs Street
Suite 400
Marietta, Georgia 30064

SUMMARY OF INTENT

Re: Application for Rezoning, Cobb County, Georgia (“*Application*”) by Troix Properties, LLC with respect to that certain approximately 4.1-acre property commonly known as 108 Fairview Street, 409 Fairview Street, plus two additional parcels near the intersection of Fairview Street and Gresham Avenue (collectively, the “*Property*”)

Ladies and Gentlemen:

This law firm has the pleasure of representing Troix Properties, LLC, the Applicant with respect to the referenced Application. Applicant respectfully submits for consideration the Application, seeking the rezoning of the Property from R-15 to LI, the approval of which will allow Applicant to construct a small industrial park on the Property.

Background – The Property

The Property is an assemblage of four tax parcels with a combined total of approximately 4.1-acres with frontage on Fairview Street (also shown on some GIS maps as Fairview Avenue) and touching Gresham Road. The Property is currently zoned R-15 and, although many decades ago there was at least one single family residence on the Property, the Property currently is unimproved. The Property is bounded on the north by property zoned heavy industrial (and abutting the North 120 Loop), on the east by property zoned O&I which is owned and used as warehouse and parking for Comcast, and on the west by property that is zoned light industrial and City of Marietta property zoned light industrial. The property located immediately to the south is zoned R-15 and occupied by a single family residence, but the entire character of the area has been trending towards light and heavy industrial for many years (particularly in light of

HOLT NEY ZATCOFF & WASSERMAN, LLP

Zoning Division
Community Development Agency
Cobb County, Georgia
March 6, 2014
Page 2

the Tip Top Poultry processing plant that is just southwest of the Property on Gresham Road). The Property was foreclosed upon by the current owner, Providence Bank (“**Owner**”) in 2011, and has remained vacant and unused for many years.

Proposed Rezoning

Applicant has entered into a contract with Owner to purchase the Property. Troix Properties, LLC is a limited liability company whose members are long time Cobb County residents and small business owners who need light industrial warehousing and shop space. Particularly, Applicant envisions a phased small industrial park that would accommodate their own businesses (a mechanic’s garage with a two-bay garage and a landscaping design and installation business), as well as additional small business tenants they may lease space to from time to time.

As more particularly shown on the site plan filed herewith, Applicant is proposing several small buildings on the Property with uses generally permitted in the LI zoning district.¹ These would include automotive repair and maintenance (but expressly excluding paint or body repair shops), warehouse and storage, and other permitted uses within the LI district regulations.

¹ Applicant notifies Cobb County of its constitutional concerns with respect to its Application. If the Board denies the Application in whole or in part, then the Property does not have a reasonable economic use under Chapter 134 of the Official Code of Cobb County, Georgia, as amended from time to time (the “**Zoning Ordinance**”). Moreover, the Application meets the test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government’s police power. *See Guhl vs. Holcomb Bridge Road*, 238 Ga. 322 (1977). If the Cobb County Board of Commissioners (the “**Board**”) denies the Application in whole or in part, such an action will deprive Owner and Applicant of the ability to use the Property in accordance with its highest and best use. Similarly, if the Board rezones the Property to some classification other than the LI zoning district without Applicant’s consent, or if the Board limits its approval by attaching conditions to such approval affecting the Property or the use thereof without Owner’s consent, then such approval would deprive Owner and Applicant of any reasonable use and development of the Property. Any such action is unconstitutional and will result in a taking of property rights in violation of the just compensation clause of the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 3, para. 1(a)*), and the just compensation clause of the Fifth Amendment to the United States Constitution (*see U.S. Const. Amend. 5*). To the extent that the Zoning Ordinance allows such an action by the Board, the Zoning Ordinance is unconstitutional. Any such denial or conditional approval would discriminate between Owner and Applicant and owners of similarly situated property in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of Article I, Section I, Paragraph 2 of the Georgia Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Finally, a failure to grant the Application or a conditional approval of the Application (with conditions not expressly approved by Applicant) would constitute a gross abuse of discretion and would constitute an unconstitutional violation of Applicant’s rights to substantive and procedural due process as guaranteed by the Georgia Constitution (*see Ga. Const. 1983, Art. I, § 1, para. 1*) and the Fifth and Fourteenth Amendments of the United States Constitution (*see U.S. Const. Amend. 5 and 14*). Applicant further challenges the constitutionality and enforceability of the Zoning Ordinance, in whole and in relevant part, for lack of objective standards, guidelines or criteria limiting the Board’s discretion in considering or deciding applications for rezonings. Applicant remains optimistic that Cobb County’s consideration of the Application will be conducted in a constitutional manner.

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Zoning Division
Community Development Agency
Cobb County, Georgia
March 6, 2014
Page 3

Applicant would phase the construction, commencing with the buildings identified as Buildings 5 and 7 on the site plan. Applicant is proposing no concurrent variances.

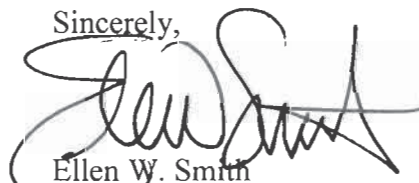
Application Requirements

Section 134-121 of the Zoning Ordinance sets forth the various requirements applicable to requests for rezonings, some of which are addressed above and the remainder of which are addressed in supporting documents. Specifically, in support of the Application, Applicant submits the following documents:

- (1) Original notarized signatures of Owner, Applicant and representative;
- (2) Copy of the Deeds Under Power of Sale evidencing Providence Bank as the owner of the Property;
- (3) Metes and bounds legal description of the Property;
- (4) Copy of the paid tax receipts;
- (5) Copy of current boundary survey depicting all required items;
- (6) Site Plan reflecting proposed improvements;
- (7) Zoning Application Disclosure forms;
- (8) Documented Impact Analysis;
- (9) Application Fee (\$1,000);
- (10) Signage Fee (\$309); and
- (11) This Summary of Intent.

The Application, this letter and accompanying documents support Applicant's request for rezoning, and Applicant respectfully requests that the Zoning Division recommend approval of the Application to the Board. Applicant is happy to answer questions or provide any additional information that the Zoning Division may have with regard to this Application.

Sincerely,



Ellen W. Smith

For Holt Ney Zatcoff & Wasserman, LLP

EWS/ews

cc: Mr. Travis H. Smith
Mr. Bryan LaCroix
(both by e-mail only)

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COBB COUNTY ZONING DIVISION

HOLT NEY ZATCOFF & WASSERMAN, LLP

ATTORNEYS AT LAW

100 GALLERIA PARKWAY, SUITE 1800
ATLANTA, GEORGIA 30339-5960

TELEPHONE 770-956-9600 FACSIMILE 770-956-1490

Re: Application for Rezoning
Applicant: Troix Properties, LLC
Property: Fairview Street at Gresham Road

DOCUMENTED IMPACT ANALYSIS OF ZONING STANDARDS IN SUPPORT OF TROIX PROPERTIES, LLC'S REZONING APPLICATION

Section 134-121(a)(7) of the Zoning Ordinance¹ and O.G.C.A. § 36-67-3 require the Board to consider six general lines of inquiry when attempting to balance the general public's interests in health, safety, morality, and general welfare against the private interest of a property owner in the process of deciding whether to grant or deny a rezoning application. Applying these six guideposts to the Application shows that the Property should be rezoned to LI and the Board should GRANT the Application.

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent or nearby property.

If the Board's zoning decision is to grant the Application, such decision will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property lies within an area of the County that is designated as either Industrial Compatible or Industrial (it is extremely difficult to tell) on the Future Land Use Map to the Cobb County Comprehensive Plan as amended through 2011 (the "**FLUM**"). So, despite the fact that there are adjacent properties zoned R-15 and R-20 to the south of the Property, all of these share the same industrial designation on the FLUM. Accordingly, a decision to grant the Application and rezone the Property to LI would be entirely consistent with and suitable in view of the surrounding uses and intention of the County as shown on the FLUM.

However, if the Board's zoning decision is to deny the Application, such decision would ensure that the Property will remain vacant and unusable for the foreseeable future.

2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

If the Board grants the Application, then the zoning decision will not adversely affect the existing use or usability of adjacent or nearby property. There is significant buffering proposed between the buildings on the Property and the adjacent residential neighbor. The Application meets or exceeds all of the existing LI zoning requirements and will ensure that already existing buffers are maintained.

¹Capitalized terms not otherwise defined in this Analysis shall have the meanings ascribed to them in the Statement submitted by Troix Properties, LLC with its Application.

HOLT NEY ZATCOFF & WASSERMAN, LLP

Documented Impact Analysis of Zoning Standards in Support of
Troix Properties, LLC
March 6, 2014
Page 2

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Given the nature of the surrounding industrial and office uses, and overall character of the area, the Property does not have a reasonable economic use as currently zoned. This is evidenced by the fact that any existing residential structure on the Property has long since been demolished and removed and the Property has sat unoccupied for many, many years. This is also evidenced by the fact that Providence Bank has had the Property on the market for sale post-foreclosure for almost 3 years, with no buyers proposing to use the Property for single family residence(s).

The sole offer that the Owner has entertained since it obtained ownership of the Property in 2011, is Applicant's offer to purchase the Property for the installation and operation of a small industrial / warehouse park. Because Owner has not been able to use the Property to date, and because it appears to Applicant that it likely will not be able to make use of the Property until it is rezoned to LI, Applicant filed the Application. This factor strongly favors granting the Application.

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The Board's decision to grant the Application will not result in a use that will cause excessive or burdensome use of existing infrastructure. All utilities are available to the Property, and the size of the proposed warehouse buildings and intended uses are not proposed to be heavily occupied or used. Currently, Cobb County's infrastructure is sufficient to allow the installation of the proposed industrial / warehouse park on the Property in accordance with permitted uses in the LI district.

5. Whether the zoning proposal is in conformity the policy and intent of the land use plan.

The FLUM reflects that the Property and all surrounding properties are Industrial or Industrial Compatible. Accordingly, the proposed rezoning of the Property from R-15 to LI is precisely what is contemplated by the FLUM.

6. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

As one drives the immediate area surrounding the Property, it is evident that the older housing stock south of the Property is poised for redevelopment as are the properties continuing along Gresham Road to the east. From the small industrial uses that are adjacent to the Property to the West and which front on Wallace Road (albeit within the City of Marietta city limits) and the nearby Tip Top Poultry plant, it is clear that this area of the County should be redeveloped for light and heavy industrial uses. Accordingly, this proposed rezoning will permit a change in zoning that supports the overall character of the area and which will hopefully spark continued industrial uses throughout the area. This will serve to increase the tax base supporting the area and achieve a redevelopment opportunity that the County has

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identified as one it would like to achieve. The Property has excellent access to I-75, Cobb Parkway, and the North 120 Loop – that alone makes this area of the County poised for light and heavy industrial uses, and supports approval of the Application.

Based on all of these factors, Applicant has produced sufficient information to allow the Board fully to consider all relevant factors and to demonstrate that the Application complies with all applicable requirements and is otherwise consistent with the policies reflected in the factors enumerated in this chapter for consideration by Cobb County. The Board should APPROVE the Application.