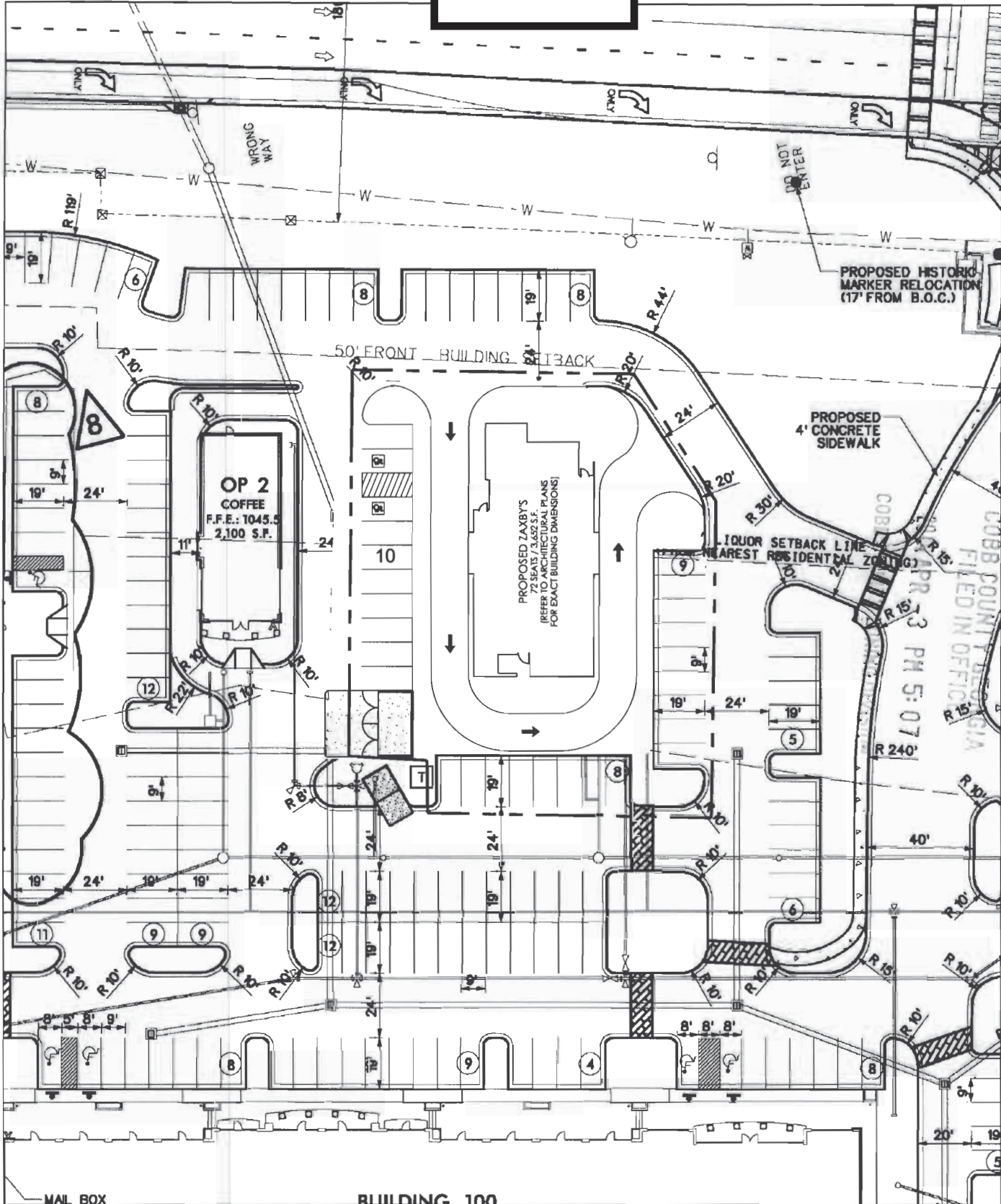


Z-38  
(2014)



Carter Engineering Consultants, Inc.  
1551 Jennings Mill Rd  
Building 500, Suite B  
Bogart, GA 30622  
P: 706.559.7430  
F: 706.559.7435  
[www.carterengineering.net](http://www.carterengineering.net)

# ZAXBY'S

CONCEPT PLAN  
3405 DALLAS HWY  
DATE: 12.13.13, SCALE: 1"=50'

**APPLICANT:** Chicken Coup IV RE, LLC

(678) 852-1483

**REPRESENTATIVE:** J. Kevin Moore (770) 429-1499

Moore Ingram Johnson & Steele, LLP

**TITLEHOLDER:** Village at Old Trace, LLC

**PROPERTY LOCATION:** South side of Dallas Highway, west of

Kennesaw View Drive, east of Old Trace Road

(3405 Dallas Highway).

**ACCESS TO PROPERTY:** Dallas Highway

**PHYSICAL CHARACTERISTICS TO SITE:** vacant building pad

**CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** SC/ Timbers Edge

**SOUTH:** NRC/ The Villages at Old Trace shopping center

**EAST:** NRC/ The Villages at Old Trace shopping center

**WEST:** NRC, LRO/ The Villages at Old Trace shopping center

**PETITION NO:** Z-38

**HEARING DATE (PC):** 06-03-14

**HEARING DATE (BOC):** 06-17-14

**PRESENT ZONING:** NRC

With Stipulations

**PROPOSED ZONING:** NRC

With Stipulations

**PROPOSED USE:** Restaurant With

Drive-Thru

**SIZE OF TRACT:** 0.4849 acre

**DISTRICT:** 20

**LAND LOT(S):** 332

**PARCEL(S):** 173

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 1

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

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

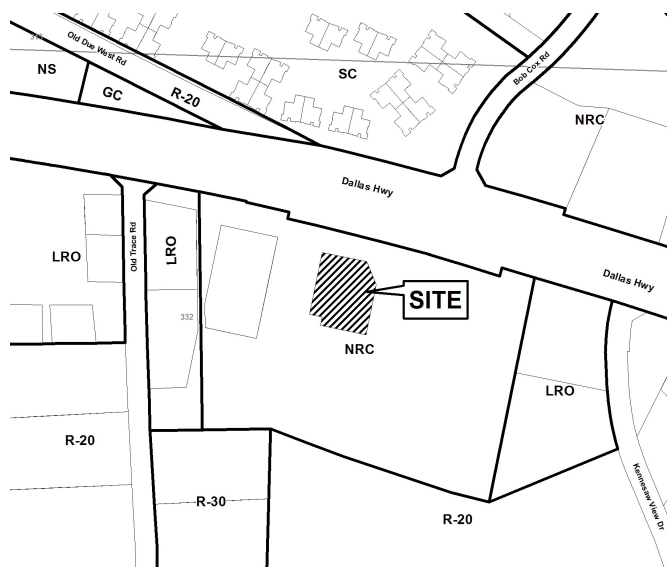
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

**STIPULATIONS:**



**APPLICANT:** Chicken Coup IV RE, LLC

**PETITION NO.:** Z-38

**PRESENT ZONING:** NRC with Stipulations

**PETITION FOR:** NRC W/S

\*\*\*\*\*

**ZONING COMMENTS:**

**Staff Member Responsible:** John P. Pederson

**Land Use Plan Recommendation:** Neighborhood Activity Center

**Proposed Number of Buildings:** 1 **Total Square Footage of Development:** 3,652

**F.A.R.:** 0.17 **Square Footage/Acre:** 7,529

**Parking Spaces Required:** 25 **Parking Spaces Provided:** 27

The applicant is requesting the NRC zoning district to amend the zoning stipulations to allow a Zaxby's restaurant on the property. The building would be one-story in height with a brick and EIFS exterior. The restaurant would be open seven days a week from 6:00 a.m. to 10:00 p.m. There would be a drive-through at this restaurant.

This property was designated to be a restaurant on the 2004 zoning plan, but the applicant needs to amend the following stipulations in order to develop the Zaxby's:

1. Amend the opening hours from 8:00 a.m. to 6:00 a.m.;
2. Allow this restaurant to have a drive-through window;
3. Allow outdoor speaker-intercom system for the drive-through; and
4. Amend the site plan.

All previous stipulations would remain in effect.

**Cemetery Preservation:** There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing, which is located in this or adjacent Land Lot.

\*\*\*\*\*

**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:** Chicken Coup IV RE, LLC

**PETITION NO.:** Z-38

**PRESENT ZONING:** NRC with Stipulations

**PETITION FOR:** NRC W/S

\*\*\*\*\*

**PLANNING COMMENTS:**

The applicant is requesting a rezoning from NRC with Stipulations to NRC with Stipulations for restaurant with drive-thru. The 0.48 acre site is located on the south side of Dallas Highway, west of Kennesaw View Drive, east of Old Trace Road.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with NRC with Stipulations zoning designation. The purpose of the (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

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 Dallas Highway Design Guidelines

Does the current site plan comply with the design requirements?

- Pedestrian access to buildings  
☐ Yes ☒ No ☐ Not applicable
- Streetscape elements  
☐ Yes ☒ No ☐ Not applicable
- Building Frontage  
☐ Yes ☒ No ☐ Not applicable
- Parking Standard  
☐ Yes ☒ No ☐ Not applicable
- Architecture standard  
☐ Yes ☒ No ☐ Not applicable

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.

**APPLICANT:** Chicken Coup IV RE, LLC

**PETITION NO.:** Z-38

**PRESENT ZONING:** NRC with Stipulations

**PETITION FOR:** NRC W/S

\*\*\*\*\*

**PLANNING COMMENTS**  
**(Continued):**

*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 Chicken Coup IV RE, LLC

PETITION NO. Z-038

PRESENT ZONING NRC with stips

PETITION FOR NRC with stips

\*\*\*\*\*

**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): 20" DI / S side of Dallas Hwy

Additional Comments: Must connect to on-site private 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: on site

Estimated Waste Generation (in G.P.D.): A D F= 864 Peak= 2160

Treatment Plant: South Cobb

Plant Capacity: ☒ Available ☐ Not Available

Line Capacity: ☒ Available ☐ Not Available

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

Drw 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 Comments: Must connect to on-site private sewer

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: Chicken Coup IV RE, LLC**

**PETITION NO.: Z-38**

**PRESENT ZONING: NRC w/ stips**

**PETITION FOR: NRC w/ stips**

\*\*\*\*\*

<b>STORMWATER MANAGEMENT COMMENTS</b>
---------------------------------------

This outparcel is located within the Village at Old Trace development. The applicant must verify that adequate detention and water quality has been provided within the master stormwater management facility at Plan Review.

**APPLICANT: Chicken Coup IV RE, LLC**

**PETITION NO.: Z-38**

**PRESENT ZONING: NRC with Stipulations**

**PETITION FOR: NRC w/ stip**

\*\*\*\*\*

**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
Dallas Highway	43,300	Arterial	55 mph	Georgia DOT	100'

*Based on 2002 traffic counting data taken by Cobb County DOT (Dallas Highway)*

**COMMENTS AND OBSERVATIONS**

Dallas Highway is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend GDOT permits for all work that encroaches upon State right-of-way.

Recommend no changes to access.

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



THIS  
PAGE  
INTENTIONALLY  
LEFT  
BLANK

## STAFF RECOMMENDATIONS

### **Z-38 CHICKEN COUP IV RE, LLC**

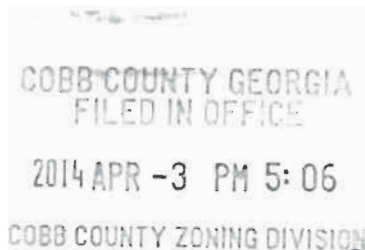
- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area contains a mixture of retail, restaurants, residential uses and offices.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. Due to the prior zoning case, the applicant's proposal has the required buffering contiguous to the residentially zoned property to provide for a better transition in zoning intensity.
- 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 Neighborhood 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 to NRC. The proposal is in accordance with the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center. The proposal would be consistent with other commercial zonings along this section of Dallas Highway. Established buffering along the rear and sides of the shopping should protect the adjacent single-family houses.

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

- Site plan received by the Zoning Division April 3, 2014, with the District Commissioner approving minor modifications;
- Hours of operation may start at 6:00 a.m.
- Drive through with speaker intercom system is permitted;
- For Zaxby's only;
- All previous zoning stipulations not in conflict with this recommendation remain in effect (being Z-162 of 2003 and Z-112 of 2004);
- 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.**

THIS  
PAGE  
INTENTIONALLY  
LEFT  
BLANK



Application #: Z-38 (2014)

PC Hearing Date: 06/03/2014

BOC Hearing Date: 06/17/2014

## Summary of Intent for Rezoning\*

### Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): Not Applicable
- 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): Restaurant with drive-thru
- b) Proposed building architecture: Split Brick/EIFS
- c) Proposed hours/days of operation: Monday - Sunday; 6:00 a.m. - 10:00 p.m.
- d) List all requested variances: None known at this time

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

None at this time

### 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). None known at this time.

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

MOORE INGRAM JOHNSON & STEELE, LLP

Applicant signature: BY: [Signature] Date: \_\_\_\_\_

J. Kevin Moore; Georgia Bar No. 519728

Applicant name (printed): Attorneys for Applicant and Property Owner

\*Applicant specifically reserves the right to amend any information set forth in the Summary of Intent for Rezoning, or any portion of the Application for Rezoning, at any time during the rezoning process.

Revised August 21, 2013

COBB COUNTY GEORGIA  
FILED **ATTACHMENT TO APPLICATION FOR REZONING**  
2014 APR -3 PM 5:06  
**IMPACT ANALYSIS STATEMENT**  
COBB COUNTY ZONING DIVISION

**Application No.:** Z- 38 (2014)  
**Hearing Dates:** June 3, 2014  
June 17, 2014

**Applicant:** Chicken Coup IV RE, LLC  
**Titleholder:** Village at Old Trace, LLC

Analysis of impact of the proposed rezoning with respect to the following:

- (a) This Application for Rezoning is for a 0.4849 acre “pad” area within The Village at Old Trace retail center (hereinafter “Property” or “Subject Property”) from its existing Neighborhood Retail Commercial (“NRC”) zoning category to the same NRC category. Applicant proposes the construction and development of a Zaxby’s restaurant, and to allow for the operation of the restaurant, certain previously approved stipulations must be amended. The Property is currently undeveloped and is surrounded by the developed retail center. Therefore, to rezone the Subject Property to the NRC zoning category and amend the requested stipulations to allow for the development would allow for a use permitted under the NRC category.
- (b) This zoning proposal should have no adverse effect on the existing use or usability of adjacent or nearby residential property. If approved and developed according to the request, the adjacent and nearby commercial property owners should benefit in higher land values.
- (c) The Subject Property as presently zoned does not have a reasonable economic use. The proposed zoning will allow for a higher and better use of the Subject Property.
- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Commercial development has almost no effect on schools, minimal effect on utilities and transportation facilities. The widened and improved roadways in the area, and improved signalization at the intersection, will ease any increased traffic without burdensome effects.
- (e) The zoning proposal is in conformity with the Land Use Map of Cobb County, Georgia.
- (f) Even though the Subject Property is currently zoned NRC, in order to develop it to its highest and best use, certain stipulations must be amended. The rezoning would allow the Property to be developed which will complete build-out of the retail center and provide a quality restaurant facility for West Cobb residents and commuters along the

Dallas Highway corridor. Thus, the rezoning proposed in the pending Application for Rezoning would allow for a more suitable and economic use without detrimental impact upon the surrounding area.