

APPLICANT: The Kroger Company	PETITION NO:	Z-41
PHONE#: (770) 496-7516 EMAIL: paul.xhajanka@kroger.com	HEARING DATE (PC):	05-05-15
REPRESENTATIVE: Garvis L. Sams, Jr.	HEARING DATE (BOC):	05-19-15
PHONE#: (770) 422-7016 EMAIL: gsams@slhb-law.com	PRESENT ZONING:	PSC
TITLEHOLDER: Sears, Roebuck and Co.		
	PROPOSED ZONING:	RRC
PROPERTY LOCATION: South side of Cobb Parkway, and west		
side of Akers Mill Road, and the north side of Cumberland Boulevard	PROPOSED USE:	Grocery Sto
(2940 Cobb Parkway).	22	and Fuel Cen
ACCESS TO PROPERTY: Cobb Parkway and Akers Mill Road	SIZE OF TRACT:	14.69 ac
	DISTRICT:	17
PHYSICAL CHARACTERISTICS TO SITE: Cumberland Mall	LAND LOT(S): 912,	912, 913, 948, 94
	PARCEL(S):	12
	TAXES: PAID X DI	DUE
CONTIGUOUS ZONING/DEVELOPMENT	COMMISSION DISTRICT: 2	T: 2

### OPPOSITION: NO. OPPOSED PETITION NO: SPOKESMAN

EAST: WEST:

PSC/ Cumberland Mall

CRC, NS, GC, O&I/ Retail Commercial, Offices

NORTH: SOUTH:

CRC/ Cumberland Mall PSC/ Cumberland Mall

## PLANNING COMMISSION RECOMMENDATION

APPROVED\_\_\_\_MOTION BY\_\_\_\_\_REJECTED\_\_\_SECONDED\_\_\_\_

HELD\_

CARRIED

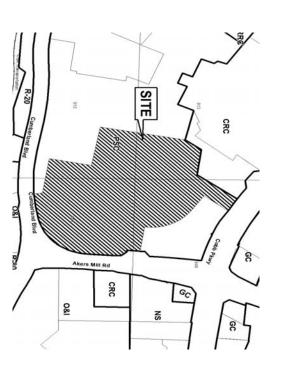
BOARD OF COMMISSIONERS DECISION

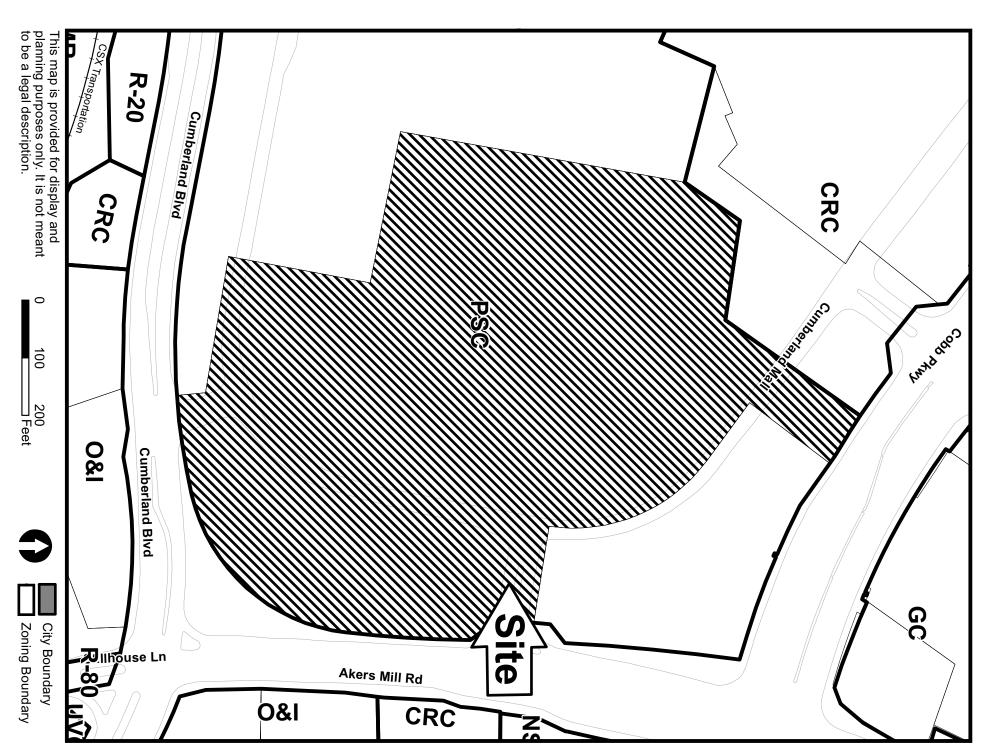
APPROVED\_\_\_\_\_MOTION BY\_\_\_\_\_
REJECTED\_\_\_SECONDED\_\_\_\_

HELD\_

CARRIED

STIPULATIONS:





APPLICANT: The Kroger Company	mpany PETITION NO.: Z-41
PRESENT ZONING: PSC	PETITION FOR: RRC
******	**************************************
ZONING COMMENTS:	Staff Member Responsible: Terry Martin, MPA
Land Use Plan Recommendati	Land Use Plan Recommendation: RAC Regional Activity Center
Proposed Number of Buildings: 3	s: 3 Total Square Footage of Development: 205,915
F.A.R.: 0.32 Square F	Square Footage/Acre: 14,017.36
Parking Spaces Required: 1,030	Parking Spaces Provided: 862

areas as well as addition of the fuel center. The Kroger will be open seven (7) days a week from 6:00 a.m. to applicant to seek rezoning for the proposed changes including minor changes to the building and parking separate, accessory Auto Center. store and accessory fuel center. Sears will consolidate entirely to its ground floor space and maintain its retail commercial district in order to renovate the existing Sears' second floor space for a Kroger grocery The applicant is requesting a rezoning from the PSC planned shopping center district to the RRC regional The PSC district, being by definition site plan specific, compels the

The applicant has submitted the contemporaneous request for the following variances:

- To waive the parking from the required minimum of 1,030 to 862:
- To waive the rear setback from the required 50 feet to zero feet;
- To increase the maximum allowable impervious surface from 80% to 91.6%
- To waive the Code-required eight foot (8') landscape strip adjacent to right-of-way.

proposed signage be approved as existing/proposed on current plans. Additionally, the applicant has requested that both landscaping and tree preservation concerns as well as

**Cemetery Preservation:** No comment

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### FIRE COMMENTS:

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

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PLANNING COMMENTS:	
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The applicant is requesting a rezoning from PSC to RRC for purpose of grocery store and fuel center. The 14.69 acre site is located on the south side of Cobb Parkway, and west side of Akers Mill Road, and the north side of Cumberland Boulevard.

#### Comprehensive Plan

include high-rise office buildings, regional malls and varying densities of residential development. support a high intensity of development which serves a regional market. Typical land uses in these areas designation. The purpose of the Regional Activity Center (RAC) category is to provide for areas that can The parcel is within a Regional Activity Center (RAC) future land use category, with PSC zoning

Retail stores and service operations are considered the most appropriate use in the Retail/Service (RS) Residential development is inappropriate in the Retail/Service designation. land use category. However, mixed-use developments that include office may also be appropriate.

### Master Plan/Corridor Study

The property is located within the boundary of Cumberland Blueprint LCI.

### Historic Preservation

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

#### Design Guidelines

esign Guidelines?	□ Yes	■ No
Does the current site plan comply with the design requirements?	equirements?	
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.	Yes \$3,500 tax ci	■ No redit per job in eligible areas if two or more ting businesses.
Is the property within an Enterprise Zone?	□ Yes	■ No

qualifying businesses locating or expanding within designated areas for new jobs and capital investments

The Enterprise Zone is an incentive that provides tax abatements and other economic incentives

Is the property eligible for incentives through the Commercial and Industrial Property

ad valorem property taxes for qualifying redevelopment in eligible areas.

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in

Yes

Zo

Rehabilitation

for

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************	***************
PLANNING COMMENTS: (Continued)	
Special Districts	
Is this property within the Cumberland Special District #1 (hotel/motel fee)?  ■ Yes □ No	notel/motel fee)?
Is this property within the Cumberland Special District #2 (ad valorem tax)?  ■ Yes □ No	ıd valorem tax)?
Is the property within the Six Flags Special Services District?	?
□ Yes ■ No	

#### PRESENT ZONING APPLICANT The Kroger Company **PSC** PETITION FOR PETITION NO.

RRC

Z-041

Additional On site sewer is private. Capacity unknown. Comments:	Subject to Health Department Approval:	Septic Tank Recommended by this Department:	Letter of Allocation issued:	Flow Test Required:	Off-site Easements Required:	Drv Sewers Reauired:	Proiected Plant Availability:	Line Capacity: ✓ Available	Plant Capacity: 🗹 Available	Treatment Plant:	Estimated Waste Generation (in G.P.D.): A D F= +0	Approximate Distance to Nearest Sewer: On site	At Development: Yes	In Drainage Basin: Yes	SEWER COMMENTS: NOTE: Comments reflect only what	*******************************	Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. Review Process.	Additional Comments:	Size / Location of Existing Water Main(s): 8" DI / E side of Akers Mill Rd	Fire Flow Test Required:	Available at Development: Yes	WATER COMMENTS: NOTE: Comments reflect only what facilities were	********************
	No	<b>▼</b> No	No property owners. All easement acquisitions are the responsibility of the Developer	✓ No review/approval as to form and stipulations prior to the execution of easements by the	✓ No *If off-site easements are required, Developer must submit easements to CCWS for	No	urs $\Box$ 5 - 10 years $\Box$ over 10 years	le	le	Sutton	Peak= +0		□ No	□ No	Comments reflect only what facilities were in existence at the time of this review.	******	or Fire Department Code. This will be resolved in the Plan		kers Mill Rd	□ No		cilities were in existence at the time of this review.	******

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: The Kroger Company PETITION NO.:  $\underline{Z-41}$ 

PRESENT ZONING: PSC PETITION FOR: RRC

STORMWATER MANAGEMENT COMMENTS
<u>-LOOD HAZARD:</u> YES 🛛 NO 🗌 POSSIBLY, NOT VERIFIED
ORAINAGE BASIN: Bert Adams Tributary  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
ocation:
The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.
STREAMBANK BUFFER ZONE: $\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \$
☐ 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 ( <u>undisturbed</u> 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: <b>50'</b> , 75', 100' or 200' each side of creek channel.
OWNSTREAM CONDITION
<ul> <li>☐ Potential or Known drainage problems exist for developments downstream from this site.</li> <li>☐ Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.</li> </ul>
<ul> <li>Minimize runoff into public roads.</li> <li>Minimize the effect of concentrated stormwater discharges onto adjacent properties.</li> <li>Developer must secure any R.O.W required to receive concentrated discharges where none exist</li> </ul>
naturally  Rxisting 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 residential neighborhood downstream.</li> </ul>
Project engineer must evaluate the impact of increased volume of runoff generated by the proposed
project on

PRESENT ZONING: PSC PETITION FOR: RRC
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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 <b>spring activity</b> uncovered must be addressed by a qualified geotechnical engineer (PE).  Structural fill must be placed under the direction of a qualified registered Georgia geotechnical
<ul> <li>Existing facility.</li> <li>Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.</li> <li>Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.</li> <li>Calculate and provide % impervious of project site.</li> </ul>
INSUFFICIENT INFORMATION
<ul> <li>No Stormwater controls shown</li> <li>Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.</li> <li>No site improvements showing on exhibit.</li> </ul>
ADDITIONAL COMMENTS
1. The proposed fuel center is considered a water quality "hot-spot". A water quality device that includes oil/water separation will be required to provide treatment for the new fuel center.

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**PETITION NO.: <u>Z-41</u>** 

PRESENT ZONING: DSC	APPLICANT: The Kroger Company
DETITION FOR DRC	PETITION NO.: Z

\*\*\*\*\* \* **-**X-\* \* \* <del>-</del>X-\* \*

### TRANSPORTATION COMMENTS

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

100'	Cobb	35	Arterial	21,300	Cumberland Blvd
100'	Cobb	35	Arterial	15,900	Akers Mill Road
MIN. R.O.W. REQUIREMENTS	JURISDICTIONAL CONTROL	SPEED LIMIT	ROADWAY CLASSIFICATION	AVERAGE DAILY TRIPS	ROADWAY

Based on [2005] traffic counting data taken by Cobb County DOT.

### COMMENTS AND OBSERVATIONS

existing right-of-way may not meet the minimum requirements for this classification. Akers Mill Road is classified as an arterial and according to the available information the

existing right-of-way may not meet the minimum requirements for this classification Cumberland Boulevard is classified as an arterial and according to the available information the

along Cumberland Boulevard and Akers Mill Road. The applicant may consider providing safe and convenient pedestrian access from public trails and sidewalks to the building's entrances The subject property is in close proximity to the Cumberland Transfer Center and multi-use trails

### RECOMMENDATIONS

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

agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to Cumberland Boulevard and if it is not, recommend applicant consider entering into a development Boulevard, a minimum of 50' from the roadway centerline. mitigate traffic concerns: a) donation of right-of-way along Akers Mill Road and Cumberland Recommend applicant verify that minimum right-of-way is available for Akers Mill Road and

including dedication of right-of-way and easements. ensure compatibility with the Cumberland Boulevard improvement project (SPLOST 2016) Recommend applicant coordinate with Cobb County DOT prior to development plan approval to

shall provide uninterrupted ingress/egress to and from the site. The minimum distance required is development plan approval to ensure compatibility of proposed fuel center location and interior Development Standards. Recommend applicant coordinate with Cobb County DOT prior to service drive or parking space with direct access to such driveway as measured perpendicularly measured from the street right-of-way line at the ingress/egress to the out edge of any interior Per Section 402.08 of Cobb County development standards, driveways servicing developments service driveways. form the street. The Cumberland Boulevard access point may not meet the requirements of the

### STAFF RECOMMENDATIONS

### **Z-41** The Kroger Company

- Þ the use and development of adjacent and nearby properties. The applicant's proposal is located in an area dominated by commercial uses. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of
- В. usability of adjacent or nearby property. The applicant's proposal would bring a grocery as well as fuel option to consumers in the vicinity of Cumberland Mall. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the
- $\Omega$ opinion can be supported by the departmental comments contained in this analysis. an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause
- D. providing for additional shopping opportunities to consumers within the surrounding area of land use area, subarea for Retail Services, the request further advances the of the Cobb County Comprehensive Plan. Being delineated within a Regional Activity Center future It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent Cumberland Mall. goals of the Plan by
- Ħ brings an additional grocery as well as fuel center option to the existing Cumberland Mall. applicant's proposal is consistent with the goals of the Cobb County Comprehensive Plan in that it of the property which give supporting grounds for approving the applicant's rezoning proposal. The It is Staff's opinion that there are existing and changing conditions affecting the use and development housing options, the additional consumer choices would be a benefit to the area. within an area already dominated by retail uses and adjacent to office and medium to high density

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

- • Site plan received by the Zoning Division on March 31, 2015;
- District Commissioner approving the final plans; Building elevation and sign renderings received by the Zoning Division on March 5, 2015, with
- Sewer and Water Division Comments and Recommendations;
- Stormwater Management Division Comments and Recommendations:
- Fire Department 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

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

MAR **5** 2015

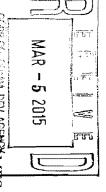
### Application No.

PC: May 5, 2015 BOC: May 19, 2015

# **Summary of Intent for Rezoning**

Part 1. Re	Part 1. Residential Rezoning Information (attach additional information if needed)
a)	Proposed unit square-footage(s):
b)	Proposed building architecture:
c)	Proposed selling prices(s):
d)	
1 1	
Part 2. No	Part 2. Non-residential Rezoning Information (attach additional information if needed)
a)	Proposed use(s): Kroger Grocery Store & Fuel Center.
I	
b)	Proposed building architecture: Consistent with the architectural
re	renderings/elevations being provided contemporaneously herewith.
c	Proposed hours/days of operation: 6:00 a.m. until 11:00 p.m., 7 days per week.
<b>a</b>	List all requested variances: All requests for contemporaneous variances are
l	included on the Site Plan submitted contemporaneously herewith; including
r	building setbacks, parking ratios, landscaping requirements, signage and lot
l o l	coverage.
Part 3.	Part 3. Other Pertinent Information (List or attach additional information if needed)
le	The subject property is located within the confines of the Cumberland/Galleria Regional
A	Activity Center ("RAC") and in a sub-area denominated for retail services and also
si.	situated within the confines of the Cumberland Community Improvement District ("CCID")
w)	which contemplates the type of utilization of the subject property proposed.
Part 4. I	Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?
æ	(Please_list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a
pi	plat clearly showing where these properties are located). $_{ m N/A}$
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### ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION OF THE KROGER CO.



COMMENT OF STANKING AGENOMES NOW, The Kroger Co., and, pursuant to §3-28-8.1(7) of the

Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- $\nearrow$ Corridors Highway 41 (Cobb Parkway)/Akers Mill Road and Cumberland Boulevard context of development and existing zonings along this section of the U.S. The zoning proposal will permit a use of the property which is suitable in the
- ₽. commercial, retail or offices or usability of adjacent or nearby properties, the totality of which are The zoning proposal will have no adverse effect or impact upon the exiting uses
- 0 present zoning classification of PSC suffering a significant economic detriment by virtue of the continuation of the equivalent utility. economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with The subject property to be affected by the zoning proposal has a declining Additionally, the present owner of the subject property is

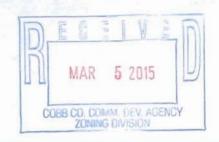
- D. facilities, utilities or schools. infrastructure including, but not limited to, existing streets, transportation The zoning proposal will have no adverse impact upon the existing County
- Ħ and within a sub-area denominated for retail use with the subject property lying and being in a Regional Activity Center (RAC) under Cobb County's Comprehensive Land Use Plan and Future Land Use Map The zoning proposal is consistent with those uses and purposes contemplated
- Ţ the zoning proposal use planning principles or political considerations which would adversely affect Mill Road and Cumberland Boulevard Corridors, there are no established land development along this section of the U. S. Highway 41 (Cobb Parkway)/Akers health, safety and general welfare. Additionally, considered in the context of PSC which limits the property in terms of its present utilization and the public There is no substantial relationship between the existing zoning classification of

Respectfully submitted, this the SAMS, LARKIN, HUFF & BALLI, LLP day of Mind

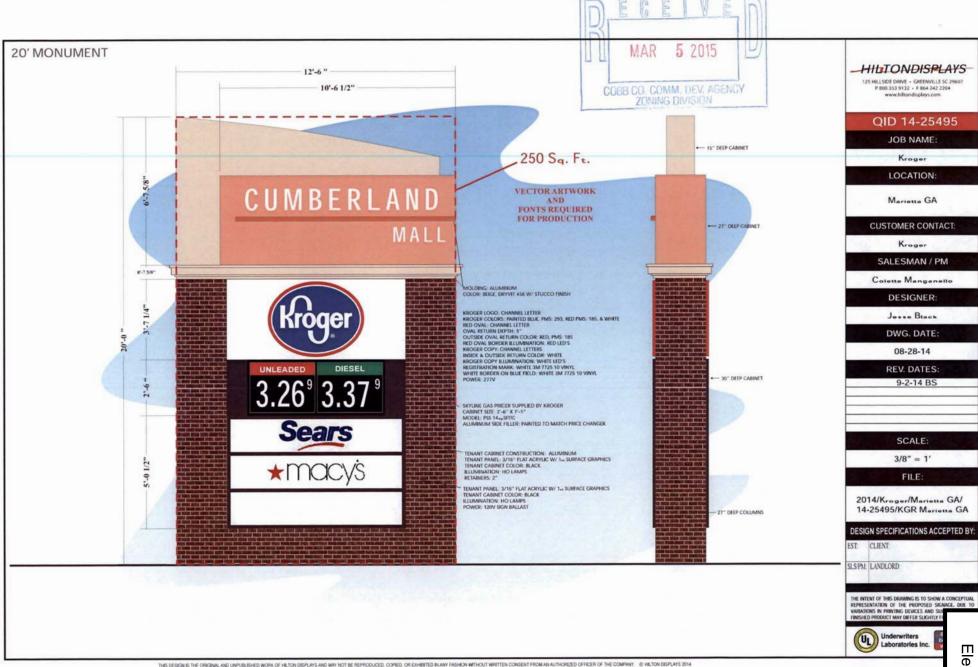
GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

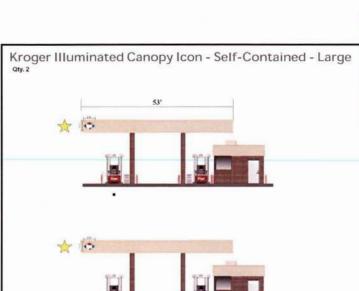
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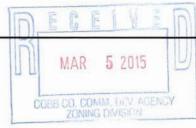
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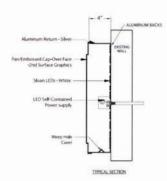


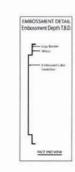


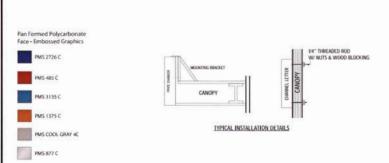












**HILTONDISPLAYS** 

125 HILLSIDE DRIVE - GREENVILLE SC 29607 P 800 353 9132 - F 864 242 2204

QID 14-25495

JOB NAME:

Kroger

LOCATION:

Marietta GA

CUSTOMER CONTACT:

Kroger

SALESMAN / PM

Colette Manganello

DESIGNER:

Jesse Black

DWG. DATE:

08-28-14

REV. DATES:

X-XX-XX

SCALE:

Not To Scale

FILE:

2014/Kroger/Mariette GA/ 14-25495/KGR Marietta GA

DESIGN SPECIFICATIONS ACCEPTED BY:

EST: CLIENT:

SLS/PM: LANDLORD:

THE INTENT OF THIS DRAWING IS TO SHOW A CONCEPTUAL REPRESENTATION OF THE PROPOSED SIGNATURE OF A VARIATIONS IN PRINTING DEVICES AND SUBSTITUTED FROM THE SUGHTLY FRED STREET SUGHTLY FRED





