

**DECEMBER 15, 2015 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM # 52

PURPOSE

To consider a Settlement of Litigation for Cumberland Mall regarding Variance application V-105 (Jones Sign, LLC) of 2014, for property located on the easterly side of I-285, the southwesterly side of Cobb Parkway, the west side of Akers Mill Road, and the north side of Cumberland Boulevard in Land Lots 881, 882, 912, 913, 948 and 949 of the 17th District.

BACKGROUND

The applicant’s petition for a zoning variance was denied by the Board of Zoning Appeals on October 1, 2014. The applicant filed a lawsuit in Superior Court challenging the Board of Zoning Appeals decision. Prior to this case going to court, the applicant and the County entered into mediation to resolve the conflict. This Other Business item is a result of the mediation efforts.

FUNDING

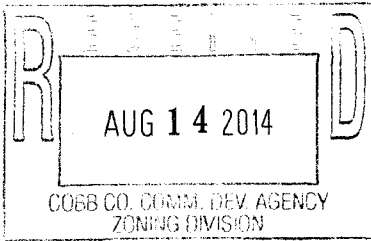
N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the Settlement of Litigation proposal.

ATTACHMENTS

Variance application, minutes and variance analysis



Application for Variance Cobb County

(type or print clearly)

Application No. V-105
Hearing Date: 10-01-2014

Applicant Jones Sign, LLC Phone # (215) 788-3898 E-mail molson@jonessign.com

Jonathan A. Page, Sr., Esq. | Blaska Law Firm Address 8565 Dunwoody Place, Building 15, Suite A, Atlanta GA 30350
(representative's name, printed) (street, city, state and zip code)

Phone # 770-998-1005 E-mail jonathan@blaskalaw.com

(representative's signature)

Signed, sealed and delivered in presence of:

My commission expires: 2/19/2018

Jessica C. Stewart
Notary Public

Titleholder Cumberland Mall, LLC Phone # (312) 960-5000 E-mail joshua.burrows@generalgrowth.com

Signature (See attached Signature Page) Address: 110 North Wacker Drive, Chicago, IL 60606
(attach additional signatures, if needed) (street, city, state and zip code)

Signed, sealed and delivered in presence of:

My commission expires: (See attached Signature Page)

Notary Public

Present Zoning of Property PSC - Planned Shopping Center District

Location Cumberland Mall between I-285 and the Sheraton Hotel on Highway 41 at the same location of the existing pylon sign.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 913 District 17th District, 2nd Section Size of Tract 21.63 +/- Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property 21.63 +/- Shape of Property barbell Topography of Property very steep at sign location Other I-285
odd-shaped Sign must be visible from

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance (If applying for Backyard Chickens pursuant to Sec.134-94(4), then leave this part blank).

(See attached letter)

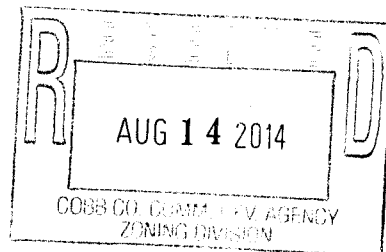
List type of variance requested: (See attached letter)



THE BLASKA LAW FIRM, LLC

JONATHAN A. PAGE, SR.
jonathan@blaskalaw.com

August 14, 2014



Cobb County, Community Development Agency
Attn: Mr. John Pederson
Zoning Division Manager
1150 Powder Springs Street
Suite 400
Marietta, Georgia 30064

Re: 2014 Variance Application; Cumberland Mall, LLC c/o General Growth Properties, Inc.

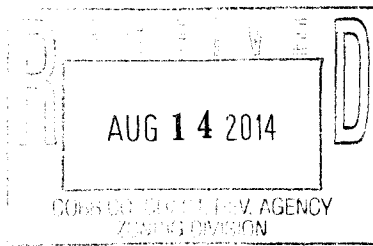
Dear Mr. Pederson:

We represent Cumberland Mall, LLC c/o General Growth Properties, Inc. ("Cumberland Mall") and Jones Sign, LLC, the applicant. Cumberland Mall and Jones Sign seek administrative relief from Sections 134-313 and 134-314 of the Cobb County Code of Ordinances with regard to the proposed construction of a new digital sign.

In 1995, the Cobb County Board of Commissioners approved Cumberland Mall for a sign variance to allow for much larger and modern signs. This 1995 variance approval helped Cumberland Mall attract vehicular traffic off of I-285 and enhanced the overall economic impact of Cumberland Mall within the county. In 2012, the Board again approved Cumberland Mall for a sign variance on Land Lot 913 to allow for a large digital LED display sign to improve visibility and aesthetics and to respond to the changing market. Today, Cumberland Mall requests a variance to replace the existing freestanding pylon sign on Land Lot 913 in its entirety with a digital LED display and face-let illuminated style sign (the "Proposed LED Sign"). The Proposed LED Sign rendering is shown in Exhibit E, attached.

Specifically, Cumberland Mall and Jones Sign seek the following types of variances for the Proposed LED Sign:

1. Increase the allowable message portion permitted for an electronic sign from 377.5 square feet (per V-101 of 2012) to approximately 1,041.08 square feet. See also Section 134-313(o)(2)b.



Mr. John Pederson
August 14, 2014
Page 2 of 3

2. Increase the height permitted for a freestanding sign located within 660 feet of an interstate from 80 feet (per V-162 of 1995) to 90 feet. See also Section 134-314(b)(5).
3. Continue to allow a poll-mounted sign within 660 feet of I-285, an interstate highway. See 134-314(b)(3).
4. Increase the copy/display area for all the freestanding signs in Land Lots 881, 882, 912, 913, 948 and 949 of the 17th District from 1,540.14 (per V-101 of 2012) to 1,799.72 square feet. See also Comparison Chart at Exhibit G; Section 134-314(b)(1).

Pursuant to Section 134-94 of the Cobb County Code of Ordinances, Cumberland Mall and Jones Sign requests the above-referenced variances in order to avoid unnecessary hardships.

Specifically, the increased height and message size of the Proposed LED Sign will improve the overall visibility and aesthetics and respond to the modernization that has occurred in that area since the 2012 variance approval. It also comports with Cobb County's future modernization plans to make that area a point of regional and national attraction.

For example, the size, shape and topography of Land Lot 913 make it extraordinarily difficult for travelers and motorists on I-285 to view and comprehend the existing static pylon sign, especially in light of the on-ramp and off-ramp grade separation of that interstate. Additionally, the existing static sign is close to 10 years old. Several competing businesses in the area have now erected much larger and newer marquee-style signs. In just the past couple of years, for example, Cumberland Mall's neighbors, the Cobb Energy Performing Arts Centre and the Cobb Galleria Mall, both erected and constructed large marquee-style LED display signs. These newer signs reflect the modernization that has occurred in this area. And Cobb Galleria Mall and Cumberland Mall have similar regional impact (*e.g.*, both have similar retail stores) and they both market to the same types of customers. And like the existing pylon sign, Cobb Galleria's sign is also visible from I-285. With respect to the future modernization plans, the Atlanta Braves have been tentatively approved for several large marquee-style signs nearby. Thus, the granting of this variance would allow Cumberland Mall to comport with the current and future modernization of the area.

Accordingly, the requested variances are necessary in order for Cumberland Mall to continue to increase its economic impact in the county and staying consistent and modern with the other marquee-style signs nearby. And like the other marquee-style signs in the area, the granting of this variance will continue to preserve the character, health, safety and welfare of the community.

Finally, Cumberland Mall would make the Proposed LED Sign available to the county for use in emergencies, such as Amber Alerts, after an appropriate protocol has been established with the county.

MINUTES OF VARIANCE HEARING
COBB COUNTY BOARD OF ZONING APPEALS
OCTOBER 1, 2014
PAGE 12

REGULAR AGENDA (CONT.)

V-105 JONES SIGN, LLC (Cumberland Mall, LLC, owner) requesting a variance to: 1) increase the allowable message portion permitted for an electronic sign from 377.5 square feet (per V-101 of 2012) to approximately 1,041.08 square feet; 2) increase the height permitted for a freestanding sign located within 660 feet of an interstate from 80 feet (per V-162 of 1995) to 90 feet; 3) continue to allow a pole-mounted sign within 660 feet of I-285, an interstate highway; and 4) increase the copy/display area for all the freestanding signs from 1,540.14 square feet (per V-101 of 2012) to 1,799.72 square feet in Land Lots 880, 881, 882, 912, 913, 914, 948 and 949 of the 17th District. Bounded by Cobb Parkway, Akers Mill Road, Cumberland Boulevard, and Interstate 285.

The public hearing was opened and Mr. Jonathan Page addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Swanson, second by Hovey, to deny variance request.

VOTE: ADOPTED unanimously

~~V-109~~

~~LORRAINE CARTER (Edger V. Carter IV and Loraine Carter, owners) requesting a variance to: 1) waive the side setback from the required 12 feet to 7.6 feet adjacent to the southern property line and to 5.2 feet adjacent to the northern property line; and 2) waive the side setback for an accessory structure under 144 square feet (approximately 64 square foot frame play house) from the required 5 feet to 2 feet in Land Lot 1076 of the 17th District. Located on the south side of Lamplighter Lane, east of Horseshoe Circle (352 Lamplighter Lane).~~

~~The public hearing was opened and Ms. Loraine Carter and Mr. Erik Peddle addressed the Board. Following presentation and discussion, the following motion was made:~~

~~MOTION: Motion by Swanson, second by Hovey, approve only the portion of request number one that reads "waive the side setback from the required 12 feet to 7.6 feet adjacent to the southern property line," and deny request number two, subject to:~~

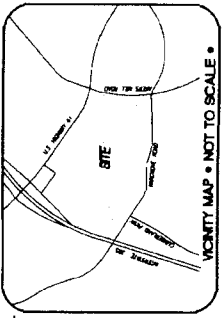
V-105
(2014)

GENERAL GROWTH
PROPERTIES, INC.

LAND LOTS
880, 881, 882, 812, 813, 814, 848, & 849
SECTION 17
17TH CORNER, GEORGIA
CUMBERLAND COUNTY, GEORGIA

ARMSTRONG LAND SURVEYING, INC.

POST OFFICE BOX 775
DOUGLASSVILLE, GEORGIA 30133
PHONE: (770) 871-8071 / FAX: (770) 871-0098



GENERAL NOTES

THE SURVEY IS BASED UPON THE DATA OF THE SURVEYOR'S FIELD NOTES AND RECORDS. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND NO OBVIOUS ENCUMBRANCES OR EASEMENTS. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS ENCUMBRANCES OR EASEMENTS. THE SURVEYOR HAS ALSO CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS ENCUMBRANCES OR EASEMENTS.

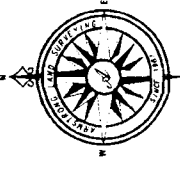
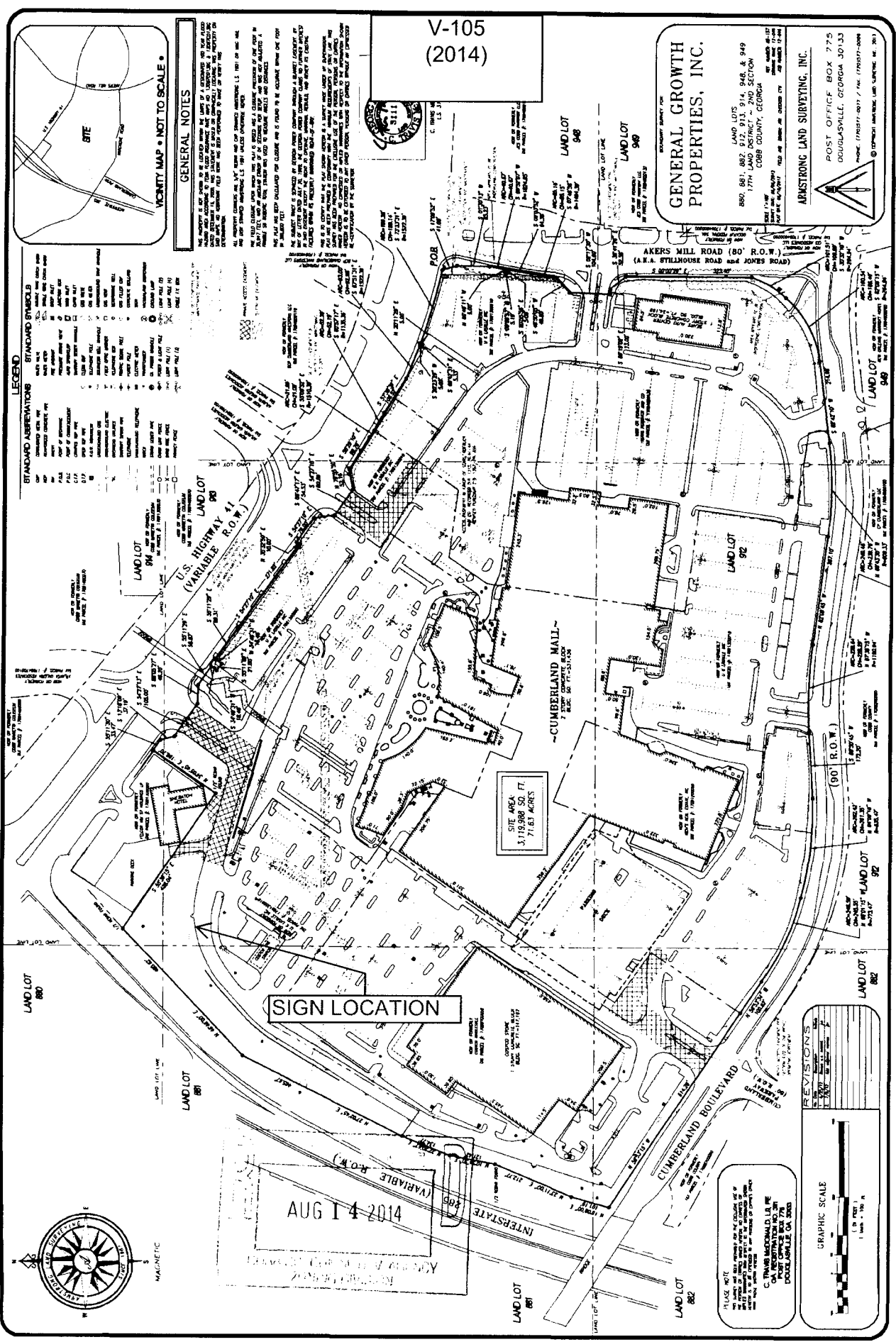
LEGEND

STANDARD ABBREVIATIONS

- 1/4 SECTION
- 1/2 SECTION
- 3/4 SECTION
- SECTION
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES

STANDARD SYMBOLS

- 1/4 SECTION
- 1/2 SECTION
- 3/4 SECTION
- SECTION
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES
- 1/4 ACRES
- 1/2 ACRES
- 3/4 ACRES
- ACRES



APPLICANT: Jones Sign, LLC
PHONE: 215-788-3898
REPRESENTATIVE: Jonathan A. Page, Sr., Esq.
PHONE: 770-998-1005
TITLEHOLDER: Cumberland Mall, LLC
PROPERTY LOCATION: Bounded by Cobb Parkway, Akers Mill Road, Cumberland Boulevard, and Interstate 285.

PETITION No.: V-105
DATE OF HEARING: 10-01-2014
PRESENT ZONING: CRC, PSC, RRC
LAND LOT(S): 880, 881, 882, 912, 913, 914, 948, 949
DISTRICT: 17
SIZE OF TRACT: 71.63 acres
COMMISSION DISTRICT: 2

TYPE OF VARIANCE: 1) Increase the allowable message portion permitted for an electronic sign from 377.5 square feet (per V-101 of 2012) to approximately 1,041.08 square feet; 2) increase the height permitted for a freestanding sign located within 660 feet of an interstate from 80 feet (per V-162 of 1995) to 90 feet; 3) continue to allow a pole-mounted sign within 660 feet of I-285, an interstate highway; and 4) increase the copy/display area for all the freestanding signs from 1,540.14 (per V-101 of 2012) to 1,799.72 square feet.

OPPOSITION: No. OPPOSED **PETITION No.** **SPOKESMAN**

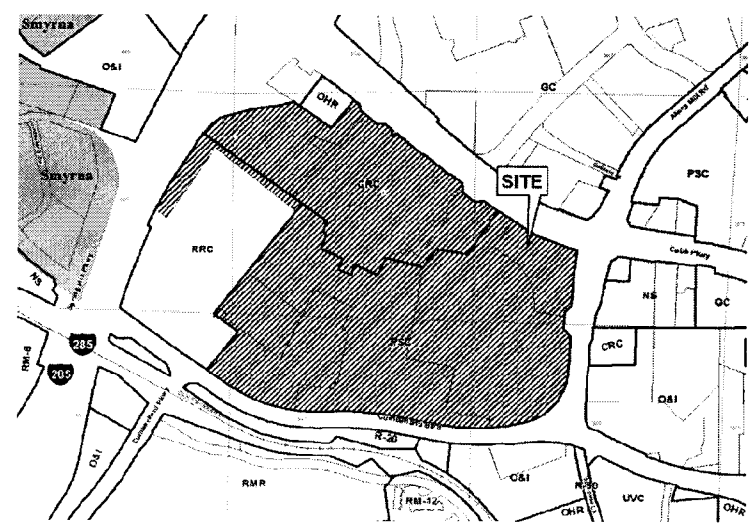
BOARD OF APPEALS DECISION

APPROVED **MOTION BY**

REJECTED **SECONDED**

HELD **CARRIED**

STIPULATIONS:



APPLICANT: Jones Sign, LLC **PETITION No.:** V-105

COMMENTS

TRAFFIC: Provide FAA study of sign and construction equipment for impacts to aviation.

DEVELOPMENT & INSPECTIONS: No comment.

SITE PLAN REVIEW: No comment.

STORMWATER MANAGEMENT: No comment.

HISTORIC PRESERVATION: After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

DESIGN GUIDELINES: No comment.

CEMETERY PRESERVATION: No comment.

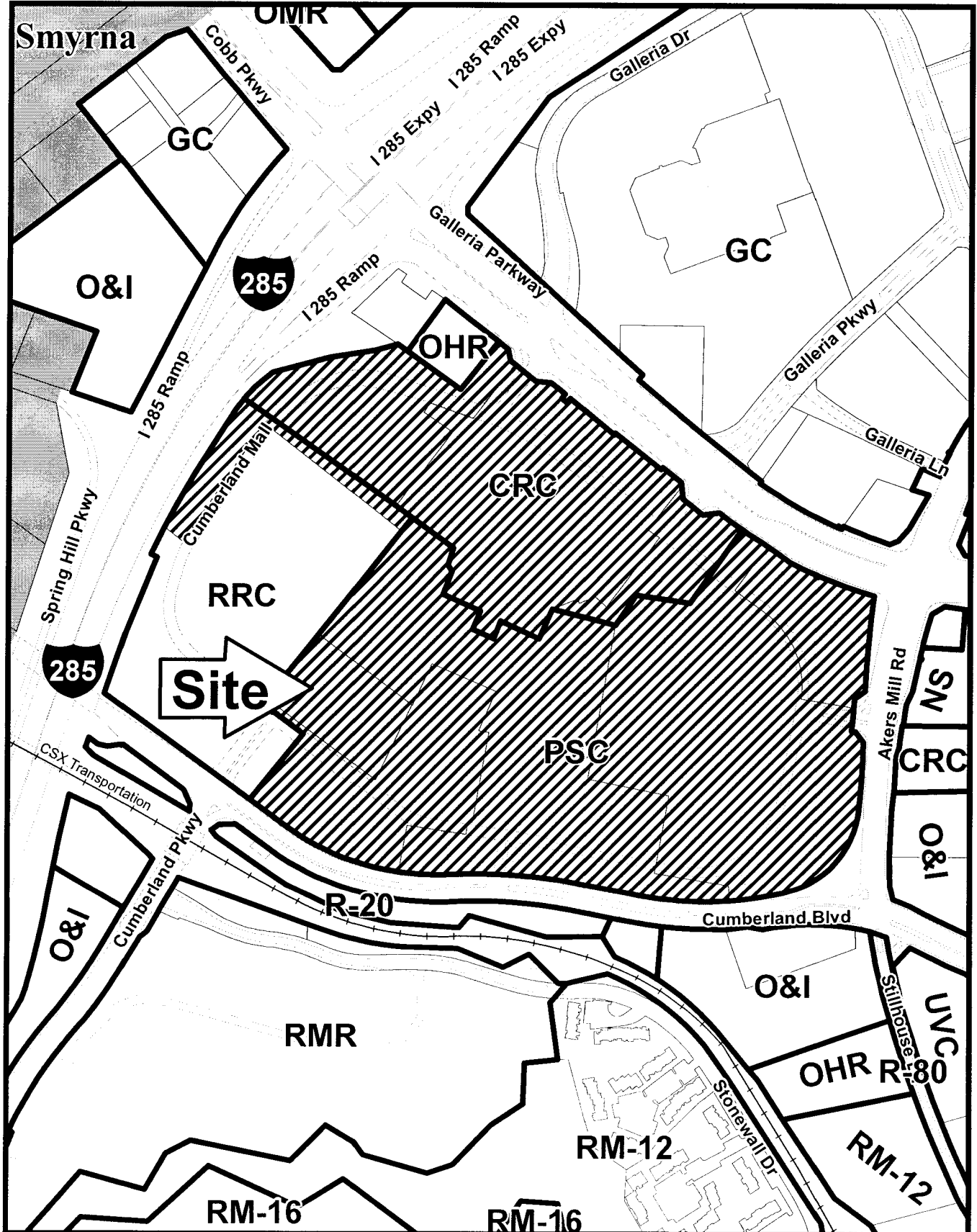
WATER: Cobb County Marietta Water Authority water main/easement may conflict with proposed location.

SEWER: No conflict.

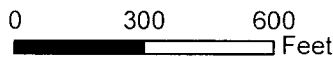
APPLICANT: Jones Sign, LLC **PETITION No.:** V-105

FIRE DEPARTMENT: 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.

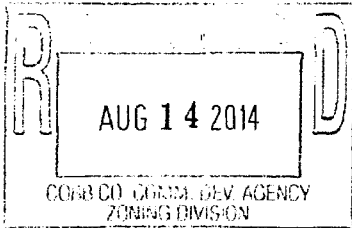
V-105



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



City Boundary
Zoning Boundary



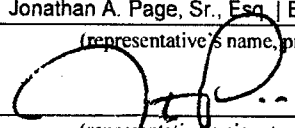
Application for Variance Cobb County

(type or print clearly)

Application No. V-105
Hearing Date: 10-01-2014

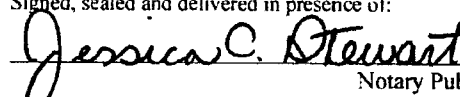
Applicant Jones Sign, LLC Phone # (215) 788-3898 E-mail molson@jonessign.com

Jonathan A. Page, Sr., Esq. | Blaska Law Firm Address 8565 Dunwoody Place, Building 15, Suite A, Atlanta GA 30350
(representative's name, printed) (street, city, state and zip code)

 Phone # 770-998-1005 E-mail jonathan@blaskalaw.com
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Signed, sealed and delivered in presence of:

My commission expires: 2/19/2018


Notary Public

Titleholder Cumberland Mall, LLC Phone # (312) 960-5000 E-mail joshua.burrows@generalgrowth.com

Signature (See attached Signature Page) Address: 110 North Wacker Drive, Chicago, IL 60606
(attach additional signatures, if needed) (street, city, state and zip code)

Signed, sealed and delivered in presence of:

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Notary Public

Present Zoning of Property PSC - Planned Shopping Center District

Location Cumberland Mall between I-285 and the Sheraton Hotel on Highway 41 at the same location of the existing pylon sign.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 913 District 17th District, 2nd Section Size of Tract 21.63 +/- Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property 21.63 +/- Shape of Property barbell Topography of Property sign location Other I-285
odd-shaped very steep at sign location Other I-285

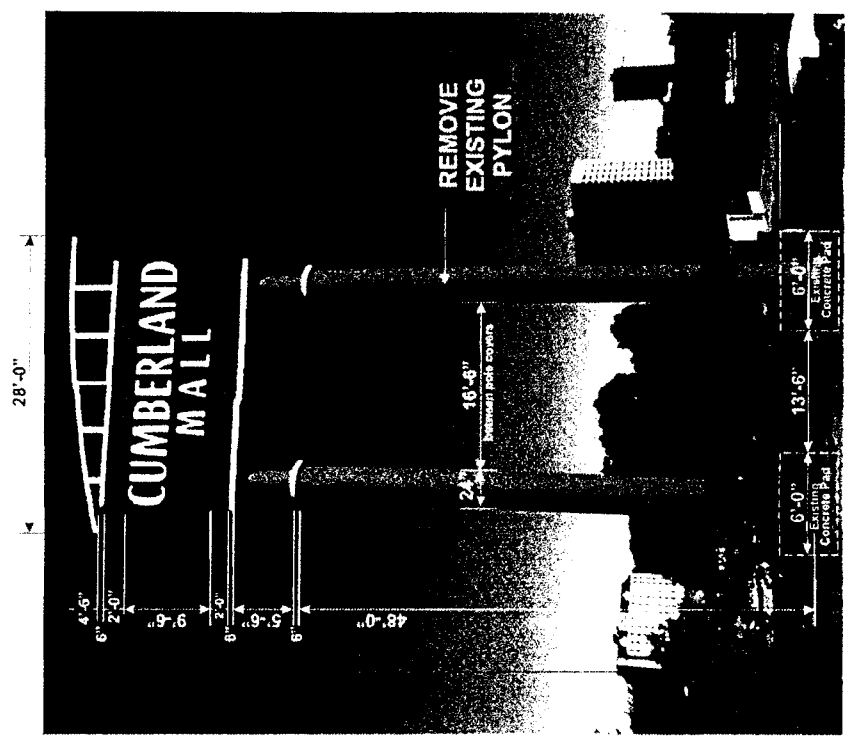
Sign must be visible from

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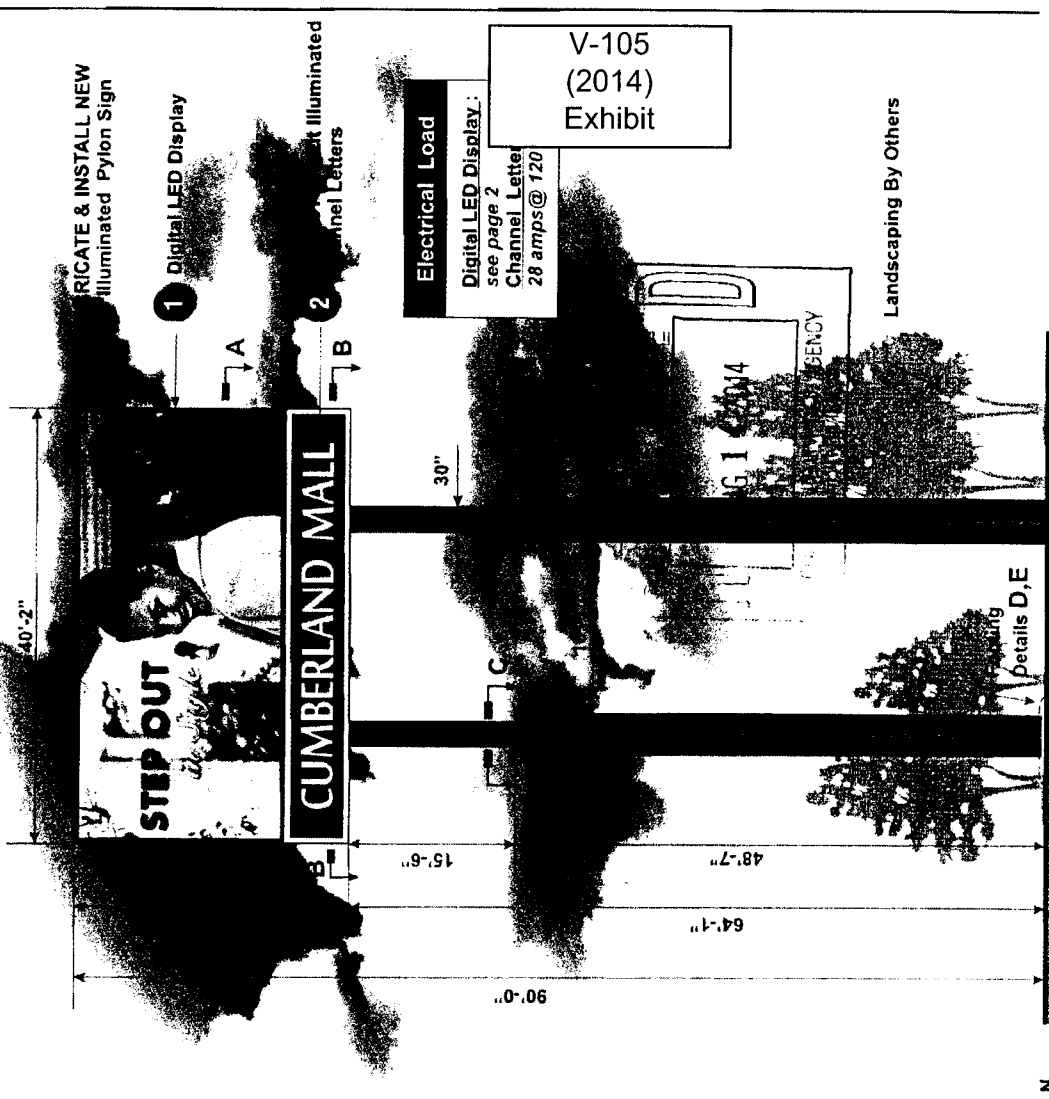
(See attached letter)

List type of variance requested: (See attached letter)

D/F Illuminated Pylon



EXISTING ELEVATION
Scale: appx. 3/32"=1'-0"



PROPOSED ELEVATION
Scale: 3/32"=1'-0"



ES SIGN
Completed
1000 Cumberland Mall
Albany, GA 31707
Phone: 215-788-7508
Fax: 215-788-7508

SS# 52438-R4
Location: Cumberland Mall
1000 Cumberland Mall
Albany, GA 31707

Date: 02.07.14
Drawn By: RR
Metric #: 10602

REVISION INFO	
R2	02.07.14 RR Remove existing Pylon, Rip & Install new 80Hz ballast
R3	02.07.14 RR Remove Tenant Cabinet
R4	02.07.14 RR Add section details
R5	
R6	

This drawing is submitted for your exclusive use in connection with the project being planned by Jones Sign. It is not to be shown to anyone outside the project team, used for marketing or other purposes without the express written permission of Jones Sign.

Client: _____
Agency: _____



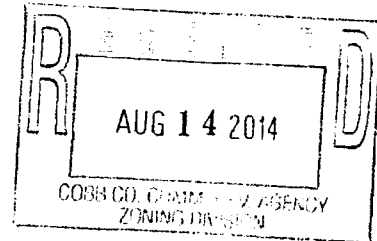
PLYON | 100

V-105
(2014)
Exhibit

THE BLASKA LAW FIRM, LLC

JONATHAN A. PAGE, SR.
jonathan@blaskalaw.com

August 14, 2014



Cobb County, Community Development Agency
Attn: Mr. John Pederson
Zoning Division Manager
1150 Powder Springs Street
Suite 400
Marietta, Georgia 30064

Re: 2014 Variance Application; Cumberland Mall, LLC c/o General Growth Properties, Inc.

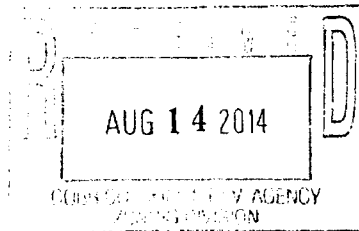
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Mr. John Pederson
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SQ. FT. COMPARISON

AUG 14 2014
 OFFICE OF COMMUNITY DEVELOPMENT
 ZONING DIVISION

Cumberland Mall SQ FT. Comparison		1995 Variance Approved			2012 Variance Approved			2014 Proposed Signage			Comments
Sign Description	QTY	Sign SQ FT.	Sign Total	QTY	Sign SQ FT.	Sign Total	QTY	Sign SQ FT.	Sign Total		
1995 Approved Signage											
Existing Freeway Pylon	1	444.00	444.00	1	444.00	444.00	1	0.00	0.00	This sign will be eliminated.	
New Main ID on Existing Wall	1	118.13	118.13	1	118.13	118.13	1	118.13	118.13		
Vertical Monument	1	28.95	28.95	1	0.00	0.00	1	0.00	0.00		
Horizontal Monument	5	18.24	91.20	5	18.24	91.20	5	18.24	91.20		
Main Entry ID	2	62.03	124.06	2	62.03	124.06	2	62.03	124.06		
Food Court Entry ID	1	115.00	115.00	1	115.00	115.00	1	115.00	115.00		
Entry Sign	1	6.0	6.0	1	6.0	6.0	1	6.0	6.0		
SUBTOTAL			927.34			898.39			454.39		
2012 Approved Signage											
Primary ID - Cobb Parkway	1	110.25	110.25	1	110.25	110.25	1	110.25	110.25		
ALT Primary ID - Akers Mill / Hwy 41	1	194.00	194.00	1	194.00	194.00	1	194.00	194.00		
Primary Pylon - Digital Screen	1	337.50	337.50	1	337.50	337.50	1	0.00	0.00	This sign was never erected.	
SUBTOTAL						641.75			304.25		
2014 Proposed Signage											
Proposed LED Pylon	1			1	1041.08	1041.08	1	1041.08	1041.08		
SUBTOTAL									1041.08		
TOTAL			927.34			1540.14			1799.72		

