(Site Plan and Stipulation Amendment)

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division – 770-528-2035)

Application No.: OB- 48 -2016

BOC Hearing Date Requested: August 16, 2016

Applicant: Riverview Associates, Ltd. **Phone #:** (770) 818-4100
(applicant's name printed)

Address: Suite 500, 3284 Northside Parkway, N.W., Atlanta, Georgia 30327 **E-Mail:**

Moore Ingram Johnson & Steele, LLP
John H. Moore **Address:** Emerson Overlook, 326 Roswell Street
Marietta, GA 30060
(representative's name, printed)

BY: **Phone #:** (770) 429-1499 **E-Mail:** jmoore@mijs.com
(representative's signature) Georgia Bar No. 519800

Signed, sealed and delivered in presence of:

Carolyn E. Cook **My commission expires:** January 10, 2019
Notary Public

CAROLYN E. COOK NOTARY PUBLIC COBB COUNTY EXPIRES GEORGIA JAN. 10, 2019

Titleholder(s): Riverview Associates, Ltd. **Phone #:** (770) 818-4100
(property owner's name printed)

Address: Suite 500, 3284 Northside Parkway, N.W., Atlanta, GA 30327 **E-Mail:**

See Attached Exhibit "A" for
Signature of Titleholder's Representative
(Property owner's signature)

RECEIVED JUL 12 2016 COBB CO. COMM. DEV. AGENCY ZONING DIVISION

Signed, sealed and delivered in presence of:

My commission expires:
Notary Public

Commission District: 2 (Ott) **Zoning Case:** Z-49 (2008)

Size of property in acres: 16.8 **Original Date of Hearing:** 10/21/2008

Location: Northwesterly intersection of Cobb Parkway (U.S. Highway 41) and Paces Mill Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 976, 977, 1016, 1017 **District(s):** 17th

State specifically the need or reason(s) for Other Business:

See Exhibit "B" attached hereto and incorporated herein by reference.

(List or attach additional information if needed)

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS
(SITE PLAN AND STIPULATION AMENDMENT)

OB Application No.:	**OB-48-2016**
Application No.:	**Z-49 (2008)**
Original Hearing Date:	**October 21, 2008**
Date of Zoning Decision:	**February 17, 2009**
	October 19, 2010
OB Zoning Decision:	**December 18, 2012**
Current Hearing Date:	**August 16, 2016**

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant/Property Owner: Riverview Associates, Ltd.

RECEIVED
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COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

RIVERVIEW ASSOCIATES, LTD.
A Georgia Limited Partnership

BY: S. H. Whisenant
Stephen H. Whisenant
General Partner

Address: Suite 500
3284 Northside Parkway, N.W.
Atlanta, Georgia 30327

Telephone No.: (770) 818-4100

Signed, sealed, and delivered in the presence of:

Betsy L. Bailey
Notary Public
Commission Expires: 1-21-17

[Notary Seal]
BETSY L. BAILEY
MY COMMISSION EXPIRES
JAN. 21 2017
COBB CO., GEORGIA
NOTARY PUBLIC

EXHIBIT "B" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(Site Plan and Stipulation Amendment)

OB Application No.:	**OB-49-2016**
Application No.:	**Z-49 (2008)**
Original Hearing Date:	**October 21, 2008**
Date of Zoning Decision:	**February 17, 2009** **October 19, 2010**
OB Zoning Decision:	**December 18, 2012**
Current Hearing Date:	**August 16, 2016**

RECEIVED
JUL 12 2016
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant/Property Owner: Riverview Associates, Ltd.

The property which is the subject of this Application for "Other Business" consists of approximately 16.8 acres and is located at the southwesterly intersection of Cobb Parkway (U.S. Highway 41) and Paces Mill Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). On October 19, 2010, the Cobb County Board of Commissioners rezoned the Property to the Regional Retail Commercial ("RRC") zoning category, which included development to a specific site plan; as well as, stipulations and conditions related to the proposed project. The initial approval was subsequently amended through the "Other Business" process on December 18, 2012, which approved a revised site plan and revised certain stipulations and conditions previously approved.

At the time of the prior rezoning approval and amendment, the Georgia Department of Transportation had not yet finalized plans relating to the Cobb Parkway corridor, and it was uncertain as to how improvements along Cobb Parkway would impact the Subject Property and the overall development. The roadway improvements by the Georgia Department of Transportation are substantially completed. Additionally, due to the length of time since the zoning approval and amendment, changes in market conditions and changes in demographics and the general climate within the Cumberland-Galleria-Vinings area have occurred. Applicant, Riverview Associates, Ltd. (hereinafter "Applicant"), now proposes the development of the Subject Property pursuant to the RRC zoning classification, and seeks approval by the Cobb County Board of Commissioners for substantial revisions to the previously approved site plan and stipulations. The proposed amendments are enumerated as follows:

(1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.

(2) Development of the Subject Property shall be to the Regional Retail Commercial ("RRC") zoning category, as previously approved by the Cobb County Board of Commissioners on

October 19, 2010, site plan specific to the Conceptual Site Plan prepared for Applicant by Croy Engineering, LLC, dated July 1, 2016, and filed contemporaneously herewith. A reduced copy of the Conceptual Site Plan is attached for ease of reference as Exhibit "1" and incorporated herein by reference.

(3) The Subject Property consists of approximately 16.8 acres of total site area and shall be developed for a mixed-use development consisting of office, retail, and residential.

I. STIPULATIONS APPLICABLE TO THE OVERALL DEVELOPMENT

(1) Signage for the proposed, overall development shall be ground-based, monument-style signage, with the finish, materials, and color being in conformity with the architecture and design of the various components. Such signage shall contain no flashing sign components. There shall be monument signage at the designated entrance areas, all as more particularly shown and reflected on the proposed Conceptual Site Plan. Additionally, any building signage shall be allowed pursuant to Cobb County Code.

(2) The entrance areas, together with all islands and planted areas, shall be professionally designed, landscaped, and maintained. These areas shall be part of the overall landscape plan approved by staff as part of the Plan Review Process.

(3) Lighting within the overall development shall be environmentally sensitive, decorative, and themed to the architecture and style of the respective components of the development.

(4) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed retail buildings containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicant and any prospective tenant, and Applicant agrees to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail buildings with "for sale" signs posted thereon.

(5) Setbacks for the components of the overall proposed development shall be as more particularly shown and reflected on the referenced, proposed Conceptual Site Plan.

(6) Minor modifications to the within stipulations, the referenced Conceptual Site Plan, lighting, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:

(a) Increase the density of a residential project or the overall square footage of a non-residential project;

(b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;

(c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;

(d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district; or

(e) Change an access location to a different roadway.

(7) All setbacks and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.

(8) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.

(9) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the Plan Review Process and incorporated into the overall landscape plan for the proposed development.

(10) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.

(11) All utilities for the proposed overall development shall be located underground.

(12) The following uses shall be prohibited from the proposed overall development:

(a) Video arcades as a primary use;
(b) Adult-themed bookstores as a primary use;
(c) Automotive sales, leasing, repair, and/or service facilities;
(d) Gas stations and self-service gas stations that sell gas and convenience stores;
(e) Truck and trailer leasing facilities;
(f) Automotive paint and body repair shops;
(g) Automotive upholstery shops;
(h) Billiards and pool halls which are the sole or predominant use;
(i) Bus stations (not to exclude bus stops);
(j) Fraternity and sorority house;
(k) Full-service gas stations;
(l) Light automotive repair;
(m) Rooming houses and boarding houses;
(n) Any form of adult entertainment business; and
(o) Nightclubs and bars, except that same would be permitted within a restaurant or hotel provided that they are an integral part of a restaurant operation.

(13) As to the overall development, there shall be "zero lot lines" among the various components within the development so as to allow for the free flow of access, parking, and the like.

(14) Detention and water quality facilities for the proposed development shall be as shown and reflected on the Conceptual Site Plan. Any above ground facilities shall be screened by black, vinyl-clad chain link fencing, or black wrought iron-type fencing. The fencing shall be six (6) feet in height with landscaping to the exterior of the fencing for purposes of visual screening.

II. RETAIL AND RESIDENTIAL COMPONENTS

(1) The retail and residential components shall be developed to share space in two structures, and one separate structure shall have retail space as well. In one structure residential shall be located over retail; and in the remaining structure, a portion of the structure shall have residential over retail, with the remaining structure having retail over residential.

(2) There shall be a maximum of one hundred five thousand (105,000) square feet of retail space.

(3) The multi-story residential and retail buildings shall be a maximum of five (5) stories in height, which shall contain a maximum of three hundred (300) units, as shown and reflected on the proposed Conceptual Site Plan. Specifics as to the units are as follows:

(i) Units shall consist of studio, one, two, and three bedrooms;
(ii) Unit size shall range from a minimum of six hundred twenty (620) square feet, and greater.

(4) Units within the multi-story residential building shall be "for lease" units.

(5) The building shall be constructed of stucco-type, brick, stone, stacked stone, Cementous siding, and other hard-surface materials, and combinations thereof.

(6) Floor plans and finishes for the residential units shall consist, at a minimum, of the following:

(a) Enhanced Corian, granite, or marble counter tops, or other solid surface materials;

(b) Minimum ceiling heights:

i) Minimum 9 feet, except in furred-down areas, from floor to finished ceiling and greater; and
ii) Minimum 10 feet between floors;

(c) European or upscale wooden face-frame cabinetry;

(d) Stainless or paneled appliances;

(e) Extra-deep stainless steel or farmhouse sinks and side-by-side refrigerators/freezers as upgrades;

(f) A selection of faux hardwood flooring, high-end carpet, and tile throughout;

(g) Spacious open floor plans;

(h) Brushed chrome, brushed nickel, or oiled rubbed bronze bathroom and kitchen fixtures;

(i) Ceramic tile or faux hardwood bathrooms and laundry rooms; and

(j) Controlled access building and amenity areas.

(7) All residents of the proposed residential buildings shall have access to and use and enjoyment of the amenity areas, which may include, but not be limited to, the following:

(a) Pool;
(b) Cabana;
(c) Amenity courtyards and terraces;
(d) Fitness center;
(e) Clubroom;
(f) Business center; and
(g) Internet café.

(8) The residents within the proposed buildings will utilize a compactor system for refuse.

(9) There shall be levels of below grade parking and podium parking for residents, tenants, and customers of the multi-story residential and retail buildings. Additionally, there shall be surface parking, as more particularly shown and reflected on the Conceptual Site Plan for retail customers and clients and guests of residents.

(10) Access to the residential portion of the proposed community and parking may be gated.

III. OFFICE COMPONENT

(1) The office tower shall consist of a maximum of ten (10) stories containing a maximum of 250,000 square feet.

(2) Parking for tenants of the proposed office tower shall be accomplished by providing a parking deck underneath the tower, having a maximum of seven hundred fourteen (714) spaces.

(3) Up to twenty (20) percent of the parking spaces may be "compact spaces." Compact spaces will be a minimum of eight (8) feet by sixteen (16) feet. Regular parking spaces will be a minimum of nine (9) feet by nineteen (18) feet.

(4) The exterior finish of the proposed office tower shall consist of glass, concrete, and steel, or combinations thereof; and may consist of partial brick and/or stone.

The amendments proposed and presented herein in no way adversely impact or affect the quality or integrity of the proposed development, but ensure each component of the overall development is to the highest standards of development. If the requested amendments are approved, as submitted, they shall become a part of the final rezoning and shall be binding upon the Subject Property and the overall development.

Exhibit "1"

PARKING COUNT REQUIRED	
	PARKING SPACES
OFFICE	734
RETAIL	468
RESIDENTIAL	400
TOTAL PARKING	1582

PARKING PROVIDED AT THE TIME OF FINAL DESIGN AND PERMITTING WILL MEET OR EXCEED THE MINIMUM REQUIRED BY CODE.

BUILDING USE	
	TOTAL SF
OFFICE	250,000 SF
RETAIL	105,000 SF
RESIDENTIAL UNITS	300 UNITS

GDOT PROJECT LEGEND	
PERMANENT WALL EASEMENT	
PERMANENT SLOPE EASEMENT	
LIMITS OF DISTURBANCE	—LOD—

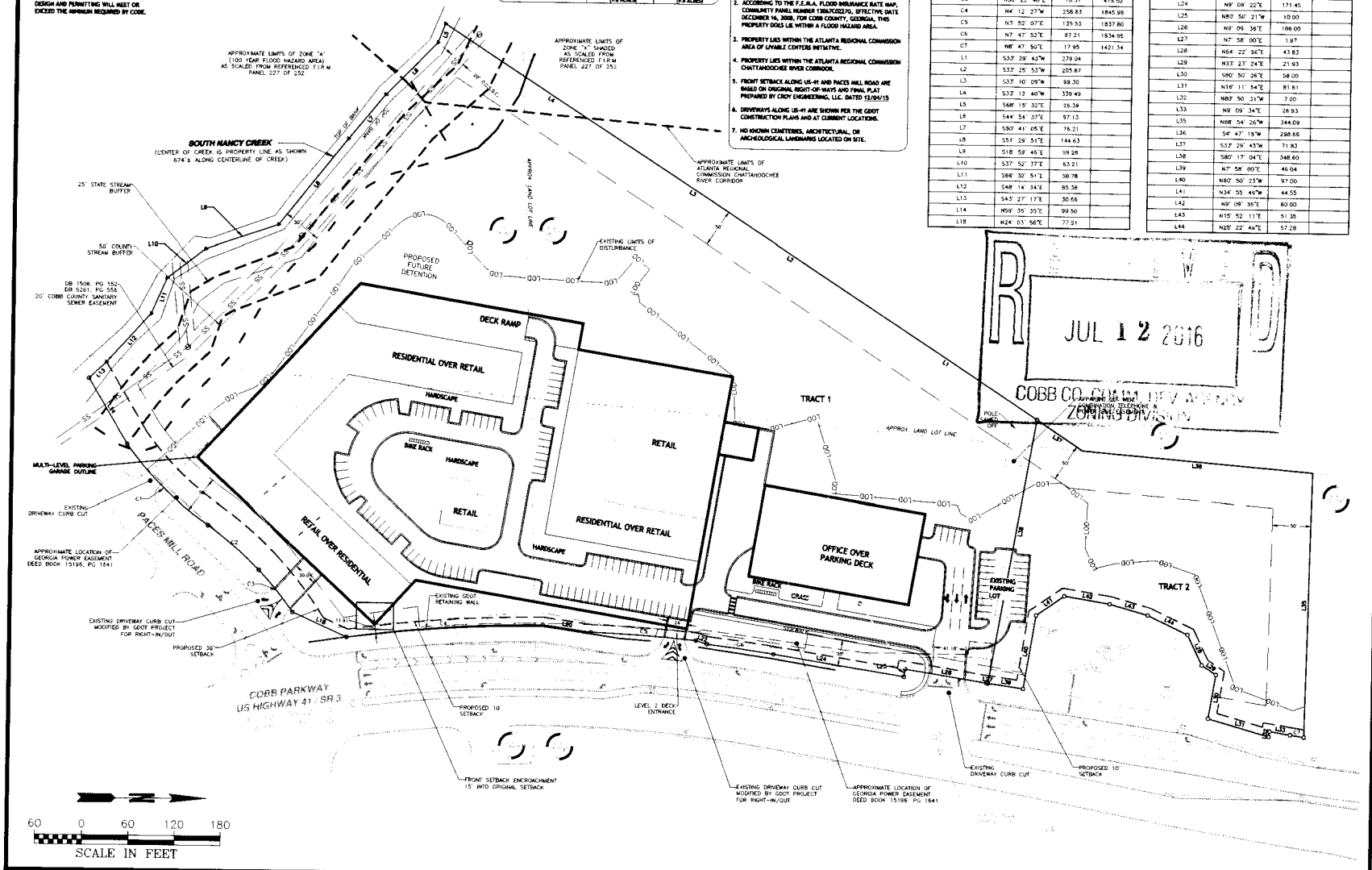
AREA TABLE		
	EXISTING	PROPOSED
TOTAL PARCEL AREA (INCLUDES TRACTS 1, 2, 3 & 4)	732,000 SQ.FT. (16.8 ACRES)	732,000 SQ.FT. (16.8 ACRES)
IMPERVIOUS AREA	301,000 SQ.FT. +/- (6.9 ACRES)	301,000 SQ.FT. +/- (6.9 ACRES)
DISTURBED AREA	410,000 SQ.FT. +/- (9.6 ACRES)	410,000 SQ. FT. +/- (9.6 ACRES)

MASTER SITE PLAN NOTES

1. ZONING CASE Z-49 (2006)
   ORIGINALLY APPROVED ON:
   FEBRUARY 17, 2009
   SETTLEMENT OF LITIGATION APPROVED ON:
   OCTOBER 19, 2010
   OTHER BUSINESS APPROVED ON:
   DECEMBER 18, 2012
2. ACCORDING TO THE F.E.M.A. FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 13067C0227G, EFFECTIVE DATE DECEMBER 16, 2008, FOR COBB COUNTY, GEORGIA, THIS PROPERTY DOES LIE WITHIN A FLOOD HAZARD AREA.
3. PROPERTY LIES WITHIN THE ATLANTA REGIONAL COMMISSION AREA OF LIVABLE CENTERS INITIATIVE.
4. PROPERTY LIES WITHIN THE ATLANTA REGIONAL COMMISSION CHATTAHOOCHEE RIVER CORRIDOR.
5. FRONT SETBACK ALONG US-41 AND PACES MILL ROAD ARE BASED ON ORIGINAL RIGHT-OF-WAYS AND FINAL PLAT PREPARED BY CROY ENGINEERING, LLC. DATED 12/04/15
6. DRIVEWAYS ALONG US-41 ARE SHOWN PER THE GDOT CONSTRUCTION PLANS AND AT CURRENT LOCATIONS.
7. NO KNOWN CEMETERIES, ARCHITECTURAL, OR ARCHEOLOGICAL LANDMARKS LOCATED ON SITE.

PARCEL TABLE			
LINE NO./CURVE NO.	DIRECTION/DELTA	LENGTH (FT)	RADIUS (FT)
C1	N44° 25' 49"E	149.98	422.00
C2	N49° 51' 11"E	87.79	475.50
C3	N50° 22' 40"E	70.31	475.50
C4	N4° 12' 27"W	258.83	1845.95
C5	N3° 52' 07"E	135.53	1837.80
C6	N7° 47' 52"E	87.21	1834.95
C7	N8° 47' 50"E	17.95	1421.34
L1	S33° 29' 43"W	279.04	
L2	S33° 25' 53"W	205.67	
L3	S33° 10' 09"W	99.30	
L4	S33° 12' 40"W	339.49	
L5	S68° 15' 32"E	26.39	
L6	S44° 54' 37"E	97.13	
L7	S50° 41' 05"E	76.21	
L8	S51° 29' 51"E	144.63	
L9	S18° 59' 46"E	99.28	
L10	S37° 52' 37"E	63.21	
L11	S66° 32' 51"E	50.78	
L12	S48° 14' 34"E	85.38	
L13	S43° 27' 17"E	30.66	
L14	N59° 35' 35"E	99.50	
L18	N24° 03' 56"E	77.91	

PARCEL TABLE			
LINE NO./CURVE NO.	DIRECTION/DELTA	LENGTH (FT)	RADIUS (FT)
L20	N8° 03' 12"E	63.19	
L22	N17° 50' 00"E	14.89	
L24	N9° 09' 22"E	171.45	
L25	N80° 50' 21"W	10.00	
L26	N9° 09' 38"E	106.00	
L27	N7° 58' 00"E	1.97	
L28	N84° 22' 36"E	43.83	
L29	N33° 23' 24"E	21.93	
L30	S80° 50' 26"E	58.00	
L31	N16° 11' 54"E	81.61	
L32	N80° 50' 31"W	7.00	
L33	N9° 09' 34"E	26.93	
L35	N88° 54' 26"W	344.09	
L36	S4° 47' 15"W	298.66	
L37	S33° 29' 43"W	71.83	
L38	S80° 17' 04"E	348.60	
L39	N7° 58' 00"E	46.04	
L40	N80° 50' 23"W	97.00	
L41	N34° 55' 49"W	44.55	
L42	N9° 09' 35"E	60.00	
L43	N15° 52' 11"E	51.35	
L44	N28° 22' 49"E	57.28	



RECEIVED
JUL 12 2016
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

CROY ENGINEERING
Engineers Planners Surveyors
1200 NORTH CORPORATE PARKWAY, BLDG. 400, SUITE 413
MARIETTA, GEORGIA 30067
PHONE: (770) 971-5407 FAX: (770) 971-0620

RIVERVIEW ASSOCIATES LTD.

LAND LOT(S) 976, 977, 1016 & 1017
OF THE 17th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA

NO.	REVISION REFERENCE	DATE

SEAL: GEORGIA REGISTERED No. 25434 PROFESSIONAL ENGINEER LEWIS CARL CROY

GSWCC CERT #02973

SHEET TITLE: CONCEPTUAL SITE PLAN

DRAWN BY	CHECKED BY
BCB	LCC
SCALE	ISSUE DATE
1"=60'	07/01/2016

PROJECT NUMBER: 1220.00

DRAWING NUMBER: 1

SHEET 1 of 1

NOT ISSUED FOR CONSTRUCTION

CONCEPTUAL SITE PLAN FOR APPROVAL BY BOARD OF COMMISSIONERS PURSUANT TO APPLICATION FOR "OTHER BUSINESS" – AUGUST 16, 2016

PARKING COUNT REQUIRED	
	PARKING SPACES
OFFICE	714
RETAIL	468
RESIDENTIAL	400
TOTAL PARKING	1582

PARKING PROVIDED AT THE TIME OF FINAL DESIGN AND PERMITTING WILL MEET OR EXCEED THE MINIMUM REQUIRED BY CODE.

BUILDING USE	
	TOTAL SF
OFFICE	250,000 SF
RETAIL	105,000 SF
RESIDENTIAL UNITS	300 UNITS

GDOT PROJECT LEGEND

PERMANENT WALL EASEMENT
PERMANENT SLOPE EASEMENT
LIMITS OF DISTURBANCE —LOD—

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IMPERVIOUS AREA	301,000 SQ.FT +/- (6.9 ACRES)	301,000 SQ.FT +/- (6.9 ACRES)
DISTURBED AREA	418,000 SQ.FT. +/- (9.6 ACRES)	418,000 SQ. FT. +/- (9.6 ACRES)

MASTER SITE PLAN NOTES

1. ZONING CASE 7-09 (2009)
   ORIGINALLY APPROVED ON:
   FEBRUARY 17, 2009
   SETTLEMENT OF LITIGATION APPROVED ON:
   OCTOBER 19, 2010
   OTHER BUSINESS APPROVED ON:
   DECEMBER 18, 2012
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C5	N3° 52' 07"E	135.53	1857.80
C6	N7° 47' 52"E	87.21	1834.95
C7	N8° 47' 50"E	17.95	1421.34
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L8	S51° 29' 51"E	144.63	
L9	S18° 59' 46"E	99.28	
L10	S37° 52' 37"E	83.21	
L11	S68° 32' 51"E	50.78	
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L31	N16° 11' 54"E	81.61	
L32	N80° 50' 31"W	7.00	
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L35	N88° 54' 26"W	344.09	
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L39	N7° 58' 00"E	46.04	
L40	N80° 50' 23"W	97.00	
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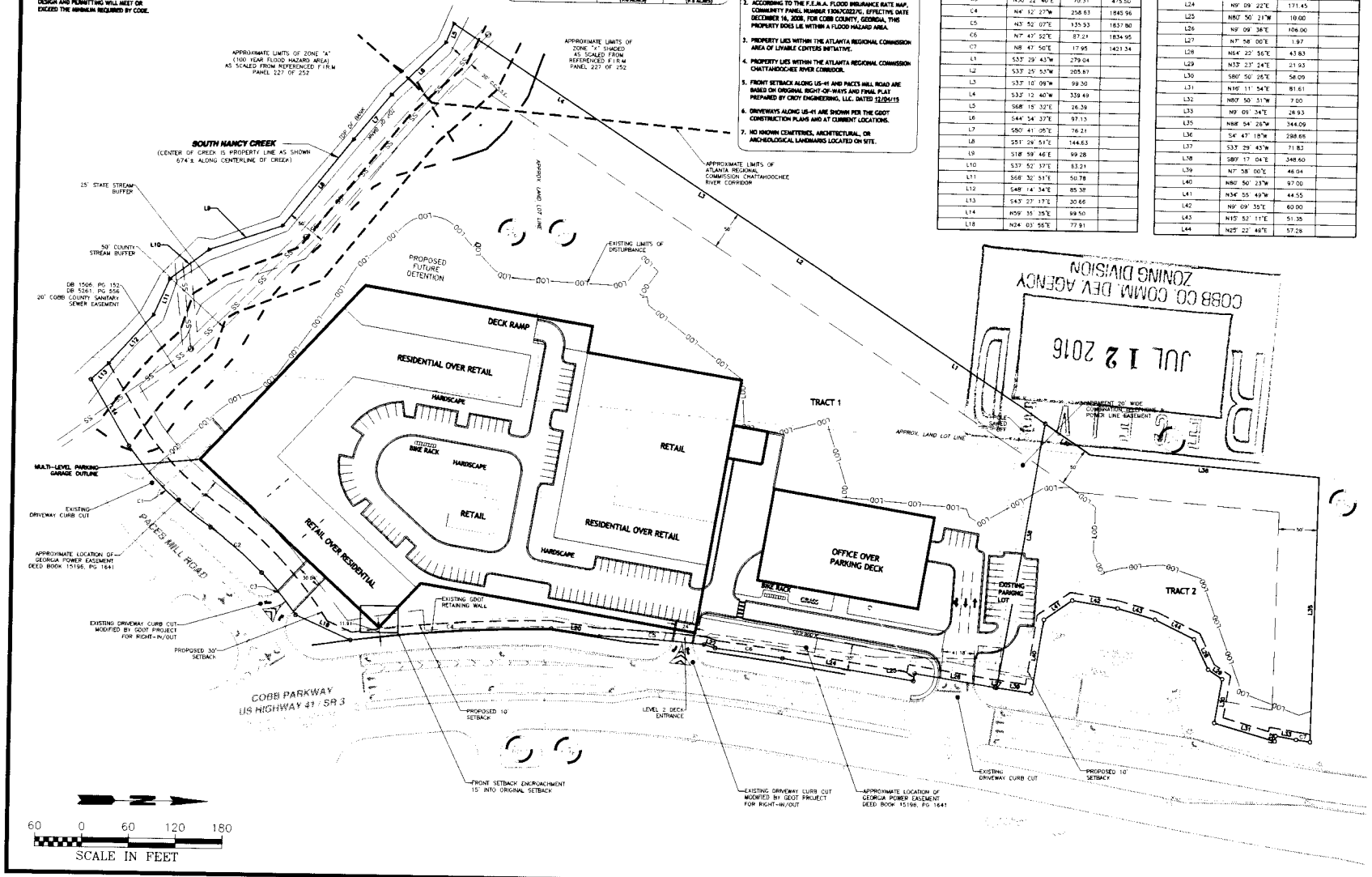
L42	N9° 09' 35"E	60.00	
L43	N15° 52' 11"E	51.35	
L44	N25° 22' 49"E	57.28	



CROY ENGINEERING
Engineers Planners Surveyors
200 NORTH COBB PARKWAY, BLDG 400, SUITE 415
MARIETTA, GA 30062
PHONE: (770) 971-0407 FAX: (770) 971-0620

RIVERVIEW ASSOCIATES LTD.

LAND LOT(S) 976, 977, 1016 & 1017
OF THE 17th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA

NO.	REVISION REFERENCE	DATE

SEAL: GEORGIA REGISTERED No. 25434 PROFESSIONAL ENGINEER LEWIS CARL CARTER

GSWCC CERT #02973

SHEET TITLE: CONCEPTUAL SITE PLAN

DRAWN BY	CHECKED BY
BCB	LCC
SCALE	ISSUE DATE
1"=60'	07/01/2016

PROJECT NUMBER: 1220.00

DRAWING NUMBER: 1

SHEET 1 of 1

NOT ISSSUED FOR CONSTRUCTION

CONCEPT PLAN APPROVED BY BOARD OF COMMISSIONERS PURSUANT TO APPLICATION FOR "OTHER BUSINESS" – "OB 3" (Z-49 (2008)) – DECEMBER 18, 2012

OB 3
12/18/12

NOT ISSUED FOR CONSTRUCTION

CROY ENGINEERING

RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
OF THE 17th DISTRICT
COBB COUNTY, GEORGIA

COBB COUNTY GEORGIA
FILED IN OFFICE
2012 DEC 13 AM 11:29
COBB COUNTY ZONING DIVISION

1220.00

SHEET NUMBER 1

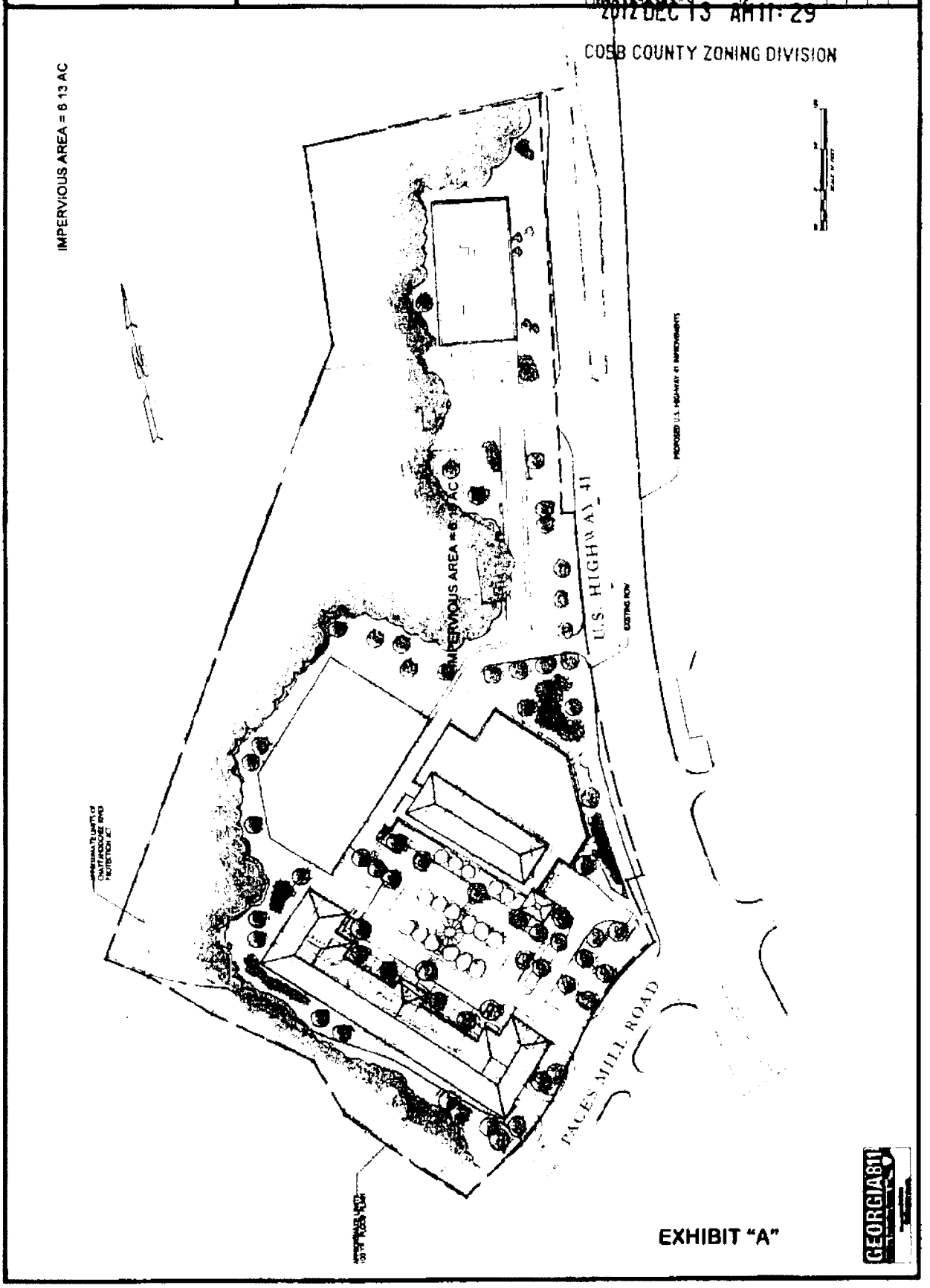
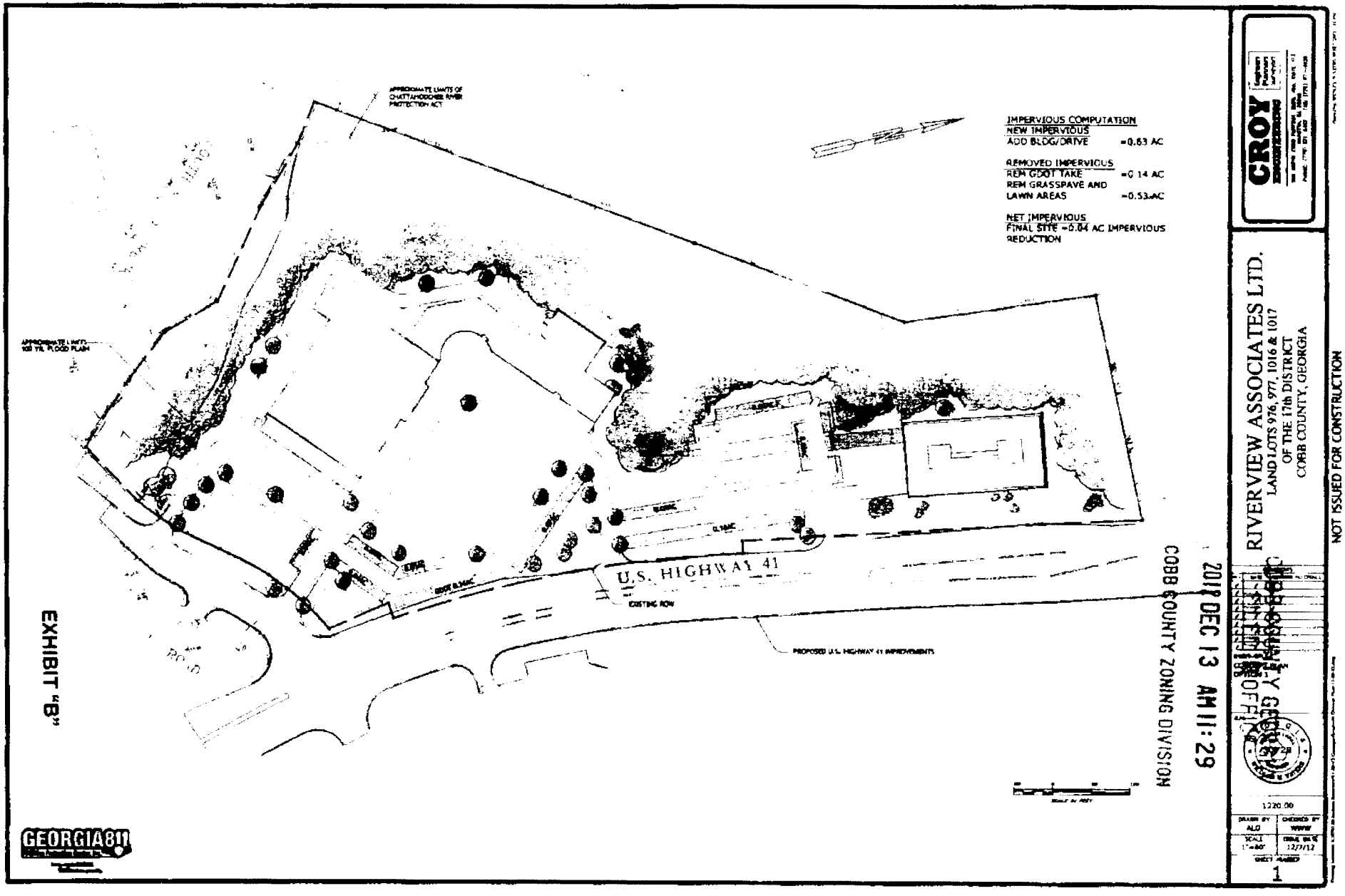


EXHIBIT "A"

GEORGIA811


APPROXIMATE LIMITS OF CHATTAHOOCHEE RIVER PROTECTION ACT
APPROXIMATE LIMITS 100 YR. FLOOD PLAIN
IMPERVIOUS COMPUTATION
NEW IMPERVIOUS
ADD BLDG/DRIVE =0.83 AC
REMOVED IMPERVIOUS
REM GDOT TAKE =0.14 AC
REM GRASSPAVE AND LAWN AREAS =0.53 AC
NET IMPERVIOUS
FINAL SITE =0.04 AC IMPERVIOUS REDUCTION
U.S. HIGHWAY 41
EXISTING ROW
PROPOSED U.S. HIGHWAY 41 IMPROVEMENTS
CROY
RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
OF THE 17th DISTRICT
COBB COUNTY, GEORGIA
NOT ISSUED FOR CONSTRUCTION
1220.00
ALO
12/7/12
1
2012 DEC 13 AM 11:29
COBB COUNTY ZONING DIVISION
EXHIBIT "B"
GEORGIA811

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12/18/12

OFFICIAL MINUTES OF COBB COUNTY BOARD OF COMMISSIONERS ZONING HEARING FOR Z-49 (2008) – FEBRUARY 17, 2009

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 17, 2009
9:05 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, February 17, 2009, at 9:05 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Tim Lee
Commissioner Woody Thompson
Commissioner Robert Ott

Z-49'08 **TRI-KELL INVESTMENTS, INC.** (Riverview Associates, Ltd. and Riverview Village, LLC, owners) requesting Rezoning from **GC** to **RRC** for the purpose of Mixed Use Development in Land Lots 976, 977, 1016 and 1017 of the 17th District. Located at the northwesterly intersection of U.S. Highway 41 and Paces Mill Road.

The public hearing was opened and Mr. John Moore, Mr. Ron Sifen and Ms. Jody Smith addressed the Board. Following presentation and discussion, the following motion was made, discussed and amended as follows:

MOTION: Motion by Ott, second by Goreham, to **approve** Rezoning to the **RRC** zoning district **subject to**:

- **site plan submitted, received by the Zoning Division August 7, 2008, with the District Commissioner approving minor modifications (attached and made a part of these minutes)**
- **final site plan approval by the District Commissioner**
- **reversion clause so that if a demolition permit and subsequent construction permit is not pulled, along with demolition of site, within 36 months - then the site reverts back to the previous zoning (applicant may return to BOC as an Other Business Item if Highway 41 project issues arise)**
- **letter of agreeable conditions from Mr. John Moore dated February 3, 2009, not otherwise in conflict and with the following changes (attached and made a part of these minutes):**
  - **Page No. 3 – Item No. 8 – last sentence change to: "*...from 7:00 a.m. to 7:00 p.m. and Sunday from 2:00 p.m. to 7:00 p.m.*"**
  - **Page No. 3 – Item No. 9 – last sentence change to: "*... Monday through Saturday from 7:00 a.m. to 10:00 p.m. and Sunday from 11:00 a.m. to 9:00 p.m.*"**
- **maximum of 105,000 square feet of commercial development (office and retail) as shown on site plan**

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 17, 2009
9:05 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, February 17, 2009, at 9:05 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

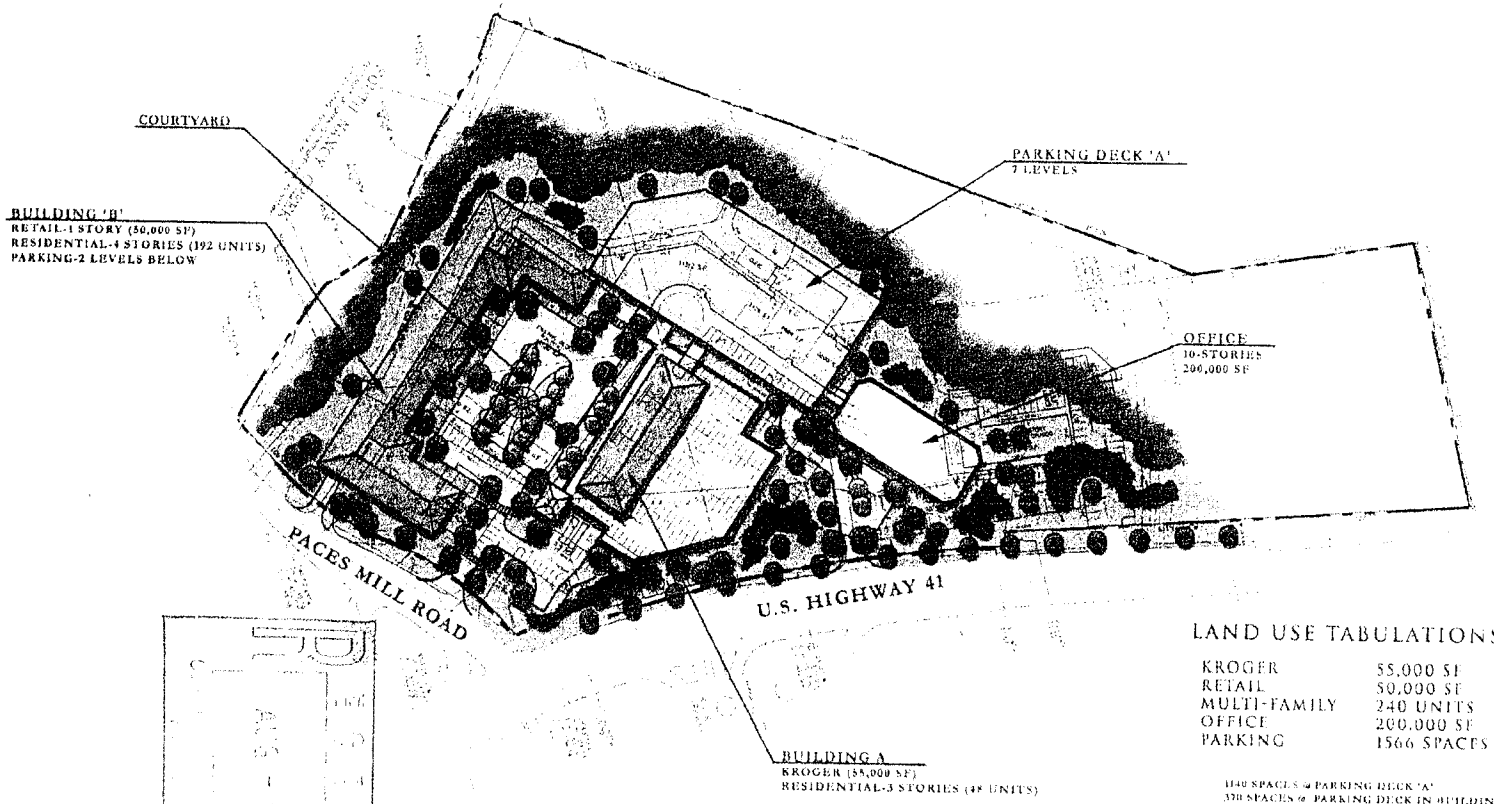
Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Tim Lee
Commissioner Woody Thompson
Commissioner Robert Ott

Z-49'08 **TRI-KELL INVESTMENTS, INC. (Continued)**

- **maximum of 180 residential units *unless Highway 41 is widened, if widened, then the maximum number of units allowed will be 216***
- **maximum of 8 stories for the office building; *however if Highway 41 is widened up to 10 stories will be allowed***
- **Development of Regional Impact Study (including GRTA and ARC findings on file in the Zoning Division)**
- **Fire Department comments and recommendations**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- ***revised* Cobb DOT comments and recommendations (attached and made a part of these minutes)**
- **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**

VOTE: **ADOPTED** 3-2 (Goreham and Olens opposed)

Min. Bk. 57 Petition No. 2-49 '08
Doc. Type Site Plan
Meeting Date 2-17-09



LAND USE TABULATIONS

KROGER	55,000 SF
RETAIL	50,000 SF
MULTI-FAMILY	240 UNITS
OFFICE	200,000 SF
PARKING	1566 SPACES

1140 SPACES @ PARKING DECK 'A'
370 SPACES @ PARKING DECK IN BUILDING B
56 SURFACE SPACES @ COURTYARD

09-09-02
01206-c-plan-09-09-02

RIVERVIEW
TRAMMELL CROW RESIDENTIAL/TRI-KELL INVESTMENTS

HGOR
HUGHES | GOOD | O'LEARY & RYAN

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
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JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON
ROBERT D. INGRAM
J. BRIAN O'NEIL
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JENNIFER B. WHITE
RYAN G. PRESCOTT
CHRISTOPHER C. MINGLEDORFF
COLE R. STINSON
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JENNIFER A. RINGSMUTH
PRESTON D. HOLLOWAY
JENNIFER B. SIMPSON
ASPEN S. FAINS
MARC E. BROTKIN
BETH GEARHART
S. NIKOL RICHARDSON
SCOTT L. SAIDAK
JENNIFER J. LAFOUNTAINE
TIMOTHY H. STALLINGS

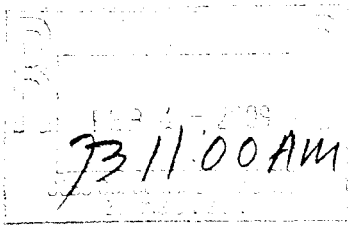
GABRIEL A. DANIELS
J. SCOTT MARCUM
WILMA R. BUSH
GREG H. FULLER
CHERYL A. STAUGAITIS
JENNIFER L. TOMMASELLO
KEVIN L. LOPER

OF COUNSEL
JOHN L. SAMPTON, JR.

ALSO ADMITTED IN TN
ALSO ADMITTED IN FL
ALSO ADMITTED IN NV
ALSO ADMITTED IN NC
ALSO ADMITTED IN CA
ADMITTED ONLY IN TN

February 3, 2009

Hand Delivered



Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 300, 191 Lawrence Street
Marietta, Georgia 30060-1661

RE: Application for Rezoning - Application No. Z-49 (2008)
Applicant: Tri-Kell Investments, Inc.
Owners: Riverview Associates, Ltd. and Riverview Village, LLC
Property: 18.01 acres located at the intersection of the westerly side of Cobb Parkway and the northerly side of Paces Mill Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia

Min. Bk. 57 Petition No. Z-49
Doc. Type letter of agreeable conditions
Meeting Date 2-17-2009

Dear John:

As you know, the undersigned and this firm represent the Applicant, Tri-Kell Investments, Inc. (hereinafter referred to as "Applicant"), and the Property Owners, Riverview Associates, Ltd. and Riverview Village, LLC (hereinafter collectively referred to as "Owners"), in the above-referenced Application for Rezoning with regard to a total tract of 18.01 acres, more or less, located at the intersection of the westerly side of Cobb Parkway and the northerly side of Paces Mill Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property"). After review and completion of the Development of Regional Impact ("DRI") process by the Atlanta Regional Commission and the Georgia Regional Transportation Authority; meetings with planning and zoning staff; reviewing the zoning staff comments and recommendations; discussions and meetings with area residents and homeowner representatives; and reviewing the uses of

surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreeable stipulations and conditions, which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the letter of agreeable stipulations and conditions dated and filed November 26, 2008. The revised stipulations are as follows:

(1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.

(2) Applicant seeks rezoning of the Subject Property from the existing zoning category of General Commercial ("GC") to the proposed zoning category of Regional Retail Commercial ("RRC"), with reference to the Site Plan prepared for Applicant by Hughes Good O'Leary & Ryan dated September 2, 2002, and submitted to the Cobb County Zoning Office with the Application for Rezoning on August 7, 2008.

(3) The Subject Property consists of approximately 18.01 acres of total site area and shall be developed for a mixed-use development consisting of office, retail, and condominiums and related services.

STIPULATIONS APPLICABLE TO THE OVERALL DEVELOPMENT

(1) There shall be master protective covenants for the entire development which will include all phases of the development; and concurrent therewith a master association, and possibly sub-associations, will be formed which will include all component parts of the proposed development. The master association shall be responsible for the oversight, upkeep, and maintenance of the entrance areas, common areas, open space areas, and the like contained within the overall development.

(2) The master association, and any sub-associations, to be formed hereunder shall have architectural design regulations which shall control such items as signage for

Petition No. Z-49 '08
Meeting Date 2-17-09
Continued

individual units, and other such usual and necessary covenants and restrictions to protect the quality and integrity of the total development.

(3) Entrances to the proposed development shall be as more particularly shown and reflected on the referenced Site Plan.

(4) Entrance signage for the proposed overall development shall be ground-based, monument-style signage, with the finish, materials, and color being in conformity with the architecture and design of the various components. Such signage shall contain no flashing sign components.

(5) The entrance areas, together with all islands and planted areas, shall be professionally designed, landscaped, and maintained. These areas shall be part of the overall landscape plan approved by staff as part of the plan review process.

(6) Lighting within the proposed development shall be environmentally sensitive, decorative, and themed to the architecture and style of the respective components of the development.

(7) Additionally, hooded security lighting shall be utilized on the exteriors of the buildings and throughout the walkways, parking, and parking deck areas.

(8) All dumpsters servicing any portion of the overall development shall be enclosed with a minimum six (6) foot high brick enclosure on three sides with a solid wooden screen gate or doors on the access side. All dumpsters shall contain rubber lids to minimize noise. Dumpsters shall be emptied Monday through Saturday from 5:00 a.m. to 7:00 p.m. and Sunday from 2:00 p.m. to 7:00 p.m.

(9) Parking lot cleaning with the use of mechanical equipment shall be restricted to hours Monday through Saturday from 5:00 a.m. to 10:00 p.m. and Sunday from 11:00 a.m. to 9:00 p.m.

(10) Deliveries to the proposed retail uses shall be limited to between the hours of 5:00 a.m. to 11:00 p.m., Monday through Friday; 9:00 a.m. to 7:00 p.m. on Saturday and Sunday.

(11) Store hours which are open to the public for the retail uses proposed for this development shall be limited to Monday through Saturday, 6:00 a.m. to

Petition No. Z-49 '08
Meeting Date 2-17-09
Continued

10:00 p.m. and Sunday from 6:00 a.m. to 9:00 p.m. Restaurants may remain open until 2:00 a.m.

(12) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed buildings containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicant and any prospective tenant, and Applicant agrees to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail centers with "for sale" signs posted thereon.

(13) Minor modifications to the within stipulations, the referenced Site Plan, lighting, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary.

(14) All setbacks and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.

(15) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.

(16) All streets within the proposed development shall be private with the construction therefor complying in all respects as to materials, base, and other requirements to the Cobb County Code.

(17) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.

(18) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.

(19) All utilities for the proposed development shall be located underground.

Petition No Z-49 '08
Meeting Date 2-17-09
Continued

(20) The following uses shall be prohibited from the proposed overall development:

(a) Video arcades as a primary use;

(b) Adult-themed bookstores as a primary use;

(c) Automotive sales, repair, and/or service facilities;

(d) Gas station;

(e) Truck and trailer leasing facilities;

(f) Automotive paint and body repair shops;

(g) Automotive upholstery shops;

(h) Billiards and pool halls which are the sole or predominant use;

(i) Bus stations (not to exclude bus stops);

(j) Fraternity and sorority house;

(k) Full-service gas stations;

(l) Light automotive repair;

(m) Rooming houses and boarding houses;

(n) Any form of adult entertainment business; and

(o) Nightclubs and bars, except that same would be permitted within a restaurant or hotel provided that they are an integral part of a restaurant or hotel operation.

(21) As to the overall development, there shall be "zero lot lines" among the various components within the development so as to allow for the free flow of access, parking, and the like.

Petition No. Z-49 '08
Meeting Date 2-17-09
Continued

(22) The exterior walls of the various levels of the parking deck referenced herein shall be of sufficient height to block vehicle lights from shining outside the deck.

(23) Applicant agrees to install Leyland Cypress along the westerly property line, being the southerly one-half of this property line, and the southerly property line, being the westerly one-half of this property line. These plantings shall be a minimum of eight (8) feet in height, planted on a staggered row with ten (10) foot centers. These shall be installed by Applicant, at the latest, upon commencement of construction of the proposed re-development.

I. OFFICE COMPONENT

(1) The office component of the proposed development shall consist of a maximum 10-story office tower containing approximately 200,000 square feet.

(2) Parking for tenants of the proposed office tower shall be accomplished by providing connectivity to the proposed maximum 7-level parking deck (denoted as Parking Deck "A" on the referenced Site Plant). The parking deck shall provide approximately 1,140 spaces.

(3) The exterior finish of the proposed office building shall consist of glass, brick, stone, and stucco, or combinations thereof; and shall be substantially similar to the renderings presented to the Planning Commission and Board of Commissioners at the respective upcoming public hearings.

II. RESIDENTIAL CONDOMINIUM UNITS

(1) The residential condominium units shall be located as follows:

(a) A maximum of forty-eight (48) units shall be contained within a maximum of three (3) stories located above the one-story retail (proposed Kroger store) building noted as "Building A" on the referenced Site Plan; and

Petition No Z-49 '08
Meeting Date 2-17-09
Continued

(b) A maximum of one hundred ninety-two (192) units shall be contained within a maximum of four (4) stories located above the one-story retail building noted as "Building B" on the referenced Site Plan; together with parking consisting of a maximum of two (2) levels beneath the building.

(2) There shall be a maximum of two hundred forty (240) condominium units ranging from 700 to 2,000 square feet in heated living space. The average unit shall be approximately 1,100 square feet.

(3) The exterior finish of the proposed residential condominium units shall consist of brick, stone, or stucco, or combinations thereof.

(4) Floor plans and finishes for the residential condominium units shall consist, at a minimum, of the following:

(a) Enhanced corian, granite, or marble counter tops, or other solid surface materials;

(b) Gas burning fireplaces as an upgrade;

(c) Minimum ceiling heights:

i) Minimum 9 feet from floor to finished ceiling and greater; and

ii) Minimum 10 feet between floors;

(d) European or upscale wooden face-frame cabinetry;

(e) Stainless steel appliances or equivalent;

(f) Extra-deep stainless steel sinks and side-by-side refrigerators/freezers as upgrades;

(g) A selection of hardwood flooring, high-end carpet, and tile throughout;

(h) Spacious open floor plans which eliminate the necessity for typical hallways within the units;

Permit No. Z-49 '08
Master Plan 2-17-09
Continued

(i) Brushed chrome, brushed nickel, or oiled rubbed bronze bathroom and kitchen fixtures;

(j) Ceramic tile bathrooms and laundry rooms;

(k) Spacious walk-in closets;

(l) High-speed internet wiring in all rooms of each unit;

(m) Garden tubs with showers;

(n) Eight (8) foot entry doors subject to fire rating.

(5) The residential units shall be condominiums as the term "condominium" is defined under the Georgia Condominium Act.

(6) The residential units shall be "for sale" units only. A maximum of ten (10) percent of the proposed units may be leased at any one time.

III. RETAIL COMPONENT

(1) The retail component of the proposed development shall be contained within two separate buildings as follows:

(a) Approximately 55,000 square feet for a proposed supermarket located on the ground level of "Building A," as more particularly shown and reflected on the referenced Site Plan;

(b) Approximately 50,000 square feet of retail space located on the ground level of "Building B," as more particularly shown on the referenced Site Plan.

(2) The exterior façade of the buildings for the retail component shall consist of glass, brick, stone, and stucco, or combinations thereof, and shall be substantially similar to the renderings presented to the Planning Commission and Board of Commissioners at the respective public hearings.

Z-49 '08
2-17-09

(3) All exhausts from restaurant facilities shall be filtered to minimize grease and odors.

We believe the requested zoning, pursuant to the Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed community is an exciting project which fits together various types of product into one development. The proposed development shall promote the "live where you work" concept; shall be of the highest quality; shall be compatible with surrounding retail developments, businesses, and neighborhoods; and shall be an enhancement to the Subject Property and Cobb County as a whole. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP

John H. Moore

JHM:cc

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
Helen C. Goreham
Annette Kesting
Joe L. Thompson
Tim Lee

Ron Sifen
Shane Coldren
Vinings Homeowners Association

Steve Robinson
Area Resident

Tri-Kell Investments, Inc.

APPLICANT: Tri-Kell Investments, Inc. PETITION NO.: Z-49

PRESENT ZONING: GC PETITION FOR: RRC

* *

Min. Bk. 57 Petition No. Z-49 '08
Doc. Type Revised DOT Comments/Recommendations
Meeting Date 2-17-09

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
Cobb Parkway	22660	Arterial	55 mph	GDOT	100'
Paces Mill Road	11700	Major Collector	35 mph	Cobb County	80'

Based on 2007 traffic counting data taken by GDOT. (Cobb Parkway)
Based on 2007 traffic counting data taken by Cobb County DOT. (Paces Mill Road)

COMMENTS AND OBSERVATIONS

Cobb Parkway is classified as an Arterial and according to the available information; the existing right-of-way does meet the minimum requirements for this classification.
Paces Mill Road is classified as a Major Collector and according to the available information; the existing right-of-way does meet the minimum requirements for this classification.

Cobb Parkway is identified as a road improvement project.

The applicant understands that the GDOT project will convert the full access southern drive on Cobb Parkway to a right-in/ right-out.

The western side of Cobb Parkway is identified as the corridor for the extension of the Mountain to River Trail.

Install sidewalk, curb and gutter along Paces Mill Road.

GDOT permits will be required for work that encroaches upon State right-of-way.

RECOMMENDATIONS

Recommend applicant enter 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 and easements on the west side of Cobb Parkway and the north side of Paces Mill Road, a minimum to accommodate the proposed road widening and trail project, GDOT Project Number STP-001-5(47).

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed road improvement project and the trail extension.

Recommend installing sidewalk, curb and gutter along Paces Mill Road.

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

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

[redacted]

OFFICIAL MINUTES OF COBB COUNTY BOARD OF COMMISSIONERS ZONING HEARING FOR Z-49 (2008) – OCTOBER 19, 2010 (SETTLEMENT OF LITIGATION)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
OCTOBER 19, 2010
9:00 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, October 19, 2010 at 9:00 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Tim Lee
Commissioner Helen Goreham
Commissioner Robert Ott
Commissioner Thea Powell
Commissioner Woody Thompson

ITEM NO. 2

To consider Settlement of Litigation for Tri-Kell Investments, Inc, Riverview Associates, Ltd. and Riverview Village, LLC regarding rezoning application Z-49 (Tri-Kell Investments, Inc.) of 2008, for property located at the northwesterly intersection of U.S. Highway 41 and Paces Mill Road in Land Lots 976, 977, 1016 and 1017 of the 17th District.

Mr. John Pederson, Zoning Division Manager, provided information regarding the proposal for settlement of litigation on Z-49 of 2008. The public hearing was opened and Mr. John Moore addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Ott, second by Powell, to **authorize** settlement of litigation regarding Tri-Kell Investments, Inc, Riverview Associates, Ltd. and Riverview Village, LLC regarding rezoning application Z-49 (Tri-Kell Investments, Inc.) of 2008, for property located at the northwesterly intersection of U.S. Highway 41 and Paces Mill Road in Land Lots 976, 977, 1016 and 1017 of the 17th District **subject to:**

- **settlement of litigation regarding Cobb Superior Court Civil Action File No. 09-1-2402-40**
- **conditions of settlement contained in letter of agreeable conditions from Mr. John Moore dated April 22, 2010 (attached and made a part of these minutes)**
- **all other conditions and stipulations, *not otherwise in conflict*, to remain in effect**

VOTE: **ADOPTED** unanimously

October 19, 2010
Exhibit "A"
Other Business Item 02

MOORE INGRAM JOHNSON & STE

A LIMITED LIABILITY PARTNERSHIP
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KARINE M. POLIS
PHILLIP G. GOMBAR♦
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BETH GEARHART****
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APRIL R. HOLLOWAY
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OF COUNSEL:
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN NM
*** ALSO ADMITTED IN NC
**** ALSO ADMITTED IN CA
♦ ADMITTED ONLY IN TN
♦ ADMITTED ONLY IN FL

April 22, 2010

Hand Delivered

Min. Bk. 101 Petition No. OB2
Doc. Type letter of agreeable conditions
Meeting Date 10/19/10

Joseph B. Atkins, Esq.
Senior Assistant County Attorney
Cobb County Attorney's Office
Suite 350
100 Cherokee Street
Marietta, Georgia 30090-7003

RE: Application for Rezoning - Application No. Z-49 (2008)

Applicant:	Tri-Kell Investments, Inc.
Owners:	Riverview Associates, Ltd. and Riverview Village, LLC
Property:	18.01 acres located at the intersection of the westerly side of Cobb Parkway and the northerly side of Paces Mill Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia

Tri-Kell Investments, Inc.; Riverview Associates, Ltd.; and Riverview Village, LLC
v. Cobb County, Georgia; et al.
Civil Action, File Number: 09-1-2402-40
Superior Court of Cobb County

Dear Joe:

As you know, the undersigned and this firm represent Tri-Kell Investments, Inc., as Applicant (hereinafter referred to as "Applicant), and Riverview Associates, Ltd. and Riverview Village, LLC, the Property Owners (hereinafter collectively referred to as "Owners"), in their pending zoning appeal as to property totaling 18.01 acres located at the intersection of the westerly side of Cobb Parkway and the northerly side of Paces Mill Road, Land Lots 976, 977, 1016, and 1017,

October 19, 2010
Exhibit "A"
Other Business Item 02

Petition No. OB2
Meeting Date 10/19/10
Continued

17th District, 2nd Section, Cobb County, Georgia (hereinafter "Subject Property"), which was the subject of the above-referenced Application for Rezoning, same being Application No. Z-49 (2008). The appeal arose as a result of the placement of certain conditions upon the approval of the requested zoning category by the Board of Commissioners

The settlement, as proposed in this letter and the stipulations contained herein result from meetings and discussions with county staff and representatives of Applicant and Owner to resolve the issues presented without the necessity of further litigation.

Applicant agrees to the following, which, if approved, as submitted, shall be in complete settlement of the pending zoning appeal and shall be binding upon the Subject Property. The referenced stipulations are as follows:

(1) That portion of the revised Cobb DOT comments and recommendations which were attached to and made a part of the Official Minutes of the Cobb County Board of Commissioners Zoning Hearing held on February 17, 2009, shall be amended in the following particulars:

(a) **The following shall be deleted in its entirety:**

Recommend applicant enter into a development agreement pursuant to O.C.G.A. § 36-71-13 for dedication of the following system improvements to mitigate traffic concerns:

a) Donation of right-of-way and easements on the west side of Cobb Parkway and the north side of Paces Mill Road, a minimum to accommodate the proposed road widening and trail project, GDOT Project Number STP-001-5(47), dated December 26, 2007.

The following shall be inserted in lieu thereof:

Recommend Applicant enter into a Development Agreement pursuant to O.C.G.A. § 36-71-13 for dedication of the following system improvements to mitigate traffic concerns:

a) Applicant agrees to reserve a portion of its real property located on the westerly side of Cobb Parkway and the northerly side of Paces Mill Road, sufficient to accommodate the proposed road widening and trail project, GDOT Project Number STP-001-

Petition No. OB2
Meeting Date
Continued

5(47), dated December 26, 2007. "Reserved," as used in the foregoing sentence, shall be defined as not permitting the construction of building structures within the area of the proposed road widening and trail project, and further that such reservation shall not constitute a donation of right-of-way or easements. Further, the reservation of real estate shall be solely for the area shown and reflected as a part of GDOT Project Number STP-001-5(47), dated December 26, 2007, unaltered and unamended. This reservation shall continue for a period of seven (7) years as measured from the final approval by the Board of Commissioners at the settlement hearing.

(b) **The following shall be deleted in its entirety:**

The applicant understands that the GDOT project will convert the full access southern drive on Cobb Parkway to a right-in/right-out.

The following shall be inserted in lieu thereof:

The applicant understands that the GDOT project will convert the full access southern drive on Cobb Parkway to a right-in/right-out; the northern drive on Cobb Parkway shall remain full access.

(2) The stipulations imposed by the Cobb County Board of Commissioners and set forth in the Official Minutes of the Cobb County Board of Commissioners Zoning Hearing held on February 17, 2009, shall be amended in the following particulars:

(a) **The third "bullet," which is stated as follows, shall be deleted in its entirety:**

[R]everison clause so that if a demolition permit and subsequent construction permit is not pulled, along with demolition of site, within 36 months – then the site reverts back to the previous zoning (applicant may return to BOC as an Other Business Item if Highway 41 project issues arise)

October 19, 2010
Exhibit "A"
Other Business Item 02

Petition No. OB2
Meeting Date 10/19/10
Continued

The following shall be inserted in lieu thereof:

[R]everison clause so that if a demolition permit and subsequent construction permit are not pulled, along with demolition of site, within 36 months after the date of final approval by the Board of Commissioners – then the site reverts back to the previous zoning; however, if the Georgia Department of Transportation or the Cobb County Department of Transportation has not commenced construction of improvements to Highway 41 (GDOT Project Number STP-001-5(47)) within this 36-month time frame, Applicant may apply to the Cobb County Board of Commissioners as an "Other Business" item to have this reversionary provision removed or extended. "Commencing construction of improvements" is defined as actual, on-site, full construction of roadway improvements along the U.S. Highway 41 frontage of the Subject Property.

If actual construction of improvements, as herein defined, has commenced within the 36-month time period hereinabove set forth, the reversionary provision shall automatically terminate, and no such reversion shall occur.

(b) **The fifth "bullet," which is stated as follows, shall be deleted in its entirety:**

[M]aximum of 105,000 square feet of commercial development (office and retail) as shown on site plan

The following shall be inserted in lieu thereof:

[M]aximum of 105,000 square feet of commercial development (retail space only) as shown on site plan

[M]aximum of 200,000 square feet of office space

(3) The balance and remainder of the official minutes, including stipulations set forth therein, applicable to Application No. Z-49 (2008) from the Board of Commissioners Zoning Hearing held on February 17, 2009, unless otherwise in conflict with the revised stipulations contained herein, shall remain in full force and effect.

October 19, 2010
Exhibit "A"
Other Business Item 02

Petition No. 0B2
Meeting Date 10/19/10
Continued

The proposal contained herein is submitted in settlement and compromise of the pending zoning appeal and shall not otherwise be used in any hearing, trial, arbitration, or mediation of said appeal. If the settlement, as proposed, is approved by the Board of Commissioners, Applicant and Owners agree to dismiss, with prejudice, the pending litigation case and to pay their own legal expenses and litigation costs.

We respectfully request the settlement proposal contained herein be submitted to the Board of Commissioners during the next available Executive Session and subsequently be placed upon the "Other Business" agenda before the Board of Commissioners during the Zoning Hearing scheduled immediately thereafter. In order to meet the required time frame for posting and advertising of the Subject Property, we would request your expeditious review and handling of this request.

We believe the requested zoning, specific to the revised stipulations contained herein, is an appropriate use of the Subject Property. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP

John H. Moore

JHM:cc

c Cobb County Board of Commissioners:
Helen C. Goreham
George W. "Woody" Thompson
Robert Ott
Thea Powell

Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency

Tri-Kell Investments, Inc.

OFFICIAL MINUTES OF COBB COUNTY BOARD OF COMMISSIONERS ZONING HEARING FOR Z-49 (2008) – DECEMBER 18, 2012 (APPLICATION FOR "OTHER BUSINESS")

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 18, 2012
9:00 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 18, 2012 at 9:00 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Tim Lee
Commissioner JoAnn Birrell
Commissioner Helen Goreham
Commissioner Robert Ott
Commissioner Woody Thompson

ITEM NO. 3

To consider site plan and stipulation amendments for Tri-Kell Investments, Inc. regarding rezoning application Z-49 of 2008 (Tri-Kell Investments, Inc.), for property located at the northwesterly intersection of Paces Mill Road and U.S. Highway 41 in Land Lots 976, 977, 1016 and 1017 of the 17th District.

Mr. John Pederson, Zoning Division Manager, provided information regarding a stipulation and site plan amendment to move office tower and remove a stipulation. The public hearing was opened and there being no speakers, the hearing was closed. Following presentation and discussion, the following motion was made:

MOTION: Motion by Ott, second by Birrell, to **approve** Other Business Item No. 3 for stipulation and site plan amendments regarding application Z-49 of 2008 (Tri-Kell Investments, Inc.), for property located at the northwesterly intersection of Paces Mill Road and U.S. Highway 41 in Land Lots 976, 977, 1016 and 1017 of the 17th District, **subject to:**

- ***Revised* Notice of Decision from GRTA dated December 17, 2012 (attached and made a part of these minutes)**
- **Concept Plan Option One dated December 17, 2012 (attached and made a part of these minutes)**
- **Concept Plan dated December 17, 2012 (attached and made a part of these minutes)**
- **Email correspondence from Mr. Jim Santo to Mr. David Breaden dated December 17, 2012 (attached and made a part of these minutes)**
- **Letter from Mr. John Moore dated December 13, 2012 (attached and made a part of these minutes)**
- **Remove stipulated reversion clause (Z-49 of 2008)**
- **All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect**

VOTE: **ADOPTED** unanimously

Min. Bk. 67 Petition No. 083
Doc. Type Notice of Decision
Meeting Date 12/18/12

REVISED NOTICE OF DECISION

To: Doug Hooker, ARC
(via electronic mail) Sonny Deriso, GRTA
Bob Voyles, GRTA
Dick Anderson, GRTA
Lara Hodgson, GRTA
Al Nash, GRTA
Ken Stewart, GRTA

To: Chairman Tim Lee, Cobb County Commission
(via electronic mail and certified mail) Steve Whisenant, Tri-Kell Investments

From: Jannine Miller, GRTA Executive Director

Copy: Kirk Fjelstul, GRTA
(via electronic mail) Laura Beall, GRTA
Jon West, DCA
John Tuley, ARC
Mike Lobdell, GDOT District 7
Jane Stricklin, Cobb County DOT
John Pederson, Cobb County Zoning
John Moore, MIJS
Greg Teague, Croy Engineering

Date: December 17, 2012

Re: DRI 1933 Riverview

Revision: A request was approved to revise the condition regarding the distance of internal intersections off of US41 to reflect the current GDOT Driveway Manual exemption for narrow lots. This Revised Notice of Decision replaces the one issued on November 12, 2008 for DRI 1933.

Petition No. OB 3
Meeting Date 12/18/12
Continued

Revised Notice of Decision for Request for Non-Expedited Review of DRI 1933 Riverview

The purpose of this notice is to inform Tri-Kell Investments (the Applicant), Cobb County (the local government), the GRTA Land Development Committee, the Georgia Department of Community Affairs (DCA), the Georgia Department of Transportation (GDOT), and the Atlanta Regional Commission (ARC) of GRTA's decision regarding DRI 1933 Riverview (the DRI Plan of Development). GRTA has completed a non-expedited review for the DRI Plan of Development pursuant to sections 3-101 and 3-103.A of the *Procedures and Principles for GRTA Development of Regional Impact Review* and has determined that the DRI Plan of Development meets the GRTA review criteria set forth in Sections 3-101 and 3-103.A. The DRI Plan of Development as proposed is **approved subject to conditions**, as provided in Attachment A and subject to the limitations placed on allowable modifications to the DRI Plan of Development, as described in Attachment B.

Subject to the conditions set forth in Attachment A and Attachment B, GRTA will approve the expenditure of state and/or federal funds for providing the Land Transportation Services and Access improvements listed in Section 2 of Attachment C. The need for said approval shall terminate and be of no further force and effect after ten (10) years from the date of this Notice of Decision, unless the local government has issued a permit for the construction of any part of the proposed DRI Plan of Development prior to the end of the ten-year period.

The notice of decision is based upon review of the applicant's DRI Review Package. The Review Package includes the site development plan dated September 16, 2008 and received by GRTA on September 26, 2008, prepared by HGOR Planners Landscape Architects, titled "Riverview" (Site Plan) and the analysis prepared by A&R Engineering, Inc, dated September 19, 2008 and received by GRTA on September 19, 2008 (together the Review Package). The approved revisions are based upon the information provided and revised site plans dated December 7, 2012 and December 11, 2012 prepared by Croy Engineering and received by GRTA on December 11, 2012.

Pursuant to Section 2-501 of the *Procedures and Principles for GRTA Development of Regional Impact Review*, the Applicant, the GRTA Land Development Committee and the local government have a right to appeal this decision within five (5) working days of the date on this letter by filing a Notice of Appeal with the GRTA Land Development Committee. A Notice of Appeal must specify the grounds for the appeal and present any argument or analysis in support of the appeal. For further information regarding the right to appeal, consult Part 5 of the Procedures and Principles for GRTA Development of Regional Impact Review, available from GRTA or on the Worldwide Web at <http://www.grta.org/dri/home.htm>. If GRTA staff receives an appeal, you will receive another notice from GRTA and the Land Development Committee will hear the appeal at its January 9, 2013 meeting.

Jannine Miller

Executive Director
Georgia Regional Transportation Authority

Petition No. 0B 3
Meeting Date 12/18/12
Continued

Attachment A – General Conditions

This Revised Notice of Decision dated December 17, 2012 replaces the Notice of Decision issued on November 12, 2008 for DRI 1933 Riverview.

Conditions to GRTA Notice of Decision:

Development Intensity and Use

- Provide a mixture of retail, office, and residential uses.

Site Access and Road Connectivity

- Provide internal vehicular connection between all site driveways.
- Provide 2 access points for all parking decks.
- Provide a maximum of 2 access points along US 41.
- All internal intersections must be a minimum of 100 feet from US 41 per the GDOT Driveway Manual.
- All internal intersections must be 100 feet minimum from site driveways on Paces Mill Rd, excluding service driveways.
- Align internal intersections or offset by a minimum of 100 feet.
- No access is permitted along Paces Mill Road within 200 feet along Paces Mill of the US 41 northwestern curb.
- Site Driveway #3 shall, at a minimum, be aligned with the opposing driveway across Paces Mill Road.
- Additional site access, if any, along Paces Mill Road shall be approved by Cobb DOT.

Pedestrian and Bicycle Facilities

- Provide sidewalks along all road frontages on US 41 and Paces Mill Road.
- Provide sidewalks on both sides of all internal streets, except for Driveways #1 and #5.
- Provide sidewalks on one side of Driveway #1 and #5.
- Provide direct pedestrian connection from office building to commercial uses.
- Provide bike racks at all retail, office, and multi-family building entrances.

Roadway Improvements as Conditions to GRTA Notice of Decision:

Paces Mill Road at Cobb Parkway (US 41)

- Provide a 3-lane intersection approach on Paces Mill Road at US 41, maintaining the existing left turn storage at this approach.

US 41 (SR 3) at Southern Site driveway #2

- Add a southbound right turn lane along US 41

US 41 (SR 3) at Northern Site driveway #1

- Add a southbound right turn lane along US 41

Petition No. OB 3
Meeting Date 12/18/12
Continued

Attachment B – Required Elements of the DRI Plan of Development

Conditions Related to Altering Site Plan after GRTA Notice of Decision:

The on-site development will be constructed materially (substantially) in accordance with the Site Plan. Changes to the Site Plan will not be considered material or substantial so long as the following conditions are included as part of any changes:

- All of the "Conditions to GRTA Notice of Decision" set forth in Attachment A are satisfied.
- All of the "Roadway Improvements as Conditions to GRTA Notice of Decision" set forth in Attachment A are satisfied.

Petition No. 0B3
Meeting Date 12/18/12
Continued

Attachment C – Required Improvements to Serve the DRI

Pursuant to Section 1-201.R. of the *Procedures and Principles for GRTA Development of Regional Impact Review*, a "Required Improvement means a land transportation service [def. in Section 1-201.N] or access [def. in Section 1-201.A.] improvement which is necessary in order to provide a safe and efficient level of service to residents, employees and visitors of a proposed DRI."

The Required Improvements in the study network were identified in the Review Package as necessary to bring the level of service up to an applicable standard before the build-out of the proposed project. These requirements are identified in Sections 1 and 2 of this Attachment. Section 1 contains improvements that do not require GRTA approval at this time because they are to be constructed prior to the completion of the DRI Plan of Development. However, GRTA approval shall be required in the event state and/or federal funds are proposed at a later date to be used for any portion of the improvements described in Section 1. Section 2 contains improvements that require GRTA approval prior to the expenditure of state and/or federal funding. Subject to the conditions set forth in Attachment A and Attachment B, GRTA approves the expenditure of state/and or federal funding for the improvements contained in Section 2.

Section 1.

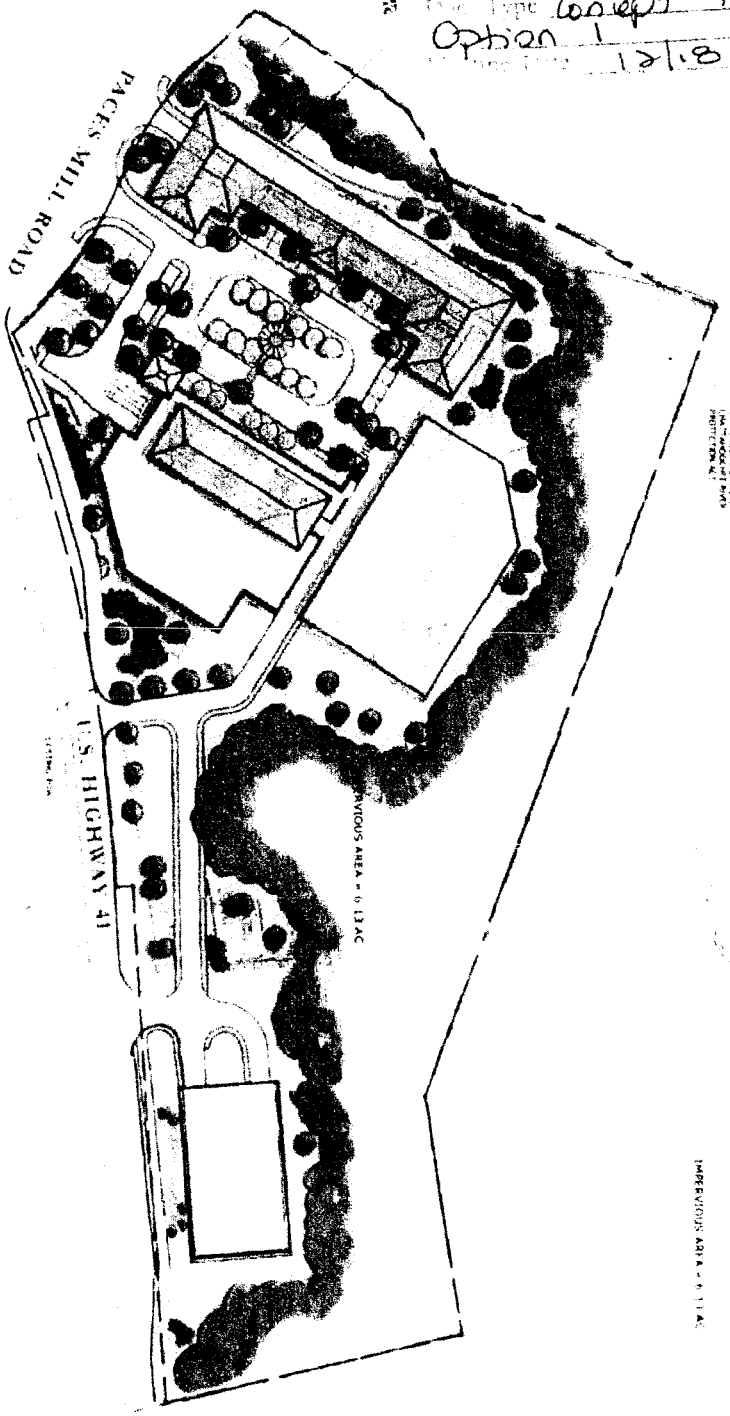
- Paces Mill Road at Cobb Parkway (US 41)
  Provide a 3-lane intersection approach on Paces Mill Road at US 41 maintaining the existing left turn storage at this approach.
- US 41 (SR 3) at Southern Site driveway #2
  Add a southbound right turn lane along US 41
- US 41 (SR 3) at Northern Site driveway #1
  Add a southbound right turn lane along US 41

Section 2.

- CO-231: US 41 (Cobb Parkway) from Chattahoochee River to Akers Mill Road
  Includes widening of US 41 (Cobb Parkway) from four lanes to six lanes.
- AT-012: US 41 (Northside Parkway) from Paces Mill Road to Mount Paran Road
  Includes widening of US 41 (Northside Parkway) from four lanes to six lanes with 20 feet raised median and auxiliary lanes at major intersections. The existing bridge over the Chattahoochee River would be replaced. The proposed bridge would have 3 lanes in each direction with a 4' raised median, 17' multi-use path and 6' sidewalks.
- AR-H-302: I-285 west managed lanes from I-20 west in City of Atlanta to I-75 north in Cobb County
  Includes addition of two managed lanes in both directions for 9.6 miles between I-20 West and I-75 North.
- Paces Ferry Road at Paces Mill Road / Mountain Street
  Add a dedicated westbound left turn lane along Paces Mill Road

GEORGIA 811

Mtg. Dt. 07 Petition No. OB3
Doc. Type Concept Plan
Option 1
Meeting Date 12/18/12

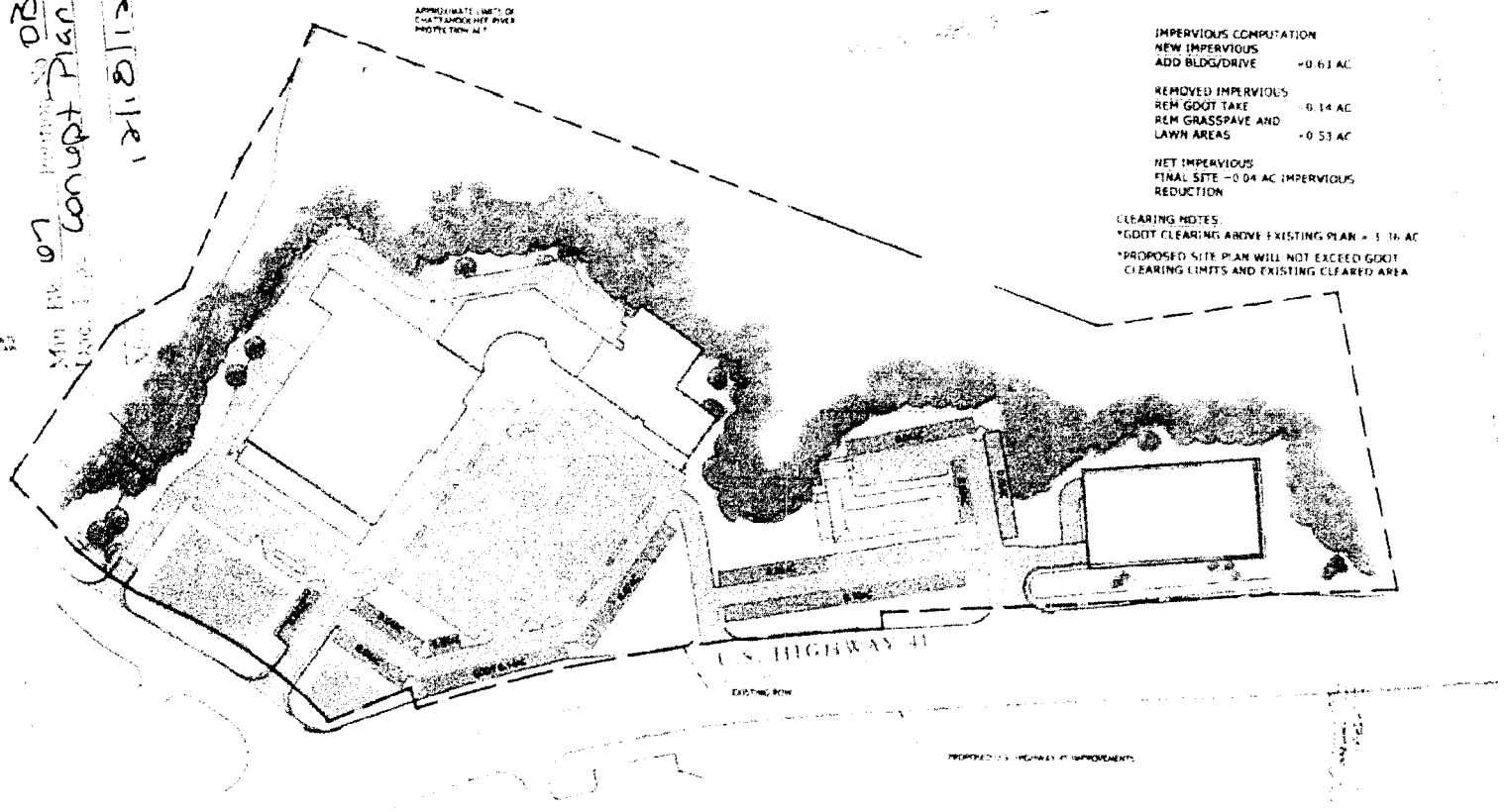


RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
OF THE 17th DISTRICT
COBB COUNTY, GEORGIA

CROY ENGINEERING

NOT ISSUED FOR CONSTRUCTION

Min Bk 07 Concept Plan 12/18/12



IMPERVIOUS COMPUTATION
NEW IMPERVIOUS
ADD BLDG/DRIVE +0.61 AC

REMOVED IMPERVIOUS
REM GDOT TAKE -0.14 AC
REM GRASSPAVE AND
LAWN AREAS +0.53 AC

NET IMPERVIOUS
FINAL SITE -0.04 AC IMPERVIOUS
REDUCTION

CLEARING NOTES:
*GDOT CLEARING ABOVE EXISTING PLAN = 3.36 AC
*PROPOSED SITE PLAN WILL NOT EXCEED GDOT CLEARING LIMITS AND EXISTING CLEARED AREA

CROY ENGINEERING

RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
OF THE 17th DISTRICT
COBB COUNTY, GEORGIA

NOT ISSUED FOR CONSTRUCTION

CONCEPT PLAN
OPTION 1

1220.00

1

ORGIA811

Barton, Lori

From: Pederson, John
Sent: Monday, December 17, 2012 3:09 PM
To: Lee, Tim; Rogers, Millie; Goreham, Helen; Friant, Annette; Ott, Bob; Nichols, Renee; Birrell, JoAnn; Eberhart, Inger; Thompson, Woody; Jones, Jackie
Cc: King, Karen; Barton, Lori; Bishop, Dorothy; Hankerson, David
Subject: OB#3 FW: Metro River Issues concerning Riverview Office Building - Tri-Kell - Zoning Application No. Z-49 (2008); Other Business Item No. 3

Min. Bk. 67 Petition No. OB3
Doc. Type email correspondence
Meeting Date 12/18/12

Good afternoon,

Attached is an email from Jim Santo to Dave Breaden regarding OB#3.

Please let me know if you have any questions.

John

From: Jim Santo [mailto:JSanto@atlantaregional.com]
Sent: Monday, December 17, 2012 3:00 PM
To: Breaden, David
Cc: Pederson, John; Hosack, Robert; Dan Reuter
Subject: Re: Metro River Issues concerning Riverview Office Building - Tri-Kell - Zoning Application No. Z-49 (2008); Other Business Item No. 3

Dave,

I have received the most recent plans concerning the amounts of land disturbance an impervious surface for this proposed project on the property containing the existing Riverview Village, which was reviewed under the Metropolitan River Protection Act in 1979 (Review Number RC-79-1CC).

As we have discussed, the property is being affected by the widening of US 41/Cobb Parkway. It is losing land to right-of-way and Georgia DOT is proposing new land disturbance on the property outside the right-of-way, including grading easements and a proposed detention pond in a currently wooded area. It is my understanding that this will occur whether or not any new structures are developed on the property. Under Georgia Code 12-5-451(6), Georgia DOT projects are not subject to the requirements of the Metropolitan River Protection Act. The submitted concept plans show that the applicant is proposing to build a structure entirely within the land disturbance proposed for the Georgia DOT detention pond, with no other increase in land disturbance on the property. The submitted concept plans also show that the applicant is proposing to remove sufficient impervious surface to offset the impervious surface proposed for the new structure and its access drive. As long as the final design places all new construction and grading only within existing and Georgia DOT land disturbance and includes the removal of enough existing impervious surface to offset the impervious included in the new construction, then it is my opinion that this proposal does not create a substantial change to the original review. As always, the final decision rests with Cobb County.

Let me know if you have any questions.

James M. Santo
Principal Environmental Planner

[illegible] Regional Commission
[illegible]

40 Courtland Street, NE
Atlanta, Georgia 30303-2538

P | 404.463.3258
F | 404.463.3254

jsanto@atlantaregional.com
atlantaregional.com

Petition No. DB 3
Meeting Date 12/18/12
Continued

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MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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OF COUNSEL:
JOHN L. SKELTON, JR.[†]

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
**** ALSO ADMITTED IN CA
1 ALSO ADMITTED IN TX
2 ALSO ADMITTED IN AL
3 ALSO ADMITTED IN KY
4 ALSO ADMITTED IN NY
5 ALSO ADMITTED IN NY
6 ALSO ADMITTED IN SC
7 ALSO ADMITTED IN NC
8 ADMITTED ONLY IN TN
9 ADMITTED ONLY IN FL

07 0133
letter of agreeable
conditions
12/10/12

December 13, 2012

Hand Delivered

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

COBB COUNTY GEORGIA
FILED IN OFFICE
2012 DEC 13 AM 11:29
COBB COUNTY ZONING DIVISION

RE: Application for "Other Business" - Application No. Z-49 (2008)
(Other Business Item No. 3 for
December 2012 Agenda)
(Site Plan and Stipulation Amendment)

Applicant: Tri-Kell Investments, Inc.
Property Owner: Riverview Associates, Ltd.
Property: Located at the northwesterly intersection of Cobb Parkway (U.S. Highway 41) and Paces Mill Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia

Dear John:

The undersigned and this firm represent the Applicant, Tri-Kell Investments, Inc. (hereinafter "Applicant"), and the Property Owner, Riverview Associates, Ltd. (hereinafter "Owner"), in the above-referenced Application for "Other Business" regarding the development of property located at the northwesterly intersection of Cobb Parkway (U.S. Highway 41) and Paces Mill

Road, Land Lots 976, 977, 1016, and 1017, 17th District, 2nd Section, Cobb County, Georgia (hereinafter "Property" or the "Subject Property"), which was the subject of Application No. Z-49 (2008). Applicant proposes revised amendments to portions of the previously approved stipulations and conditions relating to the overall development of the Subject Property, which, if the revised amendments requested herein are approved, as presented, including the revised Concept Plan, shall replace and supersede the specifically stated stipulations, and, together with the remaining stipulations and revised Concept Plan, shall become binding stipulations for development of the Subject Property. This letter shall replace and supersede in full the letter amendment dated and filed November 14, 2012, regarding the above-referenced Application for "Other Business." The revised stipulations and conditions proposed by Applicant and Owner for amendment are as follows:

(1) The zoning classification applicable to the Subject Property is Regional Retail Commercial ("RRC"). Applicant proposes development to the RRC zoning classification, site plan specific to the revised Concept Plan prepared by Croy Engineering, Inc., dated December 11, 2012, and submitted contemporaneously with the proposed amendments set forth herein. A reduced copy of the revised Concept Plan is attached hereto for ease of reference as Exhibit "A" and incorporated herein by reference. The revised Concept Plan submitted herewith supersedes and replaces in full the Concept Plan submitted on October 16, 2012, with the Application for "Other Business"; as well as, the revised Concept Plan dated November 7, 2012, and submitted on November 14, 2012.

(2) Applicant proposes the following amendments to the stipulations and conditions set forth in the April 22, 2010, letter of agreeable conditions and stipulations attached to the final, official minutes for the settlement of litigation heard by the Board of Commissioners and approved on October 19, 2010, as follows:

(a) Subparagraph (2)(a) concerning reversion of the Subject Property shall be deleted in its entirety.

(b) Subparagraph (2)(b) shall be deleted in its entirety and the following inserted in lieu thereof:

[M]aximum of 105,000 square feet of commercial development (retail space only) as shown and reflected on the revised Concept Plan; and

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[M]aximum of 180,000 square feet of office space, a maximum of nine (9) stories in height, constructed upon a parking deck. The location of the referenced office building shall be moved northerly along Cobb Parkway (U.S. Highway 41) to that location shown and depicted on the revised Concept Plan dated December 11, 2012, and submitted contemporaneously herewith.

(3) The land area comprising the office space as set forth in subparagraph (2)(b) above shall be referred to as Phase I of the total development as more particularly shown and reflected on the revised Concept Plan. The balance and remainder of the development referenced in said Concept Plan shall be referred to as Phase II.

(4) Prior to obtaining any building permit for Phase II of the development, Applicant will remove a portion of the existing retail (that portion of Phase II immediately adjacent to Phase I).

(5) Applicant shall, during construction of Phase I, increase the capacity of the existing detention facilities located within Phase II to accommodate any increase in the stormwater runoff from Phase I.

(6) The Metropolitan River Protection Act is applicable to the Subject Property. This Act imposes, among other things, a limit of impervious surface for this development. The limit imposed for the Subject Property is 6.13 acres. This limit shall be achieved by the following:

(a)	Georgia Department of Transportation Condemnation:	0.14 acres;
(b)	Grass Pavers and Lawn Areas:	0.53 acres
	Total:	0.67 acres;

all as more particularly shown and depicted on the attached Concept Plan, Option 1, dated December 7, 2012, said Plan being attached hereto as Exhibit "B" and contemporaneously submitted herewith.

(7) The proposed office building and drive will add 0.63 acres, which will result in an actual net reduction of total impervious area of 0.04 acres. The work to achieve this net impervious reduction shall be accomplished by Applicant simultaneously

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with development of the office building, regardless of whether said work is to occur within Phase I or Phase II.

(8) The balance and remainder of the official minutes, including stipulations set forth therein and referenced attachments, applicable to Application No. Z-49 (2008) from the Board of Commissioners Zoning Hearing held on February 17, 2009, and October 19, 2010, unless otherwise in conflict with the revised stipulations contained herein and the revised Concept Plan, shall remain in full force and effect.

We believe the amendments requested, together with the Plans presented herein, will allow for development of the Subject Property as closely as possible to the originally approved plan when considering the taking of a portion of the Subject Property's right-of-way along Cobb Parkway (U.S. Highway 41) by the Georgia Department of Transportation. The proposed development shall be of the highest quality and shall be comparable to and compatible with similar developments along the Cobb Parkway and Cumberland Boulevard corridors. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP

John H. Moore

JHM:cc
Attachments

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c: Cobb County Board of Commissioners:
Timothy D. Lee, Chairman
George "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Joann Birrell
(With Copies of Attachments)

Ron Sifen
(With Copies of Attachments)

Tri-Kell Investments, Inc.
(With Copies of Attachments)

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NOT ISSUED FOR CONSTRUCTION

CROY ENGINEERING

RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
OF THE 17th DISTRICT
COBB COUNTY, GEORGIA

COBB COUNTY GEORGIA
FILED IN OFFICE

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IMPERVIOUS AREA = 6.13 AC

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U.S. HIGHWAY 41

PACES MILL ROAD

EXHIBIT "A"

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NOT ISSUED FOR CONSTRUCTION

CROY

RIVERVIEW ASSOCIATES LTD.
LAND LOTS 976, 977, 1016 & 1017
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COBB COUNTY, GEORGIA

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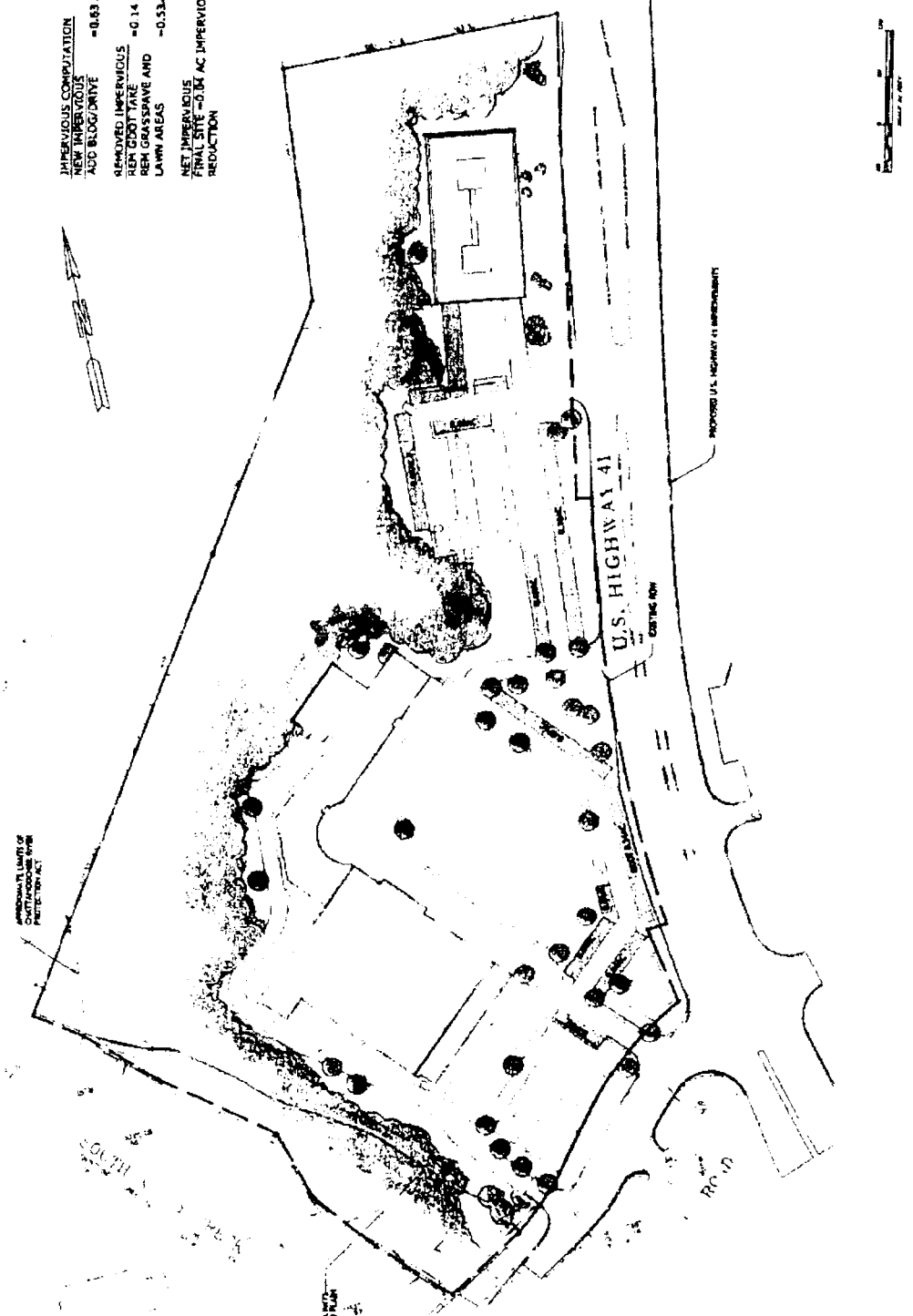

EXHIBIT "B"

GEORGIA 811