

**APPLICANT:** Rjasani Ent LLC  
**PHONE#:** (678) 924-0835 **EMAIL:** atlmortgage@comcast.net  
**REPRESENTATIVE:** Adam J. Rozen  
**PHONE#:** (770) 422-7016 **EMAIL:** arozen@slhb-law.com  
**TITLEHOLDER:** 1590 Old Concord Rd., LLC

**PROPERTY LOCATION:** Southeast corner of Atlanta Road and  
Old Concord Road  
(1509 Old Concord Road)

**ACCESS TO PROPERTY:** Atlanta Road and Old Concord Road

**PHYSICAL CHARACTERISTICS TO SITE:** Wooded, undeveloped

#### **CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** HI/U.S. Government Property  
**SOUTH:** CRC/Tire Shop; R-20/Single-family house  
**EAST:** HI/U.S. Government Property; CRC/Tire Shop  
**WEST:** R-20/Single-family houses

**PETITION NO:** Z-3

**HEARING DATE (PC):** 02-07-17

**HEARING DATE (BOC):** 02-21-17

**PRESENT ZONING:** R-20

**PROPOSED ZONING:** NRC

**PROPOSED USE:** Convenience market with  
fuel sales and restaurant use

**SIZE OF TRACT:** 1.568 ac

**DISTRICT:** 17

**LAND LOT(S):** 352

**PARCEL(S):** 2,4

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

**COMMISSION DISTRICT:** 3

#### *Adjacent Future Land Use:*

Northeast: Transportation / Communication / Utilities (TCU)  
Southeast: Industrial Compatible (IC) and Low Density Residential (LDR)  
West: Low Density Residential (LDR)  
Northwest: Industrial Compatible (IC) and Low Density Residential (LDR)

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

#### **PLANNING COMMISSION RECOMMENDATION**

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

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

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

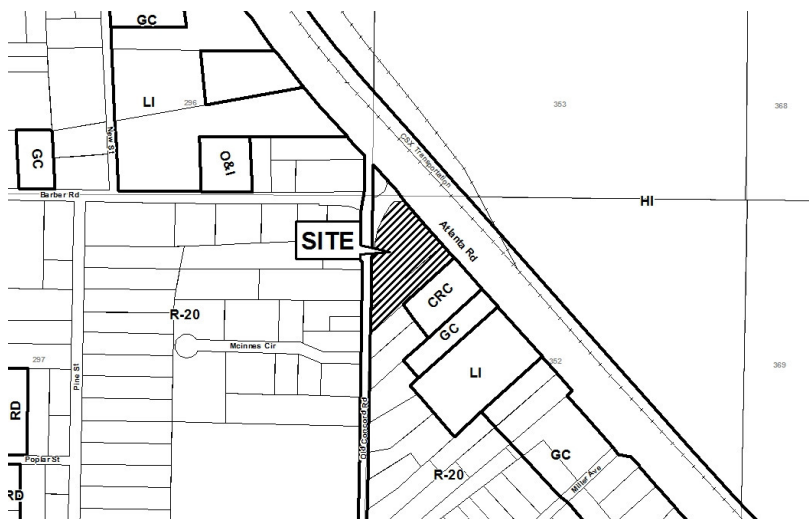
#### **BOARD OF COMMISSIONERS DECISION**

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

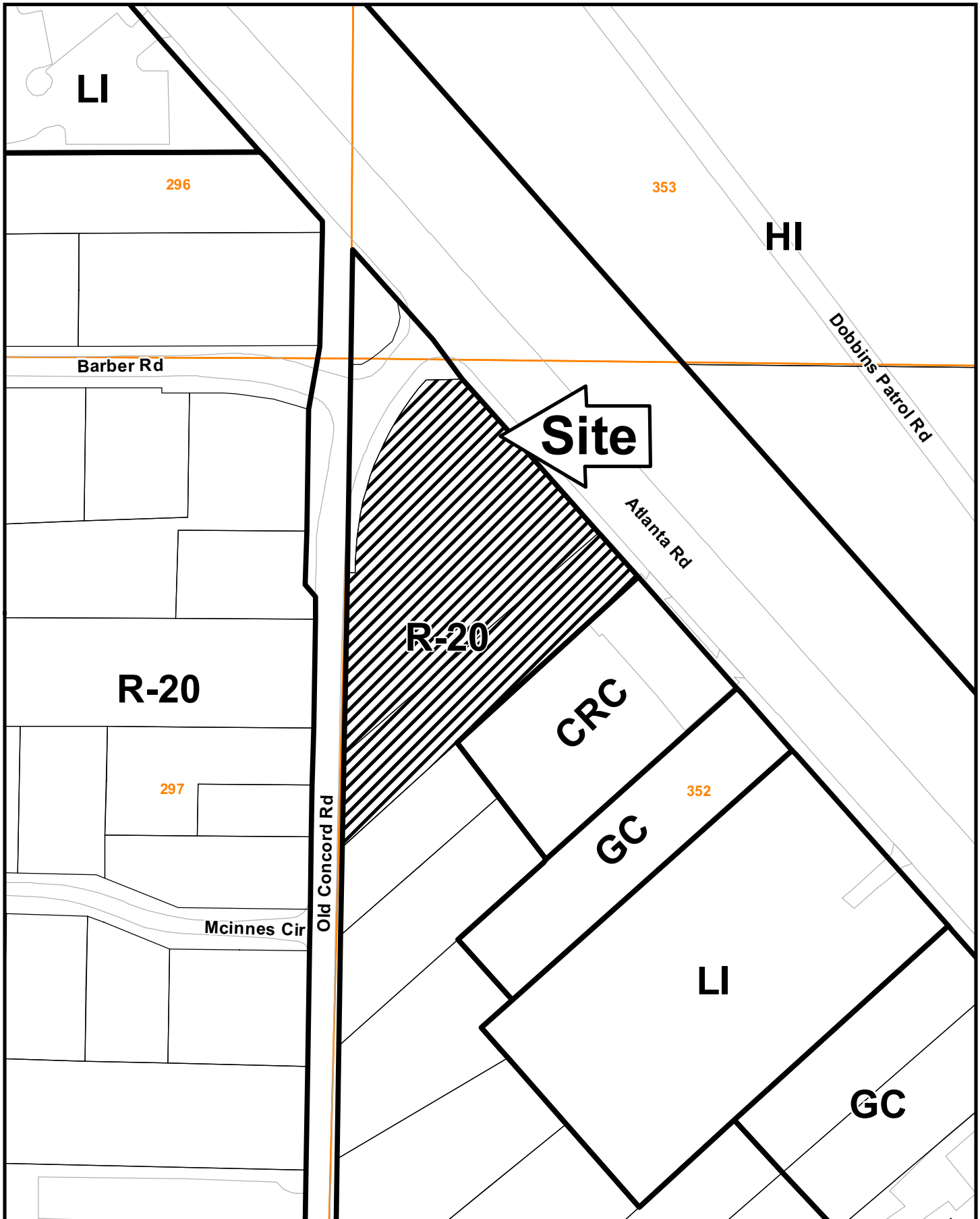
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

**STIPULATIONS:**



# Z-3-2017 GIS



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

0 100 200 Feet

City Boundary  
Zoning Boundary

**APPLICANT:** Rjasani Ent LLC

**PETITION NO.:** Z-3

**PRESENT ZONING:** R-20

**PETITION FOR:** NRC

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**ZONING COMMENTS:**

**Staff Member Responsible:** Jason A. Campbell

**Land Use Plan Recommendation:** Industrial Compatible (IC)

**Proposed Number of Buildings:** 1 **Total Square Footage of Development:** 5,800

**F.A.R.:** 0.084 **Square Footage/Acre:** 3,698

**Parking Spaces Required:** 26 **Parking Spaces Provided:** 41

Applicant is requesting the Neighborhood Retail Commercial (NRC) zoning district for the purpose of developing a convenience market with fuel sales and a restaurant. The building will be constructed with 4,000 square feet for the convenience store and 1,800 square feet for a proposed restaurant. The convenience store with fuel sales will operate 24 hours per day/seven days per week. The applicant has also indicated that the restaurant will normal hours of operation for restaurants.

The site plan submitted will require the following contemporaneous variances:

1. Waiver of the setbacks on Atlanta Road to be 25 feet instead of the required 50 feet and the setbacks along Old Concord Road will be increased to 50 feet instead of the 35 feet for the major side when the building faces the major side; and
2. Allowing an accessory structure to the side of the primary structure for the dumpster enclosure.

**Cemetery Preservation:** No comment.

**SCHOOL COMMENTS:**

Approval of this petition will not have an impact on the enrollment at Cobb County schools.

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**APPLICANT:** Rjasani Ent LLC

**PETITION NO.:** Z-03

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<b>FIRE COMMENTS:</b>
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IFC 510- EMERGENCY RESPONDER RADIO COVERAGE. New buildings are required to provide radio coverage for emergency responders per the International Fire Code. Testing is required by a third party and when deemed necessary amplification systems are required before the building will be issued a certificate of occupancy. This message is to serve as an early notification to owners and developers for budgeting purposes.

APPLICANT: Rjasani Ent, LLC

PRESENT ZONING: R-20

PETITION NO.: Z-3

PETITION FOR: NRC

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning from R-20 to NRC for the purpose of a convenience market with fuel sales and restaurant use. The 1.568 acre site is located on the southeast corner of Atlanta Road and Old Concord Road (1509 Old Concord Road).

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary?

☐ Yes

☒ No

If yes, has the city of \_\_\_\_\_ been notified?

☐ Yes

☒ No / N/A

Comprehensive Plan

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

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

Northeast: Transportation / Communication / Utilities (TCU)

Southeast: Industrial Compatible (IC) and Low Density Residential (LDR)

West: Low Density Residential (LDR)

Northwest: Industrial Compatible (IC) and Low Density Residential (LDR)

Master Plan/Corridor Study

The property is located within the boundary of the Atlanta Road Corridor Study

Historic Preservation

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

Design Guidelines

Is the parcel in an area with Design Guidelines?

☐ Yes

☒ No

If yes, design guidelines area \_\_\_\_\_

Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone?

☐ Yes

☒ No

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

Is the property within an Enterprise Zone?

☒ Yes

☐ No

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

**APPLICANT: Rjasani Ent, LLC**

**PRESENT ZONING: R-20**

**PETITION NO.: Z-3**

**PETITION FOR: NRC**

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**PLANNING COMMENTS:**

CONT.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program? ☒ Yes ☐ No

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

For more information on incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

Special Districts

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

☐ Yes ☒ No

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

☐ Yes ☒ No

Is this property within the Six Flags Special Service District?

☐ Yes ☒ No

Is the property within the Dobbins Airfield Safety Zone?

☐ Yes ☒ No

If so, which particular safety zone is this property within?

☐ CZ (Clear Zone) ☐ APZ I (Accident Potential Zone I)

☐ APZ II (Accident Potential Zone II)

☒ Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Rjasani Ent LLC

PETITION NO. Z-003

PRESENT ZONING R-20

PETITION FOR NRC

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**WATER COMMENTS:**

NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development: ☒ Yes ☐ No

Fire Flow Test Required: ☒ Yes ☐ No

Size / Location of Existing Water Main(s): 8" DI / W side of Old Concord Rd

Additional Comments: Also 16" DI SW side of Atlanta Rd.

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

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**SEWER COMMENTS:**

NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin: ☒ Yes ☐ No

At Development: ☒ Yes ☐ No

Approximate Distance to Nearest Sewer: On site

Estimated Waste Generation (in G.P.D.): A D F= 232 Peak= 580

Treatment Plant: South Cobb

Plant Capacity: ☒ Available ☐ Not Available

Line Capacity: ☒ Available ☐ Not Available

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

Dry Sewers Required: ☐ Yes ☒ No

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

Flow Test Required: ☐ Yes ☒ No

Letter of Allocation issued: ☐ Yes ☒ No

Septic Tank Recommended by this Department: ☐ Yes ☒ No

Subject to Health Department Approval: ☐ Yes ☒ No

Additional Sewer relocation likely required. Wastewater flow estimate may increase depending on  
Comments: specifics of restaurant

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.



APPLICANT: Rjasani Ent LLC

PETITION NO.: Z-3

PRESENT ZONING: R-20

PETITION FOR: NRC

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Nickajack Creek FLOOD HAZARD INFO: Zone X

- ☐ FEMA Designated 100 year Floodplain Flood.  
☐ Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.  
☒ Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.  
☐ Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

- ☐ The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

- ☐ Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).  
☐ Chattahoochee River Corridor Tributary Area - County review (\_\_\_\_\_ undisturbed buffer each side).  
☒ Georgia Erosion-Sediment Control Law and County Ordinance - **County Review**/State Review.  
☐ Georgia DNR Variance may be required to work in 25 foot streambank buffers.  
☐ County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITIONS

- ☐ Potential or Known drainage problems exist for developments downstream from this site.  
☒ Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.  
☒ Minimize runoff into public roads.  
☐ Minimize the effect of concentrated stormwater discharges onto adjacent properties.  
☐ Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally  
☐ Existing Lake Downstream \_\_\_\_\_.  
Additional BMP's for erosion sediment controls will be required.  
☐ Lake Study needed to document sediment levels.  
☒ Stormwater discharges through an established residential neighborhood downstream.  
☒ Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream receiving system.

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PETITION NO.: Z-3

PRESENT ZONING: R-20

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<b>STORMWATER MANAGEMENT COMMENTS – Continued</b>
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SPECIAL SITE CONDITIONS

- ☐ Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- ☒ Submit all proposed site improvements to Plan Review.
- ☐ Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- ☐ Structural fill \_\_\_\_\_ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- ☐ Existing facility.
- ☒ Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- ☐ Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- ☐ Calculate and provide % impervious of project site.
- ☐ Revisit design; reduce pavement area to reduce runoff and pollution.

ADDITIONAL COMMENTS

1. This site is located at the southeast intersection of Atlanta and Old Concord Roads. The site is currently undeveloped and drains to the southwest to the right-of-way of Old Concord Road. The parcel is wooded and relatively flat with average slopes less than 5%.
2. The proposed stormwater management facility is properly located at the low point of the site. The pond discharge must be tied directly to the existing stormwater system located within the Old Concord Road R/W.

**APPLICANT:** Rjasani Ent LLC

**PETITION NO.:** Z-3

**PRESENT ZONING:** R-20

**PETITION FOR:** NRC

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**TRANSPORTATION COMMENTS:**

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Atlanta Road	21,500	Arterial	45 mph	Cobb County	100'
Old Concord Road	3,300	Minor Collector	35 mph	Cobb County	60'

*Based on 2007 traffic counting data taken by Cobb County DOT for Atlanta Road.*

*Based on 2007 traffic counting data taken by Cobb County DOT for Old Concord Road.*

**COMMENTS AND OBSERVATIONS**

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

Old Concord Road is classified as a minor collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant 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 on the west side of Atlanta Road, a minimum of 50' from the roadway centerline.

Recommend applicant consider entering 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 on the east side of Old Concord Road, a minimum of 30' from the roadway centerline.

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

Recommend a deceleration lane on Atlanta Road for the entrance.

Recommend entrance on Atlanta Road be restricted to right-in/ right-out.

Recommend striping be removed to allow a continuous right turn lane to access both entrances on Old Concord Road.

Recommend southernmost entrance on Old Concord Road be a minimum of 250' from the intersection. If this cannot be accomplished, recommend entrance be restricted to right-in/ right-out.

Recommend northernmost entrance on Old Concord Road be restricted to right-in/ right-out.

Recommend applicant verify that minimum intersection sight distance is available for Old Concord Road access and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement of 390'.

**APPLICANT:** Rjasani Ent LLC

**PETITION NO.:** Z-3

**PRESENT ZONING:** R-20

**PETITION FOR:** NRC

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Transportation Comments (Continued)

Recommend replacing disturbed curb, gutter, and sidewalk along the Atlanta Road frontage.

REVISED 1-13-17

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## **STAFF RECOMMENDATIONS**

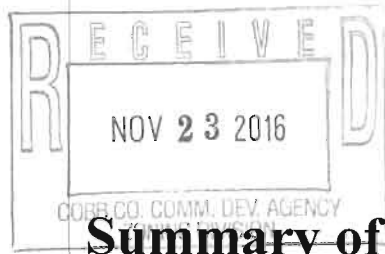
### **Z-3 RJASANI ENT LLC**

- A. It is Staff's opinion that the applicant's rezoning proposal may permit a use that is suitable in view of the use and development of adjacent and nearby properties. Other properties in the area include various retail, automotive, industrial and residential uses.
- B. It is Staff's opinion that the applicant's rezoning proposal may not have an adverse effect on the usability of adjacent or nearby property. Other properties in the area are zoned CRC, GC, LI, HI and R-20.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property as being in the Industrial Compatible (IC) land use category. The proposed use is allowed under the NRC zoning district, but NRC is not compatible with the IC land use designation.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for deleting the applicant's rezoning proposal. Staff recommends deleting the request to the Tourist Services (TS) zoning district. The TS zoning district is compatible with the IC land use designation and will also allow the proposed uses.

Based on the above analysis, Staff recommends DELETING the request to TS subject to the following conditions:

1. Site plan submitted to the Zoning Division on November 23, 2016, with the District Commissioner approving minor modifications;
2. Variances from Zoning Comments;
3. Fire Department comments and recommendations;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations;
6. Department of Transportation comments and recommendations; and
7. Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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



Application No. Z- 3

PC Hearing Date: 2-7-17

BOC Hearing Date: 2-21-17

## Summary of Intent for Rezoning\*

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

- a) Proposed unit square-footage(s): N/A
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed selling prices(s): \_\_\_\_\_
- d) List all requested variances: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

- a) Proposed use(s): Convenience market with self-service fuel sales, and a restaurant facility.
- b) Proposed building architecture: To be provided under separate cover.
- c) Proposed hours/days of operation: The convenience food store with fuel sales will operate 24/7. The restaurant will be normal restaurant hours.
- d) List all requested variances: Waive the landscaped screening buffer adjacent to residentially zoned property from 35 feet to 20 feet.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

Although the zoning proposal is not consistent with the Industrial Compatible ("IC") land use designation as defined by the Cobb County's Comprehensive Land Use Plan and Future Land Use Map, it is compatible with the historical commercial and industrial uses in this sub-area. Additionally, the current zoning of R-20 is not consistent with the IC designation or the other existing commercial uses which is prompting the rezoning to NRC.

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**Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?**

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

None known at this time.

\_\_\_\_\_

\_\_\_\_\_

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

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION**  
**OF RJJASANI ENT LLC**

COMES NOW, RJJASANI ENT LLC and pursuant to Section 134-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property that is suitable in the context of the development and existing zonings along this section of Atlanta Road. The subject property is located at the signalized intersection of Atlanta Road and Old Concord Road. This area of Atlanta Road has been utilized for commercial uses for many years. There is a mixture of CRC, GC, LI and HI zonings along this section of Atlanta Road. Additionally, this section of Atlanta Road does not have a modern convenience market with fuel sales to serve the traveling public.
- B. The zoning proposal to rezone the two tracts from the R-20 classification to Neighborhood Retail Commercial (NRC) will not adversely affect the existing use or usability of adjacent or nearby properties. Although this area of Atlanta Road is designated as Industrial Compatible ("IC") on the Comprehensive Land Use Map, several grandfathered tracts have and continue to be used for retail commercial and industrial businesses. Additionally, directly adjacent to this tract the property is zoned Community Retail Commercial ("CRC") and currently utilized for a new and used tire shop.
- C. The subject property's current R-20 zoning is not compatible with the commercial and industrial land uses in the area and therefore does not have a reasonable economic use as currently zoned.



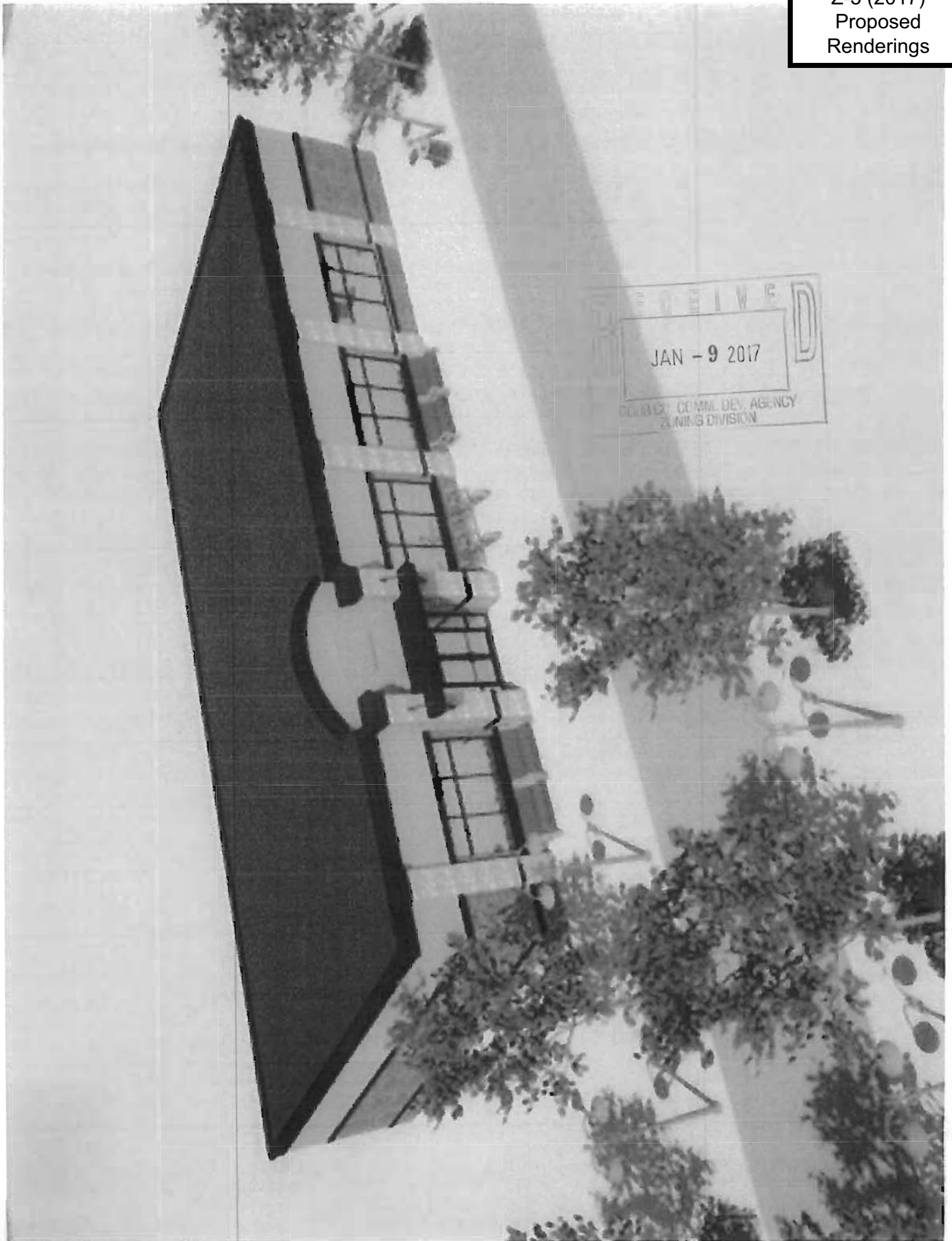
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools. The access points to the convenience market will be off of Old Concord and Atlanta Roads. The proposed use will only serve the traffic that travels this transportation corridor.
- E. The zoning proposal is not consistent with the Industrial Compatible ("IC") land use designation as defined by the Cobb County's Comprehensive Land Use Plan and Future Land Use Map, but is compatible with the historical commercial and industrial uses in this sub-area. The current zoning of R-20 is not consistent with the IC designation or the other existing commercial uses which is prompting the rezoning to NRC.
- F. The property is an existing nonconforming use because the County placed the property in the IC land use category. Therefore, the property can only continue its current use. The County legally has to place the property in a constitutional zoning category. NRC is consistent with the uses and trend of uses and to deny the proposed NRC request would be an unconstitutional taking of the property owner's rights. Additionally, considered in the context of development along this section of Atlanta Road, there is no established land use planning principles or political consideration which would vitiate the zoning proposal.

Respectfully submitted, this 23 day of Nov., 2016.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

ADAM J. ROZEN  
Attorney for Applicant  
Ga. Bar No. 161610





JAN - 9 2017

COBB COUNTY COMMUNITY DEVELOPMENT AGENCY  
ZONING DIVISION

