

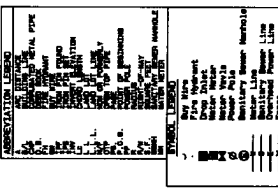
# **PRELIMINARY ZONING ANALYSIS**

**Planning Commission Hearing Date: December 1, 2010**  
**Board of Commissioners Hearing Date: December 14, 2010**

**Date Distributed/Mailed Out: October 13, 2010**



*Cobb County...Expect the Best!*



**APPLICANT:** J & H Property Leasing, LLC

678-910-6900

**REPRESENTATIVE:** Mark Houston

678-910-6900

**TITLEHOLDER:** Merchant Investment Group, Inc., Teena

Hubbard, H. Lamar Hardin, Thomas Lee Pharr, Joseph Stephen Pharr

**PROPERTY LOCATION:** Southwest intersection of Delk Road  
and Powers Ferry Road

**ACCESS TO PROPERTY:** Delk Road and Powers Ferry Road

**PHYSICAL CHARACTERISTICS TO SITE:** \_\_\_\_\_

**PETITION NO:** Z-38

**HEARING DATE (PC):** 12-01-10

**HEARING DATE (BOC):** 12-14-10

**PRESENT ZONING:** GC

**PROPOSED ZONING:** CRC

**PROPOSED USE:** Carwash, Light Auto  
Servicing And A Billboard

**SIZE OF TRACT:** 0.817 acre

**DISTRICT:** 17

**LAND LOT(S):** 925

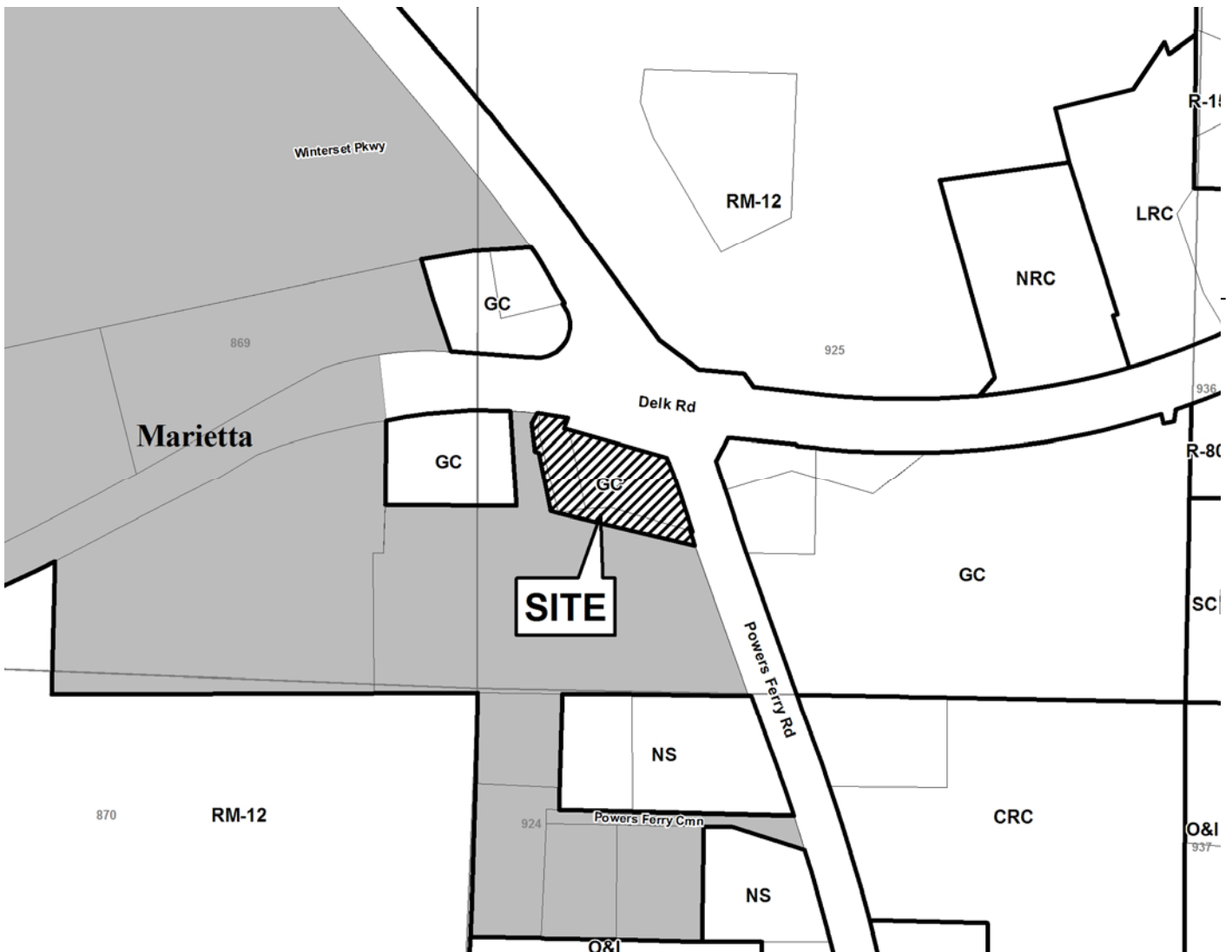
**PARCEL(S):** 31, 43

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

**COMMISSION DISTRICT:** 2

**CONTIGUOUS ZONING/DEVELOPMENT**

**Future Land Use Map: Community Activity Center**



Dec. 2010

## Summary of Intent for Rezoning

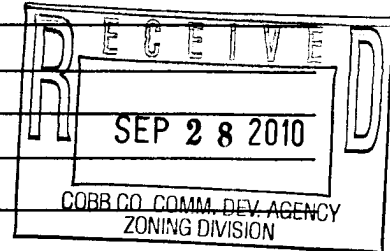
.....  
Part 1. Residential Rezoning Information (attach additional information if needed)

a) Proposed unit square-footage(s): \_\_\_\_\_

b) Proposed building architecture: \_\_\_\_\_

c) Proposed selling prices(s): \_\_\_\_\_

d) List all requested variances: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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

a) Proposed use(s): Carwash, Light Automobile servicing, Billboard

Signage  
b) Proposed building architecture: Craftsman, Traditional

c) Proposed hours/days of operation: 7am to 9pm 7 days/wk

d) List all requested variances: See list.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

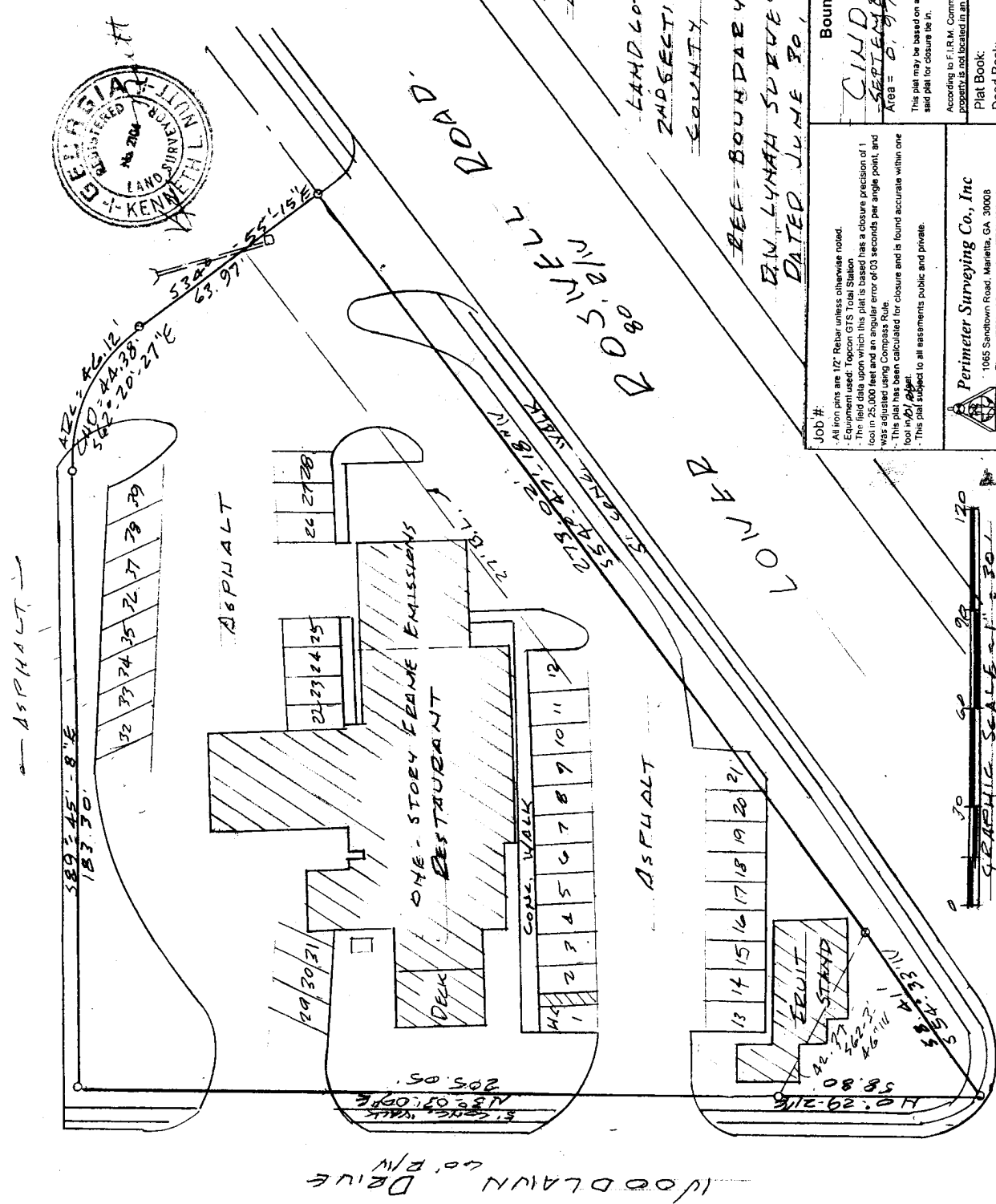
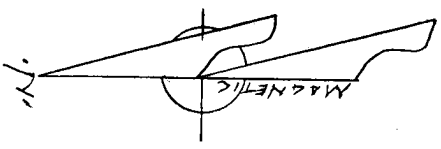
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

.....  
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).

Right of way swap with Cobb County

Z-39  
(2010)



Job #:

All iron pins are 1/2" Rebar unless otherwise noted.  
Equipment used: Topcon GTS Total Station  
This plat is based upon which this plat is based has a closure precision of 1  
in 25,000 and an angular error of 0.3 seconds per angle point, and  
was adjusted using the least squares method.  
This plat has been calculated for closure and is found accurate within one  
foot in 621 feet.  
This plat subject to all assessments public and private.



Perimeter Surveying Co., Inc.  
1065 Sandtown Road, Marietta, GA 30068  
Phone: (770) 425-6624 Fax: (770) 425-6768

Boundary Survey for

CINDY CORNELLY  
SEPTEMBER 17, 2010  
Area = 0.97 Acres

This plat may be based on a recorded plat from iron pins referenced on  
said plat for closure tie in.

According to F.I.R.M. Community Panel # dated this  
Plat Book: 1065 Sandtown Road, Marietta, GA 30068  
Deed Book: Phone: (770) 425-6624 Fax: (770) 425-6768

Page:

**RECEIVED**

**OCT - 6 2010**

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

**APPLICANT:** Cindy Cornely

678-522-4910

**REPRESENTATIVE:** Cindy Cornely

678-522-4910

**TITLEHOLDER:** Cindy B. Cornely

**PROPERTY LOCATION:** Northeast intersection of Lower

Roswell Road and Woodlawn Drive

**ACCESS TO PROPERTY:** Lower Roswell Road and

Woodlawn Drive

**PHYSICAL CHARACTERISTICS TO SITE:** \_\_\_\_\_

**PETITION NO:** Z-39

**HEARING DATE (PC):** 12-01-10

**HEARING DATE (BOC):** 12-14-10

**PRESENT ZONING:** NS

**PROPOSED ZONING:** CRC

**PROPOSED USE:** Dog Boarding

**SIZE OF TRACT:** 0.97 ac

**DISTRICT:** 1

**LAND LOT(S):** 69

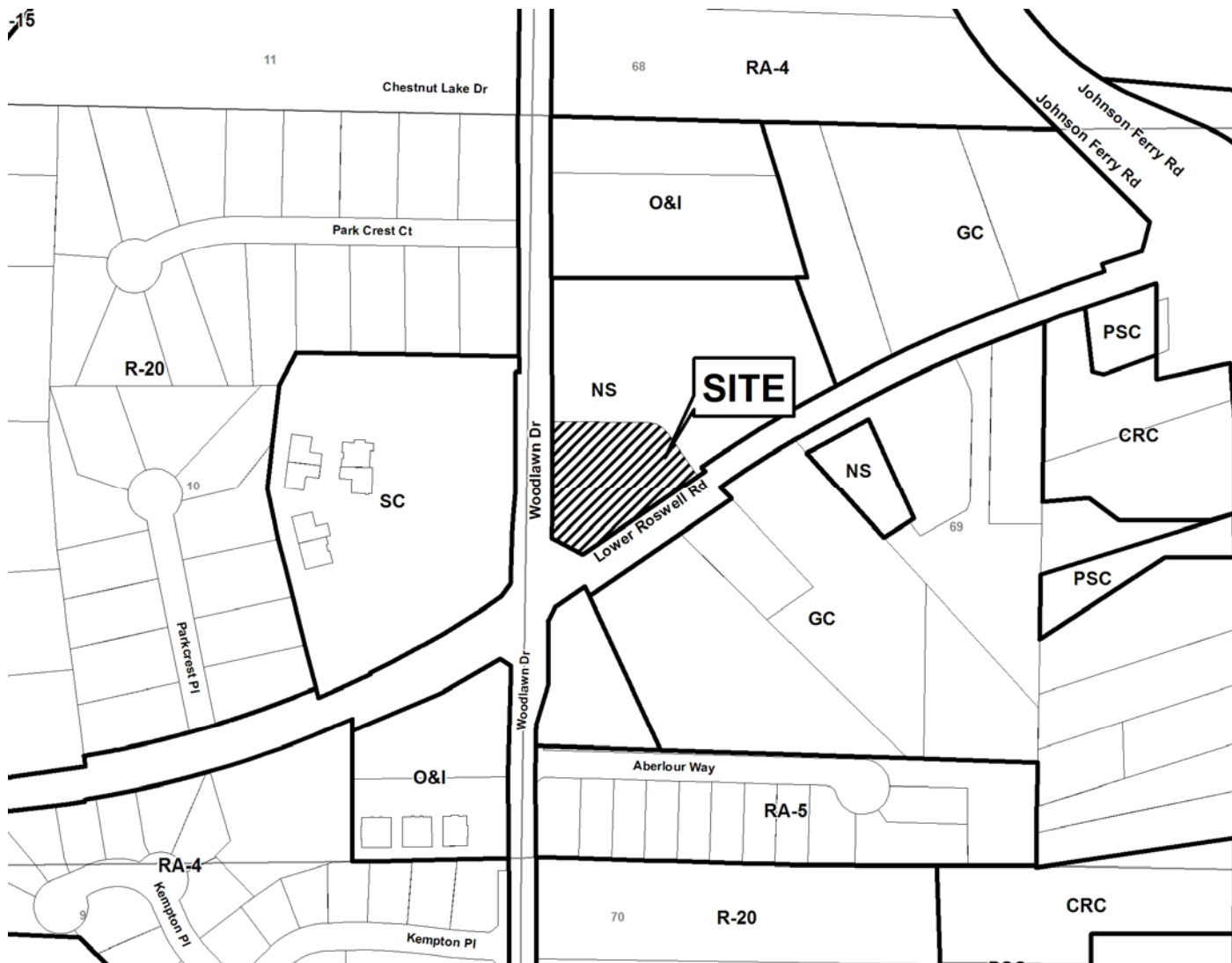
**PARCEL(S):** 9

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

**COMMISSION DISTRICT:** 2

**CONTIGUOUS ZONING/DEVELOPMENT**

**Future Land Use Map: Community Activity Center**



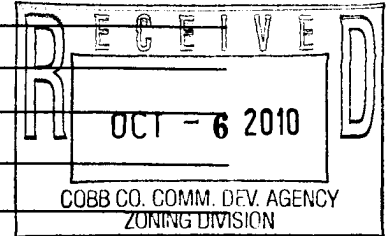
Application No. Z-39

Dec. 2010

## Summary of Intent for Rezoning

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

- N/A
- a) Proposed unit square-footage(s): \_\_\_\_\_
  - 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): Dog Boarding
- b) Proposed building architecture: NO changes
- c) Proposed hours/days of operation: 9am - 6 pm retail, Boarding  
Over Night
- d) List all requested variances: From NS to CRC

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

N/A

.....  
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).

NO

Z-40  
(2010)

MAGNETIC

N

THIS PROPERTY SUBJECT  
TO THE FOLLOWING

CURRENT ZONING - NS (NEIGHBORHOOD SHOPPING),  
COBB COUNTY, GEORGIA  
PROPOSED ZONING - CRC (COMMUNITY RETAIL CONCENTRATED),  
COBB COUNTY, GEORGIA

MINIMUM LOT AREA= 20,000 SQUARE FEET  
MINIMUM LOT WIDTH @ FRONT SETBACK= 75 FEET  
FRONT SETBACK 50 FEET  
SIDE SETBACK 10 FEET  
REAR SETBACK 30 FEET  
MAXIMUM BUILDING HEIGHT= 50 FEET

LEGEND

±	DENOTES PROPERTY LINE
R/W	DENOTES RIGHT-OF-WAY
CL	DENOTES CENTERLINE
BC	DENOTES BACK OF CURB
GP	DENOTES GUTTER
EP	DENOTES EDGE OF PAVING
TP	DENOTES TOP OF WALL
BT	DENOTES BOTTOM OF WALL
RF	DENOTES REINFORCED CONCRETE PIPE
CP	DENOTES CORRUGATED METAL PIPE
PP	DENOTES POWER POLE
LP	DENOTES LIGHT POLE
OW	DENOTES GUY WIRE
PL	DENOTES POWER LINE
PM	DENOTES POWER METER
PC	DENOTES POWER BOX
AC	DENOTES AIR CONDITION
TS	DENOTES TELEPHONE BOX
GM	DENOTES GAS METER
GV	DENOTES GAS VALVE
GL	DENOTES GAS LINE MARKER
WM	DENOTES WATER METER
WV	DENOTES WATER VALVE
FW	DENOTES FIRE HYDRANT
MW	DENOTES MONITORING WELL
HV	DENOTES HEAVY WALL
JB	DENOTES JUNCTION BOX
DI	DENOTES DROP INLET
SS	DENOTES SANITARY SEWER LINE
SM	DENOTES SANITARY SEWER MANHOLE
CO	DENOTES CLEAN OUT

SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAID OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS. EASEMENTS AS SHOWN ARE APPROXIMATE AND TAKEN FROM RECORDED DOCUMENTS.

TELEPHONE: AT&T  
ELECTRIC: GEORGIA POWER COMPANY  
WATER AND SEWER: CITY OF MARIETTA  
GAS: ATLANTA GAS LIGHT COMPANY

CALL THREE WORKING DAYS BEFORE YOU DIG  
UTILITIES PROTECTION CENTER:  
IN METRO ATLANTA 770-823-4344  
THROUGH OUT GEORGIA 1-800-282-7411

2. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
3. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS REIDENTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS OR ENTITY.
4. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET, AND AN ANGULAR ERROR OF 02" PER ANGLE POINT, AND WAS ADJUSTED USING COMPASS RULE. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET. LINEAR AND ANGULAR MEASUREMENTS WERE OBTAINED BY USING A TOPCON TOTAL STATION.  
BEARINGS SHOWN WERE COMPUTED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.
5. SQUARE FEET OF BUILDING IS FOR FIRST FLOOR ONLY.
6. PARKING AREA IS OFF STREET AND 20 PARKING SPACES ARE DESIGNATED, INCLUDING ONE HANDICAPPED DESIGNATED SPACE.
7. THIS PLAT NOT INTENDED FOR RECORDING.

No.	Revision	Date
1		

HURT ROAD (60' R/W)

S88°54'09"E - 100.00'

565.6' TO WEST R/W  
OF SKYLINE TERRACE  
(50' R/W)

ONE STORY  
BRICK  
2,025±  
SQUARE FEET  
#2395  
DEANO'S  
FAMILY  
HAIR CENTER

OCT - 7 2010

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION



SCALE IN FEET  
20' 10' 0' 20' 40'

TOTAL AREA= 0.553± ACRES  
OR 24,105± SQ. FT.

2395 HURT ROAD  
MARIETTA, GEORGIA

REFERENCE MATERIAL

1. SPECIAL WARRANTY DEED IN FAVOR OF  
18 PROPERTY HOLDINGS, LLC.  
DEED BOOK 14678 PAGE 1618-1619  
COBB COUNTY, GEORGIA RECORDS

McLUNG  
SURVEYING SERVICES, INC.

4633 South Cobb Drive Suite 200  
Smyrna, Georgia 30080 (770) 434-3383  
This property (8) (is not)  
located in a Federal Flood  
Area as indicated by F.I.R.M.  
Official Flood Hazard Maps.  
COMMUNITY PANEL NO. 1306700201 G  
EFFECTIVE DATE: DECEMBER 16, 2006  
COBB COUNTY, GEORGIA  
In my opinion this plat is a  
correct representation of the  
land plotted.

Michael R. Niles  
Georgia RLS #2848  
Member SAMSOG  
JOB#228945

PROPERTY OF  
GARREN LUONG

LOT 5, BLOCK "B"  
SHERWOOD ESTATES  
UNIT - 2

LAND LOTS 787 AND 788  
DISTRICT 19TH. SECTION 2ND  
COUNTY COBB  
GEORGIA

PLAT PREPARED: 9-9-10  
FIELD: 9-7-10 SCALE: 1"=20'



APPLICANT: Garren Luong

678-224-7212

REPRESENTATIVE: Garren Luong

678-224-7212

TITLEHOLDER: Garren Luong

PROPERTY LOCATION: South side of Hurt Road, east of Powder  
Springs Road and west of Skyline Terrace

ACCESS TO PROPERTY: Hurt Road

PHYSICAL CHARACTERISTICS TO SITE: \_\_\_\_\_

PETITION NO: Z-40

HEARING DATE (PC): 12-01-10

HEARING DATE (BOC): 12-14-10

PRESENT ZONING: NS

PROPOSED ZONING: LRO

PROPOSED USE: Professional Office

SIZE OF TRACT: 0.553 ac

DISTRICT: 19

LAND LOT(S): 787, 788

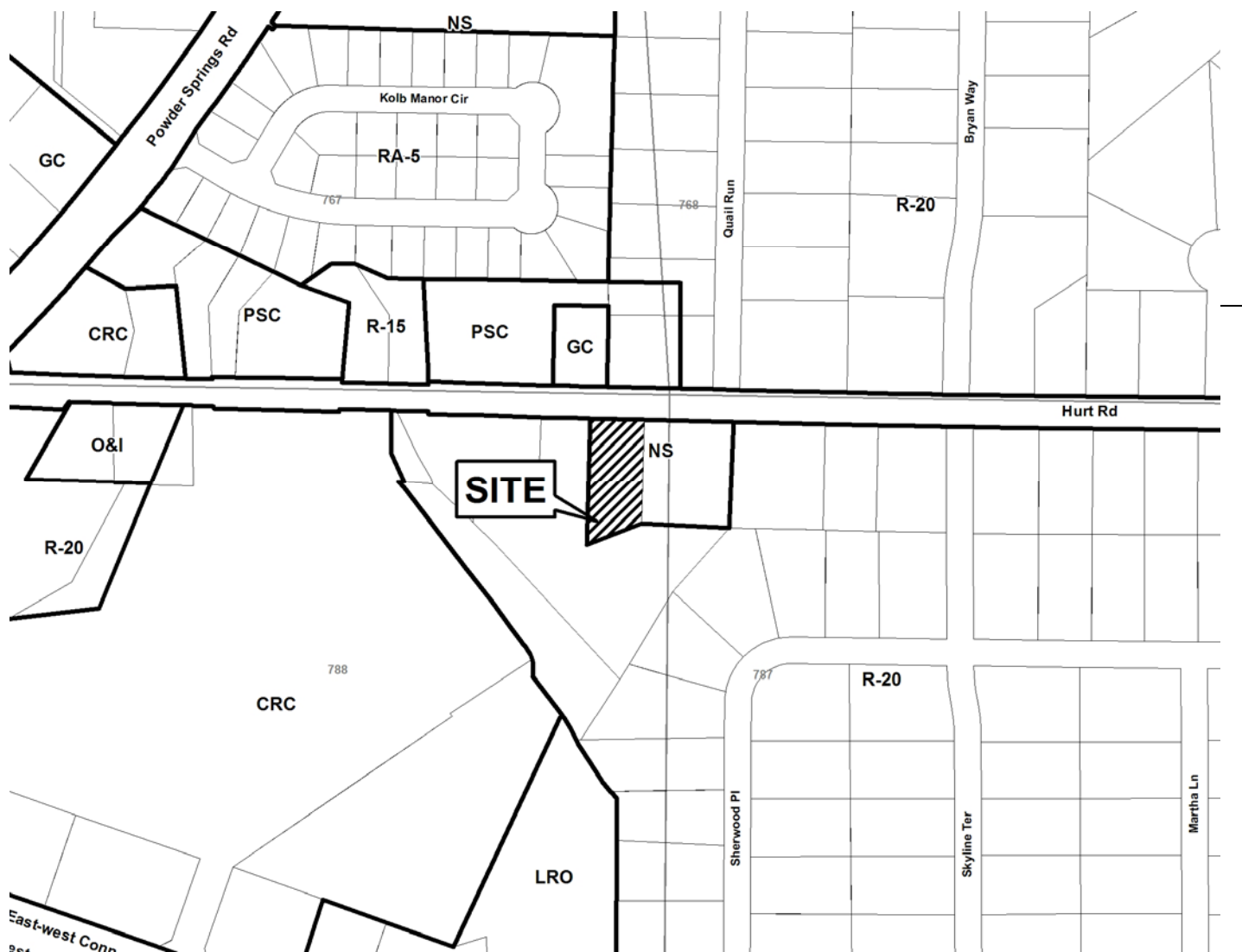
PARCEL(S): 10

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

COMMISSION DISTRICT: 4

#### CONTIGUOUS ZONING/DEVELOPMENT

#### Future Land Use Map: Community Activity Center



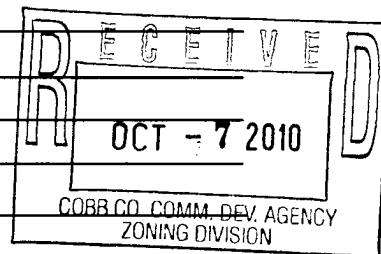
Application No. Z-40

Dec. 2010

## 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: N/A  
c) Proposed selling prices(s): N/A  
d) List all requested variances: N/A



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

- a) Proposed use(s): PROFESSIONAL office space  
LRO ZONING  
b) Proposed building architecture: EXISTING BUILDING AND NO EXTERIOR  
CHANGE OTHER THAN SIGNAGE  
c) Proposed hours/days of operation: 7 AM TO 11 PM  
d) List all requested variances: \_\_\_\_\_

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

PLEASE SEE LUONG REPORT OCT-5-2010 INCORPORATE  
BY REFERENCE

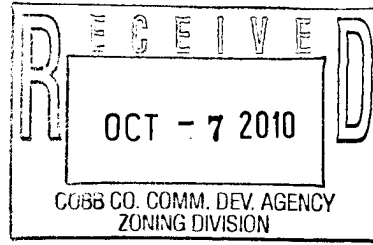
.....  
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(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).

POWER EASEMENT LOCATED ON BACK OF PROPERTY

Z-40

Dec. 2010



變邪癰

Taoist Life Coach

**LUONG ZONING REPORT - 2395 HURT ROAD - LRO WITH STIPULATIONS****EXECUTIVE SUMMARY**

Request is hereby made by the current property owner to change the zoning district from NS - Neighborhood Shopping with stipulations to LRO - Low Rise Office for 0.55 acres located at 2395 Hurt Road. The property was developed in the mid 1990's for use as a barber/beauty shop known as Deano's Family Hair Center and has an existing building, parking lot and other improvements. Barber/beauty shop use has not been demonstrated to be viable at this location in the recent past, thus rendering the currently stipulated zoning district limitations impractical. Initial intended use of the property is for use as offices of the owner, but may vary over time to include professional offices of others. The LRO district allows for a broader range of uses than needed or appropriate for the location. As a result the request is for approval to the LRO district with the stipulation that it be limited to Professional Office use only.

**OWNER/APPLICANT**

Mr. Garren Luong of Marietta, Georgia is the Applicant. Mr. Luong is a naturalized Chinese-American citizen and aeronautical engineer, who has been a long-term employee of Lockheed. He has special expertise in flight simulators. Mr. Luong and his family have lived in Cobb County for ten years and have many ties to the community. Mr. Luong's family has a long tradition of "life-coaching" - helping or coaching others, particularly, but not exclusively those in the Chinese-American community, in matters of life related to health, relationships, employment and other areas, which can be informed from a Daoist (Taoist) perspective. He does not practice acupuncture, dispense herbal remedies, perform fortune telling services or conduct worship services. He has purchased the property at 2395 Hurt Road so he can help others without them needing to come to his home.

**LOCATION**

The property is located in unincorporated Cobb County along the south side of Hurt Road (a Major Collector road) approximately 1,300 feet ( 1/4 mile) east of a traffic signal

at Powder Springs Road (an Arterial) and 200 feet west of Quail Run. It is more particularly described in the accompanying Legal Description. The area is east of the city limits of Powder Springs, north of Austell, west of Smyrna and southwest of Marietta and is heavily influenced by traffic at the intersection of two four-lane Arterial roadways (Ernest Barrett Parkway/East-West Connector with Powder Springs Highway). The property is wholly within an area depicted as CAC - Community Activity Center on the Future Land Use Map and south of an area depicted as Medium Density Residential. It is adjacent to property zoned GC and PSC to the north, NS on its east and R-20 to the south and west. It is near, but does not border the residential subdivisions of Quails Nest and Sherwood Estates. It does not appear to be within any Cobb County overlay districts.

#### SUBJECT PROPERTY

The property subject to this rezoning request consists of 0.533 acres as shown in an accompanying survey of September 7, 2010, by McClung Surveying. It was previously rezoned in 1990 from R-20 to NS with stipulations by petition 199056. The NS zoning approval stipulations restricted the property to use only as a barber/beauty shop. The property was developed and used for several years as a barber/beauty shop with eight chairs/work stations. It changed tenants and ownership over the years although it has been most commonly known locally as Deano's Family Hair Center. For the last two years the property has been vacant, has gone through the foreclosure process and was recently purchased by Mr. Luong from the lender, Bayview Loan Servicing, through its affiliated real estate arm, IB Property Holdings, LLC.

The property contains a variety of improvements made by prior owners and tenants. Many of these are depicted in the accompanying survey. Existing improvements include a one-story brick-faced building of approximately 2,025 square feet, a single improved entrance for ingress/egress from Hurt Road, a concrete parking area accommodating 19 spaces and one handicapped accessible space with ramp, a retaining wall along the eastern side of the parking lot, a detention pond designed as part of the parking lot, a permitted septic system, a six-foot high fence and landscaping along the western buffer,

a freestanding sign and gable sign, an outdoor security light and existing vegetation. There are no known cemeteries or family burial plots on the property.

The western buffer reduction was administratively approved at time of development and there are no known currently non-conforming uses. Mr. Luong plans to remodel the interior of the building for use as office space, including his own, and plans no changes to the building exterior or parking lot, other than to place signage consistent with the district and his services.

#### INTENDED USES

Mr. Luong plans to use the office for personal use, but may sub-lease space to others, or may use the building for other suitable tenants and purposes consistent with the proposed LRO district as limited by stipulations. At present the building is in good repair and does not warrant demolition. Traffic generated or captured by the site will be less than when used as barber/beauty shop. The septic system functions and will be serviced before occupancy for extension of its useful life. All necessary utilities are present.

#### THE AREA

The area has grown and changed since the property was zoned for a barber/beauty shop in 1990. At that time commercial zoning approval had been given for a Planned Shopping Center district along the north side of Hurt Road from Powder Springs Road almost to Quail Run and for an OI district to the west and a NS district without stipulations adjoining to the east. GC zoning with stipulations existed at the intersection of the East-West Connector with Powder Springs Road and the balance of the area was R-20.

Since then most of the property east of Powder Springs Road, south of Hurt Road, north of the East-West Connector and west of Sherwood Place has been rezoned from R-20 to CRC, HI, or LRO with stipulations. The largest change was approval to accommodate the 22 screen Regal Cinema complex. There have been no rezonings known to the

Applicant from commercial districts to the R-20 district in this area in at least twenty years.

Most recently in 2008 an application was filed across the street from the subject property by Ms. Sharon Diaz for the rezoning of 3440 Quail Run to convert use of a single-family home from PSC & R-20 to the LRO district for use as a nursery and day care center. The application was not supported at a staff level and was heavily opposed. After a recommendation for rejection by the Planning Commission the application was withdrawn without prejudice by Ms. Diaz before final action by the Board of Commissioners.

Opposition to Ms. Diaz's project was in several areas, none of which apply in the current case. Because eleven parking spaces were proposed on the eastern side along Quail Run, the Diaz proposal would directly impact the aesthetics and character of the entrance to a long-existing neighborhood at its only entrance. Many felt the property was a single family home in a single family neighborhood and suggested it remain that way. Neither of these is the current case since the subject property and building already exist across the street and have been used for commercial purposes for many years. Exacerbation of existing morning and evening traffic volumes along Hurt Road was the concern of several because of the drop-off and pick-up hours for the day care. The Applicant is not proposing to operate a day care or to increase its parking spaces. Others felt there was existing commercial property to the south (some specifically mentioning the subject property) more suited to day care or other commercial uses. Others did not want the noise or safety concerns of children being outside. The Applicant does not propose outdoor activity.

#### WATER/SEWER

The property is served with public water from the Cobb County Water System via a waterline on the north side of Hurt Road. This is variously described in county documents as either a 6" or 8" line. A fire hydrant is within 200 feet of the site at the northwest corner of the intersection of Quail Run with Hurt Road. The building is serviced via a 1" meter, which is more than ample for anticipated needs. The area is

not known to the Applicant to be scheduled for water line replacement or improvement.

Waste water collection and treatment is via a permitted on-site waste disposal (septic) system. Public sanitary sewer is not believed to be available at the site or at reasonable cost for extension/connection by the Applicant. There are no known sewer extension projects in the area known to the Applicant which involve the subject property. Nor is there a concurrent extension petition from the Applicant for sewer service.

#### HYDROLOGY/STORMWATER QUALITY

2395 Hurt Road is near the top of a knoll with the high point located on property adjacent to the east at 2385 Hurt Road. The property drains to the south and west and has no surface water features present or other indications to suggest presence of jurisdictional stream or wetlands. Neither are shown in the accompanying survey. Nor is the property known to lie within a designated flood-prone area. Surface water flows to the south and west to a stream area behind the Regal Cinemas complex. Stormwater flows are slowed via the previously permitted parking lot detention weir control system. No improvements are planned which would result in increased runoff from the site.

#### SETBACKS

The building setback lines for the proposed LRO district are believed by the Applicant to be the same as those required of the existing NS district. The existing building envelope is well within these. Accordingly, no variance is requested at this time.

#### CURRENT ZONING REQUEST

The stipulations of the current Neighborhood Shopping NS district for the property restrict the property to only one use. Since approval of this site in 1990 the amount of commercially zoned property in the county and the nearby cities within which existing barber/beauty shops operate, have operated and within which others could be permitted to operate, has increased significantly in the southwest Cobb market area. This places the property at a competitive disadvantage for commercially viable operation as zoned. This is particularly the case since previous patrons have all taken



their business elsewhere over the two years since last operation as a barber/beauty shop.

If the NS district were still being approved, the Applicant might seek to change the stipulations without changing the district, since Professional Offices and other desired potential uses of the Applicant were otherwise allowed uses. However, in 1990 the Board of Commissioners determined to accept no further petitions to the district as of January 1, 1991. As a result the Applicant must seek change to an alternate but appropriate district that is in keeping with similarly situated properties and with the current and future nature of the area.

"Professional Offices" as defined in the Cobb County Zoning Code seem to be the type of use most closely associated with the Applicant's intended services as a "Life Coach". The applicant has met with the Cobb County Zoning staff and confirmed this to be their perspective as well. Professional offices are permitted as a use by right in the following districts: LRO, LRC, NRC, OI, UVC, PVC, CRC, OMR, OHR, NS, PSC, GC, and RRC. Although the OI district is present on the south side of Hurt Road west of the subject property, the LRO district seems to be the one most similar in nature to the character of the area as it is currently in the area and as reflected in the County's Future Land Use Map and Comprehensive Plan.

Even though less intensive than the OI district, the LRO district nonetheless allows for a variety of uses by right, some of which appear contrary to the interests of nearby or neighboring property owners. Limitation to Professional Offices still allows a wide range of uses and potentially tenancy, better assuring the Applicant of reasonable economic return. Accordingly, the Applicant offers to stipulate, that if approved as requested, the property will be used solely for Professional Offices with associated parking and will not be used for the following otherwise allowable or special exception purposes of the LRO district:

Banks/Financial Institutions with Drive-in Establishments and/or Automated  
Transfer Machines  
Community Fairs

Cultural Facilities  
Designated Recycling Collection Locations  
Executive Golf Courses  
Golf Courses (Par 3)  
Golf Courses (18-hole regulation public)  
Group Homes  
In-Home Day Care  
Non-Profit (Seasonal Use) Fishing Lakes  
Nursery Schools and Child Day Care Centers  
Parking for Vehicles  
Private Parks  
Radio, Television, and Other Communication Towers and Antennae  
Temporary Uses  
Cemeteries  
Mausoleums  
Non-Profit Private Community Center  
Other Facilities for Disposal of the Deceased  
Private Schools of General and Special Education

**APPLICANT'S RESPONSE TO ANTICIPATED IMPACT**

Based on the foregoing analysis, the Applicant respectfully offers the following responses to six matters requested by the County to accompany the application package.

*A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*

Despite the lack of other LRO zoned property in the area, the zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along the south side of the Hurt Road corridor east of Powder Springs Road and west of Quail Run. The subject property bears an existing zoning designation of NS and has been operated for commercial service purposes for approximately fifteen

years. It is south of property zoned GC, and adjacent to property zoned NS without stipulations. It lies wholly within an area designated as a Community Activity Center (CAC) under Cobb County's Future Land Use Map and is separated by a sixty-foot public right-of-way from property lying in the Medium Density Residential area. An alternate district viewed as equivalent by the Applicant would be the OI district with limitation to Professional Office use only.

*B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property .*

The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties.

*C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.*

The subject property has no reasonable economic use as currently zoned. The property is so narrowly zoned as to be artificially constrained to a single use (barber/beauty shop) that has been demonstrated to not be economically viable at this location for at least two years, most recently resulting in foreclosure of the property and purchase by the Applicant below market value for other uses. The Applicant will suffer significant economic detriment if forced to continue a narrowly defined use under a district not approved for expansion or use by the Board of Commissioners since 1991.

*D. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.*

The zoning proposal involves an existing developed site for which no external changes are planned. As such it will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

*E. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.*

The property which constitutes the subject matter of the rezoning proposal is wholly within an area designated as Community Activity Center (CAC), directly contiguous to property zoned NS and GC, and is in conformity with policy, intent, uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.

*F. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.*

There is no substantial relationship between the existing zoning classification of NS with stipulations which substantially limit the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of prior zoning approvals and development along this portion of the Hurt Road corridor, there are no clearly established land planning principles which would render the zoning proposal untenable or adverse to the interests of others. The area has been permanently impacted by the Regal Cinema complex and continues to undergo change as gentrification of housing stock occurs and owner occupancy falls. Owner occupancy and use of currently vacant space would be a stabilizing factor and benefits the county through increased property values and associated property taxes and other business-related fees.

#### CONSTITUTIONAL OBJECTIONS

The portions of the Cobb County Zoning Ordinance of Cobb County, Georgia, also variously known as the Zoning Code of Cobb County, Georgia and/or Official Zoning Map of Cobb County, that classify, or that may classify the Property, into the zoning classification of NS Neighborhood Shopping with stipulations as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing

zoning classification limiting use of the land and improvements to only as a barber/beauty shop does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classification is unconstitutional in that it is arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

The portions of the Cobb County Zoning Ordinance/Zoning Code of Cobb County and Zoning Map that classify, or that may classify the Property, into any zoning district other than the LRO Low Rise Office category requested by the Applicant or to any of the other zoning districts of the County which specifically allow for Professional Office uses, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Cobb County Zoning Ordinance/Zoning Code of Cobb County or Zoning Map to the Property that restricts its use to any zoning classification other than the category requested by the Applicant or an equivalent category of equal utility for Professional Office use is unconstitutional, illegal, null and void because such an application constitutes a taking of the Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, because such an application denies the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Cobb County Board of Commissioners without any rational basis, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of

the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by Cobb County to amend the official Zoning District Map of Cobb County, as it relates to the Property, to the zoning categories requested by the Applicant, or an equivalent category of equal utility for Professional Office use would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Any change in the designation of the Property by the Official Zoning Map of the Cobb County that subjects the Property to conditions that are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional category and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A denial of this Application or approval subject to more restrictive conditions than those requested by the Applicant will give rise to a claim by the Applicant for the monetary damages in the amount of the diminution in value of the Property caused by the restrictions, on the theory, among others, of inverse condemnation in that the Applicant's Property has been taken without the payment of just compensation in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States and Article I of the Constitution of the State of Georgia of 1983. This notice is being given to comply with the provisions of O.C.G.A. § 36-11-1.

#### **LEGAL DESCRIPTION**

The following legal description is taken from Owner's Policy Exhibit A of the current title policy package underwritten by Stewart Title Guaranty Company and is believed to be accurate and suitable for advertising purposes:

"All that tract or parcel of land lying and being in Land Lots 787 & 788, 19th District, 2nd Section, Cobb County, Georgia, being Lot 5, Block B, Sherwood Estates Unit 2, as per plat by J.B. Carey, dated March 10, 1966, recorded in Plat Book 28, Page 67, Cobb County, Georgia Records which plat is incorporated herein by reference thereto; being the same property conveyed by Warranty Deed, dated February 26, 2003, from Harold Dean Perkins and Rebecca D. Perkins to Steven J. Post and Tracy H. Post and recorded at Deed Book 13696, Page 574, Cobb County, Georgia Records; being commonly known as 2395 Hurt Road, SW, according to the present system of numbering houses in Cobb County, Georgia."

An alternate, slightly abbreviated, but nonetheless suitable, form may be:

"All that tract or parcel of land lying and being in Land Lots 787 & 788, 19th District, 2nd Section, Cobb County, Georgia, being Lot 5, Block B, Sherwood Estates Unit 2, as per plat by J.B. Carey, dated March 10, 1966, recorded in Plat Book 28, Page 67, Cobb County, Georgia Records which plat is incorporated herein by reference thereto; being commonly known as 2395 Hurt Road, SW, according to the present system of numbering houses in Cobb County, Georgia."

#### **CONTACT INFO**

This application has been prepared with the assistance of Mr. Bill Schmid, AICP, of Deep Water Planning, LLC - [www.deepwaterplanning.com](http://www.deepwaterplanning.com). Mr. Schmid will be assisting Mr. Luong in the balance of the zoning process on an as needed basis, but is not the Applicant or spokesman for this application. Mr. Luong may be reached with questions at 770-910-4161.

**ZN-100**

1000





**APPLICANT:** Health Care Capital Consolidated, Inc.

770-393-3355

**REPRESENTATIVE:** Sams, Larkin & Huff, LLP

Parks F. Huff 770-422-7016

**TITLEHOLDER:** Charles E. James

**PROPERTY LOCATION:** Located on the south side of Lower

Roswell Road, east of Cove Drive

**ACCESS TO PROPERTY:** Lower Roswell Road

**PHYSICAL CHARACTERISTICS TO SITE:** \_\_\_\_\_

**PETITION NO:** Z-41

**HEARING DATE (PC):** 12-01-10

**HEARING DATE (BOC):** 12-14-10

**PRESENT ZONING:** R-20

**PROPOSED ZONING:** RSL

**PROPOSED USE:** Residential units for

senior citizens

**SIZE OF TRACT:** 9.63 acres

**DISTRICT:** 16

**LAND LOT(S):** 1114, 1115

**PARCEL(S):** 2,8,9,10,26,27

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

**COMMISSION DISTRICT:** 2

**CONTIGUOUS ZONING/DEVELOPMENT**

**FUTURE LAND USE MAP: Low Density Residential**



Dec. 2010.

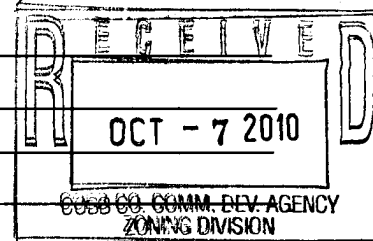
## Summary of Intent for Rezoning\*

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

- a) Proposed unit square-footage(s): The independent RSL units shall range in size from 1,500 square feet to 2,000 square feet. The RSL facility shall be approximately 95,000 square feet in size (90 units).
- Proposed building architecture: Architectural renderings/elevations will be submitted under separate cover.
- Proposed selling prices(s): Rental for the units within the RSL facility or the RSL independent units shall be approximately \$4,000 per month.
- b) List all requested variances: Waiver of building height on 3-level portion of RSL facility from 35' to 55' due to the steep slope of the site and the need to transition the buildings commensurate with the grade.

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

- a) Proposed use(s): \_\_\_\_\_
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: \_\_\_\_\_
- d) List all requested variances: \_\_\_\_\_



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

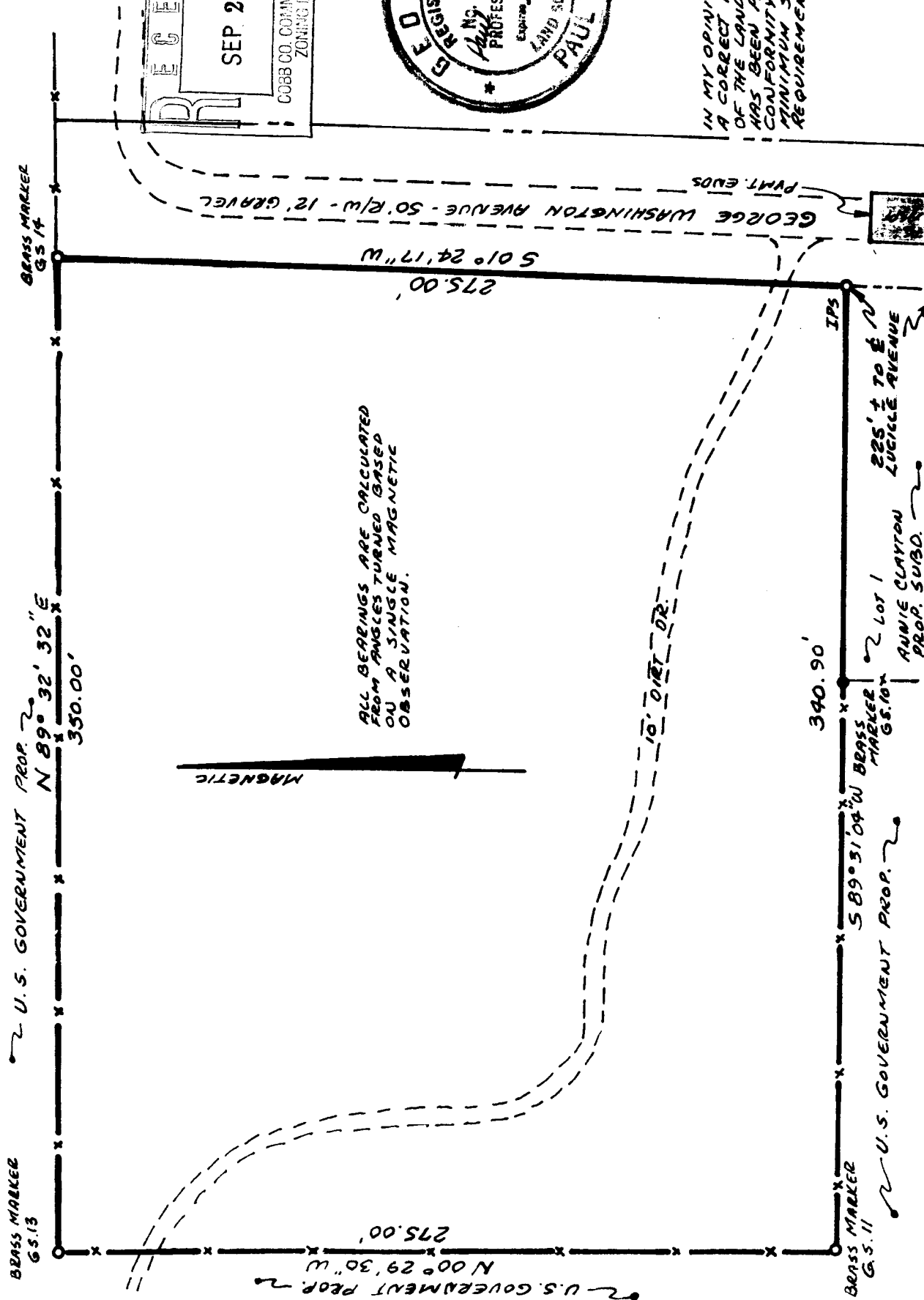
The subject property is located on the edge of an "Institutional Activity Center" consisting of a water treatment plant, government buildings, church facilities and other institutional uses. The RSL proposal provides a transition/step-down into residential areas moving in a westerly direction on Lower Roswell Road.

### 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 those properties are located.)

There is a Cobb County-Marietta Water Authority Easement which traverses the southernmost portion of the subject property. The proposed development does not impact the easement.

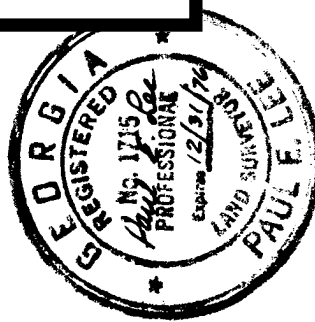
\*The applicant reserves the right to amend the Summary of Intent for Rezoning and the preliminary information provided therein at any time during the rezoning process.

# PLAT OF SURVEY FOR **RICKY JOSEPH WHITE & VIRGINIA COX WHITE** LAND LOT 5 - 20TH DISTRICT - 2ND SECTION COBB COUNTY, GEORGIA SEPTEMBER 25, 1975 SCALE: 1" = 50'



LUP-29  
(2010)

RECEIVED  
 SEP 28 2010  
 COBB CO. COMM. DEV. AGENCY  
 ZONING DIVISION



IN MY OPINION THIS PLAT IS  
 A CORRECT REPRESENTATION  
 OF THE LAND PLATTED AND  
 HAS BEEN PREPARED IN  
 CONFORMITY WITH THE  
 MINIMUM STANDARDS AND  
 REQUIREMENTS OF LAW.

GEORGE WASHINGTON AVENUE - 50' R/W - 12' GRAVEL  
 PMT. ENDS

ALL BEARINGS ARE CALCULATED  
 FROM ANGLES TURNED BASED  
 ON A SINGLE MAGNETIC  
 OBSERVATION.



225' ± TO E  
 LUCILLE AVENUE  
 ANNIE CLAYTON  
 PROP. SUBD.

U.S. GOVERNMENT PROP.

**APPLICANT:** Ricky J. White  
770-974-7611

**REPRESENTATIVE:** Sams, Larkin & Huff, LLP  
Garvis L. Sams, Jr. 770-422-7016

**TITLEHOLDER:** Ricky J. White

**PROPERTY LOCATION:** Located at the southwesterly intersection  
of George Washington Avenue and McLain Drive

**ACCESS TO PROPERTY:** George Washington Avenue

**PHYSICAL CHARACTERISTICS TO SITE:** \_\_\_\_\_

**CONTIGUOUS ZONING/DEVELOPMENT**

**PETITION NO:** LUP-29

**HEARING DATE (PC):** 12-01-10

**HEARING DATE (BOC):** 12-14-10

**PRESENT ZONING:** R-20

**PROPOSED ZONING:** Land Use Permit

**PROPOSED USE:** Parking of a vehicle  
Weighing in excess of 12,500 pounds

**SIZE OF TRACT:** 2.2 acres

**DISTRICT:** 20

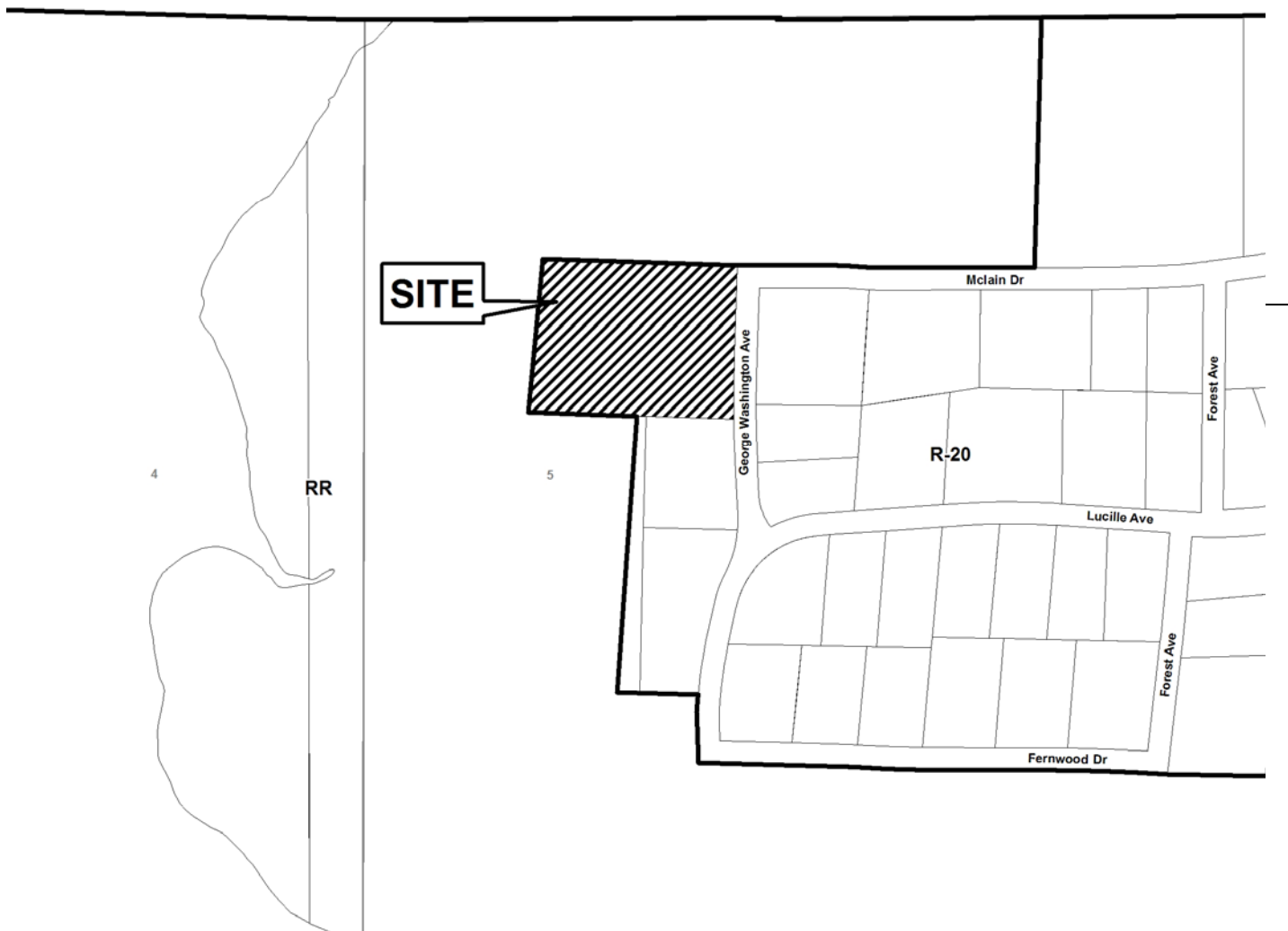
**LAND LOT(S):** 5

**PARCEL(S):** 8

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

**COMMISSION DISTRICT:** 1

**FUTURE LAND USE MAP:** Low Density Residential





Application #: LUP 29

PC Hearing Date: 12-1-10

BOC Hearing Date: 12-14-10

## TEMPORARY LAND USE PERMIT WORKSHEET

1. Type of business? No business - used as a residence
2. Number of employees? Not applicable
3. Days of operation? Not applicable
4. Hours of operation? Not applicable
5. Number of clients, customers, or sales persons coming to the house per day? N/A ; Per week? \_\_\_\_\_
6. Where do clients, customers and/or employees park? Not applicable  
Driveway: \_\_\_\_\_ ; Street: \_\_\_\_\_ ; Other (Explain): \_\_\_\_\_
7. Signs? No: X ; Yes: \_\_\_\_\_. (If yes, then how many, size, and location): \_\_\_\_\_
8. Number of vehicles related to this request? (Please also state type of vehicle, i.e. dump truck, bobcat, trailer, etc.): A single-axle dump truck weighing approximately 14,500 pounds.
9. Deliveries? No X ; Yes \_\_\_\_\_ (If yes, then how many per day or week, and is the delivery via semi-truck, USPS, Fedex, UPS, etc.) \_\_\_\_\_
10. Does the applicant live in the house? Yes X ; No \_\_\_\_\_
11. Any outdoor storage? No X ; Yes \_\_\_\_\_ (If yes, please state what is kept outside): \_\_\_\_\_
12. Length of time requested: 24 months
13. Any additional information? (Please attach additional information if needed):  
The vehicle has been parked on the subject property in excess of ten (10) years with a similar vehicle being parked on the subject property prior thereto.

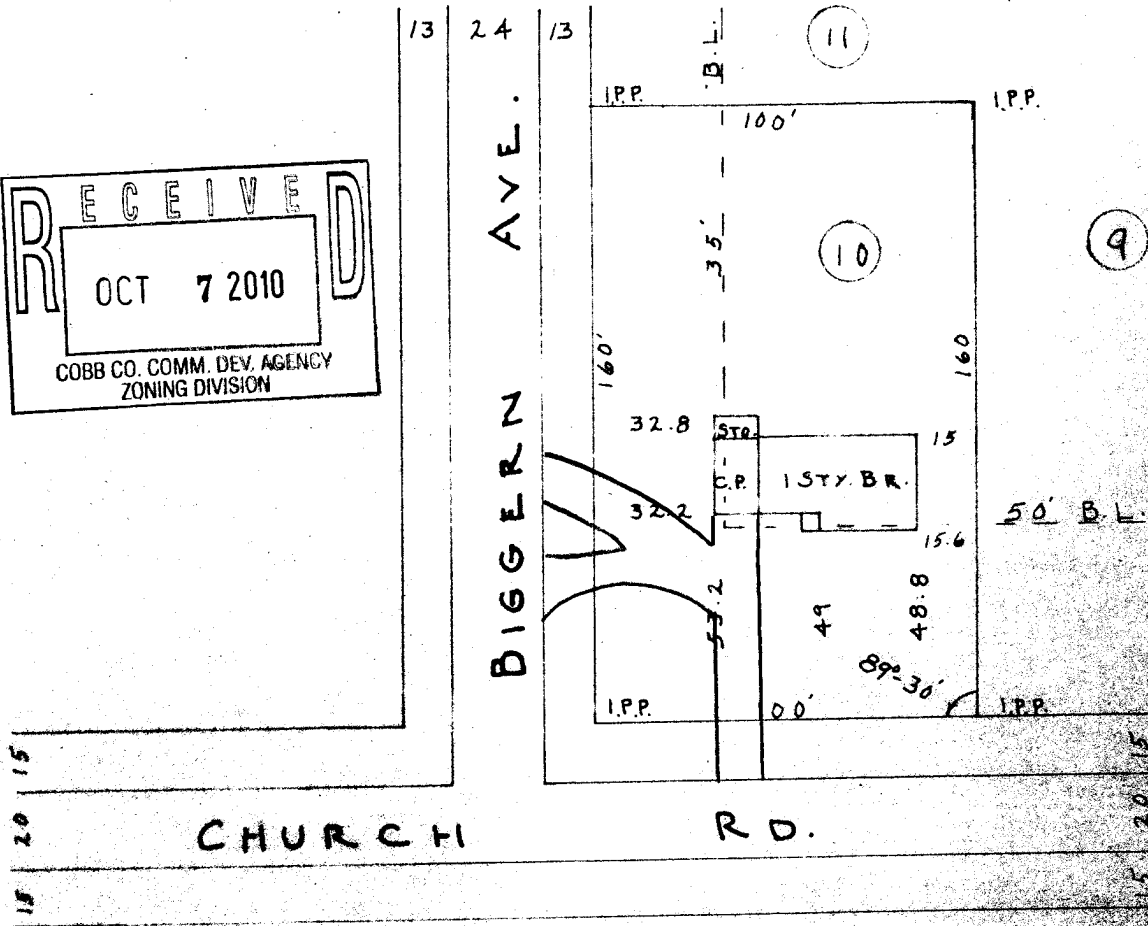
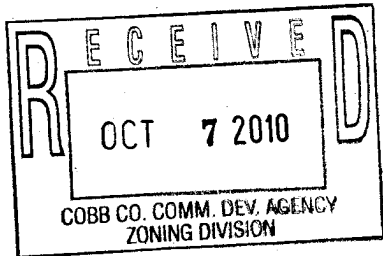
Applicant signature: \_\_\_\_\_

Date: 9/23/10

Garvis L. Sams, Jr. on behalf of Ricky J. White

Applicant name (printed): Ricky J. White

LUP-30  
(2010)



I certify that this plat is correct and  
a true representation of the conditions  
on this property.

*John L. Harper*  
Georgia Registered Surveyor No. 851  
Member of Georgia Association of  
Registered Land Surveyors

Property of: DANK A. BARNES

Lot 10 Block B Norton Park Sub.

LL 270 17th Dist. 2nd. Sec. Cobb County, Ga.

Surveyed by John L. Harper Co., Engineers, Atlanta, Ga. May 1958. Scale 1" = 50'

**APPLICANT:** Destiny Barnes

770-436-2893

**REPRESENTATIVE:** Destiny Barnes

770-436-2893

**TITLEHOLDER:** Dank A. Barnes

**PROPERTY LOCATION:** Located at the northeasterly intersection  
of Church Road and Biggern Avenue

**ACCESS TO PROPERTY:** Church Road and Biggern Avenue

**PHYSICAL CHARACTERISTICS TO SITE:** \_\_\_\_\_

**CONTIGUOUS ZONING/DEVELOPMENT**

**PETITION NO:** LUP-30

**HEARING DATE (PC):** 12-01-10

**HEARING DATE (BOC):** 12-14-10

**PRESENT ZONING:** R-15

**PROPOSED ZONING:** Land Use Permit

**PROPOSED USE:** Additional vehicles

**SIZE OF TRACT:** 0.37 acres

**DISTRICT:** 17

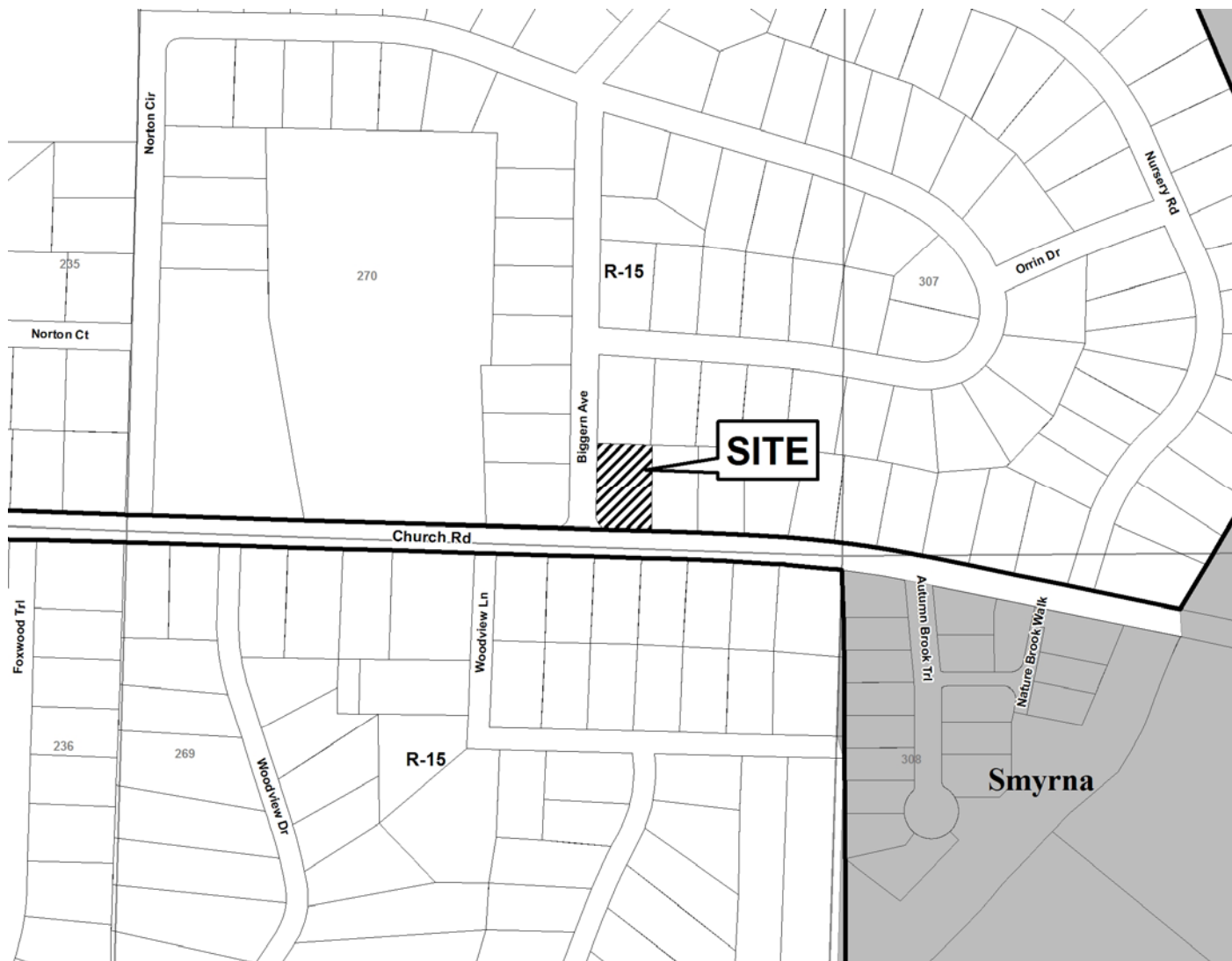
**LAND LOT(S):** 270

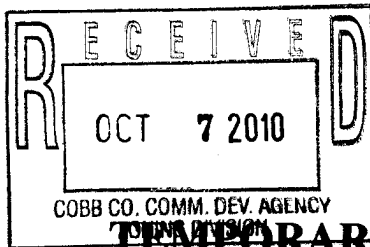
**PARCEL(S):** 29

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

**COMMISSION DISTRICT:** 4

**FUTURE LAND USE MAP:** Low Density Residential





Application #: LUP-30  
PC Hearing Date: 12-8-10  
BOC Hearing Date: 12-16-10  
14 JPP

## TEMPORARY LAND USE PERMIT WORKSHEET

1. Type of business? \_\_\_\_\_
  2. Number of employees? \_\_\_\_\_
  3. Days of operation? \_\_\_\_\_
  4. Hours of operation? \_\_\_\_\_
  5. Number of clients, customers, or sales persons coming to the house per day? \_\_\_\_\_ ; Per week? \_\_\_\_\_
  6. Where do clients, customers and/or employees park?  
Driveway: \_\_\_\_\_ ; Street: \_\_\_\_\_ ; Other (Explain): \_\_\_\_\_  
\_\_\_\_\_
  7. Signs? No: \_\_\_\_\_ ; Yes: \_\_\_\_\_. (If yes, then how many, size, and location): \_\_\_\_\_
  8. Number of vehicles related to this request? (Please also state type of vehicle, i.e. dump truck, bobcat, trailer, etc.): 2 additional  
reg car, SUV, or truck
  9. Deliveries? No X ; Yes \_\_\_\_\_ (If yes, then how many per day or week, and is the delivery via semi-truck, USPS, Fedex, UPS, etc.)  
\_\_\_\_\_
  10. Does the applicant live in the house? Yes X ; No \_\_\_\_\_
  11. Any outdoor storage? No \_\_\_\_\_ ; Yes X (If yes, please state what is kept outside): Storage building in back, lawn equip, toys etc
  12. Length of time requested: as long as possible
  13. Any additional information? (Please attach additional information if needed):  
This is just to be able to have  
2 extra cars there if needed, visitors etc.  
They will not need reserved parking  
options  
is what  
am  
requesting
- Applicant signature: Destiny Barnes Date: 9-28-10
- Applicant name (printed): Destiny Barnes