

**FEBRUARY 15, 2011 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 4**

**ITEM # 1**

**PURPOSE**

To consider a Settlement of Litigation for S & S Investment Company regarding Special Land Use Permit application SLUP-6 (S & S Investment Company) of 2009, for property located on the easterly side of I-285, south of South Cobb Drive and at the northwesterly end of Riverview Industrial Drive, northwest of Riverview Road in Land Lot 685 of the 17<sup>th</sup> District.

**BACKGROUND**

The applicant’s petition for a Special Land Use Permit (SLUP) for a waste transfer station and recycling facility was denied by the Board of Commissioners on August 18, 2009. The applicant filed a lawsuit in Superior Court challenging the Board of Commissioners’ decision. Prior to this case going to court, meetings and discussions occurred and an agreement was formulated, which is attached for review (Exhibit A). The Board of Commissioners' decision is attached (see Exhibit B). The request has been submitted to Staff, which has no comments.

**FUNDING**

N/A

**RECOMMENDATION**

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

**ATTACHMENTS**

Proposed Settlement of Litigation letter (Exhibit A)  
Zoning Decision (Exhibit B)  
Staff report from original SLUP application (Exhibit C)

Mediation Agreement  
S & S Investment Company v Cobb County  
Cobb Superior Court Case No. 09-1-9095-34

December 1, 2010

The parties met on this day and reached the following agreement pursuant to mediation:

1. Since Cobb County is a local government and cannot make an agreement without a public meeting and vote, this agreement shall be binding only if it is approved by the entire Board of Commissioners. Commissioner Woody Thompson represented the County along with his attorney and Commissioner Thompson agrees to recommend the Board approve this agreement.
2. The Special Land Use Permit of S & S Investment Company (the "Applicant") will be remanded to the Board of Commissioners and presented for approval with the following stipulations:
  - a. The Subject Property, being 6.285 acres of land on Riverview Road as more thoroughly described in the SLUP application (SLUP-6, originally submitted 05-19-09) shall be developed as an enclosed Recovered Material Processing Facility ("RMF") of no more than 60,000 square feet in size. All processing operations of the RMF shall be carried on inside the building, including delivery of materials and removal of same for transport. The facility shall be a "clean RMF" meaning that it shall not separate recycled material from general garbage and waste and shall accept source-separated recycled materials.
  - b. The doors used to permit vehicles to deliver materials shall be closed except when active deliveries are occurring.
  - c. The hours of operation of the RMF shall be as follows:
    - i. Mon. to Fri: 5:00 a.m. to 6:00 p.m.
    - ii. Saturday: 8:00 a.m. to 1:00 p.m.
    - iii. Sunday: Closed.
  - d. The RMF shall contain a dust and odor suppression system including overhead misters that will apply water and deodorizer periodically to control dust and odor within the building. The RMF shall contain air dispersion exhaust fans. Manual application of water shall also be provided from wash down stations within the building. The Applicant agrees to make any necessary repairs to odor control systems within 48 hours or notify the county if repairs cannot be made in that time frame. In that event, the Applicant shall either obtain a temporary replacement system or secure approval from the County Community Development Director for an extension of time to repair.

- e. The tipping floor where recycled materials are dumped shall be washed down at least two times per week.
- f. All liquid waste and waste water from inside the building shall be routed to the sanitary sewer with a plan to be approved by the County during Plan Review. The Applicant shall install an oil/water separator to treat storm water as required by the County.
- g. The RMF shall accept no more than 400 (four hundred) tons of recycled materials per day. This volume will be based on a daily average calculated on a six-day work week. Starting in 2012, the volume shall be increased annually by 50% of Cobb County's published population growth rate for the preceding year. For example, if the population of the County grows 1.0% in 2011, the amount of materials daily average can grow by 0.5% or to 402 tons in 2012. The County shall have the right to audit the books and records of Applicant to review compliance with these provisions.
- h. The County Arborist shall approve a landscaping plan at Plan Review that would assure a visual and noise abatement screen within five years of land disturbance.
- i. For the duration of the Special Use Permit, the Applicant agrees to participate in the Adopt a Mile program with Keep Cobb Beautiful along Riverview Road. In addition to this program, the Applicant shall police Riverview Road for litter that may have come from trucks delivering to the Subject Property and remove said litter on a weekly basis. Further, reported litter and trash from trucks delivering to the Subject Property shall not be allowed to remain for more than 24 hours.
- j. The Applicant agrees to designate an on-site project manager during construction and an on-site operational manager/supervisor during the operation of the RMF. A copy of the SLUP with conditions shall be kept on site.
- k. The Applicant shall abide by comments and recommendations generated during the Plan Review process by the following:
  - i. County Fire Department
  - ii. County Water and Sewer Department
  - iii. Stormwater Management Department
  - iv. County Department of Transportation
- l. The Applicant shall meet all state permitting requirements for a RMF.

- m. The Applicant shall create and maintain a vector control plan on the Subject Property, which plan shall detail the program for domesticated animal control as well as rodent and insect extermination. An outside exterminating company shall be utilized to exterminate insects and rodents, which includes exterminating sprays, poisonous baits and traps. Said service shall be provided on a monthly basis and increased as situations warrant.
3. While not a part of the SLUP stipulations, it shall be a part of this Agreement that the Applicant S & S Investment Company shall agree to record a deed restriction on the Subject Property restricting the Subject Property from being used as a waste transfer facility for a period of 10 years from the date the Certificate of Occupancy is issued for the RMF. This deed restriction shall not be worded as to prevent the operation of the RMF.
4. The parties agree to draft any other documents necessary to effect this settlement in a mutually approved form.
5. The parties agree that any disputes as to the terms of the Mediation Agreement, including any ambiguity or disputes over wording of documents, shall be brought to the mediator for resolution.

Signed on the date set forth above by the following:

For S & S Investment Company

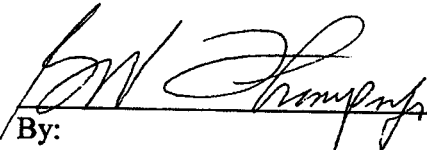
  
\_\_\_\_\_

By:  
Its:

  
\_\_\_\_\_

Attorney for S/& S Investment Company

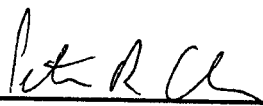
For Cobb County, Georgia

  
\_\_\_\_\_

By:  
Its:

  
\_\_\_\_\_

Attorney for Cobb County

  
\_\_\_\_\_

Mediator Peter R. Olson

PAGE 5 OF 5

APPLICATION NO. SLUP-6

ORIGINAL DATE OF APPLICATION: 05-19-09

February 15, 2011  
Exhibit "B"  
Other Business Item 01

APPLICANTS NAME: S & S INVESTMENT COMPANY

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS

**BOC DECISION OF 08-18-09 ZONING HEARING:**

**S & S INVESTMENT COMPANY** (owner) requesting a **Special Land Use Permit** for the purpose of Recycling Resource Recovery Facility and Transfer Station in Land Lot 685 of the 17<sup>th</sup> District and Land Lot 57 of the 18<sup>th</sup> District. Located on the easterly side of I-285, south of South Cobb Drive and at the northwesterly end of Riverview Industrial Drive, northwest of Riverview Road.

The public hearing was opened and Mr. Den Webb, Ms. Janet Abbazia, Mr. Craig Avena, Mr. Walter Brown, Mr. Ben Clopper, and Mr. Chuck Bolash addressed the Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Olens, second by Ott, to **reject** Rezoning request.

VOTE: **ADOPTED 4-0**

SLUP-6  
(2009)

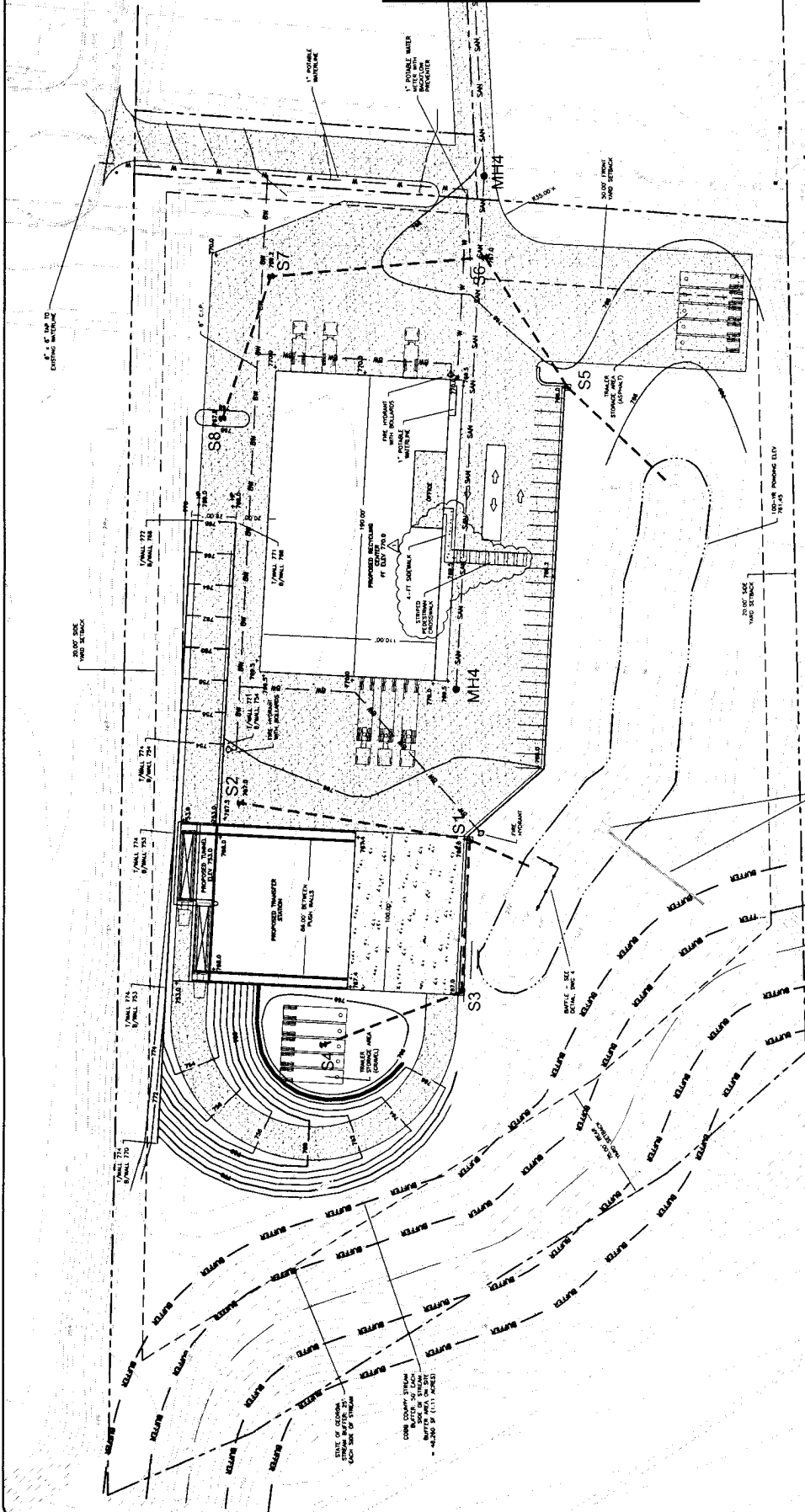
February 15, 2011  
Exhibit "C"  
Other Business Item 01



NO.	DATE	BY	CHKD.	APP.



RECOVERY  
ATION



- LEGEND
- PROPERTY LINE
  - EXISTING CONTOUR
  - PROPOSED CONTOUR
  - ASPHALT PAVING
  - CONCRETE PAVING

**R T T I V E**

JUN 5 2009

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

APPLICANT: S & S Investment Company  
404-702-7980

REPRESENTATIVE: Smith, Gambrell & Russell, LLP  
Dennis J. Webb and Kathryn M. Zickert 404-815-3620

TITLEHOLDER: S & S Investment Company

PROPERTY LOCATION: Located on the easterly side of I-285, south of South Cobb Drive and at the northwesterly end of Riverview Industrial Drive, northwest of Riverview Road.

ACCESS TO PROPERTY: Riverview Industrial Drive

PHYSICAL CHARACTERISTICS TO SITE: graded vacant lot

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** HI/ First Amercian Resourse Center, warehouse
- SOUTH:** HI/ Skyline Forming
- EAST:** HI/ Patterson Services, warehouse
- WEST:** Interstate 285

PETITION HEARING DATE (PC): 05-05-09

HEARING DATE (BOC): 05-19-09

PRESENT ZONING: HI

PROPOSED ZONING: Special Land Use  
Permit

PROPOSED USE: Recycling Resource  
Recovery Facility and Transfer Station

SIZE OF TRACT: 6.95 acres

DISTRICT: 17, 18

LAND LOT(S): 685, 57

PARCEL(S): 8

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

COMMISSION DISTRICT: 4

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

**PLANNING COMMISSION RECOMMENDATION**

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

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

HELD \_\_\_\_\_ CARRIED \_\_\_\_\_

**BOARD OF COMMISSIONERS DECISION**

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

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

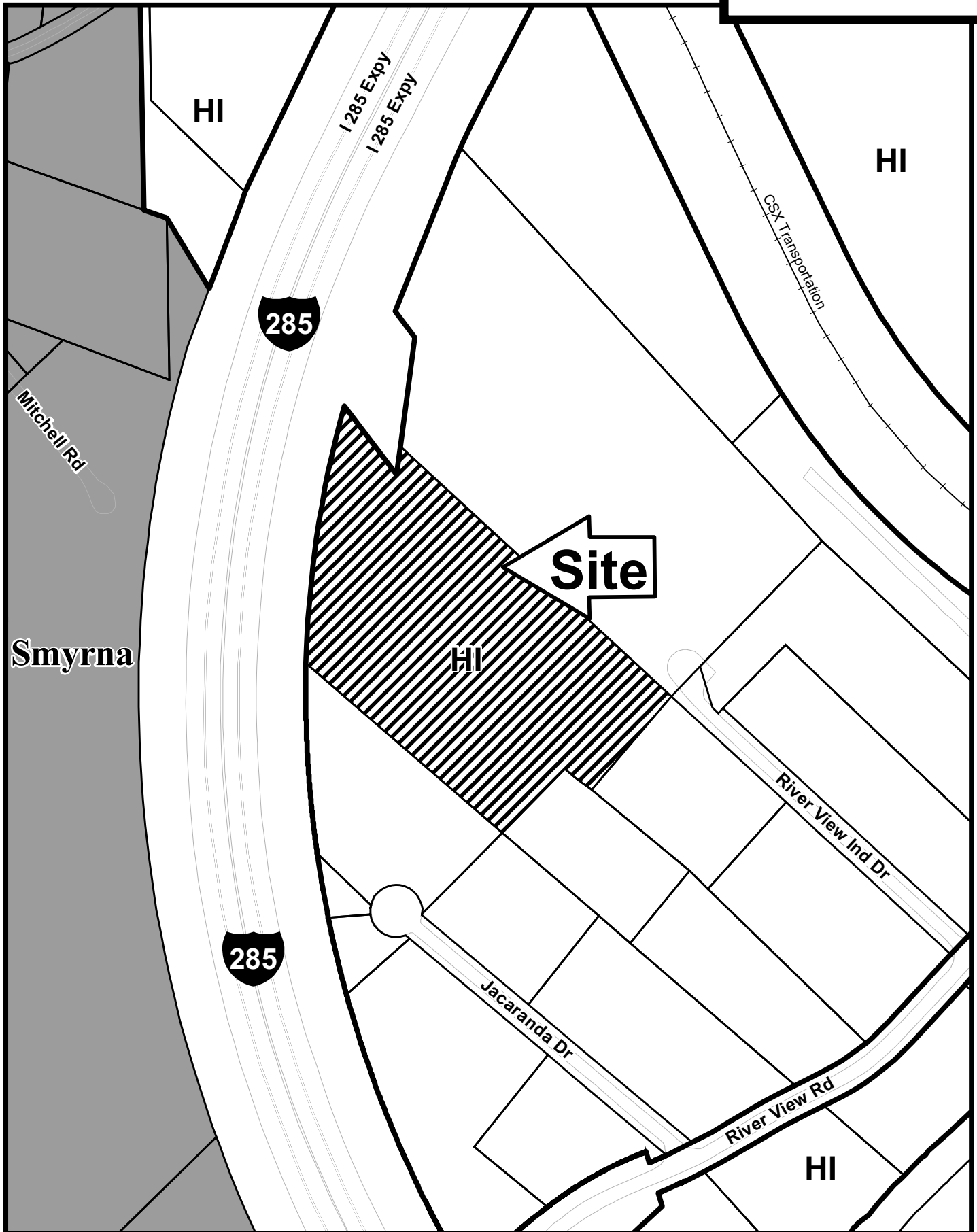
HELD \_\_\_\_\_ CARRIED \_\_\_\_\_

STIPULATIONS:

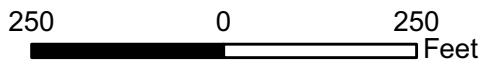


# SLUP-6

February 15, 2011  
Exhibit "C"  
Other Business Item 01



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



City Boundary  
Zoning Boundary



APPLICANT: S & S Investment Company

PETITION NO. \_\_\_\_\_

PRESENT ZONING: HI

PETITION FOR: SECT \_\_\_\_\_

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**PLANNING COMMENTS:** Staff Member Responsible: John P. Pederson, AICP

The applicant is requesting a Special Land Use Permit to develop and operate a waste transfer station and a recycling facility. There will be two one-story buildings on the property. The waste transfer station will occupy a 10,000 square-foot building on the westerly side of the property. The waste transfer station will take municipal solid waste, which is comprised of household and non-residential garbage. The recycling facility will occupy a 20,000 square-foot building on the easterly side of the property. The recycling facility will process paper, aluminum and steel cans, plastics and glass. All waste handling would take place inside the buildings, and will comply with all federal, state and local requirements. The applicant would employ technology to abate and control unpleasant odors, and to eliminate contaminated runoff. The waste transfer station and recycling facility would operate Monday through Friday from 5:00 am to 6:00 pm, and on Saturday from 8:00 am to 1:00 pm. The applicant has operated recycling and waste collection facilities in the Atlanta area for approximately 40-years. The applicant has submitted a Statement of Intent which is attached as Exhibit "A". The Atlanta Regional Commission and Georgia Regional Transportation Authority have both issued findings for the Development of Regional Impact that supports the applicant's request.

**Historic Preservation:** No comments.

**Cemetery Preservation:** No comment.

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**WATER & SEWER COMMENTS:**

Water and sewer available. Water meter(s) must be set on Riverview Industrial Dr right-of-way. Private easement necessary for the sewer connection as it is shown on proposed site plan.

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**TRAFFIC COMMENTS:**

Recommend curb and gutter along road frontage.

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

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**FIRE COMMENTS:**

Fire Hydrant  
Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT: S & S Investment Company

PETITION N

PRESENT ZONING: HI

PETITION FOR: SLUP

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**DRAINAGE COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Chattahoochee River** 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: **within stream buffer**

- 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 CONDITION**

- 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 downstream **drainage system**.

APPLICANT: S & S Investment Company

PETITION

PRESENT ZONING: HI

PETITION FOR: SLUP

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DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **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.

INSUFFICIENT INFORMATION

- No Stormwater controls shown \_\_\_\_\_
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. This site is located within the Chattahoochee River Corridor and is therefore subject to the requirements of the Metropolitan River Protection Act. The project will be required to submit an application to the ARC for a MRPA certificate.
2. All process areas including the Transfer Station and Recycling Center Buildings will be required to have interior drainage systems that will be tied to the sanitary sewer. All exterior surface drainage will be directed to the stormwater management facility. There is an existing detention pond on the site that was constructed under LDP #020085. This pond is proposed to serve as the stormwater facility. Any modifications to meet current design standards must be addressed at Plan Review. As a minimum, the outlet control structure should be retrofitted with a "snout-type" device to provide additional water quality protection.

STAFF RECOMMENDATIONS

SLUP-6 S & S INVESTMENT COMPANY

The applicant's property has been zoned Heavy Industrial without any rezoning conditions or stipulations since the zoning code and zoning map were adopted in 1972. The applicant's property is located in an area predominately zoned and used for Heavy Industrial uses. The applicant's property has been designated as Industrial on the *Cobb County Comprehensive Plan* since it was adopted. The Heavy Industrial Zoning Category, and the Industrial Future Land Use Category provides for the most intensive land uses in Cobb County. These are uses that may contain large-scale outdoor storage, uses that may be noisy, uses that may cause vibrations, uses that may operate constantly, uses that may generate heavy truck traffic, uses that may emit odors and/or emissions and uses that may require federal and/or state permits. Industrial uses on adjacent and nearby properties include warehouses, trucking companies, heavy contractors, manufacturing, distributors, junkyards and a log recycler. The applicant's proposal is located within close proximity to major regional transportation corridors such as Veterans Memorial Highway, South Cobb Drive and Interstate 285. The proposal is located off Riverview Road behind other industrial buildings, and is buffered from I-285 by a thick stand of trees that are within a conservation easement. The Atlanta Regional Commission (ARC) and Georgia Regional Transportation Authority (GRTA) have released positive findings regarding the proposal. The applicant's property is located within the boundaries of the Veteran's Memorial Enterprise Zone. The applicant's property is located within the boundaries of the *Industrial Land Inventory and Protection Policy* (Site 16), which is a study the Cobb County Planning Division generated to protect industrial property in the county. It should be noted that the property is within the study limits of the Riverline Master Plan Study area which will be finalized this summer. The Riverline Master Plan Study addresses land use, transportation and preservation issues in the area. There are other waste transfer stations in the county that are situated much closer to residential properties than this proposal. Those waste transfer stations have employed various measures to substantially reduce negative effects on nearby properties; these measures have included odor and noise abatement systems and heavy landscaping. Based on the above analysis, Staff recommends APPROVAL subject to the following:

- Site plan received by the Zoning Division on June 5, 2009;
- Applicant incorporate odor control measures such as odor neutralizing sprays systems at each door, overhead odor neutralizing misters throughout the buildings, and high velocity air dispersion exhaust fans;
- All waste transfer and recycling take place inside the buildings, with the tipping floor to be cleaned at least once daily;
- All liquid waste from inside building be routed to sanitary sewer, with plan to be approved by Water System engineers at Plan Review;
- County Arborist approve a landscape plan at Plan Review that would ensure a visual and noise abatement screen with 5-years of land disturbance;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Development of Regional Impact from ARC and GTRA;
- Applicant meet all State permitting requirements;
- Stormwater Management comments and recommendations; and
- DOT comments and recommendations.

**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.**