

CLOSURE STATEMENT: THIS MAP OR PLAN IS BASED UPON THE FIELD NOTES OF ONE PARTY IN SOLID AND AN ADJACENT PARTY IN DASHED LINES. THE FIELD NOTES WERE FOUND TO BE ACCURATE WITHIN ONE FOOT IN EACH 200 FEET.

FLOOD NOTE: PLOTTING ON 1:500 NATIONAL FLOOD INSURANCE RATE MAP SHOWS THAT AN EFFECTIVE DATE OF FLOODING IS IDENTIFIED IN A FLOOD HAZARD AREA. SUBJECT PROPERTY IS LOCATED IN ZONE "A".

NOTES:

1. DATE OF FIELD SURVEY: MAY 2, 2014.
2. EQUIPMENT USED: TOPCON SET 225 TOTAL STATION.
3. ADJUSTMENTS MADE: NONE.
4. MONUMENTS PLACED OR FOUND AS SHOWN ON PLAN.
5. METERS USED: NONE.
6. OTHER INSTRUMENTS OR EQUIPMENT USED: NONE.
7. NO CORRECTIONS MADE TO THIS SURVEY.
8. STATE LAW PROVIDES THAT THE PRIVATE CONSTRUCTION, PLACING OR REMOVAL OF MONUMENTS OR MARKERS BY ANY PARTY IS AT HIS OWN RISK AND WITHOUT LIABILITY FOR REPAIRATION OF ANY DAMAGE TO THE SURVEY.
9. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH/SEARCH. ALL MATTERS OF TITLE ARE EXCLUDED.

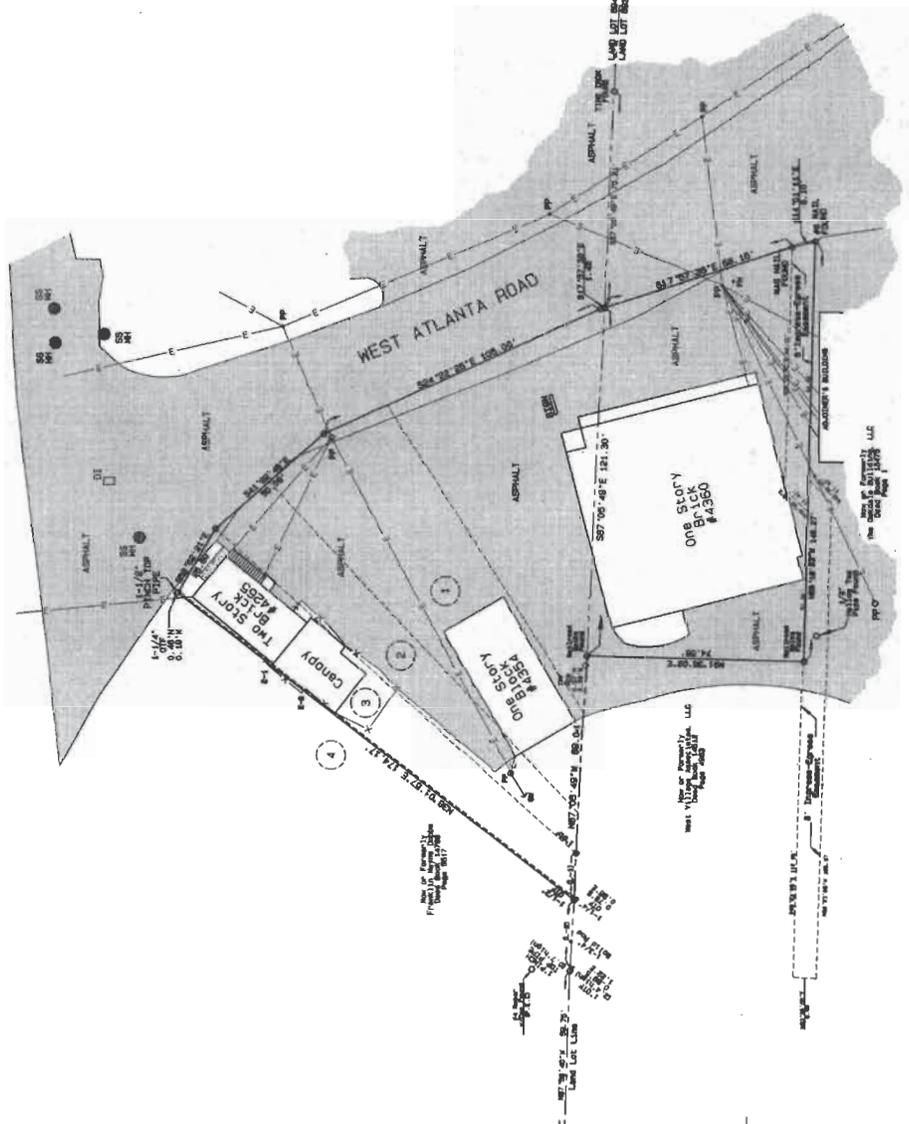
LINE COUNT:
1-3 100' 00" 00" 00"
1-3 100' 00" 00" 00"

Statement of Encroachments:
E-1 Subject property's fence/canopy over 0.7' West.
E-2 Subject property's fence/canopy over 1.2' West.

**AREA = 0.6034 ACRES
(26,285 sq. ft.)**

GRAPHIC SCALE 1"=20'
0 20 40 60

SURVEY FOR:	J. REX MARTIN and CHARLENE B. MARTIN
SCALE:	1"=40'
DATE:	5/9/2014
PREPARED BY:	DANIEL LEE BROWNHAM, JR.
DATE:	5/9/2014
PROJECT:	JOB 140175-4



COBB COUNTY GEORGIA
FILED IN OFFICE

2014 MAY 13 AM 11:30

COBB COUNTY ZONING DIVISION



SURVEYORS ACKNOWLEDGMENT:
I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, THAT THE MONUMENTS PLACED OR FOUND AS SHOWN ON THIS PLAN ARE ACCURATE AND SPECIFICATIONS REQUIRED BY THE COBB COUNTY DEVELOPMENT STANDARDS.

Daniel Lee Browne, Jr.
DANIEL LEE BROWNHAM, JR.
REGISTERED GA. LAND SURVEYOR
P.L.S. 16107

5-9-2014
DATE



THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE OFFICIAL CODE OF GEORGIA AND THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

APPLICANT: J. Rex Martin

PHONE#: (404) 218-8858 **EMAIL:** charlenemrt@hotmail.com

REPRESENTATIVE: J. Rex Martin

PHONE#: (404) 218-8858 **EMAIL:** charlenemrt@hotmail.com

TITLEHOLDER: J. Rex Martin and Charlene B. Martin

PROPERTY LOCATION: West side of West Atlanta Road, north of Oakdale Road (4265, 4354 and 4360 West Atlanta Road).

ACCESS TO PROPERTY: West Atlanta Road

PHYSICAL CHARACTERISTICS TO SITE: Existing vacant commercial buildings

PETITION NO: Z-49

HEARING DATE (PC): 07-01-14

HEARING DATE (BOC): 07-15-14

PRESENT ZONING: GC

PROPOSED ZONING: NRC

PROPOSED USE: Retail

SIZE OF TRACT: 0.6063 acre

DISTRICT: 17

LAND LOT(S): 693, 694

PARCEL(S): 26, 14, 15

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** LRO/Office
- SOUTH:** GC/Developed Commercial Use
- EAST:** NRC/Vacant lot and GC/Developed Commercial Center
- WEST:** GC/Undeveloped and Developed Commercial Use (Auto Repair)

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

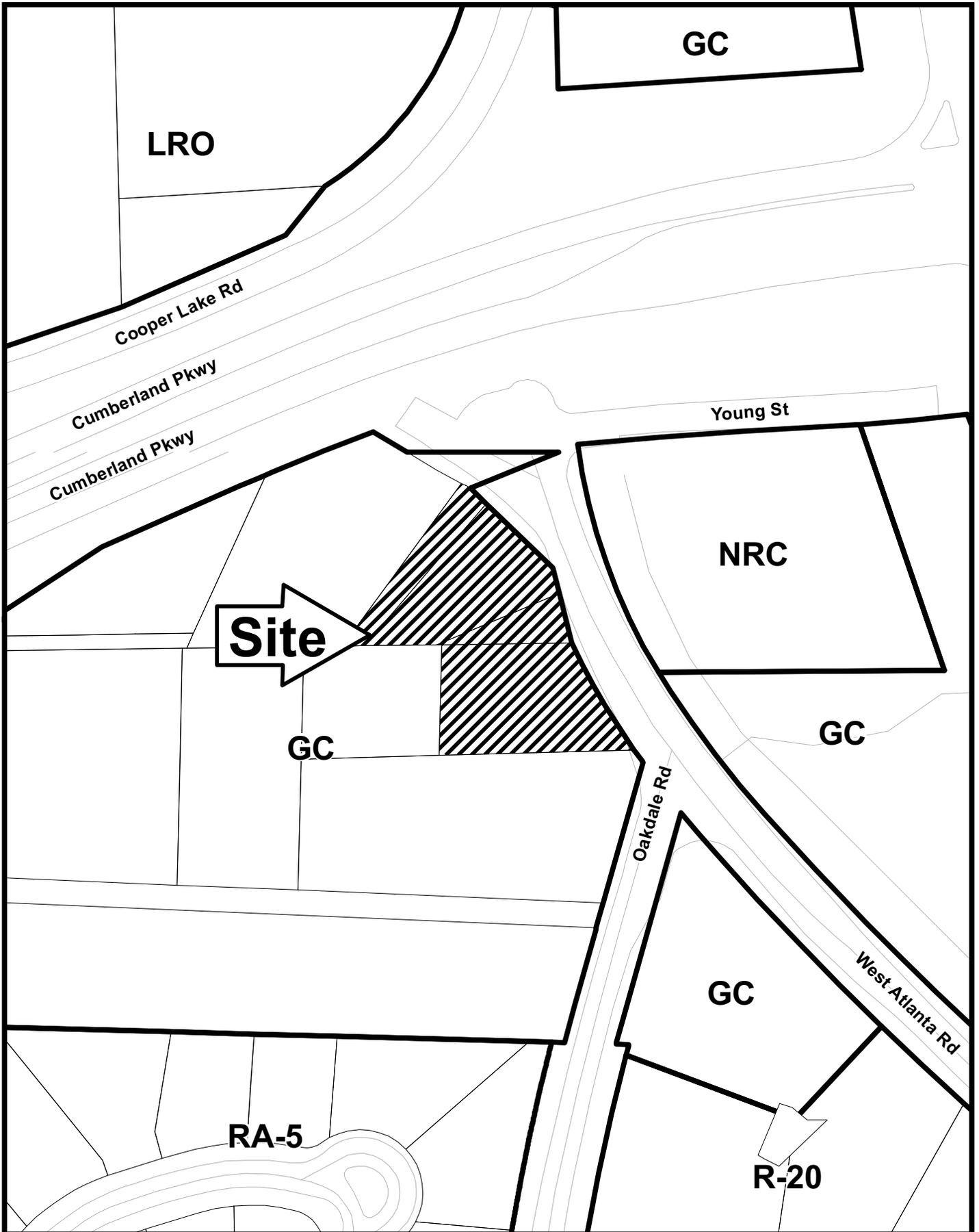
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

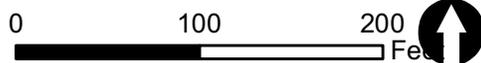
STIPULATIONS:



Z-49



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



-  City Boundary
-  Zoning Boundary

APPLICANT: J. Rex Martin

PETITION NO.: Z-49

PRESENT ZONING: GC

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Neighborhood Activity Center (NAC)

Proposed Number of Buildings: 3 (Existing) **Total Square Footage of Development:** 7,112

F.A.R.: 0.270 **Square Footage/Acre:** 11,786

Parking Spaces Required: 35* **Parking Spaces Provided:** Asphalt - No striped parking

*Retail (1 space per 200 square feet of net floorspace)

Applicant is requesting the Neighborhood Retail Commercial (NRC) zoning category for the property to be used as it is currently developed. The current GC zoning of the property and the current NAC land use category prohibits the vacant buildings from being used. The applicant purchased the properties in 1973, 1976 and 1986 and recently failed to have tenants in the grandfathered GC zoning for a period of six months. The applicant had sent prospective tenants to Community Development in order to obtain a business license at which time they found out about the grandfathered status of the property. The applicant's representative has submitted the attached letter of agreeable stipulations.

The property (as built) will need to be zoned to the site plan in order to accommodate existing setback violations for all three of the buildings shown on the plan.

Cemetery Preservation: No comment.

FIRE COMMENTS:

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

APPLICANT: J. Rex Martin

PETITION NO.: Z-49

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC to NRC for retail. The 0.606 acre site is located on the West side of West Atlanta Road, north of Oakdale Road.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with GC zoning designation. The purpose of the (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

Master Plan/Corridor Study

Not applicable.

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 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.

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.

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

APPLICANT J. Rex Martin

PETITION NO. Z-049

PRESENT ZONING GC

PETITION FOR NRC

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" CI / W side of West Atlanta Road

Additional Comments: Existing water customer(s). No site/usage changes proposed.

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.

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: West Atlanta Road ROW

Estimated Waste Generation (in G.P.D.): A D F= +0 Peak= +0

Treatment Plant: Sutton

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

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

Drv 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 Existing sewer customer(s). No site/usage changes proposed.
Comments:

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: J. Rex Martin

PETITION NO.: Z-49

PRESENT ZONING: GC

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

No site improvements are proposed at the present time. Any future improvements or redevelopment must meet current Stormwater Management requirements.

APPLICANT: J. Rex Martin

PETITION NO.: Z-49

PRESENT ZONING: GC

PETITION FOR: NRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
West Atlanta Road	N/A	Local	35 mph	Cobb County	50'

COMMENTS AND OBSERVATIONS

West Atlanta Road is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

Recommend curb and gutter along the West Atlanta Road frontage.

Recommend one defined driveway.

Recommend sidewalk along the West Atlanta Road frontage upon redevelopment.

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

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STAFF RECOMMENDATIONS

Z-49 J. REX MARTIN

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. This property and nearby properties have been zoned GC for many years and have had similar uses. The subject property lost its “grandfathered” status under GC in a NAC.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant proposes uses that are similar to nearby properties and as listed on the attached stipulation letter.
- 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 in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within the Neighborhood Activity Center (NAC) land use category. Continued use of the GC zoning category in the NAC land use category is not allowed if the property has been vacant for six months or more.
- 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 to Neighborhood Retail Commercial (NRC). The NRC zoning category is compatible with the NAC land use designation.

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

- Site plan submitted;
- Neighborhood retail and professional office uses only;
- No outdoor storage or displays;
- If property is redeveloped, all NRC requirements to be met;
- Letter from Garvis L. Sams, Jr., received by the Zoning Division on June 10, 2014, not in conflict with the decision of the Board of Commissioners;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations; and
- Department of Transportation 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.

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COBB COUNTY GEORGIA
FILED IN OFFICE
2014 MAY -1 PM 5: 03
COBB COUNTY ZONING DIVISION



Application #: Z-49
PC Hearing Date: 7-1-14
BOC Hearing Date: 7-15-14

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): NA
- b) Proposed building architecture: NA
- c) Proposed selling prices(s): NA
- d) List all requested variances: NONE

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

- a) Proposed use(s): ~~GENERAL COMMERCIAL~~ ^{G.C.R.M.} ~~N.C.U.Ses~~
- b) Proposed building architecture: EXISTING BLDGS
NONE PROPOSED
- c) Proposed hours/days of operation: 9 AM - 6 PM
- d) List all requested variances: NONE

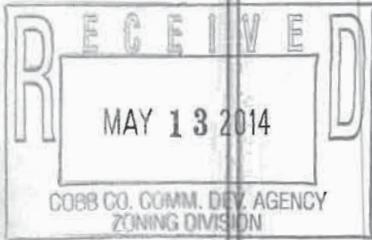
.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

BECAUSE WE ARE IN ^{G.C.R.M.} ~~RS~~ WE ARE HAVING
PROBLEMS WITH OUR TENANTS GETTING
BUSINESS LICENCE THEREFORE, WE WISH
TO GO TO ~~RS~~ ^{G.C.R.M.} NRC'

.....
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

.....
Part 5. Is this application a result of a Code Enforcement action? No ; Yes (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: J. Rex Martin Date: May 1, 2014
Applicant name (printed): J. Rex Martin



**ZONING IMPACT STATEMENT FOR THE
REZONING APPLICATION OF J. REX MARTIN**

COMES NOW, J. REX MARTIN, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the West Atlanta Road Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties, the preponderance of which are office or commercial developments.
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owners of the subject property are suffering a significant economic detriment by virtue of the continuation of the present zoning classification of GC.

- 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.
- E. The zoning proposal is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being in a Neighborhood Activity Center (NAC).
- F. There is no substantial relationship between the existing zoning classification of GC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the West Atlanta Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 13TH day of May, 2014.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

JUSTIN H. MEEKS

SLHB-LAW.COM

June 10, 2014

VIA EMAIL

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



Re: Application of J. Rex Martin to Rezone a 0.6034 Acre Tract from GC to NRC
(No. Z-49)

Dear John:

You will recall that this firm represents the Applicant who is also one of the Property Owners concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on July 1, 2014 and, thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on July 15, 2014.

With respect to the foregoing, the subject property was assembled by Mr. & Mrs. Martin as separate tracts which were purchased in 1973, 1976 and 1986, respectively. Presently, as they were when purchased, the assembled and contiguous tracts are zoned in the General Commercial (GC) zoning district.

The subject property has been continuously utilized under the GC classification for numerous commercial uses over the years. However, even after enjoying its position as a non-conforming "grandfathered" use after the mid-1990's, the property lost its present entitlement for utilization notwithstanding its positioning within a Neighborhood Activity Center (NAC) under Cobb County's Future Land Use Map. That is the underlying reason for the Application for Rezoning being filed.

In keeping with the discussions and the dialogue which we have established with the County's professional staff both prior to the filing of the Application and during the pendency of same, this letter will constitute the Martins' expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to wit:

SAMS, LARKIN, HUFF & BALLI

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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
June 10, 2014
Page 2

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The rezoning of the subject property shall be from GC to Neighborhood Retail Commercial (NRC) in substantial conformity to that certain zoning as-built site plan which was filed under separate cover on May 13, 2014.
3. The total site area of this subject property which is 0.6034 acres (26,285 sq. ft.) shall be utilized for one of the existing businesses which is presently operating thereon (vending machine business) and for all other uses allowable under the NRC district except for the following uses which shall be prohibited:¹
 - a. Video arcades as primary businesses.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.
 - d. Pawn shops or check cashing establishments.
 - e. Thrift Stores.
 - f. Package sales of alcoholic beverages as a primary use; excepting a store specializing exclusively in the sale of wines.
 - g. Bar/Night Club.
 - h. Any business which principally features sexually explicit products or drug related paraphernalia.
 - i. Rest Home/Convalescent Home.

¹ The Applicants have recently been approached by potential commercial users which are permitted under the NRC classification including, but not limited to: alteration shops, shoe repair shops, gift shops, dog groomer and antique store.

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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
June 10, 2014
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4. The architectural style, composition and treatment of the buildings shall remain in their respective as-built conditions. Recently, Mr. and Mrs. Martin have installed a new roof on the largest building and painted the exteriors and on some interiors in the balance of the buildings.
 5. The hours of operation on the subject property with respect to any and all businesses shall be from 8:00 a.m. until 6:00 p.m. Monday through Saturday.
 6. Compliance with the following recommendations from the Cobb County Department of Transportation:
 - a. Defining the positioning of a driveway on the site.²
 - b. The installation of sidewalk, curb and gutter upon a redevelopment of the subject property.
 7. Compliance with recommendations from the Cobb County Water System with respect to the availability of water and sewer to the site.
 8. Compliance with recommendations from the Stormwater Management Division; however, presently, there will be no requirement for the installation of detention, water quality or stormwater management components unless additional impervious surfaces are added to the site in the future.
 9. The District Commissioner shall have the authority to approve minor modifications except for those that:
 - a. Increase the density on the site.
 - b. Reduce the size of an approved buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
 - c. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.

² Directional ingress/egress signage has been installed at the behest of DOT. Striping has been added to the subject property's frontage in order to define the entrance/exit to the property.

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VIA EMAIL

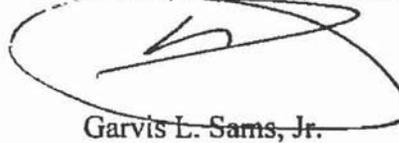
Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
June 10, 2014
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- d. Increase the height of a building that is adjacent to property that is zoned in the same or a more restrictive zoning district.
- e. Change access locations to a different roadway.
- f. Are not in compliance with Cobb County's Zoning Regulations.

I would appreciate it if you would ensure that a copy of this letter is included in the final Zoning Analysis. In the interim, please do not hesitate to contact me should you or your staff require additional information or documentation prior to the formulation of staff's Zoning Analysis and Recommendations. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/dsj

cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP Director (via email)
Mr. Dana Johnson, AICP, Assistant Director (via email)
Mr. Jason Campbell, Planner III (via email)
Mr. David Breaden, P.E. (via email)
Ms. Jane Stricklin, P.E. (via email)
Ms. Karen King, Assistant County Clerk (via email)
Ms. Lori Barton, Deputy County Clerk (via email)
Ms. Mary Rose Barnes (via email)
Mr. & Mrs. J. Rex Martin (via email)