

APPLICANT: Gary Tillman and Allen Kennedy

PHONE#: **EMAIL:**

REPRESENTATIVE: Parks F. Huff

PHONE#: (770) 422-7016 **EMAIL:** phuff@slhb-law.com

TITLEHOLDER: Gary Tillman and Allen Kennedy

PROPERTY LOCATION: West side of Old Concord Road, south of
Warner Street, and on the southeast side of Clay Drive
(1868 Old Concord Road).

ACCESS TO PROPERTY: Old Concord Road

PHYSICAL CHARACTERISTICS TO SITE: Former auto repair
establishment

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/Strip between subject property and GC/Developed

SOUTH: LI/Single-family house and Storage Business

EAST: R-15/Ballance Manor Subdivision

WEST: R-20/Single-family house

PETITION NO: Z-58

HEARING DATE (PC): 06-02-15

HEARING DATE (BOC): 06-16-15

PRESENT ZONING: NRC

PROPOSED ZONING: LI

PROPOSED USE: Contractor's Office

SIZE OF TRACT: 1.747 acres

DISTRICT: 17

LAND LOT(S): 299

PARCEL(S): 9

TAXES: PAID X **DUE**

COMMISSION DISTRICT: 4

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

PLANNING COMMISSION RECOMMENDATION

APPROVED **MOTION BY**

REJECTED **SECONDED**

HELD **CARRIED**

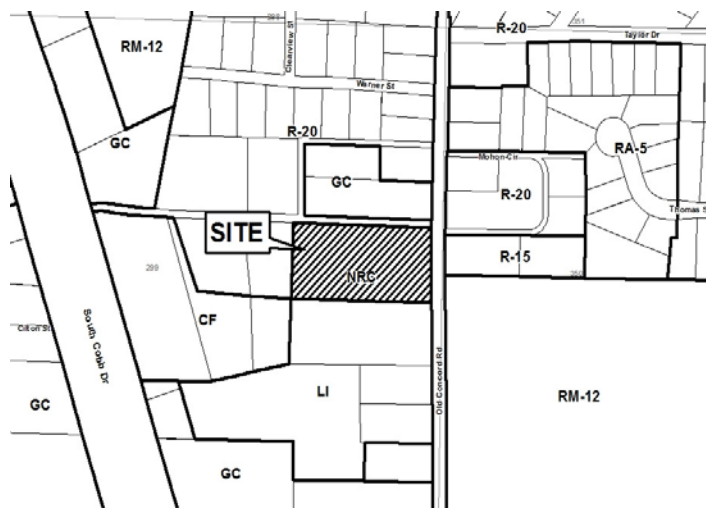
BOARD OF COMMISSIONERS DECISION

APPROVED **MOTION BY**

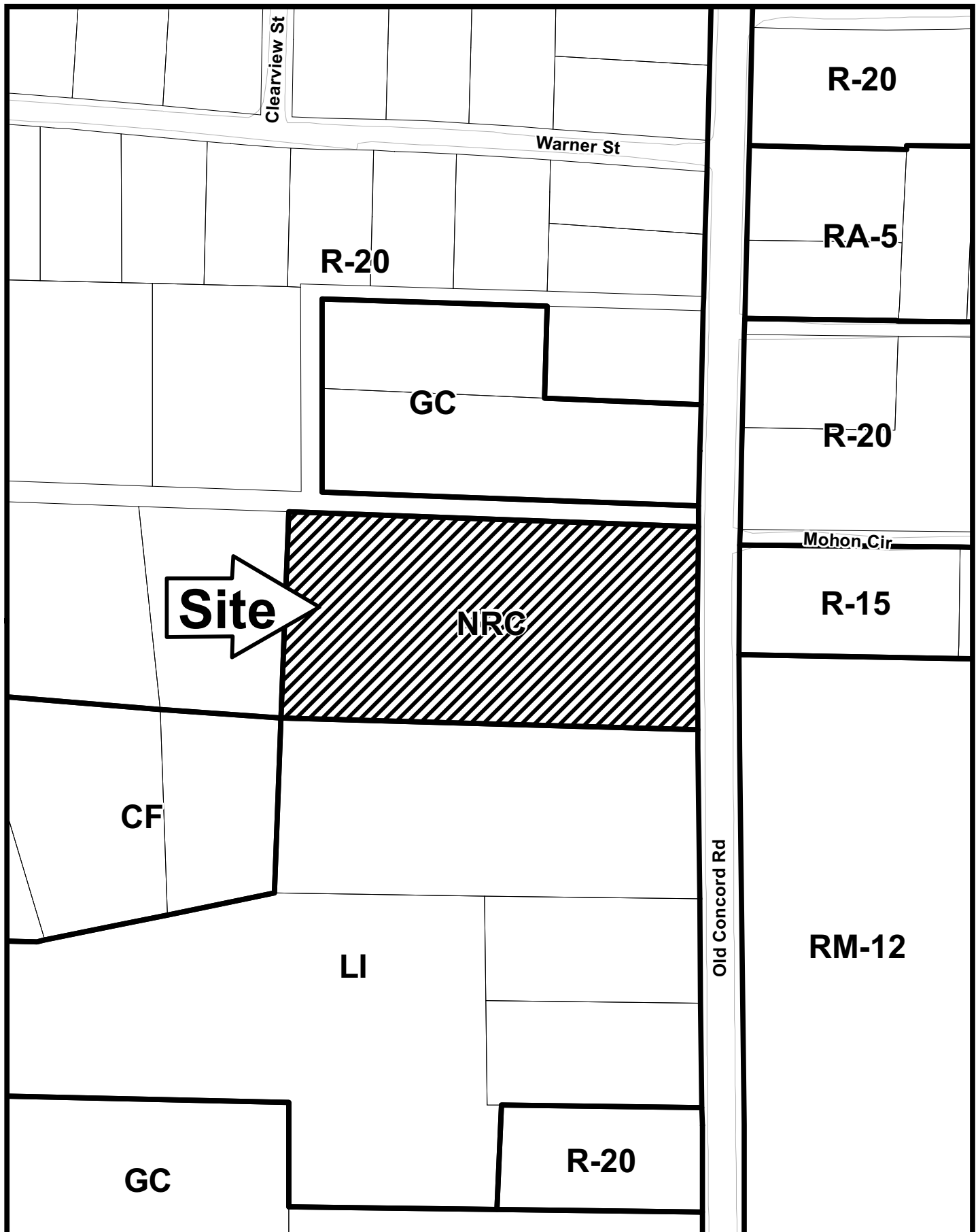
REJECTED **SECONDED**

HELD **CARRIED**

STIPULATIONS:



Z-58



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

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City Boundary
Zoning Boundary

APPLICANT: Gary Tillman and Allen Kennedy

PETITION NO.: Z-58

PRESENT ZONING: NRC

PETITION FOR: LI

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Community Activity Center (CAC)

Proposed Number of Buildings: 2(Existing) **Total Square Footage of Development:** 8,794(per Tax Records)

F.A.R.: 0.115 **Square Footage/Acre:** 5,033

Parking Spaces Required: 15 **Parking Spaces Provided:** 30

Applicant is requesting the Light Industrial (LI) zoning category to allow the existing developed property to be used for a contractor’s office. The hours of operation will be Monday through Friday from 7 a.m. to 6 p.m. The business will be house in the existing buildings on the site. The property was previous rezoned to NRC in 2001 (Z-112) for the purpose of auto repair.

The proposed use will require a contemporaneous variance to reduce the number of required parking spaces from 30 to 15.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

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: Gary Tillman and Allen Kennedy

PETITION NO.: Z-58

PRESENT ZONING: NRC

PETITION FOR: LI

PLANNING COMMENTS:

The applicant is requesting a rezoning from NRC to LI for purpose of contractor's office. The 1.747 acre site is located on the west side of Old Concord Road, south of Warner Street, and on the southeast side of Clay Drive.

Comprehensive Plan

The parcel is within a Community Activity Center (CAC) future land use category, with NRC zoning designation. The purpose of the Community Activity Center (CAC) is to provide for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low to mid-rise office buildings and department 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.

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

APPLICANT: Gary Tillman and Allen Kennedy

PETITION NO.: Z-58

PRESENT ZONING: NRC

PETITION FOR: LI

PLANNING COMMENTS: (Continued)

Special Districts

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

☐ Yes ☒ No

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

☐ Yes ☒ No

Is this property within the Six Flags Special Service District?

☐ Yes ☒ No

APPLICANT Gary Tillman and Allen Kennedy

PETITION NO. Z-058

PRESENT ZONING NRC

PETITION FOR LI

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): 6" CI / W side of Old Concord Rd

Additional Comments: Existing water customer

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: On Site

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

Treatment Plant: South Cobb

Plant Capacity: ☒ Available ☐ Not Available

Line Capacity: ☒ Available ☐ Not Available

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

Drw 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
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: Gary Tillman & Allen Kennedy

PETITION NO.: Z-58

PRESENT ZONING: NRC

PETITION FOR: LI

STORMWATER MANAGEMENT COMMENTS

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

DRAINAGE BASIN: Nickajack Creek FLOOD HAZARD INFO: Zone X

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

WETLANDS: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

Location: _____

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

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

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

DOWNSTREAM CONDITIONS

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

APPLICANT: Gary Tillman & Allen Kennedy

PETITION NO.: Z-58

PRESENT ZONING: NRC

PETITION FOR: LI

STORMWATER MANAGEMENT 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. The existing site is served by a stormwater pond located near the southeast corner of the site. This pond has some deferred maintenance issues that need to be addressed. There are a significant number of pine trees growing in the bottom of the pond that need to be removed to facilitate ongoing future pond maintenance and proper functioning of the pond.
2. There is a flume located within the southern curb-line of the entrance drive that directs site runoff into the detention facility. A significant portion of the drive and parking area bypasses this flume. It is recommended that a small “speed bump” be installed diagonally across the drive to direct more runoff to the pond and limit uncontrolled bypass into the Old Concord Road R/W.

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PRESENT ZONING: NRC

PETITION FOR: LI

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
Old Concord Road	1300	Minor Collector	35 mph	Cobb County	60'

Based on 2010 traffic counting data taken by Cobb DOT (Old Concord Road)

COMMENTS AND OBSERVATIONS

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

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the west side of Old Concord Road, a minimum of 30' from the roadway centerline.

Recommend sidewalk along the Old Concord Road frontage.

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

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STAFF RECOMMENDATIONS

Z-58 GARY TILLMAN AND ALLEN KENNEDY

- 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. The proposal is for a contractor's office to utilize the existing buildings on the property. The proposed use may be less intense than the previous auto repair business.
- 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 property has been utilized many years as an auto repair business and no expansion is planned and existing buildings will be used to store equipment.
- 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 Community Activity Center (CAC) land use category. However, the property to the south is in the Industrial Compatible (IC) land use category. The LI section can be for properties located on the perimeter of the IC land use.
- 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 approving the applicant's rezoning proposal. The property is on the perimeter of the IC land use category and the proposed use may be less intense than the previous auto repair that was at the property. The proposed use is allowed in LI.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

- Site plan received by the Zoning Division on April 2, 2015, with the District Commissioner approving minor modifications;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation comments and recommendations; and
- Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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

Application No. 2-58

June 2015

Summary of Intent for Rezoning

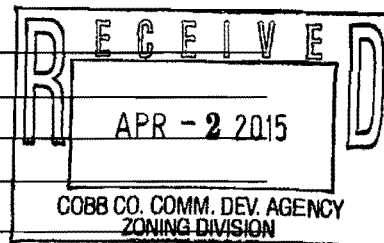
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Part 1. Residential Rezoning Information (attach additional information if needed)

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): Contractor's Office.

b) Proposed building architecture: Use of existing commercial building.

c) Proposed hours/days of operation: 7:00 a.m. to 6:00 p.m., Monday - Friday

d) List all requested variances: Any variances are noted on Site Plan.

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

None.

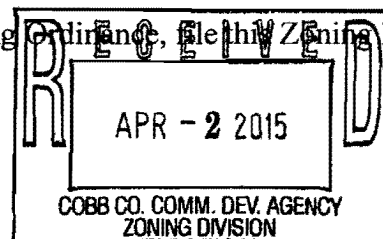
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Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

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

N/A

**ZONING IMPACT STATEMENT FOR THE REZONING
APPLICATION OF GARY TILLMAN AND ALLEN KENNEDY**

COMES NOW, GARY TILLMAN AND ALLEN KENNEDY, and,
pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, file 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 Old Concord Road. The property located to the north of the subject property is zoned GC and the property to the south is zoned Light Industrial for a warehouse facility. The proposed use of the subject property for a contractor's office with the storage of equipment will be less intensive than the previous use of the property as a NAPA Autocare Center.
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties with the subject property. The subject property has traditionally been used for an automotive repair establishment with the use of air wrenches and other noisy devices. The applicant proposes to use the existing structure for an administrative office for a contractor's business and the storage of earth moving equipment. The property is located within a Community Activity Center on the County's Future Land Use Map, but the property located to the south is Industrial Compatible.

- 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 owner of the subject property is suffering a significant economic detriment by virtue of the continuation of the present classification of NRC. The property has been foreclosed by a bank and the property does not have frontage on a arterial road making it unsuitable for retail uses contemplated by NRC.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools. The proposed use will be less of an impact on the roads and other infrastructure than the previous as an automotive repair establishment.
- E. The zoning proposal is located in a Community Activity Center (CAC) although the proposed zoning is more consistent with Industrial Compatible uses. The intensity of the proposed use is more in line with a Community Activity Center. It should be noted that Industrial Compatible is located just to the south of the subject property.
- F. There is no substantial relationship between the existing zoning classification of NRC 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 Old Concord Road, there are no established land use planning principles

or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 1 day of April, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010