

Rezoning Plat 2140 Dallas Highway

Cobb County, Georgia

Land Lots 29 and 328, 20th District, 2nd Section

prepared for:
Shine and Drive, LLC



975 Cobb Place
Blvd. Suite 212
KENNESAW
GA 30144
770-514-9006
FAX 514-9491

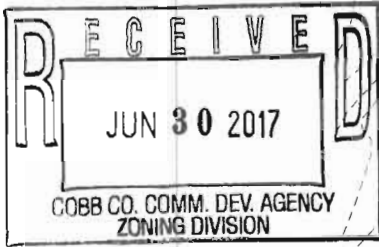
Scale: 1" = 30'
June 29, 2017



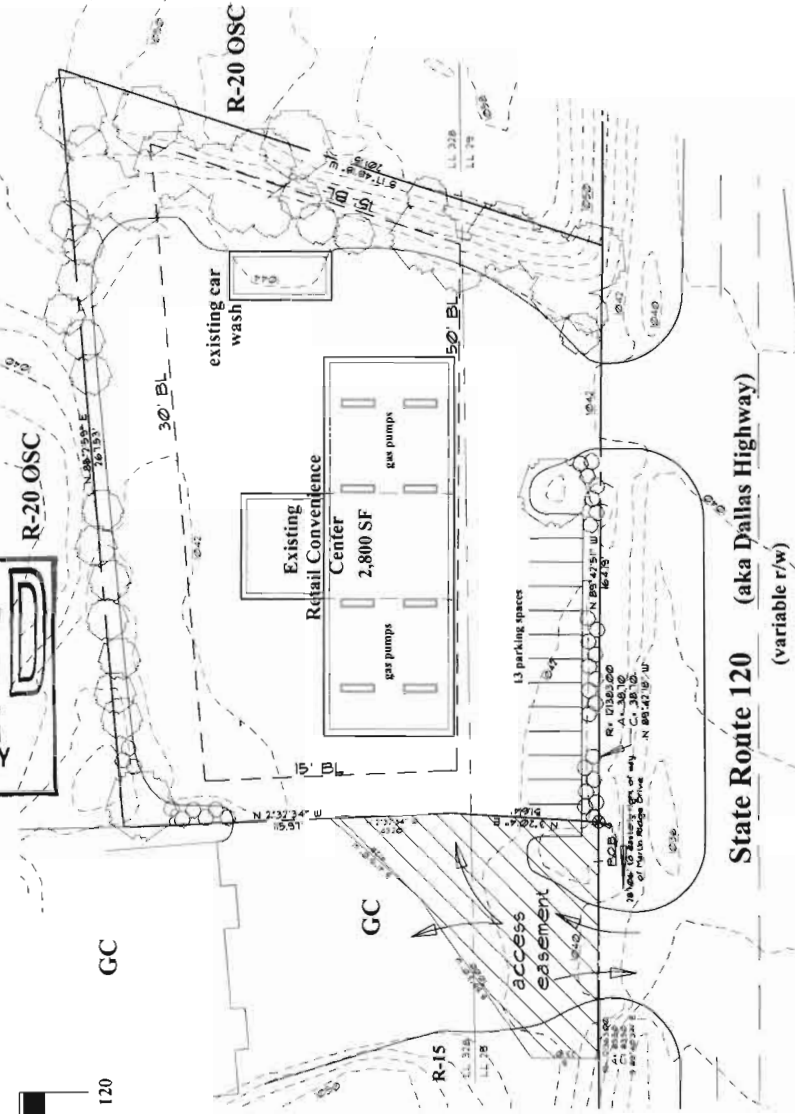
Site Data

Total Site Area: .952 AC
Existing Zoning: GC
Proposed Zoning: NRC
Total Building Area Shown: 2,800 SF+-
Total Parking Spaces Shown: 13
NRC Building Setbacks:

front: 50'
side: 15'
rear: 30'



- General Notes:**
- Boundary from Deed under Power, dated 10/11/66
 - Topographic information from Cobb County GIS
 - According to Flood Insurance Rate Map (FIRM) 13067C0034 dated March 4, 2003, no portion of this site contains floodplains.
 - No easements are known to exist on site.
 - No waters of the state or wetlands are known to exist on site.
 - No archeological or architectural landmarks are known to exist on site.
 - No utility easements are known to exist on site.



State Route 120 (aka Dallas Highway)
(variable r/w)

APPLICANT: Shine and Drive, LLC

PHONE #: (678) 770-3419 EMAIL: Babar_456@hotmail.com

REPRESENTATIVE: Garvis L. Sams, Jr.

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

TITLEHOLDER: Shine and Drive, LLC

PROPERTY LOCATION: North side of Dallas Highway, east of

Martin Ridge Drive

2140 Dallas Highway

ACCESS TO PROPERTY: Dallas Highway

PHYSICAL CHARACTERISTICS TO SITE: Existing Gas Station

PETITION NO: Z-48

HEARING DATE (PC): 09-07-17

HEARING DATE (BOC): 09-19-17

PRESENT ZONING: GC

PROPOSED ZONING: NRC

PROPOSED USE: Convenience Store

with Fuel Sales

SIZE OF TRACT: 0.952 ac

DISTRICT: 19,20

LAND LOT(S): 29,328

PARCEL(S): 114

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20 (OSC)/ Undeveloped Pasture

SOUTH: R-20/ J C Wood Subdivision

EAST: R-20 (OSC)/ Undeveloped Pasture

WEST: GC/ Professional Office

Adjacent Future Land Use:

North: Low Density Residential (LDR)

East: Low Density Residential (LDR)

South: Low Density Residential (LDR)

West: Low Density Residential (LDR)

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ VOTE _____

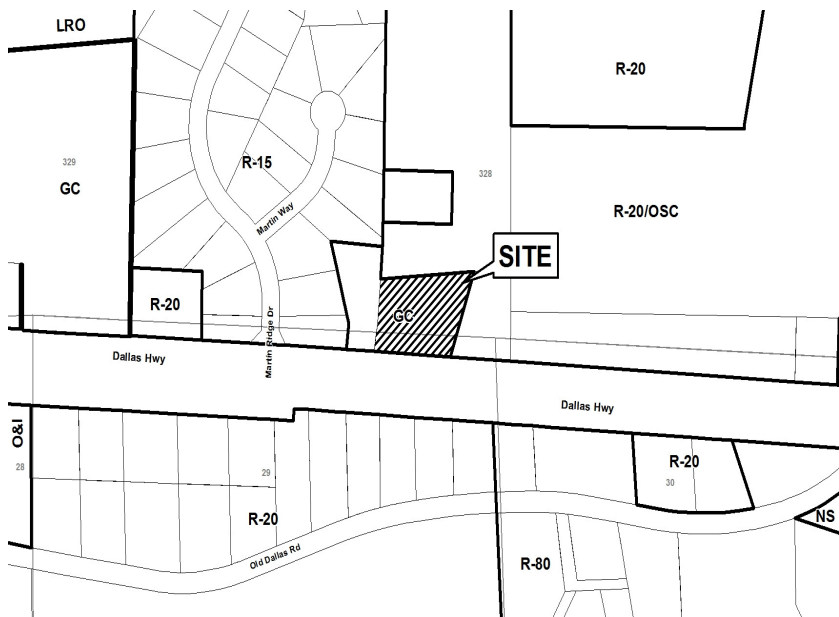
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

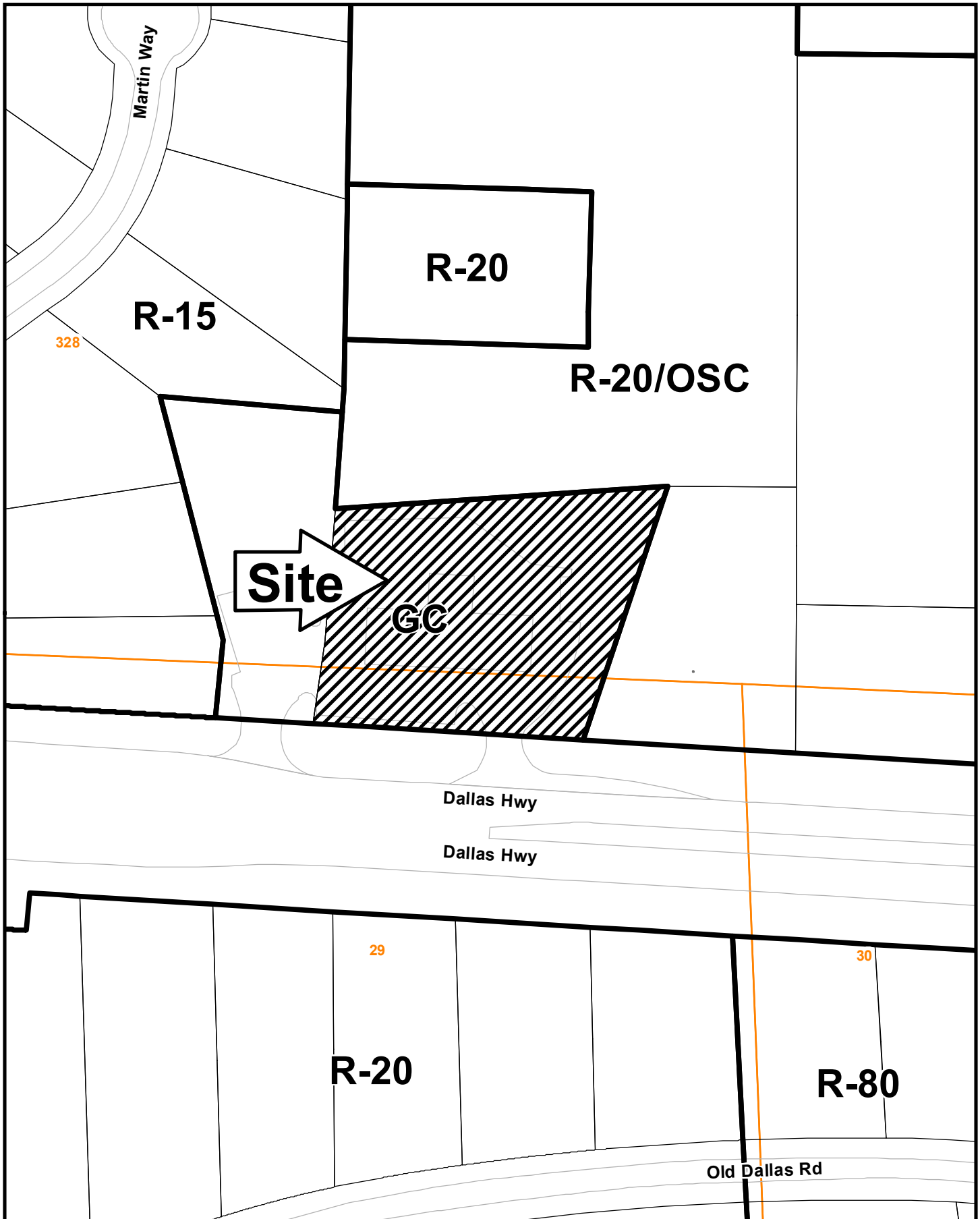
REJECTED _____ SECONDED _____

HELD _____ VOTE _____

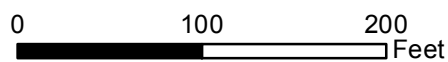
STIPULATIONS:





Z-48 2017-GIS



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Donald Wells

Land Use Plan Recommendation: Low Density Residential (1-2.5 units per acre)

Proposed Number of Buildings: 2 **Total Square Footage of Development:** 3400

F.A.R.: .07 **Square Footage/Acre:** 2941

Parking Spaces Required: 5 Spaces; 1 per Employee **Parking Spaces Provided:** 13

Applicant is requesting Neighborhood Retail Commercial (NRC) zoning category to restart the existing gas station. The property has been vacant for at least the past 16 years and lost its status of a non conforming use. Prior to closing in 2001 that property operated for 23 years as a gas station. The applicant has completed a Phase II environmental site assessment than concluded that no petroleum release had occurred from the underground storage tanks. The code states a nonconforming use cannot be reinstated after it has been abandoned for a period longer than (6) months. The applicant intends to use the existing building with minor changes to the facades. The applicant will spruce up the property to attract potential customers. The proposed hours of operation will be 24 hours a days a week.

If approved, the variance(s) would be required:

1. Increase the maximum impervious surface from 70% to 77% (existing);
2. Reduce the required landscape buffer from 20 feet to 2 feet along the north property line.

Cemetery Preservation: No comment.

APPLICANT: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

SCHOOL COMMENTS:

Name of School	Enrollment	Capacity Status	Number of Portable Classrooms
Elementary			
Middle			
High			

- School attendance zones are subject to revision at any time.

Additional Comments:

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

APPLICANT: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

FIRE COMMENTS:

NO 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: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC to NRC for the purpose of a convenience Store with fuel sales. The 0.952 acre site is located on the north side of Dallas Highway, east of Martin Ridge Drive.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary? Yes No
If yes, has the city of _____ been notified? Yes No / N/A

Comprehensive Plan

The parcel is within a Low Density Residential (LDR) future land use category, with GC zoning designation. The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre. This category presents a range of densities.

Specific Area Policy Guidelines:

In an effort to mitigate any potential land use conflicts which could arise from the conversion of single-family residences and lots into more intense residential development along Dallas Highway between Martin Ridge Subdivision and Mount Calvary Rd., it is recommended to limit the intensity of zoning applications for consideration in this area. New developments in this area along Dallas Highway located in Land Lot 328 of the 20th District are recommended to be part of an assemblage proposal with vehicular access onto Mount Calvary Road. Provide sufficient buffering (determined by District Commissioner) adjacent to the existing service station to the southwest. Development shall be limited to the LDR designation.

Adjacent Future Land Use:

North: Low Density Residential (LDR)
East: Low Density Residential (LDR)
South: Low Density Residential (LDR)
West: Low Density Residential (LDR)

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

Historic Preservation

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

Design Guidelines

Is the parcel in an area with Design Guidelines? Yes No

If yes, design guidelines area Dallas Highway Design Guidelines

Does the current site plan comply with the design requirements?

- Pedestrian access to buildings
 Yes No Not applicable
- Streetscape elements
 Yes No Not applicable

APPLICANT: Shine and Drive, LLC

PRESENT ZONING: GC

PETITION NO.: Z-48

PETITION FOR: NRC

PLANNING COMMENTS:

CONT.

- Building Frontage
 Yes No Not applicable
- Parking Standard
 Yes No Not applicable
- Architecture standard
 Yes No Not applicable

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>.

Special Districts

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

Yes No

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

Yes No

Is this property within the Six Flags Special Service District?

Yes No

Is the property within the:

- Dobbins Airfield Safety Zone?
- CZ (Clear Zone)
- APZ I (Accident Potential Zone I)
- APZ II (Accident Potential Zone II)
- Noise Zone
- Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Shine and Drive, LLC

PETITION NO. Z-048

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" DI / N side of Dallas Hwy

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

Dry Sewers Required: Yes No

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

Flow Test Required: Yes No

Letter of Allocation issued: Yes No

Septic Tank Recommended by this Department: Yes No

Subject to Health Department Approval: Yes No

Additional 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: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Noses 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 easements 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 any increased volume of runoff generated by the proposed project on receiving storm system.

APPLICANT: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

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.

ADDITIONAL COMMENTS

1. This site is an existing (vacant) retail convenience center with a car wash. A Phase II Environmental Site Assessment has been completed and there appears to be no petroleum contamination at the site.
2. Stormwater management for the site is provided by a detention facility at the rear of the adjacent commercial building at 2190 Dallas Highway as well as a raised curb weir structure at the southwest corner of the parking lot.

APPLICANT: Shine and Drive, LLC

PETITION NO.: Z-48

PRESENT ZONING: GC

PETITION FOR: NRC

TRANSPORTATION COMMENTS:

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Dallas Highway	Arterial	45 mph	Georgia DOT	100'

ROADWAY	LOCATION	AVERAGE DAILY TRIPS	LEVEL OF SERVICE
Dallas Highway	West of Mount Calvary Road	32,700	C

*Based on 2015AADT counting data taken by GDOT, as published on their website, for Dallas Highway.
 Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.
 LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

COMMENTS AND OBSERVATIONS

Dallas Highway is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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

Recommend curb, gutter, and sidewalk along the Dallas Highway frontage.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

STAFF RECOMMENDATIONS

Z-48 SHINE AND DRIVE, LLC

- 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 due to the fact that the building was built over 25 years ago. This property was rezoned in 1987 (#70 of 1987) subject to agreeable conditions between residents of Martin Ridge Subdivision. That rezoning request also included the approval of the existing office building located to the west of the subject property.
- 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. In fact, it may have a positive effect on surrounding properties. As the property sits today it cannot be used due to its non conforming status which has allowed the property to fall into disrepair. This request would give the applicant an opportunity to renovate the building and help eliminate an eyesore in the community.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. This property is within a Low Density Residential (LDR) future land use category. However, the Board of Commissioners has recognized a fuel service use on this property, as noted in the Special Area Policy Guidance for this area as depicted in the 2030 Comprehensive Plan. The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre. Although this application is not consistent with the Comprehensive Plan the applicant is not requesting to redevelop the property they are only asking to resume a use that that was approved over 25 years ago. It should be noted that the Board of Commissioners, in making land use decisions, use the future land use map as a guide in the decision making process, but there are circumstances when decisions will be made that are contrary to this document based upon a change in market conditions, information unbeknownst to staff/community in the preparation of this document, or some other condition.
- 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 applicant is required to rezone the property because of the loss of the grandfathered status. The proposed use would allow the applicant to improve the property. The property has been used as a gas station in the past without negatively affecting other properties.

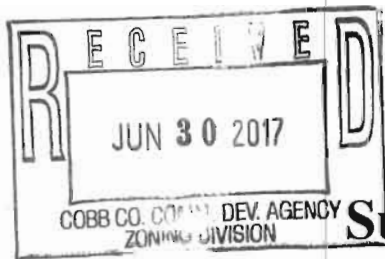
Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

1. Site plan received by the Zoning Division on June 30, 2017, with the District Commissioner approving minor modifications;
2. Convenience store with gas sales only;
3. Parking lot to be resealed and restriped
4. District Commissioner to approve building colors;
5. All signage to conform with current sign code;
6. No outdoor storage or outdoor display of merchandise;
7. Carwash to be removed and replaced with pervious surface;

Z-48 SHINE AND DRIVE, LLC (Continued)

8. Freestanding pole sign be replaced by a ground based monument sign;
9. Site Plan Review Section comments and recommendations;
10. Water and Sewer Division comments and recommendations;
11. Stormwater Management Division comments and recommendations;
12. Planning Division comments and recommendations; and
13. 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.



Application No. Z-48

PC Hearing: 9-7-2017
BOC Hearing: 9-19-2017

Summary of Intent for Rezoning *

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

- a) Proposed unit square-footage(s): N/A
- b) Proposed building architecture: _____
- c) List all requested variances: _____

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

- a) Proposed use(s): Convenience Store with Fuel Sales.
- b) Proposed building architecture: As-built existing Convenience Store with Fuel Sales.
- c) Proposed hours/days of operation: 24 hours day/7 days per week.
- d) List all requested variances: None identified at this time.

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

This existing and developed GC zoning and use is located outside a CAC or RAC and is therefore deemed to be a grandfathered, nonconforming use and zoning. Since a nonconforming use cannot be reinstated after it has been vacant/abandoned for longer than 6 months, a Rezoning of the property is necessitated by the dictates of the Zoning Ordinance.

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government? (Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). None known at this time.

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



ZONING IMPACT STATEMENT
FOR THE REZONING APPLICATION
OF SHINE AND DRIVE, LLC

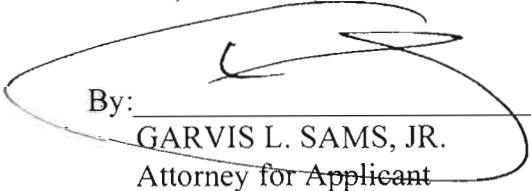
COMES NOW, SHINE AND DRIVE, LLC, and pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the State Route 120 (Dallas Highway) Corridor. The Subject Property and the adjoining tract were rezoned to the General Commercial (“GC”) zoning district in 1987 for the purpose of an office and retail center with specific allowance for a convenience store with fuel sales.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties. The convenience store with fuel sales opened in 1988 and remained utilized as such until its closing in 2011.
- 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 property is suffering a significant economic detriment by virtue of the continuation of the present non-conforming 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. The Subject Property fronts onto a very busy transportation corridor; State Route 120 (Dallas Highway) is a 4-lane Arterial highway and therefore is suitable for continued use by the customers of the convenience store with fuel sales.
- E. Because the Subject Property is a developed and zoned GC use located within an area now denominated as Low Density Residential (“LDR”) on the County’s Future Land Use Map, it is deemed to be a grandfathered, nonconforming use and must be rezoned to allow the continued and existing use of the property.
- F. There is no substantial relationship between the existing zoning classification of GC and NRC which limits the property in terms of its present utilization and the public health, safety and general welfare. The Subject Property operated as a convenience store with fuel sales for 23 years; until ceasing operations as *The One Stop Grocery* is 2011. Additionally, considering the existing zoning and uses of the Subject Property and the adjoining tract, there are no established land use planning principles or political considerations which would work against the proposed rezoning.

Respectfully submitted, this the 30 day of June 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

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