

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Existing pylon sign at 1011 Cobb Parkway South



Compliant monument sign on adjacent property at 991 Cobb Parkway South

Staff Review:

The property owner, Daniel Kane, is requesting a variance for the property located at 1011 Cobb Parkway South to allow him to keep a non-conforming pylon sign. The property is located on the east side of Cobb Parkway, just south of Wylie Road. The parcel is approximately 0.35 acres, and is zoned CRC (Community Retail Commercial), and all of the surrounding parcels are also zoned CRC. This particular property is only 120 feet wide and approximately 135 feet deep, and the front of the subject property is located within a 100-year floodplain.

Businesses to the north and south of this subject property have both updated their signs to be compliant with current regulations. Although Mr. Kane claims it would create a hardship for him to comply with the sign regulations, he does not indicate why it would be a greater hardship for him than it was for his neighbors.

This property was the subject of a variance request by Mr. Kane that went to the Board of Zoning Appeals in August 2015. The property had been used for automobile sales until December 2014, but remained vacant for over a year until the property owner found a new tenant and sought to obtain a new business license for a used car sales lot. According to the Zoning Ordinance, a property loses its nonconforming or “grandfathered” status after being vacant more than six months. The Board of Zoning Appeals granted a variance to reinstate the use of the property for used car sales even though the property was less than one (1) acre.

The company for which the variance application was approved chose not to establish their business on this property, so Mr. Kane has found a new tenant. He has had the building substantially renovated, but has now decided that he would like to keep the existing non-conforming pylon sign. Mr. Kane has owned the property since 1985, and he states that the sign was on the property when he bought it and wants it to continue to be “grandfathered”.

As defined in Section 714.06 (A) of the Zoning Code under prohibited signs, pylon signs are prohibited in all zoning districts. Further, Section 714.06 (C) states that: “*no structural repairs or changes in the size, shape, location, or design of this sign shall be permitted except to make the sign comply with the requirements of this article.*”

City Council has heard several requests from applicants wishing to maintain nonconforming pylon signs, and have generally allowed existing signs to be moved, but have not allowed a redeveloped site to keep a nonconforming sign. Below is a brief list of those cases, and the decisions that City Council made:

- September 2014: All Around Suites requested a variance (V2014-24) for their property located at 2235 Northwest Parkway to allow them to relocate a non-conforming pylon sign from one end of the property closer to the entry driveway. That variance was approved.

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- April 2012: Extended Stay America, Inc. requested variances (V2012-10) for a freestanding pylon sign at the entrance to their hotel located at 1051 Canton Road. The sign was being removed as a result of a GA DOT project that included two bridge replacements over Cobb Parkway (US 41) at Canton Road and the railroad bridge. Even though the hotel was to be compensated for the sign, they requested variances to allow them to relocate their existing pylon style sign, and to keep the height of 35 feet and square footage of 120 square feet. The variances to allow this sign was approved.
 - July 2012: Walmart requested variances (V2012 -25) to allow the existing Wal-Mart shopping center sign to be modified – but not relocated – at its store location along Powder Springs Street. The variance to allow the modified monument sign was approved.
 - June 2009: Volkswagen Group of America requested a variance (V2009-14) to keep a nonconforming pylon sign on a parcel on which there was a renovation of the primary structure exceeding 50% of its replacement cost. The variance was denied.



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL
(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:
Application #: V2016-50 Legistar #: BZA Hearing Dt:
City Council Hearing Dt (if applicable) #: 11-9-16 PZ #: 16-532

This is a variance/appeal application for:

Board of Zoning Appeals

[X] City Council

Owner's Name Daniel Kane
Address 133 Nassau Street, NW, Atlanta, Georgia Zip Code: 30303
Telephone Number: 678-358-6723 Email Address: dbkane133@gmail.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:
Applicant
Address Zip Code:
Telephone Number Email Address:

Address of property for which a variance or appeal is requested:

1011 Cobb Pkwy. S., Marietta GA Date of Acquisition: January 21, 1985
Land Lot(s) 05810 District 17 Parcel 0130 Acreage .346 Zoned CRC Ward 1A FLU CAC

List the variance(s) or appeal requested (please attach any additional information):

The property has an original sign post and sign. Variance is requested to keep the original sign post and sign. Property should be grandfathered in under prior use.

- Required Information
1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s). Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale. Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

DANIEL KANE, P. C. AND ASSOCIATES

ATTORNEY-AT-LAW

133 NASSAU STREET, N.W.

ATLANTA, GEORGIA 30303

TELEPHONE #: (404) 577-1200

FAX #: (404) 577-1211

September 15, 2016

City of Marietta
Department of Development Services
205 Lawrence Street, NE
Marietta, Georgia 30060

RE: *1011 Cobb Parkway, Marietta, Georgia*

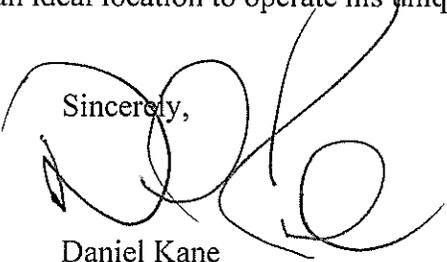
Dear Sir or Madam:

Please allow this correspondence to serve as a letter describing the reason for the "variance request."

I purchased this property in January 1985 for my father to operate Cobb Automotive, Inc. Cobb Automotive, Inc. was a Marietta Used Car Dealership. The sign on the property was present on the lot before 1985 and has been present since before I purchased the property. The property was originally a gas station with porcelain enamel siding and a tall sign. The sign was part of the original architectural design of the property. Since before 1985 business operators have used the existing sign to identify their business. Therefore, I believe the consistent long-standing use of the instant sign would grandfather the property sign for used car sales.

Strict adherence to the Amended Code would create particular hardship for myself, who plans to continue to lease the property as a Used Car Dealership, and also for the tenant/occupant who has chosen the City of Marietta as an ideal location to operate his unique automotive resale business.

Sincerely,



Daniel Kane

DK:dy

Enclosure

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: October 14, 2016

**CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS, SPECIAL LAND USE PERMITS, AND VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests at the City Council meeting held on **Wednesday, November 9, 2016, 7:00 p.m.**, City Hall, for a final decision to be made.

V2016-50 [VARIANCE] DANIEL KANE is requesting a variance for property located in Land Lot 581, District 17, Parcel 0130, 2nd Section, Cobb County, Georgia, and being known as 1011 Cobb Parkway South, currently zoned CRC (Community Retail Commercial). Variance to allow nonconforming pylon sign to remain after redevelopment of the site. Ward 1A.

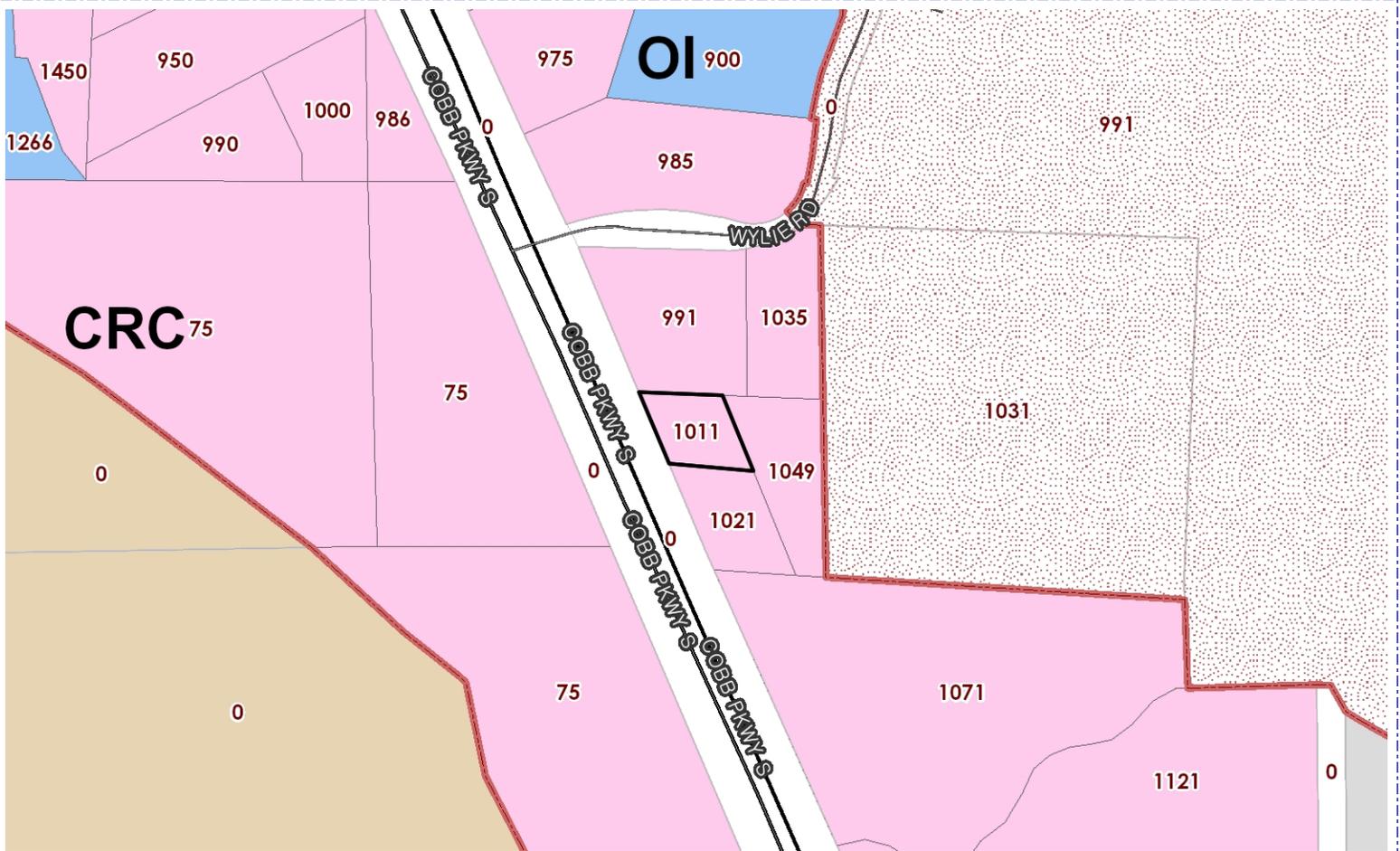
A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1011 COBB PKWY S	17058100130	0.346	1A	CRC	CAC

Property Owner: Daniel Kane

Applicant:

City Council Hearing Date: 11/09/2016

Acquisition Date:

Case Number: V2016-50

City of Marietta Planning & Zoning

Zoning Symbols

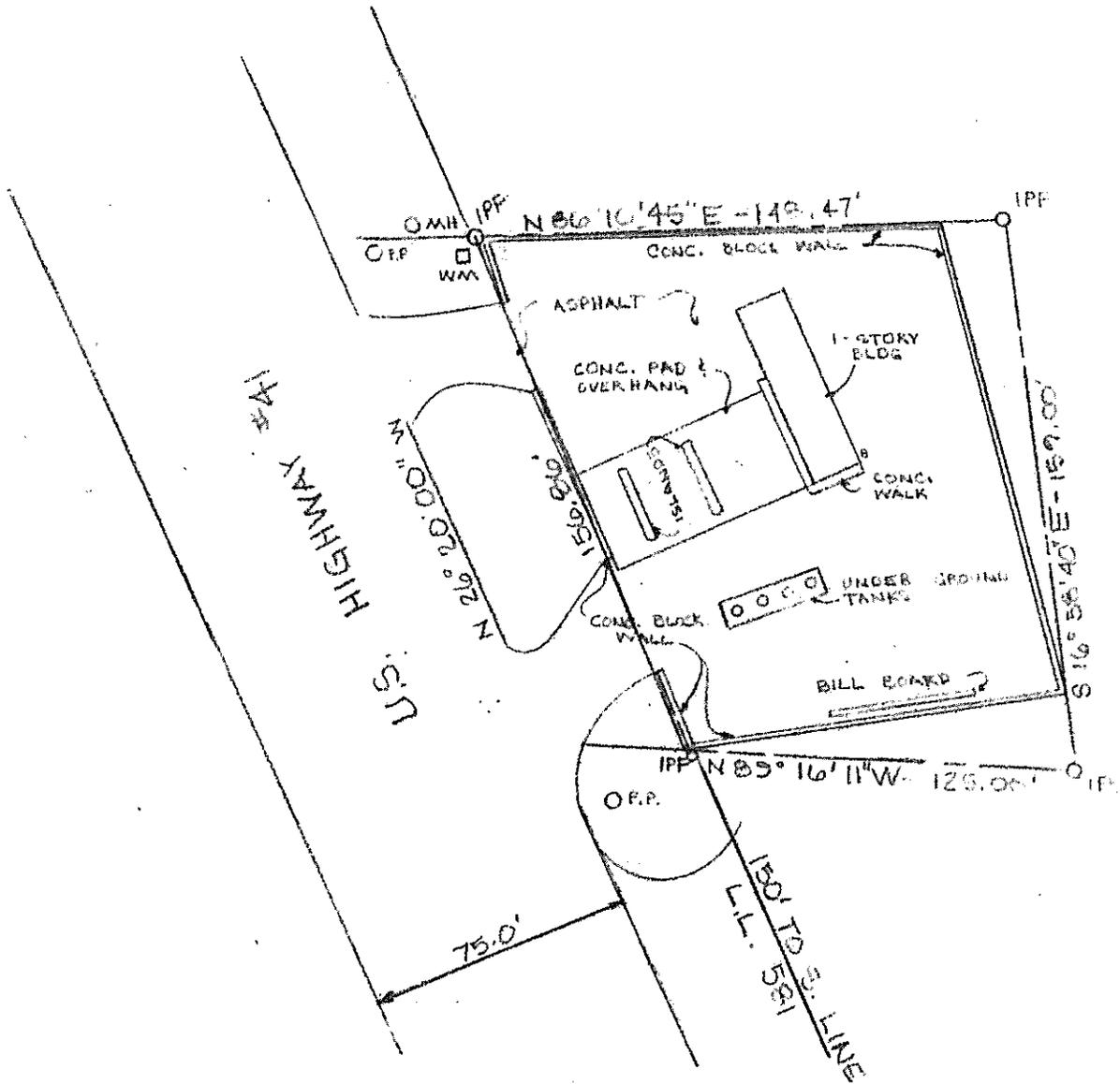
- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

Dimensions: 6'x10'





Magnetic



THIS PROPERTY (IS NOT) LOCATED IN A FEDERAL FLOOD AREA AS INDICATED BY FIA OFFICIAL FLOOD HAZARD MAPS.

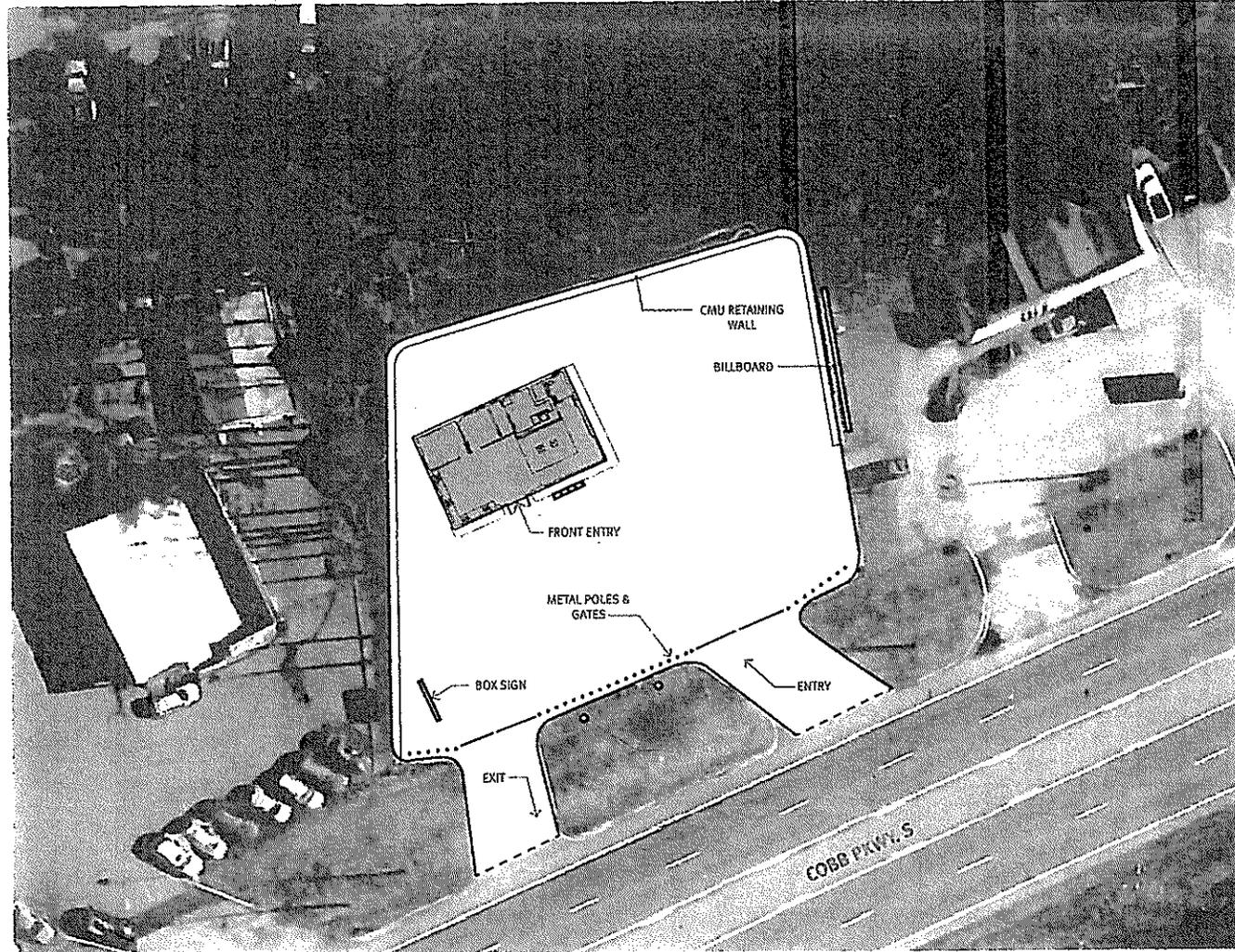
IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED.

SURVEY FOR

DANIEL KANE

WEST GEORGIA ENGINEERS & SURVEYORS, INC.
 Engineers - Planners - Surveyors
 P.O. BOX 828 MARIETTA, GEORGIA 30061
 428-2122

LOT	BLOCK	REVISIONS:
PLAT BOOK 14	PAGE 91	
LAND LOT 581		CC ES
DISTRICT - 17		DRAWN TKH
COUNTY - COBB		CHKD
STATE - GEORGIA		Job Number
DATE: 12-26-84	SCALE: 1" = 50'	811699
		METRO STL



EXISTING SITE PLAN

1/32" = 1'-0" 

VISIBLE:PROOF