

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
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



1200 Franklin Gateway



Power lines running northwest/southeast over property



Existing signage



Franklin Gateway frontage

Staff Review:

The applicant, JPC Design & Construction, LLC, is requesting multiple variances for the property at 1200 Franklin Gateway, which currently operates as a Chevron gas station. The property is zoned CRC (Community Retail Commercial) and is located at the southwestern corner of Delk Road and Franklin Gateway. The only adjacent property is zoned OI (Office Institutional) and is a vacant and aged office building. Although the subject property is nearly an acre in size, there is a Georgia Power easement running northwest/southeast along the bottom portion of the property that creates many developmental challenges.

The applicant wishes to redevelop the existing site into a Dunkin Donuts store, convenience store, and gas station using some of the site's existing infrastructure and layout. As a result, the applicant is requesting variances for the planted border along Franklin Gateway, tree islands, the rear setback, required parking, and an accessory structure.

Variance #1: Reduce the rear setback from 35' to 20'

In order to fit a building and gas canopy on the site, the applicant is requesting the rear setback be reduced from 35 feet to 20 feet. This will leave enough space behind the building for the drive thru queuing lane and dumpster enclosure. The affected property to the rear currently contains a vacant office building. Any redevelopment occurring on that parcel will also be impacted by the power line easement, forcing the buildable area of that parcel to the shared property line with the subject property.

Variance #2: Reduce the planted border area along Franklin Gateway from 10' to 0'

The applicant does not anticipate impacting the existing curbing along the Franklin Gateway frontage and is requesting the edge of pavement remain as-is with no planted border area. The existing island is in the right of way and was planted with multi stem Crape Myrtles as part of the Franklin Road improvement project. Should this variance be approved, staff suggests stipulating that this area not be disturbed during construction.

Variance #3: Reduce required parking from 28 to 25 spaces

The site layout provides 27 parking spaces. Parking requirements for convenience stores are one space for every 200 square feet. Similarly, restaurants are required one space for every 175 square feet. The most conservative estimate (5,180 s.f./175 s.f.) yields 30 required spaces using the restaurant calculation. However, the parking calculations do not differentiate between a traditional "sit down" restaurant and a fast food restaurant with a drive thru. Using the convenience store calculation, 26 spaces are required. The building will be a mixture of the two uses but staff has not been provided the exact square footages for each use. Required parking would range from 26 spaces to 30 spaces – the applicant has provided 27 on the submitted plan but asked for a reduction to 25. If parking is reduced to at least 26, there should be enough room to provide adequate tree islands and eliminate a requested variance (see below).

Variance #4: Reduce planter islands from 125 sq.ft. to 72 sq. ft. and not contain a tree

The applicant is requesting a variance to allow the two tree islands in front of the store not meet the minimum 125 square feet and, thus, not contain a tree. The loss of these two trees will have a more detrimental aesthetic impact on the site than the functional impact of losing one parking space (see above). Further, there are little other opportunities on the site to plant larger, over story trees because of the power easement.

Variance #5: Location and setbacks for an accessory structure

Georgia Power will not allow dumpsters or dumpster enclosures within the power line easement, which eliminates the applicant's ability to place the dumpster behind the building and no closer to Delk Road or Franklin Gateway than the main building. The proposed location at the northwestern corner will be less noticeable from Franklin than Delk Road. The applicant has stated that the enclosure will be masonry and surrounded by landscaping to minimize it's visibility from Delk Road. Setbacks for accessory structures are 10 feet. The proposed location can meet the setback from Delk Road but will need a variance from the setback along the western property line.



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 #: V2016-13 Registrar #: BZA Hearing Dt:
City Council Hearing Dt (if applicable) #: 5-11-16 PZ #: 16-130

This is a variance/appeal application for:

Board of Zoning Appeals checkbox

Board of Zoning Appeals

City Council checkbox

City Council

Owner's Name Yeasmin Enterprises, Inc. / Rohoman Mohammed
Address 1200 Franklin Road, Marietta, Georgia Zip Code: 30067
Telephone Number: 770-771-1761 Email Address:

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant JPC Design & Construction, LLC / Jeremy Crosby
Address P. O. Box 710, Jackson, Georgia Zip Code: 30233
Telephone Number 770-560-3527 Email Address: jpcrosby@hotmail.com

Brent Moye
404-925-8776

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

1200 Franklin Road Gateway Date of Acquisition: 06-12-13
Land Lot (s) 07140 District 17 Parcel 0050 Acreage 0.92 Zoned CRC Ward 1A FLU RAC

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

- 1. REAR 35' BUILDING SETBACK - VARIANCE TO REDUCE FROM 25' TO 20' (708.16.h)
2. FRONT 10' LANDSCAPE STRIP - VARIANCE TO REDUCE FROM 10' TO 0' (712.08.G Table G1-a)
3. 28 PARKING SPACES REQUIRED - VARIANCE TO REDUCE FROM 28 TO 25 SPACES (710.08.3)
4. 25' MAJOR SIDE SETBACK - VARIANCE TO REDUCE FROM 25' TO 10' (710.08.3)

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

JPC DESIGN & CONSTRUCTION, LLC

407 E. SECOND STREET
P.O BOX 767
JACKSON, GEORGIA 30233
(770) 775-2386

March 11, 2016
VIA HAND DELIVERY

Marietta City Council
City Hall
205 Lawrence Street
Marietta, GA 30060

RE: Letter of Justification for Variance Requests
1200 Franklin Road
Marietta, Georgia 30060

Ladies and Gentlemen:

I am General Counsel for JPC Design & Construction, LLC, the applicant for four (4) variances on the above-referenced property. As you are aware, we plan to build-out a new Dunkin' Donuts / convenience store on said property. However, we must obtain four (4) variances in order to create the first class facility that we all want in the City of Marietta.

First, we must obtain a rear setback variance from 35 feet to 20 feet (708.16 H). This variance is required because we would lose 1,040 square feet of building and fifteen (15) feet off of the rear of the building without the variance. Moreover, existing structures already exist in the rear setback. Finally, we must obtain this variance in order to create the type of facility that will have the most positive economic impact on the community. Without this variance we simply will not be able to re-build on the property.

Second, we must obtain a variance to allow for no landscape buffer on the front of the property (712.08 G TABLE G1-a). As you are aware, a ten (10) foot landscape buffer is required. We must have this variance because we do not wish to disturb existing curb lines, water lines, monitoring wells, underground storage tanks ("USTs") and/or any other utilities located in this area. We are not proposing any improvements on existing right-of-way.

Third, we must obtain a variance to allow for 27 parking spaces instead of the 28 that are required (716.07 J). We must have this variance because other areas on the property that could be viewed as parking (i.e. the 10 fueling positions at the five (5) MPDs located on the property) are not allowed to be considered as parking spaces under the code.

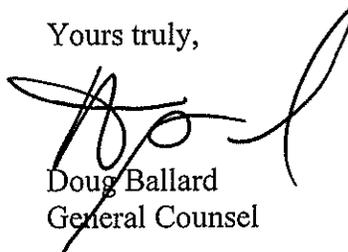
Finally, we must obtain a variance to allow the dumpster enclosure in the major side setback (710.08 3). We must have this variance because having double road frontage

Marietta City Council
March 11, 2016
Page Two

limits where we can locate the dumpster enclosure, and since we cannot locate the dumpster enclosure in the 175-foot Georgia Power easement on the property, we picked the most logical location for it. The dumpster enclosure will be masonry (not wood), and it will be landscaped. Therefore, the dumpster enclosure will improve the appearance of the property, and since it will be masonry it will decrease maintenance costs.

Thank you for your time and consideration. If you have any questions, please feel free to give me a call.

Yours truly,

A handwritten signature in black ink, appearing to read 'Doug Ballard', with a long, sweeping flourish extending to the right.

Doug Ballard
General Counsel

DRB/zb
cc: Brent Moye
Jeremy Crosby

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: April 15, 2016

PUBLIC NOTICE OF REZONINGS, CODE AMENDMENT, 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, May 11, 2016, 7:00 p.m.**, City Hall, for a final decision to be made.

V2016-13 [VARIANCE] JPC DESIGN & CONSTRUCTION, LLC requesting variances for property located in Land Lot 714, District 17, Parcel 0050, 2nd Section, Cobb County, Georgia, and being known as 1200 Franklin Gateway, currently zoned CRC (Community Retail Commercial). Variance to reduce the rear setback from 35' to 20'; variance to reduce the planted border area along Franklin Gateway from 10' to 0'; variance to reduce required parking from 28 to 25 spaces; variance to reduce the minimum area required for planter islands from 125 sq.ft. to 72 sq. ft. and not contain a tree; variance to reduce the setbacks for an accessory structure and allow it to be closer to the road than the principal building. Ward 1A.

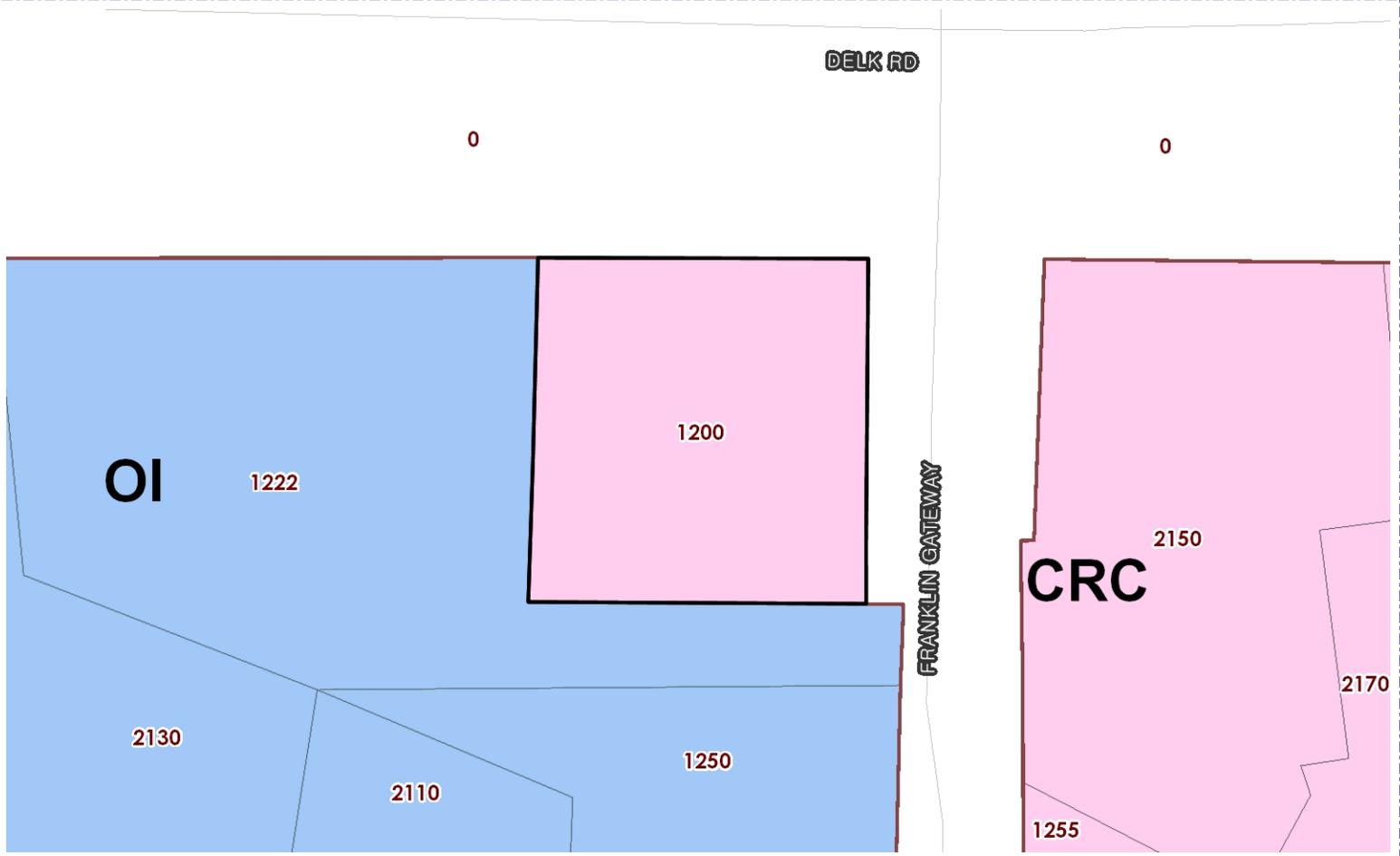
A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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



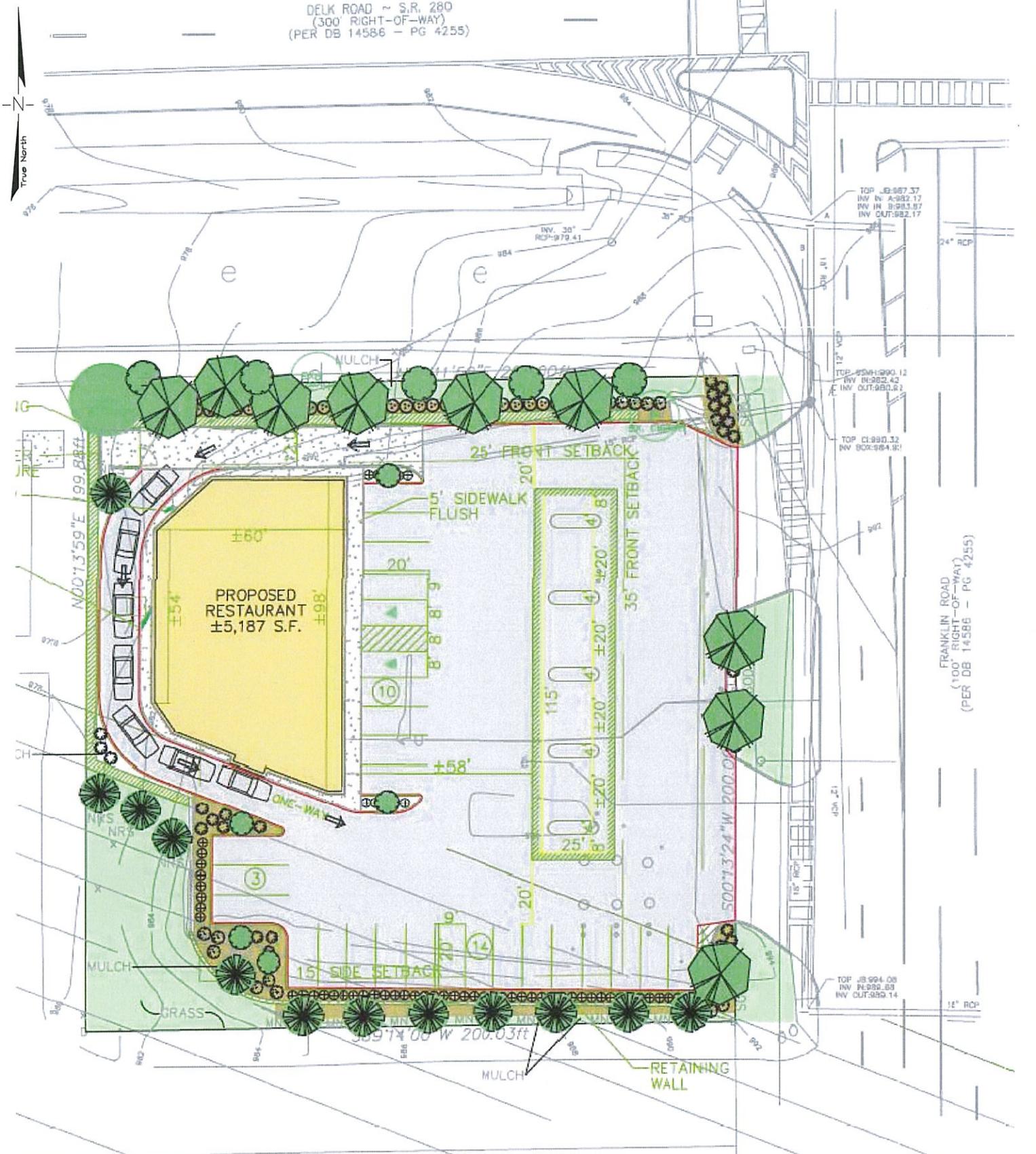
Address	Parcel Number	Acreage	Ward	Zoning	FLU
1200 FRANKLIN GATEWAY	17071400050	0.949	1A	CRC	RAC

Property Owner:	Yeasmin Enterprises/Rohoman Mohammed
Applicant:	JPC Design & Construction
City Council Hearing Date:	05/11/2016
Acquisition Date:	
Case Number:	V2016-13
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

DELK ROAD ~ S.R. 280
 (300' RIGHT-OF-WAY)
 (PER DB 14586 - PG 4255)



FRANKLIN ROAD
 (100' RIGHT-OF-WAY)
 (PER DB 14586 - PG 4255)

Concept Plan Prepared For:

**JONES PETROLEUM &
 DUNKIN' DONUTS**

Land Engineering And Development

374 Racetrack Rd, Suite B
 McDonough, GA 30252

p. 678-432-5720
 f. 678-432-5463

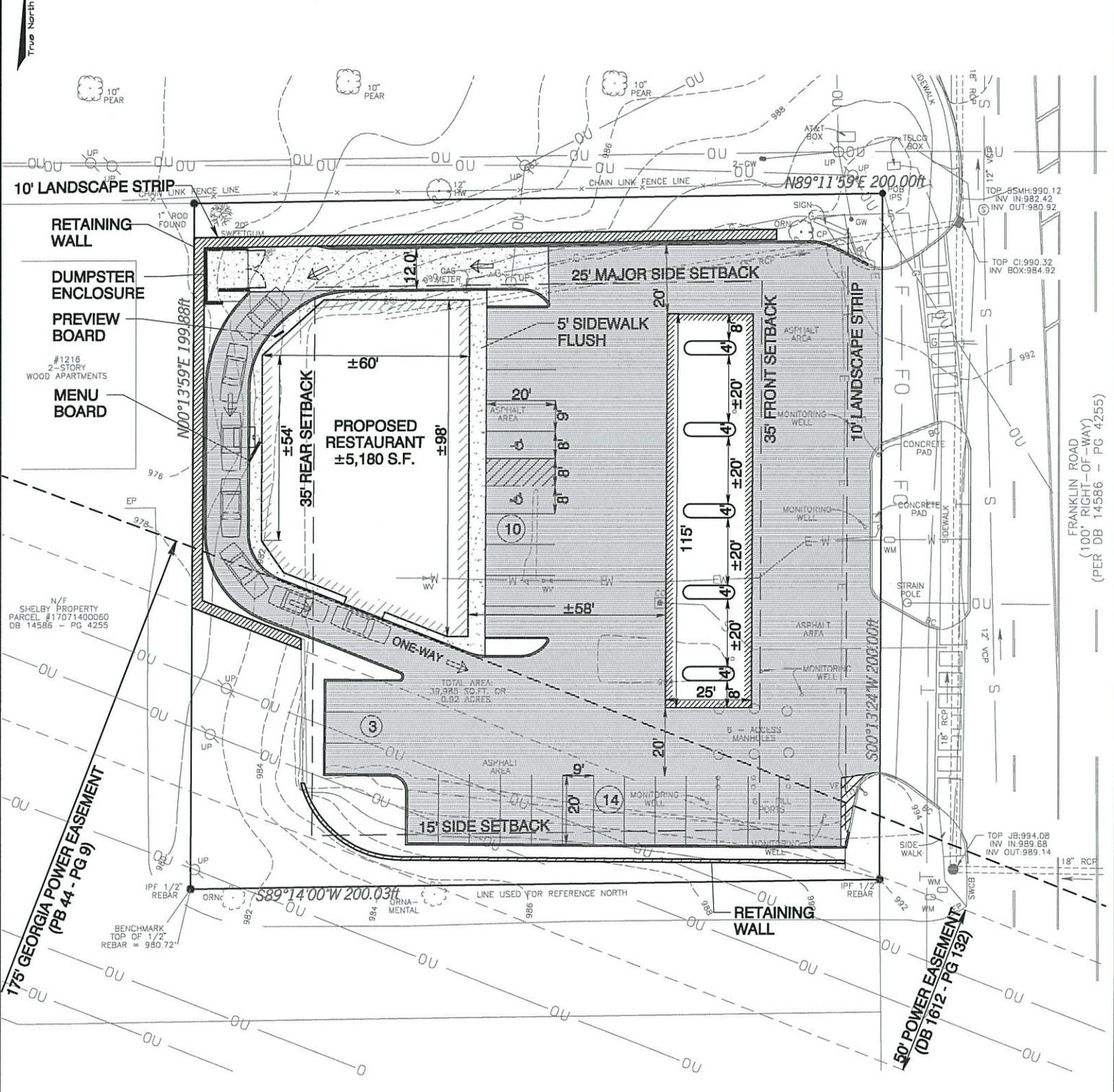


GRAPHIC SCALE IN FEET
 Scale: 1" = 40'

DATE:	RELEASE DESCRIPTION
01/18/16	ORIGINAL LAYOUT
01/25/16	Concept 4
02/25/16	Concept 5

VARIANCES NEEDED:

1. REAR 35' BUILDING SETBACK - VARIANCE FROM 35' TO 20' (708.16 H)
2. FRONT 10' LANDSCAPE STRIP - VARIANCE FROM 10' TO 0' (712.08 G TABLE G1-a)
3. 28 PARKING SPACES REQUIRED - VARIANCE TO ALLOW 27 SPACES (716.07 J)
4. DUMPSTER LOCATION IN MAJOR SIDE SETBACK - VARIANCE TO ALLOW DUMPSTER (710.08.3)

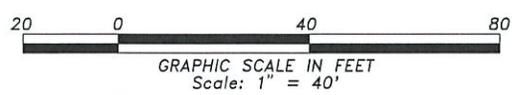


Concept Plan Prepared For:

JONES PETROLEUM & DUNKIN' DONUTS

Land Engineering And Development

374 Racetrack Rd, Suite B p. 678-432-5720
 McDonough, GA 30252 f. 678-432-5463



DATE:	RELEASE DESCRIPTION
01/18/16	ORIGINAL LAYOUT
01/25/16	Concept 4
02/25/16	Concept 5

FRANKLIN ROAD
 (100' RIGHT-OF-WAY)
 (PER DB 14586 - PG 4255)