



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2016-45                      **Legistar #:** 20160771  
**Board of Zoning Appeals Hearing:**              **Monday, August 29<sup>th</sup>, 2016 – 6:00 p.m.**  
**Property Owner:** Hoover Foods, Inc.  
                                 **Represented by Parks F. Huff, Esq.**  
                                 **376 Powder Springs Street, Suite 100**  
                                 **Marietta, GA 30064**  
**Applicant:** Hoover Foods, Inc.  
                                 **4030 Johns Creek Parkway**  
                                 **Suwanee, GA 30024**  
**Address:** 55 South Marietta Parkway  
**Land Lot:** 12310 **District:** 16                      **Parcel:** 1320  
**Council Ward:** 5A              **Existing Zoning:** CRC (Community Retail Commercial)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to allow the use of metal siding on the front and side of a building facing a roadway. [§ 708.16 (G.3)]

**Statement of Fact**

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**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**



**55 South Marietta Parkway**



**55 South Marietta Parkway**



**Recommended Action:**

**Approval.** The applicant, Hoover Foods, Inc., is requesting a variance for façade materials on the Wendy’s at 55 South Marietta Parkway. This variance would allow the use of metal accent materials on the building façade. The subject property is zoned CRC (Community Retail Commercial). It is bordered to the north and south, across Waverly Way, by other properties also zoned CRC. The property across the CSX railway to the east is zoned CBD (Central Business District) and South Marietta Parkway to the west is zoned OI (Office Institutional).

The proposed project involves the exterior renovation of the restaurant, including the replacement of the existing metal material with new metal accents, as shown on the submitted elevations. Section 708.16.G.3 of the Zoning Ordinance states that “*Building design and materials may be of the developer’s choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.*”

Both the Marietta Board of Zoning Appeals and City Council have heard and approved requests for similar exterior materials. Below is a list of recent cases.

Case #	Address	Organization
Z2007-15	727 Cobb Parkway S	Marietta Toyota
V2010-22	1250 Atlanta Ind Dr	Atlanta Beverage Company
V2010-25	925 Cobb Parkway S	Team Nissan
V2011-17	2155 Cobb Parkway S	Steve Rayman Chevrolet
V2013-10	2150 Cobb Pkwy S	Buick GMC
Z2013-27	810 Cobb Pkwy S	Mercedes of Marietta
V2014-02	1865 Cobb Pkwy S	Pugmire Lincoln Mercury
V2014-53	708 Cobb Pkwy S	Toyota Used Car Center
V2015-01	920 Cobb Pkwy S	Waffle House
V2015-09	1123 Roswell Road	Wendy’s

Although this property fronts a highly visible and highly traveled arterial corridor within the City of Marietta, the accent metal is not a material typical of industrial buildings. This proposal is substantially similar to the previously noted cases, and as a result, staff recommends approval of this variance request.

***Staff recommends approval of this variance request.***



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

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

Application #: V2016-45 Hearing: 8-29-16 Legistar # 20160771

This is a variance/appeal application for:

P2 16-433

[X] Board of Zoning Appeals

[ ] City Council

Owner's Name Hoover Foods, Inc. represented by Parks F. Huff, Esq.

Address 376 Powder Springs Street, Suite 100, Marietta, GA Zip Code: 30064

Telephone Number: 770-422-7016 Email Address: phuff@slhb-law.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Hoover Foods, Inc.

Address 4030 Johns Creek Parkway, Suwanee, Georgia Zip Code: 30024

Telephone Number (770) 448-0300 Email Address: carl.hoover@comcast.net

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

55 S. Marietta Parkway Date of Acquisition: October 2013

Land Lot (s) 12310 District 16 Parcel 1320 Acreage .884 Zoned CRC Ward 5A FLU CAC

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

Marietta Zoning Ordinance Section 708.16(G)(3) which limits metal siding on building facades that face public streets. Hoover Foods wants to remodel the existing store and use metal as a part of the siding material.

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. Legal description of property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship...
5. Site plan - 25 copies of site plan drawn to scale...
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

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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

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376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

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TELEPHONE  
770•426•6583  
FACSIMILE

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ADAM J. ROZEN

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WWW.SLHB-LAW.COM

July 19, 2016

## VIA HAND DELIVERY

Mr. Russell J. Roth, AICP  
Planning & Zoning Manager  
City of Marietta  
205 Lawrence Street  
Marietta, GA 30060

Re: Variance application of Hoover Foods, Inc., for 55 South Marietta Parkway, Land Lot 1231, 16<sup>th</sup> District, Parcel 132, 2<sup>nd</sup> Section, Cobb County, Georgia.

Dear Rusty:

Hoover Foods owns the Wendy's restaurant located at 55 South Marietta Parkway. Hoover wants to reinvest in the restaurant and modernize the building as depicted in the attached renderings. However, the remodeling proposes metal accents above the brick sides. The Marietta Zoning Ordinance at Section 708.16(G)(3) provides that "Building design and materials may be of the developer's choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any façade of the building facing a roadway." The City staff has concluded that the metal accents that are located on top of the brick sides violate this provision, and Hoover Foods requests a variance from the limitation on metal siding contained in the ordinance.

The attached renderings show that the metal accents are attractive and more aesthetically pleasing than if the wall was all brick or if it contained wood siding as allowed by the ordinance. Ultimately, Hoover and the City have the same goal to ensure that the building is an aesthetically pleasing building that will attract new customers to this restaurant. The Code requirement is based upon aesthetics and therefore, the variance request is based upon the aesthetics of the proposed architecture.

Please contact me if you have any questions or concerns regarding this request.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff  
[phuff@slhb-law.com](mailto:phuff@slhb-law.com)

PFH/klk  
Enclosures

cc: Hoover Foods, Inc.

**TO: Marietta Daily Journal**  
**FROM: City of Marietta**  
**RUN DATE: August 12, 2016**

**PUBLIC NOTICE OF VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, August 29, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

**V2016-45 [VARIANCE] HOOVER FOODS, INC.** is requesting a variance for property located in Land Lot 1231, District 16, Parcel 1320, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia and being known as 55 South Marietta Parkway. Variance to allow the use of metal siding on the front and side of a building facing a roadway. Ward 5A.

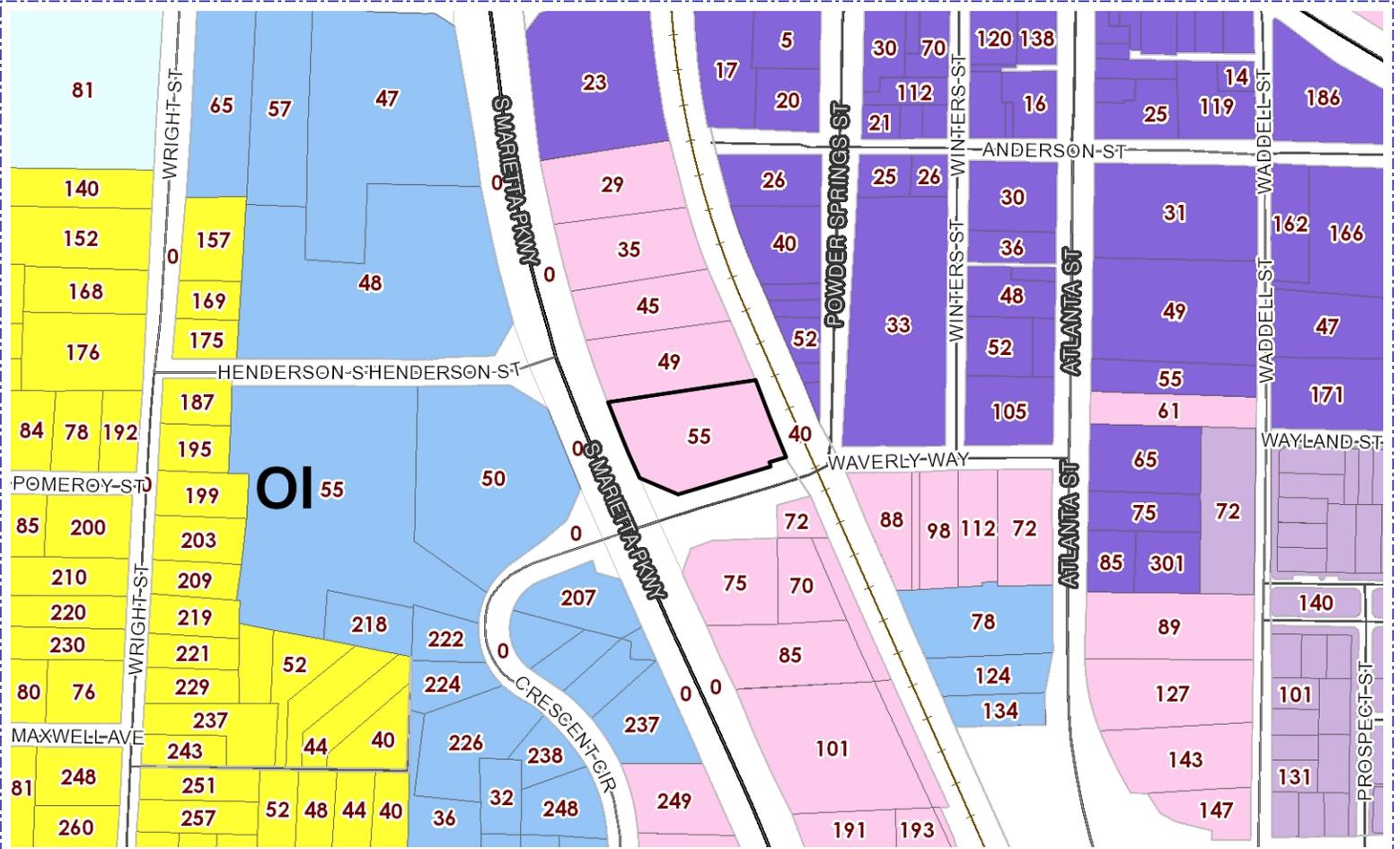
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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
55 S MARIETTA PKWY	16123101320	0.875	5A	CRC	CAC

Property Owner:	Hoover Foods, Inc.	<b>Zoning Symbols</b> --- Railroads [Red Outline] City Limits [Dotted] Cobb County Pockets [White] NA [Light Yellow] R1 - Single Family Residential (1 unit/acre) [Yellow] R2 - Single Family Residential (2 units/acre) [Light Green] R3 - Single Family Residential (3 units/acre) [Green] R4 - Single Family Residential (4 units/acre) [Light Orange] RA4 - Single Family Residential - Attached [Orange] RA6 - Single Family Residential - Attached [Dark Orange] RA8 - Single Family Residential - Attached [Light Purple] MHP - Mobile Home Park [Light Blue] PRD-SF - Planned Residential Dev. Single Family [Medium Blue] RM8 - Multi Family Residential (8 units/acre) [Dark Blue] RM10 - Multi Family Residential (10 units/acre) [Very Dark Blue] RM12 - Multi Family Residential (12 units/acre) [Black] RHR - Residential High Rise [Dark Purple] PRD-MF - Planned Residential Dev Multi Family [Light Pink] NRC - Neighborhood Retail Commercial [Pink] CRC - Community Retail Commercial [Light Purple] RRC - Regional Retail Commercial [Dark Purple] PCD - Planned Commercial Development [Light Grey] LI - Light Industrial [Dark Grey] HI - Heavy Industrial [Medium Grey] PID - Planned Industrial Development [Light Blue] MXD - Mixed Use Development [Dark Blue] CBD - Central Business District [Light Blue] OIT - Office Institutional Transitional [Light Blue] LRO - Low Rise Office [Light Blue] OI - Office Institutional [Light Blue] OS - Office Services [Dark Blue] OHR - Office High Rise
Applicant:		
BZA Hearing Date:	08/29/2016	
Acquisition Date:		
Case Number:	V2016-45	
<b>City of Marietta Planning &amp; Zoning</b>		



SITE NUMBER	0206
BASE MODEL	3276
ASSET TYPE	FRANCHISE
CLASSIFICATION	REMODEL
OWNER	WENDY'S FOODS
BASE VERSION	2019 DEC 31 R4
UPGRADE CLASSIFICATION	
UNFLAGSHIP	
PROJECT YEAR	2015
LITERATURE PACKAGE	2014
DESIGN BULLETIN NUMBER	0205 02

Project File: 



Design •

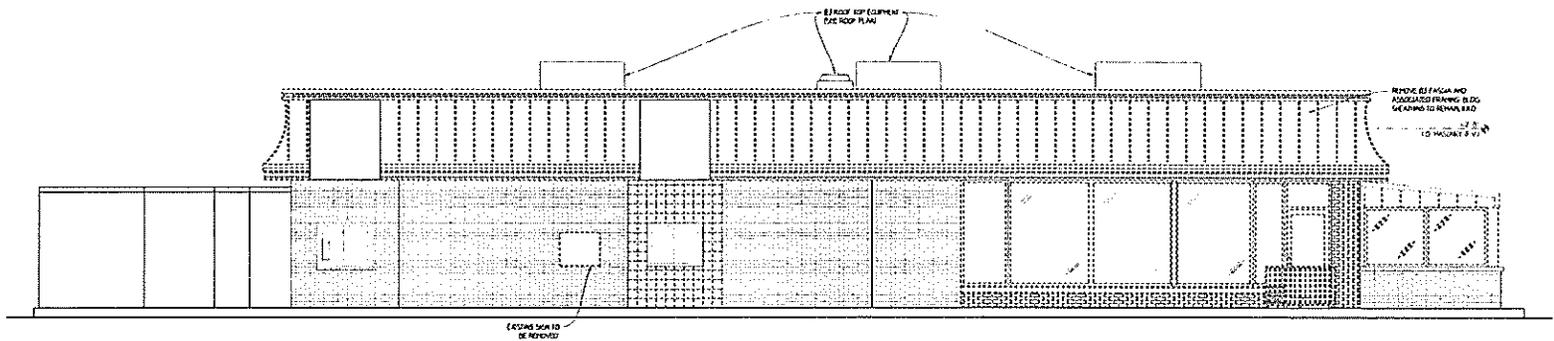
Executive Office Building  
1000 Peachtree Street, NE  
Atlanta, GA 30309

**Wendy's**  
55 POWDER SPRINGS RD.  
MARIETTA, GA. 30064

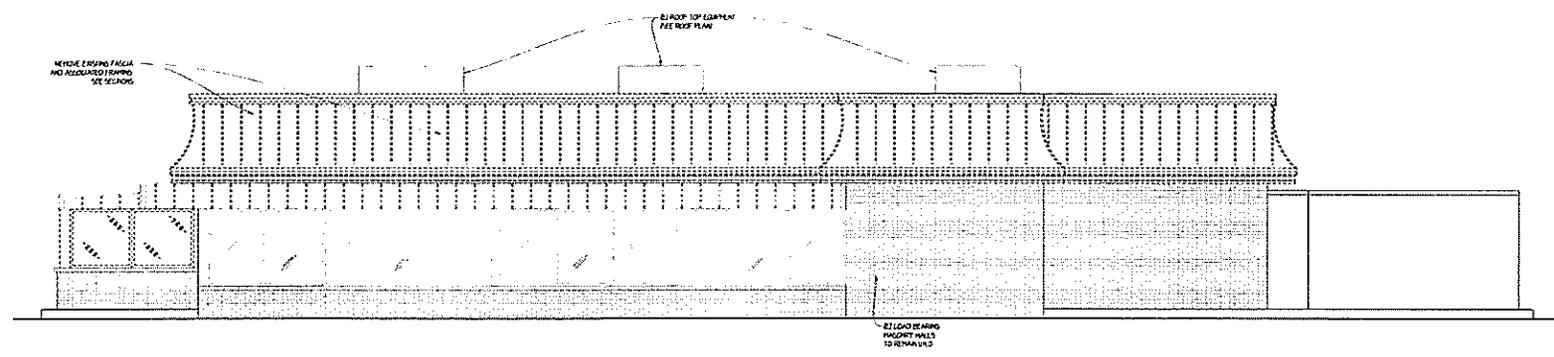
REV.	DATE	DESCRIPTION
1		
2		
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DEMOLITION ELEVATIONS

**D3.2**



**02** LEFT SIDE ELEVATION  
SCALE 1/4" = 1'-0"



**01** RIGHT SIDE ELEVATION  
SCALE 1/4" = 1'-0"



**DEMOLITION GENERAL NOTES**

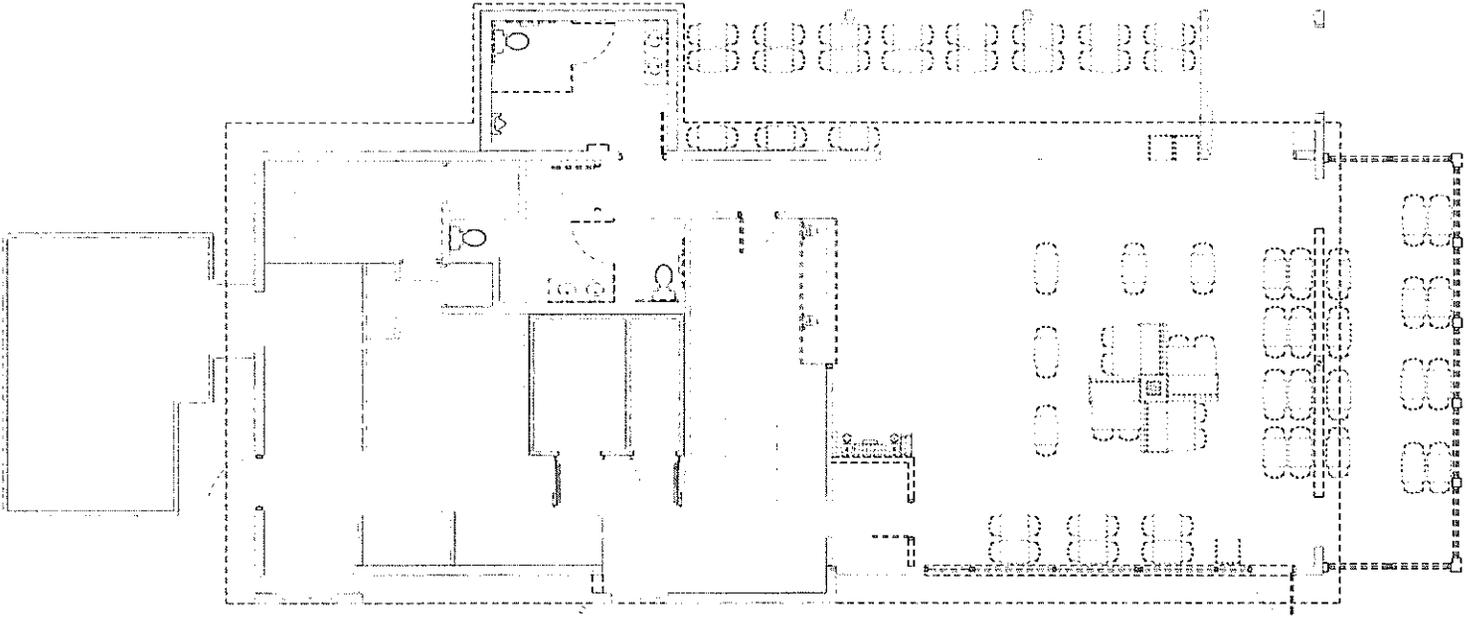
1. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR DEMOLITION WORK RELATED TO THE DEMOLITION OF THE HOME, AS SHOWN ON THESE DRAWINGS. THIS PLAN INDICATES ONLY THE APPROXIMATE DEMOLITION REQUIREMENTS FOR COMPLETION OF THIS PROJECT. EXISTING CONDITIONS NOT SHOWN ON THESE DRAWINGS SHALL BE REVIEWED BY THE PROJECT MANAGER OR OTHER REPRESENTATIVE. EXISTING MATERIALS AND METHODS TO THE HOME CONTRACTOR SHALL BE PASSED, REPAIRED, AND PATCHED TO PROVIDE A SMOOTH LEVEL AND UNINTERRUPTED TRANSITION BETWEEN NEW AND EXISTING FINISHES.
2. CONTRACTOR SHALL VERIFY FIELD CONDITIONS AND NOTIFY WENDY'S REPRESENTATIVE AND ARCHITECT OF DISCREPANCIES BEFORE PROCEEDING WITH WORK.
3. PREVENT PROTRUSION OR SETTLEMENT OF STRUCTURES. PROVIDE AND PLACE BRACING OR SHORING TO ENSURE SAFETY AND SUPPORT OF STRUCTURE. BE TO REMOVE EXISTING FLOORING, PARTIAL, COMPLETE, OR FULLY.
4. CEILING OPERATIONS AND NOTIFY THE ARCHITECT'S REPRESENTATIVE IMMEDIATELY IN WRITING OF STRUCTURE. MATERIALS TO BE CONTAINED. TAKE PRECAUTIONS TO PROTECT SUPPORT STRUCTURE. DO NOT REMOVE OPERATIONS UNTIL SAFETY IS ASSURED.
5. PROTECT UTILITY AND HAZARDOUS MATERIALS, LIGHTING, AND EXHAUST SYSTEMS AS REQUIRED BY APPLICABLE CODES TO PROTECT OCCUPANTS OF NEARBY BUILDINGS AND NEIGHBORHOODS.
6. BEFORE OPERATIONS BEGIN, REVIEW AND CONFIRM UTILITY SERVICES WITH THE AREA OF OPERATION, NOTIFY THE LOCAL UTILITY COMPANIES AND VERIFY THE LOCATION, DEPTH, AND SIZE OF UTILITIES. VERIFY THE LOCATION, DEPTH, AND SIZE OF UTILITIES.
7. HAZARDOUS MATERIALS TO BE REMOVED AND OPERATIONS TO BE STOPPED IMMEDIATELY IF HAZARDOUS MATERIALS ARE DISCOVERED. NOTIFY THE ARCHITECT IMMEDIATELY IF HAZARDOUS MATERIALS ARE DISCOVERED. NOTIFY THE ARCHITECT IMMEDIATELY IF HAZARDOUS MATERIALS ARE DISCOVERED.
8. PLACE MARKERS TO INDICATE LOCATION OF DISCONNECTED SERVICES. IDENTIFY SERVICE LINES AND LOCATE LOCATION OF PROTECTIVE RECORD COPIES.
9. KEEP THE ARCHITECT AND WENDY'S REPRESENTATIVE OF MATERIALS TO BE DEMOLISHED. IMMEDIATELY REMOVE FROM SITE.
10. DEMOLITION IN AN ORDERLY AND CAREFUL MANNER AS REQUIRED TO ACCOMMODATE NEW HOME, INCLUDING THAT REQUIRED FOR CONNECTION TO THE EXISTING BUILDING. PROTECT EXISTING FOUNDATIONS AND SUPPORTING STRUCTURAL MEMBERS.
11. PLAN ON DEMOLITION IN ACCORDANCE WITH APPLICABLE REGULATIONS AND JURISDICTION.
12. REMOVE DEMOLITION OPERATIONS IN ACCORDANCE WITH APPLICABLE REGULATIONS AND JURISDICTION.
13. REMOVAL OF MATERIALS ON SITE IS NOT PERMITTED.
14. REMOVE DEVELOPED MATERIALS, TOOLS, AND EQUIPMENT FROM SITE UPON COMPLETION OF WORK. LEAVE SITE IN GOOD CONDITION ACCORDING TO WENDY'S REPRESENTATIVE.
15. WENDY'S REPRESENTATIVE SHALL BE NOTIFIED IMMEDIATELY IN WRITING OF ANY DISCREPANCIES OR CHANGES TO THE PLAN. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION, DEPTH, AND SIZE OF UTILITIES. NOTIFY WENDY'S REPRESENTATIVE IMMEDIATELY.
16. PRIOR TO ANY DEMOLITION, THE CONTRACTOR SHALL HAVE A SITE VISIT TO REVIEW THE DEMOLITION REQUIREMENTS INCLUDING, BUT NOT LIMITED TO THE HOME, EXISTING FOUNDATIONS, AND THE EXISTING STRUCTURE. REVIEW THE DRAWINGS FOR DEMOLITION REQUIREMENTS AND FIELD CONDITIONS. COORDINATE DEMOLITION WITH WENDY'S REPRESENTATIVE.
17. REMOVE EXISTING FLOORING AND WALL FINISHES AS NOTED AND AS REQUIRED FOR NEW HOME'S CLEAR FLOOR AND REPAIR SURFACES TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES.
18. DISCONNECT AND REMOVE UNWANTED ELECTRICAL CIRCUITS FROM ELECTRICAL SERVICE PANEL.
19. CAP, DISCONNECT AND REMOVE ALL PIPING AND LINES NOTED FOR DEMOLITION ACCORDING WITH CODE.
20. WORK FOR REQUIRED BY LOCAL, STATE, AND FEDERAL AGENCIES AND AS DIRECTED BY WENDY'S REPRESENTATIVE. UNWANTED MATERIALS SHALL BE REMOVED FROM THE PROJECT.
21. REMOVE ALL FINISHES AND FORM PROTRUSIONS FROM WALL, VISIBLE TO RESIDENTS AS REQUIRED FOR NEW HOME EXISTING OPERATIONS TO BE MAINTAINED. EXISTING FINISHES SHALL BE REMOVED IMMEDIATELY.
22. REMOVE EXISTING CURB, SIDEWALK, ETC. PRIOR TO DEMOLITION OF NEW HOME'S DRIVE.

**REVISIONS**

1. DISCONNECT & REMOVE EXISTING PLUMBING FINISHES INCLUDING BUT NOT LIMITED TO WATER CLOSETS, SINKS, AND LAVATORIES AS REQUIRED FOR NEW HOME. VERIFY WENDY'S REPRESENTATIVE IF ITEMS ARE TO BE STORED & REUSED.
2. REMOVE EXISTING RESIDUAL ACCESSORIES. VERIFY WENDY'S REPRESENTATIVE IF ITEMS ARE TO BE STORED & REUSED.
3. REMOVE EXISTING FLOORING & WALL FINISHES THROUGHOUT THE RESIDUAL. CLEAN, PATCH & REPAIR SURFACES TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES. REMOVE SURFACES AS REQUIRED. DO NOT REUSE ITEMS OF SUBPARA.
4. REMOVE EXISTING GABLE FINISHES, PARTIAL, COMPLETE, OR FULLY.
5. REMOVE & REPLACE EXISTING MATERIALS AS REQUIRED AND AS APPLICABLE WITH REQUIREMENTS OF NEW HOME'S FINISHES. NOTIFY PROJECT ARCHITECT & WENDY'S REPRESENTATIVE OF ANY MATERIALS CONTAINING MATERIALS INCLUDING STAIN, DISCOLORATION, AND/OR OTHER DAMAGE TO BE REPAIRED.

**GENERAL NOTES**

1. FRONT SOLAR PANEL ALL FINISHES FROM SOLAR PANELS ARE TO BE REMOVED OR REPELLED TO A MINIMUM HEIGHT OF 18" FROM EXISTING FOUNDATION OR FROM EXISTING FOUNDATION TO BE REPAIRED. EXISTING FOUNDATION SHALL BE REPAIRED TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES.
2. SEE SOLAR PANEL EXISTING SOLAR PANELS FOR REMOVAL. REMOVE EXISTING SOLAR PANELS FROM EXISTING FOUNDATION. EXISTING FOUNDATION SHALL BE REPAIRED TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES. EXISTING FOUNDATION SHALL BE REPAIRED TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES. EXISTING FOUNDATION SHALL BE REPAIRED TO SATISFY ALL REQUIREMENTS OF NEW HOME'S FINISHES.



**01 DEMOLITION FLOOR PLAN**  
DATE: 11/1/20



SITE NUMBER	00290
BASE MODEL	3278
ASSET TYPE	FRANCHISE
CLASSIFICATION	REMODEL
OWNER	HOOVER FOODS
BASE VERSION	2015 DEC 01 R14
UPGRADE CLASSIFICATION	
UNFLAGGED	
PROJECT YEAR	2015
FURNITURE PACKAGE	2014
REVISIONS	THRU 2015-07

snideesign  
ARCHITECTURE & INTERIORS

Design +

55 POWDER SPRINGS RD.  
MARIETTA, GA. 30064

**Wendy's**

55 POWDER SPRINGS RD.  
MARIETTA, GA. 30064

NO. 100	CELL 1000
NO. 101	CELL 1001
NO. 102	CELL 1002
NO. 103	CELL 1003
NO. 104	CELL 1004
NO. 105	CELL 1005
NO. 106	CELL 1006
NO. 107	CELL 1007
NO. 108	CELL 1008
NO. 109	CELL 1009
NO. 110	CELL 1010

DEMOLITION FLOOR PLAN

**D1.1**

