

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



Krystal sign at 271 Cobb Pkwy South

Staff Review:

The Krystal Company is requesting a variance to retain a nonconforming sign at their restaurant location at 271 Cobb Parkway South. The subject property is zoned CRC (Community Retail Commercial) and is approximately 0.736 acres in size. Adjacent properties to the north and south, as well as properties to the west across Cobb Parkway are also zoned CRC. There are four different zoning classifications on properties across Frey's Gin Road to the east: LI (Light Industrial), R-4 (Single Family Residential), and OIT (Office Institutional Transitional).

The Krystal Company is planning to demolish the existing restaurant building and build a new restaurant on the subject property. However, instead of demolishing the existing sign and building at the same time, and constructing a new sign to complement their new building; they would like to retain the large nonconforming billboard-type sign on the site. Everything on the entire site – building, parking area, landscaping, etc. – will be new and will meet current regulations, but they are seeking a variance to retain the existing sign.

The existing sign is approximately 40 feet in height and 210 square feet in area. Current regulations would require the new sign to be a monument sign at a maximum height of 15 feet and a maximum area of 90 square feet.

Section 714.06 (C.6) of the Zoning Ordinance states that *“In cases where there are existing nonconforming signs on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost or there is redevelopment of a vacant lot, the entire sign (in each case) shall be required to come into compliance with the City of Marietta Sign Ordinance.”*

These regulations were put in place to allow nonconforming signs to continue to be used until substantial redevelopment of the property occurred. In this case, the entire site will be graded, and a new building and parking area will be constructed.

The submitted application claims a hardship because of the cost involved in demolishing the sign and also the cost of building a new sign. However, demolition of the sign should not substantially increase the overall cost of preparing the site for a new building to be constructed. When considering variances, most of the time, hardships are established not because of financial costs but because of site conditions *“which pertain to the particular piece of property or building in question because of its size, shape or topography. (Marietta Zoning Ordinance- 720.03 A.3.b)”*. Under this hardship premise, it is unclear how the applicant's sign and site conditions are different from neighboring sites.

The applicant states that they would be at a “disadvantage” if they had to remove the sign. However, most businesses choose to comply with the City's regulations. This in turn, puts those businesses at a disadvantage for complying with the code by cooperating to reduce sign clutter and make the City more attractive. For example, when Popeye's and Arby's (at 155 Cobb Parkway South) were constructed in 2008, they worked with the City to reduce two nonconforming signs along Cobb Parkway when they redeveloped their entire sites.



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

Those businesses removed a large billboard (at their expense), and then shared signage so that there is only one sign between the two restaurants.

The Krystal Company states that their large sign should be “grand fathered in until such time that it is no longer feasible to keep it”. Given that the sign structure is made of durable metals, if the variance is approved, it would likely remain for many years.



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 #: V2016-40 Legistar #: 20160668 BZA Hearing Dt:
City Council Hearing Dt (if applicable) #: 8-10-16 PZ #: 16-375

This is a variance/appeal application for:

Board of Zoning Appeals checkbox

Board of Zoning Appeals

City Council checkbox with X

City Council

Owner's Name The Krystal Co

Address 1455 Lincoln Pkwy Dunwoody GA Zip Code: 30346

Telephone Number: 770-351-4500 Email Address:

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Marcia Jones (Signal Signs)

Address 440 Six Flags Pkwy, Mableton Zip Code: 30126

Telephone Number 770-941-9900 Email Address: marcia.jones@signalsigns.com

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

271 South Cobb Parkway Date of Acquisition: 3/5/65

Land Lot (s) 1283 District 4 Parcel 0070 Acreage .7208 Zoned CRC Ward 7A FLU RAC

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

Krystal is requesting to keep existing pylon sign and reface it. The cost to remove and replace new is too great.

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...
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions...
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



Date: 06/22/16

Re: Variance for Krystal Burger

To whom it may concern,

We would like to file for a variance to utilize the existing pylon on site for Krystal located at 271 S. Cobb Parkway, Marietta, Ga. The pylon has been kept in excellent condition and it would be a complete disadvantage to us to remove it and have to change to a monument. The expense to remove this very grand pylon would be monumental in itself. Then to have to build another sign to take its place, would be even more expensive. Although, we can appreciate your efforts for new codes in regards to sizes of free standing signs, this sign is in perfect condition and should be grand fathered in until such time that it is no longer feasible to keep it. Then, at this point, a new monument that meets your codes would be built.

Krystal has opted to build a new store and remain in your city. However, I'm sure they were not anticipating this issue with the pylon to arise. With this new building, the city stands to benefit greatly from the sales of the business and occupational licenses, as well as sales taxes collected from the sale of their product.

This project has not yet been started. Hopefully, Krystal will continue their plans to scrape and rebuild. The issue of the pylon sign effects their budget tremendously and may be the deciding factor as to whether to proceed or not. We would appreciate your consideration of their situation in deciding to approve this variance.

Sincerely,

Amy Thevenot
318-346-9898
902 NW Main Street
Bunkie, La 71322
athevenot@ccesigns.com

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: July 15, 2016

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, August 10, 2016, 7:00 p.m.**, City Hall, for a final decision to be made.

V2016-40 [VARIANCE] THE KRYSTAL CO (SIGNAL SIGNS) is requesting a variance for property located in Land Lot 1283, District 16, Parcel 0070, 2nd Section, Cobb County, Georgia, and being known as 271 Cobb Parkway South, currently zoned CRC (Community Retail Commercial). Variance to allow nonconforming sign remain after redevelopment of the site. Ward 7A.

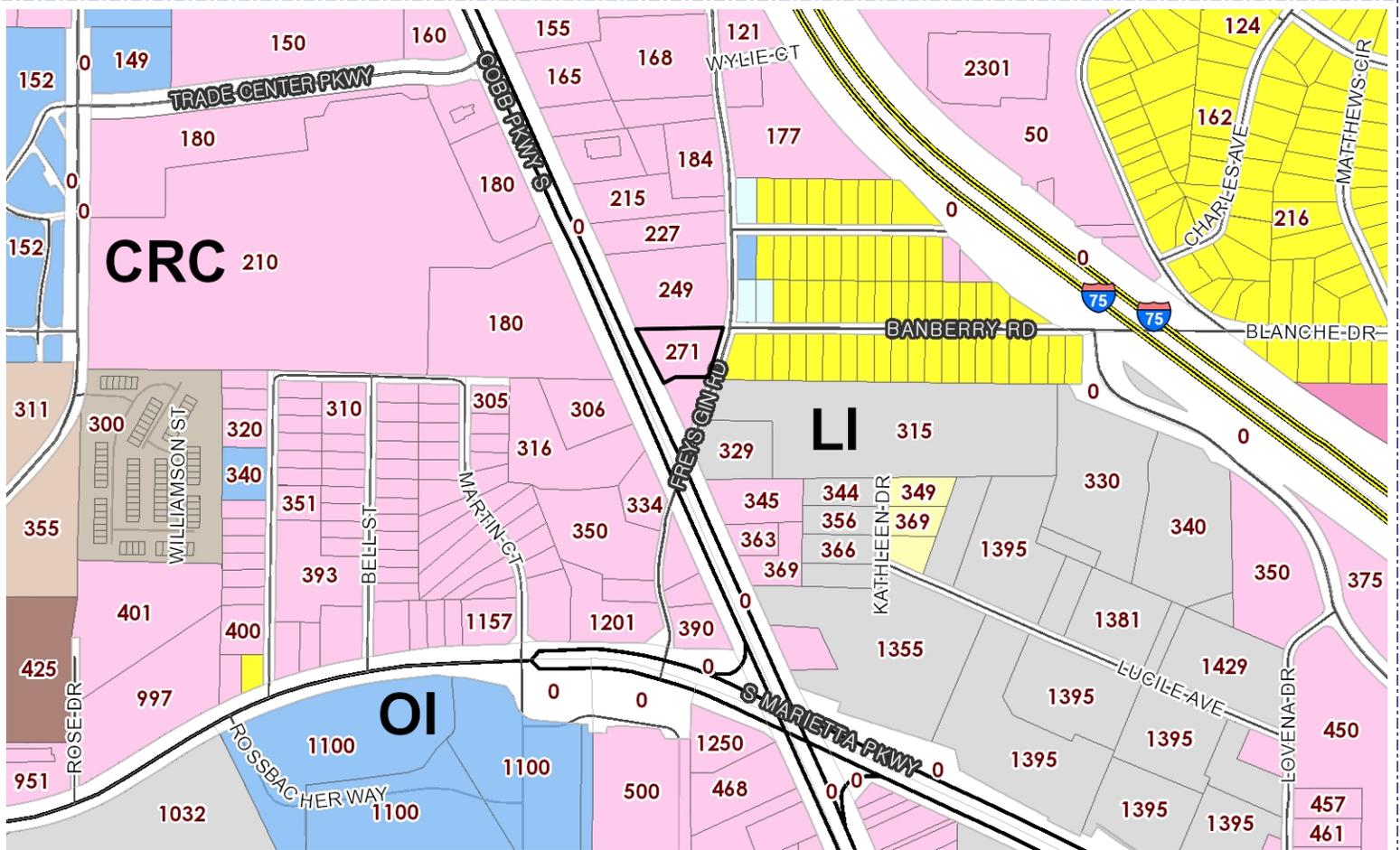
A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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

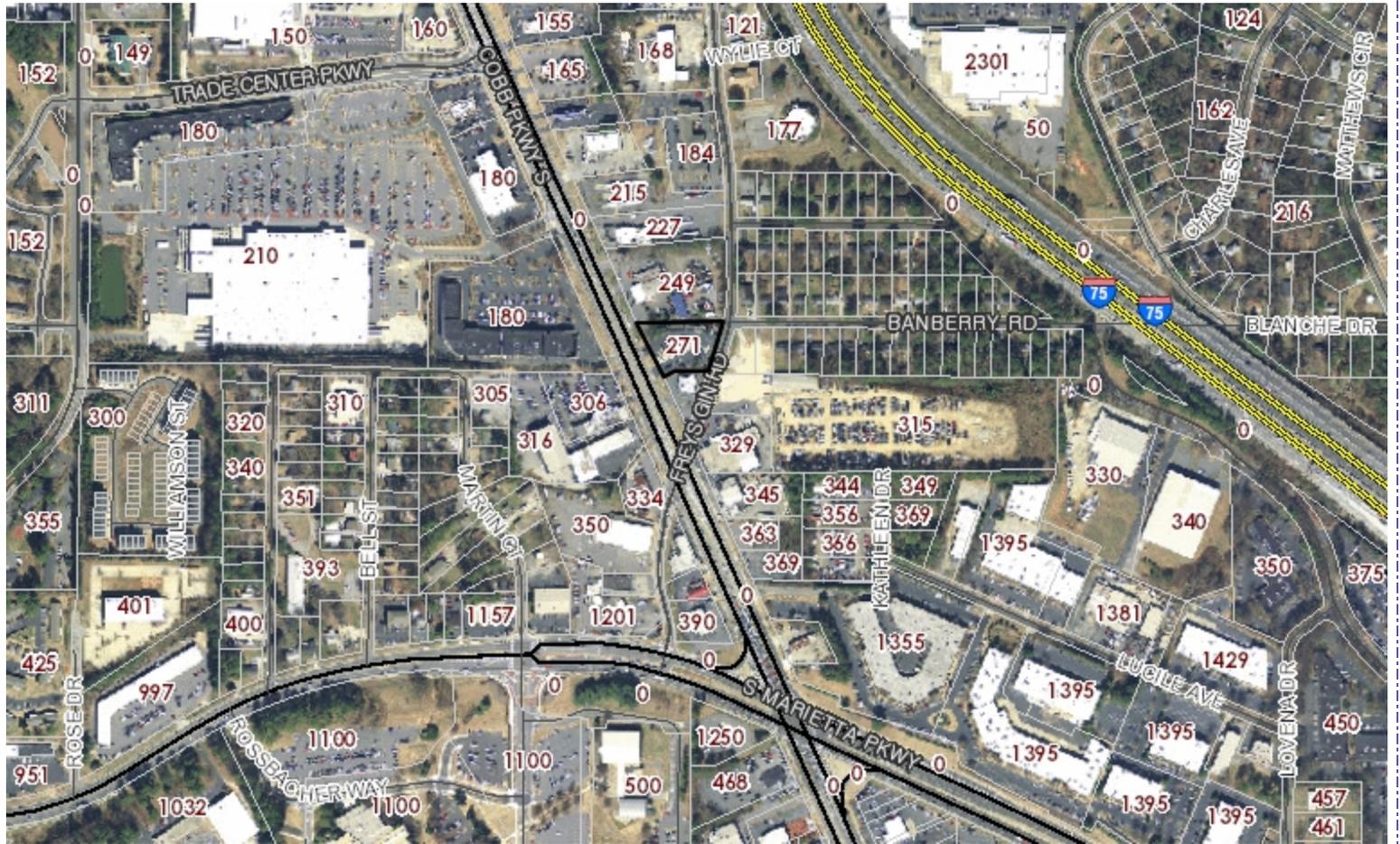


Address	Parcel Number	Acreage	Ward	Zoning	FLU
271 COBB PKWY S	16128300070	0.911	7A	CRC	RAC

Property Owner:	The Krystal Co
Applicant:	Marcia Jones
City Council Hearing Date:	08/10/2016
Acquisition Date:	
Case Number:	V2016-40
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



Address	Parcel Number	Acreage	Ward	Zoning	FLU
271 COBB PKWY S	16128300070	0.911	7A	CRC	RAC

Property Owner:	The Krystal Co
Applicant:	Marcia Jones
City Council Hearing Date:	08/10/2016
Planning Commission Hearing Date:	
BZA Hearing Date:	Case Number: V2016-40
Comments:	

Legend

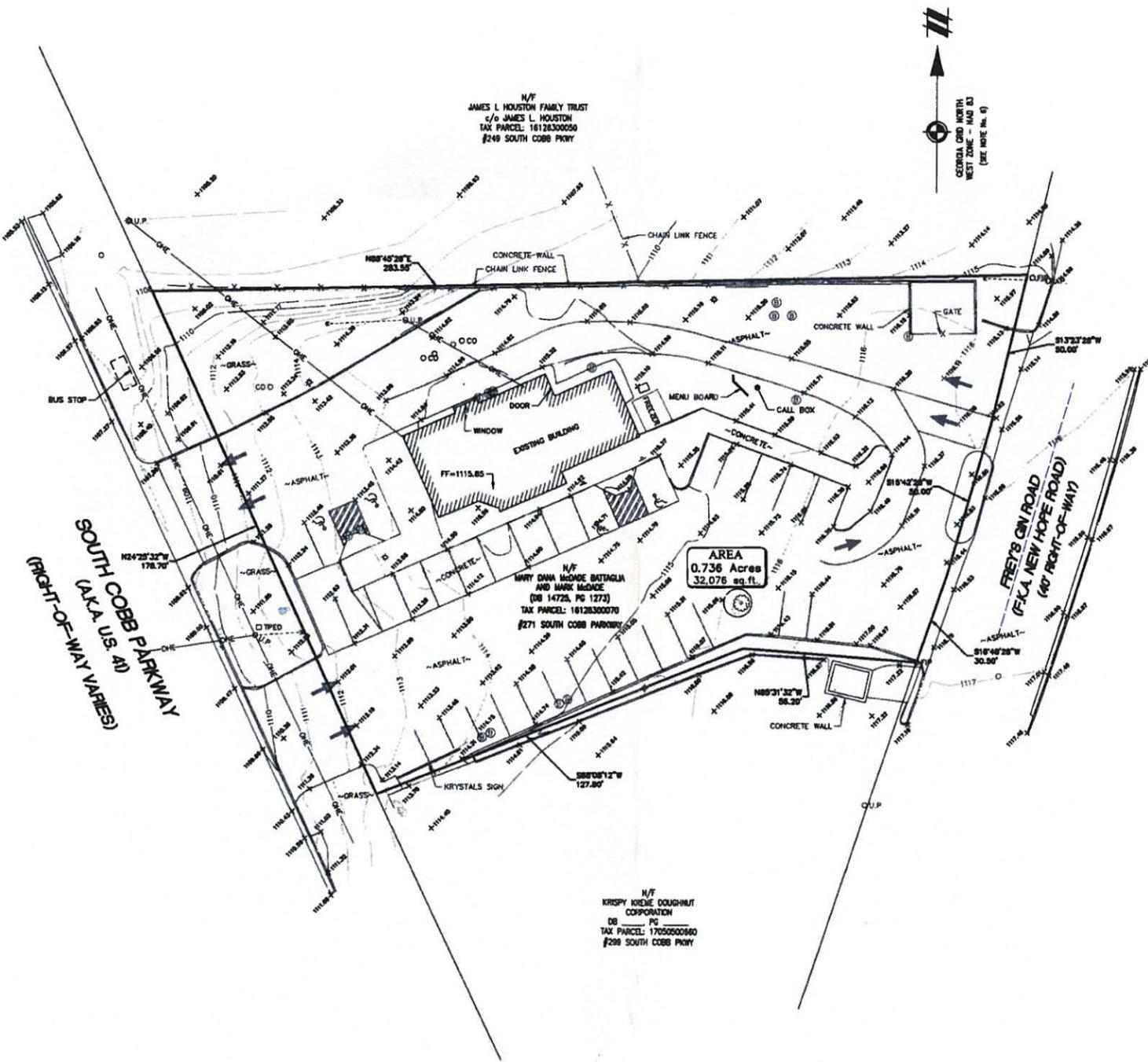
- Railroads
- City Limits
- Cobb County Pockets

DATUMS

Datums:
 Horizontal: Grid North, NAD83, West Zone (North American Datum of 1983), U.S. Survey Foot, Cobb County, Georgia.
 Vertical: NAVD88
 Geoid: Geoid12A Conus

LEGEND

- | | | | |
|--|-----------------------|--|---------------------|
| | PROPERTY LINE | | SIGN |
| | FENCE | | GAS MARKER |
| | WOODS/EDGE LINE | | GAS VALVE |
| | CONTOUR | | GAS METER |
| | STORM WATER LINE | | TELEPHONE/FIBER BOX |
| | OVERHEAD ELECTRIC | | FIBER MARKER |
| | OVERHEAD TELEPHONE | | TELEPHONE PEDESTAL |
| | OVERHEAD CABLE TV | | TELEPHONE MANHOLE |
| | UNDERGROUND TELEPHONE | | R/W MARKER |
| | UNDERGROUND TELEPHONE | | LAND LOT |
| | UNDERGROUND ELECTRIC | | |
| | UNDERGROUND CABLE TV | | |
| | TRAFFIC SIGNAL WIRE | | |
| | GAS LINE | | |
| | WATER LINE | | |
| | SANITARY SEWER | | |
| | UNKNOWN UTILITY | | |



FIRST AMERICAN TITLE INSURANCE COMPANY
TITLE EXCEPTIONS
 TITLE COMMITMENT No. H300.420
 (CLIENT FILE NO. NCS-790578)
 EFFECTIVE DATE: APRIL 27, 2016

1. [NOTE: ITEMS NO. 1 - NO. 8 ARE INTENTIONALLY OMITTED]

9. DISTRIBUTION LINE PERMIT FROM KRYSAL RESTAURANT, NO. A-24 TO BOARD OF LIGHTS AND WATER, DATED MAY 7, 1965, FILED JUNE 1, 1965 AND RECORDED IN DEED BOOK 842, PAGE 142, RECORDS OF THE SUPERIOR COURT OF COBB COUNTY, GEORGIA.

10. DISTRIBUTION LINE PERMIT FROM THE KRYSAL COMPANY TO BOARD OF LIGHTS AND WATER, DATED MAY 15, 1979, FILED OCTOBER 14, 1979 AND RECORDED IN DEED BOOK 1836, PAGE 22, AFORESAID RECORDS.

11. EASEMENT INSTRUMENT FROM MEL MCDADE AND RUTH CLINE MCDADE TO COBB COUNTY-MARIETTA WATER AUTHORITY AND MARIETTA BOARD OF LIGHTS AND WATERWORKS, DATED FEBRUARY 8, 2002, FILED MARCH 7, 2002 AND RECORDED IN DEED BOOK 13604, PAGE 5618, AFORESAID RECORDS; AS CONSENTED TO BY CONSENT OF LEASE HOLDER TO EASEMENT BY THE KRYSAL COMPANY, DATED MAY 15, 2002, FILED JULY 24, 2002 AND RECORDED IN DEED BOOK 13566, PAGE 65, AFORESAID RECORDS.



FLOOD NOTE

THE SUBJECT PROPERTY SHOWN HEREON IS NOT LOCATED WITHIN A FLOOD HAZARD ZONE PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP OF COBB COUNTY, GEORGIA, COMMUNITY PANEL NUMBER 1305700109H, PANEL 109 OF 252, LAST REVISED NOVEMBER 2, 2012.

REFERENCES

1. "A"
2. COBB COUNTY TAX MAPS
3. ALL OTHER REFERENCES ARE AS SHOWN HEREON.

SURVEY NOTES

1. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 12,318 FEET AND AN ANGULAR ERROR OF 04 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES METHOD.
2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 251,218 FEET.
3. EQUIPMENT USED FOR MEASUREMENT: ANGULAR: TRIMBLE S8 ROBOTIC TOTAL STATION
 LINEAR: TRIMBLE S8 ROBOTIC TOTAL STATION
4. THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD BOTH WRITTEN AND UNWRITTEN.
5. ALL UNDERGROUND UTILITIES SHOWN ARE BASED UPON FIELD OBSERVATIONS AND VISIBLE MARKINGS FOUND BY ATWELL, LLC. CONTRACTOR SHOULD VERIFY ALL UTILITIES BEFORE ANY CONSTRUCTION BEGINS.
6. THE BASIS OF BEARINGS FOR THIS SURVEY IS GRID NORTH, WEST ZONE BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD 83).
7. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS OR ENTITY WITHOUT EXPRESS CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY.
8. THE CONTOUR INTERVAL SHOWN HEREON IS A ONE FOOT INTERVAL AND THE ELEVATIONS ARE BASED ON MEAN SEA LEVEL. THE TEMPORARY SITE BENCHMARKS ARE AS SHOWN HEREON.
9. CERTAIN DATA SHOWN ON THIS PLAT WAS OBTAINED UTILIZING GPS. IT INCLUDES THE CONTROL POINTS ESTABLISHED FOR THE SURVEY TO BE BASED UPON. THE EQUIPMENT USED TO OBTAIN THIS DATA WAS A TRIMBLE R6 GPS RECEIVER WITH A TRIMBLE TSC2 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A CELL PHONE FROM THE GPS SOLUTIONS REAL TIME NETWORK. THE TECHNIQUE USED WAS RTK CORRECTED MEASUREMENTS FROM THE TRIMBLE VRS REAL TIME NETWORK OPERATED BY EPOS SOLUTIONS, INC. THE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WERE 0.05 FT. HORIZONTAL AND 0.10 FT. VERTICAL AT THE 95% CONFIDENCE LEVEL.

SURVEYOR'S CERTIFICATION

TO: THE KRYSAL COMPANY; AND FIRST AMERICAN TITLE INSURANCE COMPANY;

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6(b), 7(a), 7(b)-1), 7(c), 8, 9, 10(a), 11, 13, 14, 16, 17, 18, 19 & 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED DURING THE MONTH OF APRIL AND MAY OF 2016.

PRELIMINARY

CLYDE R. ELDRIDGE, RLS DATE
 GEORGIA REGISTERED LAND SURVEYOR
 REGISTRATION NUMBER 2659



811
 Know what's below.
 Call before you dig.

THE LOCATION OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE MANNER ONLY AND HAVE NOT BEEN RECONSTRUCTED. THE CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK AND ACCEPTS TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE INCURRED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PROTECT ANY AND ALL UNDERGROUND UTILITIES.

NOTICE: CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. ATWELL, LLC SHALL NOT BE RESPONSIBLE FOR SAFETY OF PERSONS OR PROPERTY IN THE AREA OF ANY CONSTRUCTION OF ANY OTHER PARTY.

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ATWELL
 888-880-0800 www.atwell-llc.com
 1800 PARKWAY PLACE, SUITE 700
 MARIETTA, GA 30060 (770)263-0000

LOCATED IN:
 LAND LOTS 1282, 1283, 16th DIST., 2nd SECT.
 LAND LOT 505 OF THE 17 DIST., 2nd SECT.
 CITY OF MARIETTA, GEORGIA

THE KRYSAL COMPANY
 ALTA/NSPS LAND TITLE SURVEY OF "KRYSAL RESTAURANT" #271 SOUTH COBB PARKWAY MARIETTA, GEORGIA 30060

DATE: 05/18/2016

REVISIONS

SCALE 0 10 20
 1" = 20 FEET

DR. JER. CH. DLA
 P.M. C. ELDRIDGE
 BOOK: NA
 JOB: 16000838
 SHEET NO. 1 OF 1

FILE: 16000838-001.DWG

