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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: **V2016-16** **Legistar #:** **20160331**

Board of Zoning Appeals Hearing: **Monday, June 27th, 2016 – 6:00 p.m.**

Property Owner: **Lee Jaraysi**
3641 Post Oak Tritt Road
Marietta, GA 30062

Applicant: **Same as above**

Address: **585 Franklin Gateway**

Land Lot: **578** **District:** **17** **Parcel:** **0020**

Council Ward: **7A** **Existing Zoning:** **CRC (Community Retail Commercial)**

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

1. Variance to allow more than 50% of the windows containing signage account for more than 50% of the window face *[§714.04 (E)]*
2. Variance to allow wall signage cover more than 15% and/or 5% of the wall face. *[§714.04 (B)]*

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

Subject property – facing Franklin Gateway

Front of subject property – facing Commerce Avenue

Entrance to subject property – West side of tenant space

East side of tenant space

East side of tenant space

Recommended Action:

Denial. The owner – Lee Jaraysi – is requesting sign variances for the property at 585 Franklin Gateway, Nazareth Grocery – which is located within the Nazareth Plaza – at the southwest corner facing towards South Marietta Parkway and Franklin Gateway. The subject property and the properties to the west, east, and south are all zoned CRC (Community Retail Commercial). The hotel north of the property is zoned OHR (Office High Rise). The subject property is along Franklin Gateway – a collector road – and it's also placed off of Commerce Avenue – a local road – which is mainly used to access the other businesses along the thoroughfare and as a connection between Franklin Gateway and Parkway Place.

Every window pane on the front and east side of the tenant space is covered in product advertisements – there is also a variety of different window signage on the west side of the tenant space – at its entrance. The applicant is requesting variances to exceed the allowable amount of window signage. Section 714.04 (E) of the Sign Ordinance states: *No more than 50% of the windows of a business shall be used to display window signs and the signage in a single window shall not account for more than 50% of a window face.* Further, the zoning regulations limit signage such that: *"total permissible sign area for a single business may be incorporated within wall, canopy, under canopy, projecting or window signage provided that in aggregate, the total sign area does not exceed the 15% limit.*

In his letter, Mr. Jaraysi has stated that the window signage helps with preserving their inventory from deteriorating, discoloration, and melting of the products from the result of direct sunlight. He also uses the window coverage for marketing grocery products.

Mr. Jaraysi has not provided any clear dimensions specifying the amount of signage covering the windows, but it is likely that the front and side of the building cover more than the permissible 15% of wall signage facing a public roadway.

No justifiable hardship has been provided that does not apply to every other similarly zoned business in the City. The building and its existing permitted signage is highly visible from Franklin Gateway – and the other permitted signage is highly visible from Commerce Avenue; but they are not seen from South Marietta Parkway as the property slopes downward from the street.

One of the main purposes of the sign ordinance is "*to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of advertising for the benefit of all the City's citizens*". Approval of this request would set a precedent that would be detrimental to the aesthetics of the City, and as a result, ***staff recommends denial of this variance request***.

This request was tabled at the May 23, 2016 Board of Zoning Appeals meeting, and the applicant was asked to provide information on the dimensions of the windows and the signs within them, as well as the percentage of the building that would be covered by the signs. Staff has not received any information at this time.

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 #: V2016-16 **Legistar #:** 20160331 **BZA Hearing Dt:** MAY 23, 2016

City Council Hearing Dt (if applicable) #: _____ **PZ #:** 16-164

This is a variance/appeal application for:

[X] **Board of Zoning Appeals** [ ] **City Council**

Owner's Name Lee Jaraysi

Address 3641 post oak Tritt Rd. Zip Code: Marietta 30062

Telephone Number: 770-262-4886 Email Address: WJaraysi@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:

585 FRANKLIN GATEWAY Date of Acquisition: 2002

Land Lot (s) 0578 District 17 Parcel 0020 2 Acreage 4.637 4.8 Zoned CRC Ward 6 7A FLU RAC

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

ALLOW MORE THAN 50% OF THE WINDOWS TO BE COVERED BY SIGNAGE.

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 ½" 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

Nazareth Grocery

585 Franklin Road
Suite B-2
Marietta, GA 30067

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

RE: Variance Request for Nazareth Grocery Window Signage

Dear City Council:

We are requesting a variance for the signs placed on the windows at the front of the store. The signs are a combination of professional marketing posters and window treatments. In reviewing the request, we ask that you consider the two primary purposes for the signs being placed in their current locations: inventory preservation and marketing.

Inventory Preservation: The signs play a major role in preserving the inventory from deterioration, discoloration, and melting as a result of the sunlight coming through. As you may know, Nazareth Grocery is an international grocery store with a wide array of products from food to gifts. Having strong sun light coming through window can lead to: the discoloration of inventory, the fading of product labels and packaging, and major fluctuations in the store's inside temperature effecting the preservation of food. These results, among other things, affect customer experience and sales.

Marketing: We believe it is important to clarify that the signs are professionally designed and help market the uniqueness of the store. As mentioned before, Nazareth Grocery is an international grocery store with unique product lines that are difficult to find elsewhere. The signs provide both promotional benefits in highlighted the various products offered and aesthetic appeal to entice customers to enter the store.

Combined, inventory preservation and marketing can lead to both a decrease in sales and product quality. Thus, the signs were put in place with their design and placement in mind so to also preserve the appearance of the store. We ask that you grant the variance for the placement of these signs and consider the reasons stated above as well as the effects of removal of the signs.

Thank you for your time and consideration.

Respectfully,

Nazareth Grocery
By: Waleed Jaraysi, Owner

TO: **Marietta Daily Journal**

FROM: **City of Marietta**

RUN DATE: **June 10, 2016**

PUBLIC NOTICE OF VARIANCES and SPECIAL LAND USE PERMITS

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, June 27, 2016 at 6:00 P.M.,** City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2016-16 [VARIANCE] LEE JARAYSI is requesting variances for property located in Land Lot 578, District 17, Parcel 0020, 2nd Section, Marietta, Cobb County, Georgia and being known as 585 Franklin Gateway. Variance to allow more than 50% of the windows containing signage account for more than 50% of the window face; variance to allow wall signage cover more than 15% and/or 5% of the wall face. Ward 7A.

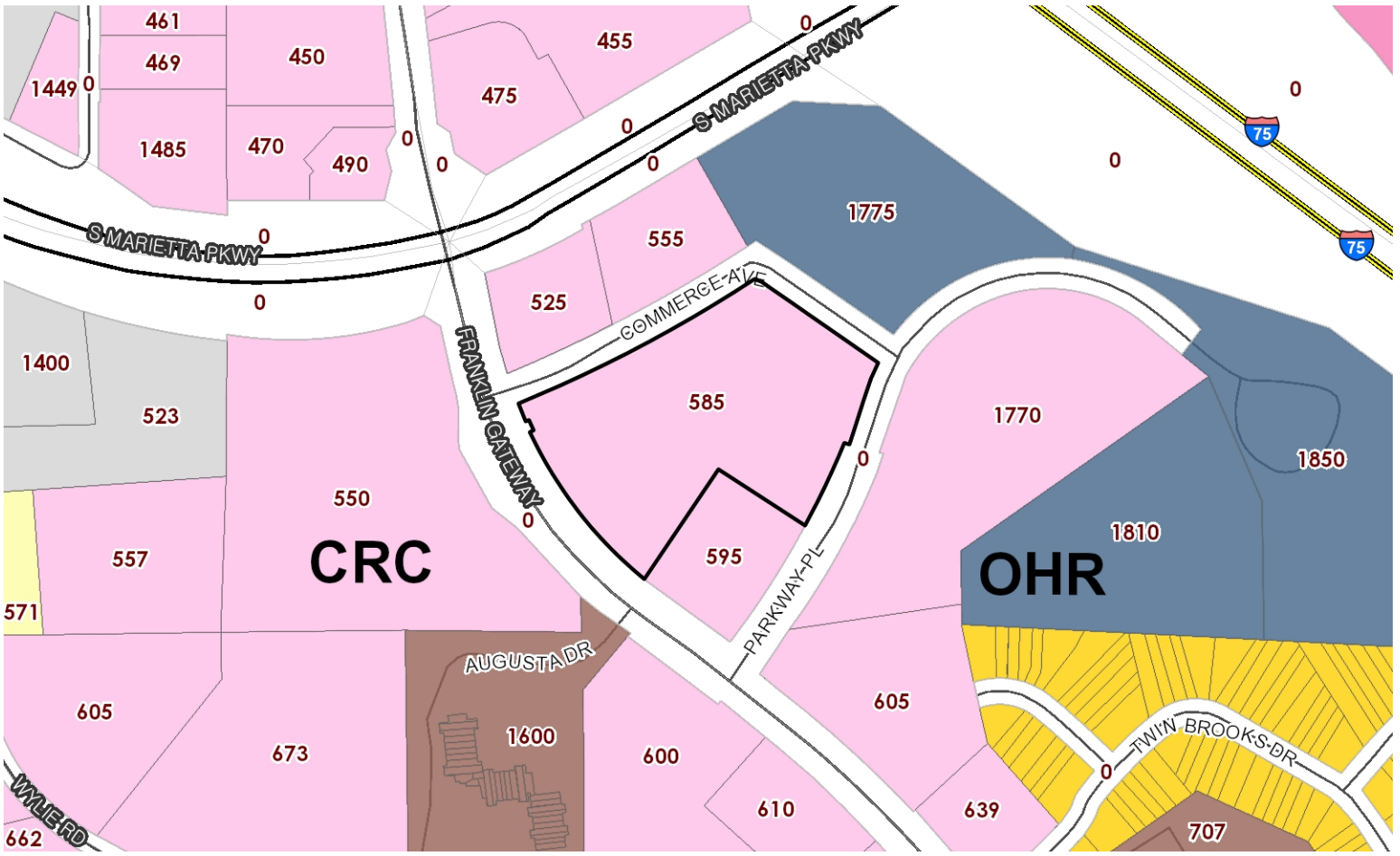
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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*
585 FRANKLIN GATEWAY	17057800020	4.637	7A	CRC	RAC

Property Owner: Lee Jaraysi

Applicant:

BZA Hearing Date: 06/27/2016

Acquisition Date:

Case Number: V2016-16

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 - Moble 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

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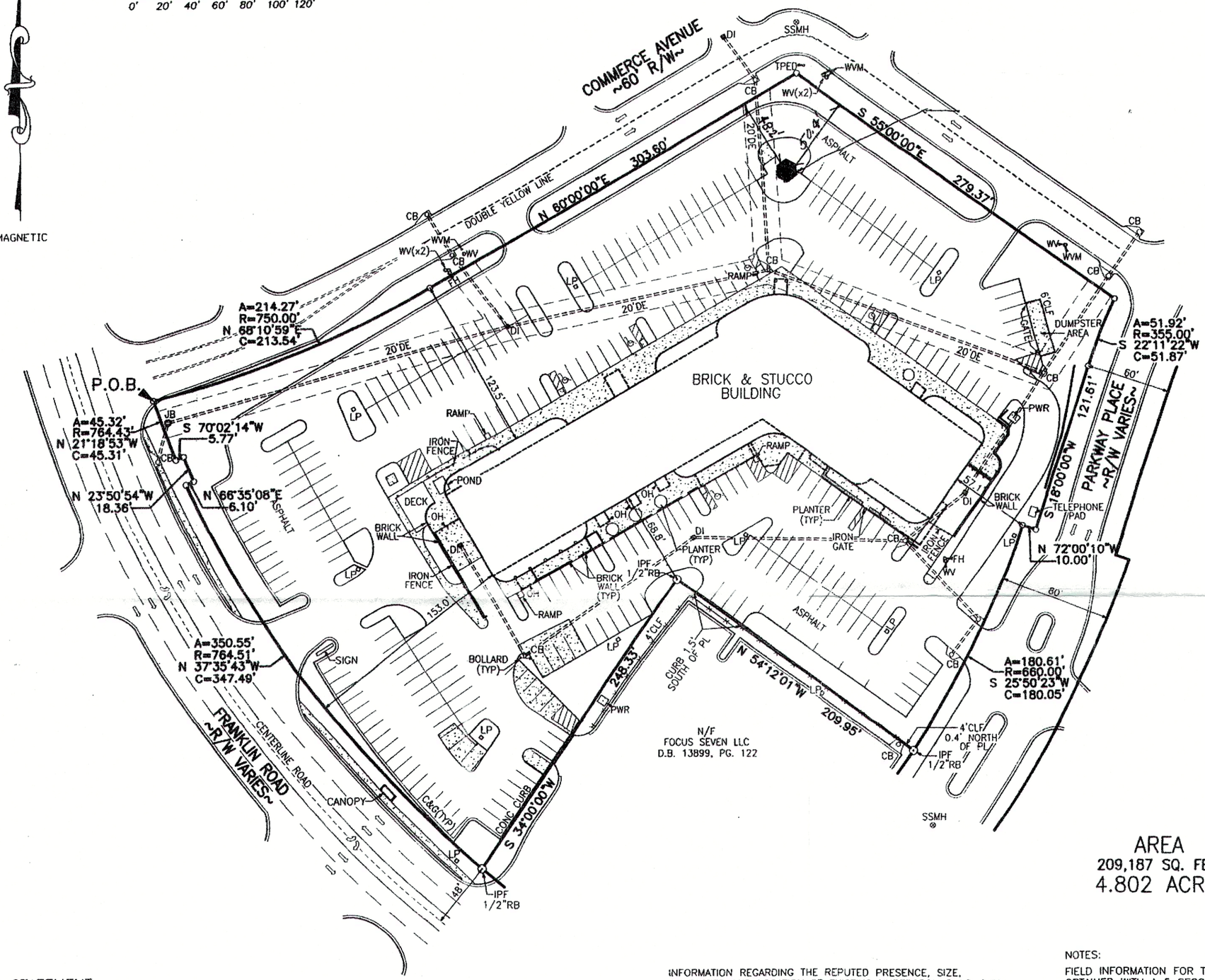
Mango
Tahini
ALL NATURAL
Red Lentils
PLAIN
YOGURT
kiri
SULTAN
100% EXTRA VIRGIN
OLIVE OIL
Couscous
Green Cracked
Olives

SCALE : 1" = 60'

0' 20' 40' 60' 80' 100' 120'

MAGNETIC



LEGEND

A	ARC
R	RADIUS
C	CHORD
R/W	RIGHT OF WAY
N/F	ADJOINING OWNERSHIP
S/W	SIDEWALK
BFO	BURIED FIBER OPTICS
CB	CATCH BASIN
CONC	CONCRETE
	CONCRETE
CMP	CORRUGATED METAL PIPE
C&G	CURB AND GUTTER
DI	DROP INLET
EM	ELECTRICITY METER
EP	EDGE OF PAVEMENT
FH	FIRE HYDRANT
GM	GAS METER
HW	HEAD WALL
IPS	IRON PIN SET
IPF	IRON PIN FOUND
LP	LIGHT POLE
PL	PROPERTY LINE
PP	POWER POLE
D.B.	DEED BOOK
P.B.	PLAT BOOK
PG.	PAGE
P.O.B.	POINT OF BEGINNING
PWR	POWER TRANSFORMER
RB	RE-BAR
SS	SANITARY SEWER LINE
SSMH	SANITARY SEWER MANHOLE
TPED	TELEPHONE PEDESTAL
TYP	TYPICAL
WM	WATER METER
WV	WATER VALVE
~~	OVERHEAD POWER LINE

AREA
209,187 SQ. FEET
4.802 ACRES

ZONING
ZONED: CRC (COMMUNITY RETAIL COMMERCIAL)

BUILDING SETBACK REQUIREMENTS
FRONT – ARTERIAL – 40'
COLLECTOR & LOCAL – 35'
SIDE – MAJOR – 25'
MINOR – 15'
REAR – 35'

IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF THE LAW.

FLOOD STATEMENT:
THIS PROPERTY DOES NOT LIE WITHIN A FEDERAL FLOOD HAZARD AREA AS PER PANEL NO. 13067C 0109 G DATED: DECEMBER 19, 2008

THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON OR ENTITIES NAMED HEREON. NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE INFORMATION SHOWN HEREON IS TO BE EXTENDED TO ANY PERSONS OR ENTITIES OTHER THAN THOSE SHOWN HEREON.

VARIANCE SITE PLAN

INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON, THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, AND HIS CONTRACTORS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION SHOWN HEREON.

NOTES:

FIELD INFORMATION FOR THIS SURVEY WAS OBTAINED WITH A 5 SECOND THEODOLITE AND AN ELECTRONIC DISTANCE METER.

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 49,429 FEET AND AN ANGULAR ERROR OF 05 SECOND PER ANGLE POINT AND WAS ADJUSTED BY LEAST SQUARES.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURES AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 1,116,058 FEET.

SURVEYOR'S CERTIFICATION
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE (i) IN ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND ACSM IN1992, AND INCLUDES ITEMS 1, 3, 8, 9, 10 & 11(a) OF TABLE A THEREOF, AND (ii) PURSUANT TO THE ACCURACY STANDARDS (AS ADOPTED BY ALTA AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION) OF AN "URBAN" SURVEY.

SIGNED: Gary L. Cooper DATE: 5/4/11

REGISTRATION NO.: 2606

REVISIONS

PROJECT DESCRIPTION:

ALTA–SURVEY FOR:

NAZARETH PLAZA, LLC, EMBASSY NATIONAL BANK, KITCHENS KELLEY GAYNES, PC AND CHICAGO TITLE INSURANCE COMPANY

585 FRANKLIN ROAD

COUNTY: COBB	DISTRICT: 17TH	P.B. 101, PG. 84
LAND LOT: 578	SECTION: 2ND	D.B. 14036, PG. 103

ADAM & LEE LAND SURVEYING

5640 GA. HWY. 20 S.
LOGANVILLE, GA. 30052 (770)554-8995

www.adamandlee.com FAX=(770)554-8134

GEORGIA REGISTERED No. 2606 5/4/11 LAND SURVEYOR GARY L. COOPER

OFFICE:	05/03/11
BY:	DWJ
FIELD:	04/27/11
BY:	AMB
SCALE:	1"=60'
SHEET #	1 OF 1

11070