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

STAFF REVIEW AND RECOMMENDATION

Variance Case #: **V2015-35** **Legistar #:** **20150607**

Board of Zoning Appeals Hearing: **Monday, August 31, 2015 – 6:00 p.m.**

Property Owner: **H.K.F.S INC**
514 Towneside Ln
Marietta, GA 30064 - 1306

Applicant: **Mohammad Ali**
2354 Huntcrest Way
Lawrenceville, GA 30043

Address: **749 Roswell Street**

Land Lot: **12350** **District:** **16** **Parcel:** **1410**

Council Ward: **1A** **Existing Zoning:** **CRC (Community Retail Commercial)**

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

1. Variance to allow the use of auto sales on a lot less than 1 acre. [*§708.16 (B.6.A)*]

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.

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PICTURES

749 Roswell Street

South of subject property

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Back of structure

Northwest corner of the property line

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Recommended Action:

Denial. The applicant, Mohammad Ali, is requesting a variance to allow auto sales on a lot less than one (1) acre on the property at 749 Roswell Street. The requested variance would allow the 0.908 subject property to serve as a used car dealership. The subject property is zoned CRC (Community Retail Commercial) and located on Roswell Street – an arterial road. The applicant has stated that he intends to eliminate part of the building to create more space along the front of the property. He has also stated that the intended number of cars that he will keep on the lot at one time will range from 40 and 50 – and the automobiles will be newer models.

According to the Zoning Ordinance, in order to use a property for automobile sales, there must be at least one acre of property. The one acre requirement is intended to ensure sufficient area to have an orderly display of vehicles. This particular property is very narrow and, because the building is located toward the front of the property, most of the area that is available to display cars is in the area behind the building that is not visible from Roswell Road.

This section of Roswell Road is within the Commercial Corridor Design Overlay District, which was established "to enhance the quality and compatibility of development, to establish consistent architectural and design guidelines, to encourage the most appropriate use of land, and to promote safe and efficient movement of traffic. The district is deemed necessary to enhance the aesthetic and visual character of lands adjacent to main commercial corridors in and around Downtown Marietta."

The Board of Zoning Appeals has considered the following cases regarding automobile sales on sites that do not meet the one acre requirement:

Case #	Address	Acreage	Zoning	Ruling	Stipulations
V2000-07	1960 Airport Ind Park Drive	0.46	LI	Approved	None
V2000-12	1326 Cobb Pkwy N	0.64	CRC	Approved	No more than 6 cars for sale at a time
V2000-16	2072 Airport Ind Pk Drive	0.65	LI	Approved	None
V2001-02	484 Cobb Pkwy N	0.611	CRC	Denied	
V2001-07	1195 Cobb Pkwy S	0.426	CRC	Approved	None
V2004-21	44 N Fairground Street	0.3	CRC	Approved	Sale of motorcycles only; vehicles to be stored inside at the end of business day
V2006-06	1791 Roswell Road	0.7	CRC	Denied	
V2007-05	1955 Airport Ind Park Drive	0.348	LI	Approved	None
V2014-28	1245 Bellemeade Drive	0.557	CRC	Approved	None

The subject property is very narrow, has limited area for display, and does not meet the area requirement. If approved, the majority of the automobiles would have to be stored behind the building and would not be visible from vehicular traffic on Roswell Road. The applicant has indicated no hardship, nor any reason to indicate that the standard minimum lot size for an automobile sales facility should be reduced to less than one (1) acre, and as such, **Staff recommends denial of this request**.

However, if the Board wishes to approve the variance request, Staff recommends the following stipulations:

1. If any washing or servicing of vehicles is to occur on property, the applicant and/or property owner must provide stormwater pollution prevention measures, such as enclosed work bays, oil/grit separators, chemical storage/containment areas, etc.
2. Exterior grease traps, if required, must be well maintained.

This item was tabled at the July 27th, 2015 Board of Zoning Appeals meeting to give the applicant the opportunity to present more information.

Marietta GEORGIA

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

APPLICATION FOR VARIANCE OR APPEAL

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

Application #: V2015-35 **Hearing:** 7-27-15 **Legistar #** PZ-15-300

This is a variance/appeal application for:

☑ **Board of Zoning Appeals** ☐ **City Council**

Owner's Name H.K.F.S INC. Syed F. Sheh

Address 514 TOWNESIDE LN MARIETTA Zip Code: 30064-1306

Telephone Number: 678-462-4273 678-354-3269 Email Address: Syedfsheh@yahoo.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Mohammad Ali

Address 2354 Huntcrest Way, Lawrenceville, GA Zip Code: 30043

Telephone Number 678-371-2837 Email Address: Salmanali7861@gmail.com

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

749 Roswell St - Marietta, GA 30060 Date of Acquisition:

Land Lot (s) 12350 District 16 Parcel 1410 Acreage .908 Zoned CRC Ward 1A FLU CAC

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

To open a car lot on the above address, it is .92 acres +-, and 1 acre is required

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 (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - 25 copies of 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).
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

749 Roswell St,

Marietta GA

Planning and Zoning

At the property located at 749 Roswell St, I am planning to open a Used Car Dealership. In accordance to the building that is currently there, I am planning to renovate it. The way in which I am planning to do this in is to basically cut the current building from the front to give more frontage space for parking. After that is done we will remodel the outside and the inside giving the building and area an appeal.

The amount of cars that we plan to have on the lot is going to be somewhere between 40-50 cars. Most of the cars will be newer model cars (2 years old or so). This way you can have a better customer base and attract a good crowd to the area. Since most of the inventory will be newer cars there will be less problems in the property itself, so no tow trucks jamming up the streets, no cars breaking down and no problems will the customers. This will not be a buy here pay here dealership, so there won't be heavy traffic into the property itself.

The current size of the property lot is just under an acre and is an ideal amount of space for this kind of business. Once the building will be renovated there will be an ample amount of space for the inventory to be parked, for customer parking, and to get around the building. The way that I would like the setup to be is to have a few cars in the front, the other side of the front to be customer parking and that will also give the customer an ease of getting in and out of the dealership and to have the rest of the inventory in the back side of the building. Also for security purposed I would want to put a fence that we can close at night. All of this can be done easily and comfortably with the amount of space that is on the property currently with space left over for more expansion.

TO: **Marietta Daily Journal**

FROM: **City of Marietta**

RUN DATE: **August 14, 2015**

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 31, 2015 at 6:00 P.M.,** City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2015-35 [VARIANCE] MOHAMMAD ALI (H.K.F.S. INC) is requesting a variance for property located in Land Lot 12350, District 16, Parcel 1410, 2nd Section, Marietta, Cobb County, Georgia and being known as 749 Roswell Street. Variance to allow the use of auto sales on a lot less than 1 acre. Ward 1A.

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.

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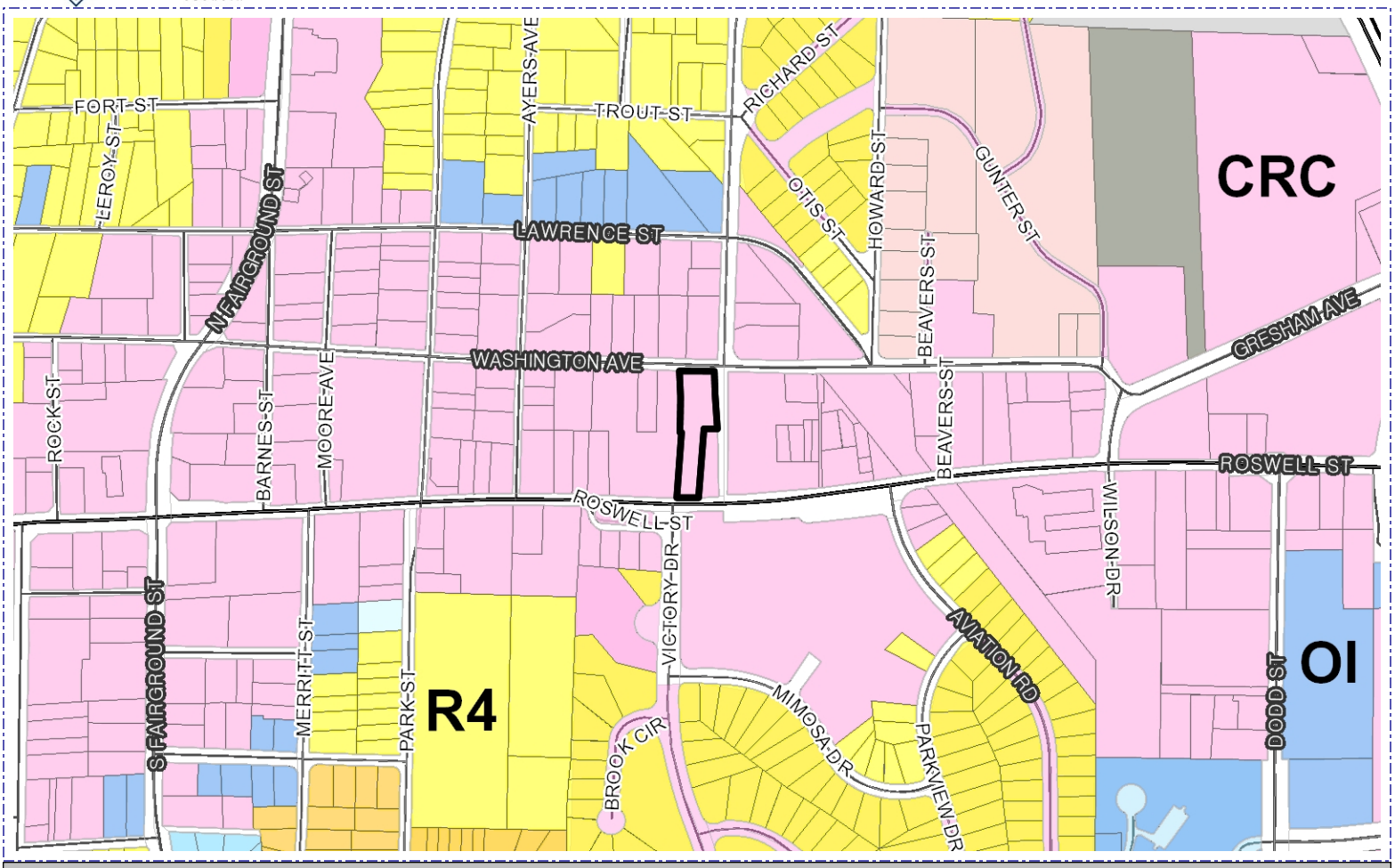
Marietta, Georgia 30060

Variance



Address	*Parcel Number*	*Acreage*	*Ward*	*Zoning*	*FLU*
749 ROSWELL ST	16123501410	0.908	1A	CRC	CAC

Property Owner: H.K.F.S., Inc.

Applicant: Mohammad Ali

BZA Hearing Date: 08/31/2015

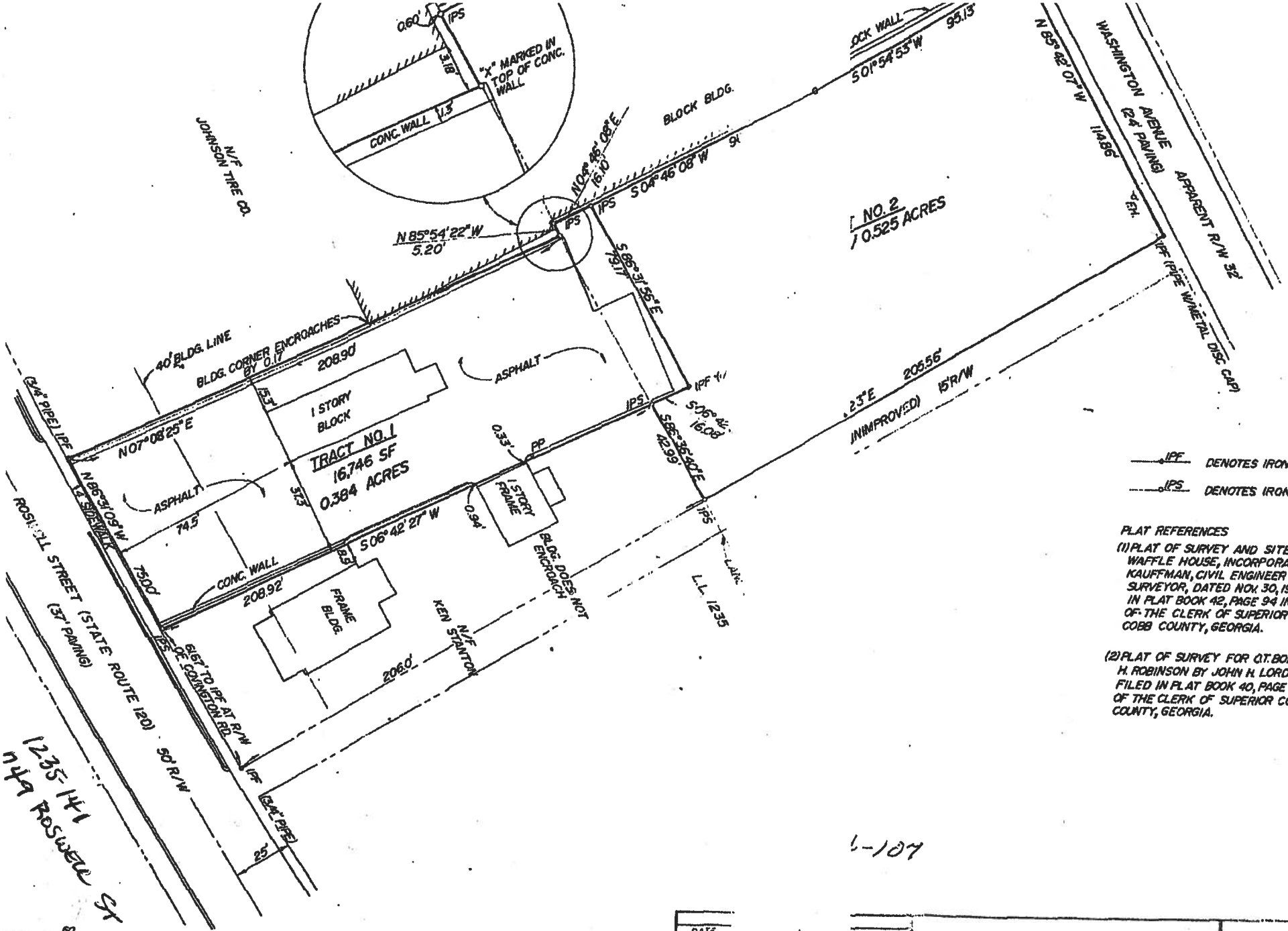
Acquisition Date:

Case Number: V2015-35

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



PLAT REFERENCES

(1) PLAT OF SURVEY AND SITE PLAN FOR WAFFLE HOUSE, INCORPORATED BY W.R. KAUFFMAN, CIVIL ENGINEER AND LAND SURVEYOR, DATED NOV. 30, 1966 AND FILED IN PLAT BOOK 42, PAGE 94 IN THE OFFICE OF THE CLERK OF SUPERIOR COURT IN COBB COUNTY, GEORGIA.

(2) PLAT OF SURVEY FOR O.T. BOLDING AND PAUL H. ROBINSON BY JOHN H. LORD AND ASSOCIATE FILED IN PLAT BOOK 40, PAGE 68 IN THE OFFICE OF THE CLERK OF SUPERIOR COURT IN COBB COUNTY, GEORGIA.

1235-141
n49 Roswell St

L-107

60
ALE

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 21,787 FEET AND AN ANGULAR ERROR OF 1" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 300,000 FEET

IRON PINS INDICATED AS SET ARE 24" "T" SHAPED STEEL PINS WITH A STAINLESS STEEL CAP ATTACHED TO THE TOP AND INSCRIBED WITH "PROPERTY CORNER-DO NOT DISTURB", "RLS 1716".

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

DATE 12-1-81

MEASUREMENTS.
DRM 24E
DM 50'

SURVEY FOR
WILLIAM D. SHEPPARD
LAND LOT 1214 & 1235 16TH DISTRICT
2ND SECTION
COBB COUNTY, GEORGIA

CADASTRAL & LAND SURVEYS LTD., P.C.
1st National Bank Bldg. Suite 5
Marietta, GA 30061 (404) 428-2

DRAWN BY TBW & DRJ
DATE 11-30-81
SCALE 1" = 30'