

City of Roswell
Target Properties

Case #	Land Lot/Property address	Zoning	Conditions that are different/law case
RZ86-39	Land Lots 530, 531, 534, 535, 536, 566, 567, 583, and 584 – Old Alabama Road	OCMS	Kings Landing
RZ99-11	Land Lot 233, Marietta Highway	C-3	Kroger lawsuit

MICHAEL K. McGUIRE
Director



JERE WOOD
Mayor

BILL JOHNSON
City Administrator

City of Roswell

COMMUNITY DEVELOPMENT DEPARTMENT

March 15, 2002

Chi Town
Chicago Style Eatery
Family Fun Center
880 Laurel Drive
Roswell, GA 30076

Subject: Allowed uses for property known as Kings Market, 1465 Market Drive, Suite 525.

Dear Mr. Ware:

Please be advised that the above referenced property is zoned OCMS (Office-Commercial Multi-story Mixed Use District) conditional. The property was rezoned under case # RZ86-39 with the following conditions:

- (1) Upon written request by the Zoning Administrator, sufficient right-of-way to provide for a right-of-way width of 60 feet with a pavement width of 40 feet from back of curb to back of curb along Market Boulevard, to be submitted to the Zoning Administrator within 60 days of the date of notification of such request.
- (2) Upon written request by the Zoning Administrator, sufficient right-of-way to provide for a right-of-way width of 72 feet along the proposed extension of Old Alabama Road, to be submitted to the Zoning Administrator within 60 days of the date of notification of such request.
- (3) Developer to install roadway improvements within proposed Old Alabama Road extension as determined by City Engineers; width of roadway width at intersections to be as determined by City Engineer.

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- (4) Developer to install roadway improvements along Riverside Road, including relocation of Riverside Road as approved by City Engineer or as shown on Roswell Landing Site Plan dated June 27, 1986, such roadway improvements to be determined as required by City Engineer.
- (5) Developer to install acceleration/deceleration lanes as required by City Engineer.
- (6) Limit of curb cuts shown on latest approved site plan.
- (7) Developer to install intersection between parcels 1, 2 and 3 as identified on the Roswell Landing Site plan, as approved by City Engineer.
- (8) Developer to install detention facilities as approved by City Engineer.
- (9) Developer to install all lighting within development so as to prevent direct illumination of adjacent property. All lighting within the development installed along streets, which are dedicated or proposed to be dedicated to the city shall be high pressure sodium.
- (10) Water quality leaving the site to be monitored on a quarterly basis to ensure variation of suspended solids on the biological oxygen demand do not vary 10% more than before construction occurred, reports to be submitted to City Engineer
- (11) Developer to install all traffic signals at all intersections on any road dedicated or proposed for dedication to the city within the project's boundaries where the City Engineer determines that a signal is needed, to occur at the time of issuance of a development permit for that section of road or street being constructed.
- (12) Any relocation of existing portions of Old Alabama Road, Market Boulevard and Raintree Drive to be approved by City Engineer.
- (13) A 100 foot natural undisturbed buffer replanted where sparsely vegetated to be maintained adjacent to the East property boundary with such improvements as detention ponds and roadways as shown on latest approved site plan to be allowed within such buffer.
- (14) A 50 foot utility easement to be dedicated to the City of Roswell to run from Holcomb Bridge Road to the end of Raintree Drive, to be submitted to the Zoning Administrator prior to issuance of a development permit.

Attached herewith you will find the OCMS district regulations in effect at this time.

It appears from your description that the proposed business is a commercial recreation facility. This use is not allowed in this district.

If you have any questions, please contact me at (770) 641-3780.

Sincerely,

City of Roswell



Susan Canon
Planning and Zoning Director
Sc/ks

zcl/Kings Market

approved plans and specifications pursuant to this section and shall be tested and proved to be in proper working condition to the satisfaction of the building official before issuance of the certificate of occupancy.

6. No activities shall be permitted in the building and/or on the roof which violate the requirements and standards of radiation protection regulations of the state or federal government and no electrical disturbances resulting from radio or television transmission shall be tolerated which affect adversely the operation at any point of any equipment other than that of the creator of such disturbance. No equipment or structure of any type will be placed on the roof without written authorization from the City of Roswell.

Section 895 (OCMS) OFFICE-COMMERCIAL MULTI-STORY MIXED-USE DISTRICT

The office-commercial multi-story mixed-use district is intended to provide areas for office buildings with accessory commercial uses greater in height than are allowed in the other office and commercial districts. Higher buildings are intended to encourage efficient construction which will better facilitate the aesthetic quality desired in Roswell, causing less land coverage and more area available for landscape and greenbelt areas.

895.1

- a. Within the office-commercial multi-story mixed-use district the following uses shall be permitted:

1. Business and professional offices; including medical, dental, legal, financial, architectural, engineering, real estate, insurance, governmental, and manufacturers' representatives.
2. Business colleges, barber and beauty colleges, art schools, and music and dance studios, provided that all activity shall be enclosed.
3. Business signs.
4. Clubs catering exclusively to members and their guests.
5. Florist shops.
6. Off-street automobile parking lots and parking garages.
7. Pharmacies.
8. Snack or sandwich bars.
9. Permanently affixed professional or announcement signs.
10. Banks and financial institutions.
11. Bakeries, where the products are sold exclusively at retail on the premise and where operated incidental to a restaurant or other eating establishment permitted under subsection (a) (18) of this Section 895.1.

12. Bus stops and taxicab stands.
 13. Business service establishments, such as blueprinting, duplicating and accounting.
 14. Pick-up stations for dry cleaning and laundry.
 15. Newspaper offices, excluding printing plants incidental thereto.
 16. Personal service establishments, such as barber and beauty shops and shoe repair shops.
 17. Radio and television stations, studios and offices excluding transmission towers except as may be permitted under Section 895.8 (a) (3) of this Ordinance.
 18. Restaurants, grills, delicatessens and similar eating establishments, excluding drive-ins.
 19. Retail stores or shops, including the making of products sold at retail on the premises, provided that such manufacturing is incidental to the retail business or service; all goods so manufactured are sold on the premises; the area for such manufacturing occupies less than thirty (30) percent of the total floor area; such manufacturing involves not more than three (3) operators; and the character of such manufacturing does not create any adverse effect beyond the area occupied for such use; specifically excluded are automobile, boat and farm implement sales and food stores involving the dressing or killing of animals or fowl.
 20. Tailor dressmaking and millinery shops.
 21. Telephone and telegraph offices, excluding assemblage operations and switching stations.
 22. Commercial recreation facilities, provided that such facilities are enclosed and are for the use of the occupants of the principal building or buildings.
 23. Commercial hotels, motels and motor inns providing lodging and related food and beverage service and convention facilities.
- b. Not less than seventy-five (75) percent of the net rentable area of any building over forty (40) feet in height intended for human occupancy in this district shall be used for the uses described in subparagraph (a) (1) of this Section 895.1.

895.2 Application Requirements All applications for approval for zoning under this zoning district shall consist of the following:

- a. **Site analysis.** A site analysis and topographic map at an appropriate scale which shall include information on significant man-made and natural features, including trees, and features to be retained, moved or altered.
- b. **Site plan.** A site plan at an appropriate scale with accompanying supporting information which shall include information on proposed improvements including internal circulation and parking,

open spaces, grading, drainage and amenities.

- c. Legal description. A legal description of the property and a plat of the property showing abutting property owners and the zoning of abutting properties.
- d. Project impact. A written statement prepared by, or based upon information from, a qualified person of the impact the project will have upon traffic, vehicle parking, fire department vehicle access, and any other concern deemed appropriate by the Zoning Administrator.
- e. Architectural design. Scaled elevation drawings of proposed structures and information on building materials, colors, and other items affecting exterior appearances.
- f. Other information. Such other information as may reasonably be required by the Zoning Administrator.

895.3 If for any reason the development and use of the property approved in accordance with section 895.2 cannot be accomplished, such development and use and the plans therefore shall not be substantially altered, changed or varied except after approval by the Roswell City Council.

895.4 All OCMS districts will be restricted to be within the mixed-use area and any office-professional or commercial area as delineated on the Future Land Use Plan 2010, as amended, or any lot or tract currently zoned C-3 (Highway Commercial), O-P (Office-Professional) or I-1 (Light Industrial).

895.5 Off-street automobile parking shall be provided on the lot. A parking plan shall be submitted to the Zoning Administrator. No more than a maximum of one (1) level of structures parking above undisturbed grade level shall be permitted without the approval of the Roswell Mayor and City Council. The maximum height of any above grade parking surface shall be no greater than ten (10) feet above undisturbed grade level without the approval of the Roswell Mayor and City Council.

The Zoning Administrator shall review the proposed parking plan with the city engineer to ensure it conformance with all applicable provisions of the Code of Ordinances. Parking plans shall provide for a minimum of one (1) parking space for each two hundred and fifty (250) square feet of net rentable area. Hotel uses shall provide one (1) parking space for each guest room, plus one (1) parking space for each two (2) employees on duty, plus one (1) parking space for each one hundred (100) gross square feet of floor area used for customary accessory uses such as recreational facilities, convention rooms, conference rooms or banquet rooms, lounges, restaurants, theaters, personal service establishments and retail shops. Provided, however, for such hotel uses the pool area, guest only health facilities and kitchen facilities are excluded. A lesser minimum required number of parking spaces for any project may be authorized only upon approval by the Roswell Mayor and City Council.

Drives and accesses will be designed so as to enter and exit onto roads which are either dedicated for public use or roads which are built to the City of Roswell standards and are maintained by the property owner and are connected to roads dedicated to public use. Parking shall be prohibited on access drives between such roads and the parking lots. No access from a parking lot directly to a residential street shall be permitted. Parking shall be provided with a minimum of two (2) vehicular access points to a road dedicated for public use or roads which are built to the City of Roswell standards and are maintained by the property owner and are connected to roads dedicated to public use.

895.6 A buffer strip of a minimum of sixty (60) feet shall be provided along all property lines abutting

a residential zoning district. A buffer strip along all side and rear lot lines of a minimum of twenty-five (25) feet shall be provided along all perimeter property lines as established by the zoning petition. It shall not be a violation of any required buffer to locate a roadway, water retention area or utility service easement within said buffers, so long as a roadway, water retention area or utility easement is shown and included on the site plan which was filed as a part of any zoning application hereunder. Areas disturbed for roadways, water retention areas or utility service easements within said buffers shall be landscaped or screened upon completion of the improvements. Any structure located less than ninety-five (95) feet from any property line abutting a residential zoning district shall be shielded from view by the use of an earthen berm or embankment built to the uppermost level of said structure except where topography or other conditions make said construction impractical.

Variances from this requirement shall be granted at the discretion of the Zoning Administrator after review and recommendation from the city engineer to carry out practical application of the spirit and intent of this Ordinance. Such berm or embankment shall be landscaped to control erosion and to provide additional visual screening for any structural element extending above such berm or embankment. Any such exposed structural element shall be of a color compatible with the surrounding natural environment.

895.7 No sign shall be higher than the first floor of any building permitted in this district.

895.8

- a. The construction of any building or structure within this district shall meet the following restrictions and fire prevention requirements if any floor surface intended for human occupancy is located more than forty (40) feet above the lowest level of fire department vehicle access:
1.
 - i. Reasonable accessibility as determined by the fire chief or his designated representative shall be provided to all buildings and around all buildings for fire fighting and rescue equipment, including ladder and snorkel trucks.
 - ii. Minimum turning radius shall be fifty (50) feet. Minimum width of access fire lanes, excluding parking, shall be twenty (20) feet. Fire lanes shall be built to meet city street pavement specifications. Fire lanes will be kept open at all times unless authorized in written form by the chief of the fire department and/or his designated representative.
 - iii. Accessibility for fire fighting equipment shall be maintained throughout all stages of construction.
 2. All mechanical and electrical systems shall be approved and installed in accordance with approved plans and specifications and shall be tested and proved to be in proper working condition to the satisfaction of the Zoning Administrator before issuance of a certificate of occupancy.
 4. No activity shall be permitted in the building and/or on the roof which violates the requirements and standards of radiation protection regulations of the state or Federal Government, and no electrical disturbances resulting from radio or television transmission shall be tolerated which affect adversely the operation at

any point of any equipment other than that of the creator of such disturbance. No equipment or structure of any type shall be placed on the roof of any building without prior written authorization of the Zoning Administrator. No freestanding transmission towers shall be allowed.

- b. The construction of any building or structure within this district shall also meet the following restrictions and fire preventive requirements if any floor structure intended for human occupancy is located more than forty (40) feet but less than seventy five (75) feet above the lowest level of fire department vehicle access.
1. Such building shall be provided with an approved automatic sprinkler system in accordance with Section 506.10 of the Standard Building Code of the Southern Building Code Congress International, Inc., 1982 Edition, as amended.
 2. All buildings or structures shall be constructed according to the Standard Building Code of the Southern Building Code Congress International, Inc., 1982 Edition, as amended, Section 506.2 - Smoke Detection Systems; Section 506.3 - Alarm and Communication Systems; Section 506.4 - Central Control Station; Section 506.5 - Smoke Control; Section 506.6 - Elevators; Section 506.7 - Standby Power and Light; and Section 506.8 - Exits.
 3. Alternate methods of construction as outlined in Section 506.11 of the Standard Building Code of the Southern Building Code Congress International, Inc., 1982 Edition, as amended, may be authorized by the Zoning Administrator upon a written recommendation of such by the fire marshal and approved by the Fire Chief.
 4.
 - i. Approved standpipe systems shall be installed in all structures exceeding three (3) stories or forty (40) feet in height.
 - ii. All standpipe systems shall be constructed in accordance with the National Fire Protection Association Standard 14 Standpipe and Hose Systems, dated 1980, as amended.
- c. The construction of any building or structure within this district shall meet the restrictions and fire preventative requirements otherwise set forth in the Standard Building Code of the Southern Building Code Congress International, Inc., 1982 Edition, as amended, if any floor surface intended for human occupancy is located seventy-five (75) feet or more above the lowest level of fire department vehicle access.

895.9 No multi-story building having a height greater than twenty-five (25) feet will be permitted closer to the public right-of-way of a major street than two hundred and fifty (250) feet except that multi-story buildings may be located no less than forty (40) feet from the right-of-way of Georgia 400, a limited access highway.

No multi-story building having a height greater than twenty-five (25) feet will be permitted closer to the public right-of-way of a minor street than one hundred (100) feet. Private easements, private ways and private roads shall have reasonable building setbacks as required and approved by the Zoning Administrator.

Section 900.9

1. The construction of any building or structure within this district shall meet the following restrictions and fire preventive requirements if any floor surface intended for human occupancy is located more than forty (40) feet above the lowest level of fire department vehicle access:
 - a. Reasonable accessibility as determined by the fire chief or his designated representative shall be provided to all buildings and around all buildings for fire fighting and rescue equipment, including ladder and snorkel trucks.
 - b. Minimum turning radius shall be fifty (50) feet. Minimum width of access fire lanes, excluding parking shall be twenty (20) feet. Fire lanes shall be built to meet city street pavement specifications. Fire lanes will be kept open at all times unless authorized in written form by the Chief of the Fire Department and/or his designated representative.
 - c. Accessibility for fire fighting equipment shall be maintained throughout all stages of construction.

2. a. No activity shall be permitted in the building and/or on the roof which violated the requirements and standards of radiation protection regulations of the State or Federal Government, and no electrical disturbances resulting from radio or television transmission shall be tolerated which affect adversely the operation at any point of any equipment other than that of the creator of such disturbance, except for emergency services only. No equipment or structure of any type shall be placed on the roof of any building without the prior written authorization of the Zoning Administrator. No freestanding transmission towers shall be allowed.

MICHAEL K. MCGUIRE
Director



JERE WOOD
Mayor

BILL JOHNSON
City Administrator

City of Roswell

COMMUNITY DEVELOPMENT DEPARTMENT

May 25, 1999

Mr. Steven J. Maxwell
Maxwell Properties
1000 Holcomb Woods Parkway
Suite 322
Roswell, Georgia 30076

Subject: Rezoning petition RZ99-11, Land Lot 233, Ga. Highway 120
C-2 (Neighborhood Commercial) to C-3 (Highway Commercial)
Shopping Center

Dear Mr. Maxwell:

Please be advised the Roswell Mayor and City Council approved the above referenced rezoning petition at the May 10, 1999 public hearing with the following conditions:

1. The owner/developer shall dedicate sufficient right-of-way to the City of Roswell along the total property frontage along Marietta Highway as required by the City Engineer. This right-of-way shall be submitted to the Zoning Director prior to the issuance of a development permit.
2. The developer shall install detention facilities for the subject property as required by the Engineering Division Manager.
3. All outdoor lighting for the subject property shall be high pressure sodium except period lighting along Georgia Highway 120 and storefronts and shall be installed so as to prevent direct illumination of adjacent properties.
4. The subject property shall be developed in substantial accordance with the applicants' site plan entitled "Zoning Plan - Proposed Development Maxwell Properties Incorporated" by Paulson Mitchell, Incorporated stamped "Received April 28, 1999, City of Roswell Community Development Department."

MASTER FILE

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Mr. Steven Maxwell
May 25, 1999
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5. The subject property shall be limited to two curb cuts. The location of each curb cut shall be determined by the Georgia Department of Transportation and the City of Roswell Department of Transportation.
6. A rolling undulating raised earthen berm shall be installed and maintained along the entire road frontage as required by the Zoning Director.
7. Acceleration/deceleration lanes shall be installed as required by the Georgia Department of Transportation and the City of Roswell Department of Transportation.
8. A dense evergreen screen as approved by the Zoning Director shall be planted along the eastern and southerly property lines for a distance of one hundred fifty (150) feet from the southeastern corner of the property.
9. The following uses shall be prohibited on the subject property:
 - A. Agricultural implement sales and service.
 - B. Automobile repair garages (including automobile repair and fender shops, businesses servicing motor vehicles, such a quick lube oil change, muffler and brake shops and businesses selling or dispensing motor oil, gasoline or diesel fuel); except that one retail tire, sales and service store (with incidental services) may be located on the west side of the anchor tenant as shown on the attached Exhibit A, so long as any service bays be aimed away from Highway 120 toward the rear of the Shopping Center Property (and toward the adjoining sewer treatment plant property) and so long as the occupant thereof is required to store and transport all automotive fluids in accordance with all federal, state, and local laws, rules and regulations and provided that such occupant is prohibited from storing junk or abandoned vehicles on the property. Exterior construction materials to be primarily brick.
 - C. Automobile sales, new and used.
 - D. Automobile washing establishments.
 - E. Boat sales, new and used.
 - F. Funeral homes and mortuaries or any establishment selling caskets, head stones of other services, products or merchandise related to the funeral burial business.
 - G. Motels.
 - H. Outdoor advertising signs, other than those identifying tenants at the Shopping Center provided such signage otherwise complies with the ordinances and laws of the City of Roswell.
 - I. Public works and public utility facilities such as distribution lines, transformer stations, transmission lines and towers, water tanks and towers, pumping stations, telephone exchanges, and service or storage yards.
 - J. Radio and television stations, studios, offices and radio, television and telephone transmission towers.

MASTER FILE

- K. Any drive-in establishment, except that no more than two drive through facilities exist which serve as a dry cleaning establishment, coffee shop, where the primary business is the sale of coffee and coffee products, or a bank.
- L. No free standing food establishments, provided that any in-line restaurant shall not be permitted to have outdoor play equipment, including children's play equipment.
- M. Theaters, indoor and drive-ins.
- N. Service stations and/or convenience stores.
- O. Plumbing shops including open storage and fabrication on the premises.
- P. Business colleges, barber and beauty colleges and trade schools, but not prohibiting barber shops and beauty salons, art schools and dance studios.
- Q. Churches, temples, other houses of worship and associated buildings.
- R. Hospitals, nursing and rest homes.
- S. Billiard room, pool room or game room.
- T. Ice skating or roller rink.
- U. Bus terminals and taxi cab stands.
- V. Off street parking lots and parking garages.
- W. Nightclub and discotheque.
- X. Bowling alley.
- Y. Arcade, amusement center, outdoor circus or amusement park or other entertainment facility.
- Z. Automobile leasing, rental facilities or showroom or display establishment for used or new cars.
- AA. Junk yard or any business for the dumping or disposing of garbage or refuse.
- AB. Pawn shop, swap shop, flea market selling merchandise that is used, damaged or discontinued, auction or bankruptcy sale (other than pursuant to a court order); provided that stores that use the term 'outlet,' or similar term in their name or advertising may be located within the property so long as the property is not used primarily as an outlet mall or outlet shopping center.
- AC. Recycling facility or stock yard.
- AD. Shooting gallery.
- AE. Massage parlor, tattoo and lingerie shops.
- AF. Off track betting facility, bingo or similar games of chance, but lottery tickets and other items, only sold in retail establishments may be sold as an incidental part of business.
- AG. Any residential use, including but not limited to, living quarters, sleeping apartments or lodging rooms.
- AH. Animal shelter (except as an incidental part of a pet supply store).
- AI. Governmental service offices such as, without limitation, motor vehicle offices and social security offices, unemployment agencies, and a full-service governmental post office; except that such services may be offered as an incidental part of the major tenant's business so long as such services do not

involve outside testing or training facilities or the storage of any governmental vehicles; provided further that any agreement preventing any such incidental governmental services shall require that governmental vehicles be parked behind the improvements on the property.

AJ. Adult stores and adult book stores or any other establishment in which the purpose includes the display or sale of pornographic or obscene materials.

AK. Auto leasing facilities or showroom or display establishments for new or used cars to be prohibited.

AL. Newspaper printing or newspaper distribution center would be prohibited

AM. Auto leasings or rentals are to be prohibited.

10. A development permit shall not be issued for the improvement of the subject property which is inconsistent with the Settlement Agreement to litigation, concerning RZ97-26 approved by the City Council on May 10, 1999.

Any deed restrictions specified in the Settlement Agreement shall be approved by the City Attorney and recorded with the Clerk of Superior Court of Fulton County, Georgia, prior to any development permit of land disturbance permit being issued.

11. A natural undisturbed buffer shall be maintained at the southeastern property corner upon the triangular tract boundary by the east and south property lines of the subject property and a line drawn from a point 50 feet north of the southeastern corner to the south property line at a point located at the most western point of the lot within the Inverness subdivision.
12. Intersection improvements as required by the Georgia Department of Transportation and the Roswell Department of Transportation shall be installed at the intersection of Coleman Road and Georgia Highway 120.
13. Neon or interior illuminated signage shall be prohibited. Additionally neon tubing lighting shall be prohibited. Exterior signage shall be externally illuminated as approved by the Roswell Design Review Board. Halo signage shall be allowed.
14. All free standing signage shall be monument style with the primary building material consisting of stucco or brick products as approved by the Roswell Design Review Board.
15. No service deliveries or pick-ups shall occur between the hours of 11 p.m. and 7 a.m.
16. Architectural elevations shall be approved by the Community Development Director.

Mr. Steven Maxwell

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17. Exterior lighting along the right-of-way shall be period lighting similar to lighting existing on Canton Street.
18. Storm water detention shall not be allowed within a required buffer.
19. Where it is determined by the Zoning Director that soil erosion has significantly affected other property owners, the developer shall reduce such hazard, damage, unsightliness or other effect from soil erosion where the Zoning Director has determined such hazard, damage, unsightliness or other effect has been caused by the development of this subject property.
20. An application for compliance with the Metropolitan River Protection Act shall be filed for any proposed land disturbance of land within the river corridor.
21. The City's Transportation Department and Engineering Division shall take all steps necessary in intersection and roadway design to limit, if not eliminate, any adverse impact of this development on Coleman Road.
22. The building shown in the above referenced site plan, which is attached to the West Side of the Kroger store location, shall be a separate retail entity, which is not a part of the Kroger store location.
23. The City will fund the difference between normal sidewalk finish and above-standard finish, if the City requires above-standard finishes.

For clarification, the above conditions incorporate all other terms of the Settlement Agreement and, to the extent there is any conflict in language between the conditions and the Settlement Agreement, the conditions shall control.

If you should have any questions, please feel free to contact me at (770) 641-3780.

Sincerely,

CITY OF ROSWELL



Susan Canon
Zoning Director

SC/jd