

**CITY OF SUWANEE
REZONING ANALYSIS**

CASE NUMBER: **RZ-2007-011 & SUP-2007-005**
REQUEST: *RZ-2007-011:* C-2A (SPECIAL COMMERCIAL DISTRICT- ALCOHOLIC BEVERAGE SALES) TO C-2A CHANGE OF CONDITIONS
SUP-2007-005: FOR AN AUTOMOTIVE SERVICE FACILITY
LOCATION: OLD PEACHTREE ROAD AND HORIZON DRIVE
TAX ID NUMBER: 7-151-012
ACREAGE: 7.75 ACRES
PROPOSED DEVELOPMENT: OFFICE/RETAIL CENTER

APPLICANT: JOHN KAUFFMAN
KAUFFMAN TIRE, INC.
2832 ANVIL BLOCK ROAD
ELLENWOOD, GA 30294

OWNER: JOE BAJJANI
HORIZON DEVELOPMENT, LLC
756 GREEN STREET NE, SUITE 100
GAINESVILLE, GA 30501

CONTACT: JOE BAJJANI PHONE: 770-534-1101

RECOMMENDATION: *RZ-2007-011:* **DENIAL**
SUP-2007-005: **DENIAL**

PROJECT DATA:

The applicant seeks a change in zoning conditions and a special use permit on an approximately 7.75 acre tract in order to allow for an automotive service / repair facility (a tire shop) in the southeast corner of an office/retail development. The applicant proposes to operate an approximately 6,700 square foot automotive service center directly on the corner of Old Peachtree Road and Horizon Drive. The subject property was rezoned to the Special Commercial District – Alcoholic Beverage Sales (C-2A) in 2006 per RZ-2006-002 with two conditions of approval, one of which prohibited vehicular sales/services. The applicant seeks to relocate the tire store from an existing location directly across the street, in the former Publix shopping center. From the proposed site plan it appears that overhead doors would face Old Peachtree Road.

The C-2A District does not permit automotive sales or service / repair use without a Special Use Permit. The Special Use Permit process was created by the City Council in 2001 to better handle certain land uses. The SUP process allows the Council to review certain proposals in the context of their use and take into consideration the surrounding area and other relevant factors.

ZONING HISTORY:

The subject property was rezoned in March of 2006 from Light Manufacturing (M-1) and General Commercial (C-2) to Special Commercial District – Alcoholic Beverage Sales (C-2A) for a proposed commercial / retail center.

The conditions were as follows:

1. All buildings shall be designed and constructed in accordance with the City Architectural Standards.
2. No vehicular sales or repair / service uses shall be allowed.

ANALYSIS:

The subject property totals approximately 7.75 acres. Currently, the site has an approved development permit and has been cleared and graded. If the requests are approved, the development permit should not be impacted. The existing business would relocate from the shopping center across Horizon Drive to the proposed office / retail center. The proposed 6,700 square foot automotive service / repair facility would be located in the southeast corner of the site, at the intersection of Horizon Drive and Old Peachtree Road. Access is available via a right-in/right-out drive off Horizon Drive and a full access drive off Old Peachtree Road. The site is capable of supporting an automotive service establishment.

The site is located at the intersection of Old Peachtree Road and Horizon Drive. The surrounding area consists of commercial, retail, and light industrial uses. To the south of the subject property, across Horizon Drive, is a shopping center (zoned C-2) with a vacant anchor space. The applicant currently operates in this shopping center. To the west of the property, across Old Peachtree Road, is an undeveloped commercially zoned parcel (C-2), several hotels (C-3) and small commercial center anchored by a hardware store (C-2). Behind the undeveloped parcel, facing Lawrenceville-Suwanee Road is a gas station, a restaurant and a fast food restaurant. To the north and east of the subject property, is an industrial location (M-1) and an office building in unincorporated Gwinnett County.

The City's Future Land Use Plan recommends commercial / retail uses for this site. The proposed use of a portion of the site for automotive service is consistent with this designation. The proposed rezoning would allow for a special use that is within the parameters of the current zoning of the site.

In 2004, the City approved an amendment to the comprehensive plan which recommended steering automotive related uses away from more residential areas and towards more heavily commercial areas, such as the I-85 Business District. However, the proposed special use is inconsistent with the 2006 rezoning of the property, including a condition to prohibit vehicular sales and repair/service uses. The rezoning occurred more recently than the comprehensive plan amendment and is site specific; therefore, vehicular service and repair is not an appropriate use for the property.

In conclusion, the applicant wishes to relocate an existing business from an unanchored shopping center to a new location. Although the requested rezoning (change of conditions) with a Special

Use Permit to allow for an automotive service is consistent with the Comprehensive Plan and existing uses in the area, the more recent rezoning of the property including a prohibition of auto sales and services is applicable statement against allowing such uses on the property. As such, the Planning Department recommends **DENIAL** of both **RZ-2007-011** and **SUP-2007-005**.

Planning Department Recommended Conditions

RZ-2007-011

The Planning Department recommends denial of the change of conditions; however, should the Council choose to approve the request, the following changes are recommended:

- 1) All buildings shall be designed and constructed in accordance with the City Architectural Standards.
- 2) No vehicular sales ~~or repair / service~~ uses shall be allowed.

SUP-2007-005

Staff recommends denial of the proposed change of conditions. As such, the Special Use Permit should also be denied. If the Council chooses to approve the change of conditions and the Special Use permit then the following conditions of approval are recommended:

- 1) The special use permit shall be limited to uses associated with the sales and installation of automobile tires. Vehicular service/repair uses (such as oil changes, etc.) shall be allowed only as accessory uses.
- 2) Outdoor storage shall be strictly prohibited. This includes but is not limited to retail display of tires.
- 3) No more than two temporary banners shall be provided at a given time, in accordance with zoning requirements. No banners, flags, inflatable devices or other such temporary advertising devices shall be allowed.

Standards Governing Exercise of Zoning Power

Pursuant to Section 2006 of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the unrestricted use of property and shall govern the exercise of the zoning power therewith.

- A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

The zoning proposal does not change the proposed uses or intensity of development for the project. As such the proposal should permit uses that are suitable in view of the use and development of adjacent and nearby property.

- B. Whether the zoning proposal will adversely affect the existing uses or usability of adjacent or nearby property;

The zoning proposal should not adversely affect the existing use or usability of adjacent or nearby property.

- C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The subject property has a reasonable economic use as currently zoned.

- D. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;

The proposed changes of condition and special use permit should not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The proposed automotive service / repair facility is presently located across Horizon Drive.

- E. Whether the zoning proposal is in conformity with the policy and intent of the Land Use Plan;

The Future Land Use plan calls for commercial / retail uses. An office / retail center is currently being constructed on the site. The proposed rezoning will allow for a special use that is within the parameters of the current zoning of the site.

- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

The site was rezoned in 2006 with a condition to specifically prohibit vehicular sales and service/repair.

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF CITY OF SUWANEE, GEORGIA

APPLICANT INFORMATION*

OWNER INFORMATION*

NAME: Horizon Development LLC
 ADDRESS: 756 Green St. NE
Suite 100
Linesville, GA 30501
 PHONE: 770-534-1101

NAME: Horizon Development LLC
Joe Bajjani
 ADDRESS: 756 Green St NE
Suite 100
Gainesville, GA 30501
 PHONE: 770-534-1101

CONTACT PERSON:
 PHONE: Joe Bajjani

PROPERTY INFORMATION

PRESENT ZONING DISTRICT(S): _____ REQUESTED ZONING C2 with SUP
 DISTRICT 7th
 PROPOSED
 DEVELOPMENT: outparcel @ Horizon ~~Crossings~~ Corners
 TAX PARCEL
 NUMBER(S): B7151 012
 ADDRESS OF
 PROPERTY: 80 Horizon Drive Suwanee, GA
 TOTAL ACREAGE: 7.69 PUBLIC ROADWAY
 ACCESS: Old Peachtree Road + Horizon Dr,

FOR RESIDENTIAL DEVELOPMENT:

FOR NON-RESIDENTIAL DEVELOPMENT:

NO. OF LOTS/DWELLING UNITS: _____

NO. OF

DWELLING UNIT SIZE (SQ. FT.): _____

BUILDINGS/UNITS: 1

TOTAL GROSS SQUARE FEET: 16680

CERTIFICATIONS

I hereby certify that the above and attached information is true and correct. I am also aware that pursuant to Section 2004 no reapplication on the same land which has been denied by the City Council shall be acted upon within 12 months from the date of last action unless said time period is waived by the Council. In no case shall a reapplication be acted upon in less than 6 months from the date of last action by the Council. I am also aware that pursuant to Section 2003 of the Zoning Ordinance any and all conditions which may be attached to the property shall be binding on the property and all

SPECIAL USE PERMIT APPLICATION

APPLICANT INFORMATION*

OWNER INFORMATION*

NAME: Horizon Development LLC
RLB Friendship LLC

NAME: Joe Bajjani

ADDRESS: 756 Green St NE
Suite 100
Gainesville, GA 30501

ADDRESS: 756 Green St NE
Suite 100
Gainesville, GA. 30501

PHONE: 770-534-1101

PHONE: 770-534-1101

CONTACT PERSON: Joe Bajjani

PHONE: 770-534-1101

PROPERTY INFORMATION

PRESENT ZONING DISTRICT(S): 74y REQUESTED ZONING DISTRICT N/A

PROPOSED DEVELOPMENT: Kauffman Tire

TAX PARCEL NUMBER(S): R7151 012

ADDRESS OF PROPERTY: at 80 Horizon Drive, Suwanee, GA.

TOTAL ACREAGE: 7.69 PUBLIC ROADWAY ACCESS: Horizon Drive

FOR RESIDENTIAL DEVELOPMENT:

FOR NON-RESIDENTIAL DEVELOPMENT:

NO. OF LOTS/DWELLING UNITS: _____

NO. OF BUILDINGS/UNITS: 1

DWELLING UNIT SIZE (SQ. FT.): _____

TOTAL GROSS SQUARE FEET: _____

CERTIFICATIONS

I hereby certify that the above and attached information is true and correct. I am also aware that no reapplication on the same land which has been denied by the City Council shall be acted upon within 12 months from the date of last action unless said time period is waived by the Council. In no case shall a reapplication be acted upon in less than 6 months from the date of last action by the Council. I am also aware that any and all conditions which may be attached to the property shall be binding on the property and all subsequent owners.

[Signature]
Signature of Applicant*
Joe Bajjani
Print Name*
Dina M Huber
Signature of Notary
Date 10/15/07
Date 10/15/07

[Signature]
Signature of Owner*
Joe Bajjani
Print Name*
Dina M Huber
Signature of Notary
Date 10/15/07
Date 10/15/07

* If Additional Applicant or Owner Information is Needed Please Complete Additional Application Form(s)

SUP-2007-005

November 12, 2007

Josh Campbell
City of Suwanee
Permit / Rezoning Department

SUBJECT: RE-ZONING FOR OUTPARCEL AT 80 HORIZON DRIVE

Dear Josh Campbell,

Please find enclosed the re-zoning application requested to allow Kauffman in the out parcel to be included with our original SUP application.

While our hope was to place a bank or something similar in the out parcel, initial interest by banks has changed. We believe Kauffman being an upscale service center with high operating standards, sets it apart from others and would make an appropriate addition.

Please note the following:

- Kauffman has been adversely affected at their current location.
- High architectural standards will apply similar to shopping center.
- Not in a nearby residential area.
- Does not create traffic issues.
- Currently operates directly across the street.
- All enclosed facility, eliminating potential of anything that may create clutter.

We thank you in advance for your assistance and are pleased to continue working towards keeping Suwanee an excellent place to live and work.

Please do not hesitate to call if you have any questions or comments.

Sincerely,



Joe Bajjani
Horizon Development LLC

770-534-1101

**EDMUND NIGRI
& ASSOCIATES, INC.**

September 20, 2007

Original LOI June 13, 2007
Revised LOI June 26, 2007
Revised LOI July 27, 2007
Revised LOI Aug. 16, 2007
Revised LOI Aug. 27, 2007
Revised LOI Aug. 29, 2007
Revised LOI Aug. 30, 2007
Revised LOI Sept. 20, 2007

Mr. Michael Wendt
Wendt Capital Co.
7 Piedmont Center
Suite 300
Atlanta, GA 30305

RE: Letter of Intent (LOI) – BUILD TO SUIT

Site Location: Corner Out-Parcel – Horizon Park (See Exhibit “A” – Project Plan)

Lessee: Kauffman Tire, Inc.

Lessor: Horizon Development, LLC

Location of

**Shopping Center: On SEC of Old Peachtree Rd. and Horizon Dr.
Suwanee, Georgia**

Dear Michael,

I have shown below, the terms and conditions upon which the Lessor and Lessee have agreed to enter into a Lease.

Lessee:

Mr. John H. Kauffman
President
Kauffman Tire, Inc.
2832 Anvil Block Road
Ellenwood, GA 30294
TEL: 404-762-4944
FAX: 404-762-4954
EMAIL: jkauffman@kauffmantire.com

Lessor:

Mr. Joe Bajjani
Managing Member
Horizon Development, LLC
756 Green Street NE, Suite 100
Gainesville, GA 30501
TEL: 770-945-2044
FAX: 770-945-2054
EMAIL: jbajjani@bellsouth.net

COMMERCIAL REAL ESTATE

Size of Out-Parcel: (See Exhibit "B" – Site Plan)

Primary Lease Term: Twenty (20) years.

Primary Lease Term Rental:	<u>Years</u>	<u>Annual</u>	<u>Monthly</u>	<u>P.S.F.</u> (not to be used for rent calculations).
	1-5	165,296	13,755	24.71
	6-10	180,168	15,014	26.93
	11-15	196,380	16,365	29.35
	16-20	214,056	17,838	32.00

Options: Four (4) – five (5) year option periods.

Option Periods:	<u>Years</u>	<u>Annual</u>	<u>Monthly</u>	<u>P.S.F.</u> (not to be used for rent calculations).
	21-25	233,316	19,443	34.86
	26-30	254,316	21,193	38.01
	31-35	277,200	23,100	41.43
	36-40	302,148	25,179	45.16

Lessee's Costs Cap:

Building \$625,000

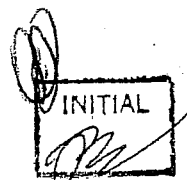
Signage

Building – 1 @ 5,000 each = \$ 5,000
 Pylon Sign 10,000
 Directional Signs – 3@250 each= 750

15,750

Drawings

Civil (1) n/a
 Architectural 17,000



Landscape & Irrigation (1)	n/a	
Reimbursable (Est.)	2,000	19,000
Attorney for Lessee (Lease & Title) (Est.)	15,000	
Edmund Nigri & Associates, Inc. (3) (Leasing Fee)	<u>90,000</u>	
Total (2)		\$ 764,750

- (1) Lessor's civil engineer shall prepare the Civil, Landscape and Irrigation drawings for permitting and Lessee's review and approval.
- (2) Lessee shall pay the difference between the above cost and the actual cost, if such cost increase the Construction Budget. Lessee shall pay such increase to Lessor, within thirty (30) days following the date Lessee receives an invoice from the Lessor, or Lessor, subject to Lessee's approval, may amortize the additional cost over the Primary Term of the Lease. In the event the Construction Budget is lower, then Lessee shall be entitled to an abatement of rent equal to the lesser amount or Lessor, subject to Lessee's approval, may reduce the rental over the Primary Term accordingly.
- (3) Payable: ½ upon Lease execution
½ upon Lessee opening for business, or upon payment of the first months rent, which ever is earlier

Construction:

Lessor shall construct a building for the operation of a Kauffman Tire facility substantially in accordance with its standard prototypical building.

Building Size: 54' x 126'
6,690' Sq. Ft. +

(See Exhibit "B" - Site Plan)

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& ASSOCIATES, INC.

INITIAL
[Signature]

Construction Budget: (See Exhibit "C" – Lessor To Provide)

Grading: Lessor shall grade the out-parcel according to Civil Drawings which drawings shall have been approved by the Lessor. Lessor shall provide compaction at 95% using the standard proctor method and showing that the soil for the premises is capable of supporting a load of not less than 2,500 p.s.i. Formal specifications regarding compaction tests should be included in the Lease.

Taxes: Lessee pays pro-rata share. (Subject to Lessor making a diligent effort to separate Lessee's premises as a separate tax parcel).

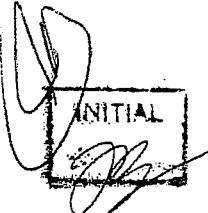
Insurance: Lessee has a blanket insurance policy to cover its own casualty and liability. Lessee will pay, on a pro-rata share basis, for that portion of the Insurance that covers common area liability.

Common Area Maintenance of Lessee's Outparcel: Lessee pays pro-rata share not to exceed more than a 5% increase in any one year. Those items that are to be included in CAM are subject to Lessee's approval.

Estimated Cost of Taxes, CAM and Insurance: Taxes, CAM and Common Area Liability Insurance are estimated by Lessor at \$3.50 P.S.F.

Utilities Paid by Lessee: Lessee shall be responsible for all electric, gas, sewer, water usage fees and sewer taps associated with its operations and construction.

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**Structural
Maintenance:**

Lessor shall be responsible for the structure and exterior of the building; the roof covering and the structural support of the roof system including the deck, walls, floor of the building; and utility lines outside of the exterior walls of the building unless damage or blockage to said lines under or in the building is caused by Lessor's or other tenants' negligence.

**Building
Maintenance:**

Lessee shall be responsible for the interior of the building and all utility lines inside the building except for damage or blockage to utility lines under or in the building caused by Lessor's or other tenants' negligence.

**Percentage
Rent:**

None

Zoning:

Lessor warrants that the property is currently zoned C-2. Lessor, at its cost, shall apply for the Special Use Permits (SUP) as soon as possible.

Plan Approval:

Lessor shall have the right to approve Lessee's Civil and Exterior Architectural drawings as they may affect Lessor's shopping center. Lessee shall have the right to approve Lessor's Civil Drawings for the shopping center (including Lessee's site) as such may affect Lessee's site.

**Lessor's Civil
Drawings:**

Lessor shall deliver the Civil Drawings to Lessee. Lessee shall have ten (10) days to review Lessor's Civil Drawings. Lease will contain more detail.

SUP-2007-005

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& ASSOCIATES, INC.**

INITIAL
[Signature]

**Lessee's
Architectural
Drawings:**

Lessee shall deliver to Lessor, Exterior Architectural Drawings for Lessee's facility within 10 days after Lessor and Lessee have reached approval on Lessor's Civil Drawings for Lessee's site. Lessor shall have 10 days to approve Lessee's Exterior Architectural Drawings. Lease shall contain more detail.

**Maintenance and Access to
Detention, Utilities, Etc.**

Lessor shall provide Lessee with information for the Lease concerning the below items. Some of the provisions to be contained in the Lease shall be:

- 1) Maintenance of common areas, including Curb Cuts and Drives
- 2) Right of Lessee to access Curb Cuts and Drives.
- 3) Right of Lessee to access the Detention Pond and piping thereto.
- 4) Maintenance of the Detention Pond, piping and utilities.
- 5) Sign provisions for building, monument or pylon sign, and directional signs.
- 6) Building material, colors and design (if any).
- 7) Right of Lessee to cross all property and Out-Parcels included in Horizon Park Development.
- 8) Right to access utilities.
- 9) Any CREA/ REA/ DCEA shall be provided by Lessor to Lessee upon execution of the Lease.

Due Diligence Period:

This period shall commence immediately upon the date that Lessor has delivered all relevant information about the project and Lessee's site, such as, but not limited to: Environmental Studies, Soil Test, Survey, and Title Report, and shall expire on the date which is 30 days thereafter. In the event additional soil borings may be required, Lessee will be entitled to an additional ten (10) days extension of the Due Diligence Period. During the Due Diligence Period, Lessee shall conduct its due diligence investigation concerning the Premises. The extent of this due diligence shall be in the sole discretion of Lessee. If Lessee is not satisfied, in Lessee's sole discretion, with the results of its due diligence investigation, Lessee may terminate the Lease by providing written notice of the termination to Lessor within the

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& ASSOCIATES, INC.

INITIAL
[Signature]

Due Diligence period, and neither Lessor nor Lessee will have any further rights or obligations hereunder. Lessor shall provide the documentation relevant to Due Diligence that is in Lessor's possession, to Lessee within five (5) days after execution of the Lease.

Exclusive:

Lessor agrees that Lessee shall have the sole exclusive right to operate a facility for the sale of tires, oil, other lubricants, motor and tire accessories and kindred products, or the operation of an automobile services facility providing oil changes, brake service, performing tune-ups or transmission services or other similar automotive services on such property. Such restriction shall not preclude a gas station, discount auto parts store, department store, or car dealership that's services automobiles or sells automobile products as an incidental part of its business.

Restrictions:

With regards to property that Lessor now owns within a 2 mile radius, Lessor agrees not sell or lease to anyone for the purpose of operating a facility as described in the Exclusive above.

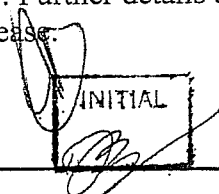
Commission:

- A. Edmund Nigri & Associates, Inc. (ENA) is acting as a representative of the Lessee regarding this transaction. Wendt Capital Co, (WCC) is acting as a representative of the Lessor in this transaction.
- B. Lessor and Lessee each represent to the other that they are not obligated to another real estate broker, sales agent, finder or other intermediary other than ENA and WCC. Each shall indemnify the other regarding any claims arising therefrom.
- C. The Lessor shall pay a Commission to WCC per a separate agreement between Lessor and WCC.

Turnover Date:

The Turnover Date shall be that date in which Lessor delivers Lessee's store substantially completed and with a Certificate of Occupancy from the City of Suwanee. In no event will Lessee be obligated to accept the store in November, December, January or February of any year. Further details as to delivery and acceptance shall be in the Lease.

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& ASSOCIATES, INC.

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Fixturization Period and Rent Commencement:

Lessee shall have thirty (30) days to stock and fixturize its store after the Turnover Date. Lessee shall not be obligated to pay rent or operating expenses during this period. After the expiration of said thirty (30) day period, the Lease, Rent and Operating Expenses shall commence.

TimeLine For Completion of Construction, Payment of Rent, and Real Estate Taxes Commencement Date:

See Exhibit "E"

Signage:

- A. Subject to government approval, Lessee shall be allowed to place, at its expense, directional, monument or pylon signs on the out-parcel at locations to be approved by the Lessor. The location of Lessee's out-parcel signs shall be shown on Lessee's Civil Drawings for Lessor's approval.

- B. In the event Lessee cannot obtain approval from the municipality for its monument or pylon sign, than Lessor agrees that Lessee shall be allowed to place Lessee's sign panels on Lessor's Project Signs. In this event, Lessor agrees that Lessee shall be allowed to have the top sign panel on both sides of each of Lessor's Project Signs. The sign panels shall be no less than 3 feet high and 4 feet wide on Lessor's Project Signs on Horizon Dr. and Old Peachtree Rd. **(See Exhibit "D" – Sign Drawing shall be provided by Lessor prior to execution of the Lease)**

Dumpster:

Lessee will pay for its own dumpster and service. The placement of the container shall be shown on the site plan. The location and placement is subject to Lessor's approval.

Right of First Refusal:

Each time Lessor decides to sell the Leased property, Lessor shall notify Lessee each time Lessor receives a bona fide Sales Contract from an outside party for the purchase of the property (Notification). Along with said Notification, Lessor shall provide Lessee a copy of the Sales Contract and allow Lessee thirty (30) days to purchase the out-parcel under the same terms and conditions as in the Sales Contract attached thereto. Lessor shall be obligated to accept a Sales Contract from the Lessee provided the Lessee's Sales Contract is under the same terms and conditions as the Sales Contract previously provided by Lessor in the Notification. This Right of First Refusal shall terminate if Lessee does not purchase the property, and Lessor sells the property to the specific party that was in the Notification at that time. If such does not occur, then this Right of First Refusal shall remain in effect.

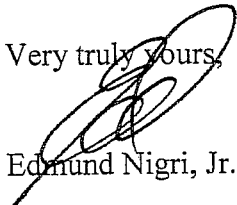
Right of Lessee to Purchase:

Landlord agrees to allow Lessee the right to purchase the property (Land & Building) at anytime after the First Lease Year. The price shall be based upon a seven percent (7 1/4%) capitalization rate of the rental shown on page 2 for years 2 through 5. This shall be considered an Option To Purchase by the Lessee for years 2 through 5 only.

This proposal is intended solely as a preliminary Letter of Intent between the parties. For the protection of both parties, neither Lessor nor Lessee shall be bound by the terms hereof until a mutually acceptable Lease has been fully executed and delivered to both parties.

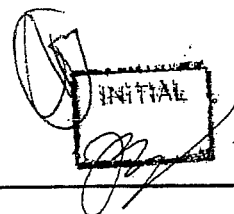
If this Letter of Intent is in agreement with you, please have the Lessor sign both originals in the appropriate space below and return them to me. I shall return one (1) to you after Lessee has signed.

Very truly yours,


Edmund Nigri, Jr.

EN/dq

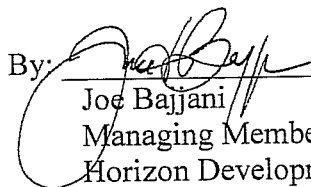
SUP. 2007.005
EDMUND NIGRI
& ASSOCIATES, INC.


INITIAL

cc: John H. Kauffman
Greg Morand
John Weaver

Lessor:

Sworn and agreed to on this
21st day of September, 2007

By: 
Joe Bajjani
Managing Member
Horizon Development, LLC

Lessee:

Sworn and agreed to on this
25 day of Sept, 2007.

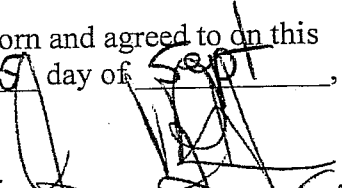
By: 
John H. Kauffman
President CEO
Kauffman Tires, Inc.

Exhibit Schedule

Exhibit "A" – Project Plan

Exhibit "B" - Site Plan

Exhibit "C" – Construction Budget

Exhibit "D" – Sign Drawings – Will be provided by Lessor prior to execution of the Lease.

**Exhibit "E" - TimeLine For Completion of Construction,
Payment of Rent, and Real Estate Taxes
Commencement Date**

The dimensions and size of the Lessee's site shall be shown on the Civil Drawings.
The Survey shall reflect the size that will be shown on the Civil drawings.
It is understood that both Lessor and Lessee shall have to agree upon the Civil Drawings.

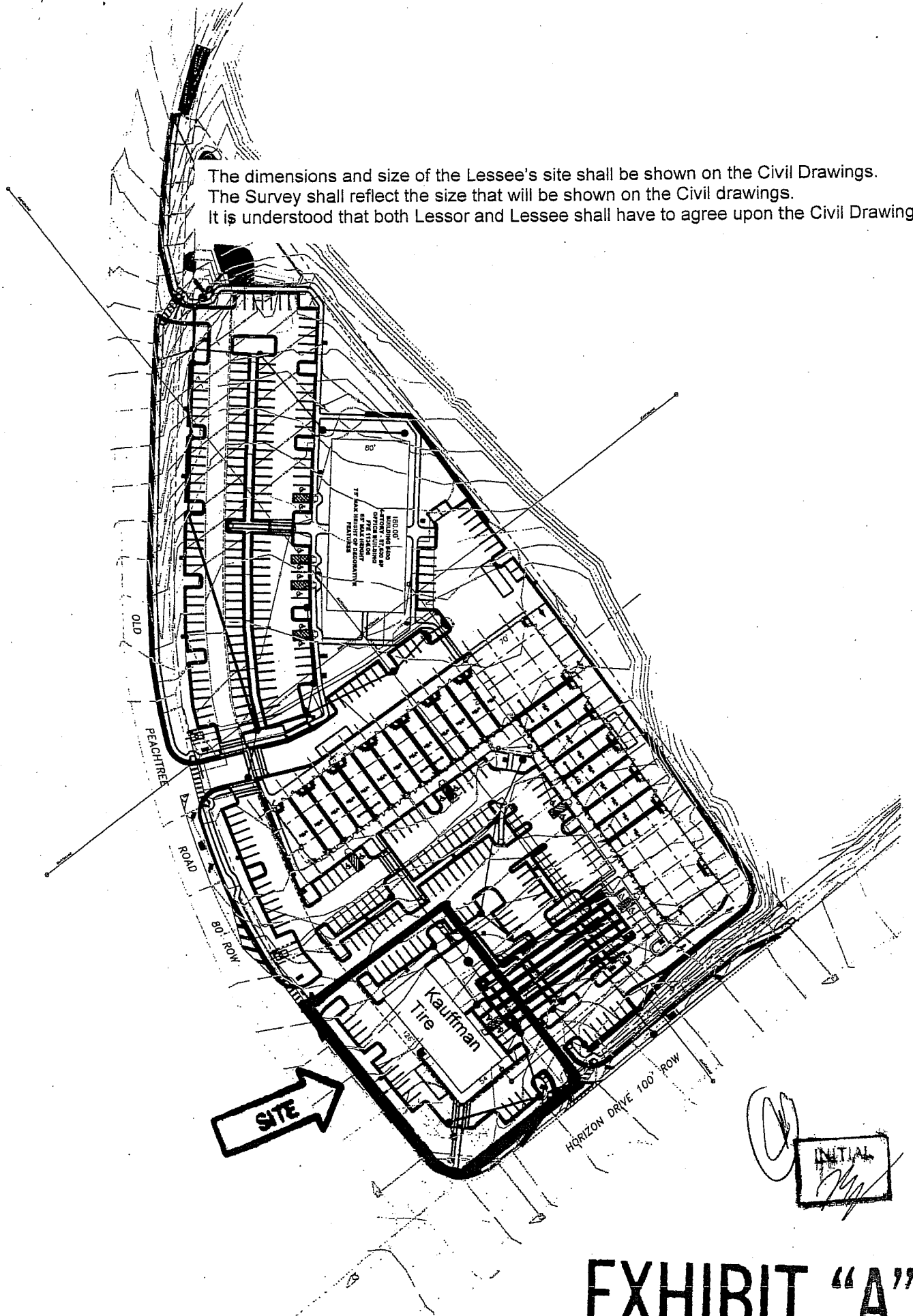
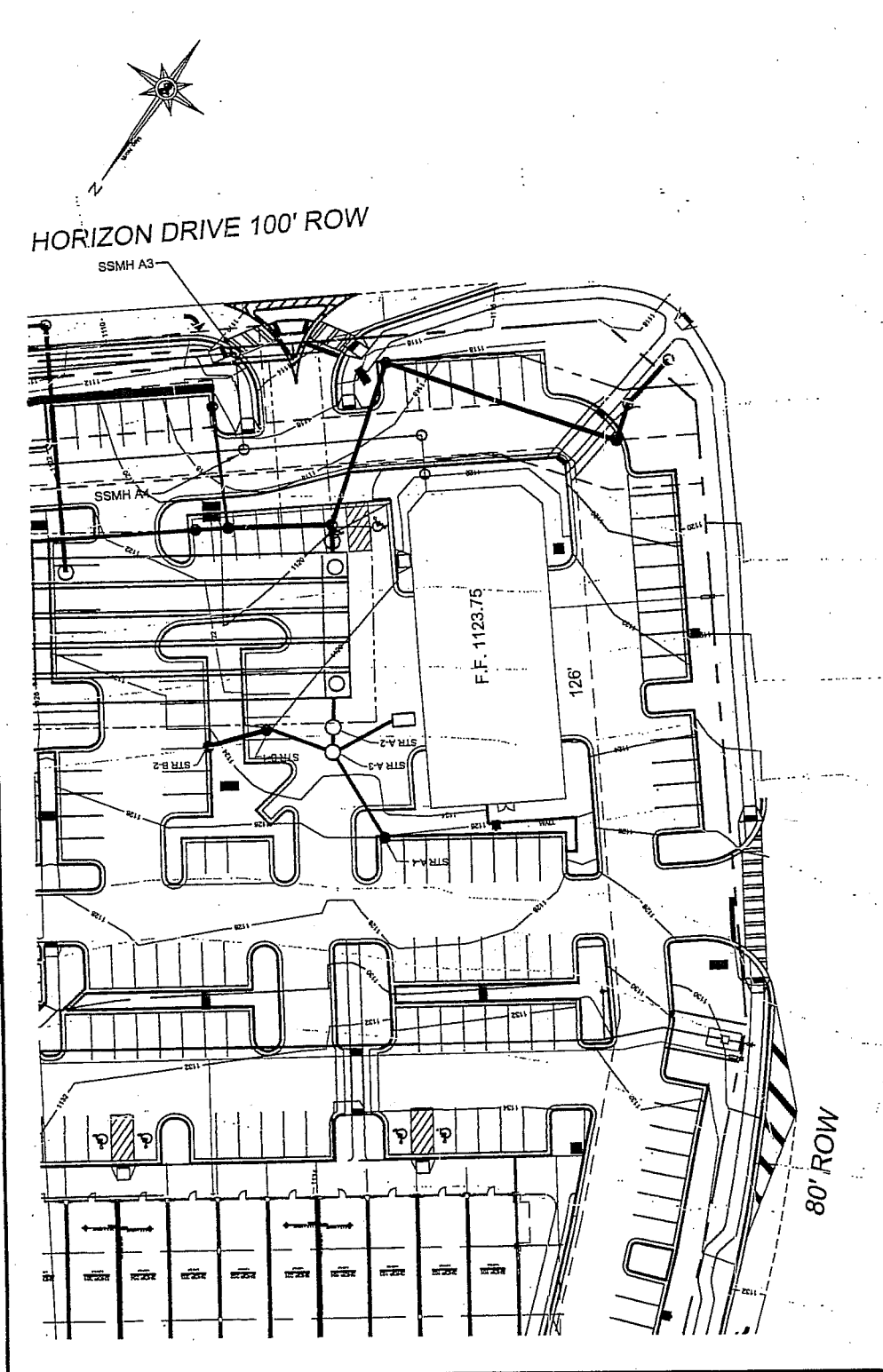


EXHIBIT "A"

SUP. 2001.005

Exhibit "B" consist of two (2) pages. It is understood by the parties that the Site Plan requires further revisions. Some of those revisions have been sent to the Lessor by John Weaver, Project manager for the Lessee. In order to expedite the signing of the LOI by the parties, the Lessor has agreed to incorporate the revisions shown on page 2 of Exhibit "B" into the Civil Drawings. However, it is understood that both the Lessor and Lessee have to agree to the final Civil Drawings.



KAUFFMAN TIRE, INC.	
SUIWANE GEORGIA	COUNTY GWINNETT
SECTION 7th	DATE 07/08
PROJECT 15161	DRAWN BY GWINNETT
SCALE 1"=30'	DATE 07/08
PROPOSED SITE PLAN FOR KAUFFMAN TIRE INC.	
C CROSS ENGINEERING	
CIVIL ENGINEERS P.O. BOX 5186 770-536-0339 GAINESVILLE, GA 30504	

EXHIBIT "B"

SUP. 2007-005

INITIAL
[Signature]

Ed Nigri

From: John Weaver [jweaver@kauffmantire.com]
Sent: Wednesday, September 19, 2007 12:51 PM
To: 'Wendell Cross'
Cc: 'Joe Bajjani'; Edmund Nigri
Subject: RE: Kauffman Site Plan

See my response in RED below.
The grade at the entrance is 1116 and the finish floor grade is 1123.75. This is almost 8' of grade to the store. Can a retaining wall be place around the front parking to raise the parking grade so we can have a more normal access to our store? If you increase the wall at the rear the front wall will not need to be as high. Take a look at my comments and then let's talk this afternoon.

John Weaver
kauffman Tire Inc.
2832 Anvil Block Road
Ellenwood, GA 30294
404-762-4944 x 106
404-229-6811 Cell
jweaver@kauffmantire.com

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From: Wendell Cross [mailto:wendell_cross@yahoo.com]
Sent: Wednesday, September 19, 2007 11:45 AM
To: John Weaver
Cc: Joe Bajjani
Subject: Kauffman Site Plan

John,
I have attached a proposed site plan for Kauffman Tire on Horizon Drive. There are several areas that I have concerns about. If you will, look the plan over and let me know what works best for you. The areas of my concern are as follows

1. There is a difference of 3.75 feet between the customer entrance and the roadway. This is much too steep for just a walkway. I suggest a walkway around the front of the store with steeps going down to the street in the area of the door. Will this work for you? No! We can not have this great of grade transition around the store. We would need railings around the front to keep people from falling off the sidewalk. Since this access is also from the street will a ramp be required to satisfy ADA as access from the street?
2. The handicap ramp location can work if the ramp is changed to allow all the slope to be within the sidewalk. A better location would be between the two handicap spaces. In order to meet ADA requirements of a slope no grater than 1 inch per foot, the slope would need to continue for a short distance in front of the building. You have the handicap ramp down about 1.75' from the service bays. This may too steep a slope for our car access to the service bay closest to the handicap ramp.
3. Because of the elevation of the parking lot behind the building, it will only be possible to have a walk behind the building to the rear doors. The walk will require a retaining wall two to three feet high. It will be extremely hard to drain rainwater from this area. Area drains will be the only way to drain the access at the rear. This access will slope up about 1.5'. Can the retaining wall at the rear be increased to set the building down about a foot or two?
4. Because of the grade of the road along the side of the building, water will have a tendency to go into the last bay on that side. Any cure by grading will eliminate the level area you need outside the bay. We can not have water draining toward the service bays. May have to loose some cars at the 5 park area to get the slope down faster.

If you will review the plans and give the the benefit of your ideas, I would certainly appreciate it.

Thanks,
Wendell

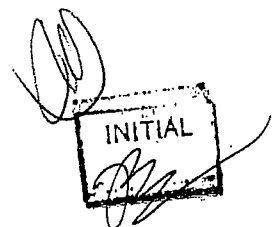
EXHIBIT "B"

INITIAL
[Signature]

EXHIBIT "E"
**TimeLine For Completion of Construction,
 Payment of Rent, and Real Estate Taxes
 Commencement Date**

	Days	Date	Cumulative
Lease Executed	30 (Estimated)	10/20/07	N/A
Due Diligence	30	11/19/07	60
Civil Drawings	10	11/29/07	70
Architectural Drawings	0	11/29/07	70
LDP Permit	5	12/04/07	75
Building Permit	15	12/19/07	90
Completion of Construction Certificate of Occupancy Acceptance by Lessee	90	3/18/08	180
Fixturize & Stock	30	4/17/08	210
Rent Commencement Date and Payment of Real Estate Taxes	30	5/16/08	240

Note: All dates are from Lease Execution



SUP. 2007-005

REZONING APPLICANT'S RESPONSE

STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

Pursuant to section 2006 of the 1998 Zoning Ordinance, the city council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

Please respond to the following standards in the space provided or use an attachment as necessary:

- (A) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property:

Yes

- (B) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

No

- (C) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

Not at this time.

- (D) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools:

No, Kaufman tire is located directly across the street currently

- (E) Whether the zoning proposal is in conformity with the policy and intent of the land use plan:

Yes

- (F) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal:

See letter attached

SPECIAL USE PERMIT APPLICANT'S RESPONSE

STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

Pursuant to the 1998 Zoning Ordinance, the city council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

Please respond to the following standards in the space provided or use an attachment as necessary:

(A) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property:

Yes, Kauffman Tire Already operates across the street. NO residential in the area.

(B) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

No.

(C) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

Special Use is within the parameter of the current zoning. No change (adverse) of current zoning

(D) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools:

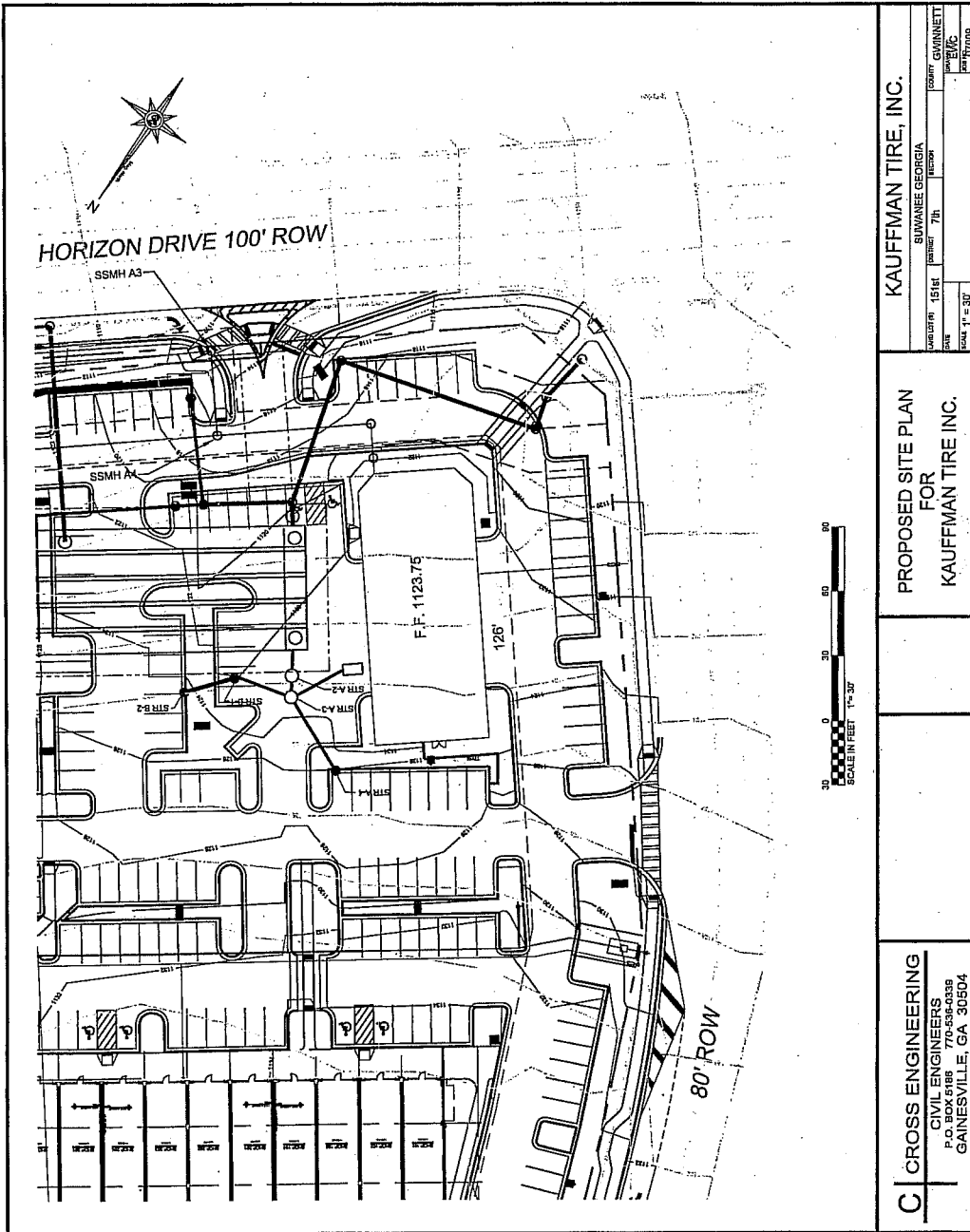
No change, Kauffman already exists across the street.

(E) Whether the zoning proposal is in conformity with the policy and intent of the land use plan:

Yes.

(F) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal:

A retail shopping center is being built around, which Kauffman Tire as its anchor. And it will greatly enhance the business & provide



KAUFFMAN TIRE, INC.
 SUWANEE GEORGIA
 PROJECT: 7th
 DRAWN BY: GWINNETT
 DATE: 05/06
 SCALE: 1" = 30'

**PROPOSED SITE PLAN
 FOR
 KAUFFMAN TIRE INC.**

C CROSS ENGINEERING
 CIVIL ENGINEERS
 P.O. BOX 6188
 GAINESVILLE, GA 30504

R2-2007-011/SUP-2007-005

City of Suwanee



RZ-2007-011 SUP-2007-005

Location Map

Legend



RZ-2007-011/SUP-2007-005



Current City Limits



Streets

