



November 13, 2012 **CITY OF MORROW, GEORGIA** **7:30 pm**
Regular Meeting

CALL TO ORDER: Mayor Burke
PLEDGE OF ALLEGIANCE: All
INVOCATION: Mayor Burke

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA:**

3. **CONSENT AGENDA:**

1. Approval of the October 23, 2012 Regular Meeting minutes and the November 5, 2012 Special Called Meeting minutes.
2. Approval of the October 9, 2012 invoice from Fincher Denmark & Williams, LLC in the amount of \$2,574.34.

4. **REPORTS AND PRESENTATIONS:**

1. Award of Appreciation presented to Craig Drummond for his support of the Children's Christmas Fund. *(Presented by Police Chief Chris Leighty)*
2. Recognizing Mayor Pro Tem Jeanell Bridges receipt of the 2012 Political and Civic Involvement Award from the Clayton County Ministers Association. *(Presented by Councilman Bob Huie)*
3. Financial Update *(Presented by Dan Defnall)*

5. **PUBLIC HEARING**

1. Public Hearing on a Conditional Use Request by Feroz Lalani of Ashukar, Inc. to convert an existing car wash building into an emissions testing service. The subject property is zoned General Business (BG) *(Presented by Brecca Johnson, Senior Planner)*

6. **FIRST PRESENTATION:** None at this time

7. **OLD BUSINESS:**

1. Approval of an Ordinance to Amend the Alcoholic Beverage Code of the City of Morrow; To revise the Definition of a Restaurant; To Provide an Alternative Hearing Procedure; and for Other Purposes.

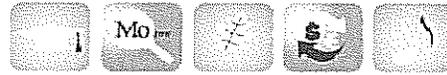
(Presented by Jeff Eady, City Manager)

8. **NEW BUSINESS:** None

9. **GENERAL COMMENTS:**

Citizens-
City Manager-
Mayor and Council –

10. **ADJOURNMENT:**



come to tomorrow

MORROW, GEORGIA

PLANNING + ZONING BOARD SPECIAL CALLED MEETING OCTOBER 30, 2012 @ 6:00p.m. MINUTES

Note: These are summary of minutes. For anyone who would like the full dialogue of the meeting, CD's are available in the City Clerk's office through the open records act.

CALL TO ORDER: Chairman Shirley Watterson

PLEDGE OF ALLEGIANCE: All

INVOCATION: TBD

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA**

1. To add or remove from the Agenda

MOTION AND VOTE: Board Member John Maner made a motion to approve the Meeting Agenda. Board Member Tamara Patridge seconded the motion. The motion passed unanimously by those present.

3. **CONSENT AGENDA:**

1. Approval of the August 21, 2012 Regular Meeting Minutes.

4. **PUBLIC HEARING:**

1. Public Hearing on a Conditional Use Request. Feroz Lalani of Ashukar, Inc. requests a conditional use to convert an existing car wash building into an emissions testing service.
(Presented by Brecca Johnson, Senior Planner)

MOTION AND VOTE: Board Member Buck Shirley made a motion to approve the Conditional Use Request. Board Member John Maner seconded the motion. The motion passed unanimously by those present.

5. **NEW BUSINESS:** None

6. **OLD BUSINESS:** None

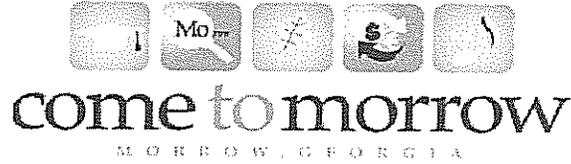
7. **NEW INITIATIVES:**

P+ED Staff will provide monthly updates to P + Z Board Members of:

- City projects that are underway and/or proposed
- Permits issued and monthly valuation of projects

Brecca Johnson (Senior Planner) gave an update on the following projects and permits:

1. City Café permits were issued.
2. Cosco is going forward with 2 million dollar project.



8. **STAFF COMMENTS:** None

9. **GENERAL COMMENTS:** None

10. **ADJOURNMENT:**

1. P + Z Chairman Requests a Motion to Adjourn

MOTION AND VOTE: Board Member John Maner made a motion to adjourn the meeting. Member Buck Shirley seconded the motion. The motion passed unanimously by those present. The meeting adjourned at 5:28p.m.

Approved this ____ day of _____ 2012.

Shirley Watterson, Chairman

Attest:

Dayna Biles, Administrative Assistant to City Clerk

(Seal)



come to tomorrow

Planning + Economic Development Department

1500 Morrow Rd. Morrow, GA 30260 678.902.0870 (T) 770.960.3002 (F)

Conditional Use Request- Staff Evaluation

Applicant: Feroz Lalani, Ashukar, Inc.
6629 Jonesboro Road
Morrow, GA 30260
(404) 245-9230

Property Address: 6629 Jonesboro Road (Exxon Gas Station)
Morrow, GA 30260

Zoning Classification: BG (General Business) District

Existing Use: Exxon Gas Station and Unused Car Wash building

Proposed Use: Convert the unused car wash building into an emissions service business in conjunction with the existing gas station

P+Z Board Meeting: October 30, 2012

City Council Meeting: November 13, 2012

Zoning History: The subject property is zoned General Business (BG), according to the City of Morrow Official Zoning Map. Table 1.0 identifies the current zoning and existing land use of adjacent properties.

Table 1.0 Current Zoning and Existing Land Use

Table with 2 columns: Current Zoning, Existing Land Use. Rows include North, South, East, and West zoning categories and their corresponding existing land uses.

Executive Summary of this Request:

The applicant is requesting a conditional use to convert an existing, unused car wash building into an emissions service business. A request to increase the size of the building has not been proposed; however, permits must be obtained should the applicant chose to increase/decrease the building size. The subject property is located at the northwestern intersection of Jonesboro Rd. and Southlake Pkwy. The existing Exxon gas station, which was built in 1978, will remain in use on the property.



come to morrow

Planning + Economic Development Department

1500 Morrow Rd. Morrow, GA 30260 678.902.0870 (T) 770.960.3002 (F)

The Zoning Ordinance states that indoor automobile repair and maintenance businesses require that a formal Conditional Use request be made before the Planning+Zoning Board and City Council. A Conditional Use is a “use which may be permitted within a zoning district subject to meeting specific conditions contained in this ordinance, required by the planning and zoning board and approved by the City Council.” The specific conditions of the ordinance are addressed at the end of this report.

Ordinances, Codes affected by this Request:

- Article IX: Section 910 BG General business district
- Article XV: Section 1501 Conditional Uses
- Article IV: Section 402 Definitions

Criteria Point 1: All specific provisions of this ordinance relative to the conditional use have been met.

All specific provisions of this ordinance relative to the conditional use can be met. The Zoning Ordinance, *Section 910 BG General Business district*, requires conditional use approval for an emissions service business, which falls under the “Class A” license category. Additionally, the applicant is required to obtain a “Class A” business license, which is one of the three licenses types needed in order to conduct repair and maintenance of automobiles within the BG zoning district. A “Class A” license represents the lowest level of activity and Class C represents the highest. The “Class A” license allows for the following uses: Car wash, detailing, general cleaning of automobiles, minor repairs and services including oil changes, radiator flush and fill, and replacement of minor parts including but not limited to air filters, pcv valves, and fuses. Other services of minor nature that are similar and compatible to those listed are included. Due to the low level of activity, an emissions service business would be considered a minor maintenance business.

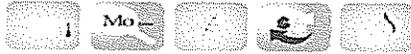
In order for the applicant to meet the requirements of the Code for the proposed emissions service business, all licenses, permits and inspections must be obtained. Additionally, all repair and maintenance of automobiles must be done indoors and overnight customer or other parking at the site shall be prohibited, in accordance with the Zoning Ordinance.

Criteria Point 2: Whether any specific limitations are necessary to protect the public interest and ensure the continued beneficial uses and enjoyment of nearby properties.

The property to the west is vacant, undeveloped property; to the north is the former McDonald’s building, which is vacant at this time. The Bridges of Morrow shopping plaza is located to the south on Southlake Parkway, with Mattress Firm to the east, at the northeast intersection of Southlake Parkway and Jonesboro Road.

The specific limitations necessary to protect the public interest and ensure the continued beneficial uses and enjoyment of nearby properties are:

- To restrict all repair and maintenance of automobiles to an indoor facility
- Prohibit overnight customer or other parking at the site



come to morrow
MORROW, GEORGIA

Planning + Economic Development Department

1500 Morrow Rd. Morrow, GA 30260 678.902.0870 (T) 770.960.3002 (F)

Criteria Point 3: The Conditional Use with or without specific limitations and design features as might have been required will further the aims of the land use plan and will not be unduly detrimental to nearby properties.

Planning Staff did not find that there were specific limitations or design features previously required for this conditional use request. However, it is ideal that signage and building color scheme for the emissions business be consistent with the existing gas station building and signage. The land use plan will not be affected by the outcome of this conditional use request.

Staff Recommendation:

Planning Staff recommends **APPROVAL** of the applicant's request with the following conditions, as addressed in the Code:

1. Overnight customer or other parking at the site shall be prohibited.
2. All repair and maintenance of automobiles must be done indoors.
3. All necessary inspections must occur and permits must be obtained.
4. A "Class A" license must be obtained from the Business License Office.
5. If the applicant wishes to change any aspect of the business to include one or more activities under a higher class (Class B or Class C), they must apply for a new business license.

Planning+Zoning Board Recommendation:

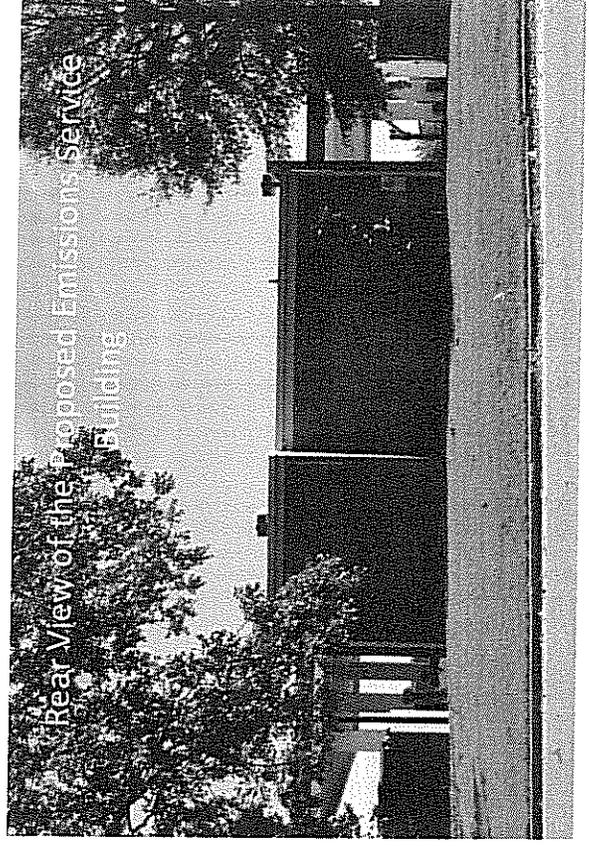
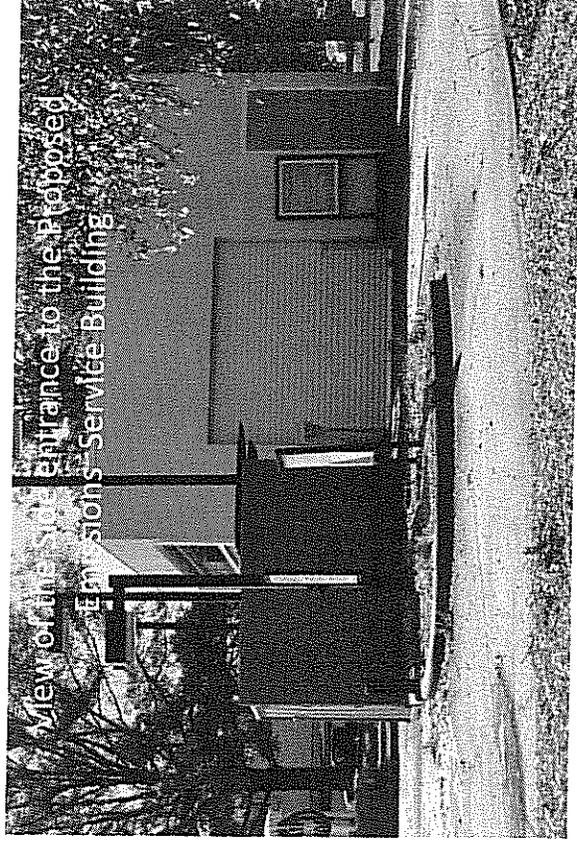
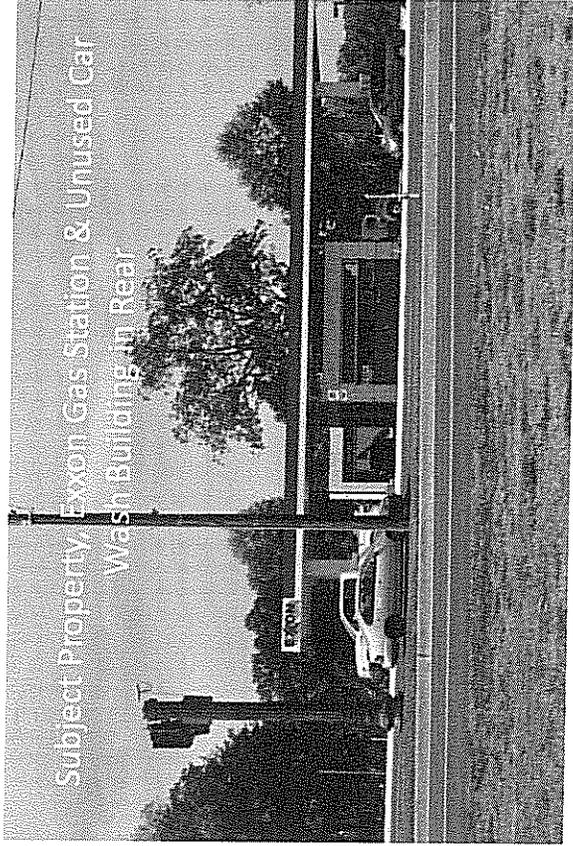
The Planning+Zoning Board recommended **APPROVAL** of the applicant's request at the October 30, 2012 meeting, with the following zoning conditions:

1. Overnight customer or other parking at the site shall be prohibited.
2. All repair and maintenance of automobiles must be done indoors.
3. All necessary inspections must occur and permits must be obtained.
4. A "Class A" license must be obtained from the Business License Office.
5. If the applicant wishes to change any aspect of the business to include one or more activities under a higher class (Class B or Class C), they must apply for a new business license.

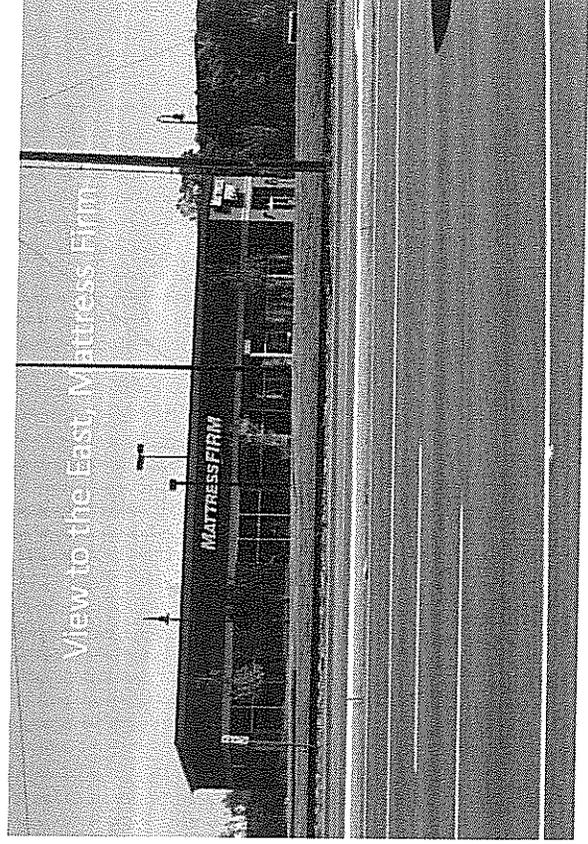
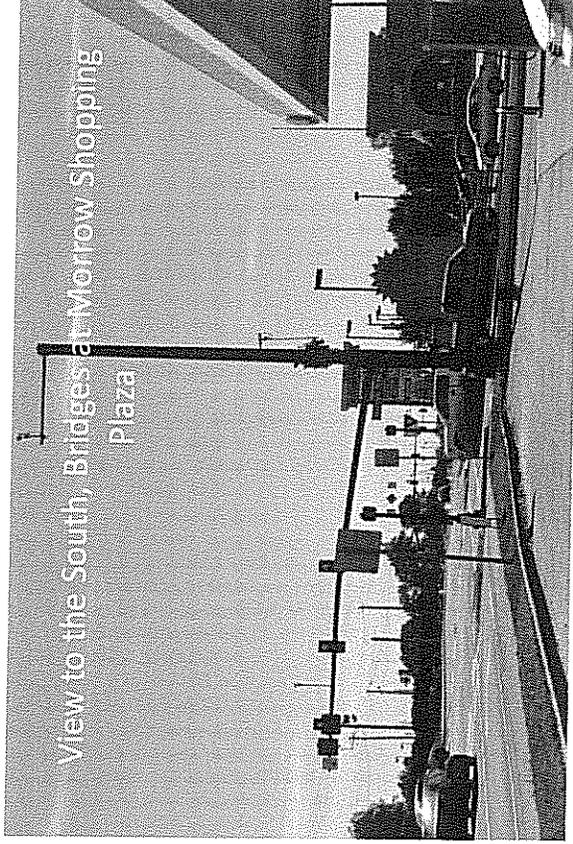
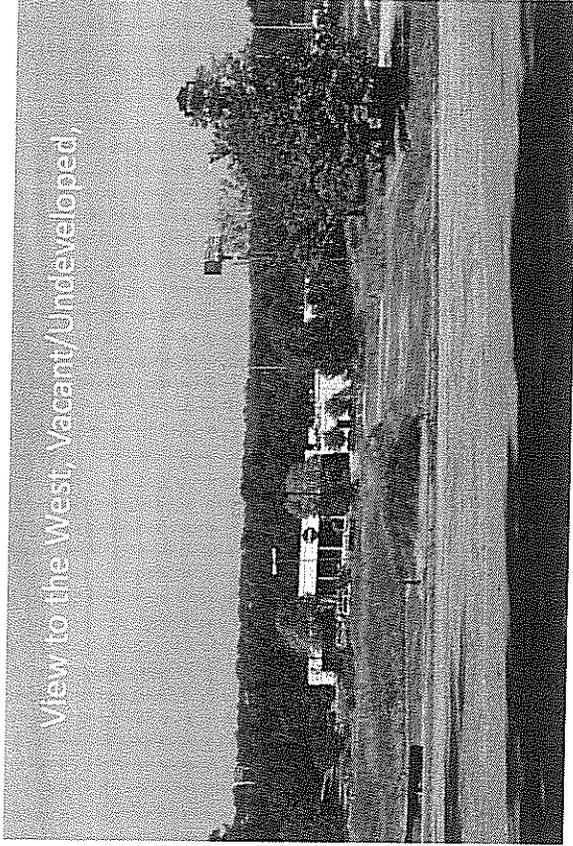
Attachments:

- Site Photos
- Site Plan
- Interior Floor Plan of the Emissions Service Building
- Letter of Intent
- Letter Ownership

Feroz Lalani, Conditional Use, Emissions Service, City Council Meeting 11-13-2012



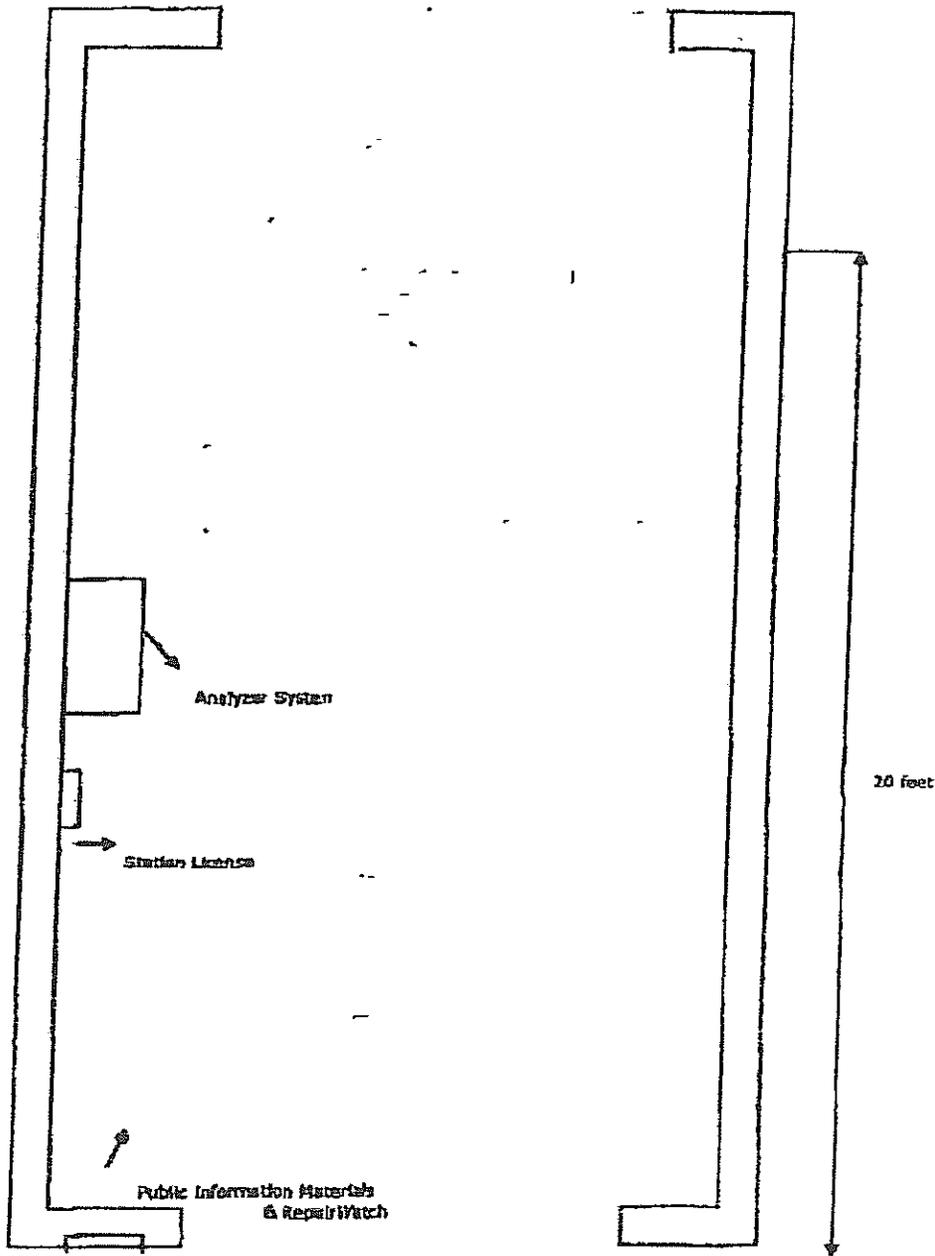
Feroz Lalani, Conditional Use, Emissions Service, City Council Meeting 11-13-2012



PROPOSED FLOOR PLAN FOR EMISSIONS SERVICE

Site Plan Drawing

TYPICAL OPEN TYPE DRIVE THRU STATION.



LETTER OF
INTENT

10/8/12

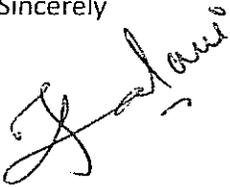
To The Morrow Planning Board

Re- Emission Test

Dear Board Members,

We at Exxon would like to inform you that the car wash on the Exxon property would only be used for emission testing purpose.

Sincerely

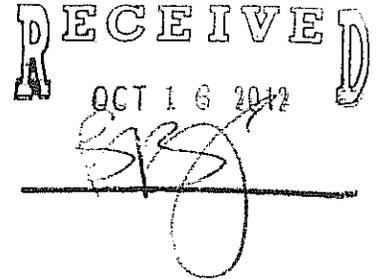
A handwritten signature in black ink, appearing to read "Feroz Lalani", written in a cursive style.

Feroz Lalani



CLIPPER PETROLEUM INC.

5317 T. L. BOWER WAY -- PHONE 770-965-7240
FLOWERY BRANCH, GEORGIA 30542



October 8, 2012

Brecca R. Johnson

Senior Planner

City of Morrow

Planning + Economic Development Department

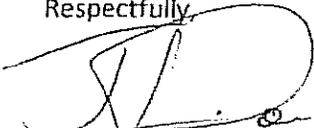
1500 Morrow Road

Morrow, GA 30260

Ms. Johnson,

Please use this letter as evidence that Golden Eagle Partners, LLC, the owner of the property located at 6629 Jonesboro Rd., acknowledges that Mr. Lalani is applying for a permitted use permit, to convert the existing car wash building located at the site, to an emissions operation. As the principal of Golden Eagle Partners, LLC, I approve this application by Mr. Lalani. Please let me know if I can be of further assistance.

Respectfully,



Tom Bower

Golden Eagle Partners, LLC.

AN ORDINANCE TO AMEND THE ALCOHOLIC BEVERAGE CODE OF THE CITY OF MORROW, TO REVISE THE DEFINITION OF A RESTAURANT; TO PROVIDE AN ALTERNATIVE HEARING PROCEDURE; AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED by the Governing Authority of the City of Morrow that:

Section 1. Section 9-2-2(17) of the Code of Ordinances of the City of Morrow, as amended, is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

“(17) *Restaurant.* Any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, the place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 60 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating; and the serving of these meals shall be the principal business conducted. Closure of an establishment for more than four weeks in any calendar year for vacation, redecorating or other purposes shall void any alcoholic beverage license held by such establishment as a restaurant. For restaurants designating breakfast as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 6:00 a.m. to 7:00 a.m. must be included within such three hour block. For restaurants designating lunch as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 11:30 a.m. to 12:30 p.m. must be included within such three hour block. For restaurants designating dinner as their meal for purposes of this definition, the establishment must be open for business a minimum of three consecutive hours and the period of 7:00 p.m. to 8:00 p.m. must be included within such three hour block.”

Section 2. Section 9-2-24(b) of said Code is further amended by deleting the provisions of that section in its entirety and inserting the following in lieu thereof:

“(b) In the event the City Manager denies an application for a license, the applicant shall have the right to appeal the denial to the Mayor and Council by filing a notice of appeal with the City Clerk within five business days of the date of denial. A hearing shall be held and decision rendered in accordance with the procedure established by Section 9-2-84 of this Chapter.”

Section 3. Section 9-2-50 of said Code is further amended by adding a new subsection (e) to said Section that shall read as follows:

“(e) Employee permits allowing the sale of alcoholic beverages may be revoked or suspended by the City Manager following ten calendar days’ notice, hearing and a determination that such employee has violated any provision of this Code regulating alcoholic beverages or upon a finding that the employee no longer possesses the qualification for holding of such permit. The decision of the City Manager with respect to suspension or revocation shall be a final decision of the City and may be appealed by Writ of Certiorari to the Superior Court of Clayton County as provided by law.”

Section 4. Section 9-4-55(a) of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following language in lieu thereof:

“(a) In order to distribute or sell distilled spirits, malt beverages, or wine at an off-premises catered function, the licensed alcoholic beverage caterer shall apply to the City Manager for an event permit. The application for the event permit shall include the name of the caterer, the date, address, and time of the event, and the licensed alcoholic beverage caterer’s license number. For alcoholic beverage caterers licensed by the City, no further event permit fee is required, and all alcoholic beverage excise and sales taxes attributed to the sale or use of alcohol at the catered event shall be reported through the alcoholic beverage caterer’s primary alcoholic beverage license.”

Section 5. Section 9-2-72(c) of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following language in lieu thereof:

“(c) Violation of any provisions under this section shall constitute an offense hereunder and shall be punishable as follows:

“(1) On a first offense there shall be a minimum fine of \$250.00.

“(2) On the second offense, if within 12 months of the first, there shall be a minimum fine of \$350.00.

“(3) Any conviction or acceptance of a plea of guilty or nolo contendere as well as any alternative sentencing imposed on a defendant appearing in Municipal Court for a violation of this Chapter shall be reported by the Judge to the City Manager at the close of the Court session.”

Section 6. The third paragraph of Section 9-2-81 of said Code is amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

“The applicant for an alcoholic beverage license whose license is not issued based on this Code section may file a written appeal with the City Manager not later than five business days after receiving written notice from the City that the license will not be issued because of noncompliance with the City Code of Ordinances. The City Manager shall render his decision in writing within five business days of the receipt of the appeal. In the event the appeal to the City Manager is denied, the applicant for an alcoholic beverage license may appeal the City

Manager's decision to the Mayor and Council by filing written notice with the City Clerk within five business days of the City Manager's decision. Such appeal shall be heard and decided in accordance with the procedures established by Section 9-2-84."

Section 7. Subsection (a) of Section 9-2-84 of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

"(a) Except as provided for herein, no license which has been issued or which may hereafter be issued by the City to any person under this Chapter shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon the prior 10 day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charge upon which the hearing shall be held."

Section 8. Subsection (c) of Section 9-2-84 of said Code is further amended by deleting the language of that paragraph in its entirety and inserting the following in lieu thereof:

"(c) The hearing may be conducted by the Mayor and Council or, alternatively, the Mayor and Council may appoint a Hearing Officer to conduct the hearing on its behalf. Any such hearing officer shall be either licensed to practice law in the State of Georgia and possess a minimum five years' experience involving local governments or have a minimum of five years' experience as a City Manager within the State of Georgia. The hearing shall be held within 30 days of the date notice of appeal is received; provided, such hearing may be rescheduled for one additional 30 day period upon good cause. In the event the Mayor and Council appoints a hearing officer to conduct the hearing, the Hearing Officer shall conduct the hearing and make a recommendation to the Mayor and Council. Such recommendation shall include a statement of findings, and a recommended action to be taken. At any hearing conducted pursuant to this Section, the licensee shall be entitled to present evidence and to cross examine witnesses. The City shall make a tape recording of proceedings. Should a licensee desire the availability of a court reporter, the licensee shall be responsible for making those arrangements and paying the costs thereof. The licensee shall present a list of City officers and employees it wishes to have present for hearing no later than five business days in advance of hearing. Provided such notice is timely received, the City shall produce such witnesses for hearing. Prior scheduled leave time for vacation, school or other legitimate purposes of a necessary witness is due grounds for continuance of a hearing at either party's request. If a Hearing Officer is used, such Hearing Officer shall reduce his recommendation to writing and provide it to the Mayor and Council within 14 days of conclusion of the hearing. Final determination of all appeals shall be made by the Mayor and Council by vote in regular session no later than the next regularly scheduled meeting at which a quorum is present after receipt of the Hearing Officer's recommendation or at the next meeting after close of the hearing if conducted by the Mayor and Council."

Section 9. All ordinances, or parts of ordinances in conflict with this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 10. This Ordinance shall take effect immediately upon its adoption.

So Ordained, this 13TH day of November, 2012.

JB Burke, Mayor

ATTEST:

Evyonne Browning, City Clerk

Ordinance approved as to form:

Laurel Henderson, City Attorney

First Reading: October 23, 2012
Second Reading: November 13, 2012