COUNTY AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Thursday, February 14, 2013	Type of Request:	New Business

Wording for the Agenda:

Consideration of the City of Fayetteville's request to annex a 0.51 acre lot located at 104 Ellis Road in Land District 5, and to rezone said lot from C-H (Commercial Highway) to C-3 (Highway Commercial).

Background/History/Details:

The City of Fayetteville has notified Fayette County of its desire to annex a 0.51 acre lot located at 104 Ellis Road. The City has also notified the County of its intention to rezone the property from C-H (Commercial Highway) to C-3 (Highway Commercial).

The county's governing authority may either "not object" to the request for annexation, or may, by majority vote, "object" to the annexation request.

Per Section 36-36-113 of the Georgia Code, Fayette County must deliver their objection to the annexation by certified mail or statutory overnight delivery not later than the end of the thirtieth calendar day following receipt of the notice. The deadline for delivery of an objection is February 27, 2013.

Additional information will be provided to the Board of Commissioners on and before the February 14, 2013 Board of Commissioners meeting date.

What action are you seeking from the Board of Commissioners?

Staff has reviewed the application and, after finding no bona fide objection, recommends the Board's approval by not objecting.

If this item requires funding, please describe:

Not Applicable

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

Comm Dev - Annex

City of Fayetteville

240 Glynn Street South • Fayetteville, Georgia 30214
Telephone (770) 461-6029 • Facsimile (770) 460-4238
www.fayetteville-ga.gov
Find us on Facebook

MAYOR
Greg Clifton

COUNCIL
Larry Dell, Mayor Pro Tem
Mickey Edwards
Ed Johnson
Paul Oddo, Jr.
Walt White

CITY MANAGER
Joe Morton

CITY CLERK
Anne Barnard

January 24, 2013

Certified Mail
No. 7010 2780 0001 4561 8152

Fayette County Board of Commissioners
Attn: Mr. Steve Brown, Chairman
140 Stonewall Avenue W. Suite 100
Fayetteville, GA 30214

Dear Mr. Brown:

The City of Fayetteville intends to annex/rezone a 0.51 acre lot currently zoned C-H (Commercial Highway) in Fayette County. The City of Fayetteville is seeking C-3 (Highway Commercial) zoning for this property. The property is as follows:

104 Ellis Road and is more particularly described as being in Land District Number 5, Tax Map Number 0538090. (See attached location map.)

I have enclosed a copy of the legal description of the property, a location map, and a completed Staff Annexation Review Form.

The Mayor and City Council will hold their public hearing on Thursday, February 21, 2013.

Please direct any comments or questions concerning this application to Brian Wismer, Director of Community Development.

Sincerely,

Joe Morton

Joe Morton
City Manager

Cc: Mayor, City Council
Brian Wismer, Director of Community Development
Chris Hindman, Director of Public Services

Doc ID: 008987220002 Type: OCD
Recorded: 12/05/2012 at 09:30:00 AM
Fee Amt: $12.00 Page 1 of 2
Transfer Tax: $0.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK 3980 PG 280-281

(The Above Space is for Recording Information)

Record and Return to:

Melissa Stanford
Baker Donelson et al.
3414 Peachtree Road N.E.
Monarch Plaza, Suite 1600
Atlanta, Georgia 30326

QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF FAYETTE

THIS INDENTURE Made this the 28th day of November 2012, between **JTH Investments, LLLP, a Georgia Limited Liability Limited Partnership** (hereinafter called "Grantor"), and **Mountain Holdings, LLC,** (hereinafter called "Grantee") (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of one dollar ($1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt of whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto said Grantee,

All that tract or parcel of land lying and being in Land Lot 168, 5th District, Fayette County, Georgia, being more particularly described as follows:

Beginning at a point marking the intersection of the southeast right-of-way of State Route 85 (right-of-way varies) with the northeast right-of-way of Ellis Road (an 80 foot right-of-way), said point being the Point of Beginning; running thence along the southeast right-of-way of State Route 85, North 44 degrees 50 minutes 35 seconds East a distance of 185.30 feet to a 1/2 inch rebar found; thence leaving said right-of-way, South 40 degrees 42 minutes 13 seconds East a distance of 347.85 feet to a 1/2 inch rebar found; running thence along the northwest right-of-way of Walker Parkway, South 48 degrees 17 minutes 45 seconds West a distance of 185.0 feet to a point located on the northeast right-of-way of Ellis Road; running thence along the northeast right-of-way of Ellis Road, North 40 degrees 39 minutes 51 seconds West a distance of 336.69 feet to a point on the southeast right-of-way of State Route 85 and the Point of Beginning. Said parcel shown as Lot 3 & 4, containing 1.452 acres, as per that plat of survey prepared for GE Capital Bank, Mountain Holdings, LLC & Fidelity National Title Insurance

Company bv Four Corners Surveying, Ronald T. Godwin, G.R.L.S. No. 2696, dated November 26, 2012, said plat is incorporated herein and made a part hereof by reference.

The purpose of this deed is to convey any and all interest in the above reference property by Grantor pursuant to the plat of survey prepared for GE Capital Bank, Mountain Holdings, LLC & Fidelity National Title Insurance Company by Four Corners Surveying, Ronald T. Godwin, G.R.L.S. No. 2696, dated November 26, 2012, said plat is incorporated herein and made a part hereof by reference.

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, by any means or ways, have, claim or demand any right to title to said premises or appurtenances, or any rights thereof.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

JTH Investments, LLLP, a Georgia Limited Liability Limited Partnership

Unofficial witness

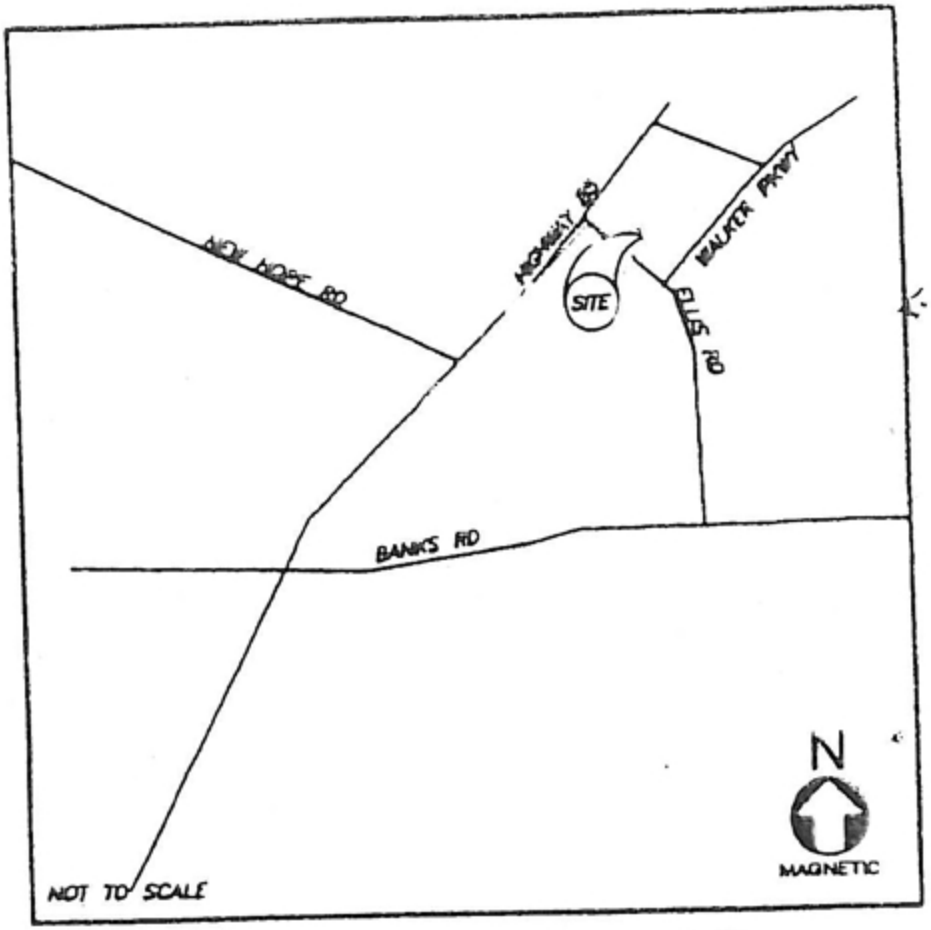
By: _____ (Seal)
Melanie J. Trammell, as General Partner

Notary Public
My Commission Expires: March 4, 2014

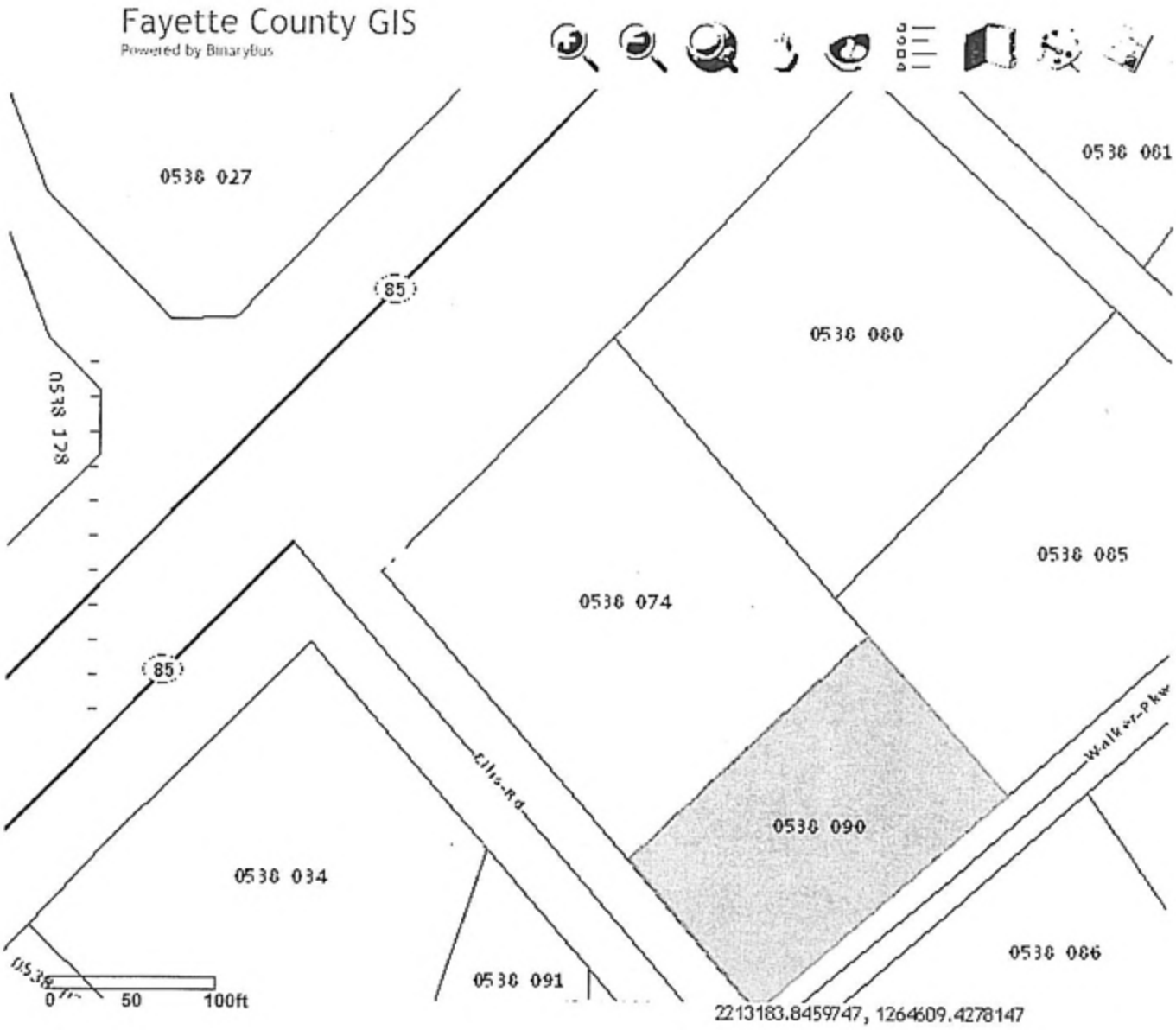
By: _____ (Seal)
Jan Trammell Hutto, as Limited Partner

(NOTARY SEAL)

RACHAEL WHITMAN
NOTARY PUBLIC
MY COMM. EXP. MARCH 4, 2014
FAYETTE COUNTY, GEORGIA



LOCATION MAP


Fayette County GIS
Powered by BinaryBus
0538 027
0538 061
85
0538 060
0538 128
0538 085
0538 074
85
Ellis Rd
Walker Pkw
0538 090
0538 034
0538 086
0538 091
0
50
100ft
2213183.8459747, 1264609.4278147

CITY OF FAYETTEVILLE
STAFF ANNEXATION REVIEW FORM

1. Describe the location of the area to be annexed or attach a clear map indicating the location.

   The single parcel to be annexed is located at the intersection of Ellis Road and Walker Parkway, directly behind the property addressed 104 EllisRoad. (See attached map.)

2. How many landowners/parcels will be included?

   One parcel, one landowner, as stated in # 1.

3. How does the City propose to designate this area on its future land use map and/or zoning map if the annexation occurs?

   The property is currently zoned C-H (Highway Commercial) in the County and the City proposes an equivalent zoning of C-3 (Highway Commercial). The FLU map designates the surrounding area as Neighborhood Mixed Use. The City's Comp Plan allows for "commercial uses that serve neighborhood residents' day-to-day needs, and should match the character of the neighborhood". The City has shown this property on the Zoning and FLU Map as already being in the City limits for many years. Upon recent investigation, it was discovered that no such annexation ever took place. The City has initiated this annexation request, with owner support, in order to rectify the error.

4. Refer to sections of the city development ordinances that identify permitted uses for this proposed land use classification.

   Section 94-167 of the Fayetteville City Code. (see attached)

5. Describe the development plans for the area proposed to be annexed (if the property owner(s) in the area initiated specific development proposals).

   The parcel will be incorporated into a proposed restaurant development that includes the adjoining parcel at 104 Ellis Road. This particular parcel will be developed primarily into parking and storm water detention to serve the restaurant.

Form completed by: Brian Wismer, Director of Community Development

Signature: _____ Date: 1-25-13

Mountain Holdings, LLC

1619 Schaeffer Road, Suite 100
Knoxville, TN 37932
Phone: (865) 531-1033
Fax: (865) 531-1449

January 28, 2013

Mr. Brian Wismer
City of Fayetteville – Planning & Zoning
240 South Glynn Street
Fayetteville, GA 30214

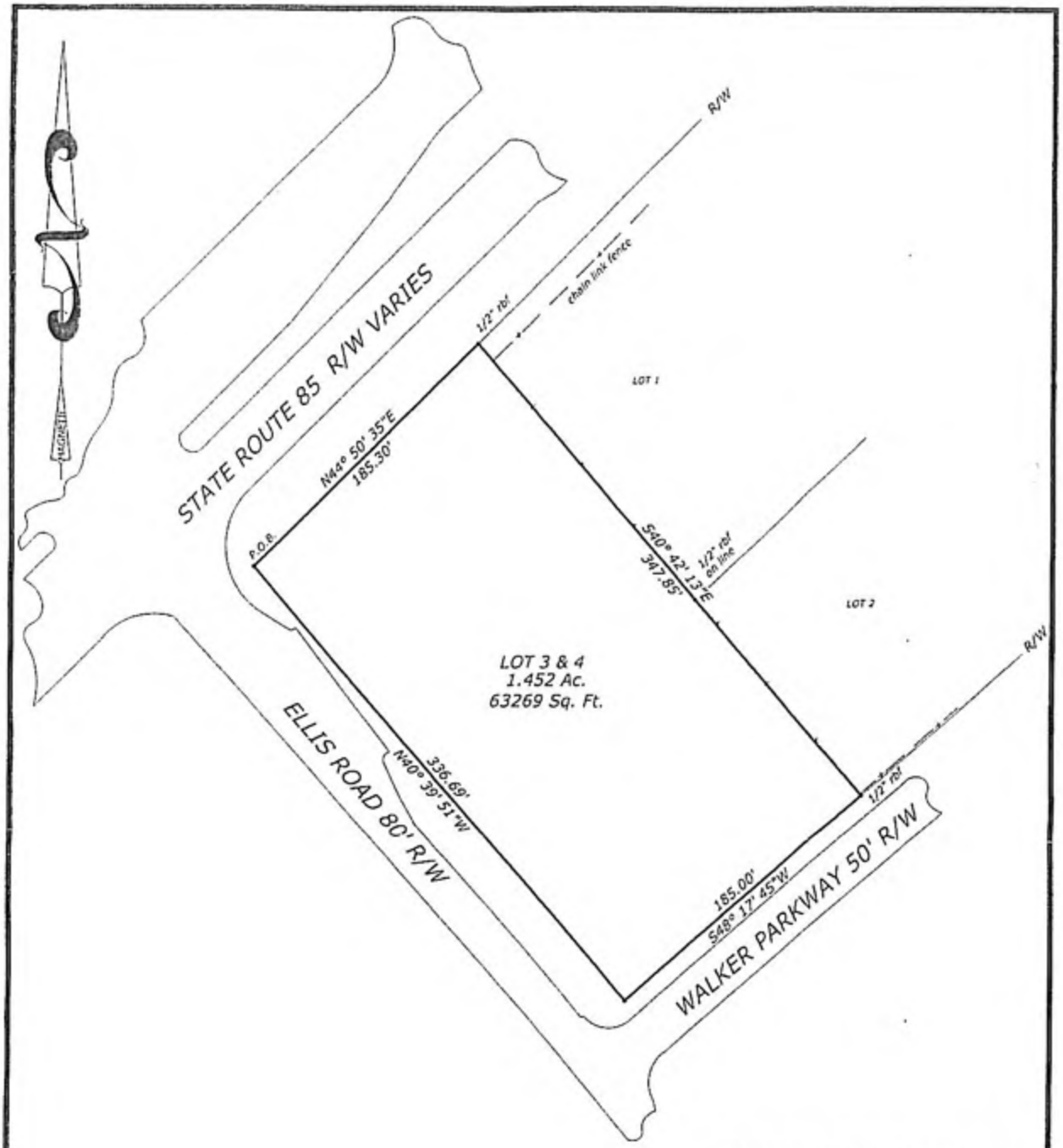
RE: Panera Bread Bakery Café #4311
104 Ellis Road
Fayetteville, GA 30214

Brian,

In regard to above referenced project, I am writing to confirm my intent, as the owner of lots 3 and 4, to have the rear lot annexed into city jurisdiction and to have the two lots combined as one property. If you need any additional information, please feel free to contact me.

Sincerely,

Eric Nelson
865-755-2746



THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SURVEYOR. ALL INFORMATION REGARDING RECORD EASEMENTS, ADJOINERS AND OTHER DOCUMENTS THAT MIGHT AFFECT THE QUALITY OF TITLE TO TRACT SHOWN WERE NOT SUPPLIED TO THIS OFFICE.

THIS PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN ACCORDING TO REFERENCE PLAT.

DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK.
SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND ORIGINAL SIGNATURE OF SURVEYOR.

CLOSURE DATA

FIELD CLOSURE=1'IN 10,000+
ANGLE POINT ERROR=< 20"
EQUIPMENT USED=E.D.M. & THEODOLITE
ADJUSTMENT METHOD=COMPASS RULE
PLAT CLOSURE=1'IN 100,000+

GRAPHIC SCALE

0 30 60 120

LEGEND

IPF=IRON PIN FOUND
IPS=IRON PIN SET
R/W=RIGHT OF WAY
MAG= MAGNETIC
P.O.B.=POINT OF BEGINNING
B/L=BUILDING LINE
D.E.=DRAINAGE EASEMENT
N/F=NOW OR FORMERLY
F.W.P.D.=FIELD WORK PERFORMED DATE

12-5-11

Prepared for

JTH INVESTMENTS LLLP

Subdivision: NORTH HUNTINGTON PARK	
Lot: 3 & 4	P.B. 13 ~ PG. 15
Land Lot: 168	District: 5th
County: FAYETTE, GA	F.W.P.D. 12/07/11
Scale: 1" = 60' Date 12/07/11	Job No: 11-079

FOUR CORNERS SURVEYING™

P.O. BOX 15
Tyrone, GA 30290

770-560-3910
770-560-6930
FOUR_CORNERS@BELLSOUTH.NET