

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, February 21, 2023, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Lisa Cupid, Chairwoman
Commissioner JoAnn Birrell
Commissioner Keli Gambrill
Commissioner Jerica Richardson
Commissioner Monique Sheffield

CALL TO ORDER – CHAIRWOMAN CUPID

Chairwoman Cupid called the hearing to order at 9:03 a.m.

Commissioner Gambrill read in the following statement (attached and made a part of these minutes):

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Board's Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

As stated and recorded in previous minutes, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Federal Court in Georgia have ruled that the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties.

The county has received letters from the Georgia State Attorney General, Chris Carr, stated that the Cobb County Commissions move to amend its electoral redistricting map is "inappropriate and not legally binding."

C. Ryan Germany, General Counsel for the Office of the Secretary of State, "You should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to be a comment on whether the Amendment is allowable under state law or a proper exercise of authority by the Cobb County Commission, nor should you rely on it to attempt to establish the validity of the Amendment." "In fact," he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply with Georgia Law or the state Constitution.

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Commissioner Gambrell's statement (cont.)

Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

Commissioner Birrell read in the following statement (attached and made a part of these minutes) and requested that this statement be added to each vote taken at today's hearing:

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map 3 times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022 under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Cobb Board of Elections on November 15, 2022. Thank you.

Chairwoman Cupid provided information regarding the Board's decision last year to assert Home Rule under the Georgia Constitution to support a district map that was drawn by the State Assembly and voted on by the majority of this Board.

Mr. John Pederson, Zoning Division Manager, reviewed the hearing procedures and announced the following cases which were *withdrawn, held, or continued*.

WITHDRAWN, HELD, AND CONTINUED CASES

Z-71'²²

HAMILTON HOMES HOLDINGS LLC (Hamilton Homes Holdings LLC, owner) requesting rezoning from **R-20** to **RM-8** for a townhome community in land lot 29 of the 17 district and land lot 1073 of the 19th district. Property is located on the southwest side of Floyd Road, on the northwest side of Glore Road, and at the terminus of Anjul Drive (4598 Glore Road, Floyd Road). *(Previously continued by Staff until the December 6, 2022, Planning Commission (PC) hearing; continued by the PC until the February 7, 2023 PC hearing). WITHDRAWN WITHOUT PREJUDICE*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- SLUP-1** **TARA BROUGHTON** (T & C Concepts LLC dba Simply Stumps Atlanta, owner) requesting a **Special Land Use Permit** for chipping, grinding, or reduction of materials, stumps, trees, and limbs in land lot 296 of the 17th district. Property is located on the north side of Barber Road, west of Old Concord Road (411 Barber Road). ***WITHDRAWN WITHOUT PREJUDICE***
- O.B. 2** To consider a reduction of required minimum public road frontage for Jeffrey Mack from 75-feet to zero-feet. The property is located on the south side of Gus Robinson Road in land lot 423 of the 19th district (Gus Robinson Road). ***WITHDRAWN WITHOUT PREJUDICE***
- Z-55'²²** **KENNETH B. CLARY** (Kenneth B. Clary, owner) requesting rezoning from **R-30** to **R-15** for a single-family subdivision in land lots 25, 54, and 55 of the 1st district. Property is located on the north side of Post Oak Tritt Road, west of McPherson Road (4701 Post Oak Tritt Road). ***(Previously continued by Staff from the September 6, 2022, Planning Commission (PC) hearing until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).***
- Z-59'²²** **GLENSIDE MABLETON, LLC** (Glenside Mableton, LLC, owner) requesting rezoning from **GC** to **O&I** for a climate-controlled self-storage facility in land lot 297 of the 18th district. Property is located on the southwest side of Mableton Parkway, north of South Gordon Road (Mableton Parkway). ***(Previously continued by Staff from the September 20, 2022, and October 18, 2022, Board of Commissioners (BOC) Zoning hearings until the November 15, 2022, BOC Zoning hearing; continued by the BOC until the December 20, 2022, BOC Zoning hearing; continued by Staff from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing; continued by Staff from the February 21, 2023, BOC Zoning hearing until the March 21, 2023, BOC Zoning hearing; therefore, was not considered at this hearing).***
- Z-60'²²** **BRANCH ACQUISITION COMPANY, LLC** (Branch Atlanta Road Associates II, L.P.; SJ Georgia Investor, LLC; Michael Howarth and Christine Howarth, owners) requesting rezoning from **HI** to **RRC** for a mixed-use development in land lots 894 and 900 of the 17th district. Property is located on the south side of Atlanta Road, north of Plant Atkinson Road (4874 and 4888 Atlanta Road, 2840 Plant Atkinson Road). ***(Previously continued by Staff from the September 6, 2022, through February 7, 2023, Planning Commission (PC) hearings until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).***

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- Z-61^{'22}** **GREEN COMMUNITY DEVELOPMENT, LLC** (Joline D. Cole as Trustee of the Joline D. Cole Living Trust, owner) requesting rezoning from **R-80** and **R-20** to **R-15/OSC** for a single-family subdivision in land lots 27 and 28 of the 17th district and 999 of the 19th district. Property is located on the north side of Bates Road, and on the west side of Hicks Road (900 Bates Road). *(Previously continued by Staff from the October 18, 2022, through February 21, 2023, Board of Commissioners' (BOC) Zoning hearings until the March 21, 2023, BOC Zoning hearing; therefore, was not considered at this hearing).*
- Z-65^{'22}** **DRAPAC INVESTMENTS, LLC** (DRAPAC Group 3, LLC, owner) requesting rezoning from **RA-5** to **RA-5** for a single-family attached and detached subdivision in land lots 87 and 88 of the 18th district. Property is located on the west side of Michael Road, south of Vanesa Circle, at the terminus of Linda Drive, and at the terminus of Oak Hill Drive (Maxham Road). *(Previously continued by the Planning Commission (PC) from the October 4, 2022, PC hearing until the November 1, 2022, PC hearing; held by the PC from the November 1, 2022, PC hearing until the February 7, 2023, PC hearings; continued by Staff until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).*
- Z-67^{'22}** **S&B INVESTMENTS, INC.** (S&B Investments, Inc., owner) requesting rezoning from **CF** and **R-80** to **NRC** for a retail coffee shop in land lots 73 and 81 of the 1st district. Property is located on the west side of Johnson Ferry Road, and on the north side of Paper Mill Road (31 Johnson Ferry Road). *(Previously continued by Staff from the October 4, 2022, through the February 7, 2023, Planning Commission (PC) hearings until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).*
- Z-81^{'22}** **PRIME PROPERTIES 9, LLC** (John C. Joiner, III, M.D., owner) requesting rezoning from **O&I** to **NRC** for a convenience store with fuel sales in land lot 858 of the 19th district. Property is located on the north side of Mulkey Road, west of Lipson Drive (1810 Mulkey Road). *(Previously continued by Staff from the December 6, 2022, and February 7, 2023, Planning Commission (PC) hearings until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).*
- LUP-23^{'22}** **KOYMAN ELADIO MAZARIEGOS REYES** (Koyman Eladio Mazariegos Reyes, owner) requesting a **Temporary Land Use Permit** for vehicle parking in land lot 626 of the 19th district. Property is located on the south side of Milford Church Road, across from Farmington Drive (1487 Milford Church Road). *(Previously continued by Staff until the December 6, 2022, Planning Commission (PC) hearing; held by the PC until the March 7, 2023, PC hearing; therefore, was not considered at this hearing).*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

SLUP-11'²² **GLENSIDE MABLETON, LLC** (Glenside Mableton, LLC, owner) requesting a **Special Land Use Permit** for a climate-controlled self-storage facility in land lot 297 of the 18th district. Property is located on the southwest side of Mableton Parkway, north of South Gordon Road (Mableton Parkway). *(Previously continued by Staff from the September 20, 2022, and October 18, 2022, Board of Commissioners (BOC) Zoning hearings until the November 15, 2022, BOC Zoning hearing; continued by the BOC from the November 15, 2022, BOC Zoning hearing until the December 20, 2022, BOC Zoning hearing; continued by Staff from the December 20, 2022 BOC Zoning hearing until the February 21, 2023 BOC Zoning hearing; continued from the February 21, 2023, BOC Zoning hearing until the March 21, 2023, BOC Zoning hearing; therefore, was not considered at this hearing).*

O.B. 48'²² To consider a reduction of public road frontage for lots 1 and 2 from 75-feet to 47-feet each for Alva Glass. The property is located on the south side of Bullard Road, south of Devonhurst Way in land lot 434 of the 19th district (2011 Bullard Road). *(Previously continued by the Board of Commissioners (BOC) from the September 20, 2022, and October 18, 2022, BOC Zoning hearings until the November 15, 2022, BOC Zoning hearing; continued by Staff from the November 15, 2022, BOC Zoning hearing until the December 20, 2022, BOC Zoning hearing; continued by the BOC from the December 20, 2022, BOC Zoning hearing until the March 21, 2023, BOC Zoning hearing; therefore, was not considered at this hearing).*

O.B. 56'²² To consider amending the site plan for Stein Investment Group regarding rezoning application Z-223 (Evelyn J. Gordy-Rankin) of 1988 and rezoning application Z-95 (Evelyn J. Gordy-Rankin) of 1990, for property located at the northwest intersection of Shallowford Road and Gordy Parkway in land lots 335 and 386 of the 16th district (Gordy Parkway). *(Previously continued by Staff from the September 20, 2022, through the November 15, 2022, Board of Commissioner (BOC) Zoning hearings until the December 20, 2022, BOC Zoning hearing; continued by the BOC from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing; continued by Staff from the February 21, 2023, BOC Zoning hearing until the March 21, 2023, BOC Zoning hearing; therefore, was not considered at this hearing).*

Z-2 **SWI INVESTMENTS, LLC** (SWI Investments, LLC, owner) requesting rezoning from **GC** to **PVC** for a mixed-use development; retail and multifamily in land lot 207 of the 17th district. Property is located on the southeast side of Austell Road, northeast of Sandtown Road, and on the north side of Parker Drive (1715 Austell Road; 141 and 143 Parker Drive). *(Continued by Staff until the March 7, 2023, Planning Commission hearing; therefore, was not considered at this hearing).*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- Z-3** **CYNTHIA JONES AND CINDY NASH ENTERPRISES LLC** (Cindynash Enterprise LLC and Cynthia Jones, owners) requesting rezoning from **R-20** and **PSC** to **NRC** for retail in land lot 413 of the 18th district. Property is located on the south side of South Gordon Road, east of Factory Shoals Road (674 South Gordon Road). *(Continued by Staff until the March 7, 2023, Planning Commission hearing; therefore, was not considered at this hearing).*
- Z-4** **NOBLE STORAGE LLC** (Donald K. Nix, Fred Doty, owner) requesting rezoning from **LRO** to **NRC** for a climate-controlled self-storage in land lot 539 of the 16th district. Property is located on the south side of Freeman Road, east of Johnson Ferry Road (4290 Freeman Road). *(Continued by Staff until the March 7, 2023, Planning Commission hearing; therefore, was not considered at this hearing).*
- SLUP-2** **NOBLE STORAGE LLC** (Donald K. Nix, Fred Doty, owners) requesting a **Special Land Use Permit** for a climate-controlled self-storage in land lot 539 of the 16th district. Property is located on the south side of Freeman Road, east of Johnson Ferry Road (4290 Freeman Road). *(Continued by Staff until the March 7, 2023, Planning Commission hearing; therefore, was not considered at this hearing).*
- O.B. 3** To consider amending the site plan for Mills Animal Hospital, Cat Clinic and Rehab Center regarding rezoning application Z-9 of 2020, for property located on the west side of North Cobb Parkway, south of Third Army Road in land lot 2 of the 20th district (4825 North Cobb Parkway). *(Continued by Staff until the March 21, 2023, Board of Commissioners' Zoning hearing; therefore, was not considered at this hearing).*

Mr. Pederson made the following announcements and then read in the cases for the Consent Agenda.

CAMPAIGN DISCLOSURE

All speakers who have made a campaign contribution totaling \$250.00 or more, within the last two years, to a local government official considering a zoning case are required to complete the "Campaign Disclosure Form" prior to speaking.

INFORMATION REGARDING ZONING CASES

All information regarding zoning cases must be turned in to the Zoning Office on the Wednesday prior to the zoning hearing for consideration. If said information is turned in past the deadline, then it is at the Board's discretion as to whether the information will be considered.

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CONSENT AGENDA

MOTION: Motion by Cupid, second by Richardson, to **approve** the following cases on the Consent Agenda, *as revised*:

Z-72^{'22} **BROCK BUILT HOMES LLC** (James R. Groover, owner) requesting rezoning from **R-30** to **R-20/OSC** for a single-family subdivision in land lot 129 of the 19th district. Property is located on the west side of Friendship Church Road, across from Wellsley Drive (880 Friendship Church Road). *(Previously continued by Staff from the November 1, 2022, Planning Commission (PC) hearing until the December 6, 2022, PC hearing; held by the PC from the December 6, 2022, PC hearing until the February 7, 2023, PC hearing).*

To **approve** Z-72^{'22} to the **R-20/OSC** zoning district, subject to:

1. Letter of agreeable conditions from Parks Huff dated January 26, 2022 (attached and made a part of these minutes), with the following changes:
 - A. Item No. 1 – change “twenty-two homes” to “twenty-one homes” and change “1.56 units per acre” to “1.55 units per acre”
 - B. Item No. 5 – add to the end, “No chain link fences allowed.”
2. Mail kiosk shall be located on commonly owned or HOA (Homeowners Association) property, not on a lot
3. All lots shall be 13,000 square feet
4. A distance of a least 22 feet shall be maintained between all houses on adjoining lots
5. Not less than 2% of the tract will be made a second open space area along Friendship Church Road; such area to include a berm of four feet in height, if possible, where such area abuts the lots nearest to Friendship Church Road
6. Developer to submit Landscaping, Grading, and Tree Save Plans to the District Commissioner prior to pulling a Land Disturbance Permit with the District Commissioner to have final approval over each plan and the final building plans
7. All Staff comments and recommendations, *including* additional comments provided by Staff

Z-77^{'22} **LIDL US OPERATIONS, LLC - DEBORAH PYBURN** (Canton Village Associates, L.P., owner) requesting rezoning from **NS** and **CRC** to **CRC** for a grocery store in land lots 565 and 566 of the 16th district. Property is located on the south side of Piedmont Road, and on the west side of Canton Road (2833 Canton Road, 740 Piedmont Road). *(Previously continued by Staff from the December 6, 2022, Planning Commission (PC) hearing until the February 7, 2023, PC hearing).*

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CONSENT AGENDA (CONT.)

Z-77'²² LIDL US OPERATIONS, LLC - DEBORAH PYBURN (CONT.)

To **approve** Z-77'²² to the **CRC** zoning district, subject to:

1. Letter of agreeable conditions from Deborah Pyburn dated January 26, 2023 (attached and made a part of these minutes)
2. Site Plan dated January 20, 2023 (attached and made a part of these minutes), with the District Commissioner approving minor modifications
3. Install an eight-foot landscape enhancement strip adjacent to Piedmont Road and Canton Road, as shown on the site plan dated January 20, 2023
4. Adhere to Canton Road guidelines
5. Fire Department comments and recommendations
6. Stormwater Management Division comments and recommendations
7. Water and Sewer Division comments and recommendations
8. Department of Transportation (DOT) comments and recommendations, *including revised DOT comments dated 2-1-2023*

Z-78'²² TODD WOODRUFF (Lee Jaraysi, owner) requesting rezoning from **NS, GC, and R-20** to **NRC** for a car wash in land lots 157 and 204 of the 16th district. Property is located on the south side of Shallowford Road, on the east side of Canton Road, and at the terminus of Old Shallowford Road (4400 Shallowford Road, 4360 Canton Road). *(Previously held by the Planning Commission (PC) from the December 7, 2022 PC hearing until the February 7, 2023, PC hearing).*

To **approve** Z-78'²² to the **NRC** zoning district, subject to:

1. Letter of agreeable conditions from Carol Brown dated January 23, 2023 (attached and made a part of these minutes)
2. Site Plan dated January 25, 2023 (attached and made a part of these minutes), with the District Commissioner approving minor modifications
3. Adherence to the Canton Road Guidelines
4. Dumpster enclosure to be constructed per County standards
5. Signs must be permitted through the Zoning Division and must comply with County Sign Ordinance
6. Fire Department comments and recommendations
7. Stormwater Management Division comments and recommendations
8. Department of Transportation comments and recommendations
9. Water and Sewer Division comments and recommendations
10. Site Plan Review comments and recommendations

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CONSENT AGENDA (CONT.)

LUP-21^{'22} **ROGER ALEXANDER** (Roger Alexander, owner) requesting a **Temporary Land Use Permit** for vehicle parking in land lot 235 of the 16th district. Property is located on the west side of Keheley Road, north of Myrtle Drive (4175 Keheley Road). *(Previously continued by Staff from the November 1, 2022, Planning Commission (PC) hearing until the December 6, 2022, PC hearing; continued by the PC from the December 6, 2022 PC hearing until the February 7, 2023, PC hearing).*

To **approve** LUP-21^{'22} for **24 months**, subject to:

- 1. Vehicle to be parked on a hardened surface**
- 2. Prior to the Board of Commissioners' Zoning Hearing the Applicant submit confirmation as to the height of the vehicle**

LUP-1 **SERGIO JAIME PUGA** (Sergio Jaime Puga, owner) requesting a **Temporary Land Use Permit** to allow more vehicles than the code allows in land lot 204 of the 17th district. Property is located on the south side of Calio Drive, east of Quinto Drive (95 Calio Drive).

To **approve** LUP-1 for **12 months**, subject to:

- 1. Relocating three of the vehicles to another location at the end of the 12-month LUP to come into compliance with the code**
- 2. The total number of vehicles should not exceed five vehicles which includes a company truck**
- 3. In the event the Applicant no longer utilizes the company truck, the maximum number of vehicles shall not exceed four**
- 4. Two vehicles are to be parked in the carport**
- 5. All other Staff comments and recommendations, *not otherwise in conflict***

LUP-2 **JASMIN ROBLES** (Gilberto Robles, owner) requesting a **Temporary Land Use Permit** to allow a commercial truck to be parked on the property in land lots 277 and 300 of the 17th district. Property is located on the north side of Spring Valley Road, northwest of Dink Lane (229 Spring Valley Road).

To **approve** LUP-2 for **12 months**, subject to:

- 1. Parking of the box truck on the side of the house**

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CONSENT AGENDA (CONT.)

LUP-3 THE GIVING GARDENS, INC. (The Giving Gardens, Inc., owner) requesting a **Temporary Land Use Permit** to allow a community garden space including animal husbandry, education, mobile food service, food sales, and intern housing in land lots 183 and 250 of the 17th district. Property is located on the north side of Cooper Lake Road, and on the east side of Waits Drive (79 Cooper Lake Road, 5288 Waits Drive).

To **approve** LUP-3 for **24 months**, subject to:

- 1. No parking on the right-of-way; all customer and client parking must be on the adjacent, paved church property parking lot**
- 2. No exterior signs**
- 3. No outside storage allowed**
- 4. Department of Transportation comments and recommendations**

LUP-4 GARFIELD & ANDREA MCCOOK (Garfield McCook and Andrea McCook, owners) requesting a **Temporary Land Use Permit** for a personal care home in land lot 222 of the 20th district. Property is located on the south side of Stilesboro Road, west of Allatoona Lane (4549 Stilesboro Road).

To **approve** LUP-4 for **24 months**, subject to:

- 1. Maximum of 12 residents**
- 2. Maintain turn around capabilities of driveway so that vehicles can exit the property frontwards**
- 3. No exterior signs**
- 4. Maintain all State and County required permits**
- 5. Maintain size of lot as it exists currently**
- 6. Department of Transportation comments and recommendations**

LUP-5 CAITLIN COSTELLO (Caitlin Costello, owner) requesting a **Temporary Land Use Permit** for a flower farm and sales in land lot 156 of the 1st district. Property is located on the north side of Sunset Trail, east of Bayliss Drive (5171 Sunset Trail).

To **approve** LUP-5 for **24 months**, subject to:

- 1. No sales from this location**
- 2. No exterior signs**
- 3. Department of Transportation comments and recommendations**

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CONSENT AGENDA (CONT.)

OTHER BUSINESS

- O.B. 1** To consider a reduction of required lot size for Vijay Kothari from 30,000 square-feet to 22,643 square-feet. The property is located on the east side of Cherry Hill Drive, west of Thunderbird Drive in land lots 1088 and 1089 of the 17th district (420 Cherry Hill Drive).

To **approve** O.B. 1, subject to:

- 1. Lot size approved to 22,643 square-feet**
- 2. Water and Sewer Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

- O.B. 6** To consider amending the site plan and stipulations for Stephen Terry regarding rezoning application Z-47 of 2011, for property located at the northwestern intersection of Busbee Drive and the Skip Spann Connector, and on the east side of I-75 in land lots 360 and 361 of the 16th district and land lots 95 and 96 of the 20th district (3453 Busbee Drive).

To **approve** O.B. 6, subject to:

- 1. Site Plan received by the Zoning Division on January 17, 2023, showing the gate locations (attached and made a part of these minutes)**
- 2. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 3. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect**

- O.B. 7** To consider amending the site plan and stipulations for Retail Planning Corporation regarding rezoning applications Z-82 of 2017 and #452 of 1984, for property located at the southwestern intersection of Johnson Ferry Road and Woodlawn Parkway in land lots 13 and 14 of the 1st district (1205 Johnson Ferry Road).

To **approve** O.B. 7, subject to:

- 1. *Proposed* overall site plan and site plan received by the Zoning Division on January 17, 2023 contained in the Other Business packet (attached and made a part of these minutes)**
- 2. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 7 (CONT.)

3. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect
4. Letter of agreeable conditions from Kevin Moore dated February 17, 2023 (attached and made a part of these minutes)

Prior to approving the Consent Agenda, three more cases, LUP-24'²² (Elaida Escobar), O.B. 8 (BT Storage, LLC), and Z-5 (Emerson and Gigi Real Estate Holdings, LLC) were added to the Consent Agenda. The Applicant(s) for each case was present, and there was no opposition present.

LUP-24'²⁴ **ELOIDA ESCOBAR** (Elaida Escobar, owner) requesting a **Temporary Land Use Permit** to allow more vehicles than the code allows in land lot 60 of the 17th district. Property is located on the east side of Kurt Drive, north of County Services Parkway (693 Kurt Drive). *(Previously continued by the Planning Commission (PC) from the December 6, 2022, PC hearing until the February 7, 2023, PC hearing).*

MOTION: Motion by Gambrill, second by Cupid, to **add** LUP-24'²² to the Consent Agenda.

VOTE: **ADOPTED 5-0** *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes)*

Following the vote, Commissioner Gambrill amended her previous motion to include stipulations.

MOTION: Motion by Gambrill, second by Cupid, to **amend** the previous motion for LUP-24'²² to include the following stipulations:

To **approve** LUP-24'²² for **24 months**, subject to

1. **Parking of all cars to be on a hardened and treated surface**
2. **No more than two cars to be parked in the driveway at anytime**
3. **Staff comments and recommendations, *not otherwise in conflict***

VOTE: **ADOPTED 5-0** *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes)*

O.B. 8 To consider amending the site plan for BT Storage, LLC regarding rezoning application Z-98 of 2005, for property located on the south side of Hickory Grove Road, west of new McEver Road in land lot 50 of the 20th district (3045 Hickory Grove Road).

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 8 (CONT.)

To **approve** O.B. 8, subject to:

1. *Proposed Site Plan contained in the Other Business packet (attached and made a part of these minutes)*
2. **District Commissioner to approve the final Site Plan and final building elevations**
3. **Staff comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

MOTION: Motion by Gambrell, second by Richardson, to **add** O.B. 8 to the Consent Agenda as previously read into the record.

VOTE: **ADOPTED 5-0** *(Statements read in by Commissioner Gambrell and Commissioner Birrell are attached and made a part of these minutes)*

Z-5

EMERSON AND GIGI REAL ESTATE HOLDINGS, LLC (Emerson and Gigi Real Estate Holdings, LLC, owners) requesting rezoning from **PSC** to **GC** for a shopping center in land lots 77 and 156 of the 18th district. Property is located on the northeast side of Mableton Parkway and on the southeast side of Gresham Road (6015, 6021, and 6041 Mableton Parkway).

MOTION: Motion by Sheffield, second by Birrell, to **add** Z-5 to the Consent Agenda, as follows:

To **delete** Z-5 to the **CRC** zoning district, subject to:

1. **The Landscape Plan to include landscaping around the future monument sign on Mableton Parkway; evergreens are to be planted adjacent to properties located at 559 Gresham Road and 476 Lane Drive to provide a buffer**
2. **Any outdoor events must be in front of the shopping plaza and at least 250 feet from 559 Gresham Road and 476 Lane Drive**
3. **The rear door shall remain closed during events to contain music, sound, or noise during an event**
4. **The detention pond must be brought up to county standards within 180 days of the Board of Commissioners' approval of this application; if a new fence is to be installed around the perimeter of the detention pond, the fence is to be a six-foot black vinyl-clad fence**
5. **All other Staff comments and recommendations, *not otherwise in conflict***

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 14**

CONSENT AGENDA (CONT.)

Z-5 EMERSON AND GIGI REAL ESTATE HOLDINGS, LLC (CONT.)

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

CONSENT VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

REGULAR AGENDA

Z-38²² DAVID PEARSON COMMUNITIES, INC. (Barnes Farms, LLC, owner) requesting rezoning from **R-30** to **R-15/OSC** for a single-family subdivision in land lots 8 and 9 of the 18th district; 1251, 1266, 1267, 1268, 1269, 1322, 1323, 1324, and 1325 of the 19th district. Property is located on the east and west side of Brown Road, north of Stout Parkway (5690, unaddressed parcel Brown Road). (*Previously continued by Staff from the June 7, 2022, Planning Commission (PC) hearing until the July 5, 2022, PC hearing; held by the PC from the July 5, 2022, PC hearing until the August 2, 2022, PC hearing; continued by the Board of Commissioners (BOC) from the August 16, 2022, BOC Zoning hearing to the September 20, 2022, BOC Zoning hearing; continued by Staff from the September 20, 2022, BOC Zoning hearing until the October 18, 2022, BOC Zoning hearing; continued by the BOC from the October 18, 2022, BOC Zoning hearing until the November 15, 2022, BOC Zoning hearing; pending by the BOC from the November 15, 2022, BOC Zoning hearing until the December 20, 2022, BOC Zoning hearing; held by the BOC from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing*).

The public hearing was opened; Kevin Moore, Clithon Rice, Jr., and Craig Harfoot addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **deny** Z-38²².

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

By general consensus, Z-66²² and SLUP-14²² (ADP - Terrell Mill LLC) were heard concurrently but voted on separately.

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 15**

REGULAR AGENDA (CONT.)

Z-66'²² **ADP - TERRELL MILL LLC** (The Estate of Ruby Inez Fridell, owner) requesting rezoning from **R-80** to **CRC** for a climate-controlled self-storage facility in land lot 936 of the 17th district. Property is located on the west side of Terrell Mill Road, and on the south side of Delk Road (1140 and 1150 Terrell Mill Road). *(Previously continued by Staff from the October 4, 2022, Planning Commission (PC) hearing until the November 1, 2022, PC hearing; held by the PC from the November 1, 2022, PC hearing until the December 6, 2022, PC hearing; held by the Board of Commissioners (BOC) from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing).*

SLUP-14'²² **ADP - TERRELL MILL LLC** (The Estate of Ruby Inez Fridell, owner) requesting a **Special Land Use Permit** for a climate-controlled self-storage facility in land lot 936 of the 17th district. Property is located on the west side of Terrell Mill Road, and on the south side of Delk Road (1140 and 1150 Terrell Mill Road). *(Previously continued by Staff from the October 4, 2022, Planning Commission (PC) hearing until the November 1, 2022, PC hearing; held by the PC from the November 1, 2022, PC hearing until the December 6, 2022, PC hearing; held by the Board of Commissioners (BOC) from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing).*

The public hearing was opened; Kevin Moore, Bob Ott, Craig Harfoot, Kevin Nicholas, Steve Roe, Michelle Ansley, John Norlander, and Christy Roe addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to delete Z-66'²² to the O&I zoning district, subject to:

1. Letter of agreeable conditions from Kevin Moore dated February 15, 2023 (attached and made a part of these minutes)
2. Hours of the community center restricted to the evening
3. Maximum capacity of 15 people
4. Staff comments and recommendations, *not otherwise in conflict*

Prior to the vote, discussion ensued and Commissioner Richardson made the following amended motion:

MOTION: Motion by Richardson, second by Cupid, to deny Z-66'²².

VOTE: **ADOPTED** 4-1, Gambrill opposed *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes)*

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 16

REGULAR AGENDA (CONT.)

**Z-66^{'22} & ADP - TERRELL MILL LLC (CONT.)
SLUP-14^{'22}**

After the vote for Z-66^{'22}, the following motion for companion case, SLUP-14^{'22}, was made:

MOTION: Motion by Richardson, second by Cupid, to **deny** SLUP-14^{'22}.

VOTE: **ADOPTED** 4-1, Gambrill opposed (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

Chairwoman Cupid called for a brief recess from 10:41 a.m. until 10:47 a.m.

SLUP-16^{'22} HILLELS OF GEORGIA, INC. (Barry Balint, owner) requesting a **Special Land Use Permit** for a Jewish Faith Student Center in land lot 97 of the 20th district. Property is located on the west side of Frey Lake Road, west of Campus Loop Road, south of the intersection of Frey Lake Road and Campus Loop Road (3561 Frey Lake Road). (*Held by the Planning Commission (PC) until the February 7, 2023, PC hearing*).

The public hearing was opened; Kevin Moore, Steven Cadranell, Cindy Sproull, Phil Anzalone, Roy McPherson, and Dean Stewart addressed the Board. During the Board discussion, Chairwoman Cupid called for a one-minute recess. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Richardson, to **deny** SLUP-16^{'22}, subject to:

1. Applicant to stop operating out of this facility by May 31, 2023

VOTE: **ADOPTED** 5-0 (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

Chairwoman Cupid called for a lunch recess at 11:46 a.m. The hearing reconvened at 12:48 p.m.

Z-1 TARA BROUGHTON (T & C Concepts LLC dba Simply Stumps Atlanta, owner) requesting rezoning from **O&I** to **LI** for a specialized contractor for a tree/landscaping business in land lot 296 of the 17th district. Property is located on the north side of Barber Road, west of Old Concord Road (411 Barber Road).

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 17**

REGULAR AGENDA (CONT.)

Z-1 TARA BROUGHTON (CONT.)

The public hearing was opened; Curtis Briscoe and Sherie Barge addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **delete** Z-1 to the **NRC with special exception use for specialized contractor** zoning district, subject to:

- 1. District Commissioner to approve final Site Plan**
- 2. Parking Plan to be approved by the District Commissioner**
- 3. Fire Department comments and recommendations**
- 4. Water and Sewer Division comments and recommendations**
- 5. Stormwater Management Division comments and recommendations**
- 6. Department of Transportation comments and recommendations**
- 7. Applicant to install a 20-foot landscape buffer with a six-foot solid wooden fence along Barber Road and the eastern property line excluding the existing house area**
- 8. No tree debris on-site**
- 9. No cutting, chipping, grinding, or reduction of trees or vegetation on-site**
- 10. Office use and parking of equipment vehicles and equipment *only*, with the limit of two trucks with grinders attached**
- 11. Applicant to install security cameras**
- 12. Applicant to install milling and asphalt so the vehicles will be on a hardened surface**
- 13. Hours of operation Monday through Friday, 9:00 a.m. until 6:00 p.m., *with the exception of emergency situations***
- 14. Planning Commission and Staff comments and recommendations, *not otherwise in conflict***

VOTE: **ADOPTED 5-0** (*Statements read in in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

OTHER BUSINESS

- O.B. 65'²²** To consider a stipulation amendment for Mid Atlantic Commercial Properties, LLC regarding rezoning application Z-157 of 2000 for property located at the northwest intersection of Johnson Ferry Road and Waterfront Drive in land lot 470 of the 16th district (3033 Johnson Ferry Road). (*Previously held by the Board of Commissioners (BOC) from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing*).

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 18**

OTHER BUSINESS (CONT.)

O.B. 65^{'22} (CONT.)

The public hearing was opened; David Weinstein, Richard Grome, and David Rumrill addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Birrell, to **approve** O.B. 65^{'22}, subject to:

- 1. Remove “Pharmacy only” use and designated user as Walgreens**
- 2. Add prohibited uses list submitted on February 17, 2023 in email from East Cobb Civic Association (ECCA) (attached and made a part of these minutes)**
- 3. Add prohibited uses list submitted on February 17, 2023 in email from Rachel Bruce on behalf of Johnson Ferry Shallowford Committee (JOSH) (attached and made a part of these minutes)**
- 4. Any other use to come back to the Board of Commissioners as Other Business**
- 5. Staff comments and recommendations, *not otherwise in conflict***
- 6. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect**

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

O.B. 4 To consider amending the site plan and stipulations for Bentley Residential Properties, LLC regarding rezoning application Z-63 of 2019, for property located on the north side of Gresham Road, west of Gresham Park Drive in land lot 1097 of the 16th district (1521, 1531, and 1541 Gresham Road).

The public hearing was opened; George Bentley, Mandy Hall, and Laura McGarity addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Gambrill, to **approve** O.B. 4, subject to:

- 1. Reduction of the buffer from 50-feet to 25-feet in the rear of the property where the Georgia Power easement is located**
- 2. No planting at the power lines on the front entrance at Gresham Road but cleanup of the brush and possibly plant some small flowers**
- 3. Planting on the left (west) side of the property closest to Ms. McGarity’s home with trees or shrubs approved by the County Arborist with final approval by the District Commissioner**
- 4. Hours to remain Monday through Friday, 7:00 a.m. until 7:00 p.m.**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 19**

OTHER BUSINESS (CONT.)

O.B. 4 (CONT.)

5. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect
6. All Staff comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

O.B. 5 To consider amending the site plan and stipulations for Roberto Privitera regarding rezoning application Z-103 of 2016, for property located at the southwestern intersection of Woodlawn Drive and Divine Court in land lot 8 of the 1st district (4588 Divine Court).

The public hearing was opened; Brad Ranken, Roberto Privitera, and Richard Grome addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Birrell, to **deny** O.B. 5.

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

COMPREHENSIVE PLAN HEARING

To conduct a public hearing to consider the 2023 *proposed* amendments to the Cobb County Comprehensive Plan and Future Land Use Map.

Ms. Jessica Guinn, Community Development Director, presented the 2023 *proposed* amendments to the Comprehensive Plan and Future Land Use Map. A copy of the document entitled *2023 Comprehensive Plan and Future Land Use Amendments* is on file in the Office of the County Clerk.

Ms. Guinn read each *proposed* amendment (five Zoning Decisions – ZDs and one Commissioner Proposal – CP) into the record. Each amendment was considered and voted on separately.

ZONING DECISIONS (ZDs)

ZD-1-4 (Z-27 of 2022) request from PIA-ic to PIA-ic & LDR for climate-controlled self-storage and single-family residential; located on the northeast side of Mableton Parkway and on the southwest side of Cardell Circle, north of Hunnicut Road. (Commission District: 4)

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
PAGE 20**

COMPREHENSIVE PLAN HEARING (CONT.)

ZONING DECISIONS (ZDs) (CONT.)

ZD-1-4 (CONT.)

The public hearing was opened; there being no public speakers or commissioner concerns brought forward, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** ZD-1-4.

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

ZD-2-1 (Z-29 of 2022) request from CAC to LDR for single-family residential; located on the north side of Waldrep Circle, west of South Cobb Drive. (Commission District: 1)

The public hearing was opened; there being no public speakers or commissioner concerns brought forward, the following motion was made:

MOTION: Motion by Gambrill, second by Richardson, to **approve** ZD-2-1.

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

ZD-3-4 (Z-53 of 2022) request from CAC to MDR for single-family residential; located on the northwest side of Old Bankhead Highway, at the terminus of Ricky Lane, south of Veterans Memorial Highway. (Commission District: 4)

The public hearing was opened; there being no public speakers or commissioner concerns brought forward, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** ZD-3-4.

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

ZD-4-2 (Z-78 of 2021) request from MDR to PI for a school; located on the east and north side of Daniel Street, on the west side of Cooper Lake Road. (Commission District: 2)

The public hearing was opened; there being no public speakers or commissioner concerns brought forward, the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to **approve** ZD-4-2.

VOTE: **ADOPTED 5-0** (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
FEBRUARY 21, 2023
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COMPREHENSIVE PLAN HEARING (CONT.)

ZONING DECISIONS (ZDs) (CONT.)

ZD-5-4 (Z-57 of 2022) request from LDR to NAC for a convenience store; located on the east side of Hicks Road, on the south side of Grindstone Drive. (Commission District: 4)

The public hearing was opened; there being no public speakers or commissioner concerns brought forward, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** ZD-5-4.

VOTE: **ADOPTED** 5-0 (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

COMMISSIONER PROPOSAL (CP)

CP-1-3 Request from MDR to LDR for residential; located on the southeast side of Wade Green Road, north of Wooten Lake Road (4556, 4570, and 4600 Wade Green Road). (Commission District: 3)

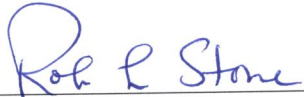
The public hearing was opened; Joseph DiClemente and Jerry Deavers addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Gambrill, to **approve** CP-1-3.

VOTE: **ADOPTED** 5-0 (*Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes*)

ADJOURNMENT

The hearing adjourned at 3:45 p.m.



Robin L. Stone, Deputy County Clerk
Cobb County Board of Commissioners

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Min. Bk. 97 Petition No. ALL
Doc. Type Comm. Gambrell's
Statement added to each vote
Meeting Date 2-21-2023

FILED WITH COUNTY CLERK THIS 21st DAY
OF February 2023 BY Keli Gambrell
RE Attach statement to each vote taken
Rae L Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

From: Commissioner Keli Gambrell

To: Cobb County Clerk

Statement February 21, 2023 to be attached to all agenda items considered.

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Boards Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

As stated and recorded in previous minutes, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Federal Court in Georgia have ruled that the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties.

The county has received letters from the Georgia State Attorney General, Chris Carr stated that the Cobb County Commissions move to amend its electoral redistricting map is "inappropriate and not legally binding."

C. Ryan Germany, General Counsel for the Office of the Secretary of State, "You should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to be a comment on whether the Amendment is allowable under state law or a proper exercise of authority by the Cobb County Commission, nor should you rely on it to attempt to establish the validity of the Amendment." "In fact," he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply with Georgia Law or the state Constitution.

Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

Min. Bk. 97 Petition No. ALL
Doc. Type Comm. Birrell's
statement added to each vote
Meeting Date 2-21-2023

FILED WITH COUNTY CLERK THIS 21st DAY
OF February 20 23 BY JoAnn Birrell
RE Attach statement to each vote taken
Rob E. Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

For the record, please add to each vote taken:

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map 3 times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022 under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Cobb Board of Elections on November 15, 2022.

JoAnn K. Birrell

District 3 Commissioner



Min. Bk. 97 Petition No. Z-72 '22
Doc. Type letter
Meeting Date 2-21-2023

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

January 26, 2023

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

Re: Application of Brock Built Homes, LLC to Rezone a $\pm$ 14.095 Acre Tract from R-30 to R-20 OSC -Land Lot 129, 19th District, 2nd Section, Cobb County, Georgia (Z-72-2022).

Dear John:

Brock Built Homes, LLC, a local second-generation local homebuilder, proposes to build a twenty-two (22) for-sale home neighborhood in west Cobb on Friendship Church Road. Brock Built proposes to rezone the property from R-30 to R-20 OSC for a conservation subdivision that is only a density of 1.56 units per acre. Using the conservation design allows for good buffers and the preservation of meaningful greenspace. During the pendency of the application the applicant has made many revisions to the site plan, most significantly reducing the number of homes from the original request of twenty-five (25) homes.

Attached is a revised site plan that is compliant with all R-20 OSC requirements and the applicant isn't seeking any variances. As presented, the proposal is consistent with the county's Future Development Map and Comprehensive Plan. Additionally, R-20 is the predominate zoning in the area with R-20 zonings to the north, south and east of the subject property.

The applicant proposes the following conditions of zoning to address concerns about the project.

- 1) The R-20 OSC neighborhood will be developed in conformity to the attached site plan with no more than twenty-two homes for a density of only 1.56 units per acre.
- 2) The homes will be a "for sale" community and with a maximum rental restriction of 10% which shall be contained in the CC&R's.



VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
January 26, 2023
Page 2

Petition No. Z-72 '22
Meeting Date 2-21-2023
Continued

- 3) The entrance will be designed to meet all Cobb DOT recommendations in terms of location, deceleration lanes and other project transportation improvements that are needed on Friendship Church Road.
- 4) A conservation easement shall be recorded with the subdivision covenants. The covenants shall require the homeowner's association to maintain the conservation property in compliance with the OSC regulations.
- 5) The applicant will install split rail fencing or similar fencing compatible with the architecture/landscaping/design of the development demarcating the open space from the lots to ensure the open space remains community and natural open space.
- 6) The homes will be consistent with the attached architecture.
- 7) The applicant will comply with all the recommendations of the Stormwater Management Division.
 - a. The District Commissioner and/or her designee shall have the authority to approve certain minor modifications to the site plan, the architecture and these stipulations/conditions as the development proposal proceeds through the Plan Review Process and thereafter, except for those that:
 - b. Reduce the size of an approved buffer adjacent to property which is zoned in a more restrictive zoning district
 - c. Relocate a structure closer to the property line to an adjacent property which is zoned in a more restrictive zoning district.
 - d. Increase the height of a building adjacent to property which zoned in a more restrictive zoning district.
 - e. Change access locations to different roadways.
 - f. Seek any additional Variances to provisions of the Cobb County Zoning Ordinance.



Petition No. Z-72 '22
Meeting Date 2-21-2023
Continued

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
January 26, 2023
Page 3

Please do not hesitate to contact me should you or your staff have any questions or require any additional information regarding these proposed zoning conditions. KM Homes looks forward to further dialogue with the community and will be glad to supplement these proposed conditions if necessary.

Sincerely,

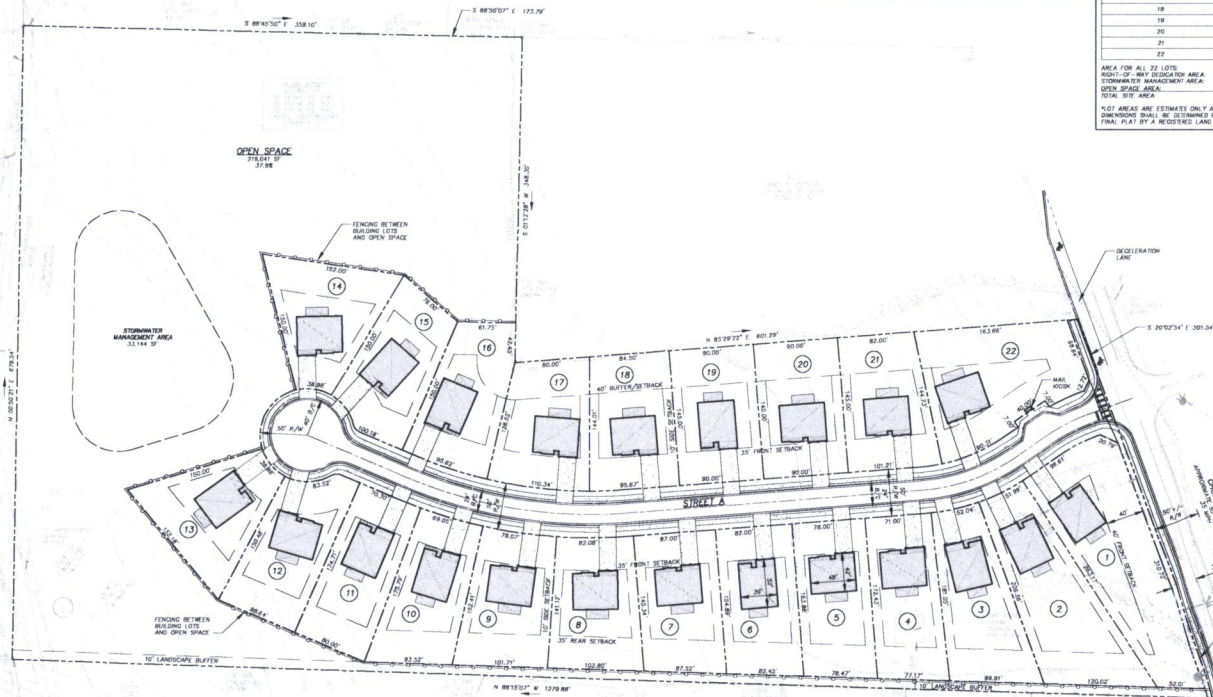
SAMS, LARKIN & HUFF, LLP

A handwritten signature in dark ink, appearing to read "Parks F. Huff".

Parks F. Huff
phuff@samslarkinhuff.com

PFH/lkj
Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Members, Cobb County Planning Commission (via email w/ attachments)
BOC Commission Assistants (via email w/attachments)
Ms. Jessica Guinn, AICP, Director, Community Development (via email w/attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/attachments)
Mr. Terry Martin, Planner (via email w/attachments)
Ms. Margie Vazquez, Planner (via email w/attachments)
Mr. LeDarius Scott, Planner (via email w/attachments)
Mr. Cameron Jones, Planner (via email w/ attachments)
Ms. Robin Stone, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/ attachments)
Captain Josh Davis, Fire Marshal's Office (via email w/attachments)
Mr. Carl Carver, P.E., Stormwater Management Division (via email w/attachments)
Ms. Amy Diaz, P.E., Cobb DOT (via email w/attachments)
Ms. Abby Rettig, Cobb DOT (via email w/attachments)
Mr. Tim Davidson, Water System (via email w/attachments)



DRIVEWAY REQUIREMENTS

SPECIAL NOTES PER COBB COUNTY FIRE AND EMERGENCY SERVICES:
MINIMUM OF 2-CAR GARAGE REQUIRED.
DRIVEWAYS TO BE A MINIMUM OF 30 FEET LONG.

COBB COUNTY INSPECTIONS

NOTIFY COBB COUNTY INSPECTOR AT LEAST 24 HOURS BEFORE BEGINNING ANY PHASE OF CONSTRUCTION

COBB COUNTY (GENERAL): (770) 528-2031
COBB COUNTY (WATER AND SEWER): (770) 419-6320

UTILITY CONSTRUCTION NOTE

THE INSTALLATION, RELOCATION OR REMOVAL OF ANY UTILITY LINES OR STRUCTURES MUST BE PERFORMED AT THE SUPERVISION AND DISCRETION OF THE APPROPRIATE UTILITY DEPARTMENT. INSTRUCTIONS AND REQUIREMENTS ISSUED BY THE UTILITY DEPARTMENTS SHALL SUPERSEDE THOSE SHOWN ON THESE PLANS IF THEY EXCEED THE RECOMMENDATIONS INCLUDED HEREIN.

LOT CHART

LOT NO.	AREA (SF)
1	22,080
2	18,276
3	14,230
4	13,025
5	13,116
6	13,069
7	13,080
8	13,108
9	13,087
10	13,003
11	13,140
12	13,293
13	13,118
14	13,080
15	13,049
16	13,048
17	13,003
18	13,030
19	13,030
20	13,030
21	13,280
22	18,301

AREA FOR ALL 22 LOTS:	308,755 SF (AVG. 14,034 SF/LOT)
RIGHT-OF-WAY DEDICATION AREA:	53,039 SF
STORMWATER MANAGEMENT AREA:	32,144 SF
OPEN SPACE AREA:	219,041 SF (50.62 AC)
TOTAL SITE AREA:	613,979 SF (14.095 AC)

*LOT AREAS ARE ESTIMATES ONLY AND MAY VARY. ACTUAL LOT AREAS AND DIMENSIONS SHALL BE DETERMINED BY PREPARATION AND RECORDING OF THE FINAL PLAT BY A REGISTERED LAND SURVEYOR.

PROJECT NOTES

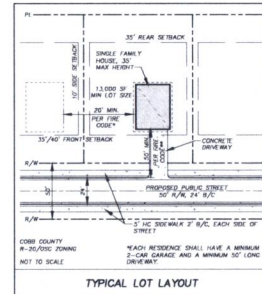
SITE INFORMATION

- 1 THE SUBJECT PROPERTY IS LOCATED ON LOT 129, DISTRICT 18 OF COUNTY OF SHERBROOKE, QUEBEC, CANADA (PROVINCE OF QUEBEC).
- 2 TOTAL SITE AREA IS 1.495 ACRES.
- 3 THE SITE IS CURRENTLY ZONED R-30. PROPOSED ZONING IS R-30/UD (FOR SINGLE-FAMILY RESIDENTIAL USE).
- 4 THE APPLICANT'S PROPOSED RESTRICTIONS FOR R-30/UD ZONING ARE:
- 5 A. BUILDING SETBACK = 10 FEET
- 6 B. SIDE YARD SETBACK = 10 FEET
- 7 C. FRONT YARD SETBACK = 10 FEET
- 8 D. ZONING BUFFER = 45 FEET
- 9 E. MAXIMUM INCREASED COVERAGE = 33 FEET
- 10 F. ZONING BUFFER = 10 FEET
- 11 G. MINIMUM LOT AREA = 1308
- 12 EXISTING SURVEY INFORMATION IS PROVIDED BY A LAND SURVEYOR, DATED 6/9/2013.
- 13 THE EXISTING PROPOSAL IS NOT TO MEAN SEA LEVEL.
- 14 THE EXISTING PROPOSAL IS NOT TO MEAN SEA LEVEL.
- 15 THE EXISTING PROPOSAL IS NOT TO MEAN SEA LEVEL.
- 16 HAZARD ZONE FOR THIS PROPERTY: 1306PO0008, DATED 05/04/2013.
- 17 THERE ARE NO WETLANDS ON SITE.
- 18 THERE IS AN EXISTING STREAM ON SITE THAT IS A TRIBUTARY TO MAJOR CREEK. THE EXISTING BARRIER RESTRICTIONS ARE AS SHOWN FROM THE COUNTY UNRESTRICTED WEATHER AREA.
- 19 COUNTY UNRESTRICTED BUFFER = 30 FEET
- 20 COUNTY UNRESTRICTED BUFFER = 30 FEET

UTILITY INFORMATION

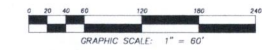
1. FIRE PROTECTION AND POTABLE WATER SERVICES ARE AVAILABLE ONSITE AND ARE PROVIDED BY COBB COUNTY.
2. SANITARY SEWER SERVICE IS AVAILABLE ONSITE AND IS PROVIDED BY COBB COUNTY.
3. STORMWATER MANAGEMENT SHALL BE PROVIDED ONSITE.

7

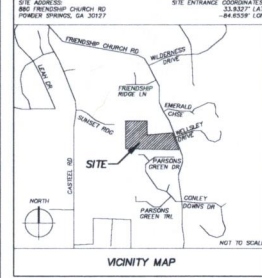


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ISSUE	DATE	DESCRIPTION
1	8/17/21	REZONING APPLICATION SUBMITTED
2	11/17/21	COMMENTS ADDRESSSED, REZONING
3	12/15/21	COMMENTS ADDRESSSED, REZONING

Friendship Church Road Tract
REZONING PLAN

SITE INFORMATION
6800 FRIENDSHIP CHURCH RD.
POWDER SPRINGS, GA 30127

DEVELOPER INFORMATION
BRICK BULL HOMES, LLC
280 INTERSTATE NORTH CIRCLE SE
ATLANTA, GEORGIA 30339
PHONE: (404) 725-1292
CONTACT: KYLE FENDER

LAND LOT 120, DISTRICT 19
R-30 TO R-20-020 ZONING
14.586 ACRES

24-HR CONTACT: NICK FENDER, (404) 725-1292

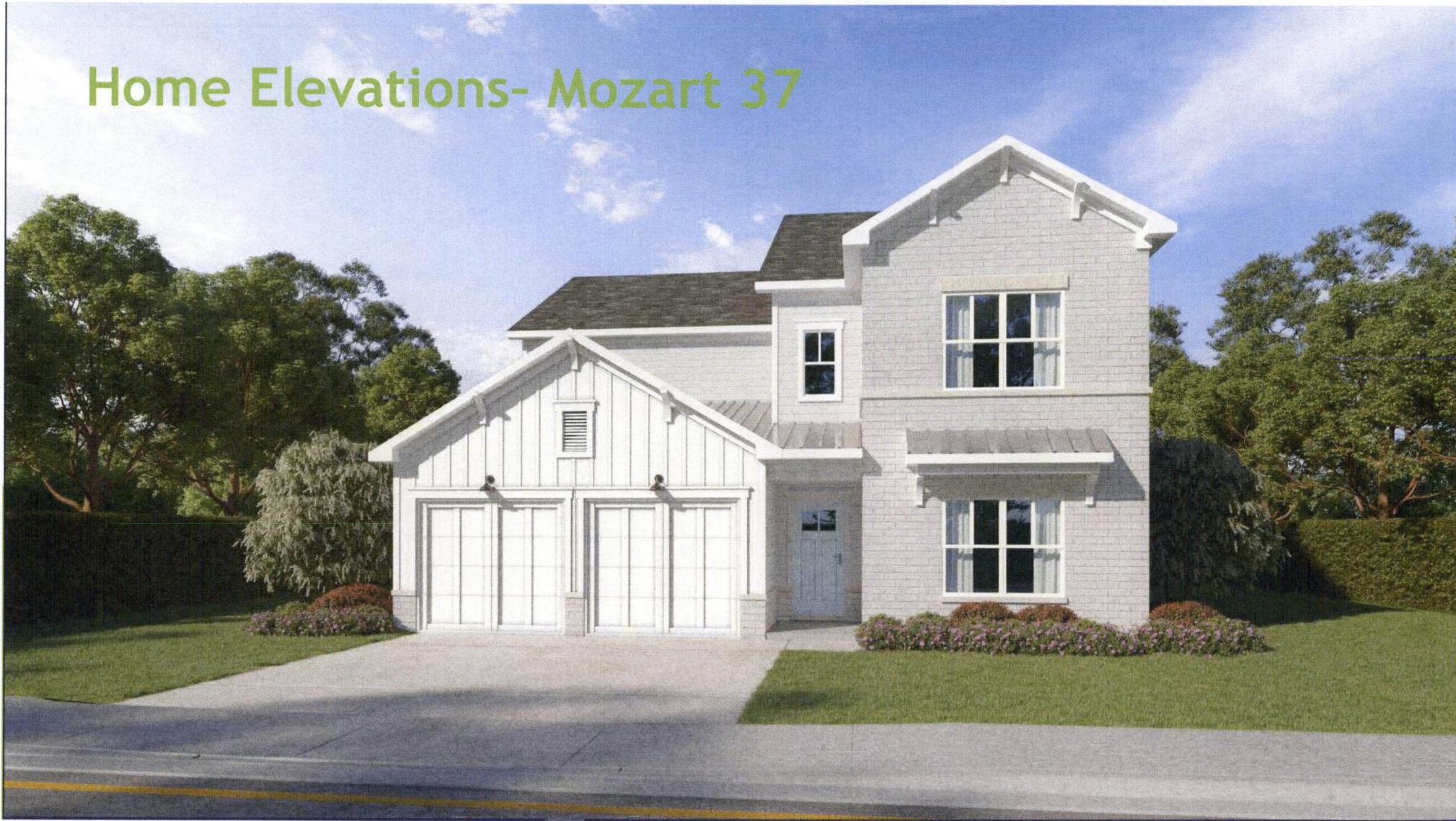
PROJECT NUMBER:	88H05.3
DATE:	12/13/22
ISSUE NUMBER:	3
CHECKED BY:	ROB
SHEET TITLE:	

REZONING PLAN

RZ-1

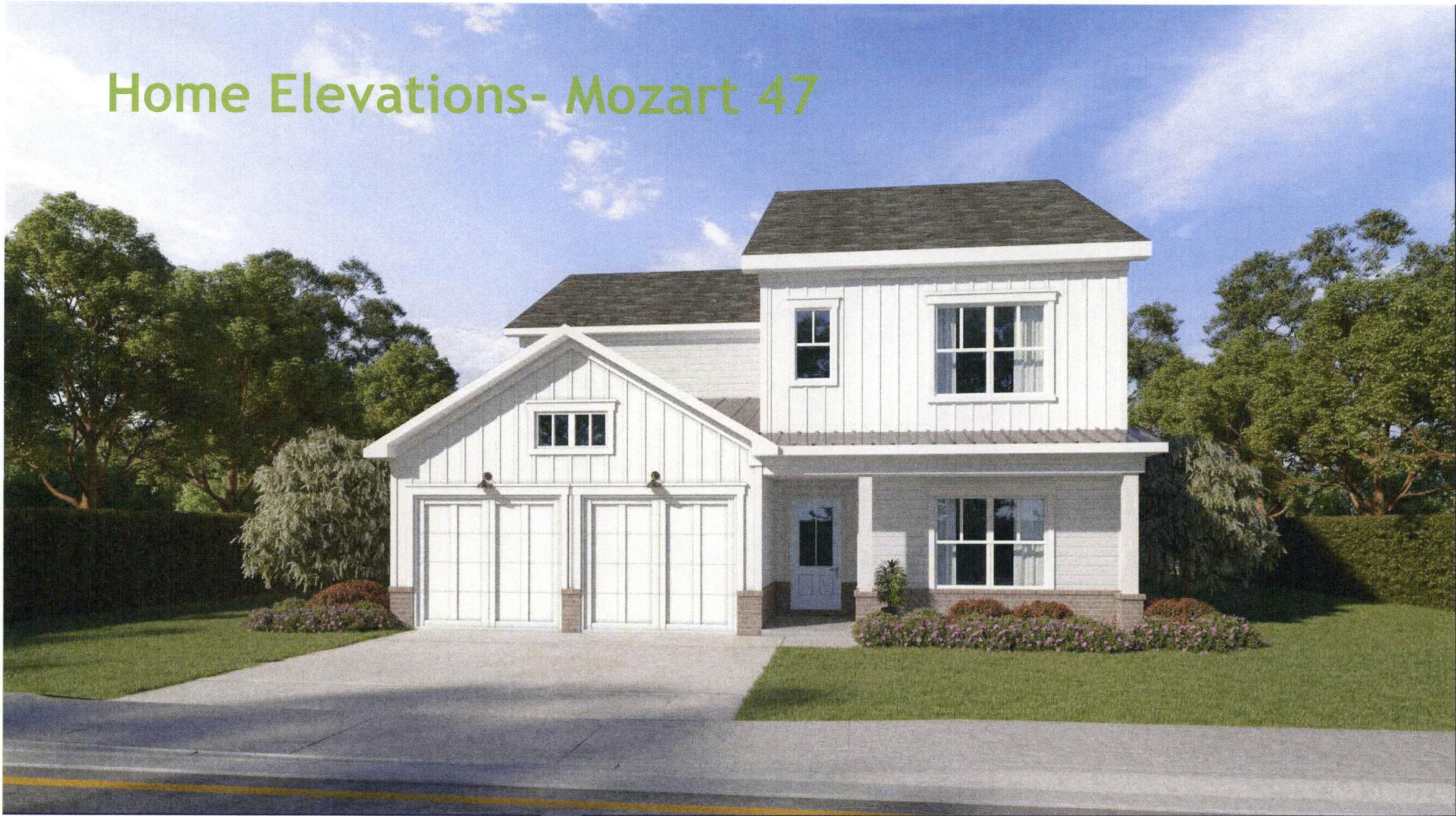
Petition No. Z-72 '22
Meeting Date 2-21-2023
Continued

Home Elevations- Mozart 37



Petition No. Z-72 '22
Meeting Date 2-21-2023
Continued

Home Elevations- Mozart 47



Petition No. 2-72 '22
Meeting Date 2-21-2023
Continued

Home Elevations- Trenton 47



Petition No. Z-72 '22
Meeting Date 2-21-2023
Continued

Home Elevations- Trenton 57



Min. Bk. 97 Petition No. Z-77^{'22}
Doc. Type letter
Meeting Date 2-21-2023



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

January 26, 2023

(STIPULATION LETTER & REVISED SITE PLAN)

VIA HAND DELIVERY & EMAIL:

Ms. Jeannie Peyton, Senior Planner
Cobb County Zoning Division
Community Development
1150 Powder Springs Road SW
Marietta, GA 30064

Re: Application of Lidl US Operations LLC to Rezone approximately 3.47± Acre Tract of Land from
NS and CRC to CRC (No. Z-77)

Dear Jeannie:

The above referenced application submitted by Lidl US Operations, LLC ("Lidl") originally scheduled to be heard and considered by the Cobb County Planning Commission on December 6, 2022 and, thereafter is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on December 20, 2022, which has adjusted to be heard February 7, 2023 and February 21, 2023 by the respective Commissioning boards.

The property at issue ("Subject Property") consists of a multi-tract assemblage of 3.47 acre tract within the confines of a Neighborhood Activity Center ("NAC") and more specifically located at the intersection of Piedmont Road and Canton Road.

The Subject Property is a former Eckerd (Rite Aid) that is no longer operational. The Subject Property makes up a smaller portion of Piedmont Walk which is partially split-zoned, NS and CRC. The Subject Property is considered a non-confirming, "grandfathered" property and the continued utilization of this tract is predicated upon the same use continuing without interruption for a period of time dictated by the Cobb County Zoning Ordinance or is required to be rezoned in accordance with current Zoning Ordinance requirements and applicable zoning classifications.

Lidl's proposal for a single-story grocery store as depicted in the renderings and elevations previously provided. Lidl's operation as a grocery store is like its competitors in the market. Beer and wine sales are contemplated for this store however Lidl will comply with Cobb County Alcohol Licensing laws and secure all permitting required prior to the commencement of sales. Normal business hours outlined below which are convenient for customers. Lidl also limits its daily deliveries to no more than two which occur earlier in the daytime to minimize traffic impact and optimize its customers' enjoyment with navigating the parking field and finding freshly stocked goods for purchase.

Petition No. 2-77 '22
Meeting Date 2-21-2023
Continued



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

Lidl is proposing the demolition of the existing Eckerd building and associated asphalt and construct a free-standing, one story structure. A revised site plan was submitted on November 18, 2022, with a previous stipulation letter. This site plan deviates from the original submission on September 9, 2022, as Lidl has identified a location for an above-ground stormwater management system that will capture the run-off from the Subject Property, as well as the run-off that enters from Piedmont Road and exits across Canton Road. An on-site meeting was held on January 11, 2023, in which Lidl has decided to relocate the above ground pond to improve the customer experience and allow room for future DOT roadway improvements to be discussed below.

Since submitting this application in September, Lidl has engaged in number conversations with neighbors in the area. A community meeting with District Commissioner Joann Birrell and the Canton Neighbors Association was held November 30, 2022, at Gritters Library. All comments received from residents in the area were favorable during this meeting. On January 10, 2023, we received email correspondence from Ms. Elizabeth Jayne Trice as she expressed her concerns about the traffic implications the Lidl re-development would bring. We did advise her that Lidl has been exploring various parking and site layouts as a safety measure. In conjunction with the analysis from the traffic study from our engineer, proprietary sales data from other Cobb County Lidl stores, and recommendations from Cobb County DOT, we are confident that we have taken the necessary measures to mitigate traffic safety concerns that will arise from an operational store replacing a vacant building.

With respect to the foregoing, and after discussions with area business and property owners, Lidl is agreeable to the following stipulations becoming conditions and a part of the grant of the requested zoning and binding upon the Subject Property thereafter, as follows, to wit:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of this Application for Rezoning.
2. The Subject Property shall be developed in substantial conformity to that certain Revised Site Plan prepared by Robert Martin, EIT and Christopher Cash, PE, Prime Engineering, dated January 20, 2023, which is being submitted concurrently herewith.
3. The development of the Subject Property shall also be in substantially conformity to the renderings/elevations and other imagery submitted concurrently with the application (resubmitted herewith). Of course, final review and approval of all imagery and architectural aspects shall be solely within the discretion of the District Commissioner.
4. The hours of operation shall be from 8:00 am until 9:00 pm daily.
5. The rezoning is solely and exclusively for a Grocery Store and the following uses shall be considered prohibited within and on the Subject Property:



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

- a. A cemetery, mortuary, crematorium, or funeral home;
 - b. A land fill, garbage dump, junk yard, or stockyard;
 - c. A mobile home park or trailer court;
 - d. The selling, renting or displaying of pornographic, or obscene materials
 - e. A tattoo parlor
 - f. An off-track betting parlor or gambling establishment
 - g. A second hand liquidation outlet excluding an national or regional retailer
 - h. An automobile, truck, trailer or recreational vehicles sales, leasing, display, body shop or repair operation or truck stop
 - i. A telephone call center
 - j. A retail liquor store
 - k. A pawn shop
 - l. Any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation or other use which emits an obnoxious or unusual dust, vapor, odor, noise, or sound which can be seen, heard or smelled outside the Subject Property building.
6. Compliance with recommendations from the Cobb County Stormwater Management Division with respect to the configuration, positioning, and functionality of stormwater management/water quality components inherent with stormwater protocols on the Subject Property.
 7. Compliance with recommendations from the Cobb County Water and Sewer Division with respect to the availability of; access to; and, other issues related to capacity will be followed by Lidl in connection with all matters related thereto.
 8. Compliance with recommendations from Cobb County Department of Transportation ("DOT"). The following items have already been incorporated since the pre-application meeting held with the Planning Department on October 19, 2022
 - a. Traffic Impact Study completed by Vincent Guobaitis, PE, Prime Engineering, and submitted to the county via email on November 8, 2022
 - b. Revised site plan identifies Lidl exceeds the minimum 50' requirement and the Right In-Right Out access drive on Piedmont Road prior to customers turning to park



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

- c. An additional drive aisle has been designed plan east of the proposed above ground detention pond to improve traffic circulation and alleviate concerns about congestion as customers await making a right turn exit onto Piedmont Road.
 - d. Lidl's agreement to pay Cobb County Department of Transportation our pro-rata share for Cobb DOT to construct a deceleration lane along Piedmont Road. The fee covers the construction and associated site work required to realize this improvement. Lidl will also dedicate the Right of Way to Cobb County after Lidl assumes ownership of the site.
9. Compliance with Cobb County Development Standards and Ordinances related to project improvements except as otherwise approved by the Board of Commissioners, the Cobb County Department of Transportation, the Cobb County Fire Marshal's Office or the Cobb County Development Agency, as their respective authority may allow.
10. The submission of a Landscape Plan during the Plan Review process, subject to review and approval by the County Arborist with final review and approval by the District Commissioner.
11. The Signage for the Subject Property will not exceed the maximum allowed area unless otherwise approved by a signage variance. Lidl intends to reuse, without relocation, the existing signage base and upgrade where applicable to comply with Cobb County Sign Ordinance.
12. The utilization of low-intensity, environmental type, down-lighting which shall be subject to review and approval by staff. A photometric plan for all exterior lighting will be submitted as part of the Plan Review Process. The illumination of exterior lighting shall be confined within the perimeter of the Subject Property.
13. Subject to recommendations from the Cobb County Fire Marshal's Office with respect to Fire Prevention and Life Safety including, but not necessarily limited to the following, to wit:
- a. Compliance with IFC 510-Emergency Responder Radio Coverage
 - b. Fire apparatus access shall extend to within 200 feet of all portions of the facility or any portion of the exterior wall of the first floor.
 - c. The maximum distance of a hydrant to the most remote portion of a structure shall be 500 feet. Distance shall be measured around the structure from any applicable fire apparatus access roads.
14. Dumpsters shall be positioned consistent with the Cobb County Ordinance regulations with dumpster lids and with the enclosure surrounding the dumpster being designed to be complementary to the building's architecture while meeting all Development Standards.

Petition No. Z-77 '22
Meeting Date 2-21-2023
Continued



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

15. The District Commissioner shall have the authority to approve minor modifications to the rezoning proposal as the development proceeds through the Plan Review Process and thereafter except for those that:

- a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district
- b. Relocate a structure closer to the property line of an adjacent property which is zoning in the same or in a more restrictive zoning district.
- c. Increase the height of a building which is adjacent to a property that is zoned in the same or a more restrictive zoning district.
- d. Change access to a different right-of-way
- e. Violate the Cobb County Zoning Ordinance.

In all respects, this proposed Rezoning Application request represents an appropriate and valuable upgrade that the Subject Property will bring to this corridor of Cobb County. The proposed upgrades under consideration related to the Subject Property comply with similarly situated properties in a Neighborhood Activity Center ("NAC").

Please do not hesitate to contact me should you or your Staff require additional information or documentation prior to the formulation of the final Zoning Analysis and Staff Recommendations.

Sincerely

Lidl US Operations

A handwritten signature in black ink, appearing to read "Deborah Pyburn", with a long horizontal line extending to the right.

Deborah Pyburn
Development Manager
Deborah.Pyburn@lidl.us

cc: Members, Cobb County Board of Commissioners (vie email w/ attachments)
Board of Commissioners Assistants (via email w/ attachments)
Members, Cobb County Planning Commissioners (via email w/ attachments)
John Pederson, Director of Zoning (via email w/ attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/ attachments)

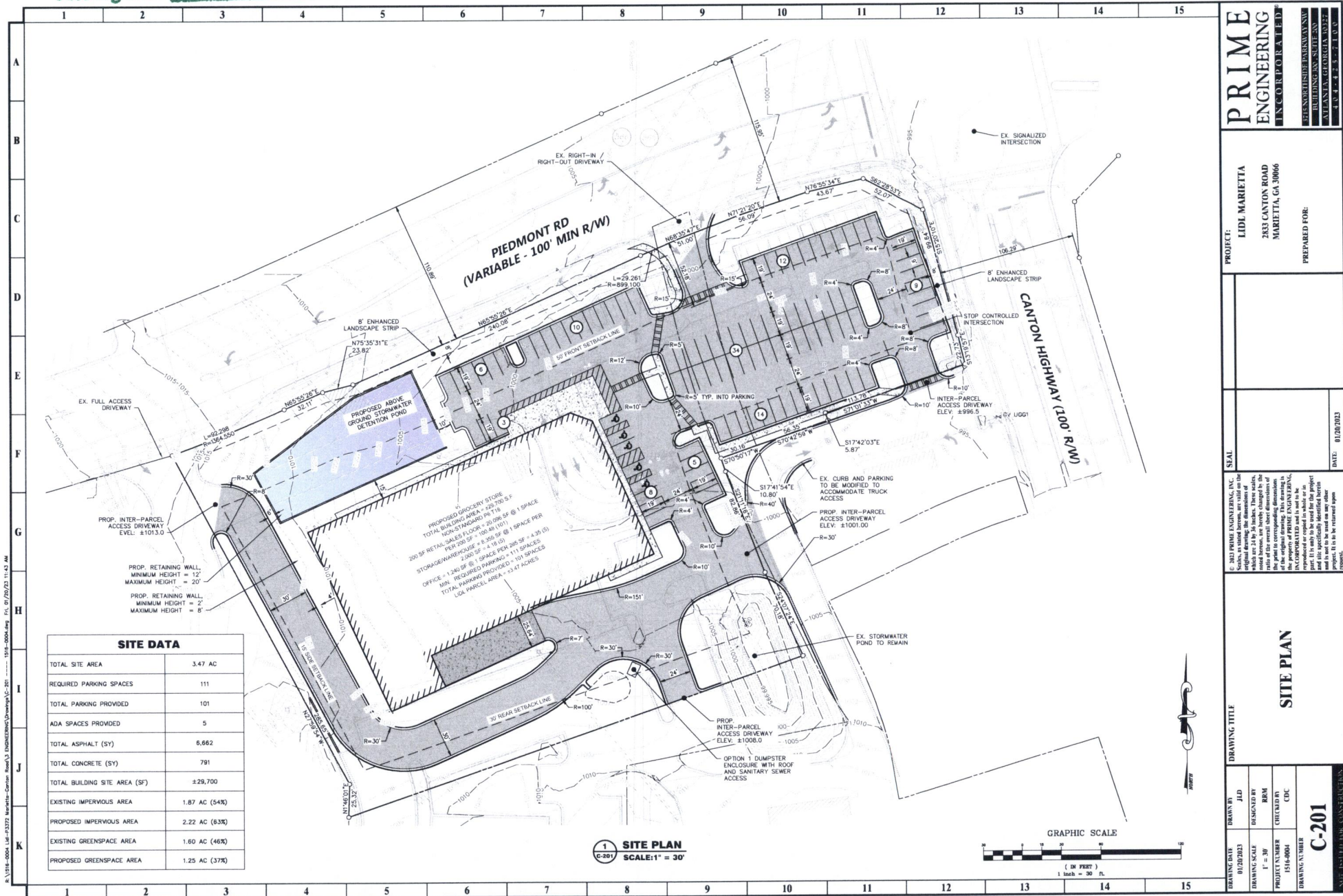
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Continued



LIDL US LLC, 3500 S Clark Street, Arlington, VA 22202

Ms. Amy Diaz, P.E., Cobb DOT (via email w/ attachments)
Ms. Abby Rettig, Cobb DOT (via email w/ attachments)
Mr. Tim Davidson, Plan Review Engineer, Water System (via email w/ attachments)
Mr. Carl Carver, P.E, Stormwater Management Division (via email w/ attachments)
Mr. Jeffrey Byrd, Fire Marshal's Office (via email w/ attachments)
Captain Joshua Davis, Fire Marshal's Office (via email w/ attachments)
Robert Martin, EIT, Prime Engineering (via email w/ attachments)
Christopher Cash, PE, Prime Engineering (via email w/ attachments)

Meeting Date 2-21-2023



Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Canton Road	Arterial	45	Cobb County	100'
Piedmont Road	Arterial	45	Cobb County	100'

Roadway	Location	Average daily trips	Level of service
Canton Road	South of Blackwell Lane	24,700	D
Piedmont Road	West of Cajun Drive	16,600	C

Based on 2020 AADT count data taken by GDOT, as published on their website, for Piedmont Road.

Based on 2018 AADT count data taken by GDOT, as published on their website, for Canton Road.

Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for arterial roads from this data source.

LOS C or D is acceptable based on GDOT Design Policy Manual criteria.

ITE Land Use	Description	Expected Size (KSF)	AM			PM			Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
850	Supermarket	31.54	53	37	90	141	141	282	2,960

vph = vehicles per hour, vpd = vehicles per day, KSF = 1,000 square feet, N/A = not available

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Comments and observations

Canton Road is classified as an arterial roadway and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Piedmont Road is classified as an arterial roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

This development requires a traffic study submittal based on Cobb County Code 134-121. A traffic study was submitted to Cobb County Community Development on November 8, 2022. Cobb County DOT met with the developer team on December 12, 2022 and provided traffic study comments. A subsequent on-site meeting was then conducted on January 11, 2023. A revised traffic impact study is anticipated from the developer.

Cobb DOT has previously identified the need for an exclusive right turn lane from eastbound Piedmont Road to southbound Canton Road. This recommended intersection improvement is anticipated as a future SPLOST project.

Min. Bk. 97 Petition No. Z-77 '22
 Doc. Type Revised DOT comments
 Meeting Date 2-21-2023

Z-77-2022

DEPARTMENT COMMENTS – DOT

REVISED 2/1/23

(continued)

Recommendations

1. Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the south side of Piedmont Road, a minimum of 50' from the roadway centerline or 3' behind the relocated sidewalk, whichever is further.
2. Recommend a traffic study. Study assumptions (such as study intersections, trip distribution, future analysis years, and annual growth rate) should be submitted in a memorandum (Submittal 1) and agreed to by Cobb DOT before continuing the full traffic study (Submittal 2). A full traffic study (Submittal 2) was provided to Cobb County Community Development on November 8, 2022. Cobb DOT has provided comments and anticipates a revised traffic study submission. Cobb DOT recommendations may be updated after the revised study's receipt.
3. As necessitated by this development and the anticipated adjacent Cobb DOT project, recommend Piedmont Road deceleration lane to extend along entire development frontage, terminating in an exclusive right-turn lane at the signalized intersection. The final location and design will be determined during the anticipated Cobb DOT project. In order to coordinate with the anticipated Cobb DOT project, recommend the applicant contribute the cost of a standard deceleration lane at this location (\$252,000) to be held in escrow as a project contribution for the associated intersection improvements. This financial contribution will then satisfy the developer's responsibility for the construction of the recommended deceleration lane.
4. Recommend the first internal intersection south of the westernmost driveway on Piedmont Road be restriped to create a three-way stop condition with the southbound movement maintaining a free flow of entering traffic from Piedmont Road.
5. Recommend a minimum of 50 feet straight-line distance from the edge of the right-of-way line at the easternmost access on Piedmont Road to the first internal parking space or drive aisle per Development Standard 402.8.
6. Recommend replacing disturbed curb, gutter, and sidewalk along the Piedmont Road and Canton Road frontages.
7. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Canton Road Neighbors, Inc.

Mr. John Pederson, AICP, Manager
Ms. Jeannie Peyton, AICP
Ms. Deborah Dance, Planning Commissioner District 3
100 Cherokee St.
Marietta, GA 30066

January 23, 2023

Re: Z-78 Application by Splash Zone to rezone 1.46 acres at the SE Corner of Canton and Shallowford, from R-20, NS, GC to NRC for a car wash

Dear Ms. Dance, Mr. Pederson and Honorable Members of Cobb Planning Commission,

During the pendency of this zoning application CRN followed the direction of the 12/06/22 Planning Commission and had the opportunity to meet with the applicants to discuss this case. We were joined by two residents of Highland Trace and communicated by email with residents of Windcrest. We also communicated with residents on Dover Street.

There were some important breakthroughs which have changed our position from opposition to support for the application as outlined in the form of stipulations below.

- 1) The carwash and vacuum area shall be designed in substantial conformity to the photographs attached below. The material is stucco and applicant agrees to place stacked stone around the base of the car wash building. The roof of the car wash shall be in conformity to the photos attached;
- 2) Attached site plan showing position of car wash and vacuum area on site, and proposed reopening of Old Shallowford Road, stamped and dated 01/20/23;
- 3) Applicant agrees to place screening decorative fencing along the car prep area;
- 4) Applicant agrees to 10' landscaped buffer behind sidewalks on Canton Road;
- 5) Applicant agrees to landscape islands as may be required by County arborist;
- 6) Ingress and egress on Canton Road shall be right-in right-out only;
- 7) Applicant proposes to open the east section of Old Shallowford Road which shall be rebuilt to the standards of Cobb DOT;
- 8) Applicant agrees to install a speed table or use a similar traffic calming measure on the east side of subject property on Old Shallowford Road to deter speeding and cut-through traffic;
- 9) Ingress and egress at the new Shallowford access shall be right-in and right-out only;
- 10) Hours of operation shall be 7 days a week, from 8 am to 8 pm spring and summer and from 8 am to 7 pm fall and winter.;
- 11) Security lighting shall be contained to subject property;
- 12) Adherence to the Canton Road Guidelines;
- 13) Dumpster enclosure to be constructed per County standards;
- 14) Signs must be permitted through the Zoning Division and must comply with County Sign Ordinance;
- 15) Fire Department comments and recommendations;
- 16) Stormwater Management comments and recommendations;
- 17) Department of Transportation comments and recommendations;
- 18) Water and Sewer comments and recommendations; and
- 19) Site Plan Review comments and recommendations.

We appreciate the time and effort by Mr. Woodruff and Mr. Coty to reach an agreement with concerned citizens. The revised site plan and building design is much more attractive than the previous version and is more likely to appeal to the desired customer base in NE Cobb. The safety of entering and exiting the carwash has been a

priority and rebuilding Old Shallowford Road will be beneficial to customers and reduce some of the access on Canton Road.

We respectfully ask that you recommend Approval of Z-78, including the photographs and revised site plan attached.

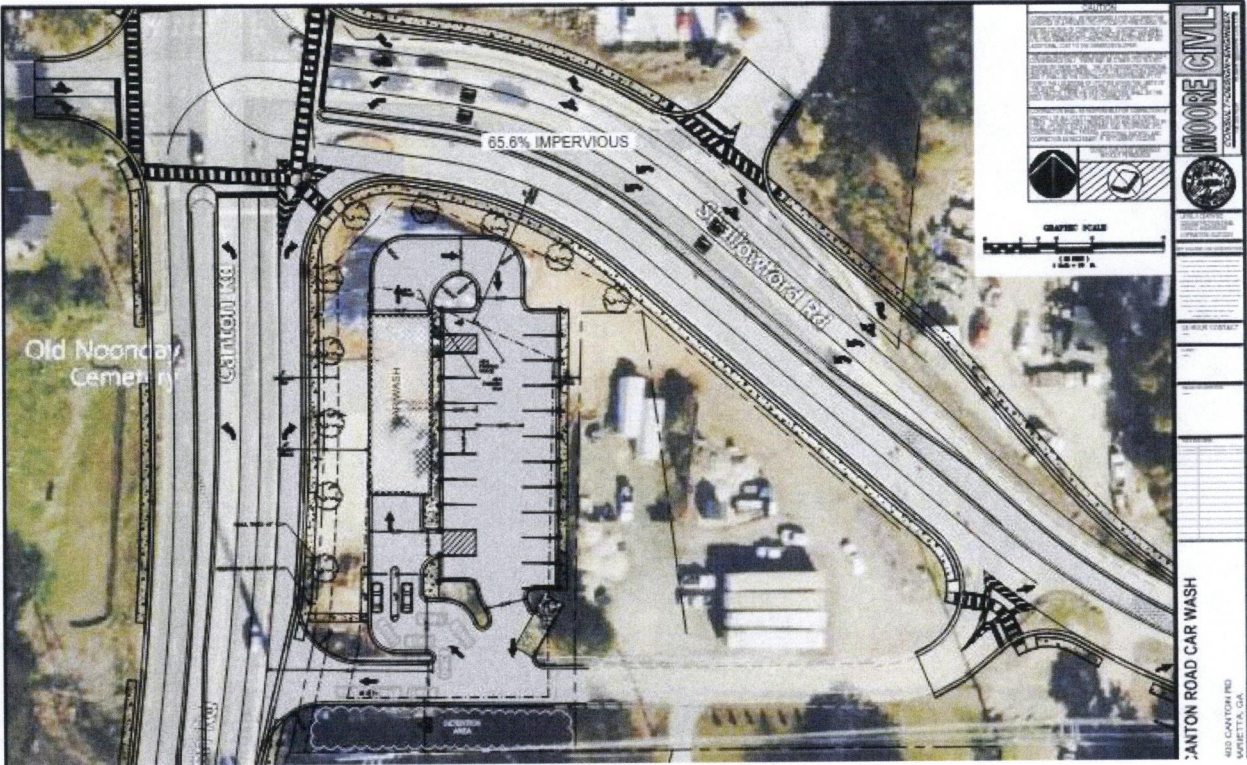
Carol Brown M.R.P.
Canton Road Neighbors, Inc.

cc Honorable Members of Cobb County Planning Commission
Commissioner JoAnn Birrell
Jessica Guinn, AICP, Director
Honorable Members of Cobb County Board of Commissioners
Ms. Amy Diaz, PE
Mr. Todd Woodruff
Mr. Blake Coty
CRN Neighborhood Board and Advisory Members

Attachments:









**COMMISSION DISTRICT 2
EAST COBB CIVIC ASSOCIATION, INC.**

OB-65 (2022)

Applicant, Mid-Atlantic Commercial Properties, LLC, 404-218-1677, represented by David E Weinstein, 404-218-1677, requests the removal of the use restriction from Z-157 (2000) limiting the sole use of the property to that of a drug store/pharmacy only, and that any NRC use be permitted on the property. Property is located at 3033 Johnson Ferry Road (hereinafter the "Walgreen Property")

Additional Information:

The Walgreen Property is on the northwest corner of Johnson Ferry Road and Waterfront Drive. Waterfront Drive provides the only full access to Johnson Ferry from this property. In addition, the present Waterfront Drive will become a private road south of this parcel and will be the only entrance road to a new residential community.

Contiguous Zonings:

North: (RA-5 [Z-72 of 2020] and NRC) – Old house

South: (NRC and CRC) – McDonalds

East: (NRC) – Piedmont Urgent Care

West: (RA-5 [Z-72 of 2020]) – Residential

Site acreage: 1.283 acres

ECCA Case Manager: Richard Grome

Discussion:

In 2000 when the Walgreen Property was zoned, McDonald's along with the driveway for McDonald's already existed. The sole all-access driveway to the Walgreen Property is from Waterfront Dr. Access from Johnson Ferry is limited to right in/right out due to the median. The access on Waterfront Drive is very close to the signal on Johnson Ferry Road and already has traffic issues from the existing McDonald's drive-thru. Care was taken when Walgreen Property was rezoned in 2000 to prevent further traffic problems on Waterfront Drive as well as to find uses that are compatible with the Residential area to the West both with regard to traffic and noise.

- ECCA suggests that not all NRC permitted uses are compatible for this small piece property and suggested a proposed list of prohibited uses. The struck items produce high volumes of traffic, with potential back-up in traffic, such

as a fast food restaurant with drive-thru. Other uses struck produce noise such as light automotive repair. Even an EV charging lot would be a safety concern due to the stream of cars, vans, and trucks at all hours pulling into the lot against a residential neighborhood. In addition, large stores with delivery trucks pulling in from Waterfront Drive are a particular concern.

Prior to the December 20, 2022, Board of Commissioners' Zoning Hearing, the Applicant agreed to all the prohibited uses proposed by ECCA and attached to this recommendation except for Drive through fast food restaurants.

ECCA could not recommend approval of this application without excluding fast food restaurants with a drive-thru from the list of approved uses.

- This property backs up to the RA-5 residential community of the Z-72 NORTH POINT MINISTRIES property.
- The old Waterfront Drive becomes a VERY SHORT PUBLIC STREET between McDonalds and the present Walgreens that will be the sole access to the gates to the Z-72 residential subdivision.
- Any additional traffic volume created by an added "fast food" restaurant on the Walgreen Property will greatly increase the traffic congestion at rush hours in the morning, noon and evening, potentially impacting Johnson Ferry Rd.
- This is the only access for inbound/outbound traffic traveling north on Johnson Ferry road due to the median.

Since the December meeting there has been no movement on this issue with the Applicant. We understand a stipulation is coming but we have not seen it to date.

Recommendation:

ECCA recommends approval only if:

- That the attached list of Prohibited Uses **including fast food restaurants with a drive-thru** is attached to this property as a stipulation.
- That, if the property is redeveloped, any new Site Plan should come back to the Board of Commissioners for approval. And
- That all staff recommendations and all other stipulations on this property, where not in conflict, shall remain in effect.

The additional of a high-volume traffic business caused by a restaurant with a drive-thru can be detrimental for the residents living in the new subdivision to the west of this property. This road is the only access to their homes.

Attachment: Recommended list of Prohibited Uses to be attached as stipulations to OB-65 (2022)

Stipulation of Prohibited Uses:

- a. Billiards and pool halls; however, certain types of restaurants such as sports bars and grills shall be allowed a maximum of two (2) pool/billiard tables.
- b. Carwashes.
- c. Store-front type churches, except where the prohibition of same may be constitutionally impermissible.
- d. Community fairs.
- e. Cultural facilities.
- f. Designated recycling collection locations.
- g. Emissions stations.
- h. Outdoor golf courses and miniature golf.
- i. Freestanding climate control self-service storage facility.
- j. Freestanding ice vending machines.
- k. Full service gasoline stations.
- l. Funeral homes.
- m. Group homes.
- n. In-home day care.
- o. Self-service laundries.
- p. Light automotive repair.
- q. Non-profit fishing lakes.

- r. Parking of vehicles, except for temporary parking for tenants and their customers or clients.
- s. Radio, television and other communication towers
- t. Rest homes and personal care homes.
- u. Self-service fuel sales including EV charging stations.
- v. Automotive parts stores exceeding 3,000 square feet.
- w. Sex and/or adult themed novelty shops.
- x. Supermarkets, exceeding 10,000 square feet.
- y. Video stores for rental or sale as a principal use; however, video-related merchandise may be sold as components of other businesses.
- z. Stores which principally feature and sell CBD and CBD related products, remedies or novelties and stores which constitute "Vape Shops" or feature smoking and related paraphernalia.
- aa. Large truck, van, or other such vehicles "for rent or lease", such as U-Haul.
- bb. Package stores; however, excepting any specialty boutique-type wine or spirits shops or any grocery or other stores which may currently be allowed to serve alcohol.
- cc. Child care centers or after school care/program centers.
- dd. Pawn shops, shops whose primary business is buying and/or selling gold.
- ee. Small motor repair shops.
- ff. Drive through fast food restaurants.

Birrell, JoAnn

From: Rachel Bruce <rkartayet@gmail.com>
Sent: Friday, February 17, 2023 2:53 PM
To: Cupid, Lisa; Richardson, Jerica; Gambrell, Keli; Sheffield, Monique; Birrell, JoAnn
Cc: Ruth Anne Collins Michels; Chad Carroll; Pederson, John
Subject: Re: 2/21/23 Agenda Item OB-65-2022 // JOSH Community Group // Conditional Support

Hello Commissioners,

We once again are reaching out regarding OB-65-2022 to update our comments.

We are agreeable to allowing grocery use. This was already one of the purposes that the existing Walgreens serves in our community, so we believe it could be positive for the community to have a small neighborhood grocer. It may also be beneficial to the future residential development being built, as they would be able to walk there. Our intention is to make sure that thoughtful & cohesive development happens in this area and serves the local community well.

We are also agreeable to allowing a drive-thru. Our hope is that any future use of a drive-thru has thoughtful design & placement and traffic studies done to minimize the risk of backing up traffic onto Johnson Ferry Road.

We remain firm on restricting the following uses for this parcel, along with the restrictions the ECCA has provided:

- Bank
- Mattress stores
- Storage facility of any kind
- Automotive or automotive parts of any kind

We stand firm on our requirements below as well:

- Parking lot connectivity between abutting commercial lots when they re-develop
- Sidewalk connectivity for pedestrian access
- Traffic impact studies for future development/use to ensure necessary steps are taken to accommodate traffic flow

Thank you
Rachel Bruce on behalf of the JOSH Committee

On Mon, Feb 13, 2023 at 12:04 PM Rachel Bruce <rkartayet@gmail.com> wrote:
Hello Commissioners,

We are writing to you in regards to OB-65-2022 which is on the agenda for the 02/21/23 BOC Zoning hearing.

Overall, we are in favor of OB-65 with the following conditions & comments below, which are in addition to the conditions provided by the ECCA. I've also attached the same as a PDF. These same conditions and comments have been sent to the applicant and their attorney David Weinstein.

Prohibited uses to be added in addition to the ECCA's prohibited uses:

Petition No. 0.B.65 (2022)
Meeting Date 2-21-2023
Continued

- Banks
- Mattress stores
- Any type of storage facility
- Any type of grocery use
- Automotive or automotive parts

Requirements:

- Parking lot connectivity between abutting commercial lots when they re-develop
- Sidewalk connectivity for pedestrian access
- Traffic impact studies for future development/use to ensure necessary steps are taken to accommodate traffic flow

Encouraged Uses & Concepts:

- Restaurant Full service/fast casual type/boutique style of restaurant business and outdoor patios/seating.
Examples of this concept: full service style starbucks like 609 Holcomb Bridge Rd, Roswell, GA 30076 or reserve style starbucks, Freebirds, Corner Bakery Cafe, Alon's Bakery, Sweethut Bakery, Bonefish grill
- Drive thru pharmacy

Feel free to reply if there are any questions or comments for our group.

Thank you,
Rachel Bruce
Secretary of JOSH Committee

On Sat, Dec 17, 2022 at 10:31 PM Rachel Bruce <rkartayet@gmail.com> wrote:
Hello Commissioners,

We are writing to you in opposition to the 12/20/22 BOC agenda ITEM OB-65-2022 which asks the BOC to consider a stipulation amendment for Mid Atlantic Commercial Properties, LLC regarding rezoning application Z-157 of 2000 for property located at the northwest intersection of Johnson Ferry Road and Waterfront Drive in Land Lot 470 of the 16th District (3033 Johnson Ferry Road).

We respectfully oppose this stipulation amendment because our local community is at significant risk of losing businesses that are essential to our community's health and safety.

To elaborate further on our reasons for opposition, I must advise the board that the CVS Pharmacy formerly at the corner of Lassiter Road and Shallowford road closed down earlier this month due to 'increasing rents in the area.' This leaves the Walgreens located on the OB-65-2022 parcel as the only pharmacy in the JOSH area with a drive-thru. This has created a large amount of concern in our community, because the Kroger, Walmart and Publix nearby do not have a drive-thru option for prescription pickup. Kindly take note during deliberation that the average age in the immediate JOSH area is over 40. According to data from the CDC, nearly 7 in 10 adults aged 40-79 used at least 1 prescription drug in the past 30 days. With additional homes being built in a few years as a result of the Z-72-2020 zoning, and the potential for additional homes with the Z-55-2022 zoning request, this could result in a significant strain on the JOSH

area's pharmacy system. It is imperative we take action to preserve an effective and diverse pharmacy system to support the growing population who rely on these pharmacies for vaccines, medicine, prescriptions and other needs.

We kindly ask that the BOC consider denying this request for a stipulation amendment from Mid Atlantic Commercial Properties to protect the health and safety of our community and continue to uphold the original stipulations that enforce this parcel for pharmacy use only.

I do plan to attend the hearing on 12/20/22 to oppose this request in person on behalf of the group and community as well.

Respectfully,
Rachel Bruce on behalf of the JOSH Area Group established by Comm. Richardson

CAUTION: This email originated outside Cobb County Government. Please exercise caution when opening links/attachments in this email .

Petition No. 0.B.65 (2022)
Meeting Date 2-21-2023
Continued

**FEBRUARY 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2**

Min. Bk. 97 Petition No. O.B.1
Doc. Type Water & Sewer comments
and recommendations
Meeting Date 2-21-2023

ITEM OB-1-2023

To consider a reduction of required lot size for Vijay Kothari from 30,000 square-feet to 22,643 square-feet. The property located on the east side of Cherry Hill Drive, west of Thunderbird Drive in Land Lots 1088 and 1089 of the 17th District (420 Cherry Hill Drive).

BACKGROUND

The Board of Commissioners considers all reductions to minimum lot size pursuant to Zoning Code Sec. 134-271(7)(a) adopted on February 27, 2018. The subject property is zoned R-30 and is required to have 30,000 square-feet in the lot. The lot was originally platted in the 1960's as a substandard size lot with 23,863 square-feet. The lot was considered grandfathered by the County with 23,863 square-feet. However, in the past 20 years a prior owner deeded 1,220 square-feet to the owner directly north to fix an encroachment problem; this small favor between neighbors caused the applicant's lot to lose its grandfathered status. The applicant is requesting the lot size of 22,263 square-feet be approved so they can move into a new house that was built on the property in 2022.

STAFF COMMENTS

Cobb DOT: No comments.

Stormwater Management: Stormwater Management has no objection to this other business item as requested. All current stormwater management codes and regulations will be required at the time land disturbance permitting.

Water & Sewer Comments: House lot plan confirming adequate setback from sewer easement signed by CCWS 1-26-2022.

Site Plan Review: No comments.

Fire Department: CCFMO does not have any objections to OB-1-2023 as presented.

RECOMMENDATION

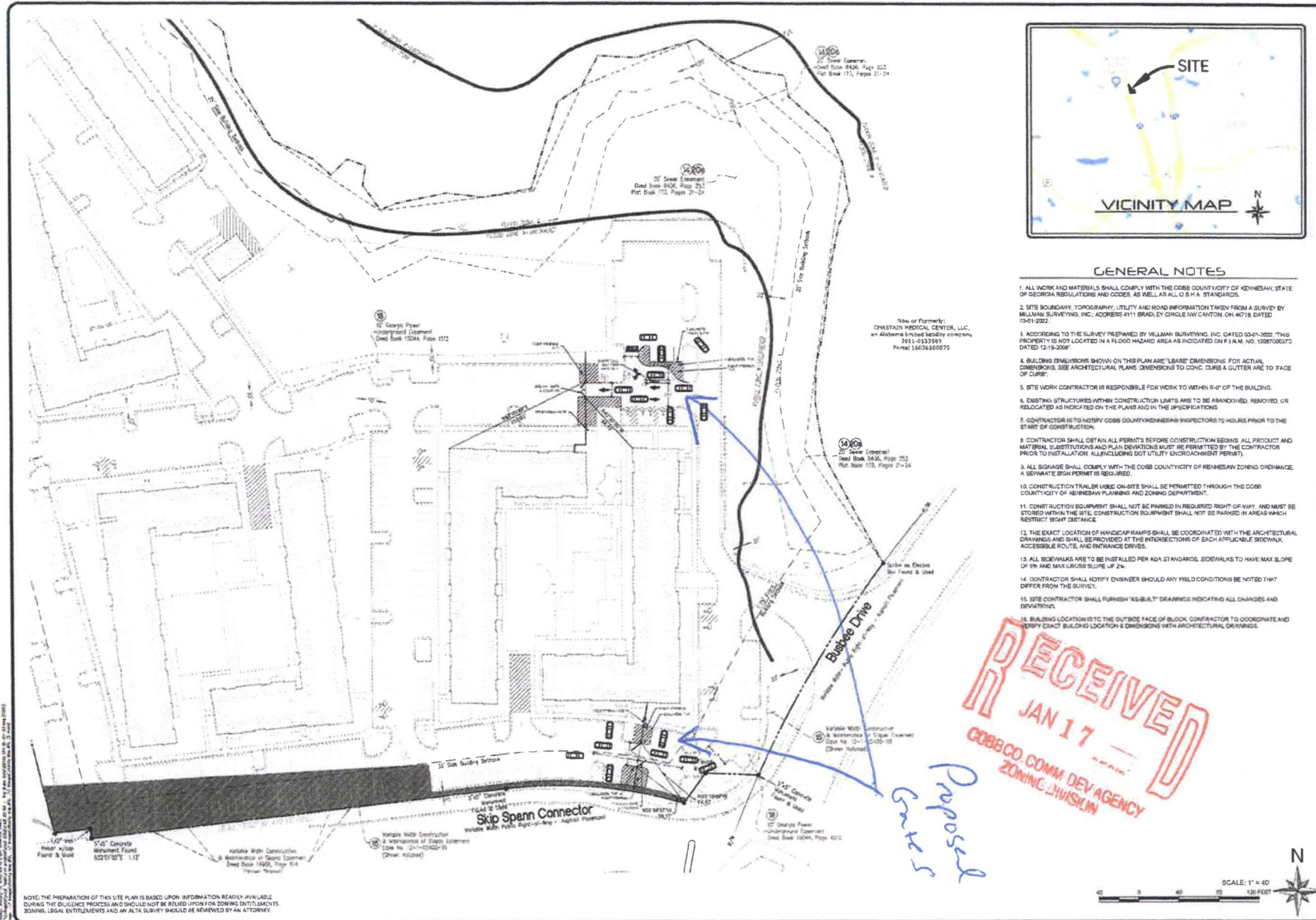
The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum lot size.

ATTACHMENT

Other Business application.

Min. Bk. 97 Petition No. O.B.6
Doc. Type Site Plan

Meeting Date 2-21-2023



NOTE: THE PREPARATION OF THIS SITE PLAN IS BASED UPON INFORMATION READILY AVAILABLE DURING THE DULGANCE PROCESS AND SHOULD NOT BE RELIED UPON FOR ZONING DUTY, EASEMENTS, ZONING, LEGAL ENTITLEMENTS AND AN ALTA SURVEY SHOULD BE REVIEWED BY AN ATTORNEY.



01-10-22

civilistix
1500 3RD VALLEY DRIVE, STE 100, DUBLIN, GA 30034
(404) 394-4403 - civilistix.com

MASTER SITE PLAN
THE BLAKE
3403 BLAKE DRIVE NW
KENNESAW, GA 30144

C201

22403

JANUARY 10, 2023

REVISIONS

08-6-2023

Proposed

FEBRUARY 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3

Min. Bk. 97 Petition No. O.B.6
Doc. Type Fire Dept. comments
and recommendations
Meeting Date 2-21-2023

ITEM OB-6-2023

To consider amending the site plan and stipulations for Stephen Terry regarding rezoning application Z-47 of 2011, for property located at the northwestern intersection of Busbee Drive and the Skip Spann Connector, and on the east side of I-75 in Land Lots 360, 361 of the 16th District and Land Lots 95 and 96 of the 20th District (3453 Busbee Drive).

BACKGROUND

The subject property was rezoned in 2011 to Urban Condominiums (UC) for a student housing development. It was approved subject to the site plan dated February 29, 2012. The applicant would like to install a security gate at each of the entrances to provide better security for the residents (shown on the proposed site plan). If the site plan amendment is approved, all previous stipulations would remain in effect.

STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: No additional comments.

Stormwater Management: Stormwater Management has no objection to this other business item as requested. All current stormwater management codes and regulations will be required at the time land disturbance permitting.

Site Plan Review: No comments.

Cobb DOT: No comment.

Fire Department: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendment.

ATTACHMENTS

Other Business application and stipulations.

APPLICANT: Stephen Terry

PETITION NO.: OB-6

PRESENT ZONING:

PETITION FOR:

FIRE COMMENTS:

Petition No. 0.B.6
Meeting Date 2-21-2023
Continued

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

Gates:

Gate installs must be permitted separately and meet the following for emergency access:

- a) Access to and through gates must be in a direct straight path without curvature for at least 45 ft on either side.
- b) Provide 14 ft clear width for a single lane through the gate.
- c) Provide 20 ft clear width for a double lane through the gate. Gates must be swing or sliding type.
- d) Gates must be equipped with a means of opening the gate by fire department personnel for emergency access. Provide a Knox Key Switch or Knox pad lock keyed for Cobb County.
- e) A means must be provided to open electric gates upon the loss of power.
- f) A final inspection is required.

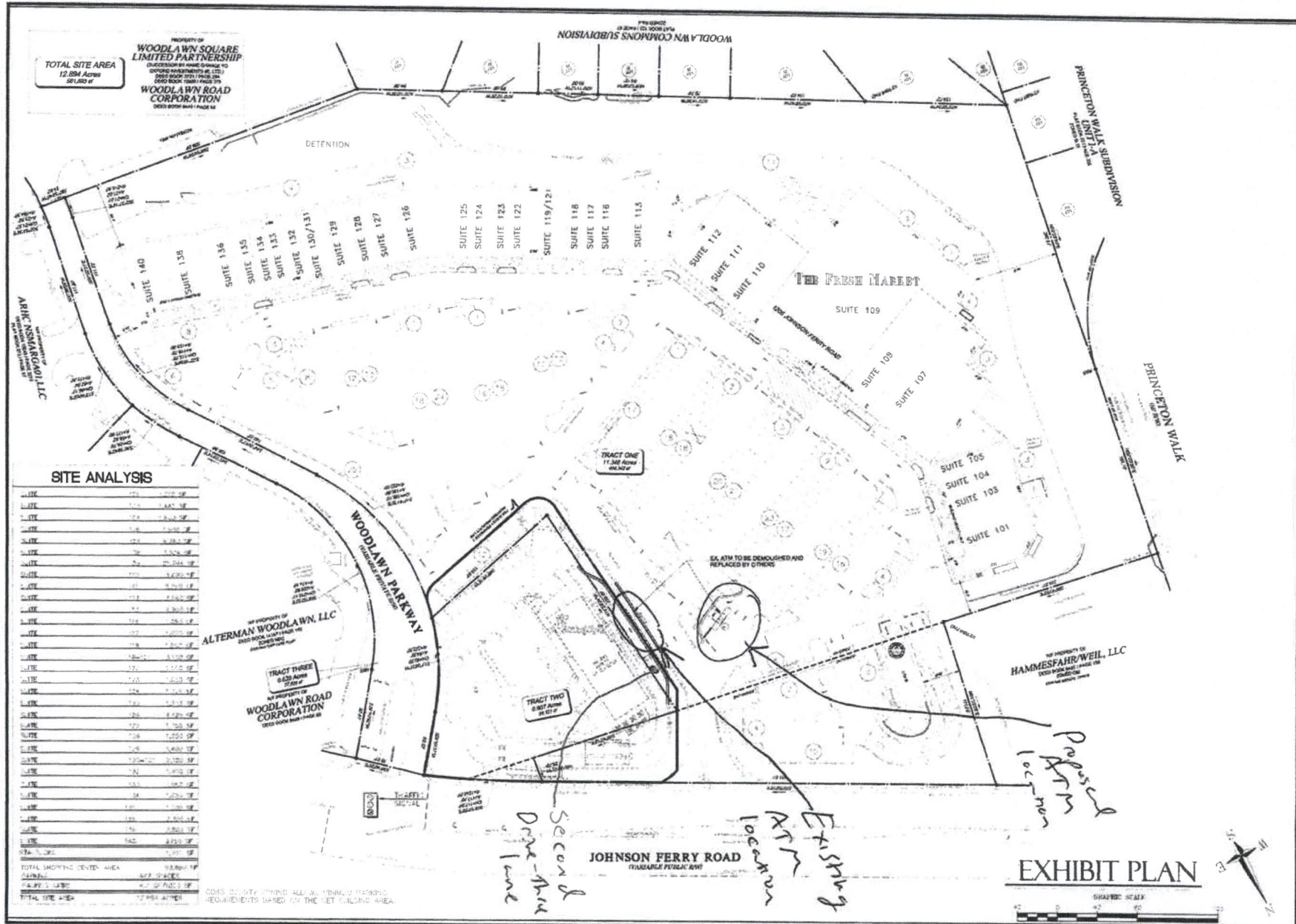
The above is not an all-inclusive list, all applicable fire and life safety provisions must be met.

Jeff Byrd

(770) 528-8814

jeffrey.byrd@cobbcounty.org

Min. Bk. 97 Petition No. C.B.7
Doc. Type Proposed overall site
Plan
Meeting Date 2-21-2023



HR
HULLOLLY ROSSI
& ASSOCIATES

**ARCHITECTURE
ENGINEERING**

3400 Pleasant Hill Road
Suite 100
Duluth, Georgia 30096
p 770.421.9858
f 770.522.9335
www.hilltopassoci.com

CONCLUSIONS

Woodlawn Square Shopping Center
1205 Johnson Ferry Road
Atlanta, GA 30309

For: Retail Planning Corporation
35 Johnson Ferry Road
Marietta, GA 30068
770-956-6383

Exhibit Plan

CP.64 | 2

HFR# 01.155

OB-7-2023
Proposed overall site plan

**FEBRUARY 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2**

Min. Bk. 97 Petition No. O.B.7
Doc. Type Cobb DOT comments
and recommendations
Meeting Date 2-21-2023

ITEM OB-7-2023

To consider amending the site plan and stipulations for Retail Planning Corporation regarding rezoning applications Z-82 of 2017 and #452 of 1984, for property located at the southwestern intersection of Johnson Ferry Road and Woodlawn Parkway in Land Lots 13 and 14 of the 1st District (1205 Johnson Ferry Road).

BACKGROUND

The subject property was rezoned in 2017 (Z-82) to for a Chick-Fil-A restaurant and rezoning application #452 of 1984 was rezoned for a shopping center. The applicant would like to amend the site plans and stipulations to install a second drive-thru lane for the Chick-Fil-A restaurant. In order to do this, the existing ATM machine would need to be moved over to the next row of parking spaces. This would result in a loss of seven parking spaces, which could be regained by striping parking spaces behind the shopping center. If the amendment is approved, all previous stipulations would remain in effect.

STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: No additional comments.

Stormwater Management: Stormwater Management has no objection to this other business item as requested. All current stormwater management codes and regulations will be required at the time land disturbance permitting.

Site Plan Review: No comments.

Cobb DOT: 1) Recommend applicant address all Plan Review comments for the concurrent application SPR-2023-00006. 2) Recommend applicant ensure that drive-thru queue be contained within the development parking lot and not extend onto the right-of-way. If the site queue impacts the adjacent roadway in future operations, recommend applicant be required to coordinate with Cobb DOT to create a mitigation plan. A mitigation plan can include but is not limited to the following: modified internal striping/queue management, turn restrictions, or turn lanes. 3) Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Fire Department: CCFMO does not have any objections to OB-7-2023 as presented.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendment.

ATTACHMENTS

Other Business application and stipulations.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

MARIETTA, GEORGIA
EMERSON OVERLOOK
326 ROSWELL STREET
SUITE 100
MARIETTA, GEORGIA 30060
TELEPHONE (770) 429-1499

KNOXVILLE, TENNESSEE
408 N. CEDAR BLUFF ROAD
SUITE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 892-9039

JACKSONVILLE, FLORIDA
10201 CENTURION PARKWAY N.
SUITE 401
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 428-1465

BRENTWOOD, TENNESSEE
5300 MARYLAND WAY
SUITE 200
BRENTWOOD, TENNESSEE 37027
TELEPHONE (615) 425-7347

LEXINGTON, KENTUCKY
2408 SIR BARTON WAY
SUITE 375
LEXINGTON, KY 40509
TELEPHONE (859) 309-0026

ORLANDO, FLORIDA
390 N. ORANGE AVENUE
SUITE 625
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

HARRISBURG, PENNSYLVANIA
101 ERFORD ROAD
SUITE 300
CAMP HILL, PA 17011
TELEPHONE (717) 790-2854

February 17, 2023

Via E-mail Only

Min. Bk. 97 Petition No. O.B.7
Doc. Type Letter

Meeting Date 2-21-2023

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

RE: Application for "Other Business" - OB-7 (2023)
Applicant: Retail Planning Corporation
Property Owner: Woodlawn Square Limited Partnership
Property: 12.893 acres, more or less, located on the southerly side of Johnson Ferry Road and the westerly side of Woodlawn Parkway, being more particularly known as 1205 Johnson Ferry Road, N.E., Land Lots 13 and 14, 1st District, 2nd Section, Cobb County, Georgia

Dear John:

On behalf of the Applicant, Retail Planning Corporation (hereinafter "Applicant"), and Property Owner, Woodlawn Square Limited Partnership (hereinafter "Owner" or "Property Owner"), please accept the following as stipulations and conditions, which, if the referenced Application for "Other Business" is approved, as submitted, shall become a part of the grant of the requested approval and shall be binding upon the Property. The proposed approvals and stipulation are as follows:

- (1) Applicant requests approval of the revised Site Plan, including the separate detailed site area, for relocation of the existing ATM servicing Delta Community Credit Union, as more particularly shown and reflected on collective Exhibit "A," attached to this letter and incorporated herein by reference.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 2
February 17, 2023

Petition No. 0.3.7
Meeting Date 2-21-2023
Continued

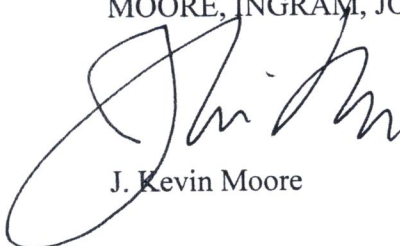
- (2) Applicant further seeks approval to allow a tent to be utilized by the Chick-fil-A restaurant in its drive-thru lanes.
- (3) The balance and remainder of the stipulations and conditions previously approved relating to the Subject Property, which are not otherwise in direct conflict with the foregoing, shall remain unaltered and in effect for the Subject Property.

The requested approvals, together with the Site Plan and the stipulation proposed herein, will be an enhancement to the Property. We very much appreciate your consideration; as well as that of the Cobb County Board of Commissioners, in this request. If you should have any questions or require additional information at this time, please do not hesitate to contact me.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

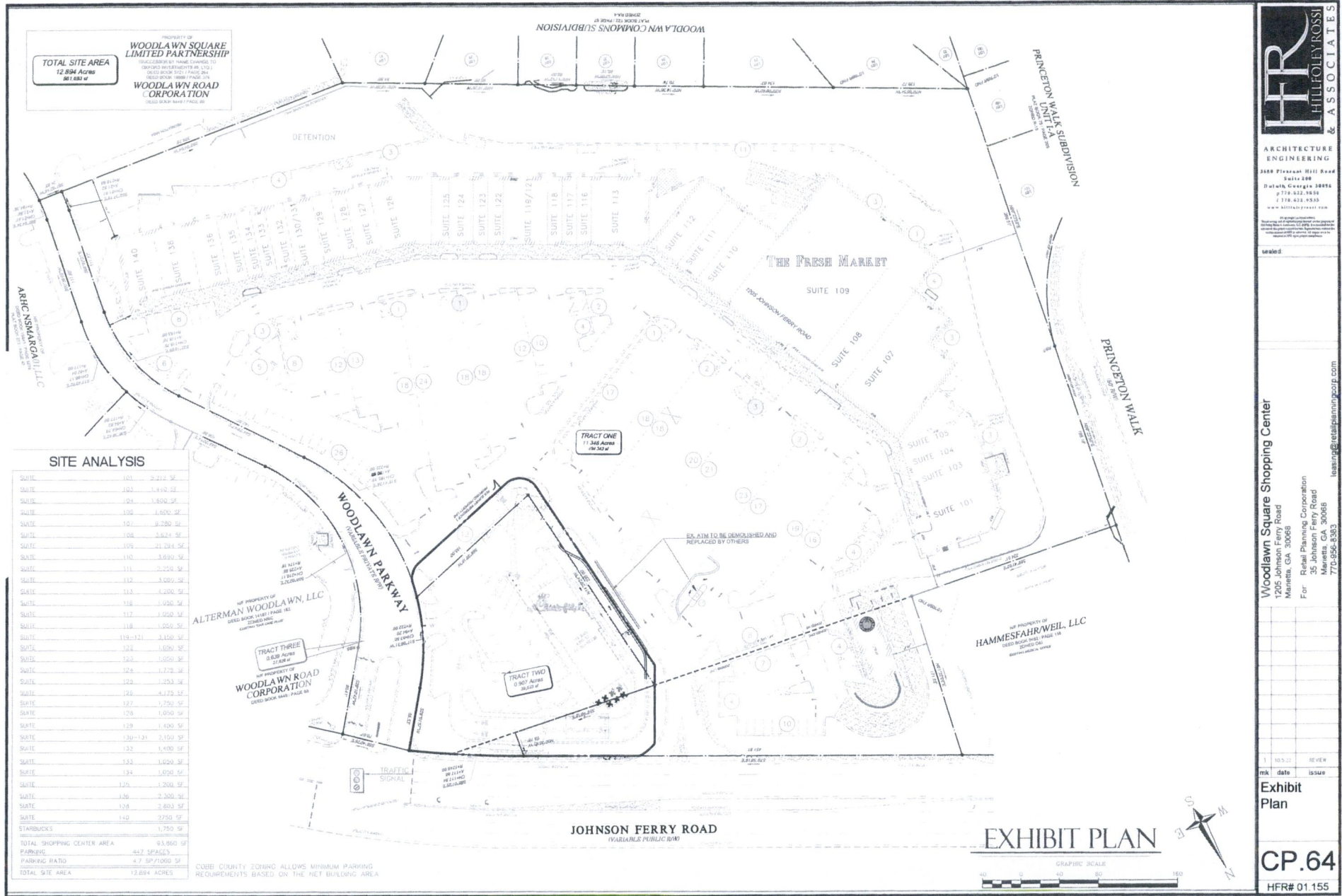
JKM:cc

Attachments

c: Jeannie Peyton
Senior Planner
Zoning Division
Cobb County Community Development Agency
(With Copies of Attachments)

Retail Planning Corporation
(With Copies of Attachments)

EXHIBIT "A"



**ARCHITECTURE
 ENGINEERING**
 3300 Peachtree Hills Road
 Suite 200
 Duluth, Georgia 30094
 P 770.432.9850
 F 770.432.9555
 www.hfr-engineers.com

sealed

Woodlawn Square Shopping Center
 1205 Johnson Ferry Road
 Marietta, GA 30066

For
 Retail Planning Corporation
 35 Johnson Ferry Road
 Marietta, GA 30066
 770-956-8363
 leanning@retailplanningcorp.com

10.5.21 REVIEW
 mk date issue

Exhibit Plan

CP.64
 HFR# 01155

Meeting Date 2-21-2023

RECEIVED
JAN 17 2003
COMM. DEV. AGENCY
TRAINING DIVISION

1 PRELIMINARY SITE LAYOUT
1/30

Development Summary Chart			
Site Information:			
Project name: 30491st Street Roadway Widening and Interchange			
City: Seattle, WA			
Project location: 30491st Street, NE			
Sponsoring agency: WSDOT			
Scheduling dates: 7/5/2011			
Existing Requirements	Proposed	Exempt	Exempt
1. General Requirements:			
a. Interchange	1/200	1	200 (d.b.)
b. Interchange Area	N/A		400
c. Interchange Area	N/A		12K
2. Interchange Specifics:			
a. Interchange Buffer	20 ft		20 ft
b. Interchange Buffer	30 ft		30 ft
c. Interchange Buffer	30 ft		20 ft
3. Interchange Specifics:			
a. Interchange Area	20 ft		1.33
b. Interchange Buffer	20 ft		1.33
4. Interchange Specifics:			
a. Interchange Area	20 ft		1.33
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b. Interchange Buffer	20 ft		1.33
69. Interchange Specifics:			
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b. Interchange Buffer	20 ft		1.33
70. Interchange Specifics:			
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b. Interchange Buffer	20 ft		1.33
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b. Interchange Buffer	20 ft		1.33
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b. Interchange Buffer	20 ft		1.33
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b. Interchange Buffer	20 ft		1.33
97. Interchange Specifics:			
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98. Interchange Specifics:			
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b. Interchange Buffer	20 ft		1.33
99. Interchange Specifics:			
a. Interchange Area	20 ft		1.33
b. Interchange Buffer	20 ft		1.33
100. Interchange Specifics:			
a. Interchange Area	20 ft		1.33
b. Interchange Buffer	20 ft		1.33

NEW SELF STORAGE FACILITY
ACWORTH, GA
3345 Hickory Grove Rd NW
ACWORTH, GA

ARCH L. TRULOCK, ARCHITECT

A1.0

**FEBRUARY 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1**

Min. Bk. 97 Petition No. O.B.8
Doc. Type Stormwater Management, Fire Dept,
Cobb DOT comments and recommendations
Meeting Date 2-21-2023

ITEM OB-8-2023

To consider amending the site plan for BT Storage, LLC regarding rezoning application Z-98 of 2005, for property located on the south side of Hickory Grove Road, west of new McEver Road in Land Lot 50 of the 20th District (3045 Hickory Grove Road).

BACKGROUND

The subject property was rezoned in 2005 to Light Industrial (LI) for a warehouse. The property never developed, and the applicant would like to amend the site for their climate-controlled self-service storage facility. The proposed building would be one-story in height and the site plan appears to meet the zoning criteria for Self-service storage facilities. The applicant is showing the required buffers on all sides of the property. There will be no outdoor storage. If the amendment is approved, all previous stipulations would remain in effect.

STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: No additional comments.

Stormwater Management: Stormwater Management has no objection to this other business item as requested. All current stormwater management codes and regulations will be required at the time land disturbance permitting. A 50' undisturbed stream buffer with a 25' impervious setback will apply to the stream along the rear property line.

Site Plan Review: No comments.

Fire Department: See attached.

Cobb DOT: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan amendment.

ATTACHMENTS

Other Business application and stipulations.

APPLICANT: BT Storage, LLC

PETITION NO.: OB-8

PRESENT ZONING: _____

PETITION FOR: _____

FIRE COMMENTS:

Petition No. O.B.8
Meeting Date 2-21-2023
Continued

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

IFC 510- EMERGENCY RESPONDER RADIO COVERAGE. New buildings are required to provide radio coverage for emergency responders per the International Fire Code. Testing is required by a third party and when deemed necessary amplification systems are required before the building will be issued a certificate of occupancy. This message is to serve as an early notification to owners and developers for budgeting purposes.

FIRE ENGINE ACCESS: The fire department must be able to access the long side of the building.

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2012 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side.

Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC Chapter-5, 120-3-3 Rules and Regulations, CCDS Section-401 & 402). Refer to APPENDIX-D for dimensional criteria for turn-arounds in commercial developments.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupied floor level. Aerial fire apparatus access roads shall be a minimum width of 26 feet and within 15 – 30 feet from the structure and be positioned parallel to one entire side of the building. No overhead utility and power lines shall be located within the aerial fire apparatus access. (Cobb County Development Standards 401.08.02.1)

Gates

Gate installs must be permitted separately and meet the following for emergency access:

- a) Access to and through gates must be in a direct straight path without curvature for at least 45 ft on either side.
- b) Provide 14 ft clear width for a single lane through the gate.
- c) Provide 20 ft clear width for a double lane through the gate. Gates must be swing or sliding type.
- d) Gates must be equipped with a means of opening the gate by fire department personnel for emergency access. Provide a Knox Key Switch or Knox pad lock keyed for Cobb County.
- e) A means must be provided to open electric gates upon the loss of power.
- f) A final inspection is required.

APPLICANT: BT Storage, LLC

PETITION NO.: OB-8

PRESENT ZONING: _____

PETITION FOR: _____

FIRE COMMENTS:

Petition No. O.B.8
Meeting Date 2-21-2023
Continued

SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

D104.1 Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have not fewer than two means of fire apparatus access for each structure.

D104.2 Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m2) shall be provided with two separate and approved fire apparatus access roads. Exception: Projects having a gross building area of up to 124,000 square feet (11 520 m2) that have a single approved fire apparatus access road where all buildings are equipped throughout with approved automatic sprinkler systems.

D104.3 Remoteness. Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses

FIRE HYDRANTS:

Hydrant location within 500 feet of the most remote portion of the structure.

Fire Flow Test from closest existing hydrant shall be provided meeting the minimum. (Required Flow: 1,500 gpm @ 20 psi)

C/O: Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

The above is not an all-inclusive list, all applicable fire and life safety provisions must be met.

Jeff Byrd

(770) 528-8814

jeffrey.byrd@cobbcounty.org

OB-8-2023

DEPARTMENT COMMENTS - DOT

ITE Land Use	Description	Expected Size (KSF)	AM			PM			Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
151	Mini-warehouse	70	4	2	6	5	6	11	102

vph = vehicles per hour, vpd = vehicles per day, KSF = 1,000 square feet, N/A = not available

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Recommendations

1. Recommend retaining all DOT recommendations from zoning case Z-98-2005, which include the following:
 - a. Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the south side of Hickory Grove Road, a minimum of 40' from the roadway centerline.
 - b. Recommend installing sidewalk, curb and gutter along the road frontage.
 - c. Recommend a minimum 150' deceleration lane and left turn lane.
 - d. Recommend upgrading the driveway to commercial standards.
 - e. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
2. Recommend extending driveway uninterrupted access to a minimum of 50' from the edge of right-of-way per Development Standard 402.8.
3. Recommend any gate and all parts of be set back a minimum of 50' from the right-of-way and meet Cobb County Development Standards.