

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

The Board of Commissioners' Zoning Hearing was held on Tuesday, March 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 9:02 a.m.

The following statement that Commissioner Gambrill read in at the last BOC Zoning Hearing was attached to each vote taken at today's hearing (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 Commission's 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 Gambrill'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.

The following statement that Commissioner Birrell read in at the last BOC Zoning Hearing was attached to each vote taken at today's hearing (attached and made a part of these minutes):

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.

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 John Pederson, Zoning Division Manager, reviewed the hearing procedures and announced the following cases which were *withdrawn or continued*.

WITHDRAWN AND CONTINUED CASES

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). 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, through the March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC hearing; therefore, was not considered at this hearing).*

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WITHDRAWN AND CONTINUED CASES (CONT.)

- 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 through the March 21, 2023, BOC Zoning hearings until the April 18, 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 the March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC 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 hearing; continued by Staff from the February 7, 2023 and March 7, 2023, PC hearings until the April 4, 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 March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC hearing; therefore, was not considered at this hearing).*

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WITHDRAWN 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, and March 21, 2023, BOC Zoning hearings until the April 18, 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; 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). *(Previously continued by Staff from the February 7, 2023, and March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC 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). *(Previously continued by Staff from the February 21, 2023, and March 21, 2023, Board of Commissioners' (BOC) Zoning hearings until the April 18, 2023, BOC 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*:

LUP-23'²² **KOYMAN ELADIO MAZARIEGOS REYES** (Koyman Eladio Mazariegos Reyes, owner) requesting a **Temporary Land Use Permit** to allow a landscape business and related 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 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; held by the PC until the March 7, 2023, PC hearing).*

To **approve** LUP-23'²² for **12 months**, subject to:

- 1. Applicant allowed to park two trucks and one trailer inside the fenced area**
- 2. Applicant allowed to have two employees**
- 3. Hours of operation to be from 8:00 a.m. until 5:30 p.m. during the weekdays; no weekend hours**
- 4. Employees' parking shall be behind the fenced area *only***
- 5. No landscape debris or other materials stored or contained on the trucks overnight**
- 6. No outdoor storage**
- 7. No chipping or grinding of any landscape materials on-site**

MOTION: Motion by Sheffield, second by Cupid, to **add** the following stipulations:

- 8. All Planning Commission comments and recommendations**
- 9. All Other Staff comments and recommendations, *not otherwise in conflict***
- 10. The fence shall be maintained by the current and future property owners**

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

OTHER BUSINESS

O.B. 9 To consider a reduction of required lot size for BER Revocable Trust. The property is located on the east side of Cooper Lake Drive, north of Cooper Lake Road in land lots 621 and 622 of the 17th district (1720 Cooper Lake Drive and 1631 Cooper Lake Road).

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 9 (CONT.)

To **approve** O.B. 9, subject to:

- 1. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 2. Site Plan received by the Zoning Division on February 16, 2023 (no revised Site Plan, just a name change on the application; attached and made a part of these minutes) that shows the proposed lot sizes, existing encroachments, property lines and setbacks**

Prior to approving the Consent Agenda, Commissioner Gambrill requested that O.B.11 (McConnell Green Homeowners Association, Inc.) be added to the Consent Agenda. The Applicant was present, and there was no opposition present. Mr. Pederson read the case and Staff recommendations into the record, and Commissioner Gambrill made the motion to add O.B. 11 to the Consent Agenda.

O.B. 11 To consider a stipulation amendment for McConnell Green Homeowners Association, Inc. regarding rezoning application Z-75 of 2016 in land lots 139, 140, and 157 of the 19th district. Property is located on the northwest corner of Lost Mountain Road and Corner Road, on the east side of McConnell Road, and on the north side of Pickens Road (McConnell Road).

To **approve** O.B. 11, subject to:

- 1. District Commissioner to approve the final Site Plan and Landscape Plan**
- 2. Only one shed to be painted in the item, with a neutral color to be approved by the District Commissioner**
- 3. Site Plan received by the Zoning Division on February 10, 2023, contained in the Other Business packet (attached and made a part of these minutes), with the District Commissioner to approve the final Site Plan**
- 4. Access for the landscaping shall be allowed through the existing gate on McConnell Road**
- 5. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect**

MOTION: Motion by Gambrill, second by Richardson, to **add** O.B. 11 to the Consent Agenda as read in by Mr. Pederson.

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.*)

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REGULAR AGENDA

Due to the Applicant for Z-61²² (Green Community Development, LLC) not being present, the Board agreed to hear Z-3 (Cynthia Jones And Cindy Nash Enterprises LLC) next.

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).*

The public hearing was opened; Cynthia Jones and Robin Meyer addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** Z-3 to the NRC zoning district, subject to:

1. Include the following *prohibited uses* to stipulation #2 of the Planning Commission recommendations (attached and made a part of these minutes):
 - A. Liquor stores or any alcohol sales; adult entertainment; sales of sexually explicit or drug-related paraphernalia; smoke or vape shops; pawn shops and title pawn shops; gold or precious metal dealers; nightclubs; video arcades as a primary use; check cashing establishments; discount sales; taxi dispatching; wholesale-only sales establishments; gun, knife, or weapons sales; shooting ranges; firewood sales; and thrift stores, secondhand stores, or flea markets
2. *Final use* to be approved by the District Commissioner
3. Amend stipulation #4 of the Planning Commission recommendation to read as follows: *“Final Site Plan and building architecture to be approved by the Board of Commissioners through an Other Business item.”*
4. Amend Department of Transportation (DOT) recommendation #3 to replace *“the Austell Road frontage”* with *“South Gordon Road”*
5. All other Staff comments and recommendations, *not otherwise in conflict*, including the Planning Commission comments and recommendations

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

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REGULAR AGENDA (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 land lot 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).*

Prior to the public hearing, Commissioner Birrell announced that she was recusing herself from Z-61^{'22} due to a pending litigation with the Applicant.

The public hearing was opened; Christopher Hunt and Pam Yates addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Gambrill, to **deny** Z-61^{'22}.

VOTE: **ADOPTED** 4-0, Birrell recused *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

Clerk's Note: *The Applicant was removed from the boardroom due to not adhering to our standards of decorum.*

By general consensus, Z-4 and SLUP-2 (Noble Storage LLC) were heard concurrently but voted on separately.

Z-4 **NOBLE STORAGE LLC** (Donald K. Nix, Fred Doty, owner) requesting rezoning from **LRO** to **NRC** for a climate-controlled self-storage facility 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).*

SLUP-2 **NOBLE STORAGE LLC** (Donald K. Nix, Fred Doty, owners) requesting a **Special Land Use Permit** for a climate-controlled self-storage facility 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).*

The public hearing was opened; Adam Rozen, Clifford Goodman, and Richard Grome addressed the Board. Following the presentation and discussion, the following motion was made:

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REGULAR AGENDA (CONT.)

**Z-4 &
SLUP-2 NOBLE STORAGE LLC (CONT.)**

MOTION: Motion by Richardson, second by Birrell, to **deny** Z-4.

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

After the vote for Z-4, the following motion for companion case, SLUP-2, was made:

MOTION: Motion by Richardson, second by Gambrill, to **deny** SLUP-2.

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 brief recess from 10:45 a.m. until 10:53 a.m.

Z-6 SOVEREIGN PACIFIC, LLC (Sovereign Pacific, LLC, owners) requesting rezoning from **GC** to **LI** for storage and parking for Light Industrial uses in land lots 422 and 423 of the 17th district. Property is located on the southwest side of Atlanta Road, south of Mozley Drive (1806 Atlanta Road).

The public hearing was opened, and Andy Shipp addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Richardson, to **delete** Z-6 to the **TS** zoning district, subject to:

- 1. Planning Commission comments and recommendations (attached and made a part of these minutes) and 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.*)

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

Mr. Pederson announced that conditions had been proposed for O.B. 48²² (Alva Glass) which would allow it to be placed on the Consent Agenda. The Applicant was present, and there was no opposition present. Mr. Pederson read the case and Staff recommendations into the record, and Commissioner Gambrill made the motion to add O.B. 48²² to the Consent Agenda.

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

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).*

To **approve** O.B. 48'²², subject to:

1. The road frontage be reduced to 47-feet for both lot 1 and lot 2
2. *Revised Site Plan* dated December 15, 2022 contained in the Other Business packet (attached and made a part of these minutes), with the District Commissioner approving minor modifications
3. Stormwater Management Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
4. Water and Sewer Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
5. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
6. Applicant to install a 10-ft landscape buffer adjacent to the new house on that property line in addition to the setback
7. No future lot splits shall be allowed

MOTION: Motion by Gambrill, second by Richardson, to **add** O.B. 48'²² to the Consent Agenda as read in by Mr. Pederson.

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

REGULAR AGENDA (CONT.)

At the call for LUP-6 (Antonio Rodriguez), the Applicant was not present, and there was no opposition present. The decision was made to put this case on hold to see if the Applicant could be contacted. O.B. 56'²² (Stein Investment Group) was moved up on the agenda and heard next.

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OTHER BUSINESS

O.B. 56²² 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).*

The public hearing was opened; Garvis L. Sams, Jr., Denise Fissel, and Chris Lindstrom addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **hold** O.B. 56²² until the April 18, 2023, Board of Commissioners' Zoning Hearing.

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 brief recess from 11:51 a.m. until 12:00 p.m.

REGULAR AGENDA (CONT.)

Following the recess, Commissioner Sheffield announced that the Applicant for LUP-6 (Antonio Rodriguez) was at work and could not attend today's hearing. Thereafter, she made the motion to continue LUP-6 until next month.

LUP-6 **ANTONIO RODRIGUEZ** (Antonio Rodriguez, owner) requesting a **Temporary Land Use Permit** to allow more vehicles and adults than the code allows in land lot 155 of the 17th district. Property is located on the east side of Austell Circle, southeast of Austell Road (1837 Austell Circle).

MOTION: Motion by Sheffield, second by Birrell, to **continue** LUP-6 until the April 18, 2023, Board of Commissioners' Zoning Hearing.

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

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OTHER BUSINESS (CONT.)

O.B. 10 To consider a stipulation amendment for Edenton Homeowners Association, Inc. regarding rezoning application Z-57 of 2015 in land lots 390 and 391 of the 16th district. Property is located at the north intersection of Shallowford Road and Wesley Chapel Road, and on the south side of Fricks Road (Shallowford Road).

The public hearing was opened; Patrick Dodson, David Connell, Joan Nichols, Dan Connors, and Bart Gary addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **approve** O.B. 10, subject to:

1. **From Kevin Moore's letter dated June 2, 2015, contained in the Other Business packet, replace stipulation #27(d) to read, "Each unit in the development shall have at least one hardwood tree planted in the front yard, of one-inch to four-inch caliper, at the time of planting." (pages 6 & 7 from the letter are attached and made a part of these minutes)**

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

O.B. 12 To consider approval of plans for Arpitkumar Patel regarding rezoning application Z-156 of 2000 in land lots 274 and 303 of the 17th district. The property is located at the southwest intersection of Windy Hill Road and Benson Poole Road (478 Windy Hill Road).

The public hearing was opened; Arpitkumar Patel, Michael Edmunds, and Jamar Hardaway addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** O.B. 12, subject to:

1. **Maximum building size of 5000 square feet**
2. **Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes), which includes no access to Benson Poole Road**
3. **Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
4. ***Prohibited uses* to include Drug Stores, Hardware Stores, Grocery Stores, and Liquor Stores**

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OTHER BUSINESS (CONT.)

O.B. 10 (CONT.)

5. *Permitted uses* shall include also Professional offices
6. All previous stipulations and conditions, *not otherwise in conflict with this amendment*, to remain in effect
7. District Commissioner to approve final Site Plan and Architectural Plan
8. To include a *prohibited use* of smoke and vape shops
9. *Final use* to be approved by the District Commissioner

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 1:06 p.m.



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

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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 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.

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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.

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

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
MARCH 7, 2023
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, March 7, 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 Commission were:

Stephen Vault, Chairman
David Anderson
Fred Beloin
Deborah Dance
Michael Hughes

CALL TO ORDER – CHAIRMAN VAULT

Chairman Vault called the hearing to order at 9:02 a.m.

REGULAR AGENDA

Z-3 CYNTHIA JONES AND CINDYNASH 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).*

At the call for Z-3, the Applicant was not present, but there was opposition present. After discussion, the Applicant was contacted, and the decision was made to hear from the opposition. Steve Jungk and Lynita Mitchell-Blackwell addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Hughes, second by Dance, to recommend **approval** of Z-3 to the **NRC** zoning district, subject to:

1. Use as a *convenience store with fuel sales* is prohibited
2. All *automotive* uses are prohibited
3. Permitted uses are *Neighborhood Retail Uses and Professional Offices*
4. Final Site Plan and building architecture to be approved by the District Commissioner
5. Install 20-foot landscape buffer along all residentially used property, County Arborist to approve final Landscape Plan
6. Install eight-foot landscape enhancement strip as required on South Gordon Road

REGULAR AGENDA (CONT.)

Z-3 CYNTHIA JONES AND CINDYNASH ENTERPRISES LLC (CONT.)

- 7. Fire Department comments and recommendations**
- 8. Stormwater Management Division comments and recommendations**
- 9. Water and Sewer Division comments and recommendations**
- 10. Department of Transportation comments and recommendations**
- 11. Existing sheds and storage building to be demolished within 90 days of the Board of Commissioners' decision**

VOTE: ADOPTED 5-0

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
MARCH 7, 2023
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, March 7, 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 Commission were:

Stephen Vault, Chairman
David Anderson
Fred Beloin
Deborah Dance
Michael Hughes

CALL TO ORDER – CHAIRMAN VAULT

Chairman Vault called the hearing to order at 9:02 a.m.

REGULAR AGENDA (CONT.)

Z-6 **SOVEREIGN PACIFIC, LLC** (Sovereign Pacific, LLC, owners) requesting rezoning from **GC** to **LI** for storage and parking for Light Industrial uses in land lots 422 and 423 of the 17th district. Property is located on the southwest side of Atlanta Road, south of Mozley Drive (1806 Atlanta Road).

The public hearing was opened, and Andy Shipp addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Dance, second by Hughes, to recommend **deletion** of Z-6 to the TS zoning district, subject to:

1. All Staff comments and recommendations, *with the exception*, to delete item #3 (pertaining to parking and storage permissions) listed in the Zoning Division comments
2. Parking shall be permitted *only* in areas designated on an approved Site Plan
3. Such parking must be on an impervious surface and striped
4. No outdoor storage of landscaping or other materials shall be permitted
5. A solid fence shall be installed on the rear of the property line with a 20-foot landscape buffer
6. A 10-foot landscape buffer shall be installed along Atlanta Road and fencing to enclose the property shall be required
7. Security measures including lighting, not to interfere with adjacent properties, shall be required

REGULAR AGENDA (CONT.)

Z-6 SOVEREIGN PACIFIC, LLC (CONT.)

- 8. Applicant shall be required to provide a stormwater pond, *if necessary*, based on an approved Site Plan**

VOTE: ADOPTED 5-0

MARCH 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1

Min. Bk. 97 Petition No. O.B.48(2022)
Doc. Type Stormwater Manage., Water & Sewer, and
Fire Dept. comments & recommendations
Meeting Date 3-21-2023

ITEM OB-48-2022

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 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 from the September 20, 2022 and the October 18, 2022 Board of Commissioners hearings until the November 15, 2022 Board of Commissioners hearing; Continued by the Board of Commissioners from the December 20, 2022 hearing until the March 21, 2023 hearing).*

BACKGROUND

The Board of Commissioners considers all reductions to minimum public road frontage 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 75-feet of public road frontage per lots. The applicant is requesting the public road frontage be reduced from 75-feet to 47-feet for lots 1 and 2. Lot 1 would be 3.3 acres and lot 2 would be 1.22 acres. All other zoning criteria will be met. The applicant plans on building a new 2,340 square-foot home on lot 2.

STAFF COMMENTS

Cobb DOT: Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Stormwater Management: No objection to the current request. Proposed in-fill residential developments with impervious area equal to or greater than 5,000 square feet are required to provide onsite stormwater management to reduce stormwater runoff on to adjacent properties. If the other business is approved; at the time of the building permit phase an updated site plan shall be provided for review and approval. The updated site plan shall include the proposed impervious area and if necessary, the design for stormwater mitigation including design calculations and construction details. Also required on the updated site plan are existing and proposed contours, proposed erosion control and stormwater mitigation if necessary.

Water & Sewer Comments: County Code 122-130 requires lots created by subdividing that are less than 80,000 ft² be connected to active sewer

Site Plan Review: No comments.

Fire Department: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum public road frontage.

**FEBRUARY 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1
Page 2**

Petition No. O.B.48(2022)
Meeting Date 3-21-2023
Continued

ITEM OB-48-2022

ATTACHMENTS

Other Business application.

APPLICANT: Alva Glass

PETITION NO.: OB – 48 – 2022

PRESENT ZONING: _____

PETITION FOR: _____

FIRE COMMENTS:

Petition No. O.B. 48 (2022)
Meeting Date 3-21-2023
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

ACCESS:

Driveway must have a minimum 12 foot driving surface width (CCDS 402.07.01) with a minimum 25 foot inside turning radius.

Fully developed landscaping shall be at least 7 feet 0 inches from center of drive (14 foot clear width) and 13 foot 6 inches vertical clearance.

Maximum grade shall not exceed 18%, angle of departure shall not exceed 8.5%.

Driveway must extend within 150 feet of the most remote portion of the structure.

Driveway is limited to 1000 feet maximum from roadway unless an approved turn-around is provided:

Driveway must support 25 Tons (50,000 lbs.).

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 24 feet maximum of 40 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)

FIRE HYDRANTS:

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

Hydrant location within 500 feet of the most remote portion of the structure.* (Additional hydrant may need to be installed.)

* An alternative equivalency for the above requirements, subject to the approval by the Cobb County Fire Marshal's Office is one of the following:

- 1.) NFPA 13D sprinkler system.

Provide emergency access through all gates securing Fire Department access with a minimum 12 foot 0 inch clear width and approved means of operation www.knoxbox.com.

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

MARCH 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2

Min. Bk. 97 Petition No. O.B.9
Doc. Type Cobb DOT comments
and recommendations
Meeting Date 3-21-2023

ITEM OB-9-2023

To consider a reduction of required lot sizes for BER Revocable Trust Dated February 19, 2021. The property located on the east side of Cooper Lake Drive, north of Cooper Lake Road in Land Lots 621 and 622 of the 17th District (1720 Cooper Lake Drive).

BACKGROUND

The Board of Commissioners considers all reductions to minimum public road frontage pursuant to Zoning Code Sec. 134-271(7)(a) adopted on February 27, 2018. This request concerns two pieces of property. First, the applicant owns a circa 1965 house at 1720 Copper Lake Drive which was zoned FST per a 1984 zoning action and was never developed. In 1994, most of the FST property was rezoned to RA-6 for a cluster home subdivision which was built. The applicant's property was left out of that 1994 zoning action. The applicant has found out that many of the improvements they have done to the property are on the next-door church property. Both parties have consented to a property line agreement to clean up this problem. The applicant's lot would have 18,746 square feet after the agreement. The second part of this item is the existing Vining Church of God which is already in a grandfathered state for its lot size of 1.9 acres (5-acres required). Once the agreement finalizes, the church will have 1.7 acres left. It should be noted that the church is deeding the applicant an area of the property that has no parking spaces, buildings, or detention.

STAFF COMMENTS

Cobb DOT: See attached.

Stormwater Management: Stormwater Management has no objection to this other business item as requested.

Water & Sewer Comments: No additional comments.

Site Plan Review: No comments.

Fire Department: No comments.

RECOMMENDATION

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

OB-9-2023

DEPARTMENT COMMENTS – DOT

Observations

Cooper Lake Drive is classified as a minor collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Cooper Lake Road is classified as a minor collector and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

No increase in trip generation is anticipated from this request. However, the existing southern driveway for 1631 Cooper Lake Drive does not conform to Cobb County Development Standard 402.8 for intersection spacing requirements. The 1631 Cooper Lake Drive frontage also does not include sidewalk, curb and gutter as recommended by the Cobb County sidewalk ordinance.

Recommendations

1. Should any redevelopment of the 1631 Cooper Lake Drive property occur in the future, where redevelopment is defined as any action requiring a Land Disturbance Permit that also changes the existing business operations of the development in terms of use, intensity and/or anticipated traffic, DOT recommends the following: 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 east side of Cooper Lake Drive, a minimum of 30' from the roadway centerline.
2. Should any redevelopment of the 1631 Cooper Lake Drive property occur in the future, where redevelopment is defined as any action requiring a Land Disturbance Permit that also changes the existing business operations of the development in terms of use, intensity and/or anticipated traffic, DOT recommends the following: install curb, gutter, and sidewalk along the Cooper Lake Drive frontage
3. Should any driveway modifications or redevelopment of the 1631 Cooper Lake Drive property occur in the future, where redevelopment is defined as any action requiring a Land Disturbance Permit that also changes the existing business operations of the development in terms of use, intensity and/or anticipated traffic, DOT recommends the following: all development driveways to be brought up to Cobb County DOT standard requirements. Mitigation measures for this recommendation could include but are not limited to the following: driveway relocation, driveway closure or driveway turn restrictions.
4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 5 of 7
June 2, 2015

Petition No. Z-57
Meeting Date 6-16-15
Continued

- (22) Development and construction hours for the proposed project shall be limited to the following:
 - (a) 7:00 a.m. to 7:00 p.m. - Monday-Friday;
 - (b) 8:00 a.m. to 5:00 p.m. - Saturday; and
 - (c) No work on Sunday.
- (23) All setbacks, landscape, and buffer areas may be penetrated for purposes of fencing, access, utilities, and stormwater management; including, but not limited to, drainage and detention facilities and any and all slopes or other required engineering features of the foregoing. Any disturbed area shall be restored with comparable plantings, in accordance with the approved and submitted Landscape Plan, and as allowed by Cobb County or any utility provider.
- (24) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements; except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (25) The District Commissioner shall have the authority to approve minor modifications to these stipulations and the Zoning Site Plan as the development proposal proceeds through the Plan Review process and thereafter. For purposes of this paragraph, any modifications that increase density; reduce the size or composition of an approved buffer or landscape strip to adjacent property; relocate a structure closer to a property line; or increase the height of a building adjacent to property which are in direct contradiction to or conflict with the foregoing stipulations, will come back through the public hearing process as an "Other Business Application."
- (26) Subject to approval and recommendations from the Cobb County Department of Transportation, Applicant agrees to the installation of sidewalk, curb, and gutter along the frontage of the Subject property along Wesley Chapel Road. As requested by adjacent neighborhoods, no sidewalks will be constructed along Fricks Road.
- (27) Landscaping for the proposed community shall be in substantial conformity with that certain Landscape Plan prepared by Canopy Design, dated May 28, 2015,

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 6 of 7
June 2, 2015

Petition No. 0.B.10
Meeting Date 3-21-2023
Continued

Petition No. 2-57
Meeting Date 6-16-15
Continued

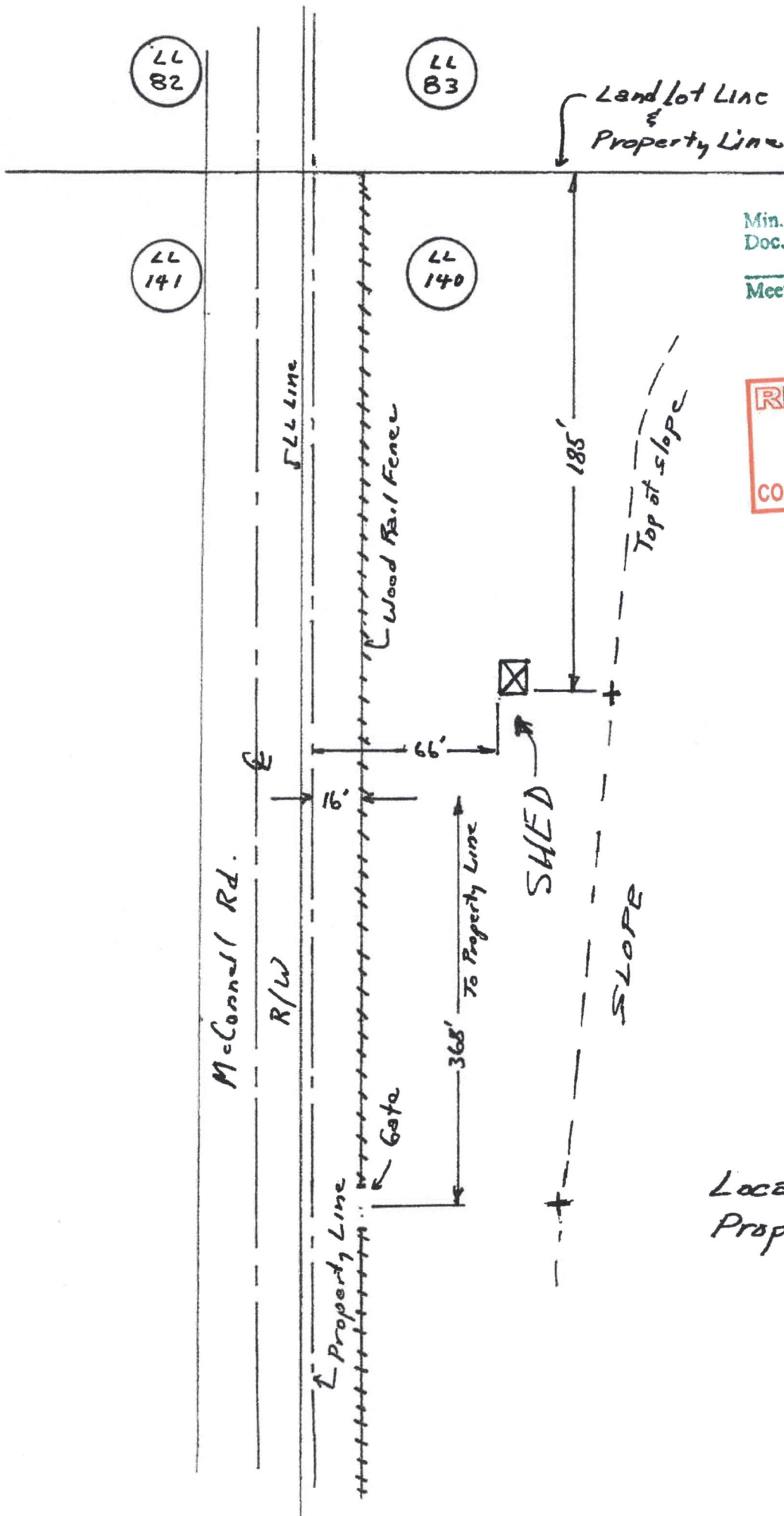
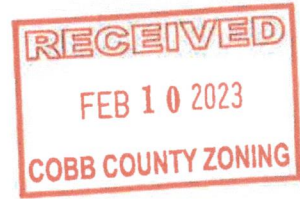
attached hereto as Exhibit "C," which shall include, but not be limited to, the following:

- (a) Installation of vegetative screening around the exterior of the detention facilities;
 - (b) Landscape screening buffers around the perimeter of the proposed community may be disturbed during development, but shall be replanted in strict conformity to the submitted Landscape Plan;
 - (c) Landscape screening buffers around the perimeter of the proposed community shall be irrigated and maintained by the mandatory homeowners association;
 - (d) Each unit in the development shall have at least one hardwood tree planted in the front yard, a minimum of four (4) inch caliper; and
 - (e) Installation of an earthen berm along the Property's frontage on Fricks Road, which berm shall be in substantial conformity with that certain "Fricks Road Berm" plan prepared by Christopher Planning and Engineering dated May 20, 2015, a copy of which is attached hereto as Exhibit "D." Applicant agrees to work with field conditions to enlarge the berm where reasonably feasible.
- (28) Applicant agrees to comply with the Comments and Recommendations from the Cobb County Fire Department.
- (29) Applicant agrees to comply with the Comments and Recommendations from Cobb County Water and Sewer regarding the availability and accessibility of water and sewer for the Subject Property.

We believe the requested zoning, pursuant to the Zoning Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions of the Property and the area surrounding the proposed development. The proposed community shall be a quality development, providing a much-needed and highly sought after type of community within the Cobb County area. Additionally, the proposed community shall be compatible with surrounding developments and be an enhancement to the Subject Property. Thank you for your consideration in this request.

08-11-2023
proposed
site
plan.

Min. Bk. 97 Petition No. O.B. 11
Doc. Type Site Plan
Meeting Date 3-21-2023



Location of
Proposed Shed

Jdy

**MARCH 21, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4**

Min. Bk. 97 Petition No. O.B.12
Doc. Type Cobb DOT and Fire Dept.
Comments and Recommendations
Meeting Date 3-21-2023

ITEM OB-12-2023

To consider approval of plans for Arpitkumar Patel regarding rezoning application Z-156 of 2000 in Land Lots 274 and 303 of the 17th District. The property is located at the southwest intersection of Windy Hill Road and Benson Poole Road (478 Windy Hill Road).

BACKGROUND

The property was rezoned in 2000 to Limited Retail Commercial (LRC) for permitted uses within the district. The zoning stipulations call for the final plans to be approved by the Board of Commissioners. The applicant is proposing one building that will be one-story in height. The applicant is proposing that 4,950 square-feet of the building be a liquor store, with an additional 1,000 square-feet for a retail store. The proposed site plan shows underground detention with access points on Windy Hill Road and Benson Poole Road. There would be 31 parking spaces and a maximum impervious surface of 59%. If approved, all previous stipulations would remain in effect.

STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: Proposed sewer relocation will be addressed during Plan Review.

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: See attached.

Fire Department: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed approval of plans.

ATTACHMENTS

Other Business application and stipulations.

OB-12-2023

DEPARTMENT COMMENTS – DOT

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Windy Hill Road	Arterial	40	Cobb County	100'
Benson Poole Road	Minor collector	35	Cobb County	60'

Roadway	Location	Average daily trips	Level of service
Windy Hill Road	East of Benson Poole Road	35,200	F
Benson Poole Road	South of Windy Hill Road	4,450	C

Based on 2021 AADT counting data taken by GDOT, as published on their website, for Windy Hill Road.

Based on 2018 AADT counting data taken by Cobb County DOT for Benson Poole 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 major county or local roadways 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)	
822	Strip Retail	1	1	1	2	3	3	6	54
899	Liquor Store	4.95	2	1	3	41	41	82	531
Total		5.95	3	2	5	44	44	88	585

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.

Observations and comments

Windy Hill 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.

Benson Poole Road is classified as a minor collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Proposed driveways on Benson Poole Road and Windy Hill Road are closer than 250 feet tangent to the signalized intersection of Benson Poole Road and Windy Hill Road. Additionally, any entering left-turn traffic from westbound Windy Hill Road would be required to cross the opposing left turn lane that serves the signalized intersection.

The driveway on Benson Poole Road is not recommended because of its proximity to the signalized intersection and potential limits to the available intersection sight distance.

This development requires a traffic study submittal based on Cobb County Code 134-121.

OB-12-2023

DEPARTMENT COMMENTS - DOT

(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 Windy Hill Road, a minimum of 50' from the roadway centerline.
2. 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 west side of Benson Poole Road, a minimum of 30' from the roadway centerline.
3. Recommend driveway uninterrupted access be minimum of 50' from the edge of the final right-of-way line per Development Standard 402.8
4. 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). Cobb DOT recommendations may be revised after the review is complete.
5. Recommend no access to Benson Poole Road.
6. Recommend driveway on Windy Hill Parkway be restricted to right-in/ right-out access.
7. As necessitated by this development, recommend Windy Hill Road access include deceleration lane. Recommend location and design be determined during plan review, subject to Cobb County DOT approval.
8. Recommend applicant verify that minimum intersection sight distance is available for Windy Hill Road access and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirements.
9. Recommend driveway be constructed per Section 402.08, Non-Residential Driveways, of the Cobb County Development Standards.
10. Recommend replacing any disturbed curb, gutter, and sidewalk along the Windy Hill and Benson Poole frontages.

OB-12-2023

DEPARTMENT COMMENTS - DOT

(continued)

11. Recommend maintaining existing bus shelter at intersection. If bus shelter location is adjusted in Plan Review, recommend developer provide bus stop pad at new location.
12. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

APPLICANT: Arpitkumar Patel

PETITION NO.: OB-12

PRESENT ZONING:

PETITION FOR:

FIRE COMMENTS:

Petition No. OB.12
Meeting Date 3-21-2023
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

FIRE HYDRANTS:

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

* An alternative equivalency for the above requirements, subject to the approval by the Cobb County Fire Marshal's Office is one of the following:

- 1.) NFPA 13D sprinkler system.
- 2.) Complete structure (framing and decking materials) treated with a Class A-Fire Retardant spray with a flame spread rating of 25 or less and smoke development of 450 or less.
- 3.) Non-Combustible construction.

(Indicate on the site plan which option will be utilized.)

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. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

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
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jeffrey.byrd@cobbcounty.org