

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
MARCH 2, 2021
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, March 2, 2021, 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:

Galt Porter, Chairman
Fred Beloin
Deborah Dance
Alice Summerour
Tony Waybright

CALL TO ORDER – CHAIRMAN PORTER

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

At this hearing, there were applicants and public in attendance. However, due to the unprecedented circumstances of the COVID-19 pandemic, arrangements were made to allow for virtual public participation in addition to in person participation. Based on recommendations from the County Attorney, Mr. Pederson outlined the following changes to the Zoning Hearing Rules for today's Planning Commission (PC) Zoning Public Hearing and the remaining PC Zoning Public Hearings for the rest of the year. The PC was asked to vote on the following changes:

1. Planning Commission (PC), staff, and citizens be allowed to participate in the meeting virtually;
2. Persons wishing to be counted as either in favor or in opposition to an application will be recognized and the number of persons provided to the Commission;
3. Persons who wish to speak virtually in favor or in opposition to an application will identify themselves accordingly to staff for participation during the presentation of the application; and
4. Persons who speak virtually will acknowledge and affirm that his or her testimony before the PC is under oath or affirmed to be truthful.

Otherwise, the PC Zoning Public Hearing Rules will apply except as modified during the normal course of the hearing pursuant to the Rules.

After reading these changes into the record, the following motion was made to allow virtual participation in the public hearing:

MOTION: Motion by Waybright, second by Summerour, to **approve** the changes to the PC Zoning Public Hearing Rules used at today's PC Zoning Public Hearing and the remaining PC Zoning Public Hearings for the rest of the year or until the declared emergency due to COVID-19 has concluded, whichever comes first.

VOTE: **ADOPTED 5-0**

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Mr. John Pederson, Zoning Division Manager, explained the virtual participation format, reviewed the hearing procedures, and announced the following cases which were *continued*.

CONTINUED CASES

- Z-52^{'20}** **CARL EDWARD DILLS** (Aubrey James McMillan, Jr., owner) requesting rezoning from **R-20** to **LI** for a sign shop in land lots 504 and 505 of the 18th district. Property is located on the south side of Six Flags Parkway, west of Queensferry Drive (436 Six Flags Parkway). *(Previously continued by the Planning Commission (PC) from the September 1, 2020, PC hearing until the October 6, 2020, PC hearing; continued by Staff from the October 6, 2020, and November 3, 2020, PC hearings until the December 1, 2020, PC hearing; held by the PC from the December 1, 2020, PC hearing until the February 2, 2021, PC hearing; continued by Staff from the February 2, 2021, and March 2, 2021, PC hearing until the April 6, 2021, PC hearing; therefore, was not considered at this hearing).*
- Z-61^{'20}** **GREEN LINE PARTNERS, LLC** (David Stone and Shekinah Stone, Wilma G. Lynam, owners) requesting rezoning from **R-20** to **RM-8** for townhomes (attached), single-family residential (detached) in land lots 182, 183, and 277 of the 18th district. Property is located on the northwest side of Queen Mill Road, on the eastern end of Mountain Court, south of Mountain Trail, on the north side of Ivey Road (6436 Ivey Road; 6350, 6370 Queen Mill Road). *(Previously continued by Staff from the October 6, 2020, through the March 2, 2021, Planning Commission (PC) hearings until the April 6, 2021, PC hearing; therefore, was not considered at this hearing).*
- Z-72^{'20}** **NORTH POINT MINISTRIES, INC.** (The 'True Vine' Experience Foundation, Inc.; Sara M. Sweeney; Hanna Land Company, Inc., owners) requesting rezoning from **LRO, NRC, and R-20** to **O&I, NRC, and RM-8** for church, retail/restaurant, and townhomes in land lots 466, 467, 470, and 471 of the 16th district. Property is located on the south side of Shallowford Road, the west side of Johnson Ferry Road, the north and south sides of Waterfront Drive, and the east side of Waterfront Circle (multiple addresses). *(Previously continued by Staff from the December 1, 2020, Planning Commission (PC) hearing until the April 6, 2021, PC hearing; therefore, was not considered at this hearing).*
- Z-13** **KERLEY FAMILY HOMES, LLC** (Lillian Marie Latham, owner) requesting rezoning from **LRO** and **RSL** to **RSL** for residential senior living, non-supportive residential units in land lot 122 of the 20th district. Property is located south of McClure Road, southwest of the intersection of McClure Road and Acworth Due West Road (4321 McClure Road). *(Continued by Staff until the April 6, 2021, Planning Commission hearing; therefore, was not considered at this hearing).*

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CONTINUED CASES (CONT.)

ROD-1^{'20} **ATLANTIC REALTY ACQUISITIONS LLC** (Sprayberry Crossing Partnership, a Georgia General Partnership; Sandy Brownstone, LLC; Sandy Ten, LLC; Hong Tran and Hanh H. Tran, owners) requesting approval of the Redevelopment Overlay District for a mixed-use development in land lots 557, 596, and 629 of the 16th district. Property is located on the southeasterly side of Sandy Plains Road, and on the northerly side of East Piedmont Road (2692 Sandy Plains Road). *(Previously continued by Staff from the September 1, 2020, through the February 2, 2021, Planning Commission (PC) hearings until the March 2, 2021, PC hearing).*

Mr. Pederson presented the Applicant's request for a continuance of ROD-1^{'20}; thereafter, the following motion was made:

MOTION: Motion by Dance, second by Summerour, to **continue** ROD-1^{'20} until the April 6, 2021, Planning Commission Zoning Hearing, with the stipulation that there be no further continuances.

VOTE: **ADOPTED 5-0**

Z-1 **KERLEY FAMILY HOMES, LLC** (Westlake/Atlanta Joint Venture, owner) requesting rezoning from **GC** to **FST** for townhomes in land lot 516 of the 18th district. Property is located on the southeast side of Blair Bridge Road, northeast side of Riverside Parkway, east of the intersection of Blair Bridge Road and Riverside Parkway (no address). *(Previously held by the Planning Commission hearing from the February 2, 2021 Planning Commission hearing until the March 2, 2020 Planning Commission hearing).*

Mr. Pederson presented the Staff's request for a continuance of Z-1; thereafter, the following motion was made:

MOTION: Motion by Porter, second by Waybright, to **continue** Z-1 until the April 6, 2021, Planning Commission Zoning Hearing.

VOTE: **ADOPTED 5-0**

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CONTINUED CASES (CONT.)

Z-12 **TRATON, LLC** (Lillie J. Johnson, R.A. Johnson, Mary Ellen Johnson Sanford, Sandra Rachel Johnson Perkins and Terry Paul Johnson, owners) requesting rezoning from **NRC** to **RM-8** for a townhome community in land lots 627 and 628 of the 19th district. Property is located on the west side of Austell Road, south of Waymar Drive (2818 Austell Road).

Mr. Pederson presented the Staff's request for a continuance of Z-12; thereafter, the following motion was made:

MOTION: Motion by Porter, second by Summerour, to **continue** Z-12 until the April 6, 2021, Planning Commission Zoning Hearing.

VOTE: **ADOPTED** 5-0

Mr. Pederson made the following announcements:

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.

Prior to reading the Consent Agenda into the record, Mr. Pederson announced that due to opposition being present, SLUP-1 (Colonial Pipeline Company) would be pulled from the Consent Agenda to be heard on the Regular Agenda in its numerical order (see page 11 of these minutes for the final motion).

CONSENT AGENDA

MOTION: Motion by Waybright, second by Summerour, to recommend **approval** of Z-3, *as presented*, and to recommend **approval/deletion** of Z-39^{'20} and Z-59^{'20}, *as amended*, on the Consent Agenda:

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CONSENT AGENDA (CONT.)

Z-39'²⁰ **KO MANAGEMENT, INC.** (Iglesia Torre Fuerte C.A.P.P., Inc., owner) requesting rezoning from **CF** and **GC** to **RA-5** for a subdivision in land lot 37 of the 17th district. Property is located on the south side of Puckett Drive, east of Mableton Parkway (637 and 667 Puckett Drive). *(Previously continued by Staff from the July 7, 2020, through the November 3, 2020, Planning Commission (PC) hearings until the December 1, 2020, PC hearing; continued by the PC from the December 1, 2020, through the February 2, 2021, PC hearings until the March 2, 2021, PC hearing).*

To recommend **approval** of Z-39'²⁰ to the **RA-5** zoning district, subject to:

- 1. Letter of agreeable conditions from Parks Huff dated February 26, 2021, which includes the site plan (on file in the Zoning Division)**
- 2. Staff comments and recommendations, *not otherwise in conflict*, with the letter dated February 26, 2021**
- 3. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on March 16, 2021**

Z-59'²⁰ **TAHMINA A. PATWARY** (Tahmina A. Patwary, owner) requesting rezoning from **R-20** to **O&I** for a professional office in land lot 745 of the 17th district. Property is located on the west side of Atlanta Road, north of Lee Road (3932 Atlanta Road). *(Previously continued by Staff from the October 6, 2020, through the February 2, 2021, Planning Commission (PC) hearings until the March 2, 2021, PC hearing).*

To recommend **deletion** of Z-59'²⁰ to the **R-15** zoning district, subject to:

- 1. Letter of agreeable conditions from Adam Rozen dated February 24, 2021 (on file in the Zoning Division)**
- 2. Asphalt parking lot in front of the house to be removed per stipulation #4 in the letter from Adam Rozen dated February 24, 2021, or within one year of the Board of Commissioners hearing this case (Z-24), whichever occurs first; Site Plan to be approved by the Zoning Division Manager**
- 3. Rear setback to be 20-feet**
- 4. Staff comments and recommendations, *not otherwise in conflict*, with the application being deleted to R-15**
- 5. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on March 16, 2021**

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CONSENT AGENDA (CONT.)

Z-3 **DARREN MARTIN** (Darren E. Martin, owner) requesting rezoning from **PSC** to **R-12** for a single-family residence in land lot 699 of the 17th district. Property is located on the southeast side of Carson Lane, southwest of the intersection of Carson Lane and Atlanta Road (3587 Carson Lane). *(Continued by Staff until the March 2, 2021, Planning Commission hearing).*

To recommend **approval** of Z-3 to the **R-12** zoning district, subject to:

- 1. Site Plan last revised January 6, 2021, with the District Commissioner approving minor modifications (on file in the Zoning Division)**
- 2. Department of Transportation comments and recommendations**
- 3. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on March 16, 2021**

At the call for Z-9 (Rutvik Emil Dmello), opposition was present; therefore, Z-9 was pulled from the Consent Agenda to be heard on the Regular Agenda in its numerical order. Later in the hearing, the decision was made to add Z-9 back to the Consent Agenda (see page 7 of these minutes for the motion).

At the call for Z-10 (Stacey Bagwell), opposition was present; therefore, Z-10 was pulled from the Consent Agenda to be heard on the Regular Agenda in its numerical order (see page 9 of these minutes for the final motion).

CONSENT VOTE: ADOPTED 5-0

REGULAR AGENDA

Z-6 **LOYD DEVELOPMENT SERVICES** (Southern Development Ventures, LLC, owner) requesting rezoning from **NRC**, **LRO**, and **RA-5** to **RM-8** for townhomes in land lots 297 and 388 of the 18th district. Property is located on the east side of South Gordon Road, the southwest side of Mableton Parkway, south of the intersection of South Gordon Road and Mableton Parkway, west of Dodgen Road (6590 Mableton Parkway). *(Continued by Staff until the March 2, 2021, Planning Commission hearing).*

The public hearing was opened; Garvis L. Sams, Jr., and the following two virtual speakers: Robin Meyer and Travis McComb addressed the Planning Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Porter, second by Summerour, to **hold** Z-6 until the April 6, 2021, Planning Commission Zoning Hearing.

VOTE: ADOPTED 5-0

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REGULAR AGENDA (CONT.)

Z-8 **BEAZER HOMES, LLC** (Residuary Trust Under The 2010 Everett Family Trust; Lisa Kay Spillane; Patricia P. Giannoni and Kenneth Q. Giannoni, owners) requesting rezoning from **R-30, NRC, PSC, and GC** to **R-15 OSC** for a single-family residential subdivision in land lots 66, 83, and 84 of the 19th district. Property is located on the south side of Dallas Highway, on the east side of McConnell Road, and on the west side of Lost Mountain Road (750 Lost Mountain Road, 691 McConnell Road). *(Continued by Staff until the March 2, 2021, Planning Commission hearing).*

The public hearing was opened; Kevin Moore, and the following two virtual speakers: Eric Burt and Travis McComb addressed the Planning Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Beloin, second by Waybright, to **hold** Z-8 until the April 6, 2021, Planning Commission Zoning Hearing

VOTE: **ADOPTED 5-0**

Chairman Porter called for a brief recess from 10:45 a.m. until 11:05 a.m.

Following the recess, Chairman Porter announced that the issue pertaining to Z-9 (Rutvik Emil Dmello) had been resolved; therefore, Z-9 would be added back to the Consent Agenda. Thereafter, Mr. Pederson read Z-9 back into the record, Chairman Porter read in additional stipulations, and then the subsequent motion was made:

MOTION: Motion by Porter, second by Waybright, to **add** Z-9 back to the Consent Agenda, as follows:

Z-9 **RUTVIK EMIL DMELLO** (Tony Safarpour, owner) requesting rezoning from **CF** and **GC** to **NRC** for a convenience store with retail sales in land lots 556 and 557 of the 19th district. Property is located on the southeast side of Austell Road, east of the intersection of Austell Road and East Callaway Road (2695 Austell Road).

To recommend **approval** of Z-9 to the **NRC** zoning district, subject to:

- 1. Professional Office, Eating and Drinking Establishments, and Neighborhood Retail uses *only***

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REGULAR AGENDA (CONT.)

Z-9 RUTVIK EMIL DMELLO (CONT.)

2. Letter of agreeable conditions from Garvis L. Sams, Jr. dated February 19, 2021, with deletion of the building elevations (on file in the Zoning Division), with the following changes:
 - A. Strike Item No. 4
 - B. Item No. 11 – add the following prohibited uses:
 - i. Fuel Sales
 - ii. Bail Bond Establishments
 - iii. Check Cashing Establishments
 - iv. Car Washes
 - v. Emission and Inspection Stations
 - vi. Nursery Schools and Child Daycare
 - C. Item No. 13 – add to the following prohibited minor modifications:
 - i. increase the overall building square footage
 - ii. change that is in conflict with an expressed stipulation or condition of zoning
 - iii. requires a variance or violates Cobb County Ordinance
3. No loitering allowed; property owner and businesses to take necessary actions to prevent loitering
4. Adherence to Austell Road Design Guidelines, with the District Commissioners approving the final building elevations
5. Fire Department comments and recommendations
6. Site Plan Review comments and recommendations
7. Stormwater Management Division comments and recommendations
8. Water and Sewer Division comments and recommendations
9. Department of Transportation comments and recommendations

VOTE: ADOPTED 5-0

Clerk's Note: Garvis Sams, Jr. commented that the original application request was for a convenience store, but it has evolved by virtue of the stipulation letter to simply a request for retail and associated office.

Clerk's Note: The GIS site does not match the site plan. Staff to investigate which one is correct.

After the vote, the following motion was made to approve the Consent Agenda with Z-9 added.

MOTION: Motion by Waybright, second by Dance, to **approve** the Consent Agenda, *as amended*.

VOTE: ADOPTED 5-0

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REGULAR AGENDA (CONT.)

Z-10 **STACEY BAGWELL** (Jose R. Medina and Eleuteria Diaz, as joint tenants with rights of survivorship, owners) requesting rezoning from **NS** to **NRC** for a convenience store with fuel and retail sales in land lot 15 of the 17th district. Property is located on the northwest side of Austell Road, south of Millwood Drive (2520 Austell Road).

The public hearing was opened; Garvis L. Sams, Jr. and Michael Coolbroth addressed the Planning Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Porter, second by Summerour, to recommend **approval** of Z-10 to the **NRC** zoning district, subject to:

1. **Convenience Food Store with fuel sales, Neighborhood Retail uses, and Eating and Drinking Establishment uses *only***
2. **Letter of agreeable conditions from Garvis L. Sams, Jr. dated February 19, 2021 (on file in the Zoning Division), with the following changes:**
 - A. **Strike Item No. 4**
 - B. **Item No. 5 – add the following prohibited uses:**
 - i. **Light Automotive Repair**
 - ii. **Tire and Rim Sales or Installation**
 - iii. **Bail Bond Establishments**
 - iv. **Gold or other precious metal buying or selling**
 - v. **Thrift stores, second-hand store or flea markets**
 - vi. **Car Washes**
 - vii. **Emissions and/or Inspection Stations**
 - viii. **Nursery Schools and Child Daycare**
 - ix. **Video Arcades (strike the words, “as primary use”)**
 - x. **Adult themed shops or bookstores (strike the words, “as primary use”)**
 - C. **Item No. 13 – add to the following prohibited minor modifications:**
 - i. **increase the overall building square footage**
 - ii. **change that is in conflict with an expressed stipulation or condition of zoning**
 - iii. **requires a variance or violates Cobb County Ordinance**
3. **Adherence to Austell Road Design Guidelines**
4. **No loitering allowed; property owner and businesses to take necessary actions to prevent loitering**
5. **Convenient Food Store uses to have a security plan approved by the Cobb County Police Department**

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REGULAR AGENDA (CONT.)

Z-10 STACEY BAGWELL (CONT.)

6. 24-hour video surveillance to be provided with cameras located around the property to reasonably cover all sides of any convenience food store with fuel sales; video to be retained for at least 14 days and made available to Cobb County Police upon request
7. The Quick Serve Restaurant (QSR) to have the drive-thru window on the southern side of the building (as shown on the most recent site plan)
8. Hours of operation for all businesses to be 6:00 a.m. to midnight (12:00 a.m.)
9. Photometric Plan to be approved by Cobb County Department of Transportation and Community Development
10. Lower intensity of lighting during closed hours and that to be detailed in the Photometric Plan
11. Six-foot black vinyl coated chain link fencing to be provided along all residentially zoned properties
12. The 35-foot screening buffer to be a landscape buffer with at least three rows of planting of evergreens
13. Landscape Plan to be approved by the County Arborist
14. Staff comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED 5-0**

Z-11 VENTURE COMMUNITIES, LLC (SHH Partners, L.P., owner) requesting rezoning from **GC** to **RM-12** for condominiums in land lot 854 of the 17th district. Property is located on the east side of I-75, at the terminus of Leland Drive (no address).

The public hearing was opened; Parks Huff and Jay Thomas addressed the Planning Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Waybright, second by Summerour, to **hold** Z-11 until the April 6, 2021, Planning Commission Zoning Hearing.

VOTE: **ADOPTED 5-0**

LUP-9 JOHN R. SMITH (Sara Deal Smith, owner) requesting a **Temporary Land Use Permit** to allow occupancy of an accessory structure in land lot 79 of the 18th district. Property is located on the north side of Old Alabama Road, west of the intersection of Old Alabama Road and Pisgah Road (860 Old Alabama Road).

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REGULAR AGENDA (CONT.)

LUP-9 JOHN R. SMITH (CONT.)

The public hearing was opened, and John R. Smith addressed the Planning Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Porter, second by Summerour, to **approve** LUP-9 for **6 months**, subject to:

- 1. Applicant to obtain from the Health Department documentation (Septic Permit) showing that the septic system meets their standard for the primary dwelling and the accessory structure; Septic Permit to be provided to the Zoning Division Manager**
- 2. Applicant to have Building Inspections to inspect the accessory structure, and if any deficiencies are found, building permits are to be obtained to bring the accessory structure up to code within six months**
- 3. Occupancy is only for as long as the mother resides in the primary dwelling on the property; at such time when the mother no longer resides in the primary dwelling, the accessory structure will be converted back to a garage or storage or typical accessory structure that is allowed**
- 4. In six months, when it's time to re-evaluate the Land Use Permit (LUP), the application fee shall be waived**
- 5. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on March 16, 2021**

VOTE: **ADOPTED 5-0**

Clerk's Note: The mother referenced is the titleholder, Sara Deal Smith.

SLUP-1 COLONIAL PIPELINE COMPANY (Colonial Pipeline Company, owner) requesting a **Special Land Use Permit** for a fuel truck loading terminal in land lots 862 and 915 of the 19th district. Property is located at the terminus of Tramore Pointe Parkway, south of the intersection of Tramore Pointe Parkway and East West Connector (no address).

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

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REGULAR AGENDA (CONT.)

SLUP-1 COLONIAL PIPELINE COMPANY (CONT.)

MOTION: Motion by Porter, second by Summerour, to recommend **approval** of SLUP-1, subject to:

1. Letter of agreeable conditions from Kevin Moore dated February 24, 2021 (on file in the Zoning Division), *not otherwise in conflict*
2. Applicant agrees to provide regular and routine maintenance of the road frontage along the subject property, Tramore Pointe Parkway
3. Applicant agrees to provide a 24-hour, 7-day a week contact person of applicant to Puckett EMS to ensure open and transparent communications and opportunities for communications at any time
4. No more than two tanker trucks will exit the property at the same time, with no less than five minute intervals between any set of two tanker trucks; **NOTE:** The intent of this additional stipulation is to prevent three tanker trucks from being stopped at the same time at the traffic light at Tramore Pointe Parkway and the East West Connector, this is to prevent blocking where ambulances may not be able to get out at appropriate times
5. Trucks using the fueling center to access and exit via Tramore Pointe Parkway *only*; access to Anderson Farm Road *is prohibited*
6. Staff comments and recommendations, *not otherwise in conflict*
7. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on March 16, 2021

VOTE: **ADOPTED 5-0**

APPROVAL OF MINUTES

MOTION: Motion by Porter, second by Waybright, to **approve** the following minutes, *as presented*:

February 10, 2021 – Special Called Meeting/To Adopt Minutes

February 22, 2021 – Special Called Meeting/Agenda Review Work Session

VOTE: **ADOPTED 5-0**

ADJOURNMENT

The hearing adjourned at 12:41 p.m.



Robin L. Stone, Deputy County Clerk
Cobb County Planning Commission