

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
MAY 3, 2022
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, May 3, 2022, 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
Fred Beloin
Deborah Dance
Michael Hughes

David Anderson – not present

CALL TO ORDER – CHAIRMAN VAULT

Chairman Vault called the hearing to order at 9:04 a.m.

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 John Pederson, Zoning Division Manager, reviewed the hearing procedures and announced the cases which were *withdrawn or continued*.

WITHDRAWN AND CONTINUED CASES

Z-19 **NEW BUDDY'S LLC** (Doris Weatherford Cantrell Revocable Trust dated July 23, 2013, owner) requesting rezoning from **GC** and **NS** to **NRC** for a convenience store with fuel sales in land lot 296 of the 20th district. Property is located on the northeast side of Due West Road, northwest of Burnt Hickory Road, and at the terminus of Burnt Hickory Way (3808 Due West Road). (*Continued by Staff until the May 3, 2022, Planning Commission hearing*). **WITHDRAWN WITHOUT PREJUDICE**

SLUP-7 **BROWARD DEVELOPMENT** (Carol Ann Waddell and Christina Waddell Holcombe, Stephen R. Pendleton and Victoria B. Pendleton, owners) requesting a **Special Land Use Permit** for a climate-controlled self-storage, single family residential lot in land lots 405 and 498 of the 18th district. Property is located on the northeast side of Mableton Parkway and on the southwest side of Cardell Circle, north of Hunnicut Road (6949 Mableton Parkway). **WITHDRAWN WITHOUT PREJUDICE**

Z-7 **KM HOMES** (Luther John Deavers, Luther Guy Deavers Jr., owners) requesting rezoning from **R-20** to **FST** for a townhome community in land lot 22 of the 20th district. Property is located on the southeast side of Wade Green Road, north of Wooten Lake Road (4556, 4570, 4600 Wade Green Road). (*Previously continued by Staff from the February 1, 2022, and the March 1, 2022, Planning Commission (PC) hearings until the April 5, 2022, PC hearing; held by the PC until the May, 3, 2022, PC hearing; continued by Staff until the June 7, 2022, PC hearing; therefore, was not considered at this hearing*).

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WITHDRAWN AND CONTINUED CASES (CONT.)

- Z-20** **FRANCISCO PADILLA** (Francisco Padilla, owner) requesting rezoning from **R-20** to **NRC** for retail, office in land lots 488, 489, and 549 of the 19th district. Property is located on the northwest side of Powder Springs Road, north of Mellor Lane (1888 Powder Springs Road). *(Previously continued by Staff from the April 5, 2022, and May 3, 2022, Planning Commission (PC) hearings until the June 7, 2022, PC hearing; therefore, was not considered at this hearing).*
- Z-21** **FRANCISCO PADILLA** (Francisco Joel Padilla Perez, owner) requesting rezoning from **CF** to **NRC** for an office in land lot 1214 of the 19th district. Property is located on the west side of Austell Road, on the south side of Doby Lane (5120 Austell Road). *(Previously continued by Staff from the April 5, 2022, and May 3, 2022, Planning Commission (PC) hearings until the June 7, 2022, PC hearing; therefore, was not considered at this hearing).*
- Z-24** **DAVEST ENTERPRISES, LLC** (Davest Enterprises, LLC, owner) requesting rezoning from **LRO** and **NRC** to **NRC** for a personal care home in land lot 37 of the 20th district. Property is located on the southwest side of Cobb Parkway, north of Cedarcrest Road (4707 Cobb Parkway NW). *(Continued by Staff until the June 7, 2022, Planning Commission hearing; therefore, was not considered at this hearing).*

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 in the Consent Agenda, Mr. Pederson announced, that due to opposition being present, Z-23 (Perimeter Construction Group, LLC), would be pulled from the Consent Agenda and heard on the Regular Agenda in its numerical order (see page 5 of these minutes).

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CONSENT AGENDA

MOTION: Motion by Beloin, second by Hughes, to **approve** the Consent Agenda, *as revised by the removal of Z-23 and LUP-9 from the Consent Agenda*:

Z-25 HEALEY WEATHERHOLTZ PROPERTIES (Healey Weatherholtz Village LLLP, 37 Johnson Ferry Road, LLC, owner) requesting rezoning from **CF, R-80, and R-40** to **NRC** for neighborhood retail 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 (37 Johnson Ferry Road, 255 Village Parkway).

To recommend **approval** of Z-25 to the **NRC** zoning district, subject to:

1. Letter of agreeable stipulations from Garvis L. Sams, Jr. dated April 27, 2022 (on file in the Zoning Division)
2. Site Plan received by the Zoning Division on March 3, 2022, with the District Commissioner approving minor modifications (on file in the Zoning Division)
3. Adherence to Johnson Ferry Road Design Guidelines for all future additions and/or redevelopments to the site
4. Variances as identified in Zoning Division comments
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 comments and recommendations
9. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on May 17, 2022

At the call for LUP-9 (Still Family Farm, LLC), opposition was present; therefore, LUP-9 was pulled from the Consent Agenda and heard on the Regular Agenda in its numerical order (see page 7 of these minutes).

CONSENT VOTE: **ADOPTED** 4-0, Anderson not present

REGULAR AGENDA

By general consensus, companion cases, Z-48'²¹ and SLUP-3'²¹ (Ray Murphy), were heard concurrently, but voted on separately.

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REGULAR AGENDA (CONT.)

Z-48^{'21} **RAY MURPHY** (Ray Murphy, owner) requesting rezoning from **GC** to **LI** for a towing and automotive wrecker service in land lots 154 and 155 of the 17th district. Property is located on the northwest side of Austell Road, at the terminus of Austell Circle (1818, 1830 Austell Road). *(Previously continued by the Planning Commission (PC) from the July 6, 2021, PC hearing until the August 3, 2021, PC hearing; held by the PC from the August 3, 2021, PC hearing until the November 2, 2021, PC hearing; held by the PC from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing; continued by Staff until the February 1, 2022, PC hearing; held by the PC until the May 3, 2022, PC hearing).*

SLUP-3^{'21} **RAY MURPHY** (Ray Murphy, owner) requesting a **Special Land Use Permit** for an automobile storage yards and wrecker services for damaged or confiscated vehicles in land lots 154 and 155 of the 17th district. Property is located on the northwest side of Austell Road, at the terminus of Austell Circle (1818, 1830 Austell Road). *(Previously continued by the Planning Commission (PC) from the July 6, 2021, PC hearing until the August 3, 2021, PC hearing; held by the PC from the August 3, 2021, PC hearing until the November 2, 2021, PC hearing; held by the PC from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing; continued by Staff until the February 1, 2022, PC hearing; held by the PC until the May 3, 2022, PC hearing).*

The public hearing was opened; Vickie Murphy-Norris and Sandra Levinson addressed the Planning Commission. Following the presentation and discussion, the following motions were made:

MOTION: Motion by Beloin, second by Dance, to recommend **deletion** of Z-48^{'21} to the **NRC** zoning district, subject to:

1. **Wrecker service hours to be Monday through Sunday from 9:00 a.m. until 11:00 p.m.**
2. **Staff comments and recommendations**

VOTE: **ADOPTED** 4-0, Anderson not present

After the vote for Z-48^{'21}, the following motion was made for companion case, SLUP-3^{'21}:

MOTION: Motion by Beloin, second by Hughes, to recommend **approval** of SLUP-3^{'21} for **24 months**, subject to:

1. **Same stipulations as those stated in companion case Z-48^{'21}**

VOTE: **ADOPTED** 4-0, Anderson not present

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REGULAR AGENDA (CONT.)

By general consensus, due to a scheduling conflict, the Applicant's request for SLUP-5 (Parallel Towers III, LLC aka Parallel Infrastructure LLC) to be moved to the end of the Regular Agenda was granted by the Planning Commission.

Z-83'²¹ **ST. BOURKE** (M.J. Westmoreland, Westmoreland, Inc., owner) requesting rezoning from **OS** and **RM-12** to **RM-8** for a townhome community in land lots 390 and 391 of the 18th district. Property is located on the north side of Mableton Parkway, northwest of Hunnicut Road, and on the west side of Rioca Circle (6721 Mableton Parkway). *(Previously held by the Planning Commission (PC) from the December 7, 2021, and February 1, 2022, PC hearings until the April 5, 2022, PC hearing; continued by Staff until the May 3, 2022, PC hearing).*

The public hearing was opened; Dan Mason, Mary Rose Barnes, and Robin Meyer addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Hughes, second by Beloin, to **hold** Z-83'²¹ until the June 7, 2022, Planning Commissioner Zoning Hearing.

Clerk's Note: Mr. Hughes requested that the Applicant address the following issues:

- 1. Revise the Site Plan to show better distribution of visitor parking, including removing two units to the north (i.e., end of the cul-de-sac) to allow parking to be shifted further to the east and leave a healthier tree buffer, and show the alley way as a public street that meets County standards*
- 2. Provide a zoning stipulation letter that goes into more detail*

VOTE: **ADOPTED** 4-0, Anderson not present

Chairman Vault called for a brief recess from 10:29 a.m. until 10:37 a.m.

Z-23 **PERIMETER CONSTRUCTION GROUP, LLC** (Estate of Berma Beatrice Brumbelow, owner) requesting rezoning from **R-30** to **R-20** for a single-family residential subdivision in land lot 586 of the 19th district. Property is located on the north side of Moon Road, west of Florence Road (5500 Moon Road).

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

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REGULAR AGENDA (CONT.)

Z-23 PERIMETER CONSTRUCTION GROUP, LLC (CONT.)

Motion: MOTION by Hughes, second by Beloin, to recommend **approval** of Z-23 to the **R-20** zoning district, subject to:

1. Letter of agreeable conditions from Kevin Moore dated April 25, 2022 (on file in the Zoning Division)
2. No mass grading on the property during development and construction except for public rights-of-way, utilities, and building pads
3. Subdivision sign permitted to be a “shingle” (hanging type) sign, to be approved by the District Commissioner
4. Staff comments and recommendations
5. Inclusion on the Consent Agenda for the Board of Commissioners’ Zoning Hearing on May 17, 2022

VOTE: **ADOPTED** 4-0, Anderson not present

Z-26 DUKE REALTY LIMITED PARTNERSHIP (Charles M. Bettis, owner) requesting rezoning from **GC** and **LI** to **LI** for a warehouse, distribution facility in land lots 499, 502, and 503 of the 18th district. Property is located on the southeast side of Discovery Boulevard and on the northeast side of Mableton Parkway (Discovery Boulevard).

The public hearing was opened; Stephen Rothman and Robin Meyer addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Hughes, second by Dance, to **hold** Z-26 until the July 5, 2022, Planning Commissioner Zoning Hearing.

VOTE: **ADOPTED** 4-0, Anderson not present

Z-27 BROWARD DEVELOPMENT (Carol Ann Waddell and Christina Waddell Holcombe, Stephen R. Pendleton and Victoria B. Pendleton, owners) requesting rezoning from **GC** and **R-20** to **LI** and **R-20** for a climate controlled self-service storage facility in a single family residential lot in land lots 405 and 498 of the 18th district. Property is located on the northeast side of Mableton Parkway and on the southwest side of Cardell Circle, north of Hunnicut Road (6949 Mableton Parkway).

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REGULAR AGENDA (CONT.)

Z-27 BROWARD DEVELOPMENT (CONT.)

The public hearing was opened; Garvis Sams, Jr., Arthur Jones, and Robin Meyer addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Hughes, second by Dance, to recommend **deletion** of Z-27 to the **CRC** zoning district, subject to:

- 1. Letter of agreeable conditions from Garvis L. Sams, Jr. dated April 5, 2022 (on file in the Zoning Division)**
- 2. Staff comments and recommendations**

VOTE: **ADOPTED** 4-0, Anderson not present

***Clerk's Note:** The Applicant's representative, Garvis L. Sams, Jr. requested that a note be added to the minutes indicating that he neglected to include in his stipulation letter the following stipulation: "To allow Georgia Native Plant to conduct a plant rescue on the property prior to development commencing."*

Chairman Vault called for a lunch recess at 11:46 a.m. The hearing reconvened at 1:00 p.m.

LUP-8 DONNA JORDAN (Mildred Sharlene Mahaffey, Willie Gene Abernathy and Donna Marie Jordan, owners) requesting a **Temporary Land Use Permit** to allow two houses on one lot in land lot 42 of the 18th district. Property is located on the north side of Lee Road, west of Veterans Memorial Highway (264 Lee Road).

The public hearing was opened; Willie Abernathy and Robin Meyer addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Hughes, second by Beloin, to **hold** LUP-8 until the June 7, 2022, Planning Commission Zoning Hearing.

VOTE: **ADOPTED** 4-0, Anderson not present

LUP-9 STILL FAMILY FARM, LLC (Glenn C. Still and Sarah Still Martin, The Estate of Sarah Still Martin and James Daniel Martin, Martin Family Partnership, LP, owners) requesting a **Temporary Land Use Permit** to allow agritourism, Nature Education, and Conservation Programs in land lot 439 of the 19th district. Property is located on the north side of Macland Road, east of Macland Circle (5630 Macland Road).

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REGULAR AGENDA (CONT.)

LUP-9 STILL FAMILY FARM, LLC (CONT.)

The public hearing was opened; Leslie Still Oubre and Allen Steinhauser addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Beloin, second by Dance, to recommend **approval** of LUP-9 for **24 months**, subject to:

1. Not to have more than 215 cars there at a time
2. There shall be no parking, relative to the use of this facility, on or across Macland Road, for the agritourism, Nature Education, and Conservation Programs
3. There shall be no amplified or boom box or sound system music before 9:00 a.m. or after 9:00 p.m. outside
4. All Staff comments and recommendations to apply *including* Parking Plan received to be approved by the Department of Transportation (DOT) prior to use prior to opening
5. Statement of Proposed Elements received by the Zoning Division on March 3, 2022 (on file in the Zoning Division)
6. For this Applicant *only*
7. Stormwater Management Division comments and recommendations
8. Cobb DOT comments and recommendations

VOTE: **ADOPTED** 4-0, Anderson not present

SLUP-6 B&E TX LLC (The Nasrollah Mikail Rostamian 2008 Family Trust dated June 11, 2008, owner) requesting a **Special Land Use Permit** for a climate-controlled self-service storage facility in land lot 125 of the 20th district. Property is located on the south side of Cobb Parkway, the east side of Jim Owens Road, and the north side of New Rutledge Road (3030 Jim Owens Road).

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

MOTION: Motion by Beloin, second by Hughes, to recommend **approval** of SLUP-6, subject to:

1. Letter of agreeable conditions from Kevin Moore, dated April 25, 2022 (on file in the Zoning Division), with the following change:
 - A. Item No. 8 – revise to read: *“The 20-foot landscape buffer along New Rutledge Road be perpetually maintained and be replaced in the event of any damage, infestation, or storm loss.”*

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REGULAR AGENDA (CONT.)

SLUP-6 B&E TX LLC (CONT.)

2. All Staff comments and recommendations will apply and will supersede any Applicant stated conditions or comments in the event of any conflict
3. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on May 17, 2022

VOTE: **ADOPTED** 4-0, Anderson not present

SLUP-5 PARALLEL TOWERS III, LLC aka PARALLEL INFRASTRUCTURE LLC (FDP Properties, LLC, owner) requesting a **Special Land Use Permit** for a cellular tower in land lots 131 and 132 of the 16th district. Property is located on the east side of Canton Road, across from the terminus of Shallowford Road (4648 Canton Rd). *(Continued by Staff until the May 3, 2022, Planning Commission hearing).*

The public hearing was opened; Tianna Evola and Ivy Cadle addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Dance, second by Hughes, to hold SLUP-5 until the July 5, 2022, Planning Commission Zoning Hearing, subject to:

1. If there isn't an agreement by the Applicant to toll for 60 days, then a recommendation for denial of this case shall be sent to the Board of Commissioners; this stipulation is provided on a timely basis so the County doesn't waive its "shot clock" requirements

Prior to the vote, Mr. Johnson, Senior Associate County Attorney, asked for clarification of the motion. Following discussion by the Planning Commission, Ms. Dance asked the Applicant if his client would be amenable to signing a tolling agreement; thereafter, Chairman Vault called for a brief recess from 2:25 p.m. until 2:35 p.m. so the Applicant could call his client.

After the recess, further discussion ensued, and then Ms. Dance made the following substitute motion:

MOTION: Motion by Dance, second by Hughes, to hold SLUP-5 until the June 7, 2022, Planning Commission Zoning Hearing, subject to:

1. An agreement to be drafted and executed by the Applicant, but to be drafted with the assistance of the County Attorney, that there would be an executed written agreement tolling the Federal requirements such that those requirements would be tolled as if the hearing were being held for the first-time next month or as if this hearing were continued to next month with no penalty against the County

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REGULAR AGENDA (CONT.)

**SLUP-5 PARALLEL TOWERS III, LLC aka PARALLEL
INFRASTRUCTURE LLC (CONT.)**

VOTE: **ADOPTED** 4-0, Anderson not present

Clerk's Note: The Applicant's representative, Ivy Cadle, stated that their goal on entering the tolling agreement is to reappear on June 7, 2022, as if, from the "shot clock" perspective, they (the Applicant) were appearing today; that is the intent behind the agreement. Additionally, Ms. Dance stated that all the documentation needs to be submitted in advance of the June 7, 2022 Planning Commission Zoning Hearing.

VOTE: **ADOPTED** 4-0, Anderson not present

OTHER BUSINESS

OB-1 To consider adopting the *new* Planning Commission Zoning hearing rules and procedures. (*Continued from the April 5, 2022, Planning Commission hearing*)

Mr. Johnson provided a *revised* document and discussed several changes to the document including those proposed at the April 5, 2022, Planning Commission Zoning Hearing. Robin Meyer and Jill Flamm provided public comment. Discussion by the Planning Commission ensued; thereafter, the following motion was made:

MOTION: Motion by Dance, second by Beloin, to **adopt** the *revised Planning Commission Zoning Hearing Rules and Procedures* document, *as presented*, with the effective date of July 1, 2022.

VOTE: **ADOPTED** 4-0, Anderson not present

APPROVAL OF MINUTES

MOTION: Motion by Hughes, second by Dance, to **approve** the following minutes, *as submitted*:

April 5, 2022 – Planning Commission Zoning Hearing

VOTE: **ADOPTED** 4-0, Anderson not present

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APPROVAL OF MINUTES (CONT.)

MOTION: Motion by Beloin, second by Hughes, to **approve** the following minutes, *as submitted*:

April 25, 2022 – Special Called Meeting/Agenda Review Work Session

VOTE: **ADOPTED** 4-0, Anderson not present

ADJOURNMENT

The hearing adjourned at 3:06 p.m.



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