

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, June 6, 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 – not present

CALL TO ORDER – CHAIRMAN VAULT

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

***Clerk's Note:** Due to the absence of Planning Commissioner Hughes, Chairman Vault handled the District 4 cases during the hearing.*

Ms. Jeannie Peyton, Zoning Division Senior Planner, reviewed the hearing procedures and announced the cases which were *withdrawn or continued*.

WITHDRAWN AND CONTINUED CASES

Z-55²² **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; held by the PC from the April 4, 2023, and May 2, 2023, PC hearing until the June 6, 2023, PC hearing). WITHDRAWN WITHOUT PREJUDICE***

Z-14 **BRAND PROPERTIES, LLC** (Helen Hair Stamps, as Trustee under the Helen Hair Stamps Revocable Trust, owner) requesting rezoning from **HI** and **R-20** to **RRC** for mixed use; retail and multifamily development in land lots 175, 176, 283, and 284 of the 18th district. Property is located on the east and west sides of River View Road, northeast of Veterans Memorial Highway (6324 and 6330 River View Road). ***(Previously continued by Staff from the May 2, 2023, Planning Commission (PC) hearing until the June 6, 2023, PC hearing). WITHDRAWN WITHOUT PREJUDICE***

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 2**

WITHDRAWN AND CONTINUED CASES (CONT.)

- LUP-12** **CARLA A. GARCIA** (Carla Ann Garcia and Mario Onil Garcia Lopez, owners) requesting a **Temporary Land Use Permit** to allow more adults than the code allows in land lot 700 of the 19th district. Property is located on the north side of Pair Road, west of Cockspur Trail (1436 Pair Road). ***WITHDRAWN WITHOUT PREJUDICE***
- 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 June 6, 2023, Planning Commission (PC) hearings until the July 5, 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 June 6, 2023, PC hearings until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).***
- Z-12** **FERNANDO CHAVARRIA** (Fernando Chavarria, owner) requesting rezoning from **R-20** to **RM-8** for a townhome subdivision in land lots 388 and 389 of the 18th district. Property is located on the south side of Mableton Parkway, southeast of South Gordon Road (Mableton Parkway). ***(Previously continued by Staff from the May 2, 2023, and June 6, 2023, Planning Commission (PC) hearings until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).***
- Z-13** **MATTHEW C. FLOURNOY** (Robert E. Fournoy, III, Matthew C. Fournoy, Gwynn Fournoy Ross and Natalie Fournoy Boss, owners) requesting rezoning from **R-30** to **R-20** for a single-family subdivision in land lot 341 of the 20th district. Property is located on the east side of Antioch Road, at the terminus of Armor Drive (Antioch Road). ***(Previously continued by the Planning Commission (PC) from the May 2, 2023, and June 6, 2023, PC hearings until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).***

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 3**

WITHDRAWN AND CONTINUED CASES (CONT.)

- Z-15** **SDP ACQUISITIONS, LLC** (McCamy Investments, L.P.; McCamy Properties, LLC; BK Properties, L.P.; VKEP-B, LLC owners) requesting rezoning from **R-20, RA-4, GC, O&I, NS, and OS** to **PVC and OS** for mixed use; townhomes, multifamily, office, retail, and warehouse in land lots 364, 365, 428, and 429 of the 16th district. Property is located on the south side of Chastain Road, on the west side of Chastain Meadows Parkway (Chastain Road, Chastain Meadows Parkway). *(Previously continued by Staff from the May 2, 2023, and June 6, 2023, Planning Commission (PC) hearings until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).*
- Z-18** **ICON RENOVATIONS, LLC** (ICON Renovations, LLC, owner) requesting rezoning from **R-20** to **RA-6** for a townhome subdivision in land lots 770 and 769 of the 19th district. Property is located on the east side of Shadyside Road, on the north side of Hurt Road (2040 Hurt Road). *(Continued by Staff from the June 6, 2023, Planning Commission (PC) hearing until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).*
- SLUP-6** **CLARKDALE VENTURES LLC** (Clarkdale Ventures LLC, owner) requesting a **Special Land Use Permit** for used auto sales in land lot 1055 of the 19th district. Property is located on the south side of Austell Powder Springs Road, at the terminus of Eugenia Place (4622 Austell Powder Springs Road). *(Continued by Staff from the June 6, 2023, Planning Commission (PC) hearing until the July 5, 2023, PC hearing; therefore, was not considered at this hearing).*

Ms. Peyton made the following announcements and then read in 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 Monday 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.

CONSENT AGENDA

MOTION: Motion by Beloin, second by Anderson, to **approve** the Consent Agenda, *as revised.*

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 4**

CONSENT AGENDA (CONT.)

Z-16 **TOYS & GIFT DELIVERY, INC.** (Toys & Gift Delivery Inc., owner) requesting rezoning from **O&I** to **NRC** for a bakery in land lot 595 of the 16th district. Property is located on the west side of Sandy Plains Road, north of Piedmont Road (2601 Sandy Plains Road).

To recommend **approval** of Z-16 to the **NRC** zoning district, subject to:

- 1. Site Plan received by the Zoning Division on March 31, 2023 (on file in the Zoning Division), with the District Commissioner approving minor modifications**
- 2. Variances as stated in the Zoning Division comments and recommendations**
- 3. Fire Department comments and recommendations**
- 4. County Arborist comments and recommendations**
- 5. Water and Sewer Division comments and recommendations**
- 6. Stormwater Management Division comments and recommendations**
- 7. Department of Transportation comments and recommendations**
- 8. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on June 20, 2023**

LUP-9 **PATRICIA DEVERGER** (Patricia A. Hines, owner) requesting a **Temporary Land Use Permit (Renewal)** to allow a childcare learning center in land lot 631 of the 19th district. Property is located on the west side of Crest Ridge Circle, south of Crest Ridge Drive (3022 Crest Ridge Circle).

To recommend **approval** of LUP-9 for **24 months**, subject to:

- 1. Maximum of 10 children**
- 2. Two employees**
- 3. Department of Transportation comments and recommendations**
- 4. Inclusion on the Consent Agenda for the Board of Commissioners' Zoning Hearing on June 20, 2023**

LUP-10 **YOUNG S. UTASH** (Michael J. Utash and Young S. Utash, owners) requesting a **Temporary Land Use Permit (Renewal)** to allow clothing alterations and bridal gown sales in land lot 126 of the 20th district. Property is located on the east side of Kimberly Road, north of Old 41 Highway (3230 Kimberly Road).

To recommend **approval** of LUP-10 for **24 months**, subject to:

- 1. Maximum number of truck deliveries to be two per day**
- 2. Maximum number of customers to be no more than three per day and by appointment *only***

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 5**

CONSENT AGENDA (CONT.)

LUP-10 YOUNG S. UTASH (CONT.)

**3. Inclusion on the Consent Agenda for the Board of Commissioners'
Zoning Hearing on June 20, 2023**

Prior to approving the Consent Agenda, Mr. Beloin requested that companion cases, Z-17 and SLUP-5 (Caliber Capital Kennesaw, LLC) be pulled from the Consent Agenda and heard on the Regular Agenda (see page 8 of these minutes).

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

REGULAR AGENDA

Z-65²² **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, and December 6, 2022, PC hearings until the February 7, 2023, PC hearing; continued by Staff from the February 7, 2023, through the May 2, 2023, PC hearings until the June 6, 2023, PC hearing).*

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

MOTION: Motion by Vault, second by Beloin, to recommend **approval** of Z-65²² to the **RA-5** zoning district, subject to:

- 1. Final Site Plan to be approved by the District Commissioner**
- 2. Letter of agreeable conditions from Parks Huff dated May 18, 2023 (on file in the Zoning Division)**
- 3. No variances as stated in the Zoning Division comments and recommendations**
- 4. Maximum density not to exceed 4.0 units per acre; keep the density at 3.24 units per acre as indicated in the stipulation letter**
- 5. No more than 10% of the units will be used as rental**
- 6. Fire Department comments and recommendations**
- 7. Water & Sewer Division comments and recommendations**
- 8. Stormwater Management Division comments and recommendations**

MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 6

REGULAR AGENDA (CONT.)

Z-65²² DRAPAC INVESTMENTS, LLC (CONT.)

9. *Revised* Department of Transportation comments and recommendations, *except for*, there shall be no construction traffic or access off Oak Hill Drive; all access shall be off Linda Drive
10. Developer will be responsible for repaving of the following roadways utilized during construction: Pine Crest Road, Brenda Drive, and Michael Road

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

Z-8 TOMMY'S EXPRESS BY NORTHGATE (The Medford Family Limited Partnership, owners) requesting rezoning from **PSC** to **NRC** for a car wash in land lot 583 of the 16th district. Property is located on the northwest corner of the intersection of Bells Ferry Road and Ernest Barrett Parkway (2595 Bells Ferry Road). *(Previously continued by Staff from the April 4, 2023, and May 2, 2023, Planning Commission (PC) hearings until the June 6, 2023, PC hearing).*

The public hearing was opened; Parks Huff and Trevor Beeman addressed the Planning Commission. Following the presentation and discussion, Chairman Vault called for a brief recess from 10:18 a.m. until 10:30 a.m. After the recess, Ms. Dance made the following motion:

MOTION: Motion by Dance, second by Anderson, to recommend **approval** of split zoning for Z-8.

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

Later in the hearing, it was determined that the previously adopted motion for Z-8 needed to be amended to provide further clarification of the split zoning (see page 9 of these minutes for the amended motion).

Z-9 AGUAS VIVAS CENTRO FAMILIAR DE ADORACION INC. (Can Van Nguyen, owner) requesting rezoning from **R-20** to **R-20** for a church in land lots 386 and 412 of the 18th district. Property is located on the north side of South Gordon Road, east of Starling Drive (540 South Gordon Road).

The public hearing was opened; Maja Radovic, Steve Jungk, Sherry Van Velsor, and Mike Crawford addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 7**

REGULAR AGENDA (CONT.)

**Z-9 AGUAS VIVAS CENTRO FAMILIAR DE ADORACION INC.
(CONT.)**

MOTION: Motion by Vault, second by Beloin, to **hold** Z-9 until the July 5, 2023, Planning Commission Zoning Hearing, subject to:

1. Applicant to provide an updated stipulation letter

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

Z-11 JOSE LUIS CARDENAS (Christian Bakery 2. Inc., owner) requesting rezoning from GC to NRC for a bakery in land lot 34 of the 18th district. Property is located on the southwest corner of the intersection of Veterans Memorial Highway and Powell Drive (1411 Veterans Memorial Highway). *(Previously continued by Staff from the May 2, 2023, Planning Commission (PC) hearing until the June 6, 2023, PC hearing).*

The public hearing was opened; Gessuri Lopez and Steve Jungk addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Vault, second by Beloin, to recommend **approval** of Z-11 to the NRC zoning district, subject to:

- 1. All Staff comments and recommendations**
- 2. Fire Department comments and recommendations**
- 3. Water and Sewer Division comments and recommendations**
- 4. Stormwater Management Division comments and recommendations**
- 5. Department of Transportation comments and recommendations**
- 6. Letter from the Mableton Improvement Coalition dated April 26, 2023 (on file in the Zoning Division)**
- 7. Window decal treatment as recommended by the District Commissioner**

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

SLUP-4 RAY MURPHY (Ray Murphy, owner) requesting a Special Land Use Permit (Renewal) for an automobile storage yard 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 and 1830 Austell Road). *(Previously held by the Planning Commission (PC) from the May 2, 2023, PC hearing until the June 6, 2023, PC hearing).*

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 8**

REGULAR AGENDA (CONT.)

SLUP-4 RAY MURPHY (CONT.)

The public hearing was opened, and Vickie Murphy Norris addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Beloin, second by Dance, to recommend **no recommendation** for SLUP-4.

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

Clerk's Note: Mr. Beloin requested that the following comments be added:

- 1. Based on comments from the Applicant, as to being unable to fulfill the cost, Mr. Beloin was constrained to recommend "denial" for this case. The Board of Commissioners may wish to consider the requirements for obtaining new landscaping and new fencing but to relax the requirement for a hardened surface, given the fact that in the past, gravel has been allowed to sometimes serve as a parking surface.*
- 2. The Board of Commissioners may wish to provide some parameters on prioritizing the recommendations as to what happens first, given the importance of what can be seen from Austell Road.*

By general consensus, companion cases, Z-17 and SLUP-5 (Caliber Capital Kennesaw, LLC), were heard concurrently but voted on separately.

Z-17 CALIBER CAPITAL KENNESAW, LLC (Caliber Capital Kennesaw, LLC, owner) requesting rezoning from **GC** to **OMR** for a hotel in land lot 651 of the 16th district. Property is located on the west side of Roberts Court, on the east side of I-75 exit ramp, south of Ernest Barrett Parkway (500 and 510 Roberts Court).

SLUP-5 CALIBER CAPITAL KENNESAW, LLC (Caliber Capital Kennesaw, LLC, owner) requesting a **Special Land Use Permit** for a hotel on land lot 651 of the 16th district. Property is located on the west side of Roberts Court, on the east side of I-75 exit ramp, south of Ernest Barrett Parkway (500, 510 Roberts Court).

The public hearing was opened, and Parks Huff addressed the Planning Commission. Following the presentation and discussion, the following motions were made:

MOTION: Motion by Dance, second by Anderson, to recommend **approval** of Z-17 to the **OMR** zoning district, subject to:

1. All Staff comments and recommendations

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

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 9**

REGULAR AGENDA (CONT.)

**Z-17 & CALIBER CAPITAL KENNESAW, LLC (CONT.)
SLUP-5**

After the vote for Z-17, the following motion was made for companion case, SLUP-5:

MOTION: Motion by Dance, second by Anderson, to recommend **approval** of SLUP-5, subject to:

1. All Staff comments and recommendations

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

LUP-11 RICK KUHLMAN (Rick Kuhlman and Amanda Kuhlman, owners) requesting a **Temporary Land Use Permit (Renewal)** to allow firewood storage in land lot 874 of the 17th district. Property is located on the east side of Leland Drive, north of Windy Hill Road (1885 Leland Drive).

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

MOTION: Motion by Anderson, second by Beloin, to **hold** LUP-11 until the July 5, 2023, Planning Commission Zoning Hearing, subject to:

1. During this time period, no processing or intake of inventory

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

Clerk's Note: Mr. Anderson recommended that the Applicant meet with the neighboring owner to see what the concerns are and to provide a plan giving a realistic expectation of when the existing inventory can be relocated.

AMEND SOMETHING PREVIOUSLY ADOPTED

Z-8 TOMMY'S EXPRESS BY NORTHGATE

MOTION: Motion by Dance, second by Beloin, to **allow** the amendment of the previously adopted motion for Z-8.

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

MOTION: Motion by Dance, second by Beloin, to **amend** the previously adopted motion for Z-8 to clarify that the recommendation for split zoning is subject to:

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 10**

AMEND SOMETHING PREVIOUSLY ADOPTED (CONT.)

Z-8 TOMMY'S EXPRESS BY NORTHGATE (CONT.)

- 1. Concept Site Plan submitted to the Zoning Division on May 19, 2023, along with the accompanying stipulation letter with the same date from Parks Huff (on file in the Zoning Division)**

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

OTHER BUSINESS

- O.B. 2** To amend the following Chapter, Articles, Divisions, and Sections of the Official Code of Cobb County, Georgia:

Chapter 134 - ZONING

ARTICLE I. – IN GENERAL

Sec. 134-1. – Definitions

ARTICLE II. – ADMINISTRATION AND ENFORCEMENT

DIVISION 1. – GENERALLY

Sec. 134-32. – Procedures for conducting hearings

DIVISION 3. BOARD OF ZONING APPEALS

Sec. 134-91. – Creation

Sec. 134-93.1. – Hearing notice

Sec. 134-96. – Appeals from decision of board

DIVISION 4. – REZONING OR LAND USE PERMIT

APPLICATIONS

Sec. 134-128. – Appeal of decisions on land use and special land use permits

Mr. Brian Johnson, Senior Associate County Attorney, presented information regarding the 2023 code amendments for Chapter 134. Mr. Johnson announced that these changes are related to HB 1405 (2022) which clarifies how appeals are to be handled and treated from decisions by the Board of Commissioners and/or the Board of Zoning Appeals. There are no changes to any district regulations. These changes are being made so that our code will be in compliance with the language in HB 1405. A copy of the *2023 Code Amendments, Package 1 – Version 1* is attached and made a part of these minutes.

MOTION: Motion by Anderson, second by Beloin, to recommend **approval** of the amendments to Chapter 134 of the Cobb County Code, *as submitted*.

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

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
JUNE 6, 2023
PAGE 11**

APPROVAL OF MINUTES

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

May 2, 2023 – Planning Commission Zoning Hearing

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

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

May 22, 2023 – Special Called Meeting/Agenda Review Work Session

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

ADJOURNMENT

The hearing adjourned at 12:41 p.m.



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