

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, August 15, 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 – arrived at 9:10 a.m.

CALL TO ORDER – CHAIRWOMAN CUPID

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

The following statement that Commissioner Gambrill read in at the February 21, 2023, 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 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.

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 2**

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 February 21, 2023, 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 *continued*.

CONTINUED CASES

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, through the August 1, 2023, Planning Commission (PC) hearings until the September 5, 2023, PC hearing; therefore, was not considered at this hearing).*

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 3**

CONTINUED CASES (CONT.)

LUP-18 HALEY LOPEZ (Javier Lopez Garcia, owner) requesting a **Temporary Land Use Permit** to allow more vehicles than the code allows in land lot 261 of the 18th district. Property is located on the north side Creveis Road, at the terminus of Wanda Lane (1740 Creveis Road). *(Continued by the Planning Commission (PC) from the August 1, 2023, PC hearing until the September 5, 2023, PC hearing; therefore, was not considered at this hearing).*

Mr. Pederson made the following announcement and read in the cases for the Consent Agenda:

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 presented the Applicant's request to continue Z-60^{'22} (Branch Acquisition Company, LLC). Since the request for the continuance came in after the deadline and due to the number in attendance to hear the case, Commissioner Richardson denied the request to continue Z-60^{'22}, and the case was heard in its numerical order.

CONSENT AGENDA

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

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 July 5, 2023, PC hearings until the August 1, 2023, PC hearing).*

To **approve** Z-67^{'22} to the **NRC** zoning district, subject to:

1. ***Revised stipulation letter from Parks Huff dated July 20, 2023 (attached and made a part of these minutes)***
2. **District Commissioner to approve the final Site Plan and elevations**
3. **Adherence to the Johnson Ferry Road Design Guidelines**
4. **Fire Department comments and recommendations**
5. **Water and Sewer Division comments and recommendations**
6. **Department of Transportation comments and recommendations**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 4**

CONSENT AGENDA (CONT.)

Z-23 **MIKE NORTON** (M&D Chastain Corner, LLC, owner) requesting rezoning from **LRO** and **R-20** to **NRC** for a beauty salon in land lot 371 of the 16th district. Property is located on the south side of Chastain Corner Road, west of Canton Road (750 Chastain Corner Road). *(Previously continued by Staff from the July 5, 2023, Planning Commission (PC) hearing until the August 1, 2023, PC hearing).*

To **delete** Z-23 to the **NRC** and **R-20** zoning districts, subject to:

1. Staff comments and recommendations

Z-26 **BERCHER HOMES, LLC** (Bercher Homes, LLC, owner) requesting rezoning from **R-20** to **R-15** for single-family residences in land lots 330 and 331 of the 16th district. Property is located on the east side of Cochran Lake Road and north side of Fricks Road (3640 Cochran Lake Road).

To **approve** Z-26 to the **R-15** zoning district, subject to:

- 1. Letter of agreeable conditions from Kevin Moore dated July 24, 2023 (attached and made a part of these minutes), with the following changes:**
 - A. Item No. 9 – add to the end: “Construction site will be considered a clean work area with loose debris disposed of each evening. A tire washing station shall be provided at the exit from the property during the development and construction of the project. A 24-hour contact number shall be provided to surrounding neighborhoods and posted on-site during the construction period.”**
 - B. Add Item No. 15 – “The District Commissioner shall have the authority to approve certain minor modifications to the Site Plan, the architecture, and these stipulations/conditions, except for those that:**
 - a. Reduce the size of an approved buffer adjacent to property which is zoned in a more restrictive zoning district**
 - b. Relocate a structure closer to a property line to an adjacent property which is zoned in a more restrictive zoning district**
 - c. Increase the height of a building adjacent to property which is zoned in a more restrictive zoning district**
 - d. Change the access location to different roadways**
- 2. Site Plan received by the Zoning Division on May 31, 2023, with the District Commissioner approving minor modifications (attached and made a part of these minutes)**
- 3. Two driveways on Cochran Lake Road and one driveway on Frick’s Road**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 5**

CONSENT AGENDA (CONT.)

Z-26 BERCHER HOMES, LLC (CONT.)

- 4. Residences shall have a minimum of 3,000 square feet of heated space and shall consist of traditional architecture; letter from David Meyer dated December 20, 2016, (attached and made a part of these minutes), striking number 13**
- 5. Stormwater Management Division comments and recommendations**
- 6. Water and Sewer Division comments and recommendations**
- 7. Department of Transportation comments and recommendations**

Z-27 IMPACT WORSHIP CENTER (Impact Worship Center, Inc, owner, owner) requesting rezoning from **GC** and **R-20** to **NRC** for retail in land lots 405, 406, 497, and 498 of the 18th district. Property is located on the west side of Queen Mill Road and on the north side of Mableton Parkway (Mableton Parkway).

To **approve** Z-27 to the **NRC** zoning district, subject to:

- 1. Letter from the Mableton Improvement Coalition dated July 26, 2023 (attached and made a part of these minutes)**
- 2. Include smoke and/or vape shops as *prohibited uses***
- 3. Construction hours are to be Monday through Friday from 7:00 a.m. until 7:00 p.m., Saturday from 8:00 a.m. until 7:00 p.m., and prohibited on Sunday**
- 4. Hours of operation for future businesses will be Monday through Saturday from 7:00 a.m. until 10:00 p.m., and Sunday from 8:00 a.m. until 9:00 p.m.**
- 5. All other Staff comments and recommendations, *not otherwise in conflict***

LUP-16 GIOVANNI R. LUCERO (Giovanni Raul Lucero and Gloriabel Lucero Gil, owners) requesting a **Temporary Land Use Permit** to allow more vehicles and adults than the code allows in land lot 564 of the 19th district. Property is located on the southwest side of Sebring Court, west of Goodwood Drive (2327 Sebring Court).

To **approve** LUP-16 for **12 months**, subject to:

- 1. Code Enforcement to make quarterly visits to the property to ensure compliance**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 6**

CONSENT AGENDA (CONT.)

LUP-17 **CAROL J. HICKS-VARGAS, MICHAEL E. VARGAS** (Carol Hicks-Vargas and Michael Vargas, owners) requesting a **Temporary Land Use Permit (Renewal)** to allow more adults and vehicles than the code allows in land lot 80 of the 16th district. Property is located on the southwest side of the Rocky Top Court, north of Watkins Glenn Drive (230 Rocky Top Court).

To **approve** LUP-17 for **24 months**, subject to:

- 1. Maximum of seven related adults to reside in the house**
- 2. Allow a maximum of five cars**
- 3. All cars must be parked in the driveway, no parking in the street**

OTHER BUSINESS

O.B. 34 To consider amending the site plan for Poag Shopping Centers, LLC regarding rezoning application Z-139 of 1999, for property located on the south side of Dallas Highway, east of Casteel Road in land lot 333 and 334 of the 20th district (3625 Dallas Highway).

To **approve** O.B. 34, subject to:

- 1. Site Plan received by the Zoning Division on July 10, 2023 (attached and made a part of these minutes), with the District Commissioner approving minor modifications**
- 2. Access drives and fire lanes shall not be modified and shall always be open**
- 3. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 4. All previous zoning stipulations and conditions to remain in effect**

O.B. 35 To consider a reduction of required minimum lot size from 20,000 square-feet to 10,846 square-feet for Stuart Napshin. The property is located on the north side of Starling Drive in land lot 385 of the 18th district (6645 Starling Drive).

To **approve** O.B. 35, subject to:

- 1. Lot size approved to be 10,846 square-feet**
- 2. The maximum house size shall be limited to 1,400 square-feet**
- 3. The variance is granted only for a home built by this Applicant, Stuart Napshin, or a contractor working for him**
- 4. Site Plan Review comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 5. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 7**

CONSENT AGENDA (CONT.)

Prior to approving the Consent Agenda, the request was made to have Z-28 (Hernan Guerrero) added to the Consent Agenda. The Applicant was present, and there was no opposition present. Mr. Pederson read in the case, the stipulations were read in, and the motion was made to add the case to the Consent Agenda.

Z-28 HERNAN GUERRERO (VAMANI LLC, owner) requesting rezoning from **GC** to **NRC** for commercial in land lot 109 of the 17th district. Property is located on the northside of Veterans Memorial Highway and on the west side of Beaver Drive (330 Veterans Memorial Highway).

To **approve** Z-28 to the **NRC** zoning district, subject to:

- 1. The building square footage shall not be greater than 5,700 square feet, with a minimum of 20 parking spaces**
- 2. The variance request to reduce the number of parking spaces from 25 to 18, as well as the variance request to reduce the rear setback from 30 feet to 20 feet, are both denied**
- 3. Hours of construction shall be Monday through Friday from 7:00 a.m. until 7:00 p.m., Saturday from 8:00 a.m. until 7:00 p.m., and prohibited on Sunday**
- 4. Hours of operation for businesses shall be Monday through Sunday from 9:00 a.m. until 9:00 p.m.**
- 5. *Prohibited uses* include smoke and/or vape shops, all automotive repairs and auto-related uses including storage of any auto-related merchandise**
- 6. All Staff comments and recommendations, *not otherwise in conflict***

MOTION: Motion by Sheffield, second by Birrell, to **add** Z-28 to the Consent Agenda as previously read in.

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.*)

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 8**

REGULAR AGENDA

Z-60²² **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; held by the PC from the July 5, 2023, PC hearing until the August 1, 2023, PC hearing).*

After Mr. Pederson read in the case, the Applicant's representative, Kevin Moore, requested that Z-60²² be *withdrawn without prejudice*. Discussion ensued, and the following motion was made:

MOTION: Motion by Richardson, second by Cupid, to **allow** Z-60²² to be *withdrawn without prejudice*.

VOTE: **ADOPTED** 3-2, Birrell and Gambrill opposed *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

Chairwoman Cupid called from a brief recess from 9:44 a.m. until the 9:50 a.m.

Z-24 **SWI INVESTMENTS, LLC** (SWI Investments, LLC, owner) requesting rezoning from **R-20** to **NRC** for a convenience store with fuel sales in land lot 637 of the 16th district. Property is located on the east side of Canton Road, south of Rosedale Drive (2546 Canton Road). *(Previously continued by Staff from the July 5, 2023, Planning Commission (PC) hearing until the August 1, 2023, PC hearing).*

The public hearing was opened; Jonathan Fallin, Wendy McGar, David Poteet, and Sobhi Boktor addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Gambrill, to **delete** Z-24 to the **LRC** zoning district, subject to:

1. **The following *prohibited uses* to include: no automobile related uses, no fuel sales, and no convenience stores**
2. **No outdoor storage**
3. **No outdoor display of merchandise**
4. **Neighborhood retail uses and professional office uses *only***

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 9

REGULAR AGENDA (CONT.)

Z-24 SWI INVESTMENTS, LLC (CONT.)

5. Review of the final Site Plan by Canton/Marietta subdivision (Jewel Drive) neighbors prior to final approval by the District Commissioner
6. Compliance with Canton Road Design Guidelines
7. Fire Department comments and recommendations
8. Water and Sewer Division comments and recommendations
9. Stormwater Management Division comments and recommendations, with the Preconcept Meeting with the Applicant
10. Department of Transportation comments and recommendations, with the required Traffic Study to be submitted
11. All Planning Commission comments and recommendations, *not otherwise in conflict*
12. All Staff comments and recommendations, *not otherwise in conflict*
13. No variances to the stream or impervious buffers

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

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). (*Previously held by the Planning Commission (PC) from the June 6, 2023, PC hearing until the July 5, 2023, PC hearing; continued by Staff from the July 5, 2023, PC hearing until the August 1, 2023, PC hearing*).

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

MOTION: Motion by Richardson, second by Gambrill, to **deny** LUP-11, subject to:

1. Removal of all firewood by December 31, 2023
2. All operations to cease between now and December 31, 2023, *except for removal of the firewood*
3. Discussion with Department of Transportation (DOT) to determine what modification needs to be made to the fencing in order to meet the site distance requirement; fencing modification to be completed by February 28, 2024
4. No additional firewood or equipment for processing to be stored on the property

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

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 10**

REGULAR AGENDA (CONT.)

At the call for Z-25 (Taner Hamzawi), the Applicant was not present but there was opposition present. The case was put on hold until later in the hearing to see if the Applicant could be contacted (see page 11 of these minutes for the final decision).

OTHER BUSINESS

- O.B. 33** To consider amending the stipulations for New Oak Real Estate, LLC regarding rezoning application Z-91 of 2015 for property located on the east side of South Hurt Road, across from Donna Drive in land lots 96 and 121 of the 17th district (3865 South Hurt Road).

The public hearing was opened; Hanoch Dombek and Mitchell Strickland addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** request number one of O.B. 33 to reduce the front setback from 35 feet to 20 feet on lots 1 through 6, **and** to **deny** request number two of O.B. 33 to revise the house elevations, subject to:

- 1. Final building elevations and materials to be approved by the District Commissioner**
- 2. All other Staff comments and recommendations, *not otherwise in conflict***

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

- O.B. 36** To consider amending the site plan and stipulations for Robert Kerr, Rachel Kerr, Maureen Kerr and the Walton Creek Estates Homeowners Association, Inc. regarding rezoning application Z-51 of 2013, for property located on the north side of Roswell Road, east of Sterling Ridge Chase in land lots 960, 961, 984, and 985 of the 16th district (Roswell road).

The public hearing was opened; Kevin Moore, Richard Grome, and Scott Pishota addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to **deny** O.B. 36, subject to:

- 1. Homeowners Association (HOA) required to put up placards indicating where the “Open Space Area” exists, so it is clearly delineated to the homeowners**

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
AUGUST 15, 2023
PAGE 11

OTHER BUSINESS (CONT.)

O.B. 36 (CONT.)

2. HOA to provide replantings to restore the open space as it originally existed as the buffer; replantings shall be approved by the County Arborist, with final approval by the District Commissioner; replantings shall be completed by February 28, 2024
3. The retaining wall shall remain as it currently exists

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.)

Z-25 **TANER HAMZAWI** (Taner Samer Hamzawi and Fawzi Jalal Hamzawi, owners) requesting rezoning from **R-20** to **RM-12** for townhomes in land lot 745 of the 17th district. Property is located on the east side of Lee Road and on the south side of East Lee Road (3975 Atlanta Road).

Mr. Pederson announced that Staff was unable to reach the Applicant. Discussion ensued, and the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to **deny** Z-25.

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 12:01 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.

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.

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.

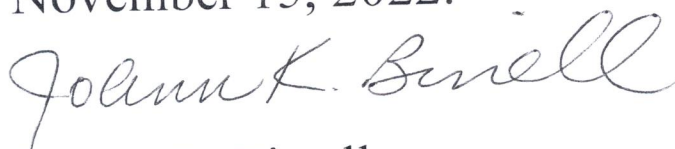
On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

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



SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100

376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
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770•422•7016
TELEPHONE
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FACSIMILE

July 20, 2023

(AMENDED REVISED STIPULATION LETTER)

VIA EMAIL:

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

Re: Application of S&B Investments, Inc. to Rezone an approximate 0.73 ± Acre Tract
of Land from CF & R-80 to NRC (No. Z-67 of 2022)

Dear John:

As you know, this firm represents S&B Investments, Inc. ("S&B") regarding the above captioned Application for Rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission ("PC") on August 1, 2023 and, thereafter, the Application is scheduled to be heard and considered by the Cobb County Board of Commissioners ("BOC") on August 15, 2023.

The Site Plan submitted with the Rezoning Application is withdrawn and the present building configuration and footprint will remain as it exists. Any change in configuration or footprint in the future will be brought back before the Cobb County Board of Commissioners for approval.

The property at issue ("Subject Property") consists of a 0.73-acre tract of land which is situated within the confines of a Neighborhood Activity Center ("NAC") as shown on the Future Land Use Map ("FLUM") and is more specifically located at the northwestern intersection of Johnson Ferry Road and Paper Mill Road.

The original entitlement of the Subject Property was granted in 1982 after litigation and by way of a Superior Court of Cobb County Order of the Court ("Order"). The Subject Property makes up a smaller portion of Paper Mill Village ("PMV") which is partially split-zoned in the Future Commercial ("CF"), R-80 and NRC zoning districts, respectively.

VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 2

The Subject Property is considered a non-conforming, "grandfathered" property and the continued utilization of this tract is predicated upon the same use continuing without interruption for a period of time dictated by the Cobb County Zoning Ordinance or is required to be rezoned in accordance with current Zoning Ordinance requirements and applicable zoning classifications. In recognition of the unique character and nature of the Paper Mill Village area, the Board of Commissioners has established a NAC at the intersection of Johnson Ferry Road and Paper Mill Road. Because of the unique nature and mixture of land uses within the village, in addition to the consistent architectural theme within the village, the Board of Commissioners will only consider uses permitted within the O&I and LRO zoning districts. Architectural and use compatibility with the existing with the existing village will be of paramount importance, as will compatibility with existing access arrangement. (2040 Comprehensive Plan 5-year NAC-P20). Of course, the CF classification does not, independent of these particular circumstances, provide any present right to utilize the Subject Property zoned and as such and has always been considered a "holding district" for future commercial development since the Cobb County Zoning Ordinance was comprehensively adopted, on December 26, 1972.

The May 6, 1982 Order (for the most part based upon a 1973 agreement which was recorded on the Deed Records and which served as a guide until the litigation was commenced almost a decade later), specifically allowed for a mixed-use development to be constructed at this northwest intersection of Johnson Ferry Road and Paper Mill Road, of which the Subject Property is a part. The Subject Property has been through several Other Business approvals with respect to signage and for uses, all of which were and are still allowable under the NAC land use designation and the proposed NRC zoning district.

The Paper Mill Village commercial tracts (6.83 acres) located at 37 Johnson Ferry Road & 255 Village Parkway) were rezoned to the NRC zoning district via Application No. Z-25 [2022], which was heard and approved in May of last year.

With respect to the foregoing, and after discussions and meetings with area business and property owners, civic representatives and staff, S&B is agreeable to the following stipulations becoming conditions and a part of the grant of the requested rezoning and binding upon the Subject Property thereafter, as follows:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the Subject Property which constitutes the subject matter of this Application for Rezoning.

VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 3

-
2. The total site area of the Subject Property, consisting of .73 acres shall continue to be maintained as a commercial retail center.
 3. The applicant agrees to follow the existing “village” architectural style and to formulate a Landscaping and Architectural Review Committee consisting of the applicant. A representative of the Chattahoochee Plantation Estate, a representative from Hampton Farms, East Cobb Civic Association, the Community Development Agency Director and the District Commissioner.
 4. This Rezoning is solely and exclusively for a Commercial Retail Center and the following uses shall be conditionally prohibited within and on the Subject Property:
 - a. Billiards and Pool Halls; however, certain types of restaurants such as Sports Bars and Grills shall be allowed a maximum of two (2) pool/billiard tables.
 - b. Carwashes.
 - c. Store-Front type Churches, except where the prohibition of same may be constitutionally impermissible.
 - d. Community Fairs, except to continue the allowance of Art Exhibits and
 - e. Cultural Facilities, except to continue Art Exhibits and PMV-sponsored events which have historically taken place from time to time during the existence of PMV.
 - f. Designated Recycling Collection locations.
 - g. Emissions Stations.
 - h. Outdoor Golf Courses.
 - i. Freestanding Climate Control Self-Service Storage Facility; however, storage within existing buildings within PMV shall be permitted.
 - j. Freestanding Ice Vending Machines.
 - k. Full-Service Gasoline Stations.

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-67 '22
Meeting Date 8-15-2023
Continued

VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 4

- l. Funeral Homes.
- m. Group Homes.
- n. In-Home Day Care.
- o. Self-Service Laundries.
- p. Light Automotive Repair.
- q. Non-profit fishing lakes.
- r. Parking for Vehicles, except for the temporary parking for tenants and their customers or clients.
- s. Radio, Television and other Communication Towers.
- t. Rest Homes and Personal Care Homes.
- u. Self-Service Fuel Sales.
- v. Automotive Parts Stores exceeding 3,000 square feet.
- w. Sex and/or Adult Themed Novelty Shops.
- x. Supermarkets, exceeding 10,000 square feet.
- y. Video Stores for rental or sale as a principal use; however, video-related merchandise may be sold as components of other businesses within PMV.
- z. Stores which principally feature and sell CBD and CBD related products, remedies or novelties and stores which constitute "Vape Shops" or feature smoking and related paraphernalia.
- aa. Large truck, van, or other such vehicles "for rent or lease", such as U-Haul.
- bb. Package stores; however, excepting any specialty boutique-type wine or spirits shops or any grocery or other stores which may currently be allowed to serve or sell alcohol.

VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 5

cc. No drive-thru.

5. The Signage for the Subject Property shall be ground-based, monument-style, consistent with the architectural style (Village Like) and composition of the development and consistent with provisions of the Cobb County Sign Ordinance and consistent with previous signage approved as a part of the previous Application.
6. The utilization of low-intensity, environmental type, down-lighting which shall be subject to review and approval by staff. All exterior lighting shall be shielded, and direct illumination shall be confined within the perimeter of the Subject Property. Further, a lighting photometric plan shall be submitted during the Plan Review Process.
7. There is a landscaping and a berm adjacent to Paper Mill Road that provide a visual barrier for the parking lot. The existing landscaping and berm shall remain.
8. The District Commissioner shall have the authority to approve minor modifications to this rezoning proposal as the development proceeds through the Plan Review Process and thereafter except for those that:
 - a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district
 - b. Relocate a structure closer to the property line of an adjacent property which is zoned in the same or in a more restrictive zoning district
 - c. Increase the height of a building which is adjacent to a property that is zoned is the same or a more restrictive zoning district
 - d. Change access points to different rights-of-way
 - e. Violate the Cobb County Zoning Ordinance.

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-67 '22
Meeting Date 8-15-2023
Continued

VIA EMAIL:

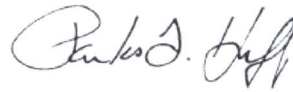
Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 6

Please do not hesitate to contact me should you have any questions whatsoever regarding S&B's proposal.

With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Parks F. Huff
phuff@samslarkinhuff.com

PFH/jac

cc: ON FOLLOWING PAGE

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. 2-67 '22
Meeting Date 8-15-2023
Continued

VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
July 20, 2023
Page 7

cc: Members, Cobb County Board of Commissioners (via email)
Dr. Jackie McMorris, County Manager (via email)
Board of Commissioners Assistants (via email)
Members, Cobb County Planning Commission (via email)
Ms. Jessica Guinn, AICP, Director (via email)
Ms. Jeannie Peyton, Senior Planner (via email)
Mr. Terry Martin, AICP, CNU-A Planner III (via email)
Ms. Margie Vazquez, Planner II (via email)
Mr. LeDarius Scott, Planner, *AICP Candidate*, Planner II (via email)
Mr. Cameron Jones, Planner II (via email)
Ms. Pamela Mabry, County Clerk (via email)
Ms. Robin Stone, Deputy County Clerk (via email)
Ms. Leila Washington, Deputy County Clerk (via email)
Mr. Jeffrey Byrd, Fire Marshal's Office (via email)
Ms. Ligia Florim, Cobb DOT (via email)
Mr. Carl Carver, P.E., Stormwater Management Division (via email)
Mr. Tim Davidson, Plan Review, Water System (via email)
Mr. Owen Brown, Retail Planning Corporation (via email)
Mr. Kirk Post, President, Hampton Farms HOA President (via email)
Ms. Kim Swanson, Hampton Farms HOA (via email)
Mr. W. A. Smitherman, Hampton Farms HOA (via email)
Mr. Joe Gavalis, Chattahoochee Plantation Estates (via email)
Ms. Risa Baylis, Riverpark/CPCA (via email)
Mr. Richard Groome, ECCA President (via email)
Ms. Chris Lindstrom, ECCA (via email)
Mr. Abdul K. Amer, P.E., A&R Engineering, Inc. (via email)
Mr. Michael Toothaker, RLA, Gaskins + LeCraw Engineering Inc. (via email)
Mr. Suresh Parmar, S&B Investments, Inc. (via email)

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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

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

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

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

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

ORLANDO, FLORIDA
390 N. ORANGE AVENUE
SUITE 825
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

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

July 24, 2023

Via E-mail Only

Min. Bk. 98 Petition No. Z-26
Doc. Type letter
Meeting Date 8-15-2023

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

RE: Application for Rezoning - Application No.: Z-26 (2023)
 Applicant/Property Owner: Bercher Homes, LLC
 Property: 1.43448 acres, more or less, located at the
 intersection of the easterly side of Cochran
 Lake Road and the northerly side of Fricks
 Road, being more particularly known as
 3640 Cochran Lake Road, Land Lots 330 and
 331, 16th District, 2nd Section, Cobb County,
 Georgia

Dear John:

The undersigned and this firm represent Bercher Homes, LLC, the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), in its Application for Rezoning with regard to 1.43448 acres, more or less, of real property located at the intersection of the easterly side of Cochran Lake Road and the northerly side of Fricks Road, being more particularly known as 3640 Cochran Lake Road, Land Lots 330 and 331, 16th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or "Subject Property"). After meetings and discussions with Planning and Zoning Staff and various Cobb County Departmental Representatives, reviewing the Departmental Comments and Staff Recommendations, and reviewing the uses of surrounding properties, we have been authorized by the Applicant to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The proposed stipulations are as follows:

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 5
July 24, 2023

Petition No. Z-26
Meeting Date 8-15-2023
Continued

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all prior Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning category of R-20 to the proposed zoning category of R-15, subject to the Rezoning Plan prepared for Applicant by Watts & Browning Engineers, Inc. dated and last revised May 22, 2023, and filed with the Application for Rezoning on May 31, 2023. A reduced copy of the Rezoning Plan is attached hereto as Exhibit "A."
- (3) The Subject Property consists of a total of approximately 1.43448 acres of total site area and shall be developed for single-family, detached, homes consisting of a maximum of three (3) lots, each with a minimum lot size of 15,000 square feet.
- (4) The proposed residences shall have a minimum of 3,000 square feet of heated and cooled living space.
- (5) The proposed residences shall be Traditional in style and architecture and shall have a minimum two-car, attached garage.
- (6) No garage areas of the proposed residences shall be converted into heated or cooled living space for the homes. All garages shall be used primarily for the parking of vehicles with only incidental storage that does not interfere with parking for vehicles.
- (7) The front, side, and rear yard areas of the proposed residences shall be fully sodded and irrigated.
- (8) Stormwater Management facilities shall be screened by a black, vinyl-clad chain link fence, a minimum of six (6) feet in height with landscaping to the exterior of the fencing for purposes of visual screening, pursuant to Cobb County Standards and Ordinances. Evergreen plant materials will be no less than six (6) feet in height upon installation. Plant materials will be maintained to ensure viability for eighteen (18) months or per Cobb County regulations, whichever is greater. Any exposed concrete retaining walls, if necessary, will be no higher than eight (8) feet above outside grade. If installed, the concrete retaining walls will be painted or

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 5
July 24, 2023

Petition No. 2-26
Meeting Date 8-15-2023
Continued

stamped with an earth tone color or pattern for purposes of visual screening. In the event that more than six (6) feet of vertical height of concrete wall is exposed and facing outward, the concrete wall will be faced with brick or stone.

- (9) All construction and employee vehicles and equipment will be parked, and otherwise located on, the Subject Property during development of infrastructure and construction of the residences, and shall not be parked on or along Cochran Lake Road or Fricks Road, or any other surrounding neighborhood streets or properties.
- (10) Development and construction hours for the proposed project shall be limited to the following:
 - (a) 7:00 a.m. to 5:00 p.m. - Monday through Friday from October 1st through March 31st;
 - (b) 7:00 a.m. to 7:00 p.m. - Monday through Friday from April 1st through September 30th;
 - (c) 10:00 a.m. to 4:00 p.m. - Saturdays; and
 - (d) No work on Sunday.
- (11) Deliveries of construction equipment, materials, and related items needed for construction and completion of the proposed residences shall be limited to Monday through Saturday, with no deliveries made before 8:00 a.m. or after 7:00 p.m. There shall be no deliveries on Sunday.
- (12) If a building permit for at least one residence has not been issued within twenty-four (24) months of final zoning approval, the zoning category of the Subject Property shall revert to its existing R-20 zoning classification.
- (13) Applicant agrees to comply with Cobb County Water and Sewer recommendations with respect to availability and capacity of water and sewer to the Subject Property.
- (14) Applicant agrees to comply with Cobb County Fire Department recommendations with respect to fire prevention and first responder issues.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 5
July 24, 2023

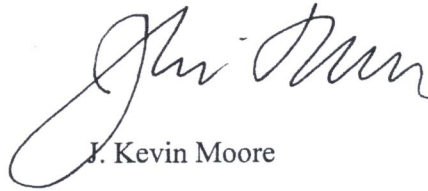
Petition No. Z-26
Meeting Date 8-15-2023
Continued

We believe the requested zoning, pursuant to the submitted Rezoning Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions and use of the Property and the area neighborhoods. The proposed residences shall be of the highest quality, shall be compatible with surrounding communities and residences, and shall be an enhancement to the Subject Property. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

Attachment

c: Cobb County Board of Commissioners:
Lisa N. Cupid, Chairwoman
JoAnn Birrell
Keli A. Gambrill
Jerica Richardson
Monique Sheffield
(With Copy of Attachment)

Cobb County Planning Commission:
Stephen Vault, Chairman
David Anderson
Fred Beloin
Deborah Dance
Michael Hughes
(With Copy of Attachment)

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 5 of 5
July 24, 2023

Petition No. Z-26
Meeting Date 8-15-2023
Continued

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

Bercher Homes, LLC
(With Copy of Attachment)

REZONING PLAN
 FOR
 THE ENCLAVE AT COCHRAN
 LAND LOTS 330 & 331 - 16TH DISTRICT - 2ND SECTION
 COBB COUNTY, GEORGIA



GEORGIA
 COBB COUNTY

REVISION	DATE	DESCRIPTION
1	08/15/2023	INITIAL SUBMITTAL

W&B
WATTS & BROWNING ENGINEERS, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 1348 OLD 41 HWY NW, SUITE 222
 KENNESAW, GEORGIA 30144
 PHONE: (770) 426-8100
 FAX: (770) 426-8101

SCALE:	1" = 20'
DESIGNED BY:	W&B
DRAWN BY:	W&B
CHECKED BY:	W&B
DATE:	08/15/2023
APP. NAME:	2023/08
SHEET NUMBER:	R-1



SITE NOTES

PROPOSED ZONE:	SINGLE FAMILY RESIDENTIAL
CURRENT ZONING:	R-20
PROPOSED ZONING:	R-15
TOTAL SITE AREA:	1.43 AC
TOTAL SITE LOTS:	3
LOT SIZE:	2.1 LOTS/AC

BUILDING SETBACK REQUIREMENTS

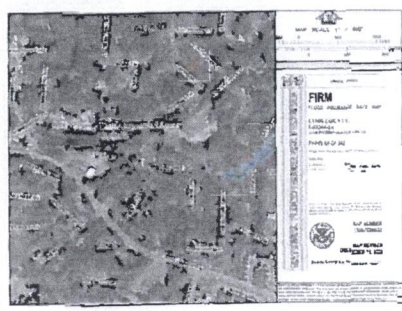
FRONT:	25'
REAR:	30'
SIDE:	10'
SIDE COURTYARD:	20'
MINIMUM LOT WIDTH:	75'
MINIMUM LOT AREA:	15,000 SF

- GENERAL NOTES**
- TOTAL PROPERTY AREA = 1.43 AC
 - BOUNDARY INFORMATION AND TOPOGRAPHIC DATA (BENCH MARKS) WAS OBTAINED FROM PLAN (ENTRUSTED TO LAND SURVEYORS) PREPARED BY WATTS & BROWNING ENGINEERS, INC. DATED APRIL 1992.
 - THE TOPOGRAPHIC AND ELEVATION DATA (BENCH MARKS) WAS PREPARED BY WATTS & BROWNING ENGINEERS, INC. WHICH IS RESPONSIBLE FOR SUCH DATA.
 - ENGINEERING NOTES:
 - DATE: 08/15/2023
 - WATTS & BROWNING ENGINEERS, INC.
 - OWNER/DEVELOPER:
 - RENDERING:
 - 1348 OLD 41 HWY NW, SUITE 222
 - KENNESAW, GA 30144
 - NO ARCHITECTURAL OR ARCHITECTURAL LANDMARKS, CEMENTS OR OTHER HISTORIC FEATURES
 - ARE KNOWN TO EXIST ON THIS
 - THERE ARE NO SETBACKS OR SETBACKS ON SITE.

OWNER/DEVELOPER/PRIMARY PERMITTEE:
 BLANCHER HOMES
 180 DENVER AVENUE, SUITE 100
 KENNESAW, GA 30144
 PHONE: (770) 426-8100
 24 HOUR CONTACT:
 DAVE BROWNER
 PHONE: (770) 426-8100
 ENGINEER:
 WATTS & BROWNING ENGINEERS, INC.
 1348 OLD 41 HWY NW, SUITE 222
 KENNESAW, GA 30144
 PHONE: (770) 426-8100
 FAX: (770) 426-8101
 CONTACT: DAVE BROWNER



NOTE: ABOVE CHOWN UTILITY LOCATIONS WERE OBTAINED FROM FIELD OBSERVATIONS BY OTHERS. WATTS & BROWNING ENGINEERS HAS NOT RESEARCHED UNDERGROUND UTILITY LOCATIONS INFORMATION. PERSONS BE DRINKING THE EXISTENCE, WORK, TYPE AND LOCATION OF UNDERGROUND UTILITIES IS BASED ON HANDINGS IN THE FIELD AND INFORMATION FURNISHED TO US BY OTHERS AND WATTS & BROWNING ENGINEERS IS UNABLE TO CERTIFY TO THE ACCURACY OR COMPLETENESS OF THIS INFORMATION. INDICATED LOCATIONS SHOULD BE CONFIRMED IN THE FIELD WITH THE UTILITY COMPANIES PRIOR TO PROCEEDING WITH PLANNING DESIGN OR CONSTRUCTION.



WATTS & BROWNING ENGINEERS, INC. HAS EXAMINED THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) FLOOD INSURANCE RATE MAP (FIRM) OF COCHRAN, GEORGIA, AND HAS DETERMINED THAT THE PROPERTY IS LOCATED IN THE UNFLOODED AREA. THE FLOOD LINE IS SHOWN IN APPROPRIATE AND THE ACTUAL LIMITS OF FLOOD LINE BASED ON FLOOD LINE ELEVATIONS MAY VARY FROM THOSE SHOWN HEREON.

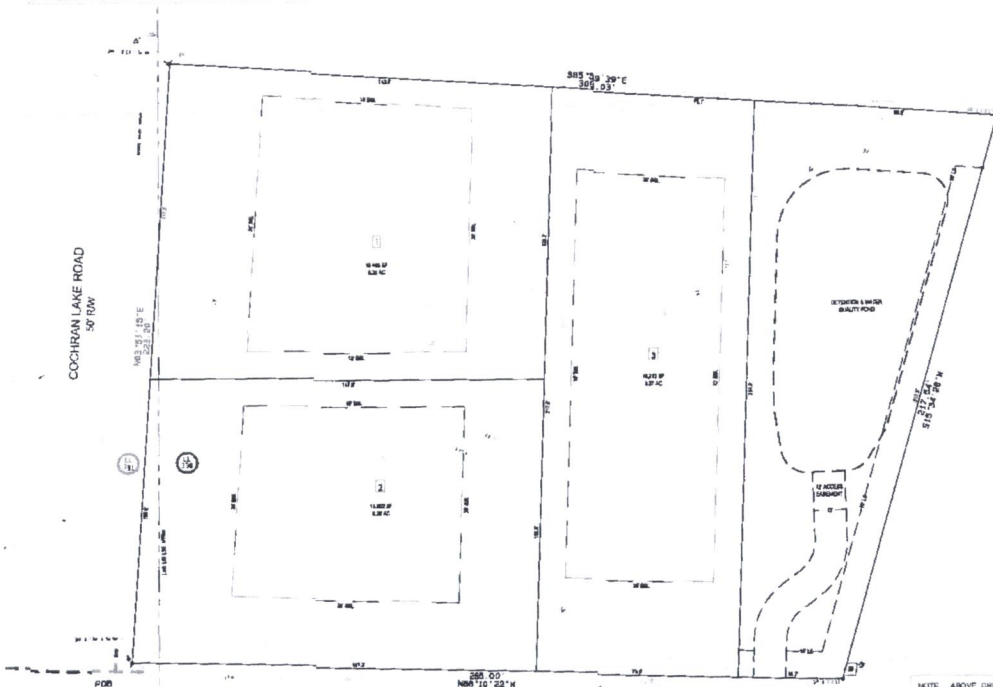
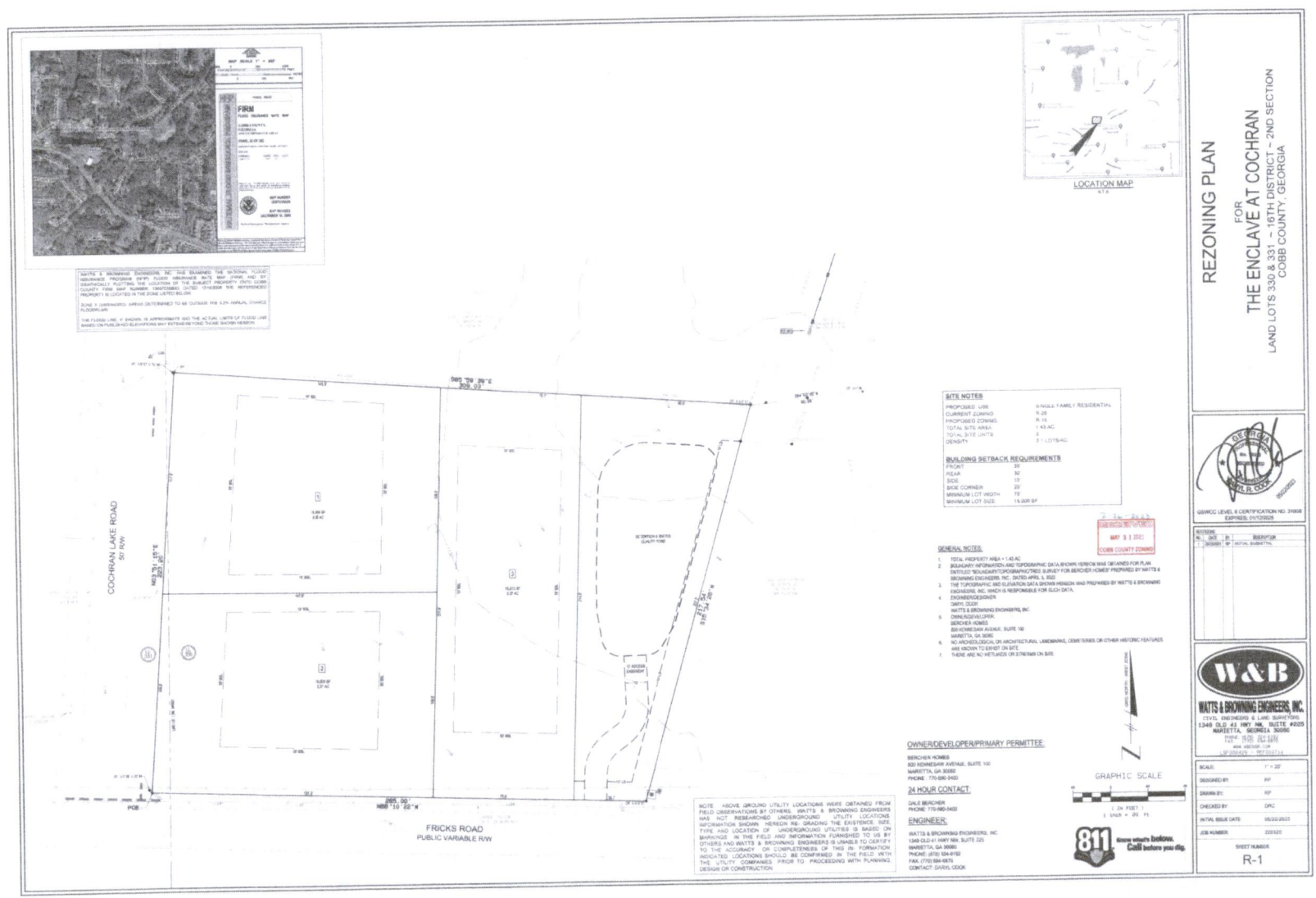


EXHIBIT "A"

Min. Bk. 98 Petition No. Z-26
 Doc. Type Site Plan
 Meeting Date 8-15-2023

Z-26-2023 DEPARTMENT COMMENTS - Zoning Division



December 20, 2016

Mr. John Pederson, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, Georgia 300624

Min. Bk. 81 Petition No. Z-84
Doc. Type letter

Meeting Date 12-20-16

Min. Bk. 98 Petition No. Z-26
Doc. Type David Meyer letter
dated 12-20-2016
Meeting Date 8-15-2023

RE: REVISED Stipulation Letter for 1.5 AC Cochran Lake Property, Z-84

Dear Mr. Pederson:

On behalf of my client and applicant of Z-84, Mr. Jim Lane, this letter will serve as the REVISED stipulation letter that reflects that Mr. Lane is agreeable to the following stipulations becoming conditions and a part of the grant of the requested rezoning.

1. These stipulations and conditions set forth shall replace and supercede all prior stipulations and conditions previously proposed.
2. The rezoning of this property shall be from R-20 to R-15 (minimum 15,000 SF lots) based on but not site specific to the site plan prepared by DGM Land Planning Consultants, Inc. dated October 24, 2016.
3. The subject property consisting of 1.5 AC shall be developed as a Single Family Detached Residential Community consisting of 3 lots, each with a minimum lot size of 15,000 SF and a maximum density of 2.0 UN/AC. *A maximum of* 
4. The residences shall have a minimum of 3,000 SF of heated space and shall consist of a traditional architectural.
5. All front, side, and rear yards of the residences to be constructed shall be sodded and irrigated.
6. The Stormwater Management Area shall be fenced with a black vinyl coated chain link fence 6' in height with accompanying landscaping for visual screening as per Cobb County Standards. Evergreen plant material will be no less than 6' in height upon installation. Concrete retaining walls (if necessary) will be no higher than eight feet above outside grade. If concrete walls are installed, they will be painted or stamped with an earth tone color or pattern in order to visually blend with their surroundings. In the event that more 6' of vertical height of concrete wall is facing outward, the concrete wall will be faced with brick or stone. If more space is needed for detention and stormwater management than is shown on site plan dated October 24, 2016, more space may be taken from lots if necessary, provided that no lot becomes less than 15,000 SF. Plant material will be maintained to insure viability for 18 months or per Cobb County regulations whichever is greater.
7. All homes will have garages for two or three car vehicular parking purposes.
8. All garages will not be heated or cooled to avoid buyers converting the garage area into a living space. All garages are to remain garages.
9. Compliance with recommendations from Cobb County water system with respect to availability and capacity of water and sewer.
10. Compliance with Cobb County Fire Department with respect to fire prevention and first responder issues.

DGM

LAND PLANNING
CONSULTANTS, INC.



SITE PLANNING
LANDSCAPE
ARCHITECTURE

770 514-9006
FAX 514-9491

975 COBB PLACE
BLVD, SUITE 212
KENNESAW
GA 30144

DGMLPC.COM

Petition No. Z-26
Meeting Date 8-15-2023
Continued

Petition No. Z-84
Meeting Date 12-20-16
Continued

11. All construction vehicles and construction worker's vehicles must be parked on the property at all times. No vehicles are to be parked on Fricks Road or Cochran Lake Drive at any time.

12. Adherence to the following construction hours:
7 am to 5 pm Monday to Friday, October 1st to March 31st.
7 am to 7 pm Monday to Friday, April 1st to September 30th.
10 am to 4 pm Saturdays, no work on Sundays
Monday – Saturday, no deliveries before 8 am or after 7 pm
No deliveries on Sundays

13. If building permit for at least one house has not been issued within 24 months the property will revert back to original R-20 zoning.

Please give me a call if you have any questions Mr. Pederson. Thank you for your consideration.

Sincerely,

David G. Meyer
President



July 26, 2023

Cobb County Board of Commissioners
100 Cherokee Street
Marietta, GA 30090

Re: Z-27-2023 Impact Worship Center

Dear Mr. Chairman and Commissioners:

I am writing on behalf of the Mableton Improvement Coalition to ask that you recommend approval of this application with conditions. We agree that the property should be rezoned to the NRC (Neighborhood Retail Commercial) designation due to the current conflicting zoning categories for the property. We recently met with the applicant and are pleased with both his desire to help improve the community and the commitment to the Mableton Parkway/Veterans Memorial Highway Guidelines for development of the site.

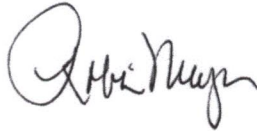
In the spirit of this continued cooperation, we ask that you approve this application, in accordance with county staff recommendations, and the following conditions:

- A Landscape Review Committee, composed of the applicant, the Mableton Improvement Coalition, and the appropriate county staff, to review the final landscape plan during the plan review process, with special attention to buffering the home north of the property on Queen Mill Road.
- Prohibited Uses: Adult entertainment, liquor stores, sales of sexually explicit or drug-related items, pawn shops, title pawn shops, gold or precious metal dealers, video arcades as a primary use, check cashing businesses, discount sales, new auto sales/auto parts/auto service/used tire sales, taxi dispatching services, wholesale only establishments, gun/knife/weapon sales, shooting ranges, thrift stores/secondhand stores/flea markets. Additionally, drive-through windows and outside speakers.
- An Architecture Review Committee, composed of the applicant, the Mableton Improvement Coalition, and the appropriate county staff, to review the final architecture during the plan review process.

- A pedestrian connection from the building to the public sidewalk, if allowed by Cobb DOT.

As always, thank you for the opportunity to be a part of the public comment process. If you have any questions, please feel free to contact me at 770 948-5394.

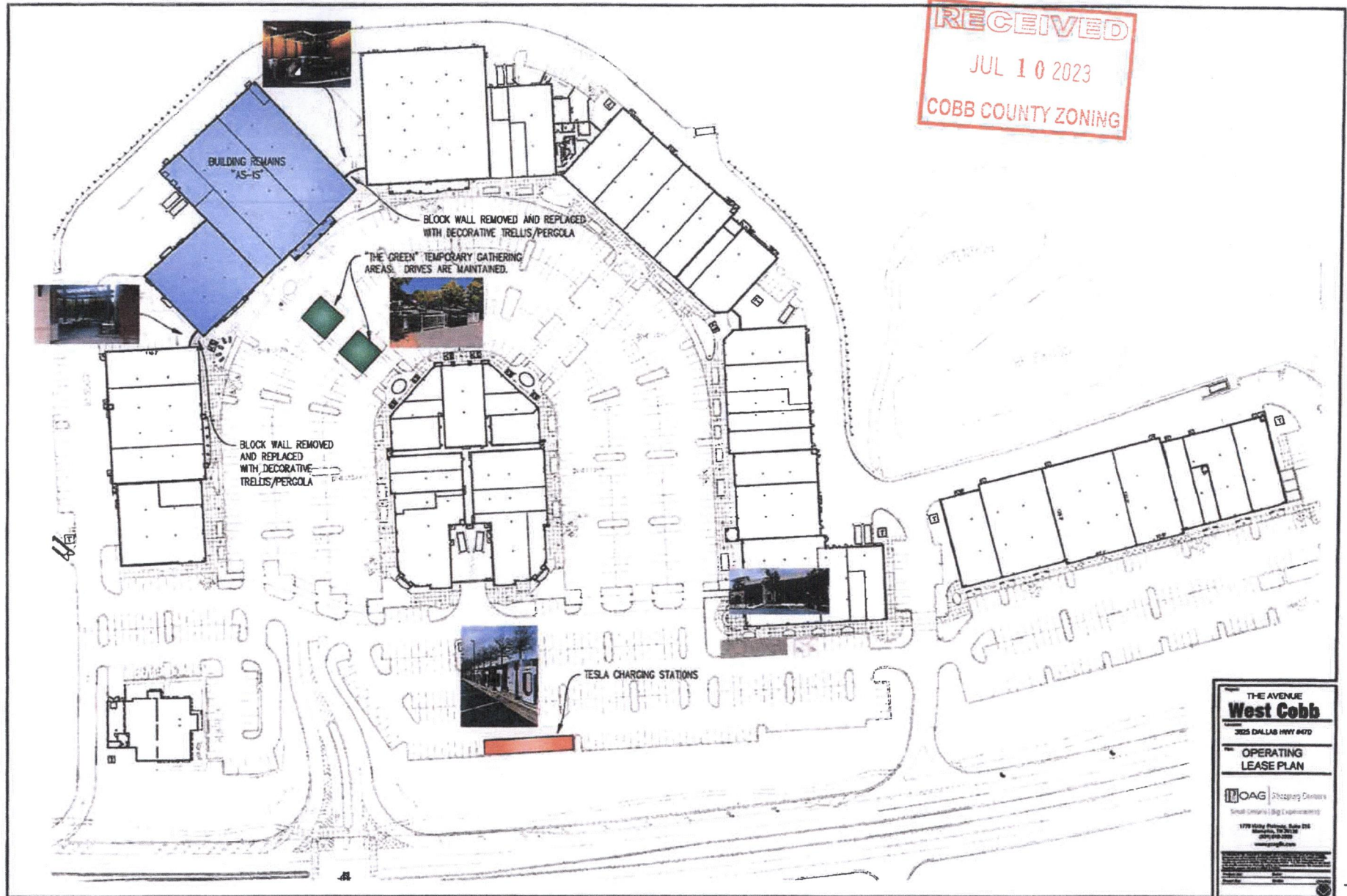
Sincerely,



Robin Meyer
Zoning Committee Co-Chair

Cc: Cobb County Board of Commissioners
John Pederson, Cobb County Zoning Division Manager
Robin Stone, Deputy County Clerk
Bishop Arthur Jones, Jr.
MIC Board of Directors and Zoning Committee

RECEIVED
JUL 10 2023
COBB COUNTY ZONING



THE AVENUE	
West Cobb	
3025 DALLAS HWY #470	
OPERATING LEASE PLAN	
OAG Shopping Centers	
Smart Centers Big Experiences	
1779 Valley Parkway, Suite 100	
Marietta, GA 30067	
(770) 419-0000	
www.oag.com	

0.B.34-2023
Proposed Site Plan

ITEM OB-34-2023

To consider amending the site plan for Poag Shopping Centers, LLC regarding rezoning application Z-139 of 1999, for property located on the south side of Dallas Highway, east of Casteel Road in Land Lot 333 and 334 of the 20th District (3625 Dallas Highway).

BACKGROUND

The subject property is zoned NRC for a shopping center by way of rezoning case Z-139 of 1999. The property is subject to the site plan from a 2002 settlement of litigation. The property has been submitted for site plan amendments several times in the past, most recently in 2021 to allow an outdoor seating area for a restaurant. The applicant has evaluated market conditions and would like to revise the site plan to allow additional outdoor gathering areas near the rear of the shopping center. This appears to be like the site plan revision the Avenue East Cobb did several years ago. Additionally, the applicant is showing Tesla charging stations along Dallas Highway. If the amendment is approved, all previous stipulations would remain in effect.

STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: No additional comments.

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

Site Plan Review: No comments.

Cobb DOT: No comments.

Fire Department: Provide a clear flat (10-foot minimum) access to all perimeter parts of the structure (CCDS 107.7)

RECOMMENDATION

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

ATTACHMENTS

Other Business application and stipulations.

AUGUST 15, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4

Min. Bk. 98 Petition No. O.B.35
Doc. Type Site Plan Review and Cobb DOT comments and
Recommendations
Meeting Date 8-15-2023

ITEM OB-35-2023

To consider a reduction of required minimum lot size from 20,000 square-feet to 10,846 square-feet for Stuart Napshin. The property located on the north side of Starling Drive in Land Lot 385 of the 18th District (6645 Starling Drive).

BACKGROUND

The Board of Commissioners considers all reductions to minimum lot size per Zoning Code Sec. 134-271(7)(a) adopted on February 27, 2018. This request concerns one lot that fronts Starling Drive (6645). The lot was originally platted in 1954 as lot 1 in the Holloway subdivision. At some point, the back half of the 6645 Starling Drive lot was deeded to 6605 Factory Shoals Road because that house was very close to the rear property line. Because of this past deeding, the 6645 Starling Drive does not meet the 20,000 square-foot minimum lot size for the R-20 zoning district. The lot is 10,846 square-feet. The applicant found out about this in June when they applied for a building permit to build a new home. The proposed one-story house would be approximately 1300 square-feet with three bedrooms and two bathrooms. The exterior of the house would be Hardi-Plank siding. If approved, all other zoning criteria will be met, such as impervious surface and setbacks.

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

Site Plan Review: The owner recently began clearing and grading the lot without permits. If this OB application is approved, the owner must provide a soil compaction report, including verification that the lot is free of buried debris, from a GA licensed geotechnical engineer before any building permits can be issued.

Fire Department: CCFMO does not have any objections to OB-35-2023 as presented.

RECOMMENDATION

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

OB-35-2023

DEPARTMENT COMMENTS – CCDOT

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Starling Drive	Local	25	Cobb County	50'

Comments and observations

Starling Drive is classified as a Local roadway and according to the available information the existing right-of-way meets the minimum requirements for this classification.

In accordance with Cobb County Code 134-121 and based on site plan dated July 10, 2023, this development does not require a traffic study submittal.

Recommendations

1. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
2. Recommend residential driveways on Starling Drive be installed to Cobb County standards. This recommendation is pursuant to Cobb County Development Standard 402.7.1, Residential Driveways and Cobb County Development Standard Detail 116R, Residential Driveway
3. Recommend driveway on Starling Drive be paved with a treated hardened surface for a minimum of 25' from the edge of pavement or to the County right-of-way, whichever is greater in length. This recommendation is pursuant to Cobb County Development Standard 402.7.1, Residential Driveways and Cobb County Development Standard Detail 116R, Residential Driveway Standard.
4. Recommend a minimum of 50 feet straight-line distance (from end of curb return to start of adjacent curb return) between any residential driveways and adjacent local roadways, curves, on-street parking or driveways. This recommendation is pursuant to Cobb County Development Standard 402.7.1, Residential Driveways and Cobb County Development Standard Detail 116R, Residential Driveway Standard.