

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 19, 2023
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 19, 2023, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Lisa Cupid, Chairwoman
Commissioner JoAnn Birrell
Commissioner Keli Gambrill
Commissioner Jerica Richardson
Commissioner Monique Sheffield

CALL TO ORDER – CHAIRWOMAN CUPID

Chairwoman Cupid called the hearing to order at 9:04 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.

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Commissioner Gambrell'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 *withdrawn, held, or continued*.

WITHDRAWN, HELD, AND CONTINUED CASES

Z-43 **SUHEL KAZANI** (Global Finvest L.L.C., owner) requesting rezoning from GC to NRC for a convenience store with fuel sales and retail in land lot 180 of the 17th district and land lot 42 of the 18th district. Property is located on the southeast side of Cooper Lake Road, on the northeast side of Veterans Memorial Highway (8 and 5699 Cooper Lake Road and Veterans Memorial Highway). *(Previously continued by Staff from the October 3, 2023, Planning Commission (PC) hearing until the December 5, 2023, PC hearing). WITHDRAWN WITHOUT PREJUDICE*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- O.B. 52** To consider amending the site plan for Emily Sidner regarding rezoning application Z-108 of 1999, for property located at the southwest intersection of Austell Road and East Callaway Road in land lots 628 and 629 of the 19th district (East Callaway Road). *(Previously continued by Staff from the November 21, 2023, Board of Commissioners' (BOC) Zoning hearing until the December 19, 2023, BOC hearing).*

Mr. Pederson presented the Applicant's request to withdraw O.B. 52 without prejudice; thereafter, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **allow** O.B. 52 to be *withdrawn without prejudice*.

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

- Z-36** **MICHESTER INC.** (Michester, Inc., owner) requesting rezoning from **R-20** to **LRO** for an office in land lot 15 of the 17th district. Property is located on the east side of Austell Road, north of Hicks Road (2513 Austell Road). *(Previously held by the Board of Commissioners (BOC) from the October 17, 2023, BOC Zoning hearing until the November 21, 2023, BOC Zoning hearing; continued by Staff from the November 21, 2023, and December 19, 2023, BOC Zoning hearings until the March 19, 2024, BOC Zoning hearing; therefore, was not considered at this hearing).*

- Z-40** **ATLANTA REMEDIATION GROUP, LLC** (Vanessa Pichardo, owner) requesting rezoning from **R-20** to **LI** for specialty contractor, parking of RVs & boats in land lot 204 of the 16th district. Property is located on the south side of Shallowford Road, east of Canton Road (1018 Shallowford Road). *(Previously continued by Staff from the October 3, 2023, through the December 5, 2023, Planning Commission (PC) hearings until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*

- Z-52** **1054 INVESTMENT GROUP, LLC** (1054 Investment Group, LLC; James Vincent Manley, owners) requesting rezoning from **R-20** to **LI** for contractor offices and parking of vehicles in land lot 204 of the 16th district. Property is located on the south side of Shallowford Road, east of Old Shallowford Road (1022, 1028, and 1054 Shallowford Road). *(Held by the Planning Commission (PC) from the November 7, 2023, PC hearing until the December 5, 2023, PC hearing; continued by Staff until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- Z-57** **GORDON TODD SPENCER** (Atlanta Secure Care Services, Inc., owner) requesting rezoning from **GC** and **CF** to **NRC** for a laundromat (self- and full-service) in land lot 775 of the 19th district. Property is located on the east side of Austell Road, north of Amy Lane (3377 Austell Road). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- Z-59** **SS DEVELOPERS, LLC** (Samir K. Barman and Sujata Barman, owners) requesting rezoning from **R-20** to **RA-5** and **LRO** for a single-family subdivision and professional office in land lots 124, 125, 142, and 143 of the 20th district. Property is located on the west side of Jim Owens Road at the terminus of New Rutledge Road (3049 Jim Owens Road). *(Continued by Staff from the December 5, 2023, Planning Commission (PC) hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- Z-60** **MRE-CANTON, LLC** (MRE-Canton, LLC, owner) requesting rezoning from **GC** to **NRC** for a convenience store with fuel sales in land lot 60 of the 16th district. Property is located on the east side of Canton Road and the north side of Jamerson Road (4852 Canton Road). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- Z-61** **DAVID PEARSON COMMUNITIES, INC.** (Land Acquisition Investments, LLC; Parklane Capital II. LLC, owners) requesting rezoning from **RM-12**, **R-20**, **CRC**, and **NS** to **RM-12** for a townhome community in land lots 421, 422, 443, and 444 of the 17th district. Property is located on the west side of Atlanta Road, north of Daniell Drive (1972 Atlanta Road). *(Continued by Staff from the December 5, 2023, Planning Commission (PC) hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- Z-64** **CEDAR REAL ESTATE GROUP IV, LLC** (Randall R. Osborne, owner) requesting rezoning from **R-20** to **LI** for a freight terminal in land lots 497, 504, and 505 of the 18th district. Property is located on the north side of Six Flags Parkway, west of Queensferry Drive (439 Six Flags Parkway). *(Continued by Staff from the December 5, 2023, Planning Commission (PC) hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- Z-66** **41 PARK A TOY & SELF STORAGE, INC.** (41 Park A Toy & Self Storage, Inc., owners) requesting rezoning from **GC** and **R-20** to **LI** for a climate-controlled self-storage facility in land lots 2 and 37 of the 20th district. Property is located on the east side of Cobb Parkway, south of Third Army Road (4820 Cobb Parkway). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- LUP-30** **DONALD PERRY** (Sandra Galloway and Donald Perry, Sr., owners) requesting a **Temporary Land Use Permit** to allow more vehicles than the code allows in land lot 559 of the 19th district. Property is located on the southeast side of Farmington Drive at the terminus of Angus Trail (2639 Farmington Drive). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- LUP-32** **JULIA WELTON** (Julia D. Welton, LLC, owner) requesting a **Temporary Land Use Permit** to allow dog boarding and daycare in land lot 148 of the 20th district. Property is located on the northeast side of Hill Road and on the northwest side of Mars Hill Road (4990 Hill Road). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- SLUP-8** **41 PARK A TOY & SELF STORAGE, INC.** (41 Park A Toy & Self Storage, Inc., owner) requesting a **Special Land Use Permit** for a climate controlled self-storage facility in land lots 2 and 37 of the 20th district. Property is located on the east side of Cobb Parkway, south of Third Army Road (4820 Cobb Parkway). *(Held by the Planning Commission (PC) from the December 5, 2023, PC hearing until the February 6, 2024, PC hearing; therefore, was not considered at this hearing).*
- O.B. 40** To consider amending the site plan for Kerley Family Homes, LLC regarding rezoning application Z-43 of 2019, for property located on the southeast side of Cooper Lake Road, south of Vinings Lake Drive in land lot 181 of the 17th district (Cooper Lake Road). *(Previously continued by the Board of Commissioners (BOC) from the September 19, 2023, BOC Zoning hearing until the October 17, 2023, BOC Zoning hearing; continued by Staff from the October 17, 2023, through the December 19, 2023, BOC Zoning hearings until the February 20, 2024, BOC Zoning hearing; therefore, was not considered at this hearing).*

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WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

O.B. 68 To consider a Settlement of Litigation for Noble Storage, LLC, Estate of Doty, and Donald K. Nix regarding case Z-4 of 2023. The property is located on the south side of Freeman Road, east of Johnson Ferry Road in land lot 539 of the 16th district (4290 Freeman Road). *(Continued by Staff from the December 19, 2023, Board of Commissioners' (BOC) Zoning hearing until the February 20, 2024, BOC Zoning hearing; therefore, was not considered at this hearing).*

O.B. 66 To consider amending the stipulations for Chick-fil-A Inc. regarding rezoning application Z-8 of 2022, for property located on the southeast intersection side of Veterans Memorial Highway and Hickory Trail in land lot 165 of the 18th district (Veterans Memorial Highway).

Mr. Pederson presented the Applicant's request to continue O.B. 66; thereafter, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **continue** O.B. 66 until the February 20, 2024, Board of Commissioners' Zoning Hearing.

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

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.

CONSENT AGENDA

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

Z-47 BENTLEY RESIDENTIAL PROPERTIES, LLC; SUMMEROUR PROPERTIES, LLLP (Bentley Residential Properties, LLC; Summerour Properties, LLLP, owners) requesting rezoning from **R-20** and **R-15** to **LI** for a landscaping and tree service in land lot 1137 of the 16th district. Property is located on the north side of Gresham Road and east of Fairview Street (0, 1306, and 1330 **1302** Gresham Road). *(Continued by the Planning Commission (PC) from the November 7, 2023, PC hearing until the December 5, 2023, PC hearing).*

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CONSENT AGENDA (CONT.)

Z-47 BENTLEY RESIDENTIAL PROPERTIES, LLC; SUMMEROUR PROPERTIES, LLLP (CONT.)

To **approve** Z-47 to the **LI** zoning district, subject to:

- 1. Site plans received by the Zoning Division on September 6, 2023 (attached and made a part of these minutes), with the District Commissioner to approve the final plan**
- 2. Letter from George E. Bentley dated November 29, 2023 (attached and made a part of these minutes)**
- 3. Variances as stated in the Zoning Division comments and recommendations**
- 4. Reduction of the buffer from the required minimum 50-feet to 20-feet adjacent to the residentially zoned property**
- 5. Applicant to install a 10-foot landscape buffer and/or fencing along the public roads to provide screening**
- 6. Fire Department comments and recommendations**
- 7. Department of Transportation comments and recommendations**

Clerk's Note: Mr. Pederson noted that the correct address is 1302 Gresham Road rather than 1330 Gresham Road as stated in the Agenda.

Z-48 OSCAR FACTORY (Neal T. Radford, owner) requesting rezoning from PSC to NRC for an office in land lot 677 of the 17th district. Property is located on the south side of Main Street, west of Lois Street (1880 Main Street). *(Previously continued by Staff from the November 7, 2023, Planning Commission (PC) hearing until the December 5, 2023, PC hearing).*

To **approve** Z-48 to the **NRC** zoning district, subject to:

- 1. Staff comments and recommendations**
- 2. Variances as stated in the Zoning Analysis to be approved**

At the call for Z-49 (DG East Cobb Guthries, LLC), opposition was present; therefore, Z-49 was pulled from the Consent Agenda and added to the Regular Agenda to be heard in its numerical order (see page 15 of these minutes).

Z-55 JUSCELIO TOLEDO CRUZ (JP Realty Investments, LLC, owner) requesting rezoning from NS to R-15 for a single-family residence in land lot 131 of the 17th district. Property is located on the north side of Zelma Street, west of Pinetree Lane (322 Zelma Street).

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CONSENT AGENDA (CONT.)

Z-55 JUSCELIO TOLEDO CRUZ (CONT.)

To **approve** Z-55 to the **R-15** zoning district, subject to:

- 1. Construction hours limited to Monday through Friday from 7:00 a.m. until 6:00 p.m.; Saturday and Sunday from 8:00 a.m. until 5:00 p.m.**
- 2. District Commissioner to approve the final architectural elevations**
- 3. Fire Department comments and recommendations**
- 4. Department of Transportation comments and recommendations**

Z-56 JOSEPH FIDELIS (Joseph Fidelis, owner) requesting rezoning from **R-30** to **R-20** for a single-family subdivision in land lot 1173 of the 19th district. Property is located on the west side of Holloman Road and on the south side of Hiram Lithia Springs Road (5052 Hiram Lithia Springs Road).

To **approve** Z-56 to the **R-20** zoning district, subject to:

- 1. Site Plan received by the Zoning Division dated July 21, 2023 (attached and made a part of these minutes)**
- 2. Minimum house size shall be 2,200 square-feet for homes in the proposed development of heated and cooled living space and shall have a minimum two-car garage**
- 3. Homes in the proposed development shall contain exterior materials of brick, stone, stacked stone, cedar shake, board and batton, traditional lap-siding, hardie plank, or any combination thereof; final elevations to be approved by the District Commissioner**
- 4. Construction hours limited to Monday through Friday from 7:00 a.m. until 6:00 p.m.; Saturday and Sunday from 8:00 a.m. until 5:00 p.m.**
- 5. Fire Department comments and recommendations**
- 6. Water and Sewer Division comments and recommendations**
- 7. Stormwater Management Division comments and recommendations**
- 8. Department of Transportation comments and recommendations**
- 9. Site Plan Review comments and recommendations**
- 10. Planning Division comments and recommendations**

Z-58 CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION (WB Holdings-Delk Road, LLC, owner) requesting rezoning from **GC** to **LI** for heavy automotive repair in land lot 869 of the 17th district. Property is located on the north side of Delk Road, west of Powers Ferry Road (2739 Delk Road).

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CONSENT AGENDA (CONT.)

Z-58 CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION (CONT.)

To **delete** Z-58 to the **CRC** zoning district, subject to:

- 1. Site Plan received by the Zoning Division on October 5, 2023 (attached and made a part of these minutes), with the District Commissioner approving minor modifications**
- 2. Letter of agreeable conditions from Kevin Moore dated November 27, 2023 (attached and made a part of these minutes)**
- 3. All vehicles to be parked in striped parking spaces**
- 4. Any heavy automotive repair be done inside the building**
- 5. No outdoor storage of vehicle parts**
- 6. No outdoor display of merchandise**
- 7. Variances as stated in the Zoning Division comments and recommendations**
- 8. Fire Department comments and recommendations**
- 9. Stormwater Management Division comments and recommendations**
- 10. Planning Division comments and recommendations**
- 11. Water and Sewer Division comments and recommendations**
- 12. Department of Transportation comments and recommendations**

Z-62 RACETRAC, INC. (B&N RT Partners, LLC, owner) requesting rezoning from **GC and **NS** to **CRC** for a convenience store with fuel sales in land lots 948 and 949 of the 17th district. Property is located on the south side of Cobb Parkway, on the east side of Akers Mill Road, at the southeast intersection of Cobb Parkway and Akers Mill Road (2952 Cobb Parkway).**

To **approve** Z-62 to the **CRC** zoning district, subject to:

- 1. Site Plan received by the Zoning Division on October 5, 2023 (attached and made a part of these minutes), with the District Commissioner approving the final Site Plan**
- 2. Variances as stated in the Zoning Division comments and recommendations**
- 3. Fire Department comments and recommendations**
- 4. Stormwater Management Division comments and recommendations**
- 5. Water and Sewer Division comments and recommendations**
- 6. Department of Transportation comments and recommendations**
- 7. Landscape Plan to be approved by the District Commissioner**

Z-63 MARTIN HUERTA (Martin Huerta, owner) requesting rezoning from **R-20 and **GC** to **GC** for a specialized contractor for tree/landscaping and parking and storage in land lot 211 of the 17th district. Property is located on the east side of Sandtown Road, north of Gann Road (1119 Sandtown Road).**

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CONSENT AGENDA (CONT.)

Z-63 MARTIN HUERTA (CONT.)

To **approve** Z-63 to the **GC** zoning district, subject to:

- 1. Site Plan received by the Zoning Division on October 5, 2023 (attached and made a part of these minutes)**
- 2. District Commissioner to approve the final building elevations**
- 3. Tree service and landscaping contractor *only*; any other *use* to be approved as an Other Business Item**
- 4. Applicant and/or owner to install a 10-foot landscape buffer with a six-foot solid wooden privacy fence along the road frontage**
- 5. Variances as stated in the Zoning Division comments and recommendations**
- 6. Fire Department comments and recommendations**
- 7. Site Plan Review comments and recommendations**
- 8. Department of Transportation comments and recommendations**

Z-65 THE PKWY 750 KENNESAW, LLC; THE PKWY 760 KENNESAW, LLC (The Inn at Lithia Springs LLC; The Lodge in Kennesaw, LLC, owners) requesting rezoning from **CRC** to **RRC** for a mixed-use development consisting of apartments and hotel in land lots 651 and 718 of the 16th district. Property is located at the terminus of Cobb Place Boulevard, east of Ernest Barrett Parkway (745, 755, and 765 Cobb Place Boulevard).

To **approve** Z-65 to the **RRC** zoning district, subject to:

- 1. No rentals of 30 days or less permitted for the apartments**
- 2. Staff comments and recommendations**

LUP-27 MARLENE GRAHAM (Marlene Graham and Clenton Dayes, owners) requesting a **Temporary Land Use Permit (Renewal)** for a personal care home in land lot 561 of the 16th district. Property is located on the north side of Piedmont Road, west of Shaw Road (1371 Piedmont Road).

To **approve** LUP-27 for **24 months**, subject to:

- 1. Site Plan received by the Zoning Division on September 25, 2023 (attached and made a part of these minutes)**
- 2. Fire Department comments and recommendations**
- 3. Water and Sewer Division comments and recommendations**
- 4. Stormwater Management Division comments and recommendations**

LUP-28 KAREN GOODEN (Edward J. Gooden and Karen L. Gooden, owners) requesting a **Temporary Land Use Permit (Renewal)** for a hair salon in land lots 622 and 637 of the 19th district. Property is located at the terminus of Foxcroft Court, east of Valley Brook Drive (1910 Foxcroft Court).

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CONSENT AGENDA (CONT.)

LUP-28 KAREN GOODEN (CONT.)

To **approve** LUP-28 for **24 months**, subject to:

- 1. Hours of operation to be from 10:00 a.m. until 7:00 p.m., Monday, Thursday, and Friday *only***
- 2. All parking to be on a hardened surface**
- 3. Applicant to be the *only* employee; no independent contractors**
- 4. Staff comments and recommendations, *not otherwise in conflict***

LUP-31 THIAGO SANTOS (Thiago Santos and Kellyta Santos, owners) requesting a **Temporary Land Use Permit (Renewal)** to allow outdoor photography in land lots 103 and 126 of the 20th district. Property is located on the north side of Old 41 Highway, west of Kimberly Road (3178 Old 41 Highway).

To **approve** LUP-31 for **24 months**, subject to:

- 1. Final Site Plan received by the Zoning Division on October 4, 2023 (attached and made a part of these minutes)**
- 2. Maximum of two employees**
- 3. One sign up to six square-feet**
- 4. Clients by appointment *only*, with the maximum of three clients per day**
- 5. Fire Department comments and recommendations**
- 6. Department of Transportation comments and recommendations**

OTHER BUSINESS

At the call for O.B. 56 (Justin K. Willis), there were issues with the Applicant's stipulation letter regarding the DOT (Department of Transportation) comments and recommendations; therefore, O.B. 56 was pulled from the Consent Agenda to be heard on the Regular Agenda. Later in the hearing, the issues were resolved, and O.B. 56 was added back to the Consent Agenda (see page 17 of these minutes for the motion).

O.B. 62 To consider a reduction of public road frontage from 75-feet to 50-feet for Tract 3 for Melissa Jones for property located at the southern end of Leah Lane in land lots 109, 110, and 123 of the 18th district (5500 Connally Trail).

To **approve** O.B. 62, subject to:

- 1. Tract 3 approved for 50-feet of public frontage**
- 2. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

At the call for O.B. 64 (Gabe Hrib), opposition was present; therefore, O.B. 64 was pulled from the Consent Agenda to be heard on the Regular Agenda. Later in the hearing, the issues were resolved, and O.B. 64 was added back to the Consent Agenda (see page 13 of these minutes for the motion).

Prior to approving the Consent Agenda, Commissioner Gambrill requested that O.B. 65 (Poag Shopping Centers, LLC) be added to the Consent Agenda. The Applicant was present, and there was no opposition present. Mr. Pederson read the case and associated stipulations into the record, and the motion was made to add O.B. 65 to the Consent Agenda.

O.B. 65 To consider amending the site plan and the stipulations for Poag Shopping Centers, LLC regarding rezoning application Z-139 of 1999, for property located on the south side of Dallas Highway in land lot 333 of the 20th district (3625 Dallas Highway).

To **approve** O.B. 65, subject to:

- 1. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 2. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 3. The Architectural Control Committee to review the plan for the elevations, with the District Commissioner to approve the final elevations prior to any permits including the Demolition Permit**
- 4. All previous stipulation and conditions, *not otherwise in conflict*, to remain in effect**

MOTION: Motion by Gambrill, second by Richardson, to **add** O.B. 65 to the Consent Agenda as previously read in.

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

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

Chairwoman Cupid called for a brief recess from 9:38 a.m. until 9:48 a.m.

Following the recess, Mr. Pederson announced that there was no longer opposition to O.B.64; therefore, O.B. 64 could be added back to the Consent Agenda. Mr. Pederson read in the case and its stipulations, and the motion was made to add the case back to the Consent Agenda.

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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 64 To consider amending the site plan and the stipulations for Gabe Hrib regarding rezoning application Z-35 of 2009, for property located on the north side of Laura Lake Drive and on the west side of Bells Ferry Road in land lot 713 of the 16th district (193 Laura Lake Drive).

To approve O.B. 64, subject to:

1. The approved site plan is the 1999 plan titled “Laura Lake Subdivision”, contained in the Other Business packet (attached and made a part of these minutes)
2. Maximum of nine lots that shall have a minimum of 20,000 square feet each
3. All homes shall be “For Sale” with no rentals and be owner occupied for single-family use *only*
4. Homes shall be 1,800 square-feet to 2,200 square-feet or greater
5. Maximum of 35% impervious per lot
6. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
7. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
8. All previous stipulations from the 2005 Settlement of Litigation (Other Business #1), *not in conflict with this amendment*, to remain in effect (attached and made a part of these minutes)

MOTION: Motion by Birrell, second by Sheffield, to add O.B. 64 back to the Consent Agenda as previously read in.

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

MOTION: Motion by Birrell, second by Sheffield, to approve the Consent Agenda, *as revised*.

VOTE: **ADOPTED** 5-0 (*Statements previously 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
DECEMBER 19, 2023
PAGE 14**

REGULAR AGENDA

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 a mixed-use development consisting of townhomes, multifamily, office, retail, and wholesale distribution 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 September 5, 2023, Planning Commission (PC) hearings until the October 3, 2023, PC hearing; held by the PC from the October 3, 2023, and November 7, 2023, PC hearings until the December 5, 2023, PC hearing).*

The public hearing was opened; Kevin Moore and Tullan Avarad addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Sheffield, to **hold** Z-15 until the February 20, 2024, Board of Commissioners' (BOC) Zoning Hearing.

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

***Clerk's Note:** Commissioner Birrell requested the Applicant to do the following prior to the February 20, 2024, BOC Zoning Hearing:*

- 1. Provide a revised Site Plan to be zoned PVC for the entire 57+ acres*
- 2. No variances*
- 3. Trees along Chastain Meadows to remain*
- 4. Landscape Plan and buffers along 575 and Chastain*
- 5. Recommendations from ARC and the DRI Report to be incorporated or updated and Traffic Plan as well*
- 6. Meetings with the public and Commissioner Birrell to review*

Z-30 **QUIKTRIP CORPORATION** (BK Canton, LLC, owner) requesting rezoning from **GC** to **NRC** for a convenience store with fuel sales in land lot 60 of the 16th district. Property is located on the south side of Jamerson Road, and the west side of Canton Road (4815 Canton Road). *(Previously held by the Planning Commission (PC) from the September 5, 2023, through the November 7, 2023, PC hearings until the December 5, 2023, PC hearing).*

The public hearing was opened; Kevin Moore, Lawton Jordan, Parks Huff, and Carol Brown addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Gambrill, to **hold** Z-30 until the February 20, 2024, Board of Commissioners' (BOC) Zoning Hearing.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 19, 2023
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REGULAR AGENDA (CONT.)

Z-30 QUIKTRIP CORPORATION (CONT.)

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

Clerk's Note: *Commissioner Birrell requested the Applicant to do the following prior to the February 20, 2024, BOC Zoning Hearing:*

- 1. Applicant to try to reconfigure the gas pumps to be closer to the Jamerson side with the building in front so that would be less of an impact to the businesses next door*
- 2. Work out the shared driveway agreement with the adjoining landowner (Bellini Construction), the shared parking and the driveway access on Canton and limit that to a right-in/right-out as well as Jamerson*
- 3. Recommend meetings with Canton Road Neighbors and the property owners and their representative*

Z-49 DG EAST COBB GUTHRIES, LLC (DG East Cobb Guthries, LLC, owner) requesting rezoning from **PSC** to **NRC** for a restaurant in land lot 69 of the 1st district. Property is located on the south side of Lower Roswell Road, west of Johnson Ferry Road (4774 Lower Roswell Road). (***Previously continued by the Planning Commission (PC) from the November 7, 2023, PC hearing until the December 5, 2023, PC hearing.***)

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

MOTION: Motion by Richardson, second by Gambrill, to **approve** Z-49 to the **NRC** zoning district, subject to:

- 1. Staff comments and recommendations**
- 2. Letter of agreeable conditions from Kevin Moore dated December 11, 2023 (attached and made a part of these minutes)**

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

At the call for LUP-29 (James A. Frank), 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 16 of these minutes for the final motion).

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 19, 2023
PAGE 16**

OTHER BUSINESS

O.B. 60 To consider amending the site plan and stipulations for Enoch Appiah regarding rezoning application Z-55 of 2014, for property located on the west side of Powell Drive, south of Sidney Ann Boulevard in land lot 34 of the 18th district (5780 Powell Drive).

The public hearing was opened; Enoch Appiah, Valentine Egbune, and Robin Meyer addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **deny** O.B. 60.

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

***Clerk's Note:** Commissioner Sheffield stated that Code Enforcement will resume the issuance of violations and citations since the case is no longer in court, and those violations are to include any other infractions or violations at the site including the used car lot.*

Mr. Pederson announced that the Applicant for LUP-29 (James A. Frank) had been contacted and that he was not going to be able to attend the hearing, and he was prepared to accept whatever determination the Board would make for his property. Mr. Pederson read in the case and the Board heard from the opposition.

REGULAR AGENDA (CONT.)

LUP-29 **JAMES A. FRANK** (James Frank, owner) requesting a **Temporary Land Use Permit** for firearm manufacturing in land lot 291 of the 18th district. Property is located on the east side of Queen Mill Road, north of Mableton Parkway (6585 Queen Mill Road).

The public hearing was opened, and the Applicant was not present. Robin Meyer and Brenda Nash addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **deny** LUP-29.

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

Chairwoman Cupid called for a brief recess from 12:01 p.m. until 12:08 p.m.

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 19, 2023
PAGE 17**

OTHER BUSINESS (CONT.)

O.B. 61 To consider stipulation amendments for Leopard Pinestraw regarding rezoning application Z-57 of 1997 for property located on the southwesterly side of Veterans Memorial Highway, north of Hickory Trail in land lot 69 of the 18th district (740 Veterans Memorial Highway)

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

MOTION: Motion by Sheffield, second by Birrell, to **deny** O.B. 61.

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

***Clerk's Note:** Commissioner Sheffield stated that Code Enforcement will begin notification of violations for non-compliance with the landscape conditions of 1997 and all other conditions that have not been met in both the 1997 Zoning Application and the 2018 Other Business Item.*

Chairwoman Cupid called for a brief recess from 12:20 p.m. until 12:26 p.m.

Following the recess, Mr. Pederson announced that the Applicant for O.B. 56 (Justin K. Willis) had come to an understanding with Cobb DOT and the District Commissioner; therefore, the case could be added back to the Consent Agenda. Mr. Pederson read in the case, the associated stipulations were read in, and the motion was made to add O.B. 56 back to the Consent Agenda.

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 56 To consider a reduction of public road frontage from 75-feet to zero-feet for Tracts 2, 3, and 5; to waive the impervious buffer on Tract 2; and to allow setback and location variances for the existing sheds on Tracts 4 and 6 for Justin K. Willis for property located on the north side of Turnstone Drive in land lot 145 of the 20th district (4060 Turnstone Drive). (*Previously continued by Staff from the November 21, 2023, Board of Commissioners' (BOC) Zoning hearing until the December 19, 2023, BOC Zoning hearing.*)

To **approve** O.B. 56, subject to:

1. Stipulation letter from Ernest J. Campbell, III dated December 13, 2023, which includes the Site Plan dated September 27, 2023, with the District Commissioner approving minor modifications (attached and made a part of these minutes), with the following change to the letter:

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 19, 2023
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CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 56 (CONT.)

- A. Second bullet on page 2 – Change to a 20-foot-wide private drive (currently listed as 14-foot-wide on the Site Plan)
2. The rollback curb on Turnstone will remain and the Applicant will repair any sections in disrepair as requested by DOT
3. Applicant will either install a sidewalk or pay a fee in lieu of along Turnstone
4. No further subdivision of this property
5. The request for the impervious setback buffer on Tract 2 is removed from this request
6. Stormwater Management Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
7. Site Plan Review comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
8. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)
9. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)

MOTION: Motion by Gambrill, second by Richardson, to add O.B. 56 back to the Consent Agenda as previously read in.

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

MOTION: Motion by Gambrill, second by Richardson, to approve the Consent Agenda, *as revised*.

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

OTHER BUSINESS (CONT.)

- O.B. 63 To consider amending the site plan and stipulations for Danny J. Fuleihan regarding rezoning application Z-168 of 2003, for property located on the west side of Heyward Square Place in land lot 226 of the 1st district (5450 Heyward Square Place).

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
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PAGE 19**

OTHER BUSINESS (CONT.)

O.B. 63 (CONT.)

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

MOTION: Motion by Richardson, second by Gambrill, to **approve** O.B. 63, subject to:

- 1. Site Plan submitted on November 9, 2023 (attached and made a part of these minutes)**
- 2. Area of the buffer not impacted by the retaining wall is to be replanted**
- 3. All previous conditions and stipulations, *not otherwise in conflict*, to remain in effect**
- 4. Final Landscaping Plan to be approved by the District Commissioner**

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

Chairwoman Cupid called for a lunch recess from 12:37 p.m. until 1:07 p.m.

O.B. 67 To consider a Settlement of Litigation for NPS Ventures regarding case OB-65 of 2022. The property is located at the northwest intersection of Johnson Ferry Road and Waterfront Drive in land lot 470 of the 16th district (3033 Johnson Ferry Road).

The public hearing was opened; Richard Grome, Rachel Bruce, David Rumrill, and Nik Erramilli addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Cupid, to **approve** O.B. 67, subject to:

- 1. Settlement of Litigation letter from Nik Erramilli dated November 29, 2023 (attached and made a part of these minutes), with the following changes:**
 - A. Item 2(c) - *Rest homes and personal care homes* - no overnight stays allowed**
 - B. Item 2(e) - *In-Home Day Care* – remove in its entirety**
 - C. Item 3 - List of *prohibited uses* shall also include the following:**
 - i. Mattress stores**
 - ii. Thrift stores**
 - iii. Fulfillment Centers**
 - iv. Furniture Rental Stores**
 - v. Convenient Stores**
 - vi. No outside storage**

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
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PAGE 20

OTHER BUSINESS (CONT.)

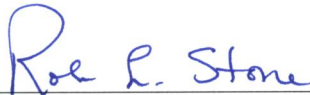
O.B. 67 (CONT.)

- D. Item 2 – *Banks* to be added as a *permitted use*
- E. Supermarkets exceeding 10,000 square feet as an approved use are limited to the footprint of the current building; any changes exceeding the current size of the footprint shall come back as Other Business

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

ADJOURNMENT

The hearing adjourned at 2:04 p.m.



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

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 Boards 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.

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.

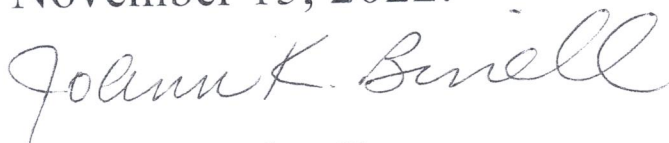
On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

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







Via E-mail Only

November 29, 2023

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

RE: Application for Rezoning – Application No. Z-47 (2023)
Applicant: Bentley Residential Properties, LLC; Summerour Properties, LLLP; Summerour Farm, LLLP (Note: Summerour Farm, LLLP was not originally listed in zoning analysis packet)

Property: 2.669 acres, more or less, located north of Gresham Road and east of Fairview Street, being more particularly known as 0, 1302, 1306 Gresham Road (Note: Zoning analysis packet had 1302 listed as 1330), Land Lots 1137, 16th District, 2nd Section, Cobb County, Georgia

Dear John:

The undersigned is representing all landowners and is one of the Applicants (hereinafter referred to as "Applicants"); as well as, the Property Owners enumerated in the pending Applications for Rezoning, with regard to a total tract of 2.669 acres more or less, located north of Gresham Road and east of Fairview Street, being more particularly known as 0, 1302, 1306 Gresham Road (Note: Zoning analysis packet had 1302 listed as 1330), Land Lots 1137, 16th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property". After meetings with the Planning and Zoning Staff, reviewing the Departmental Comments and Staff Recommendations, and reviewing the uses of surrounding properties we are submitting this letter of agreeable stipulations and conditions, which, if the Applications for Rezoning are approved, as submitted, shall become a part of the grant of the requested rezoning, and shall be binding upon the Subject Property. The proposed stipulations are 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 on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.

(2) Applicant seeks rezoning of approximately 2.669 acres of the Subject Property from the existing zoning classification of R-20, R-15 to the proposed zoning classification of Light Industrial ("LI"); with reference to the As-Built Survey prepared for Applicant, dated 8-1-2023, and submitted with the Application for rezoning on 9-6-23. A reduced copy of the As-Built Survey is attached as "**Exhibit A**".

(3) Applicant seeks rezoning of the Subject Property to allow for the operation of a landscape and tree service business.

(4) Minor modifications to the within stipulations, may be approved by the District Commissioner, as needed or necessary, except for those that:

(a) Would be in direct contradiction or conflict with any of the stipulations of this rezoning.

(b) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or

(c) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.

(5) The Applicants agree to install a 6-foot chain-link fence with privacy fabric. This fence will front along Gresham Road and will continue up Fairview Street to our proposed driveway entrance. This fence will be used to shield our site for aesthetic purposes, as well as to help mitigate any noise or dust concerns.

(6) The Applicants will install a 25-foot concrete commercial driveway entrance off Fairview Street which meets the recommendations and requirements of Cobb County Department of Transportation and Cobb Fire and Emergency Services.

(7) This entrance will be gated and a KnoxBox will be used to ensure Cobb Fire and Emergency Services can access our property.

(8) The proposed hours of operation are Monday through Saturday from 7 AM to 7 PM, and if necessary, on Sunday from 1 PM to 5 PM.

(9) Applicants are open to discussion with Cobb County Department of Transportation regarding options on Fairview Street upgrades, and what the fee may be in lieu of those requirements.

(10) Applicants agree to comply with the Comments and Recommendations made by the Cobb County Department of Transportation limited to Fairview Street only. The current land disturbance permit for this project will not initiate any improvements to Gresham Road. Applicants agree to Comments and Recommendations made by the Cobb County Department of Transportation for Gresham Road upon future redevelopment not related to this current application.

(11) Applicants agree to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property as follows:

(a) Applicants have contacted the adjoining landowner, NGT Investments LLC, at 111 Fairview Street and received a signed letter from the owner who is aware of existing water flow from our property across his parcel "**Exhibit C**".

(b) Applicants have obtained a signature from 111 Fairview Street that the adjacent owner does not object to our zoning that was not originally submitted in our zoning application "**Exhibit C**".

(c) Applicants have obtained a signed letter of support for our request for zoning from 1349 Gresham Road. This will be "**Exhibit B**".

(d) Applicants are willing to install a 5'x5' flow well on our land to assist with stormwater going across 111 Fairview Street.

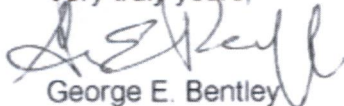
(e) The rear of subject property (1302 Gresham Road) is a narrow area that does not allow for the accommodation of sizeable detention. Stormwater flow has historically moved through the area that intersects 1306, 0, 1349 Gresham Road and 111 Fairview Street and will ultimately discharge onto Applicant's Property between the subject property and North Marietta Parkway. We don't anticipate that construction of a 40' x 100' building and a small gravel parking area will appreciably affect the existing volume of water that travels through the described area. We expect this will be borne out of a required hydrology study.

Any pertinent feedback, or issues with this stipulation letter would be greatly appreciated as time is of the essence for us to be prepared for this case to be heard in December. We appreciate your prompt attention to this letter.

We believe the requested rezoning, pursuant to the referenced Survey, and the stipulations set forth herein, is an appropriate use of the Subject Property. The approvals, as sought in the Applications, will allow for Applicants to help expand economic development in Cobb County and boost employment opportunities for this area. We very much appreciate your consideration, as well as that of the Cobb County Planning Commission and Cobb County Board of Commissioners.

With kindest regards, I remain

Very truly yours,



George E. Bentley

EXHIBIT B

Petition No. Z-47
Meeting Date 12-19-2023
Continued

Erline Cruz
1349 Gresham Rd
Marietta, GA 30062

October 2, 2023

I am writing this letter is in support of the zoning for properties 1302, 1306 Gresham Road and Parcel #16113700980 from Residential to Light Industrial. I am also in support of reducing the buffer of my property which adjoins the properties being zoned from 50 feet to 20 feet. I feel that this buffer reduction would also satisfy Cobb County Zoning Requirements.

Mr. Bentley and I have discussed possible plantings that would satisfy me regarding the separation of m property from the Bentley/Summerour property.

I would have liked to attend this meeting in person but it would not be possible with my employment requirements.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'Erline Cruz', written over a horizontal line.

Erline Cruz

Exhibit C



North Georgia Timber, LLC.

Petition No. 2-47
Meeting Date 12-19-2023
Continued

P.O. Box 4333 • Marietta, GA 30061
Phone • 404-606-2569

November 13, 2023

Cobb County Zoning Department

RE: Water flow from Bentley Properties & Rezoning

To Whom It May Concern

I am Scot Teverino, owner of 111 Fairview Street, Marietta, GA 30062 and owner of North Georgia Timber, LLC which operates a wood chip business out of said property. Mr. Bentley and I have been in discussions about water flow across the northeastern corner of my property. Currently the water flows from Mr. Bentley's property down across my property through an existing low area and ultimately discharges onto the Bentley Farm property. Mr. Bentley and I have agreed to work together on how the water will ultimately flow across my property.

As the water has always flowed through this area of my property and the fact that it is an undeveloped portion of 111 Fairview St., my current feeling is that construction of a building and a parking lot should not appreciably change the amount of discharge, nor cause adverse effects to my property. If there are any issues in the future resulting from a change in water flow, Mr. Bentley and I will work together to solve said issues.

I am currently in support of Mr. Bentley's request for rezoning on 1302, 1306, and 0 Gresham Road from Residential to Light Industrial zoning. If you have any questions or need further information, please contact me at 404-606-2569.

Sincerely,

Scot Teverino
Owner – North Georgia Timber, LLC
GA Registered Forester #2374

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

MARIETTA, GEORGIA
EMERSON OVERLOOK
328 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) 692-9039

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 (606) 309-0026

ORLANDO, FLORIDA
390 N. ORANGE AVENUE
SUITE 625
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

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

December 11, 2023

Via E-mail Only

Min. Bk. 98 Petition No. Z-49
Doc. Type letter
Meeting Date 12-19-2023

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-49 (2023)
Applicant/Property Owner: DG East Cobb Guthries, LLC
Property: 0.317 acres, more or less, located on the
southerly side of Lower Roswell Road,
westerly of Johnson Ferry Road, being more
particularly known as 4774 Lower Roswell
Road, 1st District, 2nd Section, Cobb County,
Georgia

Dear John:

The undersigned and this firm represent DG East Cobb Guthries, LLC, who is the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), in the referenced Application for Rezoning with regard to a total tract of approximately 0.317 acres located on the southerly side of Lower Roswell Road, westerly of Johnson Ferry Road, being more particularly known as 4774 Lower Roswell Road, Land Lot 69, 1st District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property"). After meetings with Planning and Zoning Staff, communications and meetings with area residents and civic association representatives, reviewing the Departmental Comments and Staff Recommendations, reviewing the uses of surrounding properties, and following the presentation to and hearing before the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised 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 rezoning and shall be binding upon the Subject Property. The proposed, revised stipulations are as follows:

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 4
December 11, 2023

Petition No. Z-49
Meeting Date 12-19-2023
Continued

- (1) Applicant seeks rezoning of the Subject Property from the existing zoning category of Planned Shopping Center ("PSC") to the proposed zoning category of Neighborhood Retail Commercial ("NRC"), with reference to the Site Plan prepared for Applicant by the Foresite Group, LLC, dated April 17, 2023, and filed contemporaneously with the Application for Rezoning on September 7, 2023. A reduced copy of the Site Plan is attached as Exhibit "A" and incorporated by reference.
- (2) The Subject Property consists of 0.317 acres, more or less, and shall be redeveloped for a drive-thru restaurant only, with no interior dining facilities.
- (3) The maximum size of the remodeled building shall be 1,500 square feet.
- (4) The remodeled building and related signage shall be consistent with the Johnson Ferry Road Design Guidelines, and shall be substantially similar to the attached Exhibit "B."
- (5) Applicant agrees to utilize outdoor employee order service as part of the drive-thru service during expected, heavier volume times.
- (6) Applicant agrees there shall be no parking or stacking of workers or construction vehicles on Lower Roswell Road during the renovation and reconstruction of the building.
- (7) Applicant seeks the following contemporaneous variances pursuant to the NRC zoning classification:
 - (a) Reduction of the required minimum parking spaces from fifteen (15) spaces to ten (10) spaces;
 - (b) Waiver of the minimum front setback from the required fifty (50) feet to twenty (20) feet (existing front setback); and
 - (c) Allow for an increase in the maximum impervious surface area from seventy (70) percent to 92.9 percent (existing impervious surface area).

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 4
December 11, 2023

- (8) Minor modifications to the within stipulations, the referenced Site Plan, lighting, signage, landscaping, building architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
- (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (e) Change an access location to a different roadway;
 - (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
 - (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or
 - (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.
- (9) Applicant agrees to comply with the Departmental Comments and Staff Recommendations compiled by County Staff.

We believe the requested rezoning, together with the Site Plan presented and the revised stipulations set forth herein, would allow for a more appropriate use for the Subject Property while taking into consideration the overall area and uses of properties surrounding the proposed development. We very much appreciate your consideration; as well as, that of the Cobb County Planning Commission and the Cobb County Board of Commissioners, in this request.

MOORE INGRAM JOHNSON & STEELE

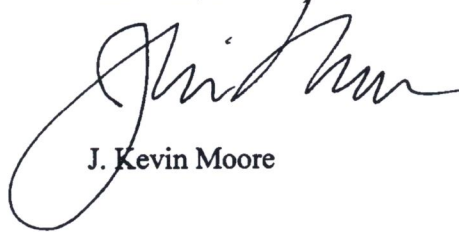
Petition No. E-49
Meeting Date 12-19-2023
Continued

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 4
December 11, 2023

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

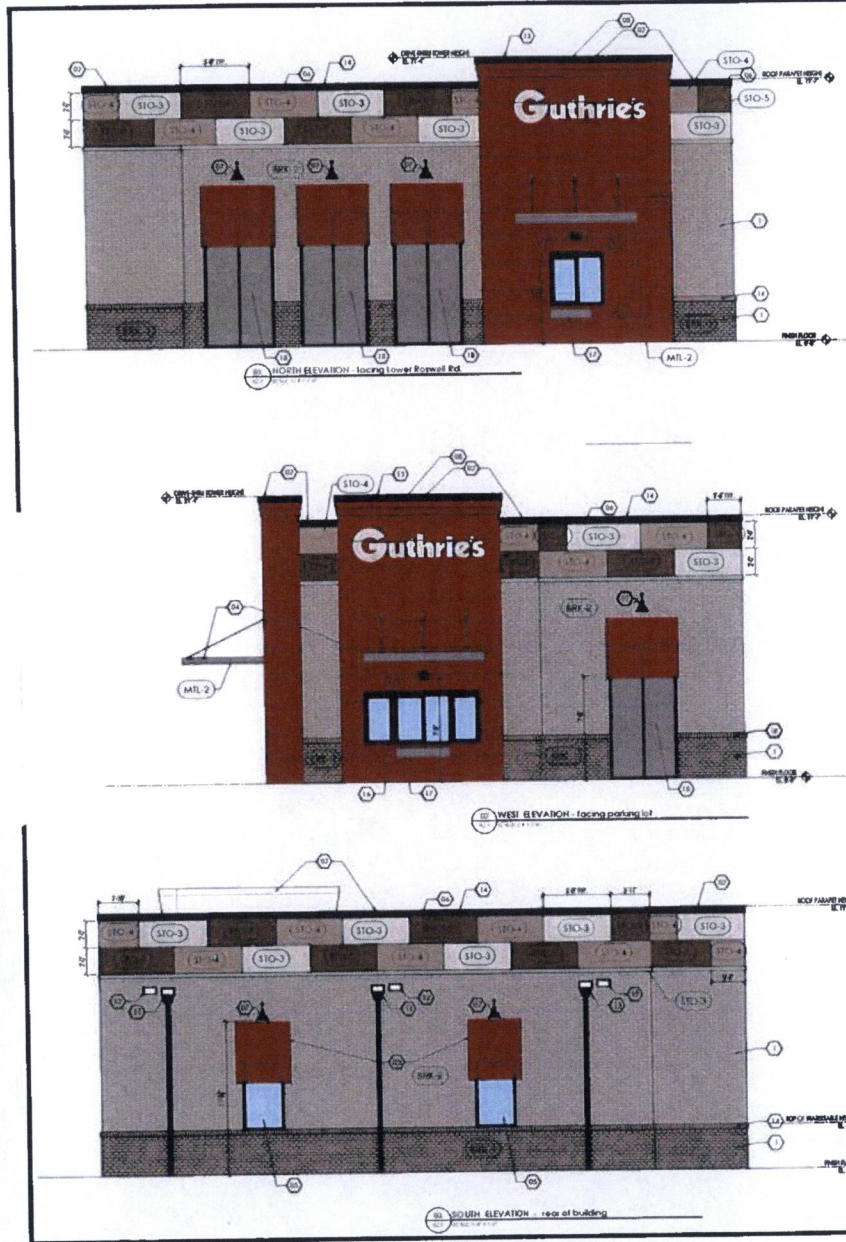
JKM:cc

Attachments

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

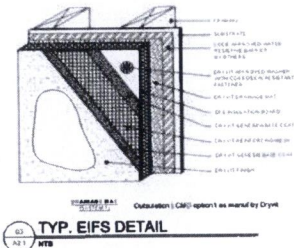
Jeannie Peyton
Senior Planner
Zoning Division
Cobb County Community Development Agency
(With Copies of Attachments)

DG East Cobb Guthries, LLC
(With Copy of Attachment)



EXTERIOR FINISH SCHEDULE	
CODE	DESCRIPTION
SIO-1	BENJAMIN MOORE MOCHA CREAM CC458
SIO-2	SHERWIN WILLIAMS 7055 REAL ENDURING BRONZE
SIO-3	SHERWIN WILLIAMS 6201 SIMPLY WHITE 260-C7
SIO-4	SHERWIN WILLIAMS 6079 DIVERSE BIEGE 198-C2
SIO-5	SHERWIN WILLIAMS 9084 COCA WHIP 198-C4
BRK-1	M/S VELOUR MEDIUM GRAY
BRK-2	M/S VELOUR LIGHT GRAY
MTL-1	DARK BRONZE COPING/CANOPY FRAME/DOWNSPOUT
MTL-2	ANODIZED CANOPY
MTL-3	FABRIC AWNING - LOCO RED

NOTE: GENERAL BRICK AND MANUFACTURE NOTES:
 1. COLOR CODE FOR ALL MANUFACTURE TO BE COLOR USE FROM ABOVE BRICK
 2. BRICK TO BE MEDIUM SIZE
 3. FINE COLOR FOR FINISH COLOR IS TO BE SHIPWILLIAMS BRICKS
 4. CONSTRUCTION TO BE MEDIUM FOR ALL COLORS FOR APPROVAL
 5. COLOR TO BE MEDIUM, DO NOT INSTALL OR APPLY ANY COLORS WITHOUT
 OWNER AND ARCHITECT APPROVAL
 6. ALL SUCCEED FINISH COLOR ARE TO BE MEDIUM COLOR WITHIN
 THE SUCCEED FINISH COLOR AND ARE TO MATCH THE INDICATED SHIPWILLIAMS
 FINE COLOR, DO NOT FINISH SUCCEED



ELEVATION NOTES:

1. PROVIDE SECURE BRACING FOR ALL CANOPY & LIGHT LOCATIONS.
2. CONTRACTOR TO PROVIDE COLOR SAMPLES FOR ALL EXTERIOR MATERIALS BEFORE INSTALLATION.
3. DOWNSPPOUTS TO BE 30 HORIZONTAL BRAIN INSIDE SIDEWALK OR CURB.

ELEVATION KEYNOTES:

- 60 BBE V. FIVE 1/4" BARS @ 18" SPACING BARS 1" MINIMUM D. BRIDGE DECK, FROM
 61 BOTTOM OF CONCRETE SLAB, TO TOP OF CURB AND SIDEWALK
 62 60' LONG @ 10' SPACING LUGS. CORDOR TO MATCH DECK BEHIND
 63 C.C. 10' TO PROVIDE AND BRIDGE. UNLESS I HAVE WRITTEN MY AIRLIFT SUPPORT
 64 60' LONG SUPPORT. FITTED UNDER A BRIDGE. (1) BRIDGE VALLEY METALS, INC. BLDG.
 65 100' LONG 10' WIDE
 66 7/8" X 5/8" STEEL PLATE
 67 1" MINIMUM. 1" SLIP END PLATES
 68 60' LONG 10' WIDE. 1" MINIMUM. 1" SLIP END PLATES. 1" MINIMUM. 1" SLIP
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**Shenck
huckestein
architects, PC**

architecture . planning . interior design

2236 14th Avenue Birmingham, AL
35209
Phone (205) 322-1750
Fax (205) 322-1776
email info@shuck.com
www.shuck.com

A Renovation for:
GUTHRIE'S
4774 Lower Roswell Road
Marietta, GA

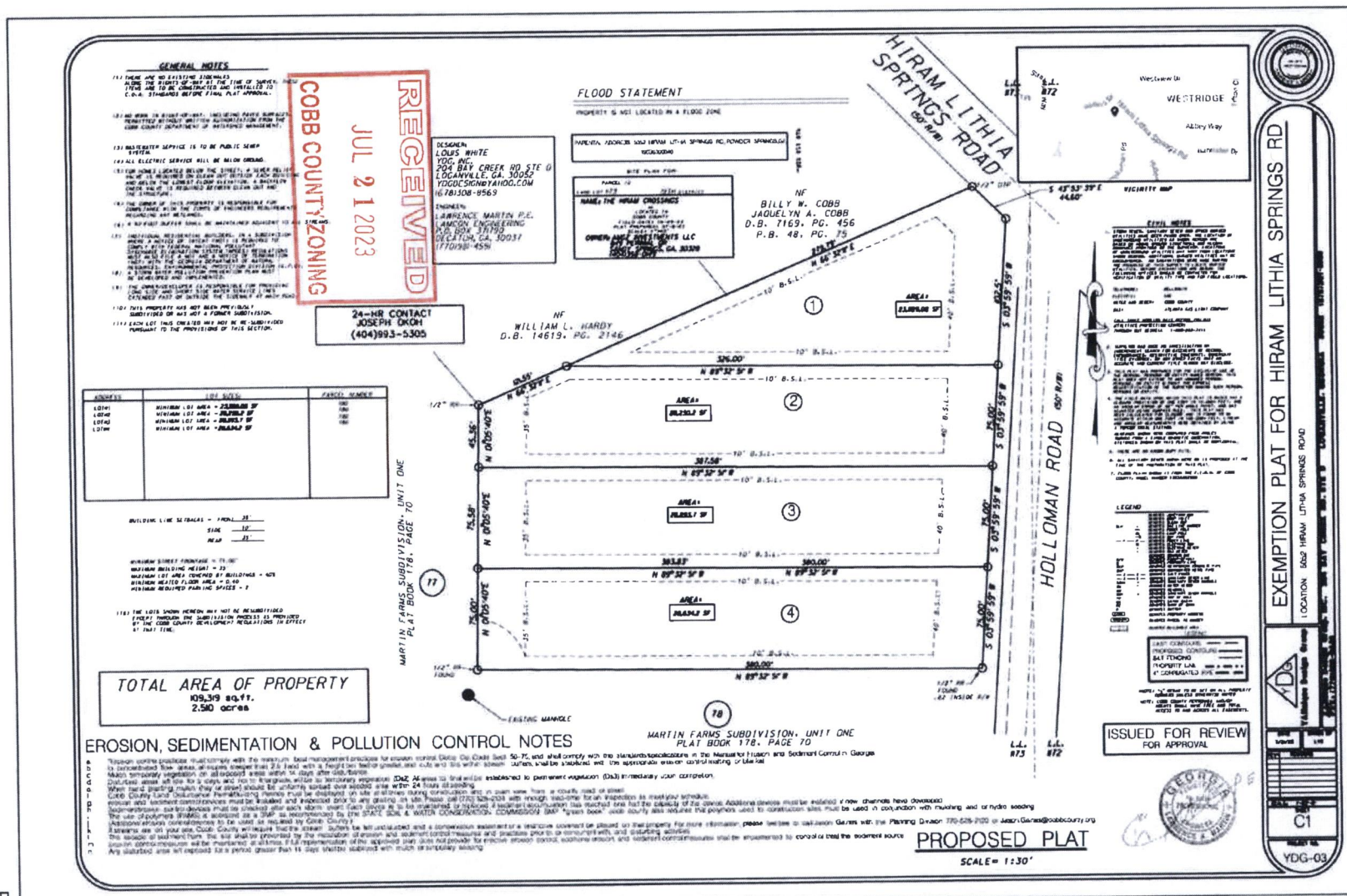
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DRAWING NO.
A2.1 ALT-1

Meeting Date 12-19-2023

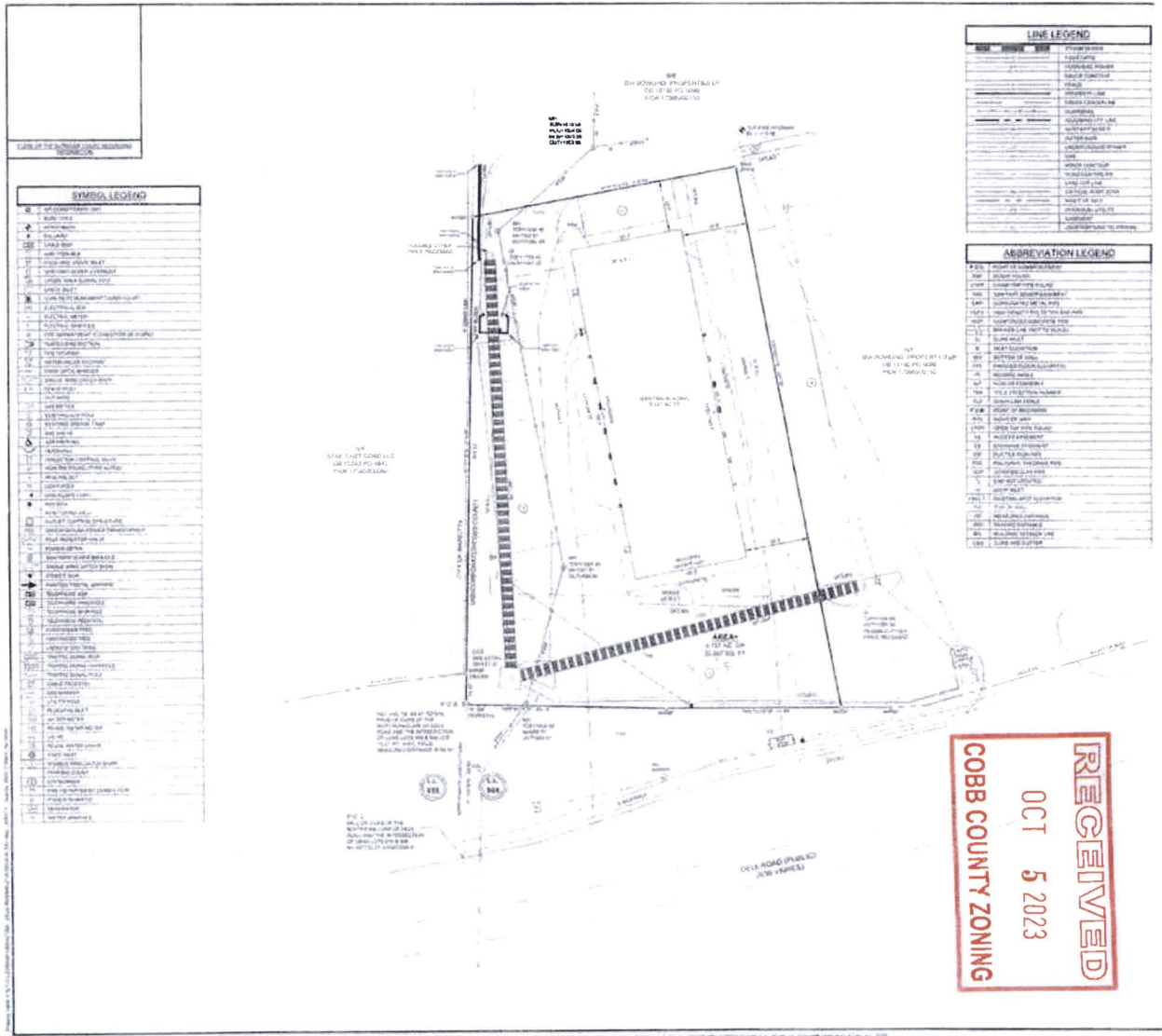
Z-56-2023

DEPARTMENT COMMENTS – Zoning Division



Z-58-2023

DEPARTMENT COMMENTS – Zoning Division



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) 428-1466

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 625
ORLANDO, FLORIDA 32801
TELEPHONE (407) 367-6233

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

November 27, 2023

Via E-mail Only

Min. Bk. 98 Petition No. Z-58
Doc. Type Letter
Meeting Date 12-19-2023

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-58 (2023)
Applicant: Christian Brothers Automotive Corporation
Property Owner: WB Holdings-Delk Road, LLC
Property: 0.76 acres, more or less, located on the
 northerly side of Delk Road; westerly of
 Powers Ferry Road, being more particularly
 known as 2739 Delk Road, S.E.,
 Land Lot 869, 17th District, 2nd Section,
 Cobb County, Georgia

Dear John:

The undersigned and this firm represent the Applicant, Christian Brothers Automotive Corporation (hereinafter referred to as "Applicant"), and the Property Owner, WB Holdings-Delk Road, LLC (hereinafter referred to as "Owner" or "Property Owner"), in the above-referenced Application for Rezoning with regard to a total tract of 0.76 acres, more or less, located on the northerly side of Delk Road, westerly of Powers Ferry Road, and being more particularly known as 2739 Delk Road, S.E., Land Lot 869, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). After meetings and conferences with Planning and Zoning Staff; as well as, other County Departmental Staff; 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 rezoning 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 3
November 27, 2023

Petition No. 2-58
Meeting Date 12-19-2023
Continued

- (1) Applicant seeks rezoning of the Subject Property from the existing zoning classification of General Commercial ("GC") to the proposed, deleted zoning classification of Community Retail Commercial, site plan specific to the As-Built Survey ("Survey") prepared for Applicant by Gaskins + LeCraw, Inc., dated August 24, 2023, and filed with the Application for Rezoning on October 5, 2023. A reduced copy of the Survey is attached as Exhibit "A" for reference.
- (2) By the filing of this letter of agreeable stipulations and conditions, Applicant formally amends its Application for Rezoning by deleting the requested category from the Light Industrial zoning category to the proposed Community Retail Commercial ("CRC") zoning category, with the condition that Applicant shall be permitted to perform limited heavy vehicle repairs which shall occur only in the interior of the building.
- (3) Applicant seeks the following contemporaneous variances pursuant to the CRC zoning classification:
 - (a) Reduction of the minimum lot size from 40,000 square feet to 32,000 square feet;
 - (b) Waiver of the minimum front setback from the required seventy-five (75) feet to fifty-seven (57) feet; and
 - (c) Wavier of the minimum rear setback from the required thirty (30) feet to twenty-three (23) feet.
- (4) Applicant agrees all vehicles shall be parked within striped parking spaces;
- (5) Applicant agrees there shall be no outdoor storage of vehicle parts.
- (6) Applicant agrees there shall be no outdoor displays of merchandise.

The requested rezoning, pursuant to the Survey, the deleted zoning classification, and the stipulations set forth herein, is an appropriate use of the Subject Property. We appreciate very much your consideration; as well as, that of the Cobb County Planning Commission and Cobb County Board of Commissioners, in this request.

MOORE INGRAM JOHNSON & STEELE

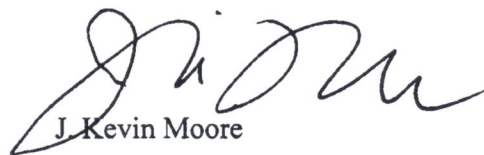
Petition No. Z-58
Meeting Date 12-19-2023
Continued

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 3
November 27, 2023

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)

Jeannie Peyton

Senior Planner

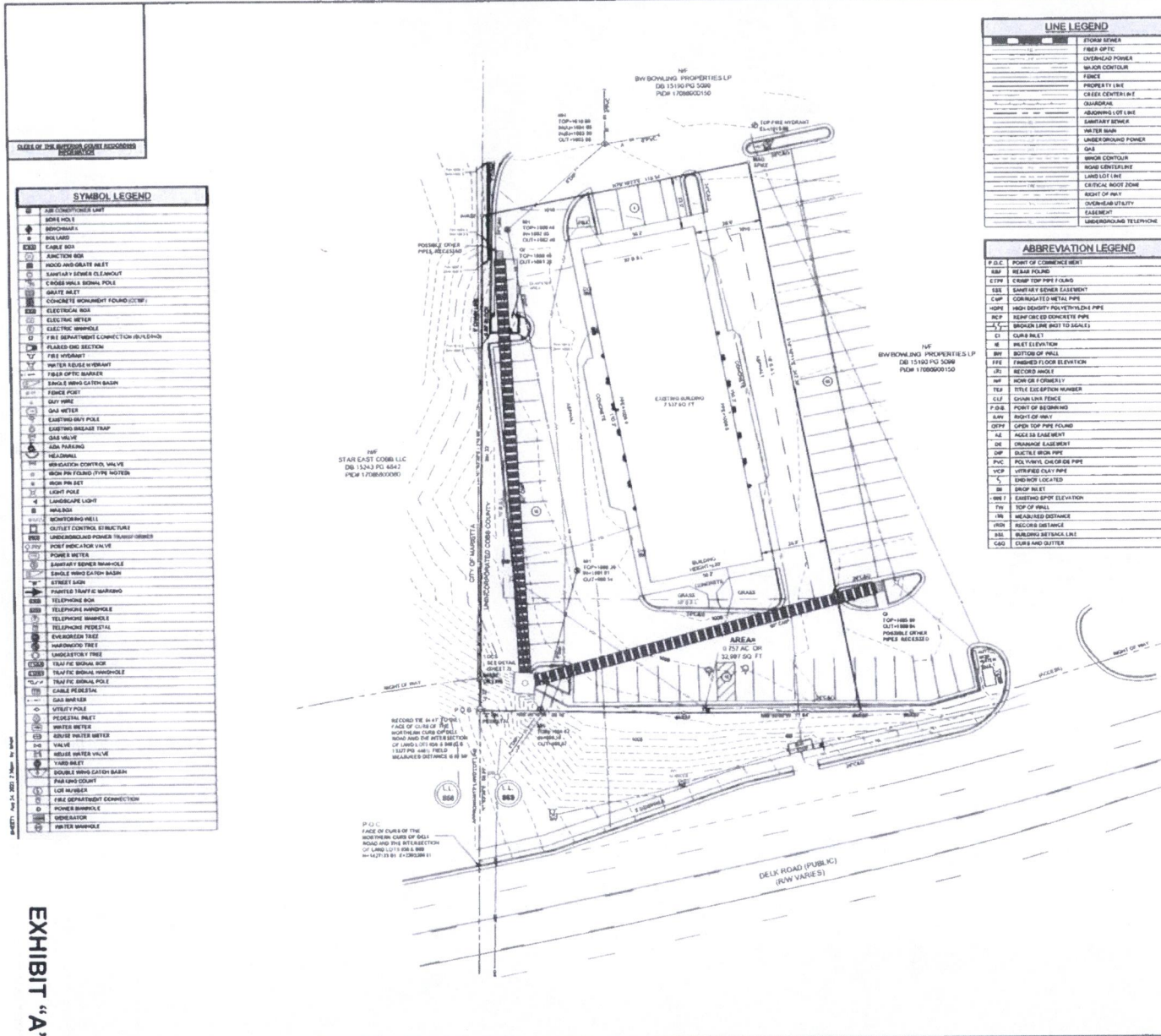
Zoning Division

Cobb County Community Development Agency

(With Copy of Attachment)

Christian Brothers Automotive Corporation

(With Copy of Attachment)



SURVEY NOTES

1. THE FIELD SURVEY WAS PERFORMED ON NOVEMBER 21, 2023. ALL DATA IS BASED ON THE DATE OF THE SURVEY AND IS SUBJECT TO CHANGE IN THE FUTURE.
2. THE FIELD DATA WHICH THIS MAP OR PLAN IS BASED ON HAS A CURRENT PRECISION OF 1 FOOT IN 300 FEET. AN ANGLE ERROR OF 1 SECOND PER ANGLE POINT AND THIS ANGLE ERROR IS BASED ON THE FIELD DATA WHICH THIS MAP OR PLAN IS BASED ON.
3. THIS MAP OR PLAN HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN 1 FOOT IN 300 FEET.
4. THE VERTICAL DATUM IS BASED ON NAVD83. THE HORIZONTAL DATUM IS BASED ON NAD83. THE DATUM IS BASED ON THE DATUM OF THE SURVEY.
5. ALL DISTANCES ARE SHOWN AS HORIZONTAL DISTANCES.
6. THE SOURCE OF TITLE IS 1988 HOBBS-DEKOR ROAD, 141.00 (1.227) P. 141.00.

GENERAL NOTES

1. PROPERTY ADDRESS: 2738 DELTA ROAD, FROM COBB ROAD.
2. 1/4 SECTION 10, T12N, R10E, S12W.
3. CURRENT TOWN OF: MARIETTA.
4. SURVEYED AND GENERAL COMMERCIAL DISTRICT.
5. SHOWN FRONT SETBACK: 10 FEET.
6. SHOWN REAR SETBACK: 10 FEET.
7. SHOWN SIDE SETBACK: 10 FEET.
8. THE SURVEYED LINES OF THE SUBJECT PROPERTIES ARE CONTIGUOUS WITH THE SURVEYED LINES OF THE ADJACENT PROPERTIES.
9. ALL CORNER MONUMENTS SET ARE 10 INCH REBAR WITH PLASTIC CAPSULES OTHERWISE NOTED.

SITE SPECIFIC NOTES

1. SUBJECT PROPERTY HAS ACCESS TO THE PUBLIC ROAD RIGHT OF WAY OF DELTA ROAD PER ACCESS EASEMENT OF 1/4 SECTION 10.
2. THE ADJACENT LINES OF THE SUBJECT PROPERTIES ARE CONTIGUOUS WITH THE SURVEYED LINES OF THE ADJACENT PROPERTIES.
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6. THE ADJACENT LINES OF THE SUBJECT PROPERTIES ARE CONTIGUOUS WITH THE SURVEYED LINES OF THE ADJACENT PROPERTIES.

ENCROACHMENT NOTES

1. 1/4 SECTION 10, T12N, R10E, S12W.
2. 1/4 SECTION 10, T12N, R10E, S12W.
3. 1/4 SECTION 10, T12N, R10E, S12W.
4. 1/4 SECTION 10, T12N, R10E, S12W.
5. 1/4 SECTION 10, T12N, R10E, S12W.
6. 1/4 SECTION 10, T12N, R10E, S12W.

SURVEYOR'S CERTIFICATION

I, the undersigned, being duly qualified and licensed as a Professional Surveyor in the State of Georgia, do hereby certify that this map or plan is a true and correct representation of the facts as shown to me by the owner or owners of the land surveyed, and that the same has been prepared in accordance with the laws and regulations of the State of Georgia, and that the same is a true and correct representation of the facts as shown to me by the owner or owners of the land surveyed, and that the same has been prepared in accordance with the laws and regulations of the State of Georgia.

Jeff D. Demetree
DATE: 12/19/2023
AS SURVEYOR FOR GASKINS & LECRAW, INC.

GASKINS & LECRAW
1200 POWDER SPRING RD SW
MARIETTA, GA 30060
PHONE: 770.421.7188
WWW.GASKINS-LECRAW.COM

REVISIONS

NO.	DATE	DESCRIPTION
1	12/19/2023	ISSUED FOR PERMIT

GENERAL NOTES

ALTAIR LANE TITLE SURVEY FOR
CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION
FIRST AMERICAN TITLE INSURANCE COMPANY

2738 DELTA ROAD
DELR ROAD
17TH DISTRICT, 2ND SECTION
COBB COUNTY, GEORGIA

CALL BEFORE YOU DIG

811
Know what's below.
Call before you dig.

SCALE & NORTH ARROW

SCALE: 1" = 30'

SURVEY INFO:

DATE: 12/19/2023
BY: JDD
FOR: GSK

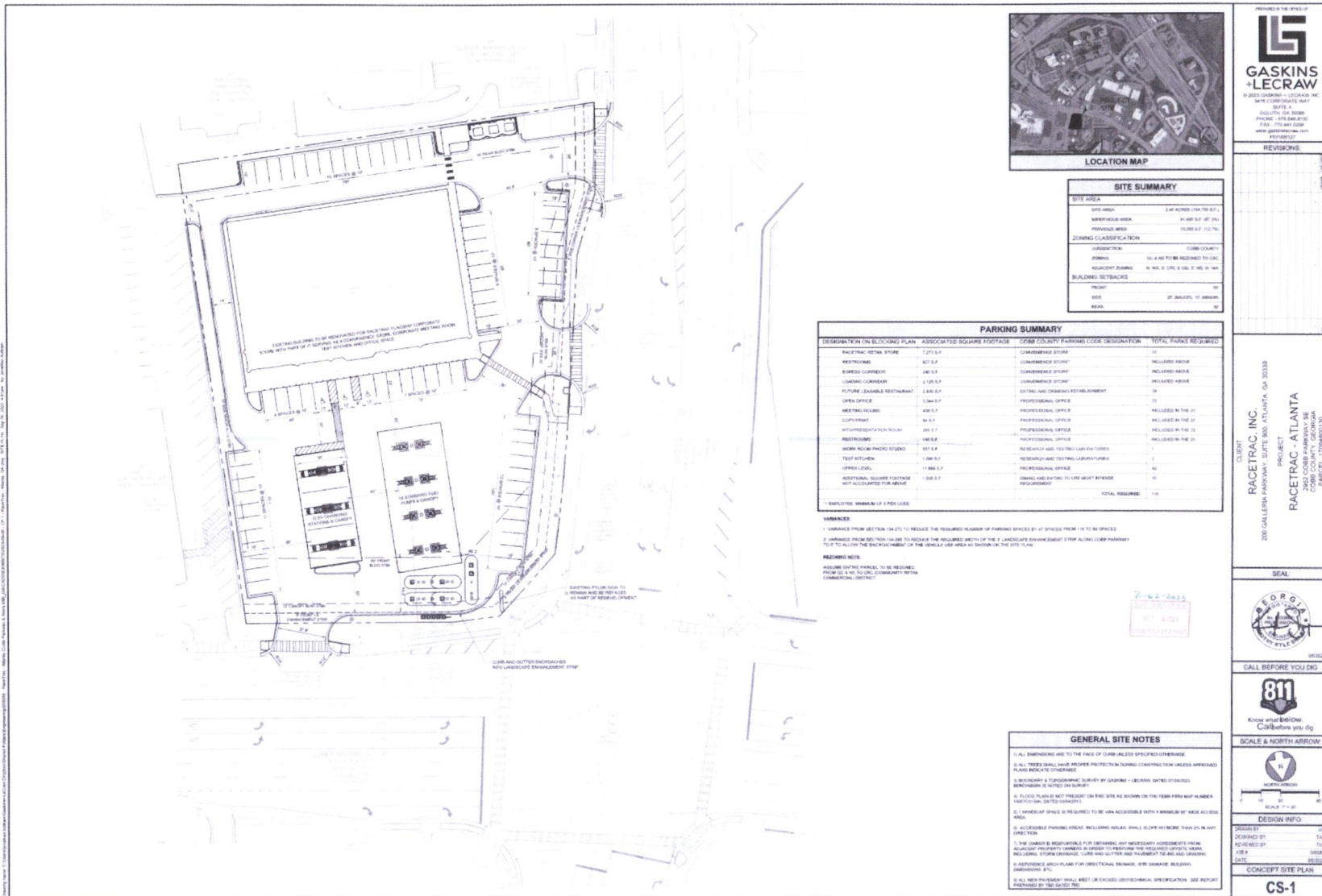
SHEET TITLE

1 OF 2

Meeting Date 12-19-2023

Z-62-2023

DEPARTMENT COMMENTS – Zoning Division

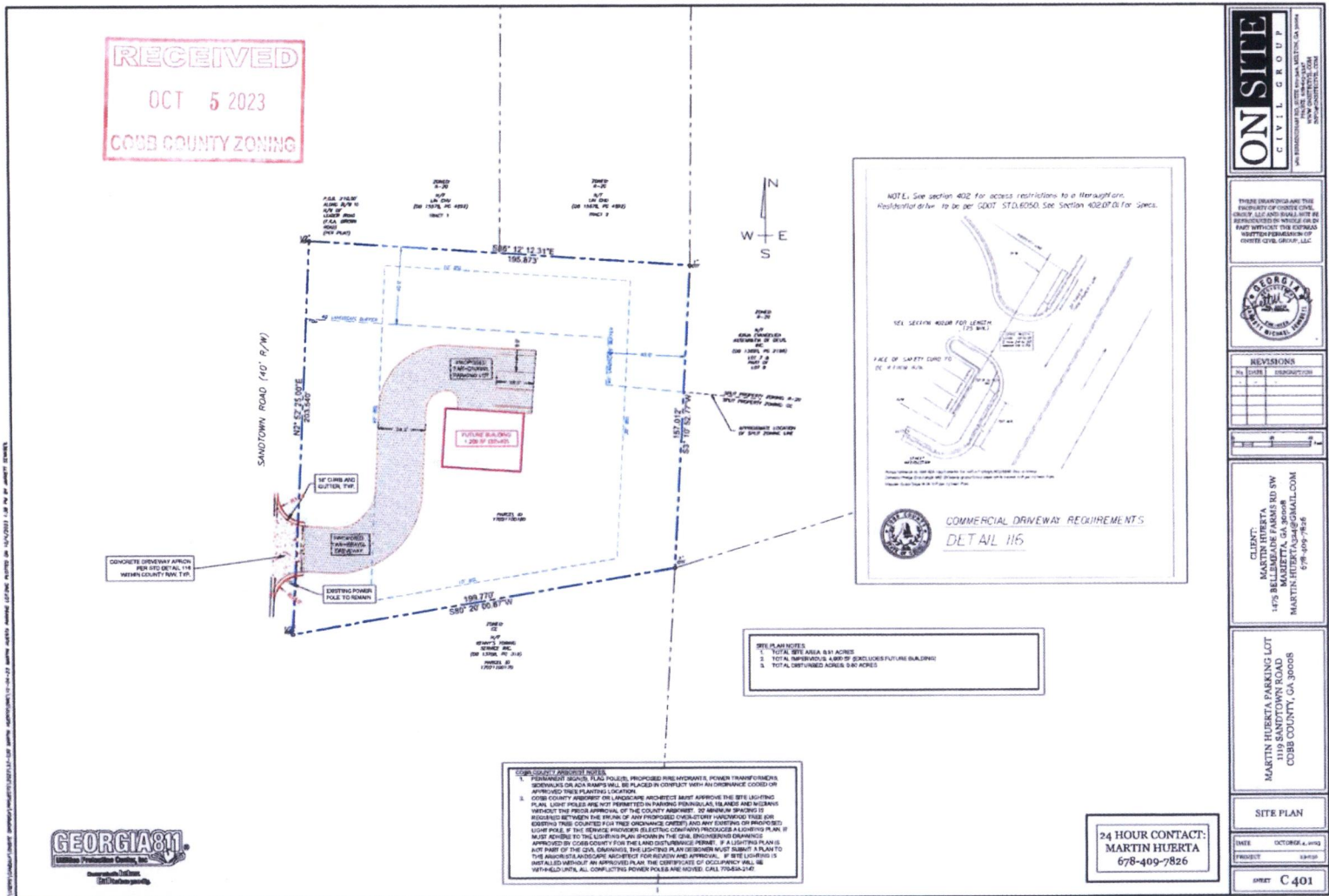


Min. Bk. 98 Petition No. Z-63
Doc. Type Site Plan

Meeting Date 12-19-2023

Z-63-2023

DEPARTMENT COMMENTS – Zoning Division







MAILING ADDRESS
1635 OLD 41 HWY
STE 112-346
KENNESAW, GA 30152



ERNEST J. (E.J.) CAMPBELL III
PRINCIPAL BROKER
GA LIC: 321328

678-283-4994
EJCAMPBELL@COMCAST.NET

December 13, 2023

VIA Hand Delivery: 12/13/2023

VIA Email: 12/13/2023

TO: **Mr. John Pederson, AICP**
Zoning Division Manager
Cobb County Community Development Agency
1150 Powder Springs Rd. STE 400
Marietta, GA 30064
7770-528-2024
john.pederson@cobbcounty.org

Min. Bk. 98 Petition No. OB-56
Doc. Type Letter w/ Site Plan

Meeting Date 12-19-2023

RE: **"Other Business" Application No. 56 (2023)**
Agreeable Stipulations, Revised Site Plan and Additional Information
Applicant: Dr. Justin K. Willis
Subject Property: 4060 Turnstone Dr. Kennesaw, GA 30152

Mr. Pederson:

I hope this letter finds you well. The above referenced "Other Business" Application is currently scheduled to be heard by the Board of Commissioners (BOC) on Tuesday, December 19, 2023. This document and attachments provide additional information, a revised site plan and agreeable stipulations for this application.

The Subject Property is currently zoned both R-20 and R-30 with the R-30 district being the predominant regulation by land area. The Applicant seeks to utilize the regulations from the more restrictive R-30 district throughout and requests minor modifications to these existing regulations pursuant to partitioning of a six (6) lot residential subdivision. A total of 5 new residential lots are created. The existing dwelling shall remain on a newly sized and configured lot and maintain its current driveway location on Turnstone Drive.

Access to interior lots will be by shared private driveway with a thirty foot (30') wide ingress-egress and utility easement from Turnstone Drive. The easement shall be recorded as restrictive covenants running with the land. Permanent joint maintenance provisions for the shared private drive shall also be established to ensure adequate maintenance. The responsibility for maintenance shall be solely upon the respective property owners and no responsibility for maintenance shall be transferred to Cobb County.

MAILING ADDRESS
1635 OLD 41 HWY
STE 112-346
KENNESAW, GA 30152



ERNEST J. (E.J.) CAMPBELL III
PRINCIPAL BROKER
GA LIC: 321328

678-283-4994
EJCAMPBELL@COMCAST.NET

The Applicant intends to maintain ownership of Tracts 3, 5 and 6 as currently identified on the revised Conceptual Plan for future construction of single-family residential dwellings for personal use as well as immediate and/or extended family. Use of tracts 1 and 2 will be new construction of single-family detached residential dwellings for sale. The new homes will be of high quality and have a style and size consistent with new construction in the market area and appropriately complement the adjacent and nearby residential properties. More specifically, the new homes will have traditional architecture feature a mixture of masonry and fiber cement exterior finishes. Additionally, the new homes will have at least 2,600 square feet of conditioned living space and, at minimum, a two-car attached garage.

A revised Conceptual Plan dated September 27, 2023 is attached hereto and replaces the version submitted with the application. This version of the Conceptual Plan was developed as a result of productive conversations and meetings with County departmental staff and members of the Applicant's project team. A summary of changes and concurrently requested variances are as follows:

- Allow for shared private driveway with ingress-egress and utility easement off of Turnstone Dr. for access to Tracts 2, 3 and 5. The requests to have interior tracts front the private driveway and minimum lot width to be measured along private driveway are removed from this Application.
- The shared private driveway shall have concrete apron and minimum 50' concrete paving behind the apron at the intersection with Turnstone Dr. All individual single-family dwellings shall have a minimum of 50' concrete driveway extending from the garage. The remaining area of the private driveway shall be either 1) gravel aggregate with concrete ribbon curb border or 2) concrete paving.
- The request to waive the 75' Impervious buffer on Tract 2 is removed from this Application. Tract 2 has been reconfigured and the buildable area outside of existing stream buffers has been increased.
- The request to allow for Shed on Lot 6 to remain at its present location relative to the proposed property lines and in front of the primary structure to be built is removed from this Application. The shared private driveway has been realigned and relocated. This Shed shall be removed.
- Allow for the Wood Shed on Tract 4 to remain at its present location relative to the proposed property lines.

MAILING ADDRESS
1635 OLD 41 HWY
STE 112-346
KENNESAW, GA 30152



Petition No. OB-56
Meeting Date 12-19-2023
Continued

ERNEST J. (E.J.) CAMPBELL III
PRINCIPAL BROKER
GA LIC: 321328

678-283-4994
EJCAMPBELL@COMCAST.NET

In regards to the concept of use of a private shared driveway for this project, it is important to note that the Applicant and project team have thoughtfully considered various access methods for interior tracts during the initial site plan design and subsequent revisions. Ultimately, the shared private drive was incorporated in the site plan as it best allows for the Applicants desires to minimize land disturbance and removal of existing tree cover. Additionally, this concept reduces the number of driveways accessing Turnstone Drive and provides an opportunity to reduce overall impervious surfaces across the project by incorporating areas of permeable driveway surfaces as described herein.

On October 25, 2023 an on-site surface water evaluation was conducted with Mr. Frank Gipson, CPESC, Erosion Control Division Manager, along with Mr. John Krewson, PE (Project Engineer) and the Applicant to determine the existence and extent of 'Blue Line' or State waters on the Subject Property. Based on existing conditions, a consensus was reached among Mr. Gipson and the Project Engineer that no additional surface water features amounting to 'Blue Line' or State waters are present beyond those identified on the revised Conceptual Plan dated September 27, 2023. Documentation affirming these site conditions will be submitted during the plan review process.

With respect to the information provided herein, this letter constitutes the Applicant's agreement with the stipulations as identified below. This agreement is subject to the Application approval in substantial conformity to the revised Conceptual Plan and updated information submitted concurrently with this document. The Applicant agrees that the following stipulations shall become binding conditions upon the approved application (language is specific to ITEM OB-56-2023 case notes made available to applicant's representative on November 9, 2023 and attached hereto):

A. Compliance with the comments and recommendations of the Cobb County Fire Marshal's Office (CCFMO) inclusive of the following:

1. Email correspondence from Mr. Jeffrey Byrd, Site Plan Reviewer / Fire Protection Analyst dated November 22, 2023, this document being attached hereto and incorporated by reference. This document modifies the CCFMO comments with project-specific details developed through direct conversations and correspondence with Mr. Nicholas Dawe, Division Chief / Fire Marshal, and Mr. Jeffrey Byrd (language is specific to ITEM OB-56-2023 case notes and the 11/22/23 email correspondence from Mr. Byrd).
2. The five (5) new construction homes shall include a multi-use fire sprinkler system per NFPA 13D. The existing home is excluded from this requirement.

MAILING ADDRESS
1635 OLD 41 HWY
STE 112-346
KENNESAW, GA 30152



Petition No. OB-56
Meeting Date 12-19-2023
Continued

ERNEST J. (E.J.) CAMPBELL III
PRINCIPAL BROKER
GA LIC: 321328
678-283-4994
EJCAMPBELL@COMCAST.NET

3. Access road, as defined by CCFMO, and driveway to support a minimum of 25 tons (50,000 lbs).
 4. Access road, as defined by CCFMO, to have a minimum of 14 feet wide unobstructed driving surface width.
- B. Compliance with the comments and recommendations of the Cobb County Department of Transportation (DOT) inclusive of the following:
1. Donation of land area for the purpose of right-of-way (ROW) on the north side of Turnstone Drive. The new ROW shall extend 25' from the center line of the existing roadway as currently shown on the revised Conceptual Plan dated September 27, 2023 and attached hereto.
 2. Compliance with sight distance requirements for the shared private driveway / access to Turnstone Drive.
 3. Compliance with residential driveway design requirements pursuant to Cobb County Development Standard 402.7.1 and Standard Detail 116R – Residential Driveway for the shared private driveway and access to Turnstone Drive.
 4. Cobb County will not maintain the shared private driveway.
- C. Compliance with the Cobb County Stormwater Management and Erosion Control codes and regulations.
1. In regards to stormwater management facilities, it is worthwhile to note that given the layout of the revised Conceptual Plan and existing topography, the Project Engineer is currently considering a stormwater management design that incorporates individual stormwater systems for each tract.
- D. Compliance with the Cobb County Site Plan Review Section comments.
- E. Additional Stipulations
1. Compliance with the following schedule for on-site development and construction activities:

MAILING ADDRESS
1635 OLD 41 HWY
STE 112-346
KENNESAW, GA 30152



**CAPITAL
ASSOCIATES**
REAL ESTATE LLC

Petition No. 08-56
Meeting Date 12-19-2023
Continued

ERNEST J. (E.J.) CAMPBELL III
PRINCIPAL BROKER
GA LIC 321328

678-283-4994
EJCAMPBELL@COMCAST.NET

- a. Monday to Friday 7:00 am to 6:00 pm
- b. Saturday 7:00 am to 4:00 om
- c. Sunday No work allowed on Sunday

2. The District Commissioner shall have the authority to approve minor modifications for this development throughout the plan review process and afterwards with the exception of modifications that rise to the level of a Variance.
3. The stipulations set fourth in this document shall control over any previous or conflicting stipulations.

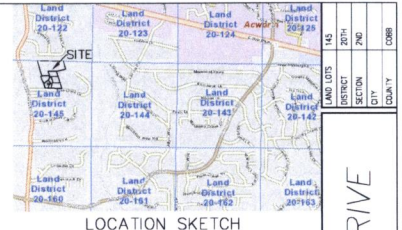
Please feel free to contact me with any questions regarding these items or the application at large. Thank you for your expertise and consideration in this matter.

Best regards,

CAPITAL ASSOCIATES REAL ESTATE LLC

Ernest J. (E.J.) Campbell III
Applicant Representative
678-283-4994
ejcampbell@comcast.net

cc: Dr. Justin K. Willis
attachments



UNLESS STATE OTHERWISE, HEREIN, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. NO LIABILITY IS ASSUMED BY THE SURVEYOR FOR ANY DEFECTS OR OMISSIONS IN THE MATTER THAT MAY BE DISCOVERED BY AN ABSTRACT OF TITLE OR TITLE SEARCH OF THE PROPERTY.

UNLESS STATE OTHERWISE, HEREIN, ONLY RECORDS OF EASEMENTS PREVIOUSLY RECORDED AND FILED WITH THE DEEDS DEPARTMENT FOR CALIFORNIA LAND GROUND VIEW OF THE PREMISES ARE SHOWN. THE PRESENT SURVEY AND EASEMENTS ARE NOT TO BE CONSIDERED AS CREATING EASEMENTS, RIGHT-OF-WAY, ERECTIONS, AND SETBACK REQUIREMENTS. THIS DOES NOT PRECLUDE THE SURVEYOR FROM OPINING ON WHETHER OR NOT RECORDS OF THE PUBLIC RECORDS, INCLUDING BUT NOT LIMITED TO THE RECORDS OF THE COUNTY CLERK, MAY BE ASSOCIATED WITH THE EXISTENCE OF ANY EASEMENTS.

REPRODUCTIONS OF THIS PLAT ARE NOT VALID UNLESS SEALED AND SIGNED WITH AN ORIGINAL SURVEYOR.

INFORMATION REGARDING THE REQUIRED PRELIMINARY SITE CHARACTERIZATION AND ANALYSIS OF THE PROPOSED ERECTIONS AND STRUCTURES IS SHOWN HEREIN AND WAS BASED ON VISIBLE AROUND THE PROPERTY. THERE ARE NO WARRANTIES OR GUARANTEES FOR WATER RIGHTS, ETC. THERE IS NO GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. THE SURVEYOR DOES NOT GUARANTEE THAT THE INFORMATION PROVIDED HEREIN IS COMPLETE OR THAT ANY INFORMATION BEING USED FOR THESE PURPOSES, INCLUDING THE LOCATION AND DIMENSIONS OF THE PROPOSED ERECTIONS AND STRUCTURES, MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE PRESENT. THE SURVEYOR DOES NOT GUARANTEE THAT THE SURVEYOR'S CONTRACTORS SHALL HEREBY EXHAUSTIVELY UNDERSTAND THE INFORMATION PROVIDED HEREIN AND IS NOT RESPONSIBLE FOR THE COMPLETENESS OR SUFFICIENCY OF THIS INFORMATION.

[illegible]

SURVEY NOTES:
THE FIELD WAS CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE IN EXCESS OF ONE FOOT IN
1:928,000 FEET
EQUIPMENT USED: GEODIM ZOOM 95 ROBOTIC TOTAL STATION W/ BOSHAK BSH500 DATA
COLLECTOR.
THE FIELD DATA UPON WHICH THE PLAT IS BASED HAS A CLOSURE PRECISION OF ONE
FOOT IN 17,162 FEET, AND ANGULAR ERROR OF 9" PER PLAIN POINT AND WAS ADJUSTED BY
LEAST SQUARES.
DISTANCES SHOWN ON THE PLAT ARE GROUND DISTANCES.
HORIZONTAL DATUM NAD 83
VERTICAL DATUM NAVD 83
TOPOGRAPHIC DATA FROM COBB COUNTY GIS
FIELD DATES 08/27/2002
09/02/03
REFERENCES:
PLAT BOOK 68 PAGE 1
PLAT BOOK 113 PAGE 68
PLAT BOOK 123 PAGE 88
PLAT BOOK 236 PAGE 57
PLAT BOOK 277 PAGE 68
PLAT BOOK 280 PAGE 387
FLOOD HAZARD NOTE:
THIS PROPERTY IS NOT IN A SPECIAL FLOOD HAZARD PER FIRM MAP
13067C016H DATED 10/05/01 IN THE COBB COUNTY GEORGIA.

SITE SUMMARY:
SITE AREA
 562,411 S.F. 12.911 ACRES
ZONING:
 R-30 - 412,776 SF 9.476 AC.
BLDG. SETBACKS:
 FRONT: 50'
 SIDE: 12'
 REAR: 40'
MINIMUM HOUSE SIZE: 1350 SF
 R-20 - 149,635 SF 3.435 AC.
BLDG. SETBACKS:
 FRONT: 35'
 SIDE: 10'
 REAR: 35'

DEVELOPER MUST INSTALL SERVICES FOR EACH LOT.

SURVEYOR:
LAND SYSTEMS LLC
1872 WINNDALE ROAD
DALLAS, GA 30157
PHONE: (404) 285-2583
EDWARD VICKREY, RLS
edvickrey@comcast.net



CONCEPTUAL PLAN FOR:
4060 TURNSTONE DRIVE

REVISIONS	DATE	 LAND SYSTEMS LLC LAND SURVEYING SERVICES DeLois Georgia 30137 (404) 285-2563 Fax 770 445 7405 TX	JOB NO. DRAWN BY CHECKED BY DATE SCALE	2023-72 MW EV 08-27-23 1"=40'
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1 of 1

DECEMBER 19, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1

Min. Bk. 98 Petition No. OB-56
Doc. Type Cobb DOT, Stormwater Mngmt, Site Plan Review,
and Fire Dept comments and recommendations
Meeting Date 12-19-2023

ITEM OB-56-2023

To consider a reduction of public road frontage from 75-feet to zero-feet for Tracts 2, 3, and 5, to waive the impervious buffer on lot 2, and allow setback and location variances for the existing sheds on Tracts 4 and 6 for Justin K. Willis for property located on the north side of Turnstone Drive in Land Lot 145 of the 20th District (4060 Turnstone Drive). (*Continued by Staff from the November 21, 2023 hearing until the December 19, 2023 hearing*).

BACKGROUND

The Board of Commissioners considers all reductions to minimum public road frontage pursuant to a code amendment to Sec. 134-271(7)(a) adopted on February 27, 2018. The subject property is zoned R-20 and R-30 and is required to have 75-feet of public road frontage per lot. The applicant desires to develop six large lots on this 12.9 -acre property. To proceed, several variances will be needed. Tracts 2, 3, and 5 have zero-feet public road frontage and access will be provided via a recorded ingress/egress and utility easement. The applicant also needs setback and location variances for the existing accessory buildings on Tracts 4 and 6. Lastly, the applicant is asking for a variance to the 75-foot impervious buffer on Tract 2 to allow for a larger buildable area. The proposed lots would meet the building setbacks, lot size, and impervious coverage.

STAFF COMMENTS

Cobb DOT: See attached.

Stormwater Management: The applicant to meet all Cobb County Stormwater Management and Erosion Control codes and regulations.

Water & Sewer Comments: No comments.

Site Plan Review: A land disturbance permit is required for the development of this subdivision. Fully designed civil engineering plans must be submitted to the Site Plan Review Section, Community Development Agency. Once a LDP has been issued and all required site improvements have been installed, inspected, and approved, a final plat must then be submitted for review and approval. Once the final plat has been approved and recorded, individual building permits can be issued.

Fire Department: See attached.

RECOMMENDATION

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

APPLICANT: Justin K. Willis

PETITION NO.: OB-56

PRESENT ZONING: _____

PETITION FOR: _____

FIRE COMMENTS:

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

FIRE DEPARTMENT ACCESS

- 1) Provide details of all access roads required to meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 feet inside radius, 50 foot outside turning radius and an unobstructed vertical clearance of not less than 13 feet 6 inches. (See detail 100A and 100B found in Cobb County Development Standards as well as sections 401.1, 401.8.2, and Cobb Code Section 118-231)
- 2) Fire apparatus access roads shall extend to within 150 feet of all portions of each home (State Modifications IFC 503.1.1).
- 3) Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC 503.2.5).
- 4) Turn-around must comply with the requirements of IFC 503 and Appendix D.
- 5) Single-Family cul-de-sac without island: 38-foot outside radius with island reverts to commercial dimensions.

RESIDENTIAL SINGLE FAMILY ACCESS:

- 1) Driveway must have a minimum 12 foot driving surface width (CCDS 402.07.01) with a minimum 25 foot inside turning radius. Maximum slope of the access road in reference to the apparatus is 10% front to back and 5% side to side. (IFC D103.2)
- 2) Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.0% accounting for a maximum of 8 inches of ground clearance and a wheelbase of 20 ft.

FIRE HYDRANTS:

- 1) Hydrant location must be within 500 feet of the most remote portion of the structure.*
(Additional hydrant may need to be installed.)
- 2) Fire Flow Test from closest existing hydrant shall be provided meeting the minimum.*
(Required Flow: 1,500 gpm @ 20 psi)

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

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

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

- 3) Parking spaces cannot be located within 20 feet of the fire hydrant (CC 118-216 (a)). (Areas near hydrants and FDCs need not be marked as fire lanes.)
- 4) The road at the fire hydrant must have a minimum width of 26 feet and a minimum length of 40 feet, centered on the hydrant. (IFC D103.1)

GUEST PARKING:

Occupant parking shall be installed as required by zoning and additional guest parking shall be required as follows:

- Where driveways to two car garages exceed 50 feet in length, no additional guest parking is required.
- Where driveways to two car garages are at least 22 feet long and 20 feet wide, additional parking shall be required at .5 spaces per dwelling unit.
- Where driveways to two car garages are less than 22 feet long and 20 feet wide, additional parking shall be required at 1 space per dwelling unit.
- Where only single car garages are provided, additional parking shall be required at 2 spaces per dwelling unit.
- Guest parking spaces must be evenly distributed throughout the project.

Modifications may be required to incorporate the Cobb County Fire Marshal's Office comments.

The above is not an all-inclusive list, all applicable fire and life safety provisions must be met.

Jeff Byrd

(770) 528-8814

jeffrey.byrd@cobbcounty.org

Cobb DOT- OB-56-2023

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

Roadway	Location	Average daily trips	Level of service
Turnstone Drive	N/A	N/A	N/A

ITE Land Use	Description	Expected Size (units)	AM			PM			Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
210	Single Family Homes	6	1	3	4	4	2	6	57

vph = vehicles per hour, vpd = vehicles per day, N/A = not available

*Fuel positions is the maximum number of vehicles that can be fueled simultaneously.

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Comments and observations

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

In accordance with Cobb County Code 134-121 and based on site plan dated October 17, 2023, this development does not require a traffic study submittal.

Recommendations

1. Recommend applicant verify that minimum intersection sight distance is available for Turnstone Drive access. This recommendation is pursuant to Cobb County Development Standard Detail 401B, Intersection Sight Distance. If minimum intersection sight distance is not available, recommend implement remedial measures to address safety, subject to the Department's approval, to achieve the minimum requirement of 280'.
2. Recommend installing curb, gutter, and sidewalk along the Turnstone Drive frontage to meet Cobb DOT standards. This recommendation is to address pedestrian accessibility and safety pursuant to Cobb County Development Standard 401.15, Curbs and Gutters (including subsections), Cobb County Development Standard 404 Sidewalks and Pathways, Cobb County Development Standard 405 Accessibility Requirements, and Cobb County Development Standard Detail 106, Concrete Curbs, Medians.

(Continued on the next page)

Cobb DOT- OB-56-2023

3. Recommend private streets, lighting, and utilities be constructed to the Cobb County Standard Specifications for public streets. Private streets that do not meet Cobb DOT specifications for public streets cannot be considered for potential future transfer to Cobb County. This recommendation is pursuant to Cobb County Development Standard 401, Streets and Access (including subsections) and Cobb County Development Standard Details, including the following: Detail 110A, Typical Section Residential Street; Detail 100B, Residential Street Grading; Detail 104A, Typical Residential Cul-de-sac; Detail 104B, Typical Offset Cul-de-sac; Detail 104C, Bubble Cul-de-sac; and Detail 113, Sidewalks.
4. Recommend curb and gutter along both sides and sidewalk along one side of proposed development roadway. This recommendation is to address pedestrian accessibility and safety pursuant to Cobb County Development Standard 401.15, Curbs and Gutters (including subsections), Cobb County Development Standard 404 Sidewalks and Pathways, Cobb County Development Standard 405 Accessibility Requirements, and Cobb County Development Standard Detail 106, Concrete Curbs, Medians.
5. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

DECEMBER 19, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4

Min. Bk. 98 Petition No. OB-62
Doc. Type Cobb DOT comments and
recommendations
Meeting Date 12-19-2023

ITEM OB-62-2023

PURPOSE

To consider a reduction of public road frontage from 75-feet to 50-feet for Tract 3 for Melissa Jones for property located at the southern end of Leah Lane in Land Lots 109, 110, and 123 of the 18th District (5500 Connally Trail).

BACKGROUND

The property is zoned R-30 and is required to have 75-feet of public road frontage. The applicant has 50-feet of frontage on Leah Lane for this 9.185-acre lot. The applicant is trying to subdivide this property off a larger 58-acre tract to settle the estate of her parents. If approved, the new lot would meet setbacks, lot size, impervious surface, and other zoning criteria.

STAFF COMMENTS

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

Water and Sewer: No comments.

Fire Department: CCFMO does not have any objections to OB-63-2023 as presented.

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

Site Plan Review: No comments.

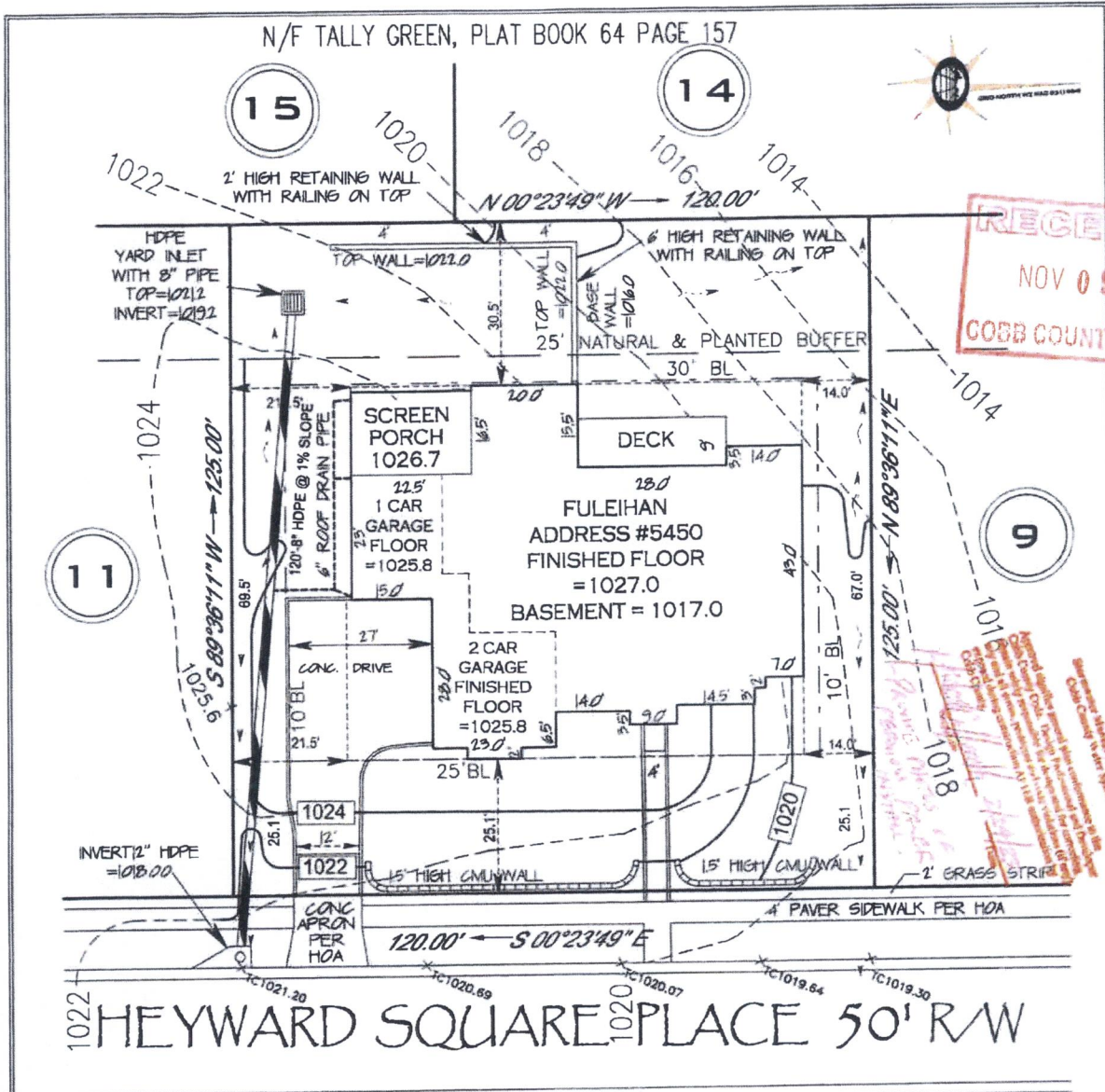
RECOMMENDATION

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

ATTACHMENTS

Other Business Application.

Meeting Date 12-19-2023



ZONING - R15

AREA OF PERVIOUS PAVERS 40% REDUCTION
1216sf x .40 = 486sf

TAX ID #01022600710

IMPERVIOUS AREA PROPOSED	35% < 35%
FOUNDATION	4263 SF
DRIVEWAY/WALKS PAVERS	1216 SF
DRIVEWAY CURB & RET WALLS	251 SF
REDUCTION FOR PAVERS	(486 SF)
DECK	0 SF
TOTAL	5244 SF

5244/15,000 SF = 0.35%

EQUIPMENT USED TO PERFORM SURVEY:
ANGULAR - TOPCON GTS 312 PG 3" THEODOLITE
LINEAR - TOPCON GTS 312 PG AND 100' LUFKIN PIONEER
NON METALLIC TAPE
VERTICAL - LIETZ B-1 AUTOMATIC LEVEL AND 25' LEVEL ROD

N/F DEMOTES NOW OR FORMERLY LISTED ON THE TAX RECORD

THE DIMENSIONS SHOWN ARE PERPENDICULAR TO THE PROPERTY LINE AND ARE MEASURED TO THE CONCRETE SLAB LINE OF THE STRUCTURE UNLESS OTHERWISE SHOWN TO THE FOUNDATION WALL. THE LOT SHOWN CONTAINS 15,000.0 SQUARE FT. SEE PLAT BOOK 280 PAGE 148-150 FOR THE ORIGINAL CLOSURE PRECISION OF THE SUBDIVISION PLAT ON WHICH THIS LOT IS SHOWN ALONG WITH OTHER INFORMATION NOT SHOWN ON THIS SITE PLAN.

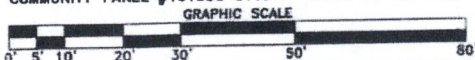
- PROPOSED ELEVATIONS (BOXED)
- EXISTING ELEVATIONS (UNBOXED)
- 1/2" DIAMETER (REBAR) A SOLID STEEL ROD FOUND AT THE PROPERTY CORNER UNLESS OTHERWISE SHOWN.
- 1/2" DIAMETER (REBAR) A SOLID STEEL ROD SET AT THE PROPERTY CORNER UNLESS OTHERWISE SHOWN.

M.H. - SANITARY SEWER MAN HOLE
P.P. - POWER POLE
BTOB - BACK TO BACK OF CURB
F.H. - FIRE HYDRANT
C.B. - CATCH BASIN
D.E. - DRAINAGE EASEMENT
J.B. - JUNCTION BOX
S.S.E. - SANITARY SEWER EASEMENT
B.L. - BUILDING SET BACK LINE
A. - OVERHEAD WIRE (TELEPHONE OR POWER)
DIRECTION OF DRAINAGE FLOW



FOR THE FIRM OF
PLANNING & DEVELOPMENT, INC.
11475 HADEN HWY
MARIETTA, GA 30067-9000
404-314-1964
pdpc.net

THE PROPERTY SHOWN HEREON IS NOT LOCATED IN THE 100 YEAR FLOOD HAZARD AREA AS DEFINED BY FEDERAL EMERGENCY MANAGEMENT AGENCY MAP FOR THIS AREA. COMMUNITY PANEL #13135C 0115 F DATED 09-29-2006



SITE PLAN FOR
UNITED CONTRACTORS INC.
678-770-3356

SUBDIVISION: HEYWARD SQUARE

PHASE: -- LOT NO: 10 BLOCK: --

LOCATED IN:

LAND LOT: 226
DISTRICT: 1st, SECTION 2
CITY: --
COUNTY: COBB, GEORGIA

SCALE 1" = 20'

DATE 01-25-2023

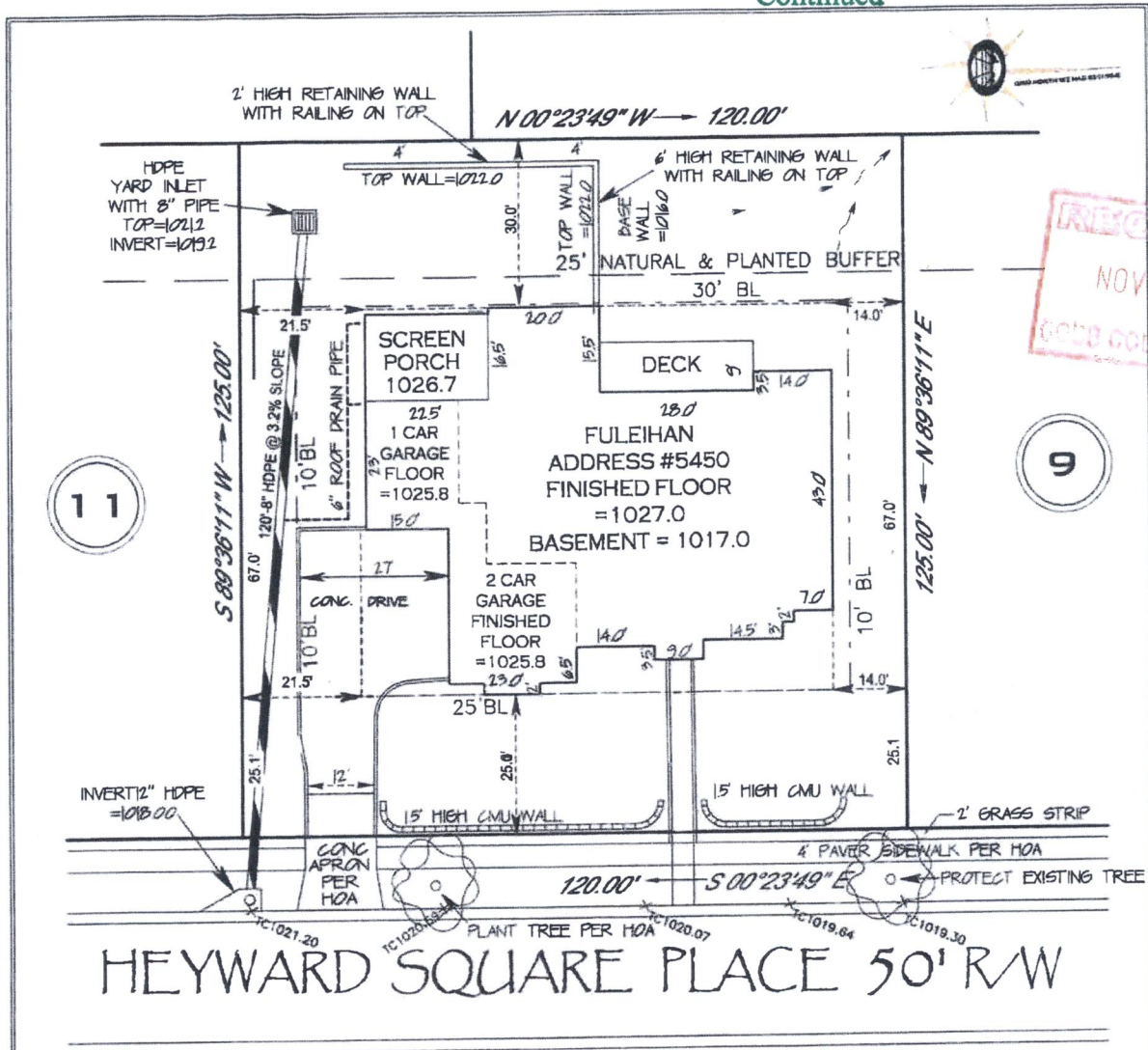
DRAWN BY: F.L.B.

CHECKED BY: [Signature]

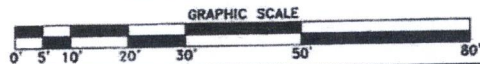
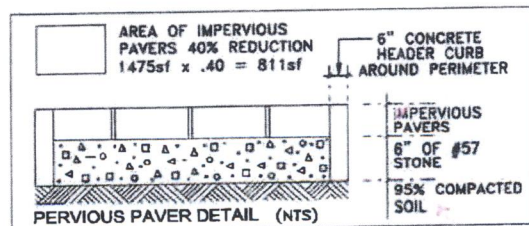
REVISIONS
11-17-2022 TO SHOW THE RETAINING WALLS AND REV IMPERVIOUS CHART FROM SITE PLAN OF 01-24-2022

COPYRIGHT 2023 ©

SHEET 1 OF 2



BRIAN TURNER
Notary Public - State of Georgia
Cobb County
My Commission Expires Apr 12, 2025



DETAILS FOR
UNITED CONTRACTORS INC.
678 - 770 - 3356

SUBDIVISION: HEYWARD SQUARE

PHASE: -- LOT NO. 10 BLOCK: --

LOCATED IN:

LAND LOT: 226
DISTRICT: 1st, SECTION 2
CITY: --
COUNTY: COBB, GEORGIA

DRAWN BY: F.L.B.

CHECKED BY: [Signature]

REVISIONS
11-17-2022 TO SHOW THE
RETAINING WALLS AND REV
IMPERVIOUS CHART FROM
SITE PLAN OF 01-24-2022

SCALE 1" = 20'

DATE 01-25-2023

COPYRIGHT 2023 ©

SHEET 2 OF 2

Meeting Date 12-19-2023



ALL MEASUREMENTS ARE CALCULATED FROM THE CORNER OF THE PLAT SHOWN HEREON.

LINE	BEARING	DISTANCE
L 1	N 89° 20' 24" E	95.50'
L 2	S 00° 39' 36" E	46.35'
L 3	N 89° 20' 24" E	78.00'
L 4	N 88° 44' 21" W	22.87'
L 5	N 89° 20' 24" E	73.50'
L 6	N 89° 20' 24" E	4.00'
L 7	N 89° 20' 24" E	79.00'
L 8	N 04° 37' 56" W	34.90'
L 9	N 78° 13' 59" E	42.12'
L 10	N 04° 37' 56" W	111.00'
L 11	S 15° 00' 51" E	27.11'

REVISED 4/03/01 - THIS PLAT SUPERCEDES THE PLAT RECORDED IN PLAT BOOK 181 PAGE 27. THE PURPOSE FOR THE REVISION IS TO CHANGE SLEWER THROUGH LOT 8.

J.P. Paul DATE 4-26-01
ZONING DIVISION

J.P. Paul DATE 4-27-01
DEVELOPMENT & INSPECTIONS DIVISION

PLAT FILED IN OFFICE 4-27-2001 04:19P
IN PLAT BOOK 196 PAGE 39

Jay C. Stephenson, Clerk of DATE 4-28-01
CLERK COBB COUNTY SUPERIOR COURT

CFN# 2001-0067958

OWNER'S ACKNOWLEDGMENT

I HEREBY CERTIFY AS THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HEREON, ACKNOWLEDGE THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY, AND FOR VALUE RECEIVED THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, ON HEREBY COUNTY ALL STREETS AND ALLEYS OF WAY, WATER MAINS AND SEWER LINES SHOWN HEREON IN THE SIMPLE TO COBB COUNTY AND PARTNER DEDICATE TO THE USE OF THE PUBLIC FOR ALL ALLEYS, PARKS, WATERWORKS, DRAINAGE, EASEMENTS AND PUBLIC PLACES HEREON SHOWN FOR THE PURPOSES AND CONSIDERATIONS HEREIN EXPRESSED, IN CONSIDERATION OF THE APPROVAL OF THIS DEVELOPMENT PLAN AND OTHER VALUABLE CONSIDERATIONS, THE OWNER FURTHER RELEASES AND HOLDS HARMLESS COBB COUNTY FROM ANY AND ALL CLAIMS, DAMAGES OR DEMANDS ARISING ON ACCOUNT OF THE DESIGN, CONSTRUCTION AND MAINTENANCE OF THE PROPERTY SHOWN HEREON, ON ACCOUNT OF THE ROADS, FILLS, DRAINAGE, DITCHES, CROSS DRAINAGE, CULVERTS, WATER MAINS, SEWER LINES, AND INFRONT WITHIN THE PROPOSED RIGHTS-OF-WAY AND EASEMENTS SHOWN, AND ON ACCOUNT OF SAGGERS, THE COLLECTION AND DISCHARGE OF SURFACE WATER, OR THE CHANGING OF COURSES OF STREAMS.

AND FURTHER THE OWNER WARRANTS THAT HE OWNS THE SIMPLE TITLE TO THE PROPERTY SHOWN HEREON AND AGREES THAT COBB COUNTY SHALL NOT BE LIABLE TO HIM, HIS HEIRS, SUCCESSORS OR ASSIGNS FOR ANY CLAIMS OR DAMAGES RESULTING FROM THE CONSTRUCTION OR MAINTENANCE OF CROSS DRAIN EXTENSIONS, DITCHES, STRUCTURES, STREET CULVERTS, CULVERTS OR SIDEWALKS, THE CHANGING OF COURSES OF STREAMS AND RIVERS, FLOODING FROM NATURAL CAUSES AND RIVERS, SURFACE WATERS AND ANY OTHER WATER WHATSOEVER. I FURTHER WARRANT THAT I HAVE THE RIGHT TO SELL AND CONVEY THE LAND ACCORDING TO THIS PLAT AND NO HEREBY BIND MYSELF AND OWNERS SURRENDER IN TITLE TO DEFEND BY VIRTUE OF THESE PRESENTS.

Charles Goodell 5/13/99
CHARLES GOODSELL (NEEDS SIGNATURE) DATE

SURVEYOR'S ACKNOWLEDGMENT
I HEREBY CERTIFY THAT THE PLAT SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON, AND IS TO THE ACCURACY AND SPECIFICATIONS REQUIRED BY THE COBB COUNTY DEVELOPMENT STANDARDS.

REGISTERED GA. LAND SURVEYOR *[Signature]*

COBB COUNTY CERTIFICATION
THIS PLAT HAVING BEEN SUBMITTED TO COBB COUNTY AND HAVING BEEN FOUND TO COMPLY WITH THE MASTER PLAN, THE COBB COUNTY DEVELOPMENT STANDARDS AND THE COBB COUNTY ZONING ORDINANCES IS APPROVED SUBJECT TO THE INSTALLATION AND DEDICATION OF ALL STREETS, UTILITIES, EASEMENTS AND OTHER IMPROVEMENTS IN ACCORDANCE WITH THE STANDARD DESIGN SPECIFICATIONS.

6/14/99 *[Signature]*
COBB COUNTY WATER SYSTEM

DATE 5-29-99 *[Signature]*
ZONING DIVISION

DATE 6-7-99 *[Signature]*
DEVELOPMENT & INSPECTIONS DIVISION

DATE 6-8-99 *[Signature]*
BOARD OF COMMISSIONERS

PLAT FILED IN OFFICE 6-17-99, RECORDED 9:57A
IN PLAT BOOK 181, PAGE 27
Jay C. Stephenson, Clerk of CFN# 1999-0100827
CLERK, COBB COUNTY SUPERIOR COURT

FINAL PLAT FOR

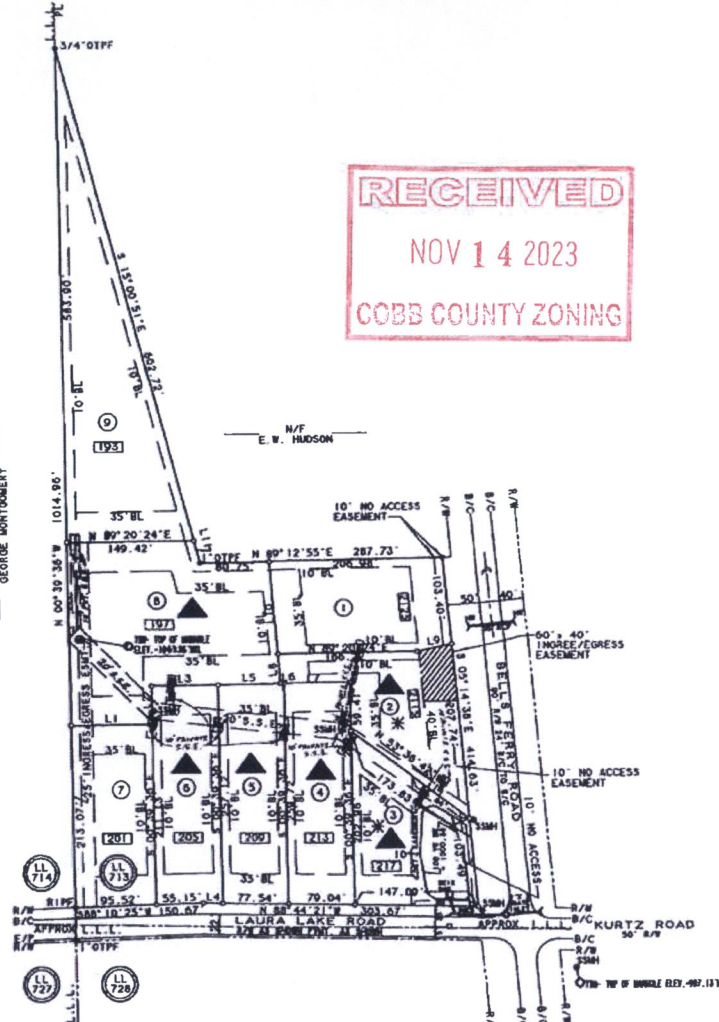
LAURA LAKE SUBDIVISION

LAND LOT 713 16TH DISTRICT 2ND SECTION
COBB COUNTY, GEORGIA
DATE: 05/14/99 SCALE: 1" = 100'

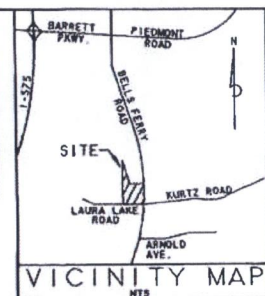
PAUL LEE CONSULTING ENGINEERING ASSOCIATES, INC.
PLANNING - ENGINEERING - LAND SURVEYING
743 WINDY HILL ROAD - SMYRNA, GEORGIA 30080
(770) 435 - 2576

COMP.
JOB.
94220FP

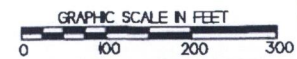
RECEIVED
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COBB COUNTY ZONING



LOT #	AREA
1	22866 S.F. 0.525 AC.
2	21854 S.F. 0.502 AC.
3	21841 S.F. 0.497 AC.
4	20622 S.F. 0.473 AC.
5	20027 S.F. 0.460 AC.
6	20035 S.F. 0.460 AC.
7	20255 S.F. 0.465 AC.
8	43621 S.F. 1.001 AC.
9	43624 S.F. 1.001 AC.



- GENERAL NOTES:
1. UNDEVELOPED CORNERS SHOWN
 2. TRACT AREA: 5.99 ACRES
 3. PROPERTY ZONED: S-20 (170' MIN LOT AREA) AND A 25' PRIVATE EASEMENT
 4. DENSITY: 9 LOTS / 5.99 ACRES - 0.81 LOTS PER ACRE
 5. PLANNING AREA: 1.00 AC.
 6. PLANNING AREA: 1.00 AC.
 7. NO FIRM PLAN - THIS PLAT SHALL BE USED IN THE FUTURE FOR THE PROPERTY AS PER FIRM PLAN NO. 10007 COB T. 10007, AUG. 8, 1992
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ITEM OB-64-2023

PURPOSE

To consider amending the site plan and the stipulations for Gabe Hrib regarding rezoning application Z-35 of 2009, for property located on the north side of Laura Lake Drive and on the west side of Bells Ferry Road in Land Lot 713 of the 16th District (193 Laura Lake Drive).

BACKGROUND

The property was rezoned to RA-5 in 2009 for a 14-lot single-family subdivision, subject to the site plan (plan titled "Wexford Homes"). Since the 2009 zoning, not a lot has occurred on this property and ownership has changed. Prior to the 2009 zoning action, the property was final platted as a 9-lot R-20 subdivision in 1999 (plan titled "Laura Lake Subdivision"). There were four houses built on Laura Lake Road in 2001 that are still there today. The applicant would like to have the Board of Commissioners designate the 1999 subdivision layout as the approved site plan, since the 14-lot subdivision plan will not be built. If approved, all previous stipulations not in conflict with this amendment would remain in place.

STAFF COMMENTS

Stormwater Management: It is not clear from the Other Business Item application what "Stipulation and Site Plan amendment" is being requested? Stormwater Management requests the applicant clarify what amendment is being requested.

Water and Sewer: No comments.

Fire Department: See attached.

Cobb DOT: See attached.

Site Plan Review: No comments.

RECOMMENDATION

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

ATTACHMENTS

Other Business Application and zoning stipulations.

DECEMBER 19, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3
PAGE 2

Petition No. OB-64
Meeting Date 12-19-2023
Continued

APPLICANT: Gabe Hrib

PETITION NO.: OB-64

FIRE COMMENTS:

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

FIRE DEPARTMENT ACCESS:

1. ACCESS: Fire apparatus access roads shall extend to within 150 feet of each home.(State Modifications IFC 503.1 2012 Edition).
2. All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.
3. Maximum slope of the access road in reference to the apparatus is 10% front to back and 5% side to side. (IFC D103.2)
4. Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC 503.2.5).

FIRE HYDRANTS:

1. Hydrant location within 500 feet of the most remote portion of each home. (Additional hydrant may need to be installed.)
2. The road at the fire hydrant must have a minimum width of 26 feet and a minimum length of 40 feet, centered on the hydrant. (IFC D103.1)
3. Fire Flow Test from closest existing hydrant shall be provided meeting the minimum.* (Required Flow: 1,500 gpm @ 20 psi)

* An alternative equivalency for the above requirements, subject to the approval by the Cobb County Fire Marshal's Office is installing an NFPA 13D sprinkler system in each home.

GUEST PARKING:

Occupant parking shall be installed as required by zoning and additional guest parking shall be required as follows:

1. Where driveways to two car garages exceed 50 feet in length, no additional guest parking is required.
2. Where driveways to two car garages are at least 22 feet long and 20 feet wide, additional parking shall be required at .5 spaces per dwelling unit.
3. Where driveways to two car garages are less than 22 feet long and 20 feet wide, additional parking shall be required at 1 space per dwelling unit.
4. Where only single car garages are provided, additional parking shall be required at 2 spaces per dwelling unit.
5. Guest parking spaces must be evenly distributed throughout the project.

The above is not an all-inclusive list, all applicable fire and life safety provisions must be met.

Jeff Byrd (770) 528-8814 jeffrey.byrd@cobbcounty.org

OB-64-2023

DEPARTMENT COMMENTS - CCDOT

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Bells Ferry Road	Arterial	45	Cobb County	100'
Laura Lake Road	Local	25	Cobb County	50'

Comments and observations

Bells Ferry Road is classified as an arterial roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Laura Lake Road is classified as a local road and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Based on Site Plan dated November 14, 2023, trip generation for this application is assumed to be minimal.

Recommendations:

1. Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of Laura Lake Road, a minimum of 25' from the roadway centerline; b) donation of right-of-way on the west side of Bells Ferry Road, a minimum of 50' from the roadway centerline.
2. Recommend residential driveways 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 a minimum of 50 feet straight-line distance (from end of driveway curb return to start of driveway curb return) between driveways on Bells Ferry Road and Laura Lake Road. This recommendation applies to both the spacing of new driveways in relation to each other, as well as spacing from adjacent 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.
4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

ORIGINAL DATE OF APPLICATION: 08-17-04APPLICANTS NAME: WEXFORD HOMES, INC.THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERSMin. Bk. 98 Petition No. 08-64
Doc. Type 08-1-2005 Settlement
of Litigation
Meeting Date 12-19-2023**BOC DECISION OF 09-20-05 ZONING HEARING:****OTHER BUSINESS ITEM #1 - TO CONSIDER A SETTLEMENT OF LITIGATION PROPOSAL REGARDING Z-109 (WEXFORD HOMES, INC.) OF AUGUST 17, 2004**

To consider a Settlement of Litigation proposal regarding Z-109 (Wexford Homes, Inc.) of August 17, 2004, for rezoning from R-20 to RA-5 for a subdivision, for property located at the northwest intersection of Bells Ferry Road and Laura Lake Road in Land Lot 713 of the 16th District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding settlement of litigation request. The public hearing was opened and Mr. Garvis Sams, Jr., and Ms. Hilda Towery addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Lee, second by Olens, to **approve** the following relative to the settlement proposal regarding Z-109 (Wexford Homes, Inc.) of August 17, 2004, for rezoning from R-20 to RA-5 for a subdivision, for property located at the northwest intersection of Bells Ferry Road and Laura Lake Road in Land Lot 713 of the 16th District:

- to **authorize** settlement of litigation regarding Cobb Superior Court Civil Action File No. 04-1-8756-18
- to **approve** rezoning to the **RA-5 (detached)** zoning district **subject to:**
 - **site plan last revised May 31, 2005, with the District Commissioner approving minor modifications (copy attached and made a part of these minutes)**
 - **letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated July 7, 2005, with the following revisions: (copy attached and made a part of these minutes)**
 - ❖ **Paragraph 2: add new sentence to end of paragraph to read: "Homes to be owner occupied with a maximum of ten percent (10%) as rental."**
 - ❖ **Paragraph 8: add new sentence to end of paragraph to read: "Detention pond landscape to be incorporated into the overall landscape plan."**
 - ❖ **Paragraph 10: change to read: "The submission of a landscape plan during the Plan Review process to be approved by the District Commissioner which shall include the following: ..."**

Continued on next page

PAGE 7 OF 14

APPLICATION NO. Z-109

ORIGINAL DATE OF APPLICATION: 08-17-04

APPLICANTS NAME: WEXFORD HOMES, INC.

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 09-20-05 ZONING HEARING: (Continued)

- ❖ Paragraph 10b: change to read: "Grading to be minimal as approved by Stormwater Management."
- ❖ Add new paragraph 13 to read: "Installation of a 6-foot fence one foot off the west and north property lines. Final fence design to be approved by the District Commissioner."
- ❖ Add new Paragraph 14 to read: "Complete engineering to be finalized prior to issuance of land disturbance permit and final site plan to be approved by District Commissioner."
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations, *to include memorandum from Mr. G. H. Mingledorff dated September 14, 2005* (copy attached and made a part of these minutes)
- Cobb DOT comments and recommendations
- owner/developer to enter into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED unanimously

Petition No. 08-64
Meeting Date 12-19-2023
Continued

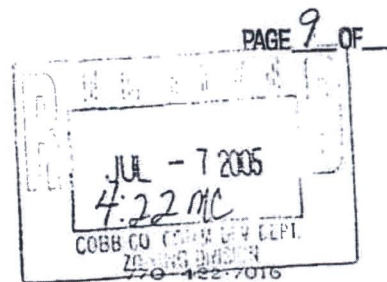
SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
RICHARD A. HARRAH
MICHAEL P. PRYOR

OF COUNSEL
DAVID P. HARTIN

July 7, 2005



TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARKINHUFF.COM

INFO@SAMSLARKINHUFF.COM

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esquire
Bentley, Bentley & Bentley
241 Washington Avenue
Marietta, Georgia 30060

Min. Bk. 37 Petition No. 08#1
Doc. Type Letter Agreeable
Stipulations
Meeting Date 9/20/05

Re: Application of Wexford Homes, Inc. to Rezone a 5.591 Acre Tract
from R-20 to RA-5 (No. Z-109)

Wexford Homes, Inc. v. Cobb County, Georgia, et al
Cobb Superior Court, Civil Action File No. 04-1-8756-18

Dear Fred:

As you know, I represent the applicant which is also the property owner concerning the above-captioned matters. In that regard, I met last month with Commissioner Tim Lee and showed him a revised site plan. Commissioner Lee requested that I submit it to you, which I hand delivered on June 22, 2005, so that the matter can come before the Board of Commissioners on the next available Executive Session. Thereafter, if the Board of Commissioners decides to proceed with the proposed settlement, the matter will be considered by the Board on its "Other Business" agenda which will immediately follow a regularly scheduled zoning hearing.

With respect to the foregoing and in accordance with my telephone conversation with you last week, enclosed please find a copy of the revised site plan. The proposed settlement of litigation will be based upon the following stipulations which shall become conditions and a part of the grant of the rezoning of the subject property, to-wit:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esquire
Bentley, Bentley & Bentley
Page 2
July 7, 2005

Petition No. OB#1 (2-10978/17/04)
Meeting Date 9/20/05
Continued

2. An agreement that the existing Personal Care Homes located on the subject property shall be incorporated into the proposed residential community and utilized for single family residential purposes only. Additionally, an agreement to a deed covenant running with the subject property in perpetuity prohibiting the subject property or any of the homes located thereon from being utilized for Personal Care Homes or anything other than single family residences.
3. The rezoning shall be specific to that certain zoning site plan prepared by Gaskins Surveying, Engineering & Environmental, last revised on May 31, 2005, which was submitted on June 22, 2005.
4. A maximum number of 14 homes at a maximum density of 2.50 homes per acre.
5. A minimum house size of 1,800 sq. ft., ranging up to 2,200 sq. ft.¹
6. Architectural style of the homes shall be a predominately two-story traditional and ranch with hard exterior facades consisting of a mixture of brick, stone, stucco, shake and/or hardy-plank.
7. Each home shall have an attached two-car garage. The garages shall be used for the parking and storage of vehicles and a recital shall be contained within the Covenants ensuring same.
8. Subject to recommendations from the Stormwater Management Division with respect to hydrological issues and downstream considerations, including recommendations regarding the ultimate location and configuration of on site detention and water quality ponds.
9. The submission of a Declaration of Covenants which shall include strict architectural controls.

¹ The price points for the community are anticipated to range from the \$200's to the mid-\$200's.

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esquire
Bentley, Bentley & Bentley
Page 3
July 7, 2005

10. The submission of a landscape plan during the Plan Review process which shall include the following:
 - a. The installation of underground utilities.
 - b. No mass grading or clear-cutting.
 - c. The implementation of a tree save policy and compliance with Cobb County's Tree Preservation Ordinance subject to the Community Development Agency's review and approval.
 - d. Sodded front yards.
11. Subdivision entrance signage shall be ground-based, monument-style, consistent with provisions of the Cobb County Sign Ordinance, landscaped and incorporated into the foregoing landscape plan for the subdivision.
12. Subject to the following recommendations of the Cobb County Department of Transportation:
 - a. The voluntary donation and conveyance of right-of-way so the County can ensure that it has fifty feet (50') from the centerline of Bells Ferry Road (arterial).
 - b. The installation of sidewalk, curb and gutter on both Bells Ferry Road and Laura Lake Road.
 - c. The installation of a ten foot (10') no access easement on both road frontages except, of course, with respect to the subdivision entrance on Laura Lake Road.²

The subject property is located within an area in which the Comprehensive Land Use Plan and Future Land Use Map project Medium Density Residential (MDR) utilization ranging from 2.5-5 units per acre. In that regard, Wexford's revised proposal set forth hereinabove as a settlement of litigation, at 2.50 units per acre, is at the extreme low end of that range and is otherwise appropriate from a land use planning perspective particularly when considered in the context of the foregoing revised stipulations/conditions.

² Cobb County shall be allowed to penetrate the 10' no access easement for purposes of access to detention and water quality pond oriented toward Bells Ferry Road.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esquire
Bentley, Bentley & Bentley
Page 4
July 7, 2005

Petition No. OB-64
Meeting Date 12-19-2023
Continued

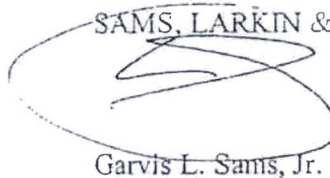
PAGE 12 OF 12

Petition No. OB#1 (2-109 of 8/17/04)
Meeting Date 9/20/05
Continued

Please do not hesitate to call should you have any questions whatsoever regarding these matters. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



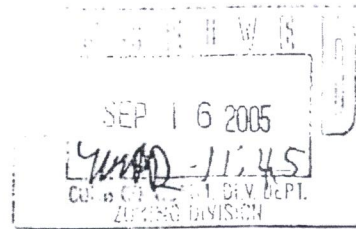
Garvis L. Sams, Jr.

GLS,Jr./jbmc
Enclosure

cc: Mr. Timothy D. Lee, Commissioner – VIA Hand Delivery – w/enclosure
Dotty Bishop, Esquire, County Attorney – VIA Hand Delivery – w/enclosure
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosure
Mr. Mark A. Danneman – VIA Hand Delivery – w/enclosure
Mr. John P. Pederson, Planner III – VIA Hand Delivery – w/enclosure
Wexford Homes, Inc. – w/o enclosures

COBB COUNTY WATER SYSTEM

Operations Facility
680 South Cobb Drive
Marietta, Georgia 30060-3111



Robert L. Brice
DIRECTOR

DIVISIONS:
Business Services
Customer Services
Engineering & Records
Solid Waste
Stormwater Management
System Maintenance
Water Protection

Date: September 14, 2005

Memo: Mark Danneman, Manager
Zoning Division, Community Development

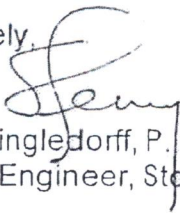
Subject: Other Business # _____ BOC 9-20-05
Wexford Home / Laura Lake Road
LL 713 / 16th

Min. Bk. 37 Petition No. OB#1
Doc. Type Memo from Mr. G. H.
Mingledorff
Meeting Date 9/20/05

Proposed Settlement of Litigation Plan submitted June 22, 2005 to Zoning and received September 13, 2005 at Stormwater Management.

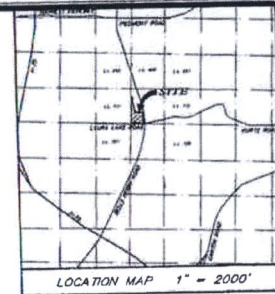
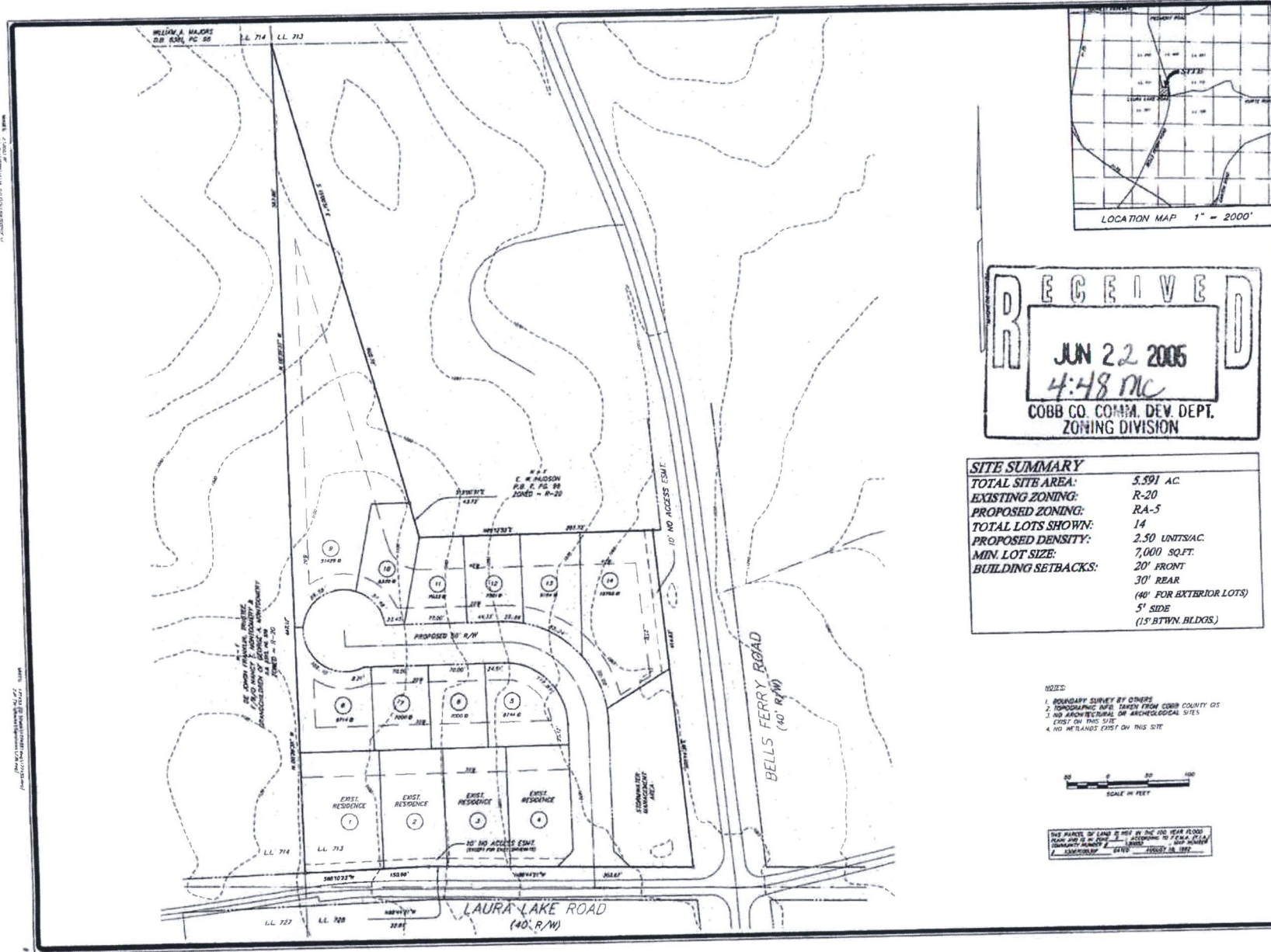
1. Grading will be extensive unless controlled by stipulations. Recommend grading be limited to the roadways and building pads only with all lots, and especially Lot 9, mandated for houses well forward at the front building line.
2. All improvement runoff must shed to the roadway system and be transported to detention. The four existing lots and their increased runoff must be folded into the project hydrology as new work.
3. The proposed detention pond is perched high above Lot 14 which must be filled to transfer water to detention. Further, the detention pond must be deepened to accommodate the increased volume requirements. This excessively increases the grading. Recommend detention and Lot 14 be switched to put the detention at low point of site. This move will also allow the roadway to follow the natural grade of land.
4. Any Stormwater controls / detention required for this project must be calculated based on the maximum impervious cover allowed in County Code / Regulations. For any commercial designation Cobb County supports the State Mandate for minimum 30% of tract as landscaping.

Sincerely,


G.H. Mingledorff, P.E., RLS
Senior Engineer, Stormwater Management

Cc: Chairman Sam Olens
Commissioner Helen Goreham
Commissioner Joe L Thompson
Commissioner Tim Lee
Commissioner Annette Kesting
David Hankerson, County Manager
Bob Brice, Director, Water System
Rob Hosack, Director, Community Development
Gail Huff, Assistant County Clerk
Sandra Richardson, Deputy County Clerk

Petition No. OB-64
 Meeting Date 12-19-2023
 Continued



RECEIVED
 JUN 22 2005
 4:48 MC
 COBB CO. COMM. DEV. DEPT.
 ZONING DIVISION

SITE SUMMARY
 TOTAL SITE AREA: 5.591 AC.
 EXISTING ZONING: R-20
 PROPOSED ZONING: RA-5
 TOTAL LOTS SHOWN: 14
 PROPOSED DENSITY: 2.50 UNITS/AC.
 MIN. LOT SIZE: 7,000 SQ.FT.
 BUILDING SETBACKS:
 20' FRONT
 30' REAR
 (40' FOR EXTERIOR LOTS)
 5' SIDE
 (15' BTWN. BLDGS.)

- NOTES:
 1. BOUNDARY SURVEY BY OTHERS
 2. TOPOGRAPHIC AND SURVEY FROM COBB COUNTY GIS
 3. NO ARCHAEOLOGICAL OR ARCHEOLOGICAL SITES
 EXIST ON THIS SITE
 4. NO WETLANDS EXIST ON THIS SITE



THIS PARCEL OF LAND IS NOT IN THE 100 YEAR FLOOD
 PLAIN AND IS IN ZONE _____ ACCORDING TO FEMA FIRM
 NUMBER _____ DATED _____

GASKINS
 SURVEYING & ENGINEERING & ENVIRONMENTAL
 17566 POWDER SPRINGS ROAD
 MARIETTA, GEORGIA 30066
 (770) 473-1400
 FAX (770) 473-1401
 www.gaskinsurvey.com

WEXFORD HOMES
 LAND LOT 713, 10th DISTRICT, 2nd SECTION
 COBB COUNTY, GEORGIA

NOT ISSUED FOR CONSTRUCTION

REVISIONS

REV.	DATE	REVISION
1	12-19-2023	REVISION

SHEET TITLE
 ZONING PLAT

DEAL

PROJECTED **FIELD BOOK**

DRAWN BY **CHECKED BY**

SCALE **ISSUE DATE**

SHEET NUMBER
 1

DECEMBER 19, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1

Min. Bk. 98 Petition No. OB-65
Doc. Type Fire Dept and Cobb DOT comments
and recommendations
Meeting Date 12-19-2023

ITEM OB-65-2023

PURPOSE

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

BACKGROUND

The property was rezoned to Neighborhood Retail Commercial (NRC) as part of a settlement of litigation approved by the Board of Commissioners July 16, 2002. The property was rezoned site plan specific subject to a specific architectural style for the buildings. The applicant proposes to demolish the closed Chili's restaurant and rebuild a new Jim 'N Nick's BAR-B-Q restaurant in its place. The proposed building would be one-story in height with 4,500 square feet. Attached are elevations for the proposed building. If approved, all previous stipulations not in conflict with this amendment would remain in place.

STAFF COMMENTS

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

Water and Sewer: No comments.

Fire Department: See attached.

Cobb DOT: See attached.

Site Plan Review: No comments.

RECOMMENDATION

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

ATTACHMENTS

Other Business Application and zoning stipulations.

DECEMBER 19, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4
PAGE 2

Petition No. OB-65
Meeting Date 12-19-2023
Continued

APPLICANT: Poag Shopping Centers, LLC.

PETITION NO.: OB-65

FIRE COMMENTS:

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

COMMERCIAL / INDUSTRIAL ACCESS:

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2012 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Maximum slope of the access road in reference to the apparatus is 10% front to back and 5% side to side. (IFC D103.2)

Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC 503.2.5).

C/O:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

The above is not an all-inclusive list, all applicable fire and life safety provisions must be met.

Jeff Byrd
(770) 528-8814
jeffrey.byrd@cobbcounty.org

OB-65-2023

DEPARTMENT COMMENTS - CCDOT

ITE Land Use	Description	Expected Size (KSF)	AM			PM			Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
934	Fast Food w/ Drive Thru	4.5	102	98	201	77	71	149	2,104

vph = vehicles per hour, vpd = vehicles per day, N/A = not available

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Comments and observations

Based on Site Plan dated November 15, 2023, and the expected trip generation, this development requires a traffic study submittal. A traffic study might be requested during plan review.

Recommendations:

1. Recommend GDOT permits for any work that encroaches upon State right-of-way.
2. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Erramilli Law Group, LLC

Nik Erramilli, Esq.

Nik@ErramilliLawGroup.com
(650) 503-9314
2926 Mountain Industrial Blvd.
Tucker, GA 30084

Addressees:

Via E-Mail to

Brian Johnson, Cobb County Attorney (Brian.Johnson@cobbcounty.org)

Commissioner Jerica Richardson (Jerica.Richardson@cobbcounty.org)

John Pederson, Division Manager of Cobb County Zoning
(John.Pederson@cobbcounty.org)

Megan Postell (Megan.Postell@cobbcounty.org)

November 29, 2023

**RE: Settlement and Compromise Communication Regarding Cobb County
Superior Court Case No. 23 102 242 (NPS Ventures, LLC v. Cobb County
et. al.)**

Dear Brian:

Please allow this writing to confirm the terms of the settlement the parties have reached in relation to the above-referenced litigation. This document will serve as the final stipulation letter that will be entered into by NPS Ventures, LLC and Cobb County, et. al. ("Parties") in relation to the above-referenced litigation, and will be incorporated into, and amend, the zoning minutes dated February 21, 2023 in relation to the property located at 3033 Johnson Ferry Road ("Property") and the zoning application identified as "O.B. 65 (2022)". The terms herein will be publicly approved by the Board of Commissioners at their meeting on December 19, 2023, as part of the consent agenda, as they are stated herein without further amendment.



The Parties stipulate as follows and agree to the following settlement terms:

1. The use of the Property by NPS Ventures, LLC as a location for a Dollar Tree (as a potential tenant) constitutes a Neighborhood Retail Use, which is an approved use of the Property. All applicable county departments will remove any holds or locks that would prevent permitting of the Property by Dollar Tree.
2. The Property will remain zoned NRC (Neighborhood Retail Commercial) under the Cobb County Ordinances (with all associated rights), and, the zoning minutes from the Board of Commissioners meeting on February 21, 2023 for the zoning application known as “OB-65 (2022)” related to the Property (the “Minutes”), will be amended as set forth herein. The following uses, which were listed as prohibited uses of the Property in (or in attachments to) the Minutes, will be **deleted** from the prohibited uses list in the Minutes, and shall be **approved uses** of the Property:
 - a. Restaurants with a Drive Thru or Restaurants without a Drive Thru, and those include but are not limited to Restaurants with full service, fast casual restaurants, boutique styles of restaurants, and/or restaurants with outdoor patios & seating;
 - b. Child Care Centers or after school care/program centers;
 - c. Rest homes and personal care homes;
 - d. Supermarkets exceeding 10,000 square feet;
 - e. In-Home Day Care;
 - f. Cultural Facilities;
 - g. Uses allowed under the Neighborhood Retail Commercial zoning, not otherwise in conflict with the terms herein; and
 - h. All uses identified above are approved uses of the Property, so long as the Property complies with the NRC zoning code and applicable Cobb County ordinances.
3. For purposes of clarity, the Minutes are hereby amended so that only the following uses will be Prohibited Uses on the 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/billiards tables;
 - b. Carwashes;

- c. Store-front type churches, except where the prohibition of same may be constitutionally impermissible;
- d. Community fairs;
- e. Designated recycling collection locations;
- f. Emissions stations;
- g. Outdoor golf courses and miniature golf;
- h. Freestanding climate control self-service storage facility;
- i. Freestanding ice vending machines;
- j. Full service gasoline stations;
- k. Funeral homes;
- l. Self- service laundries;
- m. Light automotive repair;
- n. Non-profit fishing lakes;
- o. Parking of vehicles, except for temporary parking for tenants and their customers or clients;
- p. Radio, television and other communication towers;
- q. Self-service fuel sales including EV charging stations;
- r. Automotive parts stores exceeding 3,000 square feet;
- s. Sex and/or adult themed novelty shops;
- t. Video stores for rental or sale as a principal use; however, video-related merchandise may be sold as components of other businesses;
- u. 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;
- v. Large truck, van, or other such vehicles "for rent or lease" such as U-Haul;
- w. Package stores; however, excepting any specialty boutique-type wine or spirit shops or any grocery or other stores which may currently be allowed to serve alcohol;
- x. Pawn shops, shops whose primary business is buying and/or selling gold; and
- y. Small motor repair shops.

4. Any future use of the Property, which is an approved use under NRC zoning and the zoning record of the Property, as modified or amended by the terms herein, will not have to receive approval from the Board of Commissioners, as Other Business, or otherwise, for approval of that use, provided however, that any material and substantial alteration of the Property which requires approval of a new site plan under Cobb County Ordinances (i.e. any substantial alterations to the improvements on the Property, or re-development of the Property) must be approved by the Board of Commissioners as an "Other Business" item as to the site plan only, not the use as long as the use is not prohibited pursuant to the terms herein.
5. In the event of any conflict between the Minutes from the Board of Commissioners' meeting on February 21, 2023 (or any attachments thereto), and this Letter, this Letter will control.
6. This stipulation Letter is binding and inures to the benefit of the Parties and their respective successors and assigns.

Brian, if you have any objections or clarifications to this writing, please do not hesitate to communicate those to us. We appreciate your efforts so far in helping get these issues resolved. We look forward to moving this process forward and accomplishing this mutually beneficial resolution.

Sincerely,



Nik Erramilli, Esq.

Cc: David Weinstein and NPS Ventures, LLC