

APPLICANT: Rex E. Horney
678-409-4898

REPRESENTATIVE: Moore Ingram Johnson & Steele, LLP
John H. Moore 770-429-1499

TITLEHOLDER: Rex E. Horney and The United Soccer Club, Inc.

PROPERTY LOCATION: Located at the northwest intersection of
Canton Road and Hawkins Store Road.

ACCESS TO PROPERTY: Hawkins Store Road

PHYSICAL CHARACTERISTICS TO SITE: Unfinished
commercial buildings

PETITION NO: Z-39

HEARING DATE (PC): 08-05-08

HEARING DATE (BOC): 08-19-08

PRESENT ZONING: R-20, CRC with
Stipulations

PROPOSED ZONING: CRC with
Stipulations

PROPOSED USE: Event Center

SIZE OF TRACT: 5.16 acres

DISTRICT: 16

LAND LOT(S): 227, 228, 277, 278

PARCEL(S): 2, 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/ Noonday Baptist Church
- SOUTH:** GC/ Conoco, Auto Repair
- EAST:** R-20/ wooded
- WEST:** R-20/ Soccer fields

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

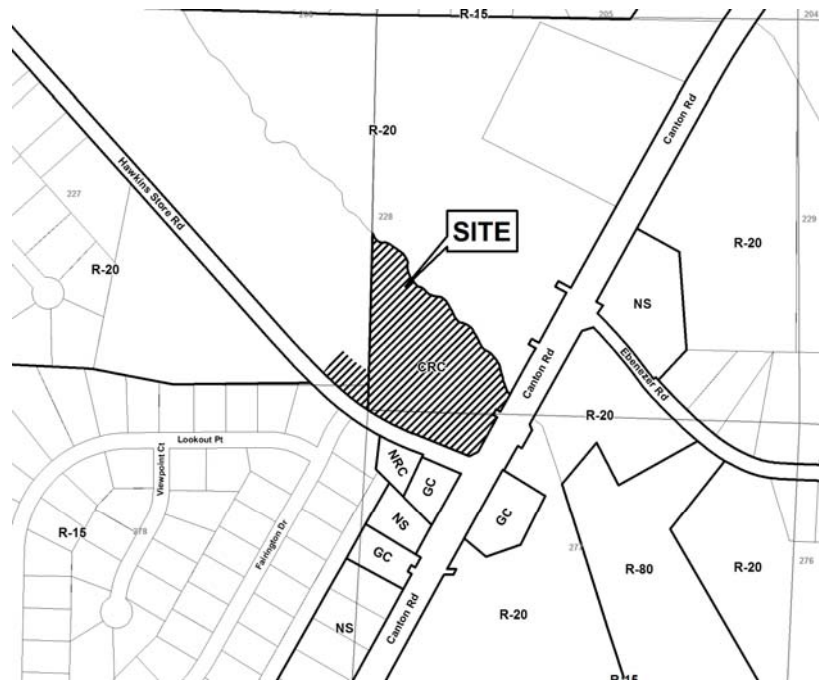
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

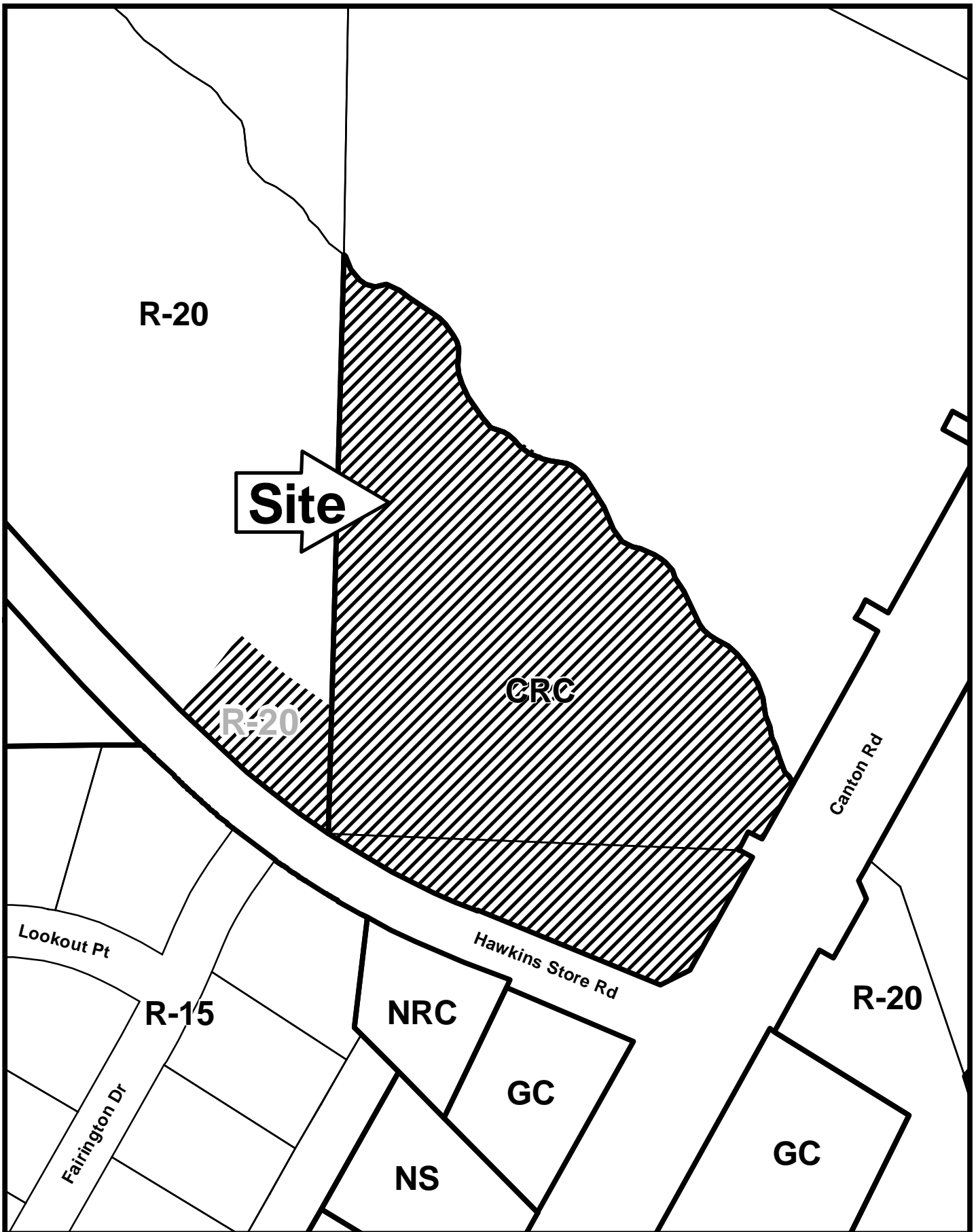
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

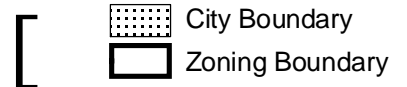
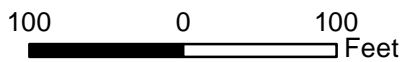
STIPULATIONS:



Z-39



This map is provided for display and planning purposes only. It is not meant to be a legal description.



APPLICANT: Rex E. Horney

PETITION NO.: Z-39

PRESENT ZONING: R-20, CRC with stipulations

PETITION FOR: CRC with stip.

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Parks/Recreation/Conservation

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 13,687

F.A.R.: 0.06 **Square Footage/Acre :** 2,652

Parking Spaces Required: 380* **Parking Spaces Provided:** 85

*Per the Commercial Permit Application, there are 1,139 people allowed in the building at once. The Assembly Hall use requires 1 parking space per three seats for every person lawfully permitted with the assembly hall at one time.

The applicant is requesting rezoning to amend the prior rezoning site plan from Z-174 of 2005 (see Exhibit "B" for zoning stipulations). The assembly hall will be rented for weddings, graduation parties, and other occasions. Originally, the building was planned to be 2,200-2,500 square-feet, and was to be a relocated c.1850 house. The applicant desires to build a 13,687 square-foot building with an exterior consisting of stucco, stone and/or Hardi-plank. The days and hours of operation will vary depending on the event. The applicant will participate in a property swap with the adjacent soccer complex to gain more parking spaces. The applicant will need a contemporaneous variance for not having enough parking. The applicant has submitted a Zoning Impact Analysis, which is attached as Exhibit "A".

Planning Division Comments regarding 2005 Canton Road Corridor Study: Based on the 2005 Canton Road corridor study, the following are recommendations that apply to the subject parcel:

- Any new development tracts fronting Canton Road (Sandy Plains Connector to Jamerson Road) greater than two acres are required to build a three rail fence (painted white) with stacked red brick columns (2' x 2' x 5') minimum of 40' on-center along any property fronting Canton Road. The fence is to be located just outside the proposed right-of-way and is to be maintained by the property owner, where it should not create a sight distance problem with entrance driveways.

There are no relevant recommendations in the 1997 Canton Road Corridor Study.

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

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FIRE DEPARTMENT COMMENTS:

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

Commercial: Cul-d-sac without an island to have a 60 foot paved radius **or** Hammerhead turn-around – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

Gates securing fire apparatus access shall be a minimum 14 feet in clear width for a single lane and 20 feet for a double lane. Gate shall be swing or slide type. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the Cobb County Fire Marshal's office.

Architectural plans for all new and existing building must be submitted to County Fire Marshal's Office and Cobb County Building Department for approval before occupying any structures.

APPLICANT Rex E Horney

PETITION NO. Z-039

PRESENT ZONING R-20, CRC with Stipulations

PETITION FOR CRC w/stips

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 16" DI / W side Canton Rd

Additional Comments: Also, 8" DI / S side Hawkins Store Rd

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: On site

Estimated Waste Generation (in G.P.D.): **A D F** 500 **Peak** 2500

Treatment Plant: Noonday

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Onsite food preparation requires grease trap

Notes FYI:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

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PETITION FOR: CRC w/ stips

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Little Noonday Creek** FLOOD HAZARD INFO: Zone AE

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: **adjacent to Little Noonday Creek**

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - **County Review**/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', **75'**, 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream **receiving stream**.

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PETITION FOR: CRC w/ stips

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown.
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. The Stormwater Management Division has serious concerns regarding any additional development on this parcel. The current site improvements are far in excess of the original permitted site plan. The proposed event center footprint exceeds the originally approved building footprint. The existing gravel parking area will be paved and expanded resulting in a significant increase in impervious area.
2. The proposed parking lot expansion is located totally within the 100-year floodplain. No additional grading may be performed or fill placed for this expansion.
3. The existing greenhouse structure is currently located in the floodplain. This structure should be removed.
4. The proposed land swap with the adjacent United Soccer Club property to accommodate the parking lot expansion shows two new soccer fields to be created within the 100-year floodplain. No fill will be permitted for these fields. This may impact the viability of constructing these fields.

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PETITION NO.: Z-39

PRESENT ZONING: R-20, CRC with Stipulations PETITION FOR: CRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Hawkins Store Rd	6400	Major Collector	35 mph	Cobb County	80'
Canton Road	29600	Arterial	45 mph	Cobb County	100'

*Based on 2003 traffic counting data taken by Cobb County DOT. (Hawkins Store Road)
Based on 2008 traffic counting data taken by Cobb County DOT. (Canton Road)*

COMMENTS AND OBSERVATIONS

Hawkins Store Road is classified as a Major Collector and according to the available information, the existing right-of-way does meet the minimum requirements for this classification
Canton Road is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification

RECOMMENDATIONS

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

STAFF RECOMMENDATIONS

Z-39

REX E. HORNEY

- A. It is Staff's opinion that the applicant's rezoning proposal may permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in a section of Canton Road that contains a mixture of residential, commercial, and institutional uses. However, Staff is very concerned with how this project has progressed since it was permitted. The building has gotten much bigger, and the development plans has not been followed.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. The project has intensified since it was approved in 2005, and has spilled over onto adjacent property. The project has not followed the approved development plans, and has sat unfinished for a very long time. The required number of parking spaces is not being met.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Parks/Recreation/ Conservation Land Use Category.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The applicant's proposal is not in accordance with the *Cobb County Comprehensive Plan*. The project has not followed the intent of the current zoning case, and has not followed the approved construction plans. Staff is concerned about all the improvement made outside the scope of the approved plans or County inspection. The project started off as a low intensity +/-2,500 square-foot assembly hall, but has intensified into a +13,000 square-foot events center, which does not meet the required parking. Additionally, to accomplish this proposal, the SLUP for the adjacent soccer fields would have to be amended.

Based on the above analysis, Staff recommends DENIAL.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

ATTACHMENT TO APPLICATION FOR REZONING

IMPACT ANALYSIS STATEMENT

Application No.: Z- 39 (2008)
Hearing Dates: August 5, 2008 and
August 19, 2008

**Applicant/
Titleholder: Rex E. Horney**

Analysis of impact of the proposed rezoning with respect to the following:

- (a) This Application for Rezoning requests rezoning of a 4.68 acre tract from the Community Retail Commercial ("CRC") zoning category to the Community Retail Commercial, with stipulations ("CRC, with stipulations"). The Subject Property is located at the northwest intersection of Canton Road and Hawkins Store Road. On November 15, 2005, the Board of Commissioners approved rezoning of the Subject Property to the CRC category. Applicant is now required to file the instant Application for Rezoning in order to obtain approval of a revised site plan for the project even though Cobb County has recognized the commercial viability of the Subject Property.
- (b) This zoning proposal should have no adverse effect on the existing use or usability of adjacent or nearby property. The proposed development should have a minimal, if any, impact on surrounding properties. The rezoning should have a very positive effect in light of development of properties in the vicinity in recent years and transportation improvements therefor. If approved and developed according to the request, the adjacent and nearby property owners should benefit in higher land values.
- (c) The property as zoned does not have a reasonable economic use.

- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Retail development has almost no effect on schools, minimal effect on utilities and transportation facilities.
- (e) The zoning proposal is in conformity with the Land Use Map of Cobb County, Georgia, as well as the policy and intent of the Land Use Plan as evidenced by the rezoning approval to the CRC category in November 2005.
- (f) Approval of the proposed site plan, as sought in this Application for Rezoning, would allow for the construction of an events center upon the Subject Property. The events center could be used by individuals, churches, non-profit organizations, and neighborhood groups. The approval of the revised site plan, and the CRC, with stipulations, zoning category would allow the Subject Property to be redeveloped and re-vitalized and would be complementary to surrounding developments and the area as a whole.

ORIGINAL DATE OF APPLICATION: 10-18-05

Z-39/2008 Exhibit "B"
Z-174 Zoning stipulations
Page 1 of 2

APPLICANTS NAME: REX HORNEY

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

BOC DECISION OF 11-15-05 ZONING HEARING:

REX HORNEY (Estate of J. G. Price, owner) requesting Rezoning from **R-20** to **CRC** for the purpose of an Assembly Hall in Land Lots 228 and 277 of the 16th District. Located at the northwest intersection of Canton Road and Hawkins Store Road.

At the call of the case, there was no opposition present. Commissioner Lee made comments and the following motion was made:

MOTION: Motion by Lee, second by Thompson, to approve rezoning to the CRC zoning district **subject to:**

- **final site plan to be approved by District Commissioner prior to issuance of any land disturbance permits**
- **use as assembly hall only**
- **Fire Department comments**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations, including memorandum from Mr. G. H. Mingledorff dated November 9, 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

WFC
 WILLIAM FLOPP
 & COMPANY LLC
 3408 Lumber Road
 Marietta, GA 30067
 Phone: 770.938.9800
 Fax: 770.938.9877

Z-174
 HAWKINS CANTON CHAPEL
 --RD LAOT 228, 16TH DISTRICT
 COBB COUNTY, GEORGIA

OWNER: WFC
 C.S.A. DEVELOPMENT, LLC
 PHONE: 978-688-4888

24-HOUR CONTACT
 MET: 904-991-4444



STAFF	REVISION

TOTAL ACREAGE = 4.68 ACRES
 (19,700 SQ FT OUT OF FLOODWAY)
 ADJOINING STREETS CANTON ROAD & HAWKINS STORRE
 ROAD
 RIGHT OF WAYS VARY ADJOINING THE PROPERTY
 PAVEMENT: HAWKINGS STORE 24' BC-BC
 CANTON ROAD 40' BC-BC
 LITTLE NOONDAY STREAM BUFFER 75'
 PARKING SPACES 62
 STREAM LITTLE NOONDAY
 UTILITY EASEMENTS SANITARY & GAS
 100 YEAR FLOOD PLAIN ELEV 914.0
 HOUSE ELEVATION 920.0 (HOUSE WILL SIT ON PEIRS)
 NO CEMETERIES
 WETLANDS ARE LOCATED INSIDE THE FLOOD WAY
 ACCESS IS PROPOSED OPPOSITE THE EXISTING STREET
 NO ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS
 NO DETENTION OR RETENTION AREAS
 STREAM BUFFER IS 75'
 N/W NOONDAY
 BAPTIST CHURCH

