

APPLICANT: Anthony Uba Ekwenchi, M.D.
770-948-9338

REPRESENTATIVE: Anthony U. Ekwenchi, M.D.
770-948-9338

TITLEHOLDER: Anthony U. Ekwenchi, M.D.

PROPERTY LOCATION: Located on the east side of Austell Road,
north of Seayes Road

ACCESS TO PROPERTY: Austell Road

PHYSICAL CHARACTERISTICS TO SITE: Existing building

PETITION NO: Z-44

HEARING DATE (PC): 10-07-08

HEARING DATE (BOC): 10-21-08

PRESENT ZONING: LRO with
Stipulations

PROPOSED ZONING: LRO with
Stipulations

PROPOSED USE: Professional Office

SIZE OF TRACT: 0.56 acre

DISTRICT: 19

LAND LOT(S): 1067

PARCEL(S): 21

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/ Single-family house
- SOUTH:** R-20/ Single-family house
- EAST:** GC/ wooded
- WEST:** R-20, CRC/

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

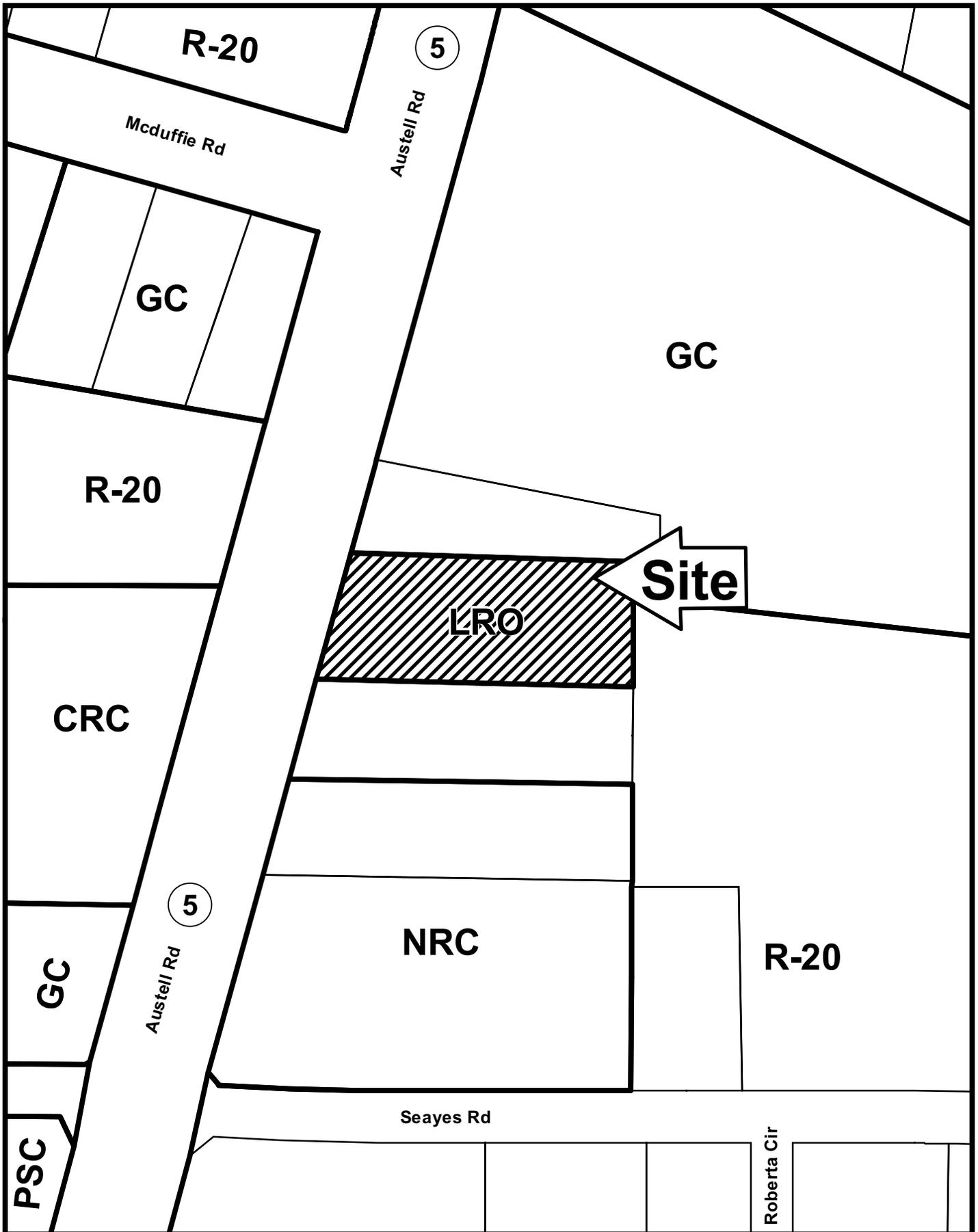
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

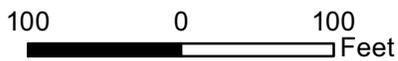
STIPULATIONS:



Z-44



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



- City Boundary
- Zoning Boundary

APPLICANT: Anthony U. Ekwenchi, M.D.

PETITION NO.: Z-44

PRESENT ZONING: LRO with stipulations

PETITION FOR: LRO with stip.

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 2,000

F.A.R. 3,536 **Square Footage/Acre**

Parking Spaces Required: 7 **Parking Spaces Provided:** 7 (estimated)

The applicant is requesting the LRO zoning district to change the stipulated use from a real estate office to a professional office. The applicant is a psychiatrist, and needs the zoning change to operate his business from this location. The applicant will be open Monday through Friday from 9:00 am to 7:00 p.m., and on Saturdays from 9:00 a.m. to 2:00 p.m. The previous zoning stipulations are attached for review (see Exhibit "A").

NOTE: *The subject property is outside the study area for the Austell Road Corridor Study (2001)*

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: No comments.

FIRE COMMENTS:

Fire Hydrant

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

DRAINAGE COMMENTS

No objection to change of office use. However, the parking area for this parcel has already been expanded once. Although the total new impervious area proposed does not exceed the 5000 sf threshold to require full stormwater detention, some type of stormwater bmp should be required (ie. enhanced swale or bio-retention area) to mitigate the increased runoff that will be generated from this site. This issue should be addressed at Plan Review.

APPLICANT Anthony U Ekwenchi, MD

PETITION NO. Z-044

PRESENT ZONING LRO w/stips

PETITION FOR LRO 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) 6" DI / E side Austell Rd

Additional Comments:

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 near ROW

Estimated Waste Generation (in G.P.D.): **A D F** 120 **Peak** 300

Treatment Plant: S Cobb

- 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:

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.

APPLICANT: Anthony U. Ekwenchi, MD

PETITION NO.: Z-44

PRESENT ZONING: LRO w/stipulations

PETITION FOR: LRO w/stipulations

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
Austell Road	40590	Arterial	45 mph	GDOT	110'

Based on 2007 traffic counting data taken by GDOT.

COMMENTS AND OBSERVATIONS

Austell 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-44 ANTHONY U. EKWENCHI, M.D.

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The property to the north, south and west is all designated to be commercially used.

- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal would be compatible with other uses along this portion of Austell Road.

- 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 in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.

- 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 approving the applicant's rezoning proposal. The applicant's proposal is consistent with the *Cobb County Comprehensive Plan* which delineates this property to be within a Community Activity Center. The applicant's proposal would be compatible with other uses along this portion of Austell Road. Staff would suggest the property be stipulated for "professional office use only", which would allow similar types of requests in the future, without a full rezoning.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- Site plan received by the Zoning Division July 10, 2008, with the District Commissioner approving minor modifications;
- Property be used for "Professional Office Use" only;
- All previous stipulations in Exhibit "A" (not in conflict with these stipulations);
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations; and
- DOT comments and recommendations.

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.

ORIGINAL DATE OF APPLICATION: 03-21-06Z-44/2008 Exhibit "A"
Previous zoning minutesAPPLICANTS NAME: PEACE REALTY, LLCTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 03-21-06 ZONING HEARING:**

PEACE REALTY, LLC (Edline and Wilfrid Coulanges, owners) requesting Rezoning from R-20 and GC to OI for the purpose of an Office in Land Lot 1067 of the 19th District. Located on the east side of Austell Road, north of Seayes Road.

At the call of the case on the Consent Agenda, opposition was present and the case was pulled to allow discussion between the parties. After discussion, Mr. Kevin Moore, Applicant's representative, informed the Board that an agreement had been reached with the opposition. After the vote on Z-209⁰⁵, the following motion was made:

MOTION: Motion by Kesting, second by Olens, to **return** Z-26 to the Consent Agenda.

VOTE: **ADOPTED** unanimously

MOTION: Motion by Goreham, second by Lee, as part of the Consent Agenda, to **delete** rezoning to the LRO zoning district **subject to:**

- site plan received by the Zoning Division December 27, 2005, with the District Commissioner approving minor modifications (copy attached and made a part of these minutes)
- real estate office use *only*
- letter of agreeable stipulations from Mr. Kevin Moore dated March 1, 2006, *not otherwise in conflict, with the following changes:* (copy attached and made a part of these minutes)
 - Paragraph 5: Add sentence to read as follows: *"No reader boards or flashing/scrolling lights on signage."*
 - Paragraph 10(d): Change to read as follows: *"If the property to the north of this parcel is developed or redeveloped in any manner, Applicant shall comply with all Cobb Department of Transportation and other Staff recommendations and ordinance requirements."*
- Fire Department comments
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

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OF COUNSEL:
JOHN L. SKELTON, JR.

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN OH
*** ALSO ADMITTED IN NC
♦ ADMITTED ONLY IN TN

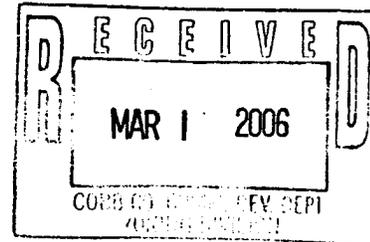
WRITER'S DIRECT
DIAL NUMBER

March 1, 2006

Min. Bk. 40 Petition No. Z-26
Doc. Type Letter of Agreeable
Stipulations
Meeting Date 3/2/06

Hand Delivered

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



RE: Application for Rezoning
Application No.: Z-26 (2006)
Applicant: Peace Realty, LLC
Property Owners: Edline Coulanges and
Wilfrid Coulanges
Property: 0.5656 acres located at
4585 Austell Road,
Land Lot 1067, 19th District,
2nd Section, Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent Peace Realty, LLC, the Applicant (hereinafter referred to as "Applicant"), and Mr. and Mrs. Wilfrid Coulanges, the Property Owners (hereinafter collectively referred to as "Owners"), in their Application for Rezoning with regard to a 20.5656 acre tract located at 4585 Austell Road, in Land Lot 1067, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting with planning and zoning staff and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreeable

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
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Continued

stipulations and conditions, which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The referenced 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.
- (2) Rezoning of the Subject Property will be from the R-20 and General Commercial ("GC") zoning categories to the proposed Office and Institutional ("OI") zoning category with reference being made to that certain Survey prepared for Edline Coulanges dated September 26, 2005,
- (3) The total site area consists of 0.5656 acres.
- (4) Applicant proposes the renovation of the existing one-story frame structure for office use.
- (5) Entrance signage for the proposed development shall be ground based, monument style signage.
- (6) All landscaping shall be approved by the Cobb County Arborist during the plan review process.
- (7) Applicant, by this letter of agreeable stipulations and conditions, requests approval of a site specific variance for the front setback to a minimum of twenty (20) feet.
- (8) Applicant agrees that in the event the Property is redeveloped individually, or in conjunction with an assemblage, additional stormwater controls and management systems may be required.

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Mr. John P. Pederson
Planner III
Zoning Division
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- (9) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (10) Applicant agrees to the following system improvements to mitigate traffic concerns:
- (a) No parking shall be permitted within the right-of-way located adjacent to Austell Road;
 - (b) Upgrade the driveway for commercial use pursuant to Cobb County Standards and Ordinances;
 - (c) Provide adequate parking and turning movements;
 - (d) If the Subject Property should later be redeveloped, either individually or as part of an assemblage, Applicant agrees to install a deceleration lane, sidewalk, curb, and gutter along the frontage of the Subject Property on Austell Road;
 - (e) Georgia Department of Transportation permits will be required for all work encroaching upon state right-of-way.

We believe the requested zoning, pursuant to the referenced Survey and the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the development. The proposed use shall be compatible with surrounding neighborhoods and businesses and shall be an enhancement to the Subject Property. Thank you for your consideration in this request.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
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Continued

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
Helen C. Goreham
Annette Kesting
Joe L. Thompson
Tim Lee

Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Bob Hovey
Christi S. Trombetti
Bob Ott

Clarice Barber Page
Southwest Austell Neighbors

Mr. James Cavedo
Mableton Improvement Coalition

Peace Realty, LLC
Mr. and Mrs. Wilfred Coulanges