

**JUNE 16, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM #1

PURPOSE

To consider amending the stipulations regarding Z-142 (IRVING C. HOFFMAN) of September 19, 2006, for property located in Land Lot 694 of the 17th District. Located at the northeast intersection of Cooper Lake Road and Weaver Street.

BACKGROUND

The subject property is zoned LRO subject to numerous conditions/stipulations that are attached. One of the stipulations restricts the use of the property to a lighting fixture consulting business only, with any use change to come back to the Board of Commissioners. Mr. Hoffman does not have a specific use at this time but feels the current stipulation is too restrictive and is requesting that it be removed and allow all uses permitted under LRO. The subject property is also conditioned upon the attached submitted site plan and the September 13, 2006 letter of agreeable stipulations. The Other Business application is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners first determine if the request is minor. If it is determined to be minor, consider the request. If approved, staff recommends amending the stipulation to allow the District Commissioner to approve future uses subject to the conditions contained within the September 13, 2006 letter, not in conflict with the above and all other previously approved conditions/stipulations to remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Other Business Application

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 19, 2006
PAGE 12**

Z-142 **IRVING C. HOFFMAN** (Irving C. and Barbie S. Hoffman, owners) requesting Rezoning from GC to LRO for the purpose of Professional Offices in Land Lot 694 of the 17th District. Located at the northeast intersection of Cooper Lake Road and Weaver Street.

MOTION: Motion by Goreham, second by Thompson, as part of the Consent Agenda, to approve rezoning to the LRO zoning district subject to:

- letter of agreeable stipulations from Mr. Kevin Moore dated September 13, 2006, *not otherwise in conflict*, with the following changes: (copy attached and made a part of these minutes)
 - Item No. 8 - Add at end: *“, including commitment from the property owner that improvements will be made as needed, and dumpsters will have rubber lids.”*
 - Item No. 11 - Remove in its entirety and replace with: *“Owner/developer to donate sufficient right-of-way along Weaver Street, up to twenty-five (25) feet from the roadway centerline. Remaining transportation related issues will be decided by the Department of Transportation and the District Commissioner.”*
- no outside storage
- all future improvements to be in keeping with the ongoing improvements in the neighborhood, and approved by the District Commissioner
- lighting fixture consulting business only; use change must come back to the Board of Commissioners as Other Business Item, use change to be posted
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED** unanimously

MOORE INGRAM JOHNSON & STEELE

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COLE B. STINSON**
SUZANNE E. HENRICKSON

OF COUNSEL:
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN NM
— ALSO ADMITTED IN NC
• ADMITTED ONLY IN TN

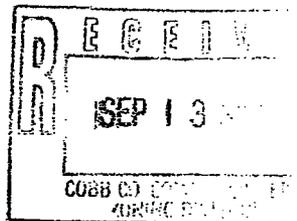
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JEFFERY L. DICKERSON
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September 13, 2006

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

Hand Delivered



RE: Application for Rezoning
Application No.: Z-142 (2006)
Applicant: Irving C. Hoffman
Property Owners: Irving C. Hoffman and
Barbie S. Hoffman
Property: 0.97± acres located at
2025 Cooper Lake Road,
Land Lot 694, 17th District,
2nd Section, Cobb County,
Georgia

Dear John:

As you know, the undersigned and this firm represent Irving C. Hoffman, who is the Applicant as well as one of the Property Owners (hereinafter referred to as "Applicant"), and Barbie S. Hoffman, the remaining Property Owner (hereinafter, together with Applicant, collectively referred to as "Owners"), in their Application for Rezoning with regard to a total tract of approximately 0.97 acres located at 2025 Cooper Lake Road, Land Lot 694, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meetings with planning and zoning staff and various departmental representatives, meetings and discussions with surrounding owners and homeowner representatives, and reviewing the staff comments and recommendations and the uses of surrounding

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Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
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properties, 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 zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full that certain letter of agreeable stipulations and conditions dated and filed August 30, 2006. The revised 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 shall be from the General Commercial ("GC") zoning category to the Low Rise Office ("LRO") zoning category, site plan specific to the existing conditions of the Subject Property as shown on that certain Site Survey dated November 18, 2005.
- (3) The following uses shall be permitted: "Professional offices" as such term is defined in the Cobb County Zoning Ordinance and offices not elsewhere classified. All other uses are strictly prohibited.
- (4) In addition, the following uses are specifically prohibited:
 - (a) Check cashing facility;
 - (b) Pay-day loan office;
 - (c) Title pawn shop;
 - (d) Group home;
 - (e) Recycling facility;
 - (f) Car parking facility; and
 - (g) Veterinarian office.
- (5) There shall be no outside speakers or bells.

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Planner III
Zoning Division
Cobb County Community Development Agency
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- (6) Any additional outdoor lighting to be installed shall be shoe-box style, environmentally sensitive lighting.
- (7) All garbage pick-up shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday.
- (8) All dumpsters or refuse areas shall be appropriately screened from view of adjoining residential properties and public rights-of-way.
- (9) There shall be no tenant vehicles or vehicles of any type parked in front of the buildings containing tenant identification signage or advertising signage.
- (10) Applicant agrees that this rezoning is "site-plan specific" to the existing conditions as shown on the submitted plan. In that regard, any future expansion or renovation of the existing development conditions which would result in a modification to the submitted, existing site plan, shall require Applicant to submit a formal site plan amendment to the Board of Commissioners for review and approval.
- (11) Applicant shall not be required to implement, construct, or install the following recommended road improvements set forth by the Cobb County Department of Transportation:
 - (a) 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: (i) donation of right-of-way on the north side of Cooper Lake Road, a minimum of thirty (30) feet from the roadway centerline; and (ii) donation of right-of-way on the east side of Weaver Street, a minimum of twenty-five (25) feet from the roadway centerline;

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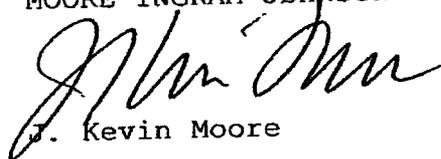
Mr. John P. Pederson
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Zoning Division
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- (b) Elimination of one of the existing access points on Weaver Street;
- (c) Installation of curb and gutter along both road frontages; and
- (d) Meet all Cobb County Development Standards and Ordinances related to project improvements.

We believe the requested zoning, together with the Site Survey and the revised stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions of the area and the properties and owners thereof surrounding the proposed development. Thank you for your consideration in this request.

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

Mr. Anthony L. Waybright
Ms. Suzanne Ballew
Ms. Mary Rose Barnes

Irving C. Hoffman

Z-142

L.P.F. 128.09 ft S 89° 07' E

L.P.F. 1000

This property is not located in any flood plain.

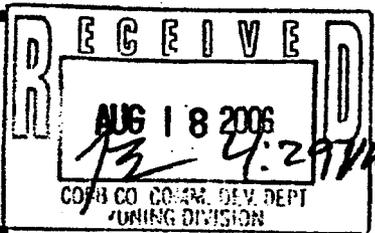
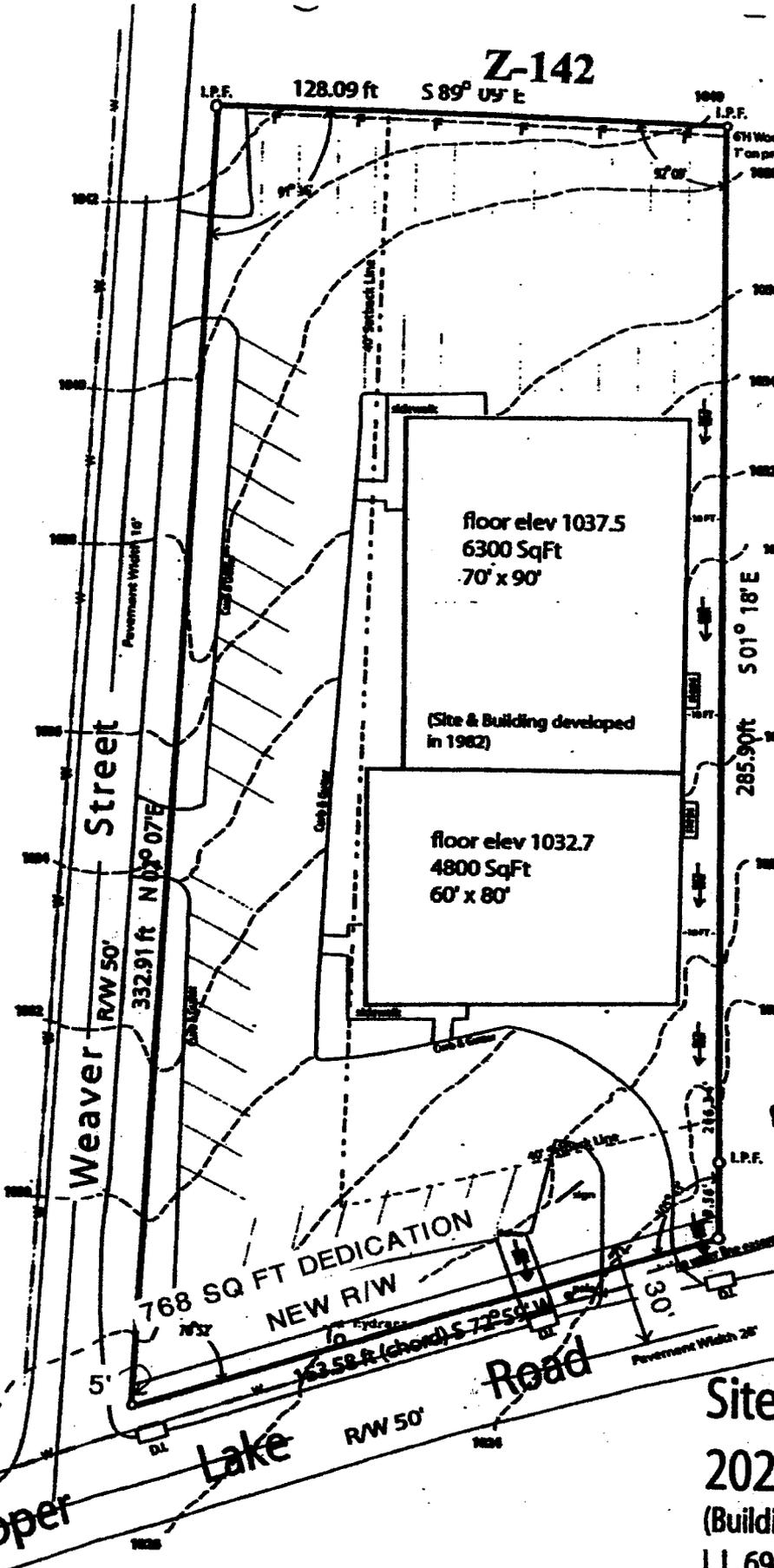
No evidence of Cemetery for Archeological landmarks.

No wetlands are located on this property.

On-site Parking Spaces: 44

No Lakes or Streams are located on this property.

All storm water flows to drop inlets on Cooper Lake Road, none flows onto adjacent property.



References:

Gilmore Heights

& PB3, P78

& PB70, P17

Total Acreage 0.97

North



Scale in Feet



Site Survey for

2025 Cooper Lake Road

(Building & Site as developed in 1982)

LL. 694, 17th District

2nd Section, Cobb County Georgia

November 18th. 2005

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

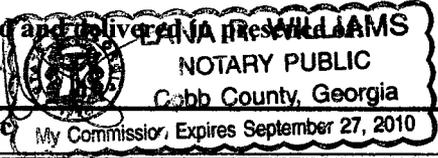
BOC Hearing Date Requested: 6/16/09

Applicant: Barbie S. Hoffman
Irving C. Hoffman Phone #: 770 435 4117
(applicant's name printed)

Address: 3504 Ivy Manor Rd E-Mail: irvhoff@aol.com

Irving C. Hoffman Address: 3504 Ivy Manor Rd 30080
(representative's name, printed)

[Signature] Phone #: 770-435-4117 E-Mail: irvhoff@aol.com
(representative's signature)

Signed, sealed and delivered in presence of

Notary Public

My commission expires: 9.27.10

Commission District: 2 Zoning Case: Z-142

Date of Zoning Decision: 9/19/06 Original Date of Hearing: September 19, 2006

Location: 2025 Cooper Lake Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 694, parcel 37 District(s): 17

State specifically the need or reason(s) for Other Business:

The stipulation that "use change must come back to the Board of Commissioners as Other Business Item, use change to be posted" is so restrictive it makes it almost impossible for us to lease the property, without rental income, we cannot afford the maintenance required to keep the building up and the county taxes. We request that use change simply be approved by the District Commissioner.

(List or attach additional information if needed)

May 5, 2009

Cobb County Zoning Department
191 Lawrence Street
Marietta, Georgia 30060

Irving Hoffman
3504 Ivy Manor Rd.
Smyrna, GA 30080

Reference: Application for "Other Business" Submitted May 4, 2009

Dear Sir:

As further clarification for the reason for this request, we ask for the elimination of the sentence on page 12 of the "Minutes of Zoning Hearing" September 19, 2206, Z-142 which states the following:

Lighting fixture consulting business only; use change must come back to the Board of Commissioners as Other Business Item, use change to be posted

This sentence is so restrictive to us that we are unable to rent the property since up to 60 days would pass before a prospective tenant could be approved. We will comply with the code and permitted uses for LRO Zoning.

We need rental income to afford the county taxes and the maintenance required to keep the building safe and presentable.

Sincerely,



Irving Hoffman