

APPLICANT: Ike Taher
770-579-2070

PETITION NO: Z-15
HEARING DATE (PC): 05-05-09

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Melissa P. Haisten 770-422-7016

HEARING DATE (BOC): 05-19-09
PRESENT ZONING: GC, R-20

TITLEHOLDER: Islamic Center of Cobb County, Inc.

PROPOSED ZONING: GC

PROPERTY LOCATION: Located on the east side of Mary Ada Drive, west of Greers Chapel Road.

PROPOSED USE: Accounting Office and Learning Center/Cultural Center

ACCESS TO PROPERTY: Mary Ada Drive

SIZE OF TRACT: 0.51 acre

PHYSICAL CHARACTERISTICS TO SITE: Existing house

DISTRICT: 20

LAND LOT(S): 210, 211

PARCEL(S): 2

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

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

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

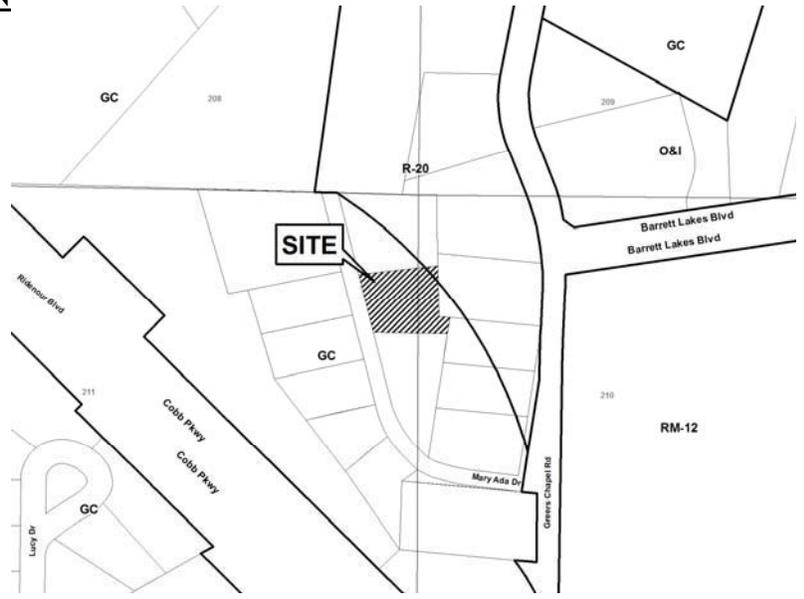
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

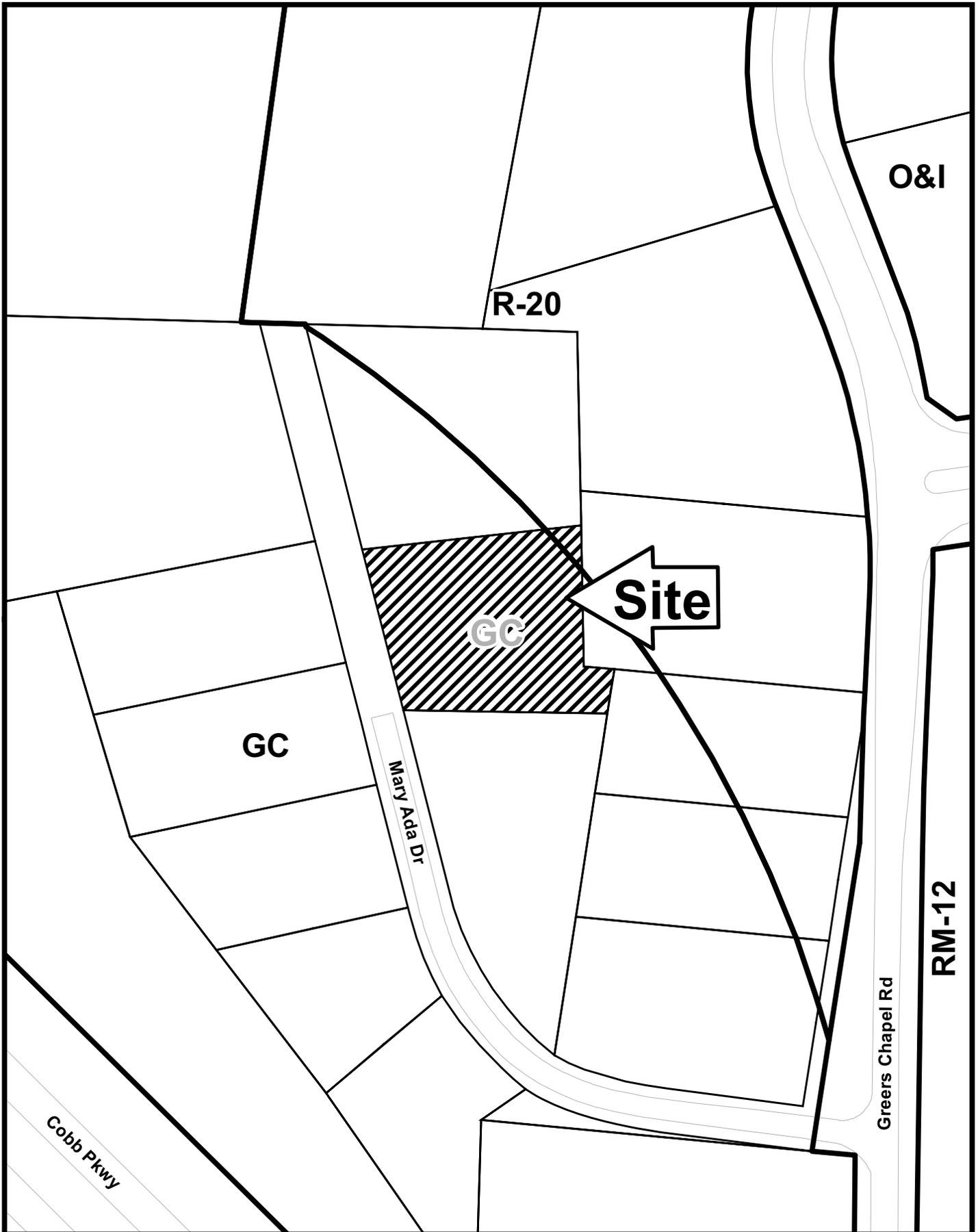
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

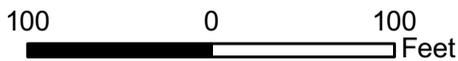
STIPULATIONS:



Z-15



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



-  City Boundary
-  Zoning Boundary

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PLANNING COMMENTS: **Staff Member Responsible:** John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Existing Number of Buildings: 1 **Total Square Footage of Development:** 1,457

F.A.R.: 0.06 **Square Footage/Acre:** 2,856

Parking Spaces Required: 5 **Parking Spaces Provided:** 9

The applicant is requesting rezoning to utilize the property for an accounting office and a religious learning and cultural center. The existing one-story brick house will be used, with a small parking lot added to the front of the property. The business would be open Monday through Friday, from 7:30 am to 8:00 pm. The applicant anticipates there would be 2 to 10 people coming to the house per day. The applicant has submitted a Zoning Impact Analysis, which is attached as Exhibit "A".

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 comment.

FIRE COMMENTS:

Must obtain a Certificate of Occupancy through the Cobb County Fire Marshal's Office.

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PRESENT ZONING GC, R-20

PETITION FOR GC

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 Mary Ada Dr

Additional Comments: Records show address connected

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: 700' E, crossing Barrett Lakes Blvd

Estimated Waste Generation (in G.P.D.): **A D F** < 100 **Peak** < 250

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:

Health Dept OK with use of septic system for proposed use with one employee and no additions to building. Applicant must apply for existing system evaluation and obtain Health Dept permit

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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DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Noonday Cr Trib #6 FLOOD HAZARD INFO: Zone X

- 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: _____

- 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 _____.

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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 - **must be addressed at Plan Review**
- 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 proposed improvements will not exceed the 5000 sq ft threshold for providing full stormwater management measures for this site. However, there is limited downstream conveyance capacity that will require some type of flow mitigation to be provided for the proposed parking lot. Either pervious paving methods should be utilized or an infiltration/filter strip and bioretention area provided to help reduce the increase runoff from the proposed parking area.

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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
Mary Ada Drive	N/A	Local	25 mph	Cobb County	50'

Based on 2008 traffic counting data taken by Cobb County DOT

COMMENTS AND OBSERVATIONS

Mary Ada Drive is classified as a Local and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Install curb and gutter along road frontage.

RECOMMENDATIONS

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 west side of Mary Ada Drive, a minimum of 25' from the roadway centerline.

Recommend installing curb and gutter along Mary Ada Drive.

Recommend no on-street parking.

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

STAFF RECOMMENDATIONS

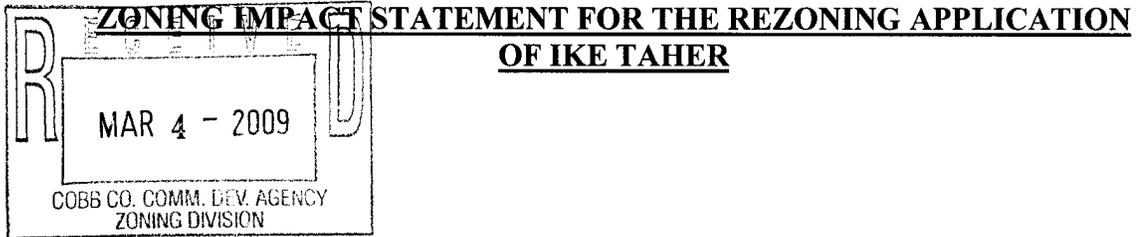
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- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in an area that contains properties zoned GC, RM-12, OI and R-20. Uses on these properties include a used car lot, an apartment complex, offices buildings, and single-family houses.
- 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 property is located within a small subdivision that is surrounded by properties either used commercially and for high density residential, or are anticipated to be used for these uses. Many of the residential properties in the area have "for sale" signs advertising commercial usage.
- 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 Community Activity Center with a text amendment. The text amendment from 2005 calls for all the properties within the Mary Ada Drive subdivision to be assembled into one rezoning/development plan, for owner-occupied residential units only. However, there has been no interest in this concept for four years, and residential units may not be viable due to the current state of the economy.
- 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 deleting the applicant's rezoning proposal to NRC. Most of the property is already zoned commercially, and the Future Land Use Map anticipates commercial usage. The property is located in an area that contains a mixture of land uses and zoning districts. A lot of the residential properties in the area are "for-sale" for commercial purposes, and many of the properties are not maintained. The applicant's proposal would help to improve the area by placing a viable, low intensity use on the property. Under the NRC zoning district, the applicant can still have the two uses as proposed, and the NRC zoning district would fit the character of the area better.

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

- Site plan received by the Zoning Division March 4, 2009, with the District Commissioner approving minor modifications;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- 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.

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.



COMES NOW, IKE TAHER, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Cobb Parkway Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties, the preponderance of which are zoned general commercial and located within the confines of a Community Activity Center.
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owners of the subject property are suffering a significant economic detriment by virtue of the continuation of the present zoning classification of a portion of the property of R-20.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is located within a Community Activity Center and is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.
- F. There is no substantial relationship between the existing zoning classification of R-20 which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Cobb Parkway Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 4th day of March, 2009.

SAMS, LARKIN & HUFF, LLP

By: 
MELISSA P. HAISTEN
Attorney for Applicants
Ga. Bar No. 316357