

**OCTOBER 20, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM #1

PURPOSE

To consider a Settlement of Litigation regarding Z-164 (JOHNSON FERRY BAPTIST CHURCH, INC. AND WELLSTAR HEALTH SYSTEM, INC.) of November 21, 2006, for Rezoning from R-20, TS, GC and HI to OI, NRC, LRO and R-20 for the purpose of Mixed Use Development in Land Lots 36 and 37 of the 20th District. Located on the east side of U.S. Highway 41, north of Awtrey Church Road and on the north side of Awtrey Church Road, east of U.S. Highway 41.

BACKGROUND

The subject property is zoned NRC, OI, LRO and R-20 subject to numerous conditions/stipulations that are attached. An adjacent property owner filed a lawsuit challenging the Board of Commissioners decision. Prior to this case going to court, all parties have entered into a Consent Remand that was so ordered by Superior Court Judge Robert E. Flournoy, III for the purpose of considering specific matters as amendments to the subject Rezoning Decision. The Consent Order Remand is attached. The Zoning Analysis prepared for the original application is also attached for your review.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a public hearing and consider the Consent Order Remand.

ATTACHMENTS

Board of Commissioners Decision
Consent Order Remand
Original Zoning Analysis

ORIGINAL DATE OF APPLICATION: 11-21-06

APPLICANTS NAME: JOHNSON FERRY BAPTIST CHURCH, INC.

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

BOC DECISION OF 07-17-07 ZONING HEARING:

JOHNSON FERRY BAPTIST CHURCH, INC. AND WELLSTAR HEALTH SYSTEM, INC. (Johnson Ferry Baptist Church, Inc., Ronald A. and Barbara L. Lanier, Nancy K. Lanier, Theresa T. Lee and Regina G. Terry, owners) requesting Rezoning from **R-20, TS, GC and HI** to **OI and NRC** for the purpose of Mixed Use Development in Land Lots 36 and 37 of the 20th District. Located on the east side of U.S. Highway 41, north of Awtrey Church Road and on the north side of Awtrey Church Road, east of U.S. Highway 41.

The public hearing was opened and Mr. John Moore and Mr. Bill Byrne addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Lee, to delete Rezoning to the OI, NRC, LRO and R-20 zoning districts subject to:

- Zoning Districts and use limitations, using the Phase I plan dated June 1, 2007 for reference, as follows (on file in the Zoning Division):
 - the athletic fields and pond #1 in the northeast corner zoned R-20, use specific for athletic facilities and stormwater features
 - the church, its associated parking, and pond #3, zoned O&I, use specific for a church and related facilities
 - the Medical Offices/Diagnostic Services area and associated parking zoned O&I, use specific for hospital and medical facilities
 - the retail buildings labeled "NRC" and their associated parking zoned NRC
 - the southeast corner, south of the ball fields, including pond #2, stream buffers, and perimeter buffers, zoned LRO, use specific for stormwater features, buffers, and parking
- Phase 2 plan (also known as the Master Plan) received by the Zoning Division on February 5, 2007 (on file in the Zoning Division) where not in conflict with the Phase 1 plan
- Plan Review to assure that any church or medical facility plans are treated as interrelated for parking and stormwater management purposes, with shared parking agreement required
- parking garage design (Phase 2) to be approved by the Board of Commissioners, with request that Applicant explore possibility of moving the parking garage closer to the medical and retail uses, thereby reducing traffic on Awtrey Church Road
- the LRO area will only have interparcel vehicle access to the OI and NRC zoned areas, with no curb cut onto Awtrey Church Road

ORIGINAL DATE OF APPLICATION: 11-21-06

APPLICANTS NAME: JOHNSON FERRY BAPTIST CHURCH, INC.

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

BOC DECISION OF 07-17-07 ZONING HEARING (Continued):

- all phases of the development, *including (but not limited to) any projects not shown on the Phase 1 plan*, are subject to Plan Review with the District Commissioner allowed to approve minor changes and any “major” changes to be approved by the Board of Commissioners
- public gravity sewer connections must be available for all facilities and approved by the Director of Cobb Water and Sewer before issuance of permits for any phase of the project
- as part of Plan Review of Phase 2, DOT will explore relocation of the median for a traffic signal and major entrance to the project on US 41 (close to the middle of the project)
- the entrance feature to protect the residential properties east along Awtrey Church Road will be completed before issuance of certificates of occupancy for Phase I
- the buffers along the east and southern property lines and the landscaping facing US 41 to be completed before issuance of certificates of occupancy for Phase I
- the water quality ponds, stream buffers/greenspace, and perimeter buffers along the eastern border to be placed into a conservation easement in favor of Cobb County with the stipulation that they will be “maintained natural buffers” as defined in the County Code, and may be penetrated for water quality purposes as approved by the Director of Cobb Water and Sewer
- between phases, undeveloped tracts will be vegetated as approved by Stormwater Management
- letter of agreeable conditions from Mr. John Moore, dated June 1, 2007 *not otherwise in conflict with the above stipulations and with the following changes (on file in the Zoning Division):*
 - Page 5, Item No. I. A. (4) - Change the phrase “west behind the VFW” to “*and east of Pond #1*”
 - Page 5, Item No. I. A. (4) - Add after the first sentence: “*A third party monitor and sampling protocol will be approved by the Director of Cobb Water and Sewer.*”
 - Add a new Item No. I. A. (5) – to read: “*Any buffer/wetland disturbance will be mitigated on site as approved by Stormwater Management.*”
 - Add a new Item No. I. B. (5) – to read: “*The Lake Allatoona Preservation Authority will have a 30 day period to review the site development plans and comment as an input to Plan Review.*”
 - Page 7, Item No. D. (1) – Change first sentence to read: “*The proposed project shall be a “phased” project based upon the Master Plan, with the first phase thereof being shown and reflected on the Phase I plan.*”

ORIGINAL DATE OF APPLICATION: 11-21-06

APPLICANTS NAME: JOHNSON FERRY BAPTIST CHURCH, INC.

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

BOC DECISION OF 07-17-07 ZONING HEARING (Continued):

- Page 9, Item No. I. E. (11) – Add after the first sentence: *“matching the materials of the adjoining buildings.”*
- Page 10, Item No. I. E. (12) – Add at the end: *“except no cleaning on Sunday.”*
- Page 10, Item No. I. E. (15) – Add at the end: *“provided that the disturbed areas are restored in accord with the approved landscape plan.”*
- Page 11, Item No. I. E. (20) – Change paragraph to now read: *“Applicants agree that if construction of the initial phase of the proposed project has not commenced (with commenced being defined as land disturbance permits being issued and initiating installation of approved infrastructure) within eighteen (18) months from the date of the final zoning approval by the Cobb County Board of Commissioners or upon availability of public sewer, whichever occurs last, the Board’s decision shall be automatically rescinded and of no force and effect. The Board’s decision is defined as thirty (30) days following approval by the Board of Commissioners. Additionally, if a lawsuit is filed challenging the zoning approval, then, and in such event, the eighteen-month period (as described and stipulated above) shall begin on the date that any such lawsuit has been terminated in favor of the Applicants.”*
- Development of Regional Impact from the Atlanta Regional Commission and the Georgia Regional Transportation Authority (on file in the Zoning Division)
- Departmental comments and recommendations, *not otherwise in conflict*, as follows:
 - Fire Department comments and recommendations
 - *revised* Water and Sewer Division comments and recommendations dated April 27, 2007 (on file in the Zoning Division)
 - *revised* Stormwater Management Division comments and recommendations dated June 1, 2007 (on file in the Zoning Division)
 - *revised* Cobb DOT comments and recommendations dated April 23, 2007, (on file in the Zoning Division)
 - 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

Following further discussion, and prior to a vote being taken on the motion by Commissioner Thompson, a substitute motion and amendments were made as follows:

SUBSTITUTE MOTION:

ORIGINAL DATE OF APPLICATION: 11-21-06

APPLICANTS NAME: JOHNSON FERRY BAPTIST CHURCH, INC.

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

BOC DECISION OF 07-17-07 ZONING HEARING (Continued):

MOTION: Motion by Olens, second by Goreham, to delete Rezoning to the OI, NRC, LRO and R-20 zoning districts subject to:

- if there occurs an impasse as to approvals by the District Commissioner, those issues to come back to the full Board as Other Business Items
- site plan submitted to the Zoning Division July 11, 2007 (except that the second {most easterly} access off Awtry Church Road to be a right-in/right-out and left-in only "T" design, instead of curved design, with final design of entrance, islands and planted areas to be approved by Staff at Plan Review)
- letter of agreeable conditions submitted by Mr. John Moore on July 11, 2007, *not otherwise in conflict and with the following changes:*
 - Page 6, Item B, third sentence in paragraph – Amend to: *“This Committee shall determine the composition of the buffer, with final approval by the District Commissioner.”*
 - Page 21, Item A (1) – Amend to: *“The Georgia Department of Transportation shall determine the location of the main entrance for the proposed project off U.S. Highway 41. This entrance shall be a signalized entrance with a median break.”*
 - Page 21, Item A (3) – Amend to: *“Until such time as the Applicant has obtained the necessary approvals for relocation of the main entrance, A*
 - *Applicants may utilize the existing median break and entrance as shown and reflected on the referenced Master Site Plan, as their main entrance, the same being the most northerly entrance thereof. If the main entrance is relocated, Applicants may continue to utilize the most northerly entrance as an entrance.”*
 - Page 23, Item (1) – Add to end of paragraph: *“The Applicant will grant a conservation easement to Cobb County over the streambanks indicated on the plan in the northeasterly segment of the property that will allow for the planting of a tree canopy by Cobb County.”*
- Planning Commission recommendations of **June 5, 2007** *not otherwise in conflict*
- Fire Department comments and recommendations *not otherwise in conflict*
- *revised* Water and Sewer Division comments and recommendations dated April 27, 2007, *not otherwise in conflict*
- *revised* Stormwater Management Division comments and recommendations dated June 1, 2007, *not otherwise in conflict*
- *revised* Cobb DOT comments and recommendations, dated April 23, 2007, *not otherwise in conflict*

Minute correction:
Planning
Commission
recommendation
date changed from
July 3, 2007 to June
5, 2007 by BOC
action on August
25, 2009

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THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
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BOC DECISION OF 07-17-07 ZONING HEARING (Continued):

- 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: **FAILED 2-3**, Lee, Kesting and Thompson opposed

Following the failed vote on Z-164, Commissioner Thompson amended his subsequent motion to include language requiring full Board approval if an impasse occurs regarding District Commissioner approvals, and then called the question.

MOTION: Motion by Thompson, second by Lee, to **delete** Rezoning to the OI, NRC, LRO and R-20 zoning districts subject to:

- if there is an impasse between the District Commissioner and issues dealing with the property, decision to be rendered by the Board of Commissioners as an Other Business Item
- Zoning Districts and use limitations, using the Phase I plan dated June 1, 2007 for reference, as follows (attached and made a part of these minutes)
 - the athletic fields and pond #1 in the northeast corner zoned R-20, use specific for athletic facilities and stormwater features
 - the church, its associated parking, and pond #3, zoned O&I, use specific for a church and related facilities
 - the Medical Offices/Diagnostic Services area and associated parking zoned O&I, use specific for hospital and medical facilities
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BOC DECISION OF 07-17-07 ZONING HEARING (Continued):

- the LRO area will only have interparcel vehicle access to the OI and NRC zoned areas, with no curb cut onto Awtrey Church Road
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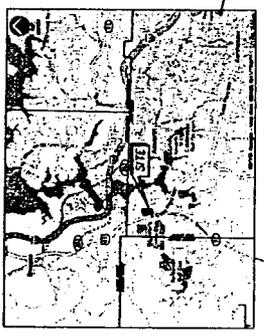
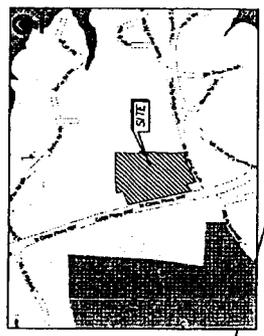
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 - *revised* Cobb DOT comments and recommendations dated April 23, 2007, *not otherwise in conflict*, (attached and made a part of these minutes)
 - owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED 3-2, Olens and Goreham opposed

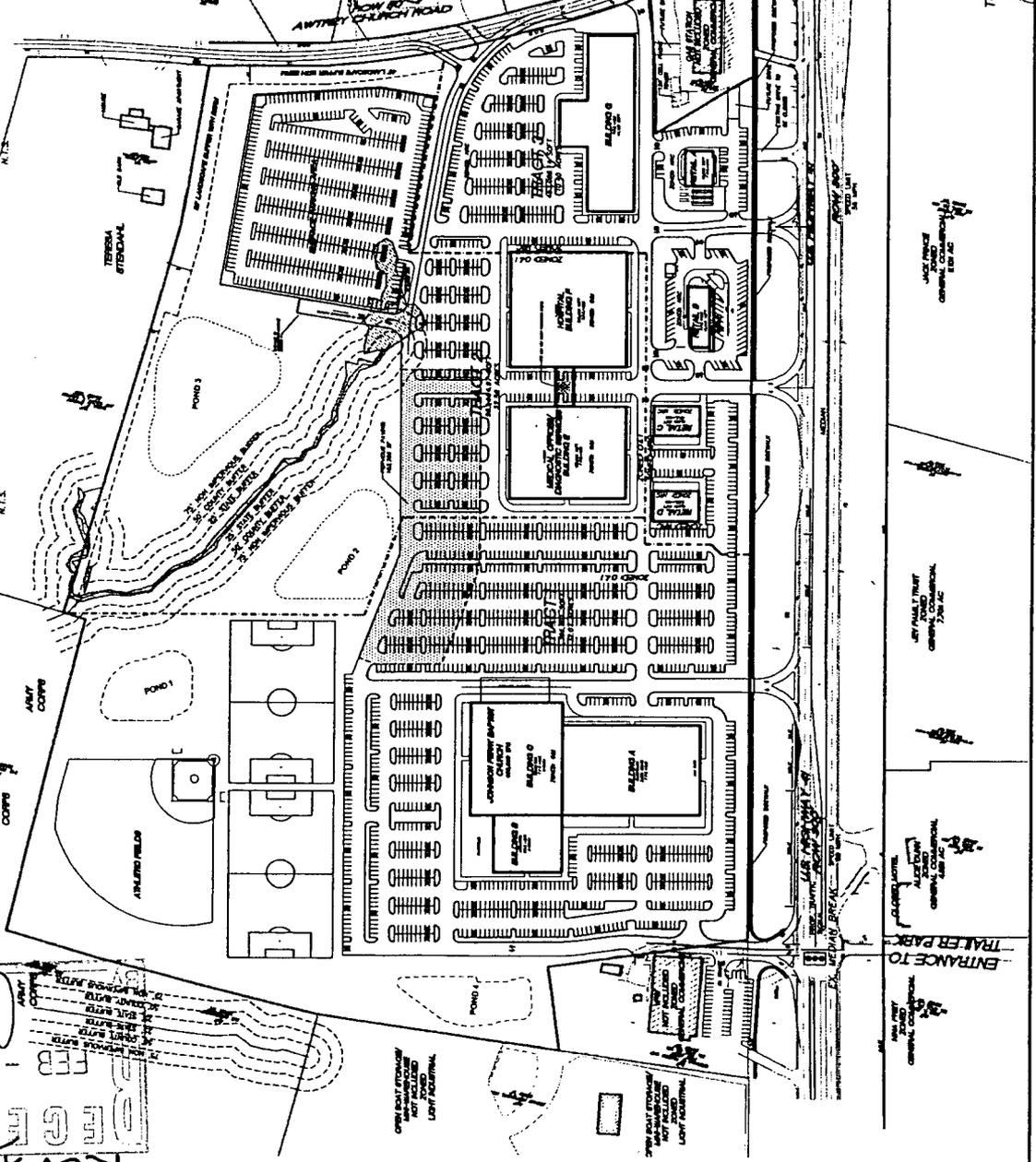
Min. Blk. 5/1 Petition No. Z-164
 Doc. Type Phase 2 Plan

Meeting Date July 17, 2007



GENERAL USE INTERMEDIATE AREA CALCULATION NOTE
 APPROXIMATE INTERMEDIATE AREA CALCULATIONS HAVE BEEN CALCULATED USING THE INTERMEDIATE DEVELOPMENT PROGRAM. ALL AREA CALCULATIONS HAVE BEEN CALCULATED USING THE INTERMEDIATE DEVELOPMENT PROGRAM. ALL AREA CALCULATIONS HAVE BEEN CALCULATED USING THE INTERMEDIATE DEVELOPMENT PROGRAM.
 APPROXIMATE AREA: 1,241,875 SF
 APPROXIMATE PERMITS AREA: 1,451,125 SF = 33.0 AC = SITE
 TOTAL PERMITS AREA: 1,451,125 SF = 33.0 AC = SITE
 TOTAL PERMITS AREA: 2,692,250 SF = 61.5 AC = TOTAL

APPROXIMATE PERMITS AREA	PERMITS AREA								
1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF	1,451,125 SF



PROGNOSTIC
 FEB - 51 2007
 RWI 1550

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CAREY E. ATKINS**
STAYCE BURKHART**

OF COUNSEL:
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN NM
*** ALSO ADMITTED IN NC
**** ALSO ADMITTED IN OH
● ADMITTED ONLY IN TN
●● ADMITTED ONLY IN FL

June 1, 2007

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Min. Bk. 51 Petition No. Z-164⁰⁶
Doc. Type Letter of agreeable conditions
Meeting Date July 17, 2007
Hand Delivered
JUN 1 2007
TM
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

RE: Application for Rezoning

Application No.: Z-164 (2006)

Applicants: Johnson Ferry Baptist Church,
Inc. and WellStar Health
System, Inc.

Property Owners: Ronald A. Lanier; Barbara Linda
Lanier; Nancy K. Lanier; and
Johnson Ferry Baptist Church,
Inc.

Property: 65.05± acres located at the
northeasterly intersection of
Cobb Parkway (U.S. Highway 41)
and Awtrey Church Road;
Land Lots 36 and 37,
20th District, 2nd Section,
Cobb County, Georgia

Dear Mark:

As you know, the undersigned and this firm represent Johnson Ferry Baptist Church, Inc. and WellStar Health System, Inc. (hereinafter collectively referred to as "Applicants"), as well as the referenced Property Owners, in the above-referenced Application for Rezoning with regard to a total tract of

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
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approximately 65.05 acres, more or less, located at the northeasterly intersection of Cobb Parkway (U.S. Highway 41) and Awtrey Church Road, Land Lots 36 and 37, 20th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property"). After review and completion of the Development of Regional Impact ("DRI") process by the Atlanta Regional Commission and the Georgia Regional Transportation Authority; meetings with planning and zoning staff; ongoing discussions and meetings with area residents, homeowner representatives, and the Lake Allatoona Preservation Authority; reviewing the zoning staff comments and recommendations; and reviewing the uses of surrounding properties, we have been authorized by the Applicants and Owners 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 April 25, 2007. 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; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.

- (2) Applicants seek rezoning of the Subject Property from the existing zoning categories of R-20, Heavy Industrial ("HI"), and Tourist Services ("TS") to the proposed zoning categories of Office and Institutional ("OI"), Neighborhood Retail Commercial ("NRC"), and Low-Rise Office ("LRO"), with reference to the revised Site Plan prepared

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
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for Applicants by LAI Engineering dated and last revised May 21, 2007.

- (3) By this letter of agreeable stipulations and conditions, Applicants amend the Application for Rezoning to include the revised Site Plan hereinabove set forth, same being prepared by LAI Engineering dated and last revised May 21, 2007, submitted contemporaneously herewith.
- (4) The Subject Property consists of approximately 65.05 acres of total site area.
- (5) This rezoning proposal is for a mixed-use development consisting of a church and related facilities; medical hospital; medical office, diagnostic, and testing buildings and related facilities; and retail.

I. STIPULATIONS APPLICABLE TO THE OVERALL DEVELOPMENT

A. STORMWATER MANAGEMENT

- (1) A detention pond is located behind the proposed church facility, adjacent to the athletic fields. This pond is designed to treat only the field areas. All of the proposed drainage from the fields drain to drainage ditches that are planted with vegetation and stony bottoms that will help remove fertilizer and other pollutants (the drainage ditches have been designed to remove 80 percent of suspended solids, 50 percent of phosphorus, 50 percent of nitrogen, and 40 percent of metals). After the stormwater has been treated in the ditches, it will enter a stormwater conveyance system which will employ oil/grit separators (the oil/grit

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
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separators alone have been designed to remove 40 percent of suspended solids, 5 percent of phosphorus, and 5 percent of nitrogen). The stormwater will then flow into the proposed detention pond that has been designed specifically for the athletic fields. This pond is unique because it has been designed to have internal swales within the pond in a series of baffles, with water quality pools. The water quality volume for this pond was designed as though the fields were all impervious with no infiltration, which results in larger water quality area within the pond. Also, the water quality calculations were designed off of 1.5 inches of rainfall instead of the allowed 1.2 inches. This design is above the recommendations of the Georgia Stormwater Management Manual. This pond has also been designed with channel protection volume so that the stream to which it discharges will not have any erosion due to any high discharge rates. This pond then discharges with very minimal flows to a stream which then discharges to Lake Allatoona, approximately 2,500 linear feet to the east.

- (2) The two remaining ponds on site have been designed to treat the remainder of the project's stormwater. All of these ponds will have an oil/grit separator upstream of them to help assist in any removal of pollutants prior to treatment within the ponds. All of the ponds will contain water quality pools, which will be planted with vegetation that will assist in removal of any pollutants. The ponds have been designed so that any areas that are currently zoned residential will have a water quality calculation of 1.5 inches instead of 1.2 inches for water quality. This also exceeds the Georgia Stormwater Management Manual recommendations.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
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June 1, 2007

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Continued
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- (3) To minimize contamination of site run-off, landscape management will respond to the conditions and needs of the plantings on site. The athletic fields and planting areas will be fertilized with environmentally sensitive materials. Soil tests will be performed to determine the amounts and types of fertilizer needed. All planting areas will be mulched appropriately to minimize weed growth. The majority of weeds will be removed manually. Non-persistent herbicides (e.g., glyphosphate) and pesticides will be used sparingly and selectively. By closely monitoring the amounts and types of chemicals applied to the site, and by having all run-off enter ponds where solids and contaminants can settle and excess nutrients can be absorbed, the stormwater leaving the site should not negatively affect downstream water quality on Lake Allatoona.

- (4) Applicants will monitor by remote the turbidity leaving the location of the stream bed and the detention pond west behind the VFW and Applicants will also monitor the turbidity at the point where it enters the lake. This monitoring will be done 24/7 during the initial site development and once Applicants have the site Certificate of Completion, then the turbidity monitoring will be done on a monthly basis. When a new site development permit is issued; e.g., for the activities building for the church or the doctors' buildings, then Applicants would go back to the 24/7 remote monitoring until the site is completed, and after that point it would go back to the monthly monitoring. The monitoring will continue until the project is substantially complete. The Director of Cobb County Community Development Agency, Mr. Robert (Rob) L. Hosack, Jr., AICP, will make the determination when the project has been substantially completed.

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B. BUFFERS

- (1) Applicants have proposed immediately adjacent to the Teresa Stendahl property a buffer 100 feet in width running from the buffer on Awtrey Church Road along the property line of Ms. Stendahl, reducing as shown on the referenced Site Plan to 20 feet, and continuing to the edge of the non-impervious stream buffer. There shall be established a Landscape Committee consisting of a representative of Applicants, a representative of the opposition, and Mr. Robert (Rob) L. Hoscak, Jr., AICP, Director of the Cobb County Community Development Agency. This Committee shall determine the composition of the buffer. This composition may include a berm, use of existing trees with additional screening vegetation planted to enhance the buffer, or a combination of all.

- (2) A buffer 40 feet in width will be located along Awtrey Church Road from the Stendahl property to the most easterly entrance to the proposed project. This buffer shall be a natural, maintained, and enhanced buffer. The purpose is to maintain existing trees and enhance the buffer with additional trees to provide a visual screening along Awtrey Church Road. The Cobb County Arborist staff shall determine the trees to remain and any enhanced trees and vegetation to be placed within the buffer.

- (3) Applicants agree upon the issuance of the initial land disturbance permit, and once the content of the buffers has been determined as hereinabove set forth, to construct the buffers in compliance with the final determination of the content of the buffers.

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- (4) Applicants agree at the time of the construction of the referenced buffers to construct and install an entrance feature on Awtrrey Church Road, just easterly of the most easterly entrance to the proposed project, as shown and reflected on the referenced Site Plan.

C. PARKING

- (1) Applicants have achieved a reduction in the total number of parking spaces, and thereby a reduction in impervious surface by agreeing to enter into a shared parking agreement between the Church and WellStar by utilizing parking areas of the respective properties at such times as each respective property has non-peak operating time versus peak operating time. Applicants believe that the two uses proposed here complement a shared parking arrangement in that off-peak hours for the Church would be peak hours for the office, medical, and retail; and vice versa.

D. PHASING OF THE PROJECT

- (1) The proposed project shall be a "phased" project, with the first phase thereof being shown and reflected on the referenced Site Plan. Expansion or additional phases for the Church and WellStar, together with necessary parking therefor, shall be done as desired, needed, and necessary; excepting only, that such expansion or additional phases shall not commence for a period of ten (10) years from the date of zoning approval.

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E. GENERAL STIPULATIONS

- (1) The Church and WellStar portions of the proposed project shall be served only by public sewer. The Cobb County Board of Commissioners shall determine the location and method of providing sewer service for the proposed project. If the Board of Commissioners determines to adopt the recommendation of the Cobb County Water and Sewer Department to use an interceptor system, as shown and described in the staff report, then, and in such event, Applicants agree to install the required sewer system; and Cobb County shall provide all necessary and required easements for the construction and installation of the required sewer system.
- (2) There shall be recorded master protective covenants for the entire development which will include all phases of the development; and concurrent therewith a master association, and possibly sub-associations, will be formed which will include all component parts of the proposed project. The master association shall be responsible for the oversight, upkeep, and maintenance of the entrance areas, common areas, landscape buffers, detention ponds, and the like contained within the overall development.
- (3) The master association, and any sub-associations, to be formed hereunder shall have architectural design regulations which shall control such items as signage, as well as other such usual and necessary covenants and restrictions to protect the quality and integrity of the total development.
- (4) Entrances and access to the proposed project shall be as more particularly shown and reflected on the referenced Site Plan. The most easterly entrance to

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the proposed project shall not be constructed and placed in use until such time as an additional phase or phases of the proposed project are begun.

- (5) Entrance signage for the proposed overall development shall be ground based, monument style signage, with the finish, materials, and color being in conformity with the architecture and design of the various components.
- (6) The entrance areas, together with all islands and planted areas, shall be professionally designed, landscaped, and maintained. These areas shall be part of the overall landscape plan approved by staff as part of the plan review process, as more hereinafter particularly set forth.
- (7) Parking area lighting shall be at a maximum height of thirty (30) feet, shall be environmentally sensitive, low-level, shoe-box luminaries so as to prevent light from penetrating outside the Subject Property.
- (8) Hooded security lighting shall be utilized on the buildings within the proposed project as required by Cobb County codes or ordinances only.
- (9) Applicants agree to comply with all Cobb County Zoning Code requirements as to height limitations for the buildings within the proposed project.
- (10) All utilities for the proposed development shall be located underground.
- (11) Dumpsters or sealed compactors shall be placed in locations with screening by berms, landscaping, or walls. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying. Dumpsters or

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sealed compactors shall be emptied Monday through Saturday from 8:00 a.m. to 9:00 p.m.

- (12) Parking lot cleaning by mechanical methods shall be limited to between the hours of 6:00 a.m. and 10:00 p.m.
- (13) Interior setbacks for the proposed parcels shall have zero lot lines.
- (14) Minor modifications to the within stipulations, the referenced Site Plan, lighting, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary.
- (15) All setbacks and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.
- (16) Applicants agree to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (17) There shall be interparcel access among the various components of the proposed overall development, as more particularly shown and reflected on the referenced Site Plan.
- (18) Additionally, there shall be access to the currently developed property located at the intersection of Cobb

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Parkway and Awtrey Church Road (presently zoned General Commercial) from the proposed retail and medical/office portions of the proposed overall development.

- (19) All landscaping for the proposed development, including temporary landscaping, shall be professionally designed, implemented, and maintained in "Class A" condition and shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.

- (20) Applicants agree that if construction of the initial phase of the proposed project has not commenced within eighteen (18) months from the date of final zoning approval by the Cobb County Board of Commissioners of this project (being defined as thirty (30) days following approval by the Board of Commissioners); or if a lawsuit is filed challenging the zoning approval, then, and in such event, the eighteen-month period shall begin on the date that any such lawsuit has been terminated in favor of Applicants; the Board's decision shall be automatically rescinded and of no force and effect.

II. STIPULATIONS APPLICABLE TO SPECIFIC USES

A. PROPOSED CHURCH DEVELOPMENT

- (1) The proposed Church site shall be zoned to the OI zoning category, shall contain approximately 32.07 acres, and shall be utilized for a church facility, with related educational, administrative, recreational facilities, and attendant parking to service same.

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- (2) Phase I of the proposed Church development shall consist of church facilities not exceeding 122,500 square feet. In addition, athletic fields, as more particularly shown and reflected on the referenced Site Plan, may be constructed.
- (3) Buildings for the proposed church facility shall have blended architectural design and style. Additionally, the building exteriors shall have four-sided, hard surface finishes consisting of brick, stone, stacked stone, stucco-type, glass, with accents, or combinations thereof. The buildings shall be constructed "first-class" and aesthetically pleasing.
- (4) The proposed athletic fields shall be located to the rear of the church buildings, or the most easterly portion of the Subject Property, immediately adjacent to the U.S. Corps properties. The primary utilization of the fields would be for church intramural play; however, the church is open to working with local schools/organizations for scheduled and compatible use, as available.
- (5) Further, the Church will abide by the Cobb County Parks and Recreation Department's lighting requirements as to the time in which any field may be lighted.

B. PROPOSED MEDICAL/WELLSTAR FACILITIES

- (1) The tract comprising a portion of the proposed medical/WellStar facilities shall be zoned to the OI zoning category, shall contain approximately 22.58 acres, and shall be utilized for a hospital facility and medical offices/diagnostic services, and attendant parking to service such facilities.

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- (2) Phase I of the proposed WellStar Health System project shall consist of a building, a maximum of four (4) stories in height, for use as diagnostic, testing, office, and treatment center, containing a maximum of 195,000 square feet.

- (3) The proposed medical/WellStar building shall have blended architectural design and style which shall be compatible to the buildings located within the proposed NRC portion of the overall development and the Church. Additionally, the building exteriors shall have four-sided, hard surface finishes consisting of brick, stone, stacked stone, stucco-type, glass, with accents, or combinations thereof.

C. PROPOSED RETAIL DEVELOPMENT

- (1) Approximately 10.40 acres shall be zoned to the NRC zoning category.

- (2) There shall be four (4) out parcels located along Cobb Parkway (U.S. Highway 41) on which four (4) approximately 10,000 square foot buildings shall be constructed. These out parcels may be utilized for a restaurant, bank, and other allowable retail uses.

- (3) Additionally, there shall be located an approximately 44,000 square foot retail building associated with the WellStar Health facility.

- (4) The buildings within the proposed NRC area shall have blended architectural design and style which shall be complementary to the buildings located within the proposed WellStar/medical center portion of the overall development. Additionally, the building

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exteriors shall have four-sided, hard surface finishes consisting of brick, stone, stacked stone, stucco-type, glass, with accents, or combinations thereof.

- (5) Any roof-mounted HVAC equipment shall be screened by means of a continuous roof parapet.
- (6) All exhausts from restaurant facilities shall be filtered to minimize grease and odors.
- (7) There shall be no outside paging systems, phone bells, or loudspeakers; excepting only low decibel outdoor music systems.
- (8) Entrance signage for the proposed retail development shall be ground based, monument style signage. The finish, materials, and colors for the signage shall be compatible with the retail buildings as well as the overall development. Further, such signage shall contain no flashing sign components. There shall be no roof signs and no exterior, temporary signs excepting only grand opening signage, leasing signage, and signage indicating the coming development.
- (9) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed retail center containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicants and any prospective tenant, and Applicants agree to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail center with "for sale" signs posted thereon.
- (10) The following uses shall be prohibited from the proposed overall development:

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- (a) Video arcades as a primary use;
- (b) Adult-themed bookstores as a primary use;
- (c) Automotive sales, repair, and/or service facilities;
- (d) Gas station;
- (e) Truck and trailer leasing facilities;
- (f) Automotive paint and body repair shops;
- (g) Automotive upholstery shops;
- (h) Billiards and pool halls which are the sole or predominant use;
- (i) Bus stations (not to exclude bus stops);
- (j) Fraternity and sorority house;
- (k) Full-service gas stations;
- (l) Light automotive repair;
- (m) Rooming houses and boarding houses;
- (n) Any form of adult entertainment business;
- (o) Nightclubs and bars, except that same would be permitted within a restaurant or hotel provided that they are an integral part of a restaurant or hotel operation;
- (p) Pawn shops;

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- (q) Alcohol beverage package stores; and
 - (r) Animal care facilities.
- (11) The area shown and reflected on the referenced Site Plan as Low-Rise Office ("LRO") shall not be developed or graded during Phase I of the proposed project; excepting only, construction and use of the athletic fields and stormwater facilities denominated as "Ponds 1 and 2" on the referenced Site Plan.
- (12) All future phases of development shall be in compliance with the requirements of the Cobb County Stormwater Management Division. All detention and stormwater facilities shall be located and sized pursuant to the requirements and approval of the Cobb County Stormwater Management Division.

We believe the requested zoning, pursuant to the referenced, revised Site Plan and the revised stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the significant and on-going changes within the area, the impact of those changes upon existing developments and area properties and owners thereof surrounding the proposed development. Applicants have gone to great detail to mitigate any impact from the overall development on existing and surrounding residential property owners as well as the Lake Allatoona and U.S. Corps properties. Each component of the overall project shall be of the highest quality and shall provide needed services to not only residents of North Cobb County but also to the residents of surrounding areas of southern Paulding and Bartow Counties. Thank you for your thoughtful consideration in this request.

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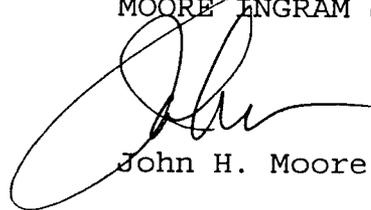
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With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Enclosures

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

Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Bob Hovey
Christi S. Trombetti
Bob Ott
(With Copy of Enclosure)

John P. Pederson, AICP
Planner III
Zoning Division
(With Copy of Enclosure)

William J. Byrne, President
Byrne Design Group, Inc.
(With Copy of Enclosure)

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c: Teresa Stendahl
Area Resident
(With Copy of Enclosure)

David P. Welden
Protect Cobb
(With Copy of Enclosure)

Ron Papaleoni
Lake Allatoona Preservation Authority
(With Copy of Enclosure)

Johnson Ferry Baptist Church, Inc.
WellStar Health System, Inc.
(With Copy of Enclosure)

on July 17, 2007, known as Z-164 (2007), which decision is the basis of Plaintiffs' underlying action), it is

HEREBY ORDERED AND DIRECTED that the above-referenced case be remanded back to the Cobb County Board of Commissioners for the purpose of considering the following specific matters as amendments to the underlying, subject Rezoning Decision and that this Court shall retain jurisdiction over the case pursuant to the pleadings previously filed in the event a resolution is not had among the parties. The specific matters to be considered by the Cobb County Board of Commissioners pursuant to the terms of this Order are as follows:

- (1) A 100 foot wide landscaped buffer shall be established along the shared boundary line, excepting those portions within the State and County-mandated stream buffer. (The buffers adjacent to the Stendahl property shown on the Phase I and Phase II Plans referenced in the existing zoning conditions are therefore altered by this condition to reflect a 100-foot wide buffer.) An initial landscape buffer plan will be prepared for JFBC/WellStar by a professionally licensed landscape architect detailing the number, size, and type of planting material to be installed in the buffer, which plan shall be provided to Ms. Stendahl and her designee with a full opportunity for review and input regarding the final composition of the buffer which shall be approved by the Landscape Committee as established pursuant to the existing zoning conditions. This extended buffer shall also be placed within a permanent conservation easement subject to the right to install the landscaping and maintain same. (Note: This paragraph 1 shall supplant the condition establishing the 100 foot buffer contained in the June 1, 2007, letter of agreeable stipulations approved as part of the Rezoning Decision.)

- (2) JFBC/WellStar has provided to Stendahl an initial, proposed landscape buffer plan and conceptual profiles showing post-development perspectives (proposed grade of developed property) from the existing Stendahl home; as well as, possible future home sites on the Stendahl property which were prepared by Bradford & Associates and provided to Stendahl on August 24, 2009 (the referenced landscape buffer plan and profiles are hereinafter collectively referred to as the "Bradford Plan"). The Bradford Plan will be submitted to the Landscape Committee as established pursuant to the existing zoning conditions for approval during the permitting process (and shall be subject to review, input, and proposals for modification to enhance buffer performance by Stendahl through her designee), as well as the recommendations and requirements of Cobb County with reference to Code of Cobb County Section 134-215 (5)(b)(1)(iii) .
- (3) The buffer plan will include drawings for general reference purposes depicting its composition at various maturity stages – specifically, at the 2-year, 5-year, 7-year and 10-year growth stages.
- (4) In addition to review of the written plan, Stendahl and their designee shall be entitled to a walk-through of the buffer with the preparer of the buffer plan. The purpose of the walk-through is so that the precise locations of proposed new plantings can be marked and visualized, and possible changes to either the type or location of plantings can be proposed for consideration by the Landscape Committee.
- (5) JFBC/WellStar; or any future property owner, will be responsible for the perpetual general maintenance of this buffer in accordance with Cobb County rules, regulations, and ordinances. For reference purposes, see Code of Cobb County Section 134-215 (5)(b)(1)(vii).
- (6) Pond 3 as shown on the referenced Phase II Master Plan shall be redesigned so that no portion of it occurs within the 100 foot landscape buffer.

- (7) JFBC/WellStar shall construct and install a gravity sanitary sewer line to the Stendahl property. The sewer line to the Stendahl property will be constructed upon the issuance of land disturbance permit for site development as part of the sewer infrastructure improvements for the overall development project.
- (8) Tie-in by Stendahl shall be as needed or desired; and at Stendahl's sole expense. Cobb County policy is not to waive sanitary sewer tap fees; however, Cobb County may waive up to three residential tap fees for the Stendahl property.
- (9) JFBC/WellStar will provide Stendahl with an engineering drawing depicting the location where the sewer line will enter her property based on the sketch drawing attached hereto as Exhibit "A" and incorporated herein by reference.
- (10) The sewer line to be provided by JFBC/WellStar shall include an 8-inch lateral at the Stendahl front property corner, and an 8-inch lateral at the end manhole.
- (11) Any proposed "minor" modifications to the (i) approved Phase I Site Plan or Phase II Master Plan; or, (ii) the approved conditions and stipulations of zoning (such items hereinafter collectively referred to as the "Zoning Conditions") must be placed on the Cobb County Board of Commissioners' "Other Business" agenda for consideration and notice shall be provided in accordance with the applicable Cobb County ordinance. Any proposed "major" modifications to the Zoning Conditions must be processed according to Cobb County rules and regulations governing a full rezoning. The determination of whether a proposed modification is "minor" or "major" shall be made by the Cobb County Planning and Zoning staff, or Zoning Director, as the case may be. Notice of any hearings on requests for minor or major modifications shall be noticed in accordance with the applicable Cobb County ordinance or regulations with reference to Code of Cobb County Section 134-121(b). (Note: This paragraph 11 shall supersede references in the approved conditions of the Rezoning Decision; including the letter of agreeable conditions dated June 1, 2007, and the minutes of the July 17, 2007, Zoning Hearing of the Cobb County Board of

Commissioners, which provide for District Commissioner approval of “minor” modifications and Board of Commissioners approval if an “impasse” occurs between the District Commissioner and the Applicant.)

- (12) Silt fencing used for sediment and erosion control shall be removed pursuant to Cobb County standards and ordinances. Subject to Cobb County and State of Georgia requirements, any silt fencing placed within the 100-foot landscaped buffer shall be removed subsequent to the installation of the buffer.
- (13) JFBC/WellStar agrees to plant evergreen trees (minimum 5 feet to 6 feet at planting) along the southerly/southeasterly side of the detention pond labeled as Pond #1 on the Phase I plan.
- (14) Subject to Cobb County staff approval during the Plan Review process, installation of sidewalks shall not be required on Awtrey Church Road east of the location of the second access drive as shown on the Phase II Master Plan. This stipulation applies only to proposed sidewalks east of the second access point and not to any other Awtrey Church Road improvements that may be required under the existing stipulations or Cobb County ordinances.
- (15) JFBC/WellStar will replace any iron surveying pins, where such pins have been removed from the Stendahl property boundary by JFBC/WellStar, in accordance with the metes and bounds description on record with Cobb County.
- (16) The detention ponds for the proposed development shall be hydroseeded with a wetland grass mix subject to approval by Cobb County during the permitting process.
- (17) In the event of a conflict between these stipulations and any prior stipulations and conditions, these stipulations shall control.

All references to “JFBC/WellStar” shall mean the entities known as

Johnson Ferry Baptist Church, Inc. and WellStar Health System, Inc., Co-

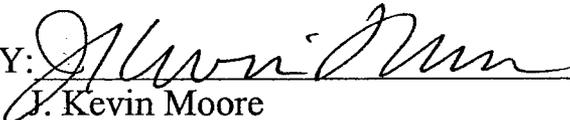
Defendants in this case. All references to "Stendahl" shall collectively mean the persons known as Teresa Stendahl and Timothy Cannon, named Plaintiffs in this case.

SO ORDERED, this 10th day of September, 2009.


ROBERT E. FLOURNOY, III, Judge
Cobb Superior Court
Cobb Judicial Circuit

Consented To and Presented By:

MOORE INGRAM JOHNSON & STEELE, LLP

BY: 
J. Kevin Moore
Georgia Bar No. 519728

Attorneys for Defendants
Johnson Ferry Baptist Church, Inc.
and WellStar Health System, Inc.

Moore Ingram Johnson & Steele, LLP
Attorneys at Law
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Marietta, Georgia 30060
(770) 429-1499
(770) 429-8631 (Telefax)

[Signatures continued on page 7]

Consented To By:

STACK & ASSOCIATES, P.C.

BY: Kurt D. Ebersbach (mam)
Kurt D. Ebersbach
Georgia Bar No. 238213
(By J. Kevin Moore with express permission)

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BENTLEY, BENTLEY & BENTLEY

BY: Fred D. Bentley Jr. (mam)
Fred D. Bentley, Jr.
Georgia Bar No. 052850
(By J. Kevin Moore with express permission)

Attorneys for Defendants
Cobb County, Georgia; Board of Commissioners of
Cobb County, Georgia; Samuel S. Olens; Helen
Goreham; Joe L. Thompson; Annette Kesting; and
Tim Lee, in their official capacities as Chairman
and Members of the Board of Commissioners of
Cobb County, Georgia

Z-164 (2006)

06/19/07 BOC HEARING



TOTAL NET AREA AND CLOSE APPROXIMATE CALCULATIONS

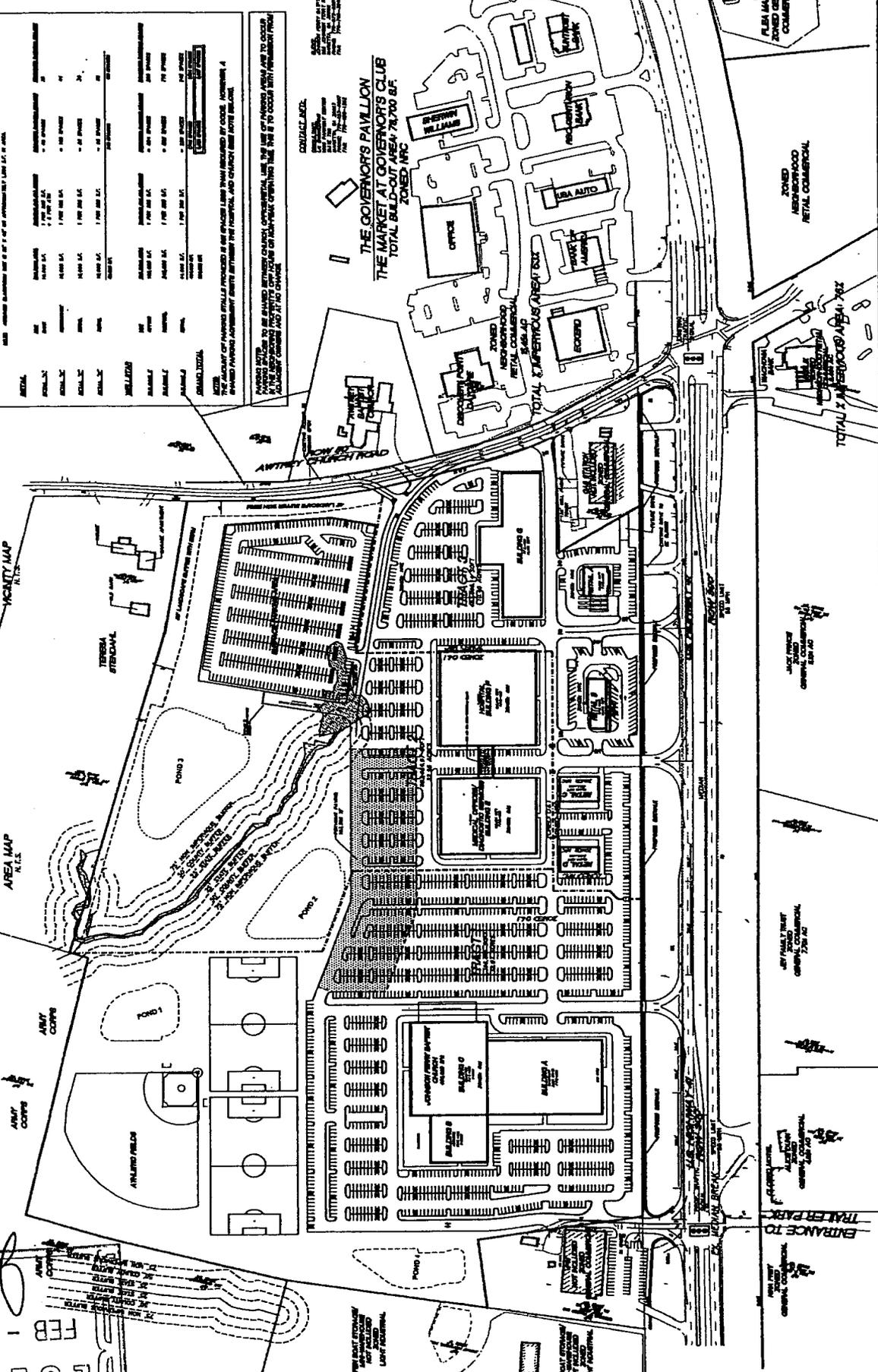
NET AREA	1,448,125 SQ FT
NET AREA	33,118 AC
NET AREA	1,448,125 SQ FT
NET AREA	33,118 AC

ADJUSTED ZONING DISTRICT CHANGES

ADJUSTED ZONING DISTRICT	ADJUSTED ZONING DISTRICT	ADJUSTED ZONING DISTRICT	ADJUSTED ZONING DISTRICT
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KEN T. SELL

APPLICANT: Johnson Ferry Baptist Church, Inc. and Wellstar
Health System, Inc

PETITION NO: Z-164

HEARING DATE (PC): 11-07-06

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

HEARING DATE (BOC): 11-21-06

PRESENT ZONING: R-20, TS, GC, HI

TITLEHOLDER: Johnson Ferry Baptist Church, Inc., Ronald A. and
Barbara L. Lanier, Nancy K. Lanier, Theresa T. Lee, Regina G. Terry

PROPOSED ZONING: OL, NRC

PROPERTY LOCATION: Located on the east side of U.S. Highway
41, north of Awtrey Church Road and on the north side of Awtrey
Church Road, east of U.S. Highway 41.

PROPOSED USE: Mixed Use

Development

ACCESS TO PROPERTY: U.S. Highway 41 and Awtrey Church
Road

SIZE OF TRACT: 65.043 acres

DISTRICT: 20

PHYSICAL CHARACTERISTICS TO SITE: Vacant, timbered
tract

LAND LOT(S): 36, 37

PARCEL(S): 1, 13

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC, R-20, LI, RR/ VFW Lodge, mini warehouses, Lake Allatoona Corp property
- SOUTH:** TS, NRC, R-20/ Convenience Store, Discovery Point Daycare, Awtrey Baptist Church, House
- EAST:** RR, R-20/ Lake Allatoona Corp property, Single-family house
- WEST:** GC/ wooded, abandones motel, mobile home park

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

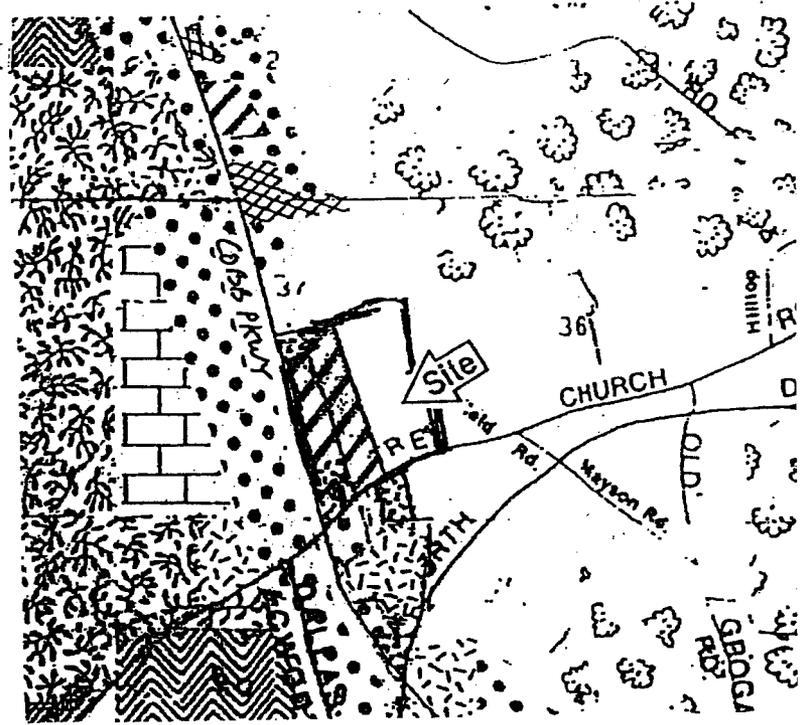
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

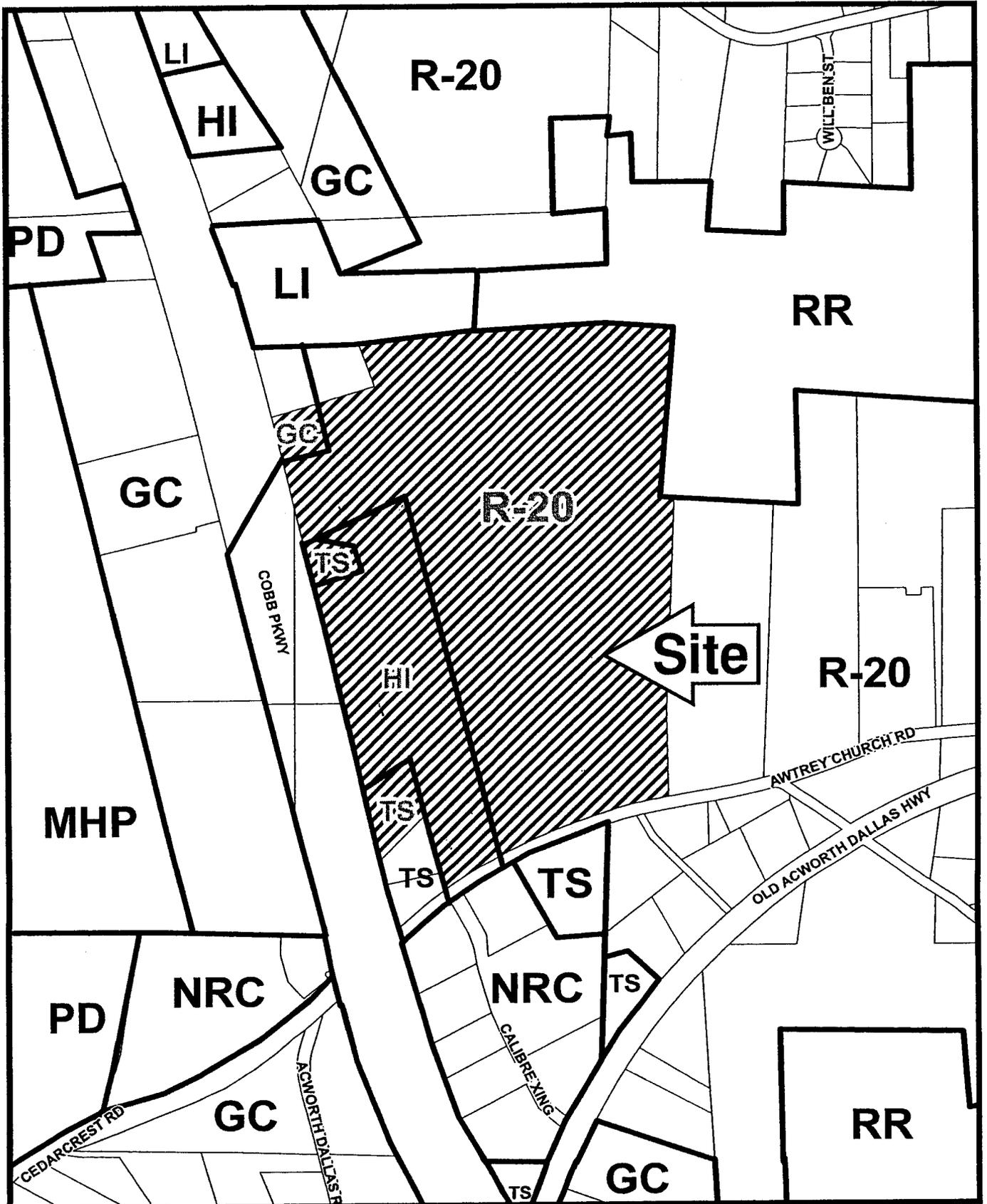
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-164



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

300 0 300 Feet



□ Draft Parcel Boundary
□ Approximate Zoning Boundary

APPLICANT: Johnson Ferry Baptist Church and Wellstar

PETITION NO.: Z-164

PRESENT ZONING: R-20, TS, GC, HI

PETITION FOR: OI, NRC

PLANNING COMMENTS:

Staff Member Responsible: Mark A. Danneman

Land Use Plan Recommendation: Rural Residential (+/-65%), Industrial Compatible (+/-34%), Neighborhood Activity Center (+/- 1%)

Proposed Number of Buildings: 8 Total Square Footage of Development: 934,000

F.A.R.: .31 Square Footage/Acre: 14,358

Parking Spaces Required: 3508 Parking Spaces Provided: 2887*

*There would be a shared parking agreement between the church and the hospital.

The applicant is requesting the OI and NRC zoning districts to develop a mixed use project. The OI section of the request consists of a church and athletic fields, and the medical offices/ hospital. The NRC section of the request consists of commercial development along Highway 41.

The church will contain a sanctuary with seating for 3,000 people, educational classrooms, administrative offices, and athletic fields in the rear. The building will have traditional architecture and will be three stories in height. The church will occupy 32.07 acres of the property and will contain approximately 400,000 square-feet. This square-footage will be phased in over 10-years.

The medical offices/ hospital will occupy 22.58 acres of the property and will contain approximately 440,000 square-feet. The buildings will have traditional architecture, and will be four stories in height. The medical offices will contain diagnostic and testing facilities, as well as general administrative offices. The hospital will contain 150 beds that will serve residents of Cobb County, Paulding County, and Bartow County. The medical offices and hospital will be phased in over 10-years.

The NRC section of the request will occupy 10.4 acres with a mixture of retail, restaurants, small offices, and a bank. The buildings will be one-story in height with traditional architecture. There will be shared parking between all the proposed uses since the peak hours for each use will vary. The applicant has received approval of the Development of Regional Impact from the Atlanta Regional Commission and the Georgia Regional Transportation Authority.

Historic Preservation: After reviewing various county resources including historic and archeological resource surveys, documented Civil War trench maps, and historic aerial maps, staff finds no known historic properties affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

APPLICANT: Johnson Ferry Baptist Church and Wellstar

PETITION NO.: Z-164

PRESENT ZONING: R-20, TS, GC, HI

PETITION FOR: OI, NRC

FIRE COMMENTS:

The applicant is responsible to ensure all Cobb County Fire and Emergency Services Code requirements are met related to this project. Plans will need to be submitted to the Cobb County Fire Marshall's Office, prior to any permits being issued.

Standard comments:

1. Provide 24-hour emergency phone number (offset in bold print on all sheets).
2. Fire Hydrant
 - a. Commercial: Fire hydrant within 500 feet of most remote part of structure.
 - b. Residential: Fire hydrant within 500 feet of structure.
3. Fire apparatus 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 IFC 503.1 2003 Edition. **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-foot inside turning radius, 50-foot outside turning radius and unobstructed vertical clearance of not less than 13-feet 6 inches.** Dead-end access roads in excess of 150-feet shall be provided with a turn-around IFC 503.2.5 2003 Edition. Cul-de-sac with an island: minimum 60-foot radius to outside curb, measured to inside of curb. Minimum lane width = 24-feet. Residential cul-de-sac without island: 38-foot outside radius. Commercial cul-de-sac to have a 60-foot paved radius. Hammerhead turn-around: total of 110-feet needed (45-feet + 20-foot wide roadway + 45-feet).

Additional Comments:

APPLICANT Johnson Ferry Baptist Church, Inc

PETITION NO. Z-164

PRESENT ZONING R-20, TS, GC, HI

PETITION FOR OL, NRC

NOTE: Comments reflect only what facilities were in existence at the time of this review.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s): 12" DI / E side Hwy 41

Additional Comments: Each of two master meters to be at an entrance

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: Across Hwy 41

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

Treatment Plant: PauldingCo

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

Letter of Allocation issued? 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:

Sewer service is not available without execution and/or revision of pertinent agreements, including the existing Intergovernmental Agreement between Cobb and Paulding

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: Johnson Ferry Baptist Church, Inc.

PETITION NO.: Z-164

PRESENT ZONING: R-20, TS, GC, HI

PETITION FOR: OI, NRC

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Lake Allatoona/ Pumpkinvine Cr 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: Identified on site plan (along existing stream and east of Office Bldg F)

- 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 Lake Allatoona ~ 1800'.
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 ____.

APPLICANT: Johnson Ferry Baptist Church, Inc.

PETITION NO.: Z-164

PRESENT ZONING: R-20, TS, GC, HI

PETITION FOR: OI, NRC

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).
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

ADDITIONAL COMMENTS/SUGGESTIONS

1. The majority of this site (55.8 Ac) drains to the northeast to an unnamed tributary to Lake Allatoona. Approximately 9.3 acres drains to the west to US Highway 41 and the Pumpkinvine Creek Basin. Site topography is gentle to moderate with slopes ranging from 5 to 15%. As indicated in the downstream conditions comments, Lake Allatoona is located approximately 1,800 feet downstream of the site. A pre- and post-development sediment study will be required to verify no impact to the lake during construction.
2. Lake Allatoona is a significant source of water supply for the metro-Atlanta area. Special measures must be taken during construction as well as post-construction as part of the site design to protect this valuable resource. Erosion control measures must be well-designed and maintained. It is recommended that onsite timber to be disturbed be mulched and used to establish mulch berms around the perimeter of the site, particularly along the northern and eastern boundary and adjacent to the stream buffers. The use of baffle-boxes and other polymer-enhanced BMPs should also be required. The use of xeriscape landscaping and low maintenance turf grasses for the athletic fields are recommended to minimize non-point source pollution. All runoff from the athletic fields must be directed to the proposed storm water management ponds for water quality treatment. Also, to further reduce the non-point source impacts of the large parking area proposed, it is recommended that a minimum of 10% of the spaces utilize low impact pervious or grass pavers.
3. The proposed commercial/institutional use will result in significantly more land disturbance and stormwater impact than development under the existing underlying zoning and even the previous Z-201 (2004) proposal. With the exception of the stream buffer, the entire site will be mass graded. If approved, the First Flush Water Quality Best Management Practice Requirements must be elevated to the 1.5-inch rainfall event for the existing residentially zoned portion of the site to compensate for the loss of the natural buffering provided by this site.
4. The proposed layout encroaches on the existing stream buffer and required impervious setback as well as identified wetlands at the rear of Office Building F. This disturbance will require a Nationwide Permit from the Corps of Engineers as well as a Buffer Variance from Georgia EPD and Cobb County. The Stormwater Management Division is not in favor of granting this buffer/wetland disturbance due to the already extensive site disturbance proposed and the natural filtering capacity this area provides within such close proximity to Lake Allatoona. If disturbed, onsite mitigation should be provided.

APPLICANT: Johnson Ferry Baptist Church, Inc. **PETITION NO.: Z-164**

PRESENT ZONING: R-20, TS, GC, HI **PETITION FOR: OI, NRC**

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
U.S. Highway 41	16380	Arterial	55 mph	GADOT	110'
Awtrey Church Rd	556	Local	35 mph	Cobb County	50'

*Based on 2005 traffic counting data taken by GADOT. (U.S. Highway 41)
Based on 2000 traffic counting data taken by Cobb County DOT. (Awtrey Church Road)*

COMMENTS AND OBSERVATIONS

U.S. Highway 41 is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.
Awtrey Church Road is classified as a Local and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

Install sidewalk curb and gutter along both road frontages.

Construct a deceleration lane and a left turn lane at each entrance along Awtrey Church Road.

Right-of-way will be required along the north side of Awtrey Church Road to accommodate the proposed development improvements.

Provide inter-parcel access to the convenience store.

Provide 100% funding for a traffic signal at the main entrance on U.S. Highway 41.

One right-in/right-out access along U.S. Highway 41.

As necessitated by this development for egress from U.S. Highway 41, a deceleration lane will be required.

GDOT permits will be required.

RECOMMENDATIONS

Recommend installing sidewalk, curb and gutter along both road frontages.

Recommend a deceleration lane and a left turn lane at each entrance along Awtrey Church Road.

Recommend applicant consider entering into a development agreement pursuant of 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 Awtrey Church Road, a minimum donation to accommodate the development improvements.

Recommend inter-parcel access with the convenience store.

Recommend developer provide 100% funding for the proposed signal if and when warranted.

Recommend one right-in/right-out access to U.S. Highway 41.

APPLICANT: Johnson Ferry Baptist Church, Inc. **PETITION NO.: Z-164** _____

PRESENT ZONING: R-20, TS, GC, HI **PETITION FOR: OL, NRC** _____

TRANSPORTATION COMMENTS cont.

Recommend deceleration lane along the frontage of U.S. Highway 41.

Recommend GDOT permits for all work that encroaches upon the State right-of-way.

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

STAFF RECOMMENDATIONS

Z-164 JOHNSON FERRY BAPTIST CHURCH, INC. AND WELLSTAR HEALTH SYSTEM, INC.

- 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 property is bounded by a mixture properties zoned RR, R-20, LI, GC, TS and NRC. The applicant's proposal is located in an area that contains variety of land uses, including restaurants, retail, offices, industrial uses, institutional uses, and single-family houses. The developer's proposal would promote better land utilization through this comprehensive mixed-use plan. The applicant's proposal places the least intense component of the proposal (the athletic fields and bermed/landscaped parking area adjacent to the existing single-family house and the Corp property. The applicant's proposal places most intense part of the proposal towards Highway 41, which is anticipated for higher intensity uses. The area has seen much new residential and commercial development in the last five years. The project was reviewed and approved as a mixed use development by the Atlanta Regional Commission (ARC) and the Georgia regional Transportation Authority (GRTA).
- 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 has evolved into a better plan which has moved much of the intensity away from the residentially zoned property, and increasing buffering. ARC staff recognized the following in the DRI Regional Review Finding:

" The site is surrounded by low density residential homes to the east and north. It is important to minimize the impacts to existing residents and preserve the overall character of the Lake Allatoona community while accommodating for expected growth in an efficient manner. Therefore, it is important that the developer work with the community to minimize the impacts, focusing the intensity of the development along us 41, providing adequate buffers and landscaping, and implementing measures to ensure minimal impacts to Lake Allatoona. "

The initial plan had buildings 60-feet from the eastern property line with a 20-foot buffer, which is where the closest adjoining single-family house is located. The newest site plan has the medical buildings are setback at least 700-feet from the eastern property line with a 50-foot buffer and berm. The closest single family house on the south side of Awtrey Church Road is at least 600-feet away from the closest retail building. Previous rezoning applications have not been so flexible and accommodating. The applicant has resolved the issue of how to sewer the property, which has been a problem in the past. The applicant has also taken extra steps to minimize pollution going into Lake Allatoona which include: 1) oversize planted detention ponds, 2) 75-foot stream buffers, 3) stormwater treatment ditches that will remove phosphorous, nitrogen and metals, 4) oil/grit separators, 5) water quality pools, 6) minimal pond flows during storm events, and 7) a landscape management plan that will address fertilizations schedules (& types) and the use of herbicides and pesticides. The applicant has also reduced the pervious coverage on the tract to 49% through the use of pervious paving. Lastly, the applicant has provided Staff with a Certificate of Need from the Georgia Department of Community Health regarding the imaging center.

- 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, schools or utilities. This opinion can be supported by the departmental comments contained in this analysis. The Atlanta Regional Commission and Georgia Regional Transportation Authority have extensively reviewed the applicant's proposal and found it to be in the best interest of the state. The applicant has put extensive work into the proposed site plan to minimize any negative effects onto adjacent properties. Additionally, the applicant's proposal would help to close a gap in healthcare and emergency medical services in the region. The portion of the proposal that concerns Staff is the large parking area in the southeast section of the property. The buffer here should be increased to 100-feet with the fencing and berm along the eastern property line. The Zoning Division believes the Board of Commissioners should examine closing Awtrey Church Road in this general vicinity, to act as a cut-off going east, and to separate the higher intensity uses from the lower intensity uses. This concept would resemble the cut-off established at Stillhouse Road, where the road was closed with a barricade to separate uses and traffic.

Continued on the next page

STAFF RECOMMENDATIONS (continued)

Z-164 JOHNSON FERRY BAPTIST CHURCH, INC. AND WELLSTAR HEALTH SYSTEM, INC.

- 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*, for a portion of the proposal. The property is designated to be within a Rural Residential Land Use Category (+/-42 acres or +/-65%), an Industrial Compatible Land Use Category (+/-22 acres or +/-34%) and a Neighborhood Activity Center (+/-1 acre or +/- 1%).

A church (and related facilities) can go in any zoning district except for CF and IF. The church occupies 23 acres of the 42 acres of the RR land area, which equates to 54% of the total RR land. The detention ponds on the medical tract occupy approximately 8 acres of the RR land area, which equates to 20% of the total RR land; it should be noted detention ponds would have to go here whether the property is zoned R-20 or OI. The balance of the RR land is designated as parking spaces on the site plan.

The medical office buildings and retail buildings B- G are located on land designated as Industrial Compatible, and this property is zoned HI. The HI zoned property contains prior rezoning stipulations that limit the 1) access of the property to US Highway 41, 2) heavy equipment be fenced and 3) buffering along the rear and Awtrey Church Road. There are not any stipulations regarding the building height or F.A.R., which under HI, could be four stories with a F.A.R. of .75 for industrial uses. The proposed buildings heights are four stories for the medical office/hospital, three stories for the church, and one story for the retail buildings. The proposed F.A.R.'s are .29 for the church, .44 for the medical offices/hospital, and .19 for the retail uses. The proposed building heights and F.A.R.'s are less intense than the potential HI development of the property.

Retail building A is on property designated as a Neighborhood Activity Center. The proposed use is a one-story bank. This property is consistent with the land use map and the area.

- 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 proposal is not in accordance with the *Cobb County Comprehensive Plan* (the Plan) for some of the proposal based on the mapped boundaries of the Future Land Use Map. However, Staff believes the applicant's plan has met the intent of the Plan because the proposal generally adheres to the areas where intensive development is anticipated, in the Neighborhood Activity Center and Industrial Compatible area along U.S. Highway 41. The portion of the proposal that concerns Staff is the large parking area in the southeast section of the property. The buffer here should be increased to 100-feet with the fencing and berm along the eastern property line. Staff believes the applicant's proposal would be a suitable use as referenced in paragraph A of this recommendation, and the proposal would not adversely affect adjacent properties, as referenced in paragraph B of this recommendation. The applicant is taking unprecedented measures to alleviate negative impacts to Lake Allatoona. The applicant has revised the plan several times; each time the intensity was moved farther away from the adjacent residential properties to reduce the impact to those properties. Staff believes the development of this property would be beneficial for the County, and beneficial for the area, and would provide much needed medical facilities.

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

- Site plan received February 5, 2007, with the District Commissioner approving minor modifications;
- Subject to the Development of Regional Impact from the Atlanta Regional Commission and the Georgia Regional Transportation Authority (on file in the Zoning Division);
- The 50-foot landscape buffer adjacent to the eastern property line be increased to 100-feet, with a berm and solid wooden fence;
- Water and Sewer comments and recommendations;
- Stormwater Management comments;
- 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.