

Marietta, Ga 30062
Phone 770.977.3966

**Z-32
(2009)**

MILLIA
2820-
MAR

24-HOUR CONTACT
 REX HORNEY ~ 678-409-4898



EROSION CONTROL LIC. NO. 0000000884

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VENBER, 2008 JOB# 08117-000

REVIEWS

REVISION	DATE
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DATE	DRAFTED BY	CHECKED BY	REV.

7	FLOYD	WALKER	OYD
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P:\08117-Hawkins Store\dwg\09012009-ZONINGPLAN.dwg, 9/1/2009 1:18:08 PM, \\server\Canon11x17

APPLICANT: Rex E. Horney

678-409-4898

REPRESENTATIVE: Moore Ingram Johnson and Steele, LLP

John H. Moore 770-429-1499

TITLEHOLDER: Rex E. Horney

PROPERTY LOCATION: Located at the northwest intersection of

Canton Road and Hawkins Store Road.

ACCESS TO PROPERTY: Hawkins Store Road

PHYSICAL CHARACTERISTICS TO SITE: Unfinished

commercial buildings

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/ Noonday Baptist Church

SOUTH: GC/ Conoco, Auto Repair

EAST: R-20/ wooded

WEST: R-20/ Soccer fields

PETITION NO: Z-32

HEARING DATE (PC): 11-03-09

HEARING DATE (BOC): 11-17-09

PRESENT ZONING: CRC with

Stipulations

PROPOSED ZONING: CRC with

Stipulations

PROPOSED USE: Teaching Academy For

Gymnastics, Cheering, Tumbling and the Like

SIZE OF TRACT: 4.68 acres

DISTRICT: 16

LAND LOT(S): 228, 277

PARCEL(S): 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

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

PLANNING COMMISSION RECOMMENDATION

APPROVED ____ **MOTION BY** _____

REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED ____ **MOTION BY** _____

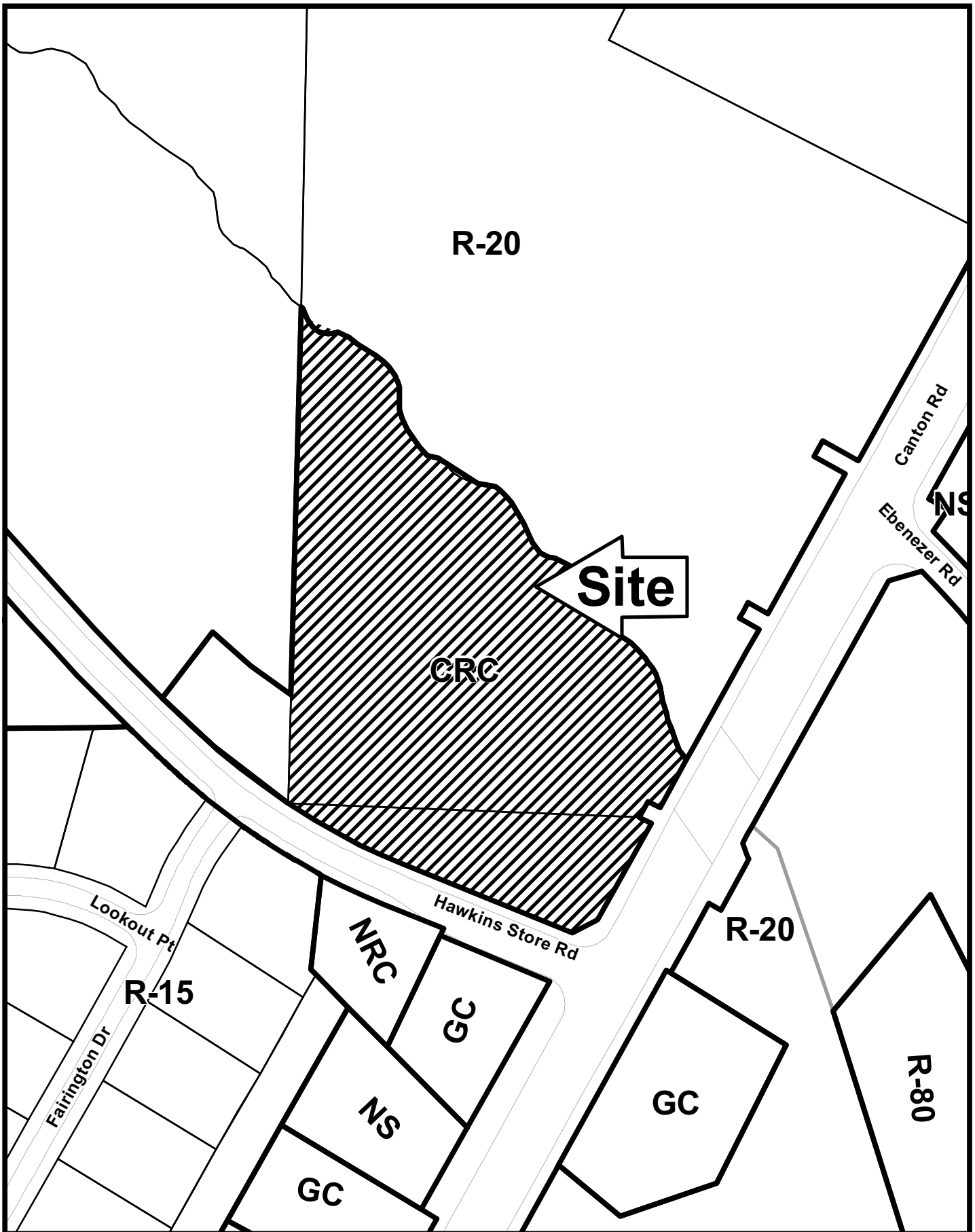
REJECTED ____ **SECONDED** _____

HELD ____ **CARRIED** _____

STIPULATIONS:



Z-32



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

100 0 100 Feet



City Boundary
Zoning Boundary

APPLICANT: Rex E. Horney

PETITION NO.: Z-32

PRESENT ZONING: CRC with stipulations

PETITION FOR: CRC with stips

ZONING DIVISION COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Parks/Recreation/Conservation

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 11,314

F.A.R.: 0.05 **Square Footage/Acre :** 2,417

Parking Spaces Required: 57* **Parking Spaces Provided:** 26

***Based on parking calculations for Athletic and Health Clubs.**

The applicant is requesting rezoning to amend the prior rezoning actions from Z-174 of 2005 and Z-39 of 2008 (see Exhibit "B" for zoning stipulations). The concept in the two former rezoning applications was to have a wedding chapel and special events facility. The applicant would like to change the proposed use to a teaching academy for gymnastics, cheering, tumbling and the like. The applicant would also like to have outdoor wedding events. The applicant proposes to build a 11,314 square-foot building with an exterior consisting of brick with masonry accents. The business will be open seven days a week, from 8:00 am to 10:00 pm. The applicant will need a contemporaneous variance for not having enough parking, which was approved previously. 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: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

APPLICANT: Rex E. Horney

PETITION NO.: Z-32

PRESENT ZONING: CRC with stipulations

PETITION FOR: CRC with stips

Master Plan/Corridor Study

According to the 2005 Canton Road Corridor Study, the following are items for consideration for the subject parcel:

- Retail and office uses should be restricted so that there are no twenty-four (24) hour establishments along the corridor.
- The site is located in an area that has been identified as a redevelopment site, but outside of the area theorized for mixed-use development (Map #8);
- The parcel is outside the area covered by the Main Street Design Principles.
- When the property is redeveloped, all aspects of the Canton Road Design Guidelines will need to be incorporated into the site plan and architecture of the site.
- Area from New Chastain Road to the Cherokee County line is identified as a Campus District to take advantage of the existing office and educational uses, but the areas marked for potential redevelopment & land use changes are north of the subject parcel.
- Staff requests that a stipulation be included that has the applicant meet the sidewalk, street tree, and street light standards as detailed in the Canton Road Design Guidelines.

Based upon these criteria, the request to rezone the property from GC to NRC to for retail use would be compatible with the intent of the Canton Road Corridor Study.

Design Guidelines

Is the parcel in an area with Design Guidelines? ☒ Yes ☐ No

If yes, design guidelines area Canton Road Design Guidelines

Does the current site plan comply with the design requirements?

☐ Yes ☒ No ☐ Not applicable

APPLICANT:
Rex E. Horney

PETITION NO.:
Z-32

PRESENT ZONING:
CRC with stipulations

PETITION FOR:
CRC with stips

FIRE COMMENTS:

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds meeting **AASHTO HS20** Loading with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

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

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupiable floor level. Aerial fire apparatus roads shall be a minimum with of 24 feet face of curb to face of curb maximum of 40 feet from the structure and be positioned parallel to the long side of the building for its entire length. No overhead utility and power lines shall be located within the aerial apparatus access.

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

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

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

To start the Certificate of Occupancy process, site and building plans must be submitted to the CCFMO.

All applicable inspects must be obtained before a C/O will be issued to include underground piping.

APPLICANT Rex E. Horney

PETITION NO. Z-032

PRESENT ZONING CRC w/stips

PETITION FOR CRC w/stips

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

WATER COMMENTS:

Available at Development? ☒ Yes ☐ No

Fire Flow Test Required? ☒ Yes ☐ No

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

Additional Comments:

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

SEWER COMMENTS:

In Drainage Basin? ☒ Yes ☐ No

At Development? ☒ Yes ☐ No

Approximate Distance to Nearest Sewer: On site along creek

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

Treatment Plant: Noonday

Plant Capacity Available? ☒ Yes ☐ No

Line Capacity Available? ☐ Yes ☐ No

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

Dry Sewers Required? ☐ Yes ☒ No

Off-site Easements Required? ☐ Yes* ☒ No

Flow Test Required? ☐ Yes ☐ No

Septic Tank Recommended by this Department? ☐ Yes ☒ No

Subject to Health Department Approval? ☐ Yes ☒ No

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

Additional Comments:

Onsite food preparation requires submittal of architectural plans and pre-installed grease trap

Notes FYI: *Occupancy/use numbers not provided as of 10/1/09*

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: Rex E. Horney

PETITION NO.: Z-32

PRESENT ZONING: CRC w/stips

PETITION FOR: CRC w/stips

DRAINAGE COMMENTS

FLOOD HAZARD: ☒ YES ☐ NO ☐ POSSIBLY, NOT VERIFIED

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

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

WETLANDS: ☒ YES ☐ NO ☐ POSSIBLY, NOT VERIFIED

Location: adjacent to stream.

- ☒ 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 _____.

APPLICANT: Rex E. Horney

PETITION NO.: Z-32

PRESENT ZONING: CRC w/stips

PETITION FOR: CRC w/stips

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

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

INSUFFICIENT INFORMATION

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

ADDITIONAL COMMENTS

1. Per agreement with Bill Higgins, parking spaces must utilize a pervious grass paver system (ie. Turftrack, Turfblock, Turfstone or approved equivalent).

APPLICANT: Rex Horney

PETITION NO.: Z-32

PRESENT ZONING: CRC with Stipulations

PETITION FOR: CRC with Stipulations

TRANSPORTATION COMMENTS

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

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Hawkins Store Rd	7800	Major Collector	35 mph	Cobb County	80'
Canton Road	30200	Arterial	45 mph	Cobb County	100'

Based on 2008 traffic counting data taken by Cobb County DOT. (Hawkins Store Road)
Based on 2007 traffic counting data taken by Cobb County DOT. (Canton Road)

COMMENTS AND OBSERVATIONS

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

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

Install sidewalk along both Canton Road frontage.

RECOMMENDATIONS

Recommend installing sidewalk along Canton Road frontage.

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

STAFF RECOMMENDATIONS

Z-32

REX E. HORNEY

- A. It is Staff's opinion that the applicant's rezoning proposal may permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in a section of Canton Road that contains a mixture of residential, commercial, and institutional uses. However, Staff is very concerned with how this project has progressed since it was permitted and the development plans has not been followed, or have not been done.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. The project has intensified since it was approved in 2005, and has spilled over onto adjacent property. The project has not followed the approved development plans, and has sat unfinished for a very long time. The required number of parking spaces is not being met.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Parks/Recreation/ Conservation Land Use Category.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The applicant's proposal is not in accordance with the *Cobb County Comprehensive Plan*. The project has not followed the intent of the current zoning case, and has not followed the approved construction plans. Staff is concerned about all the improvement made outside the scope of the approved plans or County inspection. The project started off as a low intensity +/-2,500 square-foot assembly hall, but has intensified into a +11,000 square-foot building, which does not meet the required parking.

Based on the above analysis, Staff recommends DENIAL.

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

ATTACHMENT TO APPLICATION FOR REZONING

IMPACT ANALYSIS STATEMENT

Application No.: Z- 32 (2009)
Hearing Dates: November 3, 2009, and
November 17, 2009

Applicant/Titleholder: Rex E. Horney

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

- (a) This Application for Rezoning requests rezoning of a 4.68 acre tract from the Community Retail Commercial, with stipulations, zoning category to the Community Retail Commercial, with stipulations ("CRC, with stipulations"). The Subject Property is located at the northwest intersection of Canton Road and Hawkins Store Road. On October 21, 2008, the Board of Commissioners approved rezoning of the Subject Property to the CRC category, with certain stipulations applicable to the specific development for which it was rezoned at that time. Due to the economic downturn, the proposed use for which it was rezoned is no longer possible. Therefore, Applicant files the instant Application for Rezoning to obtain approval of changes in stipulations, including, but not limited to, the use for the proposed structure, which would allow for the completion of the project and occupancy by a viable business.
- (b) This zoning proposal should have no adverse effect on the existing use or usability of adjacent or nearby property. The completion of the development would have minimal, if any, impact on surrounding properties. The rezoning would have a very positive effect in that it would allow for the development to be completed and occupied by a business entity which would provide services to the surrounding community. If the changes in stipulations are approved and the development is completed, the adjacent and nearby property owners should benefit in higher land values.
- (c) The property as zoned does not have a reasonable economic use.
- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Additionally, there should be almost no effect on schools and minimal effect on utilities and transportation facilities.

- (e) The zoning proposal is in conformity with the Land Use Map of Cobb County, Georgia, as well as the policy and intent of the Land Use Plan as evidenced by the rezoning approval to the CRC category in November 2005 and October 2008.
- (f) Approval of the proposed stipulation changes, as sought in this Application for Rezoning, would allow for the completion of the project for a teaching academy for gymnastics, cheerleading, tumbling, and the like, upon the Subject Property. The finished structure and overall project would be complementary to the Canton Road corridor and the surrounding area as a whole.

ORIGINAL DATE OF APPLICATION: 10-18-05APPLICANTS NAME: REX HORNEY

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

BOC DECISION OF 11-15-05 ZONING HEARING:

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

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

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

- final site plan to be approved by District Commissioner prior to issuance of any land disturbance permits
- use as assembly hall only
- Fire Department comments
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations, *including memorandum from Mr. G. H. Mingledorff dated November 9, 2005* (copy attached and made a part of these minutes)
- Cobb DOT comments and recommendations
- owner/developer to enter into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: **ADOPTED** unanimously

Z-32 (2009)
Exhibit "B"
Previous Zoning
Stipulations

WFC

WILLIAM FLOYD
& COMPANY LLC
1000 N. 10TH ST.
SUITE 100
FARMINGTON, CT 06031
Phone 778-883-8831
Fax 778-883-8877

HAWKINS CANTON CHAPEL
--AD LAOT 228, 16TH DISTRICT
COBB COUNTY, GEORGIA

Z-174

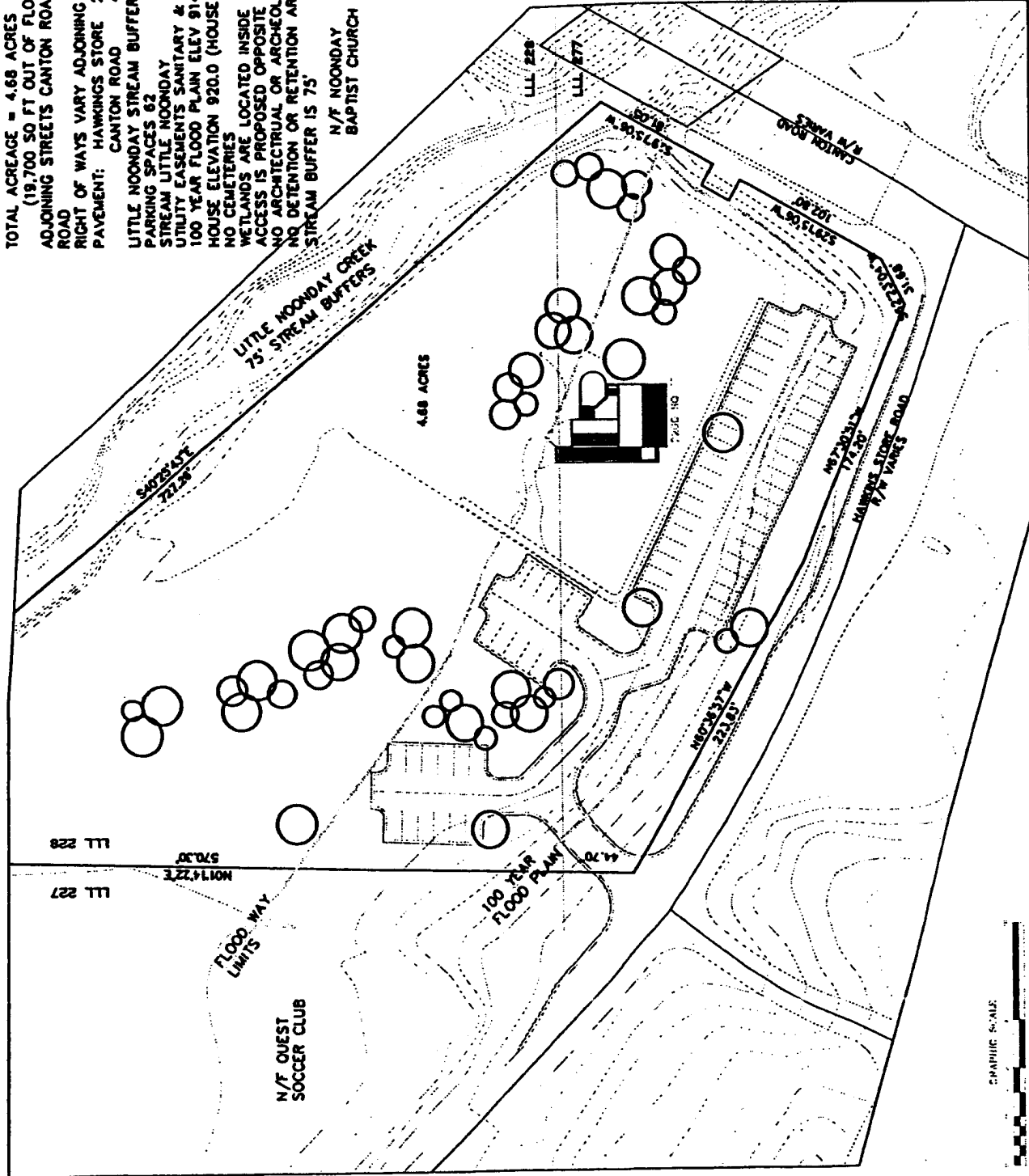
OWNER
C.A.S.
DEVELOPMENT, LLC
PHONE 678-488-4888

24-HOUR CONTACT
RE: HONORARY 678-488-4888



2009
WILLIAM FLOYD & COMPANY, LLC
1000 N. 10TH ST.
SUITE 100
FARMINGTON, CT 06031
Phone 778-883-8831
Fax 778-883-8877

TOTAL ACREAGE = 4.68 ACRES
(19,700 SQ FT OUT OF FLOODWAY)
ADJOINING STREETS CANTON ROAD & HAWKINS STORE
ROAD
RIGHT OF WAYS VARY ADJOINING THE PROPERTY
PAVEMENT: HAWKINS STORE 24' BC-BC
CANTON ROAD 40' BC-BC
LITTLE NOONDAY STREAM BUFFER 75'
PARKING SPACES 82
STREAM LITTLE NOONDAY
UTILITY EASEMENTS SANITARY & GAS
100 YEAR FLOOD PLAIN ELEV 914.0
HOUSE ELEVATION 920.0 (HOUSE WILL SIT ON PEIRS)
NO CEMETERIES
WETLANDS ARE LOCATED INSIDE THE FLOOD WAY
ACCESS IS PROPOSED OPPOSITE THE EXISTING STREET
NO ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS
NO DETENTION OR RETENTION AREAS
STREAM BUFFER IS 75'
N/E NOONDAY
BAPTIST CHURCH



GRAPHIC SCALE

1" = 100'

PAGE 6 OF 15APPLICATION NO. Z-39ORIGINAL DATE OF APPLICATION: 08-19-08APPLICANTS NAME: REX E. HORNEY**Z-32 (2009)
Exhibit "B"
Previous Zoning
Stipulations**

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

BOC DECISION OF 10-21-08 ZONING HEARING:

REX E. HORNEY (Rex E. Horney and The United Soccer Club, Inc., owners) requesting Rezoning from **R-20** and **CRC with Stipulations** to **CRC with Stipulations** for the purpose of an Event Center in Land Lots 227, 228, 277 and 278 of the 16th District. Located at the northwest intersection of Canton Road and Hawkins Store Road.

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

MOTION: Motion by Lee, second by Olens, to **approve** Rezoning to the **CRC with Stipulations** zoning district **subject to:**

- letter of agreeable conditions from Mr. John Moore dated October 1, 2008 (attached and made part of these minutes)
- architectural renderings made part of the letter of agreeable conditions from Mr. John Moore dated October 1, 2008
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

MOORE INGRAM JOHNSON & STEEL

A LIMITED LIABILITY PARTNERSHIP
 WWW.MIJS.COM

192 ANDERSON STREET
 MARIETTA, GEORGIA 30060

TELEPHONE (770) 429-1499
 TELECOPIER (770) 429-8631

BILLING ADDRESS
 P.O. BOX 3305 • MARIETTA, GEORGIA 30061

TENNESSEE OFFICE
 CEDAR RIDGE OFFICE PARK, SUITE 500
 408 N. CEDAR BLUFF ROAD • KNOXVILLE, TENNESSEE 37923
 TELEPHONE (865) 692-9039
 TELECOPIER (865) 692-9071

JOHN H. MOORE
 STEPHEN C. STEELE
 WILLIAM R. JOHNSON[†]
 ROBERT D. INGRAM[†]
 J. BRIAN O'NEIL
 G. PHILLIP BEGGS
 ELDON L. BASHAM
 MATTHEW J. HOWARD
 JERE C. SMITH
 CLAYTON O. CARMACK
 KEVIN B. CARLOCK[†]
 ALEXANDER T. GALLOWAY III[†]
 J. KEVIN MOORE
 RODNEY R. MCCOLLOCH
 SUSAN S. STUART
 DANIEL A. LANDIS***
 BRIAN D. SMITH

HARRY R. TEAR III
 W. TROY HART[†]
 JEFFREY A. DAXE
 KIM A. ROPER
 JOYCE W. HARPER
 AMY K. WEBER
 TARA C. RIDDLE
 KELLI L. WOLK
 VICTOR P. VALMUS
 T. SHANE MAYES
 ANGELA H. SMITH
 OPHELIA W. CHAN
 DARRELL L. SUTTON
 NICHOLAS J. PETERSON*
 JAMES D. WALKER III
 CHRISTOPHER D. GUNNELS*
 JENNIFER S. WHITE*

RYAN G. PRESCOTT
 CHRISTOPHER C. MINGLEDORFF
 COLE B. STINSON***
 ANGELA D. CHEATHAM
 CAREY E. OLSON*
 CHARLES PIERCE*
 BRANDON C. HARDY
 STAYCE M. BURKHART*
 CLAY S. O'DANIEL
 GRAHAM E. McDONALD
 KARINE M. POLIS
 PHILLIP G. GOMBAR*
 SARAH E. STOTTEMYER
 JENNIFER A. RINGSMUTH*
 PRESTON D. HOLLOWAY
 JENNIFER B. SIMPSON
 ASPEN S. RAINS*

MARC E. SIROTKIN
 BETH GEARHART****
 S. NIKOL RICHARDSON*
 SCOTT I SAIDAK*
 JENNIFER L. LAFONTAINE*
 TIMOTHY H. STALLINGS
 PRESTON D. PIERCE*

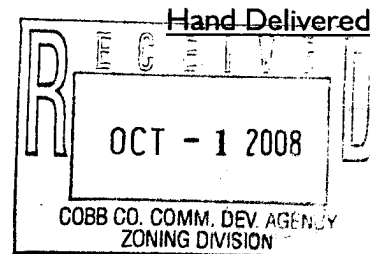
OF COUNSEL:
 JOHN L. SKELTON, JR.[†]

[†] ALSO ADMITTED IN TN
 * ALSO ADMITTED IN FL
 *** ALSO ADMITTED IN NM
 **** ALSO ADMITTED IN NC
 ***** ALSO ADMITTED IN CA
 ♦ ADMITTED ONLY IN TN

October 1, 2008

PAGE 7 OF

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



RE: Application for Rezoning - Application No. Z-39 (2008)

Applicant/Owner:

Rex E. Horney

Property:

4.68 acres located at the northwest
 intersection of Canton Road and
 Hawkins Store Road, Land Lots 228 and
 277, 16th District, 2nd Section,
 Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent Mr. Rex E. Horney, the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), in his Application for Rezoning with respect to property located at the northwest intersection of Canton Road and Hawkins Store Road, being approximately 4.68 acres, Land Lots 228 and 277, 16th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting with planning and zoning staff and various Cobb County departmental representatives, additional discussions and meetings with area civic and homeowner representatives, and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the letter of stipulations and conditions dated August 1, 2008. The revised stipulations are as follows:

Min. Bk. 57 Petition No. Z-39
 Doc. Type letter of
agreeable conditions
 Meeting Date 10/21/08

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
Page 2 of 5
October 1, 2008

- (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 submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property.
- (2) Rezoning of the Subject Property shall be from the existing zoning category of Community Retail Commercial ("CRC") to the proposed zoning category of Community Retail Commercial ("CRC"), with stipulations, site plan specific to that certain Site Plan, prepared by William Floyd & Co. dated May 28, 2008.
- (3) Applicant brings this Application for Rezoning to obtain Board of Commission approval for the revised site plan submitted herewith,, as more particularly set forth in the official Board of Commission minutes pursuant to Z-174 (2005).
- (4) Applicant proposes the construction of an event center upon approximately 4.68 acres. The event center shall be used for receptions, family gatherings, meetings, and the like.
- (5) The proposed structure shall be a one-story building which shall consist of a chapel, reception area, kitchen facilities, offices, restrooms, and storage areas.
- (6) The exterior of the proposed structure shall be all brick with accents in the gables and shall be substantially similar to the rendering attached hereto as Exhibit "A" and incorporated herein by reference.
- (7) Additionally, there will be no hardi-plank materials used for the exterior finish, excepting only accents.
- (8) All standard windows within the proposed event center shall have interior window treatments. Any windows which have decorative glass, stained glass, beveled glass, or the like shall not be required to have window treatments.
- (9) Applicant agrees that the proposed event center shall not operate past 12:00 midnight

Petition No. 2-39
Meeting Date 10/21/08
Continued

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III

Zoning Division

Cobb County Community Development Agency

Page 3 of 5

October 1, 2008

- (10) Entrance signage for the event center shall be ground based, monument style signage. The finish, materials, and colors for the signage shall be compatible with the main event hall. Further, such signage shall contain no digital or 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.
- (11) Lighting fixtures for parking areas shall be environmentally sensitive, shoe-box style and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (12) Security lighting on the proposed event center shall be wall packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (13) Additionally, Applicant shall install a lamp post-type light at the monument signage area. The light post and fixture shall be approved, in writing, by the Canton Road Neighbors, Inc.
- (14) Landscaping for the Subject Property shall be professionally designed, installed, and maintained. All landscaping along Canton Road shall be approved by the Canton Corridor Guideline Committee.
- (15) Applicant agrees that if the exterior finish of the proposed center is not completed within ninety (90) days of final zoning approval, then the Subject Property shall revert to the original zoning; excepting only, if Applicant is prevented from timely completion due to force majeure, the time for completion may be extended accordingly.
- (16) Pervious pavers or turf blocks shall be installed in the new parking area to be constructed on the Subject Property; subject to Cobb County and Cobb County Fire Department approval; at no additional cost to Applicant in excess of standard industry cost for the pavers.

Petition No. 2-39
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Continued

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
Page 4 of 5
October 1, 2008

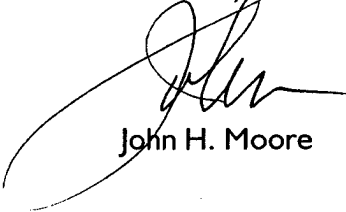
- (17) Minor modifications to the within stipulations, the referenced Site Plan, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary.
- (18) Attached hereto as Exhibit "B" and incorporated herein by reference is a letter agreement from Noonday Baptist church regarding use of its parking facilities by Applicant. Applicant agrees to provide a shuttle service for those utilizing this area for parking.
- (19) Attached hereto as Exhibit "C" and incorporated herein by reference is a floor plan of the proposed building reflecting a total gross square footage of 10,879 square feet.
- (20) Applicant agrees that he will not be entitled to a Certificate of Occupancy until these stipulations have been honored.

We believe the requested zoning, pursuant to the Site Plan and the revised stipulations and the attachments set forth herein, is appropriate for the Subject Property. The rezoning will allow the completion of the event center and used for the benefit of the surrounding community. We very much appreciate your assistance and the consideration of the Planning Commission and Board of Commissioners in this matter.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc
Attachments

Petition No. 2-39
Meeting Date 10/21/08
Continued

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP

Planner III

Zoning Division

Cobb County Community Development Agency

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October 1, 2008

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c: Cobb County Board of Commissioners:

Samuel S. Olens, Chairman

Helen C. Goreham

Annette Kesting

Joe L. Thompson

Tim Lee

(With Copies of Attachments)

Cobb County Planning Commission:

Murray Homan, Chairman

Judy Williams

Bob Hovey

Christi S. Trombetti

Tom McCleskey

(With Copies of Attachments)

Carol Brown, Chairman

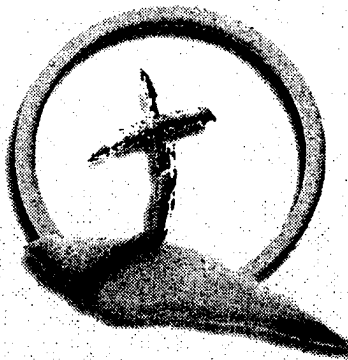
Canton Road Neighbors, Inc.

(With Copies of Attachments)

Rex E. Horney

(With Copies of Attachments)

Petition No. 2-39
Meeting Date 10/21/08
Continued



Petition No.
Meeting Date - 10/21/08
Continued

PAGE 13 OF

September 22, 2008

Mr. Rex Horney
3141 Rockmont Lane
Marietta, GA 30066

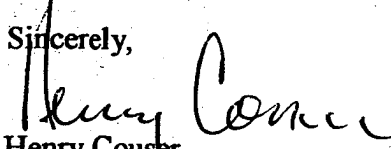
Dear Rex,

We are very happy to hear that plans for The Gardens of Latimer Mill are moving forward. Once completed, this will be a beautiful facility that will serve the entire community, especially the Canton Road Corridor.

This letter will serve as an agreement between Noonday Baptist Church and The Gardens of Latimer Mill. This agreement allows The Gardens to utilize the Noonday Baptist Church (west campus) parking lot as overflow parking during large events. There are 100 parking spaces available on the south end of the campus with an additional 120 spaces if needed. The church requests that events not be scheduled during times that conflict with our regular Wednesday evening and Sunday morning services, but the parking lot is available at other times. We do also ask that the church office be notified at least 24 hrs. in advance so we can ensure there are no other scheduling conflicts.

It is understood that Noonday Baptist Church assumes no liability for accidents or injuries which may occur on church property by The Gardens of Latimer Mill patrons. Noonday will not charge any usage fee, but we do request that any trash left in the parking lot be cleaned up immediately. If there are any questions or comments, please do not hesitate to contact me.

Sincerely,

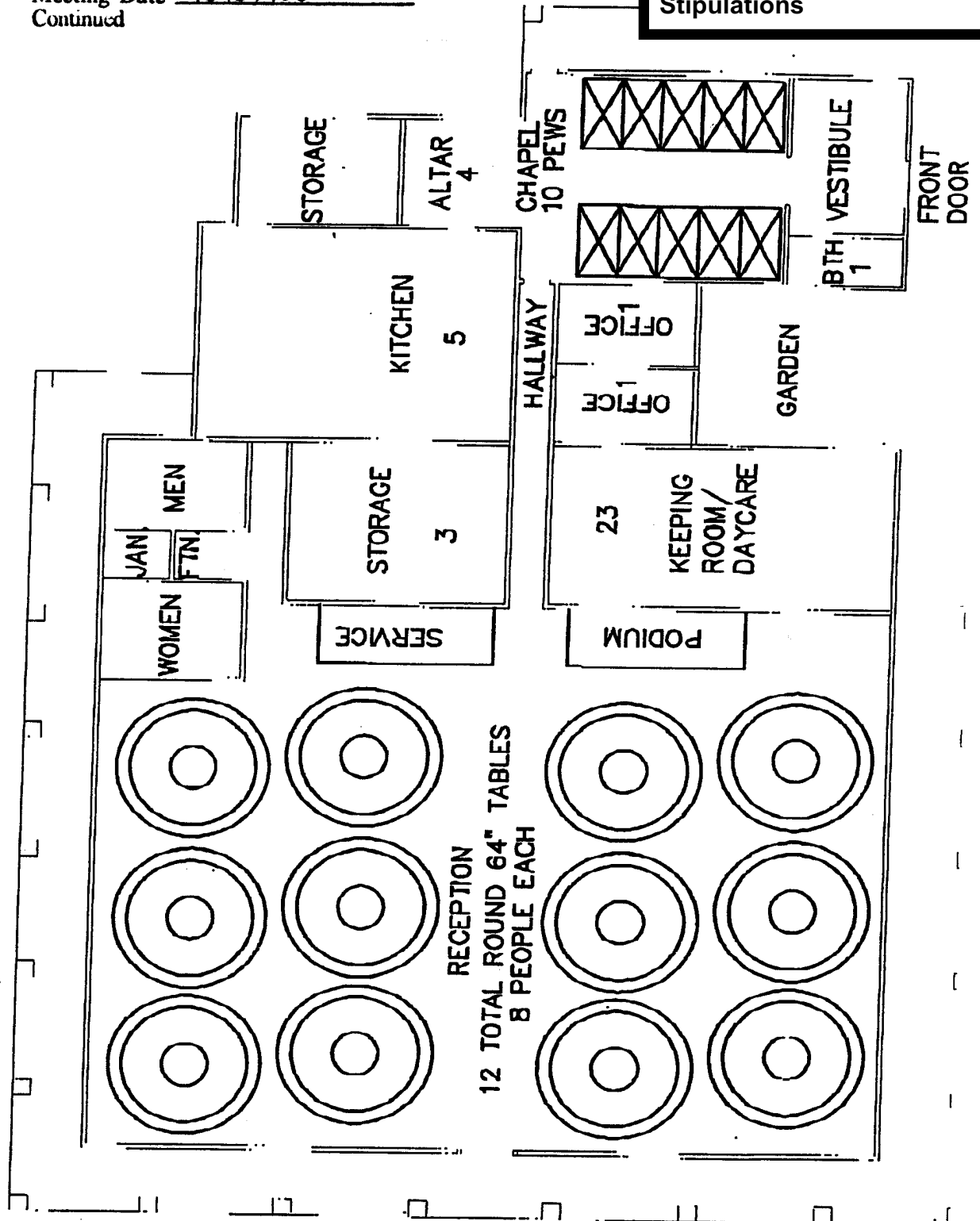
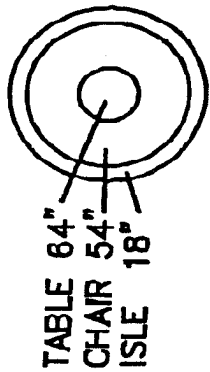

Henry Couser
Executive Pastor

cc: Cobb County Zoning Board

EXHIBIT "B"

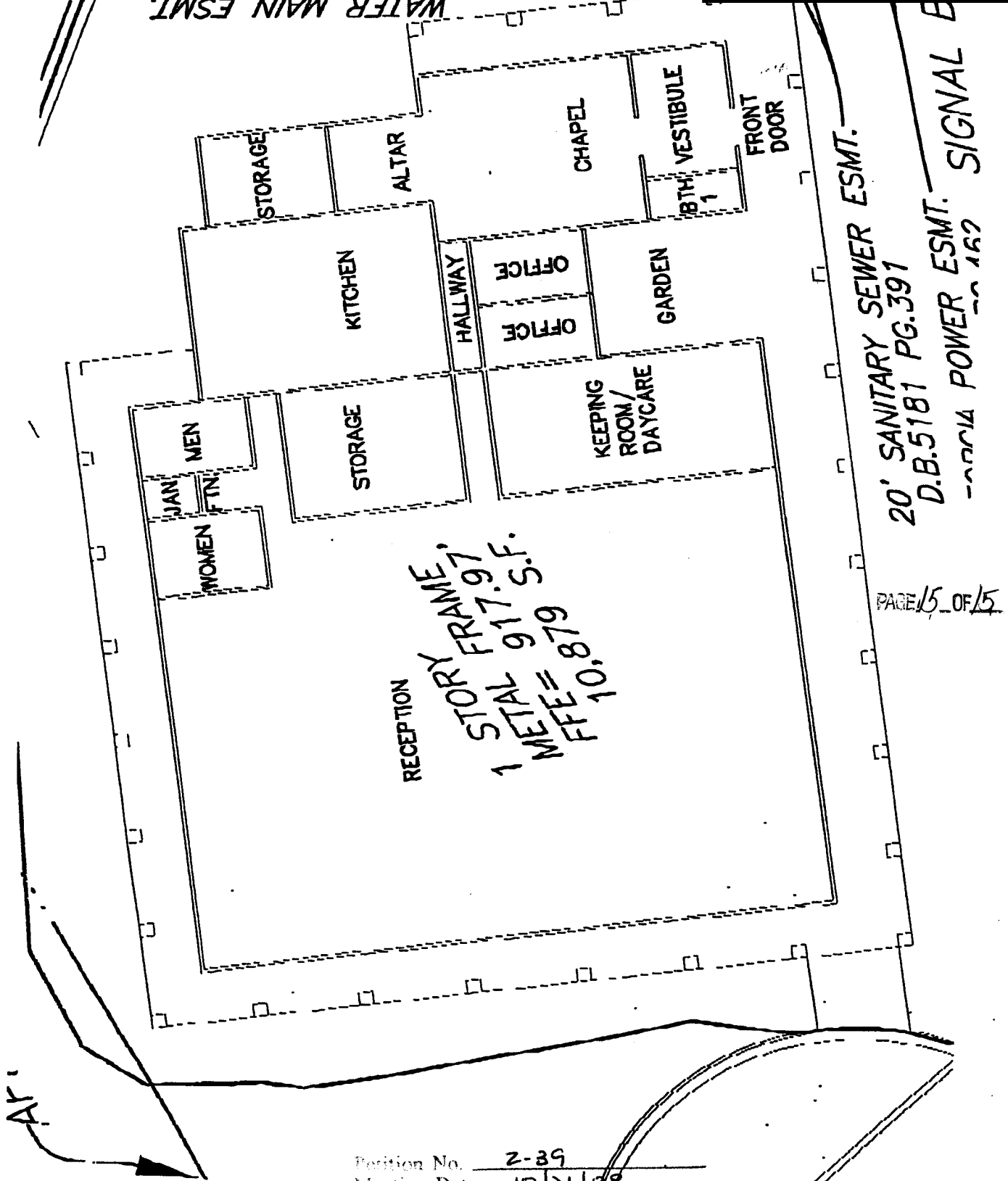
Petition No. 2-39
 Meeting Date 10/21/08
 Continued

Z-32 (2009)
 Exhibit "B"
 Previous Zoning
 Stipulations



Z-32 (2009)
Exhibit "B"
Previous Zoning
Stipulations

WATER MAIN ESMT.
D.B. 1263 PG. 11



Conceptual Architectural Rendering

Latimer Mill

Cobb County, Georgia

prepared for:

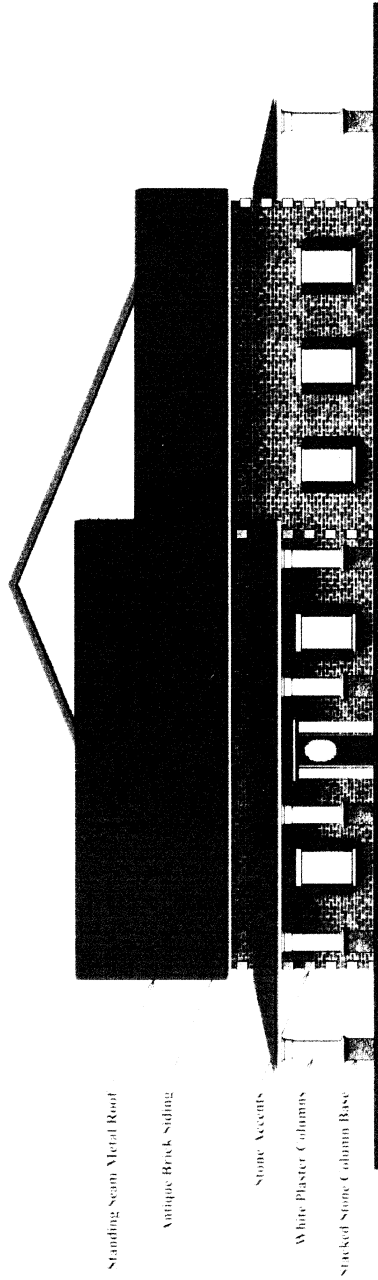
Rex Horney

DG M

LAND PLANNING
CONSULTANTS



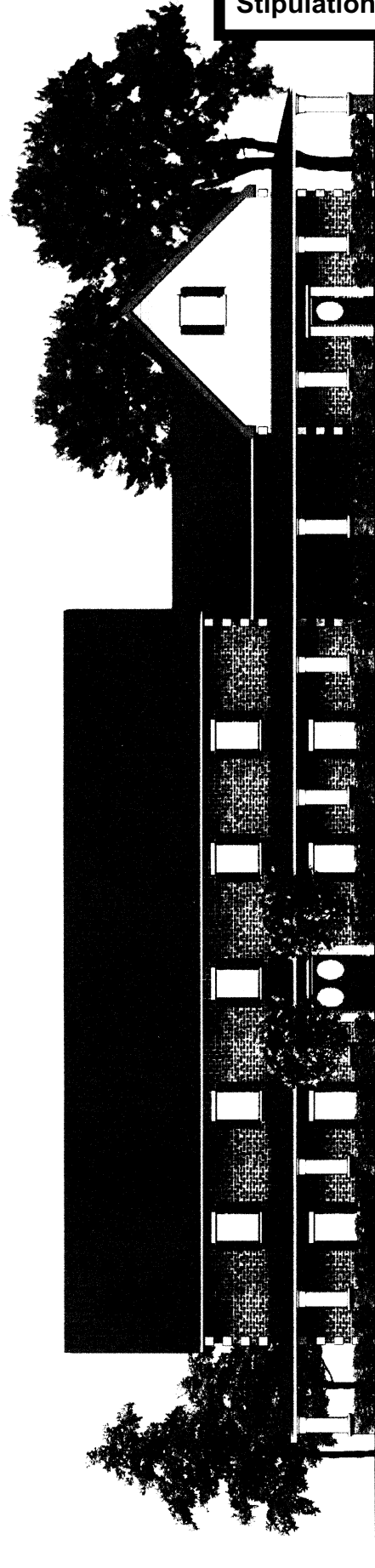
3755 Glen Dale
Buckhead Station 212
Atlanta, Georgia 30311
GA 30311
770 314 9006
FAX 314 9491



Canton Road Elevation

Scale: 3/16" = 1'-0"

Exhibit "A"



Hawkins Store Road Elevation

Scale: 3/16" = 1'-0"

Z-39-2008

Z-32 (2009)
Exhibit "B"
Previous Zoning
Stipulations