

Preliminary Plan Worley Drive Tract

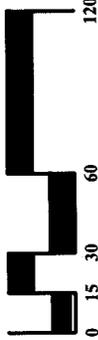
Cobb County, Georgia Land Lots 444, 16th District, 2nd Section

prepared for:

Jim Housley



DGM
LAND PLANNING
CONSULTANTS
3775 Cox Place
Buckhead
Buckhead
KENNESAW
GA 30144
770 514-9006
FAX 514-9491



Scale: 1" = 30'

November 25, 2009

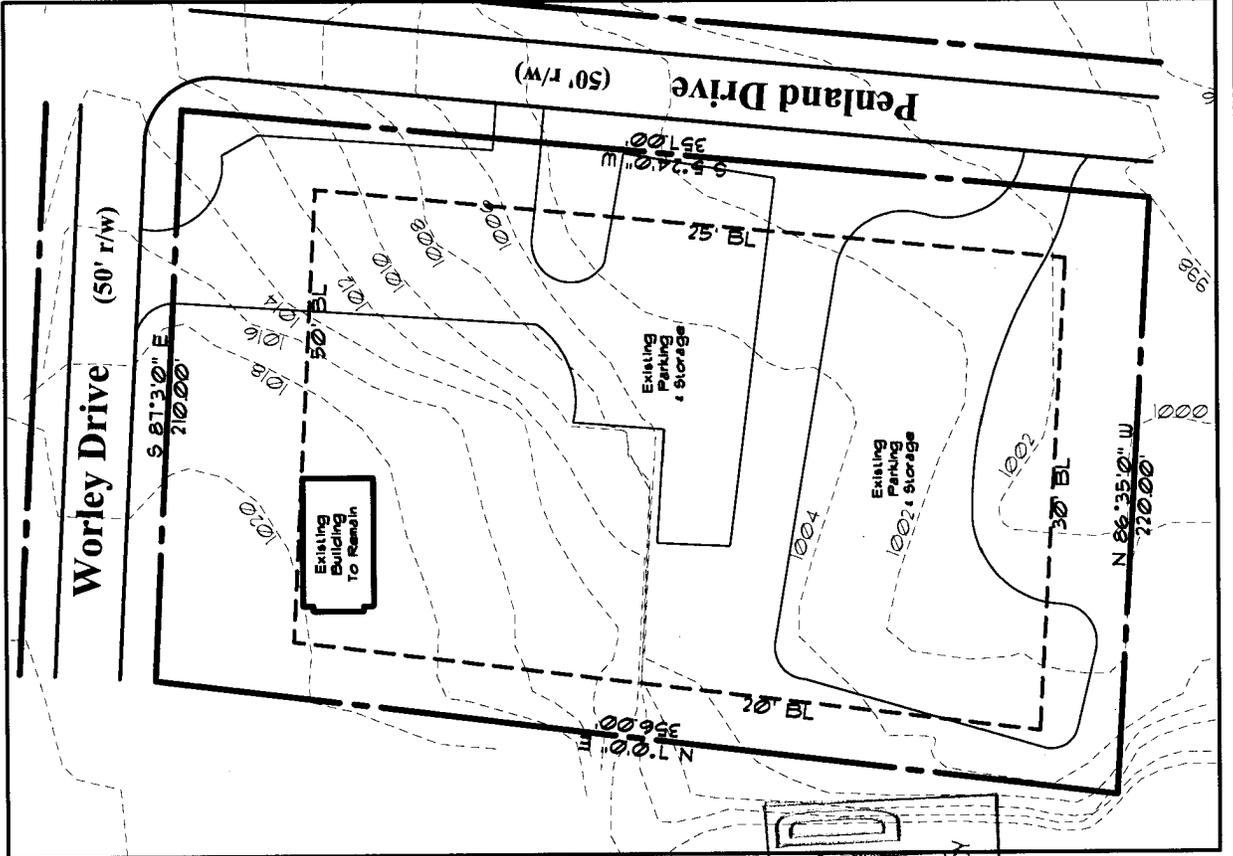


Site Data

Total Site Area: 2.06 AC

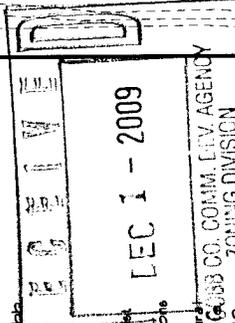
Present Zoning: CF

Proposed Zoning: LI



Notes:

1. Boundary survey by Robert Weaver, RLS
2. Topographic information by Cobb County GIS
3. According to Flood Insurance Rate Map (FIRM) #13067C0009EF August 18, 1992, no portion of this site contains floodplain.
4. No cemeteries are known to exist on site.
5. Stream and wetland classifications are to be determined.
6. No archeological or architectural landmarks are known to exist on site.
7. No utility easements are known to exist on site.
8. Stormwater management and water quality structures are conceptual in size and will be revised based on hydrologic study.



APPLICANT: Jim R. Housley

770-713-3137

REPRESENTATIVE: Sams, Larkin & Huff, LLP

Garvis L. Sams, Jr. 770-422-7016

TITLEHOLDER: Althea A. Housley, Trustee of the Althea A.

Housley Family Trust

PROPERTY LOCATION: Located at the southwest intersection of

Worley Drive and Penland Drive.

ACCESS TO PROPERTY: Worley Drive, Penland Drive

PHYSICAL CHARACTERISTICS TO SITE: Existing building

and fenced yard

PETITION NO: Z-2

HEARING DATE (PC): 2-02-10

HEARING DATE (BOC): 2-16-10

PRESENT ZONING: CF

PROPOSED ZONING: LI

PROPOSED USE: Irrigation Business

SIZE OF TRACT: 2.06 acres

DISTRICT: 16

LAND LOT(S): 444

PARCEL(S): 16

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: LI/ Dupree Plumbing

SOUTH: NS/ vacant commercial property

EAST: R-20/ Single-family house

WEST: GC/ Pep Boys

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

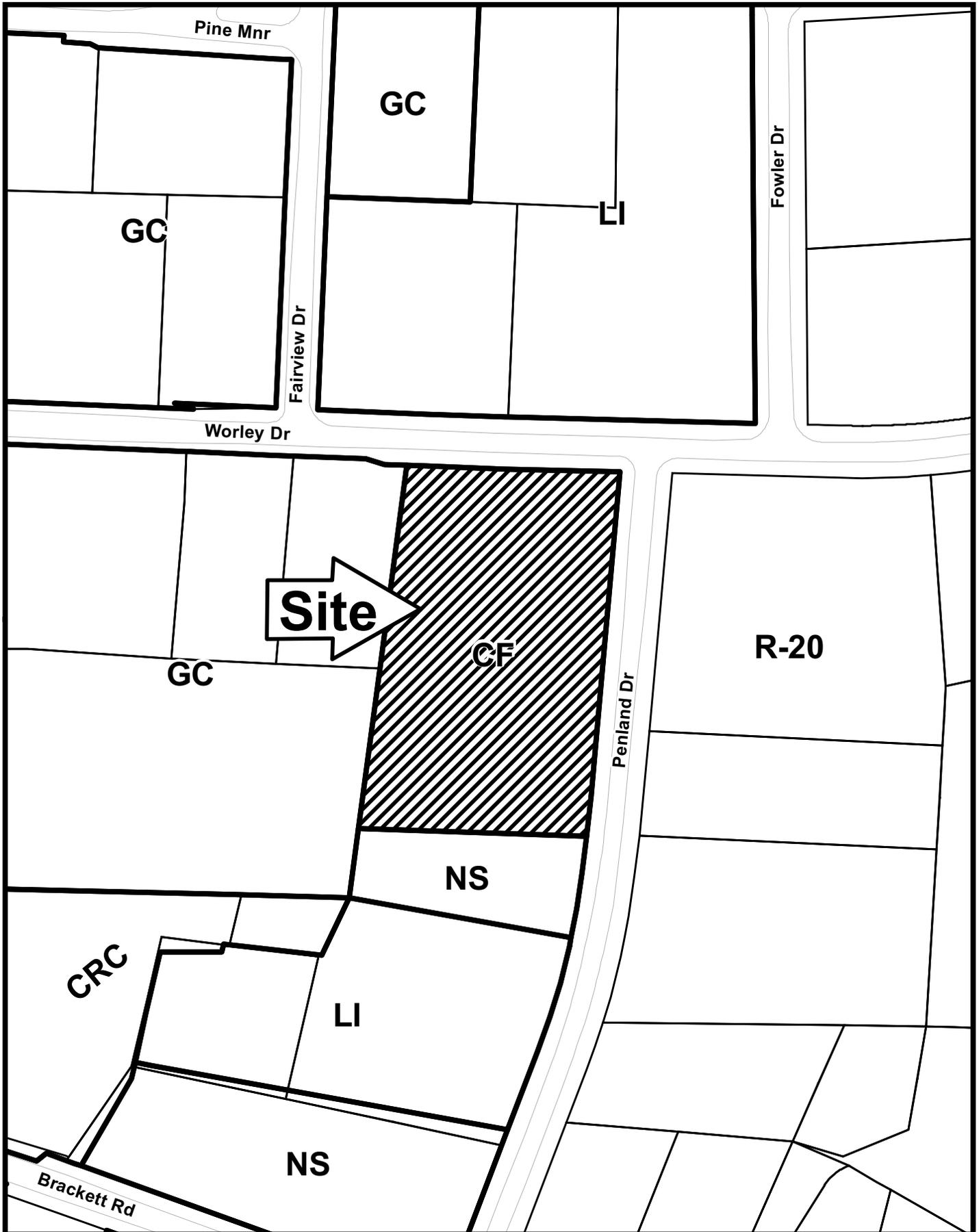
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

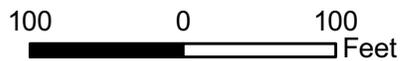
STIPULATIONS:



Z-2



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



City Boundary
Zoning Boundary

APPLICANT: Jim R. Housley

PETITION NO.: Z-2

PRESENT ZONING: CF

PETITION FOR: LI

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

Land Use Plan Recommendation: Community Activity Center

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

F.A.R.: 0.04 **Square Footage/Acre:** 970

Parking Spaces Required: 7 **Parking Spaces Provided:** 7

The applicant is requesting rezoning to operate an irrigation business from this property. The existing building will be used for the office and the fenced area will be used to store supplies and digging equipment. The business would be open Monday through Saturday, from 8:00 am to 7:00 pm. The applicant has submitted a Zoning Impact Analysis (see Exhibit "A") and a Letter of Agreeable Stipulations (see Exhibit "B").

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE COMMENTS:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

APPLICANT Jim R Housley

PETITION NO. Z-002

PRESENT ZONING CF

PETITION FOR LI

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

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 6" DI / S side Worley

Additional Comments: Records show 874 Worley Dr connected

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

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: 810 ft E at Mayflower Dr

Estimated Waste Generation (in G.P.D.): **A D F** 50 **Peak** 125

Treatment Plant: Noonday

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

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

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

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

Additional Comments:

Health Dept approval of any on-site sewage management system(s) required. Only extremely limited expansions of business on the property with regard to wastewater generation will be permitted by the Health Dept and CCWS without connecting to sewer

Notes FYI: *Applicant proposes to resume utilization of existing structures on site for previous business activity*

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: **Jim R. Housley**

PETITION NO.: **Z-2**

PRESENT ZONING: **CF**

PETITION FOR: **LI**

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Little Noonday Creek** FLOOD HAZARD INFO: Zone X

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

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000’ of Chattahoochee River) ARC (review 35’ undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area – County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance – County Review/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50’, 75’, 100’ or 200’ each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP’s for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream _____.

APPLICANT: **Jim R. Housley**

PETITION NO.: **Z-2**

PRESENT ZONING: **CF**

PETITION FOR: **LI**

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. Applicant proposes to utilize the existing facility. Any proposed improvement or redevelopment will require meeting full stormwater management requirements.

APPLICANT: Jim R. Housley

PETITION NO.: Z-2

PRESENT ZONING: CF

PETITION FOR: LI

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
Worley Drive	2200	Local	25 mph	Cobb County	50'
Penland Drive	N/A	Local	25 mph	Cobb County	50'

Based on 1998 traffic counting data taken by Cobb County DOT (Worley Drive).

COMMENTS AND OBSERVATIONS

Worley Drive is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Penland Drive 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 curb, gutter, and sidewalk along Worley Drive road frontage.

Close two driveways along Worley Drive.

Penland Drive is a substandard street.

Install curb and gutter along Penland Drive.

Close one driveway along Penland Drive.

RECOMMENDATIONS

Recommend installing curb, gutter, and sidewalk along the Worley Drive frontage.

Penland Drive is a substandard street. Recommend improving Penland Drive along the frontage to comply with Cobb County Standards.

Recommend only one driveway on Worley Drive. Recommend building the proposed driveway to comply with Cobb County commercial standards.

Recommend only one driveway on Penland Drive. Recommend building the proposed driveway to comply with Cobb County commercial standards.

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

STAFF RECOMMENDATIONS

Z-2 JIM R. HOUSLEY

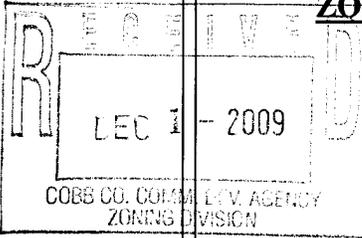
- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. Properties on three sides are used for contractors and commercial uses. The residentially zoned property on the other side of Penland Drive that has been here probably as long as the non-residential uses.
- 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 property has been operating commercially under a grandfathered status for many years prior to this application. Although there has been a non-residential on this property for many years, the R-20 zoned property on the other side of Penland Drive should afforded more protection than it's had in the past, via plantings and/or slats in the fence.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for deleting the applicant's rezoning proposal to CRC. The applicant's property has been used non-residentially for many years, including by contractors. The LI zoning district is not in accordance with the *Cobb County Comprehensive Plan*, which shows this property to be within a Community Activity Center. Although contractors are not permitted in CRC, zoning the property to CRC, with this as an allowable use would fit the future use of the area much better than the LI zoning district. The CRC zoning district has a number of uses that have similar outdoor storage intensities as the proposed use, such as automobile and truck sales, lease and repair facilities, building materials stores and farm and garden supply stores. Additionally, zoning to CRC would discourage future heavier uses, and would encourage redevelopment more in line with the newer development on Canton Road.

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

- Site plan received by the Zoning Division December 1, 2009, with the District Commissioner approving minor modifications;
- Letter for Mr. Garvis L. Sams, Jr., dated Januray 4, 2010 (not in conflict with these stipulations);
- Irrigation contractor only;
- Landscaping be installed along Penland Drive were sparsely vegetated;
- Slats be added into fencing to shield view of outdoor storage along Penland Drive;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations;
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF JIM R. HOUSLEY**



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

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Canton Road Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties the preponderance of which are commercial or industrial and located within the confines of a Community Activity Center.
- C. The subject property to be affected by the zoning proposal has no economic use as currently zoned and constitutes a non-conforming circumstance with no present entitlement to use the subject property under the CF classification.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

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

Respectfully submitted, this the 1st day of December, 2009.

SAMS, LARKIN & HUFF, LLP



By: _____

GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

MELISSA P. HAISTEN
JUSTIN H. MEEKS

January 4, 2010

SAMSLARKINHUFF.COM

VIA E-MAIL and
FIRST CLASS MAIL

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

Re: Application of Jim R. Housley to Rezone a 2.06 Acre Tract from
Future Commercial (CF) to Light Industrial (LI) (No. Z-2)

Dear John:

You will recall that I represent the Applicant and Property Owner concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on February 2, 2010 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on February 16, 2010.

The Application seeks to rezone an approximate 2.06 acre tract of land from Future Commercial ("CF") to Light Industrial ("LI") to allow the continuation of the existing uses of an irrigation business and outside storage of equipment. The property is located within the confines of a Community Activity Center ("CAC") and is surrounded on three (3) sides by properties which are commercially or industrially zoned and utilized.

With respect to the foregoing and consistent with our discussions with the County's Professional Staff, representatives of Canton Road Neighbors, Inc. ("CRN") and the Northeast Cobb Homeowners Group ("NECHG"), I have been authorized by my clients to submit this letter of agreeable stipulations which, if the Application for Rezoning is approved, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to wit:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.

VIA E-MAIL and
FIRST CLASS MAIL

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Division
January 4, 2010
Page 2

2. Rezoning the subject property shall be from Future Commercial ("CF") to Light Industrial ("LI") in conformity with that certain site plan filed contemporaneously with the Application for Rezoning.
3. The total site area consists of 2.06 acres and is proposed to be utilized for the continuation of the existing uses of an irrigation business and outside storage of equipment.
4. The architectural style and composition of the building on the subject property shall remain the same as presently existing thereon. Any changes in the architectural style and composition shall be reviewed and approved by the District Commissioner with input from CRN and NEGHG.
5. The Applicant and Property Owner intend to utilize the existing parking and security lighting on the site.
6. Upon a redevelopment of the subject property, the submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Agency.
7. Upon a redevelopment of the subject property, compliance with recommendations from the Cobb County Department of Transportation, including the installation of curb and gutter along Worley Drive.
8. Upon a redevelopment of the subject property, compliance with the recommendations from Stormwater Management Division with respect to the location, configuration and methodology of on-site detention and water quality.
9. Compliance with the recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis upon a redevelopment of the subject property.
10. Compliance with the recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer service to the subject property.

VIA E-MAIL and
FIRST CLASS MAIL

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Division
January 4, 2010
Page 3

11. Minor modifications to the site plan, landscape plan and this letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

Please do not hesitate to call should you require any further information or documentation prior to the formulation of your Zoning Analysis and Staff Recommendations. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/jbmc

cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP, Director (via email)
Mr. Mark A. Danneman, Manager (via facsimile)
Mr. David Breaden, P.E. (via email)
Ms. Jane Stricklin, P.E. (via email)
Ms. Karen King, Deputy County Clerk (via email)
Ms. Lori Presnell, Deputy County Clerk (via email)
Ms. Carol Brown, President, Canton Road Neighbors (via email)
Mr. Norm DeWalt, President, Northeast Cobb Homeowners Group (via email)
Mr. Jim R. Housley