

Year 2010 Form

5

Application for "Other Business"

Cobb County, Georgia

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

BOC Hearing Date Requested: 4-20-10

Applicant: WILLIAM MARCUS REED II Phone #: 404-862-6359
(applicant's name printed)

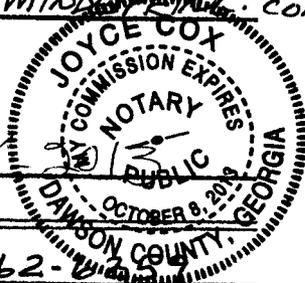
Address: 97 ADMIRALS POINT CIRCLE E-Mail: WMREED@MINDSPRING.COM
DAWSONVILLE, GA 30534

WILLIAM MARCUS REED II Address: SAME
(representative's name, printed)

William Marcus Reed II Phone #: 404-862-6359 E-Mail: WMREED@MINDSPRING.COM
(representative's signature) 3-12-10

Signed, sealed and delivered in presence of:

Joyce Cox My commission expires: 10-08-2010
Notary Public 3-12-10



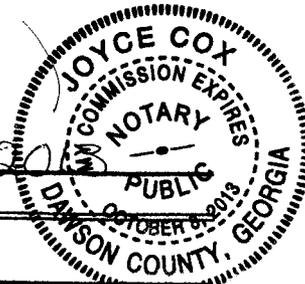
Titleholder(s): WILLIAM MARCUS REED II Phone #: 404-862-6359
(property owner's name printed)

Address: 97 ADMIRALS POINT CIRCLE E-Mail: WMREED@MINDSPRING.COM
DAWSONVILLE, GA. 30534

William Marcus Reed II
(Property owner's signature) 3-12-10

Signed, sealed and delivered in presence of:

Joyce Cox My commission expires: 10-08-2010
Notary Public 3-12-10



Commission District: 2 Zoning Case: 147

Date of Zoning Decision: _____ Original Date of Hearing: 7-19-88

Location: WEST SIDE OF POWERS FERRY RD., 250' NORTH OF TERRELL HILL RD, 700' SOUTH OF DELK ROAD
1270 & 1280 POWERS FERRY ROAD, MARIETTA, COBB CO., GA. 30067
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 924 District(s): 17

State specifically the need or reason(s) for Other Business: SEE ATTACHED
EXHIBIT "A"

(List or attach additional information if needed)

EXHIBIT "A" - PAGE 1

REASONS FOR "OTHER BUSINESS" APPLICATION

My property was rezoned at the July 19, 1988 hearing before the Cobb County Board of Commissioners from O&I (Office Institutional) to NS (Neighborhood Shopping). At the time of the rezoning, I did not have a specific tenant or user for my property, but NS would have given me the ability to do any number of commercial/retail uses and I even considered the possibility of a two-story building with the first floor commercial and the second floor as office space.

The Planning Commission recommended approval subject to the following conditions:

- 1- Retail/Professional office use only;
- 2- 10 ft. landscaped, maintained buffer along southern property line (as shown on site plan to be approved by staff);
- 3- Landscaped, maintained buffer between Powers Ferry Road and parking spaces to be approved by staff;
- 4- Signage to be constructed to code with no variances anticipated;
- 5- No portable signs to be established on site;
- 6- No billboard signs to be established on site;
- 7- Cobb DOT comments and Cobb DOT to determine the number of curb cuts and where they are to be located;
- 8- Installation of a chain link fence between the property and the school.

The rezoning was approved unanimously by the Board of Commissioners.

I was satisfied that the rezoning would allow me the ability to develop the property in a reasonable manner.

During dealings with Cobb DOT, I determined that their requirement to install an accel/decel lane on my property was unfeasible, and I applied for a Variance to the Cobb County Board of Appeals at the February 8, 1989 hearing. The Board of Appeals approved my application to waive the accel/decel requirement unanimously. See attached variance approval.

Subsequently, I was able to negotiate leases for two free-standing fast food restaurants on my property. Please see the attached CERTIFICATION OF ZONING dated October 16, 1989 and that letter dated October 18, 1989 from the Cobb County Planning and Zoning Department from Senior Planner Robert L. Hosack, indicating that the property was zoned NS and permitted the construction of a fast food restaurant.

I subsequently developed my property, and Cobb County approved plans for the construction of the two aforementioned fast food restaurants, which were constructed on the site. Please see the attached site plans showing the buildings and improvements.

For the next 15 plus years, the site was used for two fast food drive-through take-out delivery restaurants, specifically Checkers Hamburgers and Wok Express (Originally Mr. Ching).

Over the years I was approached by many various other commercial users asking me if I could terminate my leases and lease or sell to them. I was unable to do so since there were 15 year long-term leases in place with Checkers and Wok. With this in mind, in October of 2005 I was able to terminate my lease

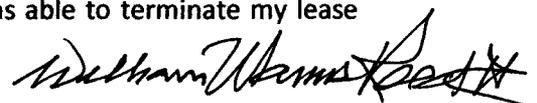


EXHIBIT "A" - PAGE 2

with Checkers, and in October of 2006 I was able to terminate the lease with Wok Express, freeing up my property for development for another credit tenant. Unfortunately, economic conditions prevented anything from happening at that time. Since that time, I have marketed the site for sale, lease or build to suit for a credit tenant. Over the past few years there has been a lot of interest in the property, but not the right fit as far as I was concerned. I pay the yearly property taxes.

In 2009 and 2010, I have had several serious prospects for my property. I knew the property was zoned NS and as I negotiated with each prospect I would tell them to do their due diligence and contact Cobb County Zoning to determine that their use would be allowed. Each time they approached Cobb County about the zoning, they were told that a rezoning would be required. When I inquired with the zoning office, I was told the same thing. I did not understand why a rezoning would be required for a use obviously allowed under the NS category. Finally, after many conversations with various representatives with Cobb County Zoning, I realized that because of the "ambiguous" and confusing language "Retail/Professional Office Use Only" used when the property was originally rezoned to NS back in 1988, it was confusing as to what could actually be allowed.

I recently have talked to several members of the Cobb County Planning and Zoning staff, including Mr. Terry Martin, Zoning Analyst, who recommended that I consider the Application for "Other Business" in order to clarify an inadvertent language use that was causing problems in the use of my property. I talked to Mr. Phillip Westbrook of the Planning Department, who concurred on this course of action. I subsequently had a meeting with Mr. Rob Hosack, Director of Community Development, and Mr. Mark Danneman of the Planning Department, at which time I was told that it appeared that I was being inadvertently penalized by language that was never meant to place an unreasonable burden on me and my property for its use. I did not feel it was Cobb County's intent to be overly harsh or unreasonable in regard the zoning, but considering the unfortunate original language used, I understand why there is some question because of that language. The above referenced staff at Cobb County said the easiest way to clarify and remedy this situation is by my making an Application for "Other Business."

Therefore, I am requesting that there be a clarification made on the zoning of my property stating it is zoned NS and allowing all uses covered by that classification. I do not wish to remove any stipulations placed on the property at the time of the original zoning, other than the stipulation about Cobb DOT determining the number of curb cuts, since the two in existence were previously approved and in fact serve the power sub-station to the rear of my property for their ingress/egress. Of course I want to keep in effect the variance I received waiving any accel/decel lane.

One other issue I would like to confirm, just in case it comes up in the future, is the issue of building setbacks from right of way. Because of the limited depth of my site from Powers Ferry Road to the rear property line at the power sub-station, the buildable area for my site is severely limited. Therefore, at the Cobb County Board of Appeals hearing on June 11, 1986, I applied for a variance and it was approved unanimously, establishing a 40' building setback from the proposed 100' R/W (there was an 80' R/W at the time) to be established in the future. Attached please see a copy of the application and approval of same. I agreed to donate the 10' of additional right-of-way on my side of Powers Ferry Road at no cost to Cobb County, which I did. Please note that when the property was developed with the Checkers Hamburgers and Wok Express buildings, under the NS zoning, that this 40' building setback was in effect.

I do wish to request that the following uses be excluded as uses for my property: no adult bookstores; no sale of alcoholic beverages; no pawn shops or like kind businesses; and no pool halls.



DATE	11/18/88
JOB NO.	80835.00
OWNER BY	824/30

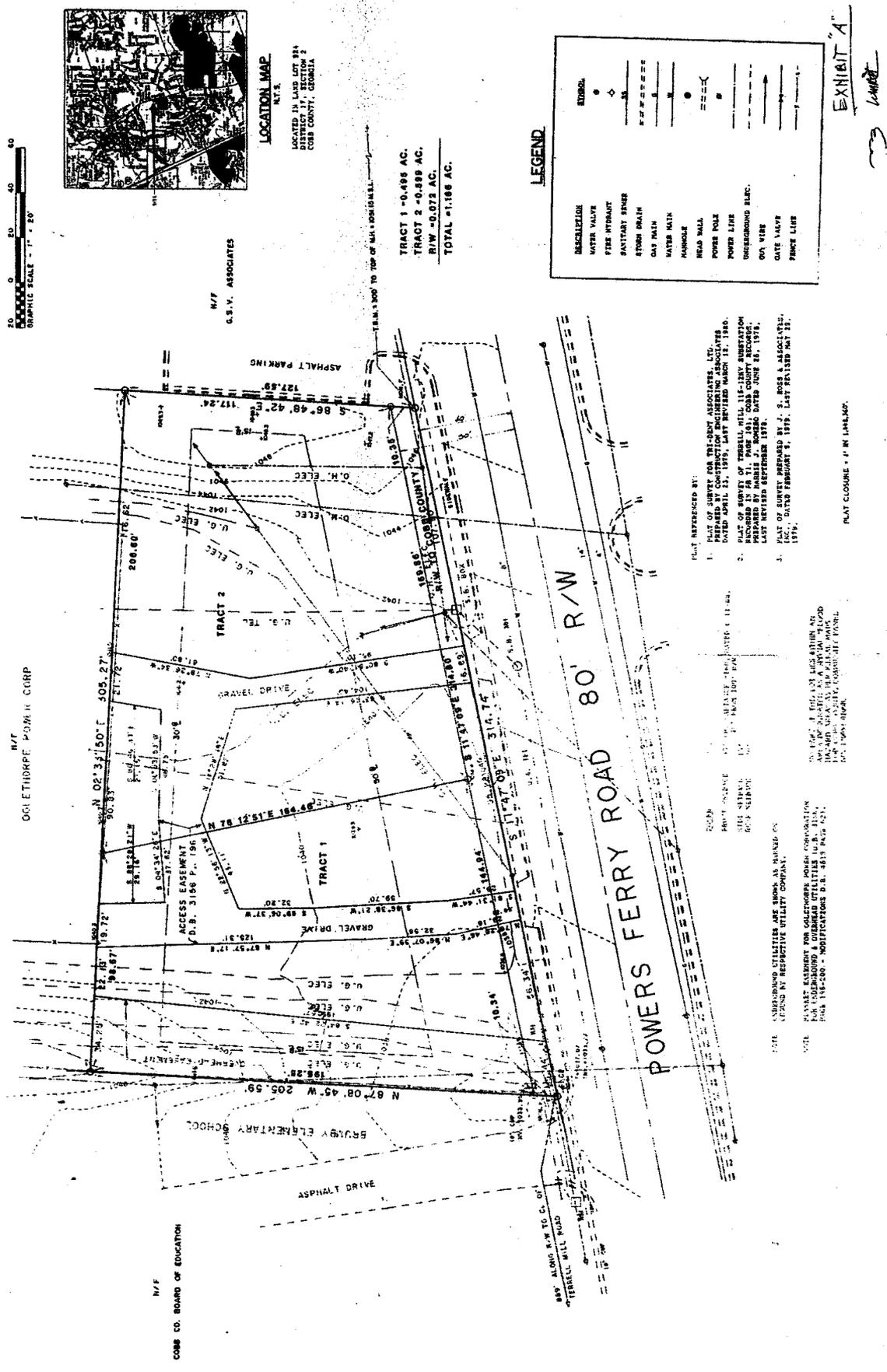
BOUNDARY & TOPOGRAPHIC SURVEY
 WILLIAM MARCUS REED II
 LAND LOT 924
 DISTRICT 17, SECTION 2
 COBB COUNTY, GEORGIA

NO.	DATE	REMARKS

THIS DRAWING IS THE PROPERTY OF THE ENGINEER AND SHALL REMAIN HIS OR HER OWN. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER.



J. S. ROSS & ASSOCIATES, INC.
 1266 Marietta Parkway
 Suite 122
 Marietta, Georgia 30067
 404-426-4732



GRAPHIC SCALE - 1" = 20'

N/T
 G.S.V. ASSOCIATES

N/T
 COBB CO. BOARD OF EDUCATION

THE UNDERGROUND UTILITIES ARE SHOWN AS MARKED ON RECORD PLANS OF RESPECTIVE UTILITY COMPANIES.

THE PLANNED EASEMENT FOR GOLDFINGER POWER CORPORATION FOR UNDERGROUND & OVERHEAD UTILITIES (U.G. & O.H. B.L.C.) IS SHOWN AS MARKED ON RECORD PLANS OF THE COMPANY.

THE 8' EASEMENT FOR TERRELL HILL 114-1257 SUBSTATION AND UNDERGROUND B.L.C. IS SHOWN AS MARKED ON RECORD PLANS OF THE COMPANY.

N/T
 GOLDFINGER POWER CORP.

N/T
 BRUNY ELEMENTARY SCHOOL

ASPHALT PARKING

GRAVEL DRIVE

GRAVEL DRIVE

ASPHALT DRIVE

POWERS FERRY ROAD 80' R/W