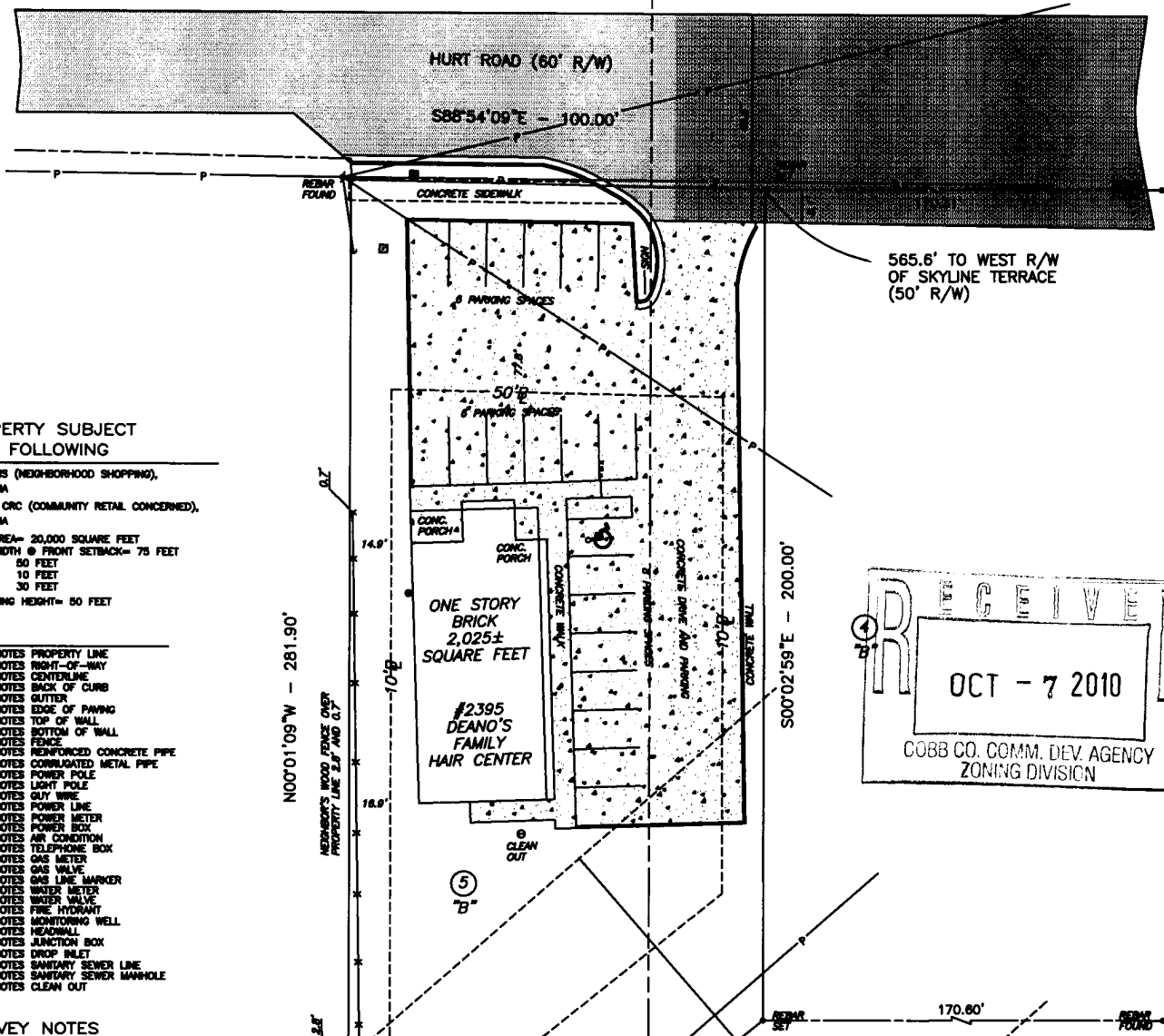


Z-40
(2010)

MAGNETIC
N



RECEIVED
OCT - 7 2010
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

THIS PROPERTY SUBJECT TO THE FOLLOWING

CURRENT ZONING - NS (NEIGHBORHOOD SHOPPING), COBB COUNTY, GEORGIA
 PROPOSED ZONING - CRC (COMMUNITY RETAIL CONCERNED), COBB COUNTY, GEORGIA
 MINIMUM LOT AREA= 20,000 SQUARE FEET
 MINIMUM LOT WIDTH @ FRONT SETBACK= 75 FEET
 FRONT SETBACK 50 FEET
 SIDE SETBACK 10 FEET
 REAR SETBACK 30 FEET
 MAXIMUM BUILDING HEIGHT= 50 FEET

LEGEND

- P --- DENOTES PROPERTY LINE
- R/W --- DENOTES RIGHT-OF-WAY
- CL --- DENOTES CENTERLINE
- CB --- DENOTES BACK OF CURB
- BT --- DENOTES BUTTE
- EP --- DENOTES EDGE OF PAVING
- TP --- DENOTES TOP OF WALL
- BP --- DENOTES BOTTOM OF WALL
- FCP --- DENOTES FENCED CONCRETE PIPE
- CM --- DENOTES CORRUGATED METAL PIPE
- PP --- DENOTES POWER POLE
- LP --- DENOTES LIGHT POLE
- GW --- DENOTES GUY WIRE
- PL --- DENOTES POWER LINE
- PM --- DENOTES POWER METER
- AC --- DENOTES AIR CONDITION
- TE --- DENOTES TELEPHONE BOX
- GM --- DENOTES GAS METER
- GV --- DENOTES GAS VALVE
- GL --- DENOTES GAS LINE MARKER
- WM --- DENOTES WATER METER
- WV --- DENOTES WATER VALVE
- FH --- DENOTES FIRE HYDRANT
- MW --- DENOTES MONITORING WELL
- HW --- DENOTES HEADWALL
- JB --- DENOTES JUNCTION BOX
- DI --- DENOTES DROP INLET
- SL --- DENOTES SANITARY SEWER LINE
- SM --- DENOTES SANITARY SEWER MANHOLE
- CO --- DENOTES CLEAN OUT

SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR IDENTIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS. EASEMENTS AS SHOWN ARE APPROXIMATE AND TAKEN FROM RECORDED DOCUMENTS.

TELEPHONE: AT&T
 ELECTRIC: GEORGIA POWER COMPANY
 WATER AND SEWER: CITY OF MARIETTA
 GAS: ATLANTA GAS LIGHT COMPANY

CALL THREE WORKING DAYS BEFORE YOU DIG
 UTILITIES PROTECTION CENTER:
 IN METRO ATLANTA 770-823-4344
 THROUGH OUT GEORGIA 1-800-282-7411

2. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

3. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS REIDENTIFICATION OF THE SURVEYOR NAMING SUCH PERSON, PERSONS OR ENTITY.

4. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET, AND AN ANGULAR ERROR OF 02" PER ANGLE POINT, AND WAS ADJUSTED USING COMPASS RULE. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET. LINEAR AND ANGULAR MEASUREMENTS WERE OBTAINED BY USING A TOPCON TOTAL STATION.

BEARINGS SHOWN WERE COMPUTED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.

5. SQUARE FEET OF BUILDING IS FOR FIRST FLOOR ONLY.

6. PARKING AREA IS OFF STREET AND 20 PARKING SPACES ARE DESIGNATED, INCLUDING ONE HANDICAPPED DESIGNATED SPACE.

7. THIS PLAT NOT INTENDED FOR RECORDING.

REFERENCE MATERIAL

1. SPECIAL WARRANTY DEED IN FAVOR OF 18 PROPERTY HOLDINGS, LLC. DEED BOOK 14678 PAGE 1818-1819 COBB COUNTY, GEORGIA RECORDS



TOTAL AREA= 0.553± ACRES
OR 24,105± SQ. FT.

2395 HURT ROAD
MARIETTA, GEORGIA

McLUNG
SURVEYING SERVICES, INC.

4633 South Cobb Drive Suite 200
Smyrna, Georgia 30080 (770) 434-3383
 This property (88) (is not) located in a Federal Flood Area as indicated by F.I.R.M. Official Flood Hazard Maps.
 COMMUNITY PANEL NO. 13067C0201 G
 EFFECTIVE DATE: DECEMBER 16, 2008
 COBB COUNTY, GEORGIA
 In my opinion this plat is a correct representation of the land plotted.



PROPERTY OF
GARREN LUONG

LOT 5, BLOCK "B"
SHERWOOD ESTATES
UNIT - 2

LAND LOTS 787 AND 788
DISTRICT 19TH. SECTION 2ND
COUNTY COBB
GEORGIA
PLAT PREPARED: 9-9-10
FIELD: 9-7-10 SCALE: 1"=20'

No.	Revision	Date

APPLICANT: Garren Luong

678-224-7212

REPRESENTATIVE: Garren Luong

678-224-7212

TITLEHOLDER: Garren Luong

PROPERTY LOCATION: South side of Hurt Road, east of Powder Springs Road and west of Skyline Terrace.

ACCESS TO PROPERTY: Hurt Road

PHYSICAL CHARACTERISTICS TO SITE: One story brick structure

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: GC/ Converted Business Offices and Grandfathered Residential

SOUTH: R-20/ Single-Family Residential

EAST: NS/ Vacant Commercial Structure

WEST: R-20/ Single-Family Residential

PETITION NO: Z-40

HEARING DATE (PC): 12-01-10

HEARING DATE (BOC): 12-14-10

PRESENT ZONING: NS

PROPOSED ZONING: LRO

PROPOSED USE: Professional Office

SIZE OF TRACT: 0.553 acre

DISTRICT: 19

LAND LOT(S): 787, 788

PARCEL(S): 10

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 4

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

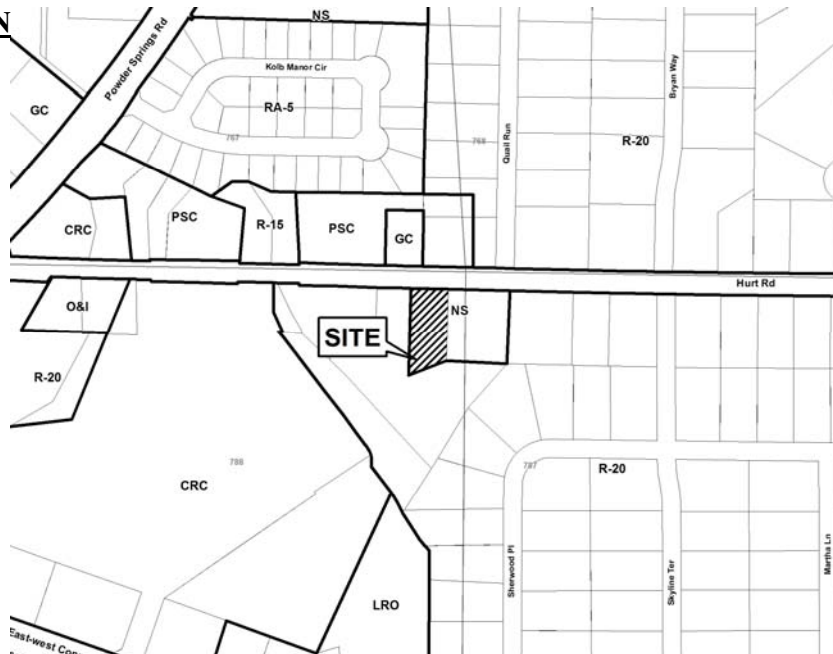
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

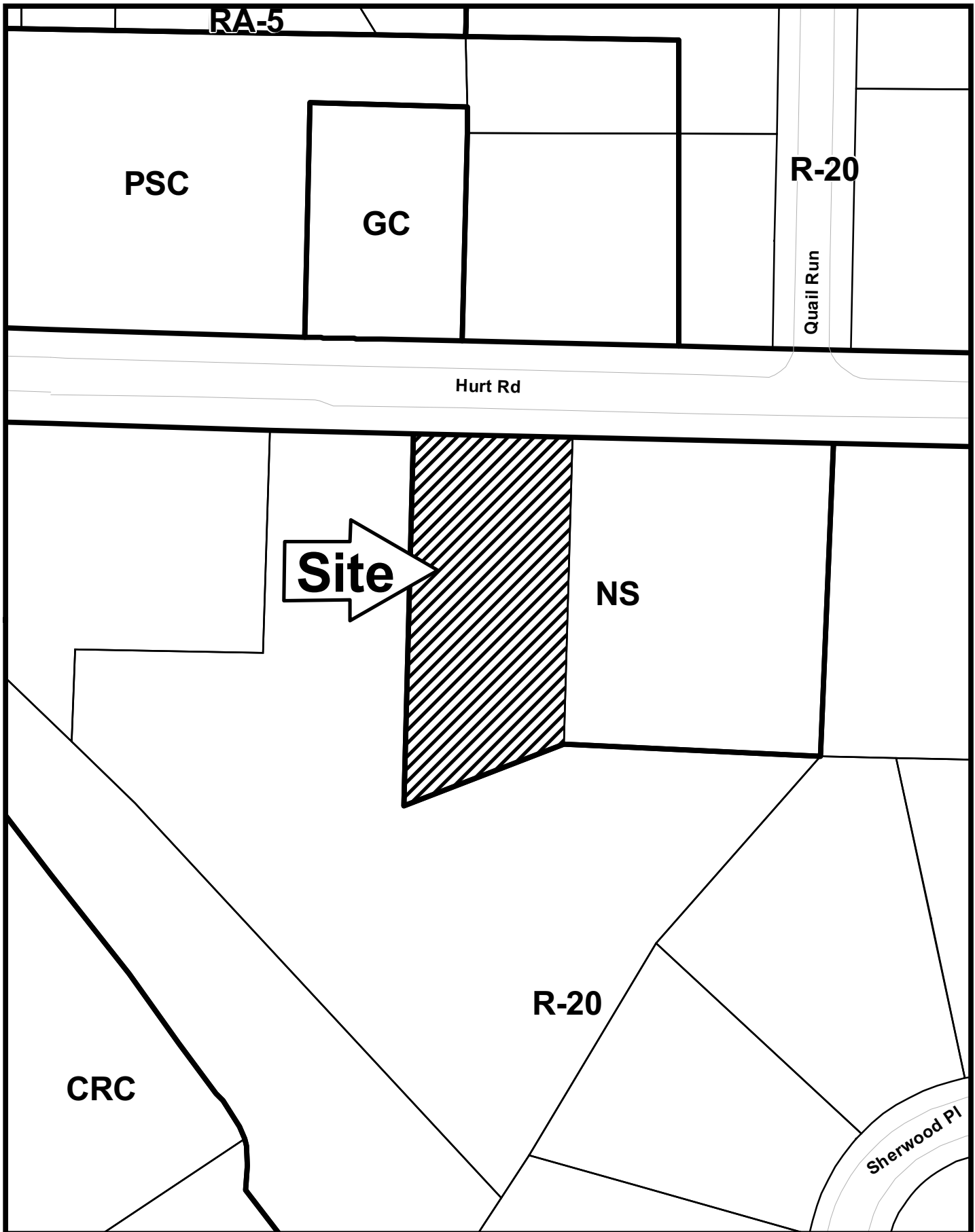
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

STIPULATIONS:



Z-40



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

50 0 50 Feet



City Boundary
Zoning Boundary

APPLICANT: Garren Luong

PETITION NO.: Z-40

PRESENT ZONING: NS

PETITION FOR: LRO

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 2,025

F.A.R.: .085 **Square Footage/Acre:** 3,681.82

Parking Spaces Required: 8 **Parking Spaces Provided:** 20

The applicant is requesting a rezoning to the LRO District for use as a professional office. The property is currently zoned NS district, that original case (Z-56 of 6-19-90, attached as Exhibit "A") stipulated that it be used for "barber/beauty shop use only." While Mr. Luong intends to run his "Life-Coach" business (essentially a business office to meet clients) from this property, he also wishes to have the opportunity to sublease to other office tenants as well and has expressed the agreeable stipulation that his request be granted stipulating "professional office use only." While no improvements are planned, the subject property, building, and parking being in adequate shape, the LRO District requires a 20 foot landscape screening buffer adjacent to other residentially zoned property. While the current NS District required a greater buffer (35 foot) that does not exist, consideration may be given to the need for installation of adequate landscape buffering on the South and West boundaries subject to County landscape architect's approval as required by *County Code*. For a more complete narrative of the history of the site as well as the applicant's intended use, see attachment 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:

(2395 Hurt Rd)

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

APPLICANT Garren Luong

PETITION NO. Z-040

PRESENT ZONING NS w/stips

PETITION FOR LRO

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

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 8" AC / N side Hurt Rd

Additional Comments: Records show property as connected and active

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

In Drainage Basin: Yes No

At Development: Yes No

Approximate Distance to Nearest Sewer: +/-480' W in Hurt Rd, +/- 350' NE in Ouail Run if elev allows

Estimated Waste Generation (in G.P.D.): **A D F** 400 **Peak=** 1000

Treatment Plant: **South Cobb**

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

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

Drv Sewers Required: Yes No

Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form ans stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

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

Additional Health Dept approval required for adequacy of existing septic system for proposed use.

Comments: Connection to sewer required if septic system is inadequate.

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 offsite easements, dedication of on and/or offsite 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: Garren Luong

PETITION NO.: Z-40

PRESENT ZONING: NS

PETITION FOR: LRO

DRAINAGE COMMENTS

No comments. No site changes are proposed. Detention is provided for the existing site.

APPLICANT: Garren Luong

PETITION NO.: Z-40

PRESENT ZONING: NS

PETITION FOR: LRO

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
Hurt Road	12600	Major Collector	35 mph	Cobb County	80'

Based on 2007 traffic counting data taken by Cobb County DOT (Hurt Road)

RECOMMENDATIONS

Hurt Road is classified as a major collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification. 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 south side of Hurt Road, a minimum of 40' from the roadway centerline.

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

STAFF RECOMMENDATIONS

Z-40 GARREN LUONG

- 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. Operating as a commercial site for more than a decade, the subject property is currently restricted to a use that is no longer viable at this site and, if approved to allow professional office uses, could stem the need to rezone other surrounding residential properties for such tenants.
- 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 request is to allow for the reintroduction onto the market of an existing, developed commercial property. Adequate stipulations may be approved as part of this request to protect the concerns of neighbors.
- 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 in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. Located within a Community Activity Center node, this property, if approved for the LRO District, will allow for that Land Use Area's intent of allowing "typical land uses [of] low- to mid-rise office buildings..."
- 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 applicant's proposal is in accordance with the *Cobb County Comprehensive Plan*, which shows this property to be within a Community Activity Center node. Moreover, the applicant's request will allow for the return to commerce of an existing commercial property possibly alleviating the need to convert surrounding residential properties to commercial usage.

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

- Agreeable stipulation that the property be utilized for Professional Office Use Only;
- Site Plan received by Zoning Division on October 7, 2010 to accommodate existing setback encroachments of required LRO District bulk regulations, with District Commissioner approving minor modifications;
- With consideration of existing site conditions, landscape screening plan to be submitted and approved by County landscape architect to adequately screen South and West boundaries with discretion to approve less than required 20 foot buffer where appropriate - installation of approved buffers to be completed prior to issuance of Certificates of Occupancy for tenants.
- Fire Department comments;
- Water and Sewer 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.

Application for Rezoning COBB COUNTY

Exhibit "A"
Z-40/Dec 2010

(type or print clearly)

Application No. 254

Hearing Date 6-19-90

Applicant Leonard J. Huff Business Phone 943-7808 Home Phone 943 0562
2421 Hurt Rd Address Marquette Ga 30060

(representative's name, printed)

HD Perkins

Business Phone 433-3266

Home Phone 739 2519

(representative's signature)

HD Perkins

Titleholder Leonard J. Huff Business Phone _____ Home Phone 943 0562
Signature _____ Address _____

(attach additional signatures, if needed)

Zoning Request From R-20 To N S
(present zoning) (proposed zoning)

For the Purpose of Hair Styling Shop Size of Tract .5 ± acre(s)
(subdivision, restaurant, warehouse, apts., etc.)

Location 2395 Hurt Rd Marquette GA 30060
(street address, if applicable, nearest intersection, etc.)

Land Lot(s) 787 & 788 District 19th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are no there are such assets. If any, they are as follows: _____

Leonard J. Huff
Applicant's Signature

FOR OFFICIAL USE ONLY

Recommendation of Planning Commission 6-19-90 Planning Commission's original motion by Vansant to approve application died due to the lack of a second. Planning Commission recommended rejection of application. Motion by Dameron, second by Dawson, carried 4-1, Vansant opposed.

Henry A. Vansant Chairman

Board of Commissioners' Decision 6-19-90 Board of Commissioners' original motion by Paschal to approve application died due to the lack of a second. Motion to accept recommendation of the Planning Commission and reject application did not pass due to the lack of three affirmative votes. VOTE: 2-1, Paschal opposed. The Board of Commissioners held application until the July 19, 1990 Zoning Hearing.

Philip L. Paschal Chairman

Continued on next page....

154

COBB COUNTY BOARD OF COMMISSIONERS
COBB COUNTY PLANNING COMMISSION

Date of Application: _____

Date of Hearing: _____

Applicant's Name: Leonard T. Griffin

Recommendation of Planning Commission (Continued from Page 1)

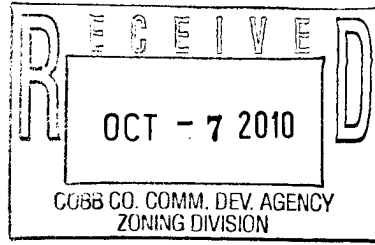
Chairman.

Final Decision of Board of Commissioners (Continued from Page 1)

7-19-90 Board of Commissioners approved application subject to: 1) barber/beauty shop use only; 2) Dept. of Transportation recommendation; 3) Water and Sewer Dept. comments; 4) Development and Inspections Dept. comments; 5) style of building to be approved by staff; 6) landscape plan to be approved by Staff; 7) no portable signs to be established on site. Motion by Burton, second by Smith, carried 3-1, Powell opposed.

Philip L. Seest Chairman

Z-40
Dec. 2010



算 亦 癩

Taoist Life Coach

LUONG ZONING REPORT - 2395 HURT ROAD - LRO WITH STIPULATIONS

EXECUTIVE SUMMARY

Request is hereby made by the current property owner to change the zoning district from NS - Neighborhood Shopping with stipulations to LRO - Low Rise Office for 0.55 acres located at 2395 Hurt Road. The property was developed in the mid 1990's for use as a barber/beauty shop known as Deano's Family Hair Center and has an existing building, parking lot and other improvements. Barber/beauty shop use has not been demonstrated to be viable at this location in the recent past, thus rendering the currently stipulated zoning district limitations impractical. Initial intended use of the property is for use as offices of the owner, but may vary over time to include professional offices of others. The LRO district allows for a broader range of uses than needed or appropriate for the location. As a result the request is for approval to the LRO district with the stipulation that it be limited to Professional Office use only.

OWNER/APPLICANT

Mr. Garren Luong of Marietta, Georgia is the Applicant. Mr. Luong is a naturalized Chinese-American citizen and aeronautical engineer, who has been a long-term employee of Lockheed. He has special expertise in flight simulators. Mr. Luong and his family have lived in Cobb County for ten years and have many ties to the community. Mr. Luong's family has a long tradition of "life-coaching" - helping or coaching others, particularly, but not exclusively those in the Chinese-American community, in matters of life related to health, relationships, employment and other areas, which can be informed from a Daoist (Taoist) perspective. He does not practice acupuncture, dispense herbal remedies, perform fortune telling services or conduct worship services. He has purchased the property at 2395 Hurt Road so he can help others without them needing to come to his home.

LOCATION

The property is located in unincorporated Cobb County along the south side of Hurt Road (a Major Collector road) approximately 1,300 feet (1/4 mile) east of a traffic signal

at Powder Springs Road (an Arterial) and 200 feet west of Quail Run. It is more particularly described in the accompanying Legal Description. The area is east of the city limits of Powder Springs, north of Austell, west of Smyrna and southwest of Marietta and is heavily influenced by traffic at the intersection of two four-lane Arterial roadways (Ernest Barrett Parkway/East-West Connector with Powder Springs Highway). The property is wholly within an area depicted as CAC - Community Activity Center on the Future Land Use Map and south of an area depicted as Medium Density Residential. It is adjacent to property zoned GC and PSC to the north, NS on its east and R-20 to the south and west. It is near, but does not border the residential subdivisions of Quails Nest and Sherwood Estates. It does not appear to be within any Cobb County overlay districts.

SUBJECT PROPERTY

The property subject to this rezoning request consists of 0.533 acres as shown in an accompanying survey of September 7, 2010, by McClung Surveying. It was previously rezoned in 1990 from R-20 to NS with stipulations by petition 199056. The NS zoning approval stipulations restricted the property to use only as a barber/beauty shop. The property was developed and used for several years as a barber/beauty shop with eight chairs/work stations. It changed tenants and ownership over the years although it has been most commonly known locally as Deano's Family Hair Center. For the last two years the property has been vacant, has gone through the foreclosure process and was recently purchased by Mr. Luong from the lender, Bayview Loan Servicing, through its affiliated real estate arm, IB Property Holdings, LLC.

The property contains a variety of improvements made by prior owners and tenants. Many of these are depicted in the accompanying survey. Existing improvements include a one-story brick-faced building of approximately 2,025 square feet, a single improved entrance for ingress/egress from Hurt Road, a concrete parking area accommodating 19 spaces and one handicapped accessible space with ramp, a retaining wall along the eastern side of the parking lot, a detention pond designed as part of the parking lot, a permitted septic system, a six-foot high fence and landscaping along the western buffer,

a freestanding sign and gable sign, an outdoor security light and existing vegetation. There are no known cemeteries or family burial plots on the property.

The western buffer reduction was administratively approved at time of development and there are no known currently non-conforming uses. Mr. Luong plans to remodel the interior of the building for use as office space, including his own, and plans no changes to the building exterior or parking lot, other than to place signage consistent with the district and his services.

INTENDED USES

Mr. Luong plans to use the office for personal use, but may sub-lease space to others, or may use the building for other suitable tenants and purposes consistent with the proposed LRO district as limited by stipulations. At present the building is in good repair and does not warrant demolition. Traffic generated or captured by the site will be less than when used as barber/beauty shop. The septic system functions and will be serviced before occupancy for extension of its useful life. All necessary utilities are present.

THE AREA

The area has grown and changed since the property was zoned for a barber/beauty shop in 1990. At that time commercial zoning approval had been given for a Planned Shopping Center district along the north side of Hurt Road from Powder Springs Road almost to Quail Run and for an OI district to the west and a NS district without stipulations adjoining to the east. GC zoning with stipulations existed at the intersection of the East-West Connector with Powder Springs Road and the balance of the area was R-20.

Since then most of the property east of Powder Springs Road, south of Hurt Road, north of the East-West Connector and west of Sherwood Place has been rezoned from R-20 to CRC, HI, or LRO with stipulations. The largest change was approval to accommodate the 22 screen Regal Cinema complex. There have been no rezonings known to the

Applicant from commercial districts to the R-20 district in this area in at least twenty years.

Most recently in 2008 an application was filed across the street from the subject property by Ms. Sharon Diaz for the rezoning of 3440 Quail Run to convert use of a single-family home from PSC & R-20 to the LRO district for use as a nursery and day care center. The application was not supported at a staff level and was heavily opposed. After a recommendation for rejection by the Planning Commission the application was withdrawn without prejudice by Ms. Diaz before final action by the Board of Commissioners.

Opposition to Ms. Diaz's project was in several areas, none of which apply in the current case. Because eleven parking spaces were proposed on the eastern side along Quail Run, the Diaz proposal would directly impact the aesthetics and character of the entrance to a long-existing neighborhood at its only entrance. Many felt the property was a single family home in a single family neighborhood and suggested it remain that way. Neither of these is the current case since the subject property and building already exist across the street and have been used for commercial purposes for many years. Exacerbation of existing morning and evening traffic volumes along Hurt Road was the concern of several because of the drop-off and pick-up hours for the day care. The Applicant is not proposing to operate a day care or to increase its parking spaces. Others felt there was existing commercial property to the south (some specifically mentioning the subject property) more suited to day care or other commercial uses. Others did not want the noise or safety concerns of children being outside. The Applicant does not propose outdoor activity.

WATER/SEWER

The property is served with public water from the Cobb County Water System via a waterline on the north side of Hurt Road. This is variously described in county documents as either a 6" or 8" line. A fire hydrant is within 200 feet of the site at the northwest corner of the intersection of Quail Run with Hurt Road. The building is serviced via a 1" meter, which is more than ample for anticipated needs. The area is

not known to the Applicant to be scheduled for water line replacement or improvement.

Waste water collection and treatment is via a permitted on-site waste disposal (septic) system. Public sanitary sewer is not believed to be available at the site or at reasonable cost for extension/connection by the Applicant. There are no known sewer extension projects in the area known to the Applicant which involve the subject property. Nor is there a concurrent extension petition from the Applicant for sewer service.

HYDROLOGY/STORMWATER QUALITY

2395 Hurt Road is near the top of a knoll with the high point located on property adjacent to the east at 2385 Hurt Road. The property drains to the south and west and has no surface water features present or other indications to suggest presence of jurisdictional stream or wetlands. Neither are shown in the accompanying survey. Nor is the property known to lie within a designated flood-prone area. Surface water flows to the south and west to a stream area behind the Regal Cinemas complex. Stormwater flows are slowed via the previously permitted parking lot detention weir control system. No improvements are planned which would result in increased runoff from the site.

SETBACKS

The building setback lines for the proposed LRO district are believed by the Applicant to be the same as those required of the existing NS district. The existing building envelope is well within these. Accordingly, no variance is requested at this time.

CURRENT ZONING REQUEST

The stipulations of the current Neighborhood Shopping NS district for the property restrict the property to only one use. Since approval of this site in 1990 the amount of commercially zoned property in the county and the nearby cities within which existing barber/beauty shops operate, have operated and within which others could be permitted to operate, has increased significantly in the southwest Cobb market area. This places the property at a competitive disadvantage for commercially viable operation as zoned. This is particularly the case since previous patrons have all taken

their business elsewhere over the two years since last operation as a barber/beauty shop.

If the NS district were still being approved, the Applicant might seek to change the stipulations without changing the district, since Professional Offices and other desired potential uses of the Applicant were otherwise allowed uses . However, in 1990 the Board of Commissioners determined to accept no further petitions to the district as of January 1, 1991. As a result the Applicant must seek change to an alternate but appropriate district that is in keeping with similarly situated properties and with the current and future nature of the area.

"Professional Offices" as defined in the Cobb County Zoning Code seem to be the type of use most closely associated with the Applicant's intended services as a "Life Coach". The applicant has met with the Cobb County Zoning staff and confirmed this to be their perspective as well. Professional offices are permitted as a use by right in the following districts: LRO, LRC, NRC, OI, UVC, PVC, CRC, OMR, OHR, NS, PSC, GC, and RRC. Although the OI district is present on the south side of Hurt Road west of the subject property, the LRO district seems to be the one most similar in nature to the character of the area as it is currently in the area and as reflected in the County's Future Land Use Map and Comprehensive Plan.

Even though less intensive than the OI district, the LRO district nonetheless allows for a variety of uses by right, some of which appear contrary to the interests of nearby or neighboring property owners. Limitation to Professional Offices still allows a wide range of uses and potentially tenancy, better assuring the Applicant of reasonable economic return. Accordingly, the Applicant offers to stipulate, that if approved as requested, the property will be used solely for Professional Offices with associated parking and will not be used for the following otherwise allowable or special exception purposes of the LRO district:

Banks/Financial Institutions with Drive-in Establishments and/or Automated
Transfer Machines
Community Fairs

Cultural Facilities
Designated Recycling Collection Locations
Executive Golf Courses
Golf Courses (Par 3)
Golf Courses (18-hole regulation public)
Group Homes
In-Home Day Care
Non-Profit (Seasonal Use) Fishing Lakes
Nursery Schools and Child Day Care Centers
Parking for Vehicles
Private Parks
Radio, Television, and Other Communication Towers and Antennae
Temporary Uses
Cemeteries
Mausoleums
Non-Profit Private Community Center
Other Facilities for Disposal of the Deceased
Private Schools of General and Special Education

APPLICANT'S RESPONSE TO ANTICIPATED IMPACT

Based on the foregoing analysis, the Applicant respectfully offers the following responses to six matters requested by the County to accompany the application package.

A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Despite the lack of other LRO zoned property in the area, the zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along the south side of the Hurt Road corridor east of Powder Springs Road and west of Quail Run. The subject property bears an existing zoning designation of NS and has been operated for commercial service purposes for approximately fifteen

years. It is south of property zoned GC, and adjacent to property zoned NS without stipulations. It lies wholly within an area designated as a Community Activity Center (CAC) under Cobb County's Future Land Use Map and is separated by a sixty-foot public right-of-way from property lying in the Medium Density Residential area. An alternate district viewed as equivalent by the Applicant would be the OI district with limitation to Professional Office use only.

B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property .

The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property has no reasonable economic use as currently zoned. The property is so narrowly zoned as to be artificially constrained to a single use (barber/beauty shop) that has been demonstrated to not be economically viable at this location for at least two years, most recently resulting in foreclosure of the property and purchase by the Applicant below market value for other uses. The Applicant will suffer significant economic detriment if forced to continue a narrowly defined use under a district not approved for expansion or use by the Board of Commissioners since 1991.

D. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

The zoning proposal involves an existing developed site for which no external changes are planned. As such it will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

E. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

The property which constitutes the subject matter of the rezoning proposal is wholly within an area designated as Community Activity Center (CAC), directly contiguous to property zoned NS and GC, and is in conformity with policy, intent, uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.

F. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal.

There is no substantial relationship between the existing zoning classification of NS with stipulations which substantially limit the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of prior zoning approvals and development along this portion of the Hurt Road corridor, there are no clearly established land planning principles which would render the zoning proposal untenable or adverse to the interests of others. The area has been permanently impacted by the Regal Cinema complex and continues to undergo change as gentrification of housing stock occurs and owner occupancy falls. Owner occupancy and use of currently vacant space would be a stabilizing factor and benefits the county through increased property values and associated property taxes and other business-related fees.

CONSTITUTIONAL OBJECTIONS

The portions of the Cobb County Zoning Ordinance of Cobb County, Georgia, also variously known as the Zoning Code of Cobb County, Georgia and/or Official Zoning Map of Cobb County, that classify, or that may classify the Property, into the zoning classification of NS Neighborhood Shopping with stipulations as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing

zoning classification limiting use of the land and improvements to only as a barber/beauty shop does not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said classification is unconstitutional in that it is arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.

The portions of the Cobb County Zoning Ordinance/Zoning Code of Cobb County and Zoning Map that classify, or that may classify the Property, into any zoning district other than the LRO Low Rise Office category requested by the Applicant or to any of the other zoning districts of the County which specifically allow for Professional Office uses, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Cobb County Zoning Ordinance/Zoning Code of Cobb County or Zoning Map to the Property that restricts its use to any zoning classification other than the category requested by the Applicant or an equivalent category of equal utility for Professional Office use is unconstitutional, illegal, null and void because such an application constitutes a taking of the Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, because such an application denies the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Cobb County Board of Commissioners without any rational basis, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of

the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by Cobb County to amend the official Zoning District Map of Cobb County, as it relates to the Property, to the zoning categories requested by the Applicant, or an equivalent category of equal utility for Professional Office use would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Any change in the designation of the Property by the Official Zoning Map of the Cobb County that subjects the Property to conditions that are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional category and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

A denial of this Application or approval subject to more restrictive conditions than those requested by the Applicant will give rise to a claim by the Applicant for the monetary damages in the amount of the diminution in value of the Property caused by the restrictions, on the theory, among others, of inverse condemnation in that the Applicant's Property has been taken without the payment of just compensation in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States and Article I of the Constitution of the State of Georgia of 1983. This notice is being given to comply with the provisions of O.C.G.A. § 36-11-1.

LEGAL DESCRIPTION

The following legal description is taken from Owner's Policy Exhibit A of the current title policy package underwritten by Stewart Title Guaranty Company and is believed to be accurate and suitable for advertising purposes:

"All that tract or parcel of land lying and being in Land Lots 787 & 788, 19th District, 2nd Section, Cobb County, Georgia, being Lot 5, Block B, Sherwood Estates Unit 2, as per plat by J.B. Carey, dated March 10, 1966, recorded in Plat Book 28, Page 67, Cobb County, Georgia Records which plat is incorporated herein by reference thereto; being the same property conveyed by Warranty Deed, dated February 26, 2003, from Harold Dean Perkins and Rebecca D. Perkins to Steven J. Post and Tracy H. Post and recorded at Deed Book 13696, Page 574, Cobb County, Georgia Records; being commonly known as 2395 Hurt Road, SW, according to the present system of numbering houses in Cobb County, Georgia."

An alternate, slightly abbreviated, but nonetheless suitable, form may be:

"All that tract or parcel of land lying and being in Land Lots 787 & 788, 19th District, 2nd Section, Cobb County, Georgia, being Lot 5, Block B, Sherwood Estates Unit 2, as per plat by J.B. Carey, dated March 10, 1966, recorded in Plat Book 28, Page 67, Cobb County, Georgia Records which plat is incorporated herein by reference thereto; being commonly known as 2395 Hurt Road, SW, according to the present system of numbering houses in Cobb County, Georgia."

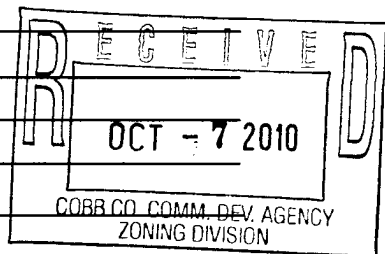
CONTACT INFO

This application has been prepared with the assistance of Mr. Bill Schmid, AICP, of Deep Water Planning, LLC - www.deepwaterplanning.com. Mr. Schmid will be assisting Mr. Luong in the balance of the zoning process on an as needed basis, but is not the Applicant or spokesman for this application. Mr. Luong may be reached with questions at 770-910-4161.

Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): N/A
- b) Proposed building architecture: N/A
- c) Proposed selling prices(s): N/A
- d) List all requested variances: N/A



.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): PROFESSIONAL OFFICE SPACE
LRO ZONING
- b) Proposed building architecture: EXISTING BUILDING AND NO EXTERIOR
CHANGE OTHER THAN SIGNAGE
- c) Proposed hours/days of operation: 7 AM TO 11 PM
- d) List all requested variances: _____

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

PLEASE SEE LUONG REPORT OCT-5-2010 INCORPORATE
BY REFERENCE

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

POWER EASEMENT LOCATED ON BACK OF PROPERTY