

**SEPTEMBER 20, 2011 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 1**

**ITEM # 2**

**PURPOSE**

To consider a site plan and stipulation amendment for Mr. David Roach who represents West Cobb Funeral Home regarding rezoning application Z-94 of 2007 (Petty Development Corporation), for property located near the northeasterly intersection of Barrett Parkway and Macland Road, and on the north side of Turner Road in Land Lot 471 of the 19<sup>th</sup> District.

**BACKGROUND**

The subject property was zoned NRC with stipulations for a retail development in 2007 for a small shopping center. The original developer had gotten to the point of clearing and grading the property before it was lost in a foreclosure. The current applicant owns the business directly next door, which is West Cobb Funeral Home. The applicant would like to amend the site plan to allow an additional chapel for the funeral home business. The proposed chapel would be located adjacent to the existing funeral home. The retail center would be relocated from the northeasterly portion of the property to the southwesterly portion of the property. This site plan amendment would result in the reduction of 9,318 square feet of building. The applicant is also requesting to amend a zoning stipulation that prohibited “gathering halls”, which would permit the additional chapel for the funeral home. If approved, all other zoning stipulations would remain in effect. The Board of Commissioners' decision is attached.

**FUNDING**

N/A

**RECOMMENDATION**

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendments.

**ATTACHMENTS**

Zoning stipulations (Exhibit A)  
Other Business Application (Exhibit B)  
Site plan (Exhibit C)

ORIGINAL DATE OF APPLICATION: 10-16-07APPLICANTS NAME: PETTY DEVELOPMENT CORPORATIONTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 10-16-07 ZONING HEARING:**

**PETTY DEVELOPMENT CORPORATION** (owner) requesting Rezoning from **R-20** and **MHP** to **NRC** for the purpose of Retail in Land Lot 470 of the 19<sup>th</sup> District. Located on the north side of Turner Road, north of Macland Road, on the east side of Barrett Parkway, north of Macland Road and at the southern terminus of a 50-foot access road.

MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to **approve** Rezoning to the **NRC** zoning district **subject to:**

- if the project has not established one of the required public utilities within 18 months of zoning approval by the Board of Commissioners, the project will revert to the present zoning classifications
- project to be in general conformity to the site plan received by the Zoning Division September 21, 2007, subject to Plan Review and approval by the District Commissioner (attached and made a part of these minutes)
- letter of agreeable conditions from Mr. Kevin Moore dated October 1, 2007 *not otherwise in conflict and with the following changes* (attached and made a part of these minutes):
  - Item No. 3 – Add to the end: *“with final approval by the District Commissioner.”*
  - Item No. 10 – Add to the end: *“Dumpster corrals will match the materials and color of buildings they adjoin.”*
  - Item No. 14 (b) – Change to read: *“No auto or truck related businesses”*
  - Item No. 14 – Add an Item (n): *“No gathering halls”*
  - Item No. 20 – Add to end: *“Grading plan and final elevations will be approved by Stormwater Management and Cobb DOT before issuance of Land Disturbance Permits.”*
- stream buffers will be field verified before Land Disturbance permitting, fenced and kept undisturbed during construction
- applicant/developer to enter into a Landscape License Agreement with Cobb County, to include plantings along the right-of-way to integrate the project with the County owned corner parcel as if they were one (any sign on the County parcel to be monument based and approved by the District Commissioner)
- the overall landscape plan to be reviewed by Staff and *People Looking After Neighborhoods*, and approved by the District Commissioner during Plan Review (plantings to be confirmed by Staff before Certificates of Occupancy are issued)
- District Commissioner may approve minor modifications
- Fire Department comments and recommendations
- Historic Preservation comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

TOTAL AREA: 62,426 SQ. FT.  
 GROSS FLOOR AREA: 42,426 SQ. FT.  
 NET FLOOR AREA: 10,426 SQ. FT. (MINIMUM 20% OF GROSS AREA)  
 NET FLOOR AREA: 32,426 SQ. FT. (GROSS - STORAGE)  
 PARKING REQUIREMENTS:  
 SPACES: 200 (100 REQUIRED, 100 SPACES)  
 SPACES PROVIDED: 100 (50)  
 EXISTING ZONING: MFP  
 PROPOSED ZONING: MFP

FLOOD STATEMENT:  
 THE PROPOSED DEVELOPMENT IS NOT IN A FLOOD HAZARD AREA AS SHOWN ON THE FLOOD HAZARD MAP OF THE CITY OF ATLANTA.

NOTICE TO THE PUBLIC:  
 THE CITY OF ATLANTA IS RECEIVING APPLICATIONS FOR THE REZONING OF THE ABOVE DESCRIBED PROPERTY TO THE MFP ZONING DISTRICT. ANY PERSON WHO HAS INFORMATION CONCERNING THIS APPLICATION SHOULD CONTACT THE ZONING DIVISION AT (404) 526-3100.



PLAT TO ACCOMPANY  
 AN APPLICATION FOR  
 REZONING FOR

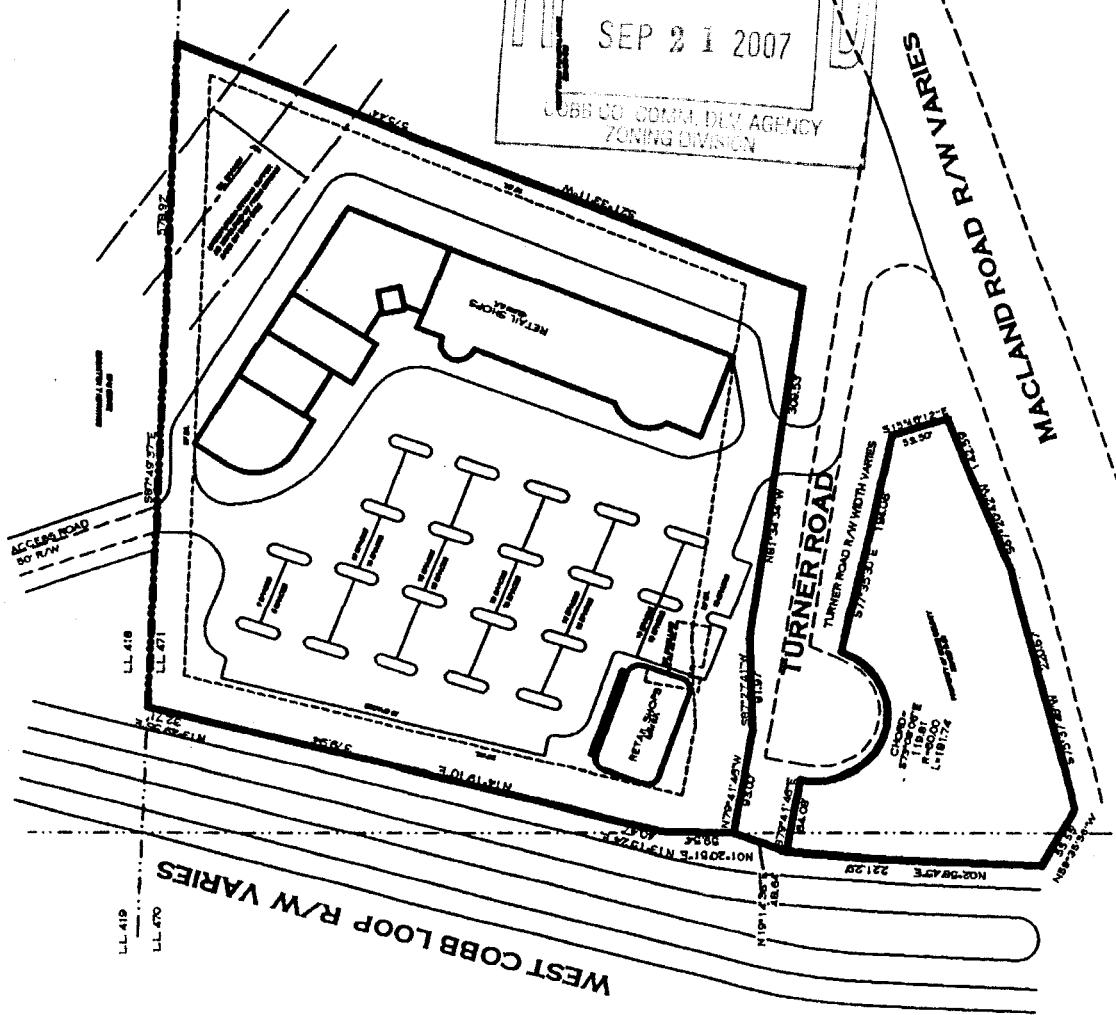
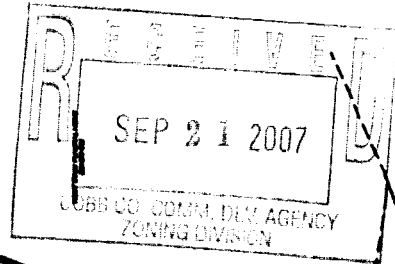
**A. D. PETTY**

LOCATED IN LAND LOTS 470 & 471  
 19TH DISTRICT, 3RD SECTION,  
 COBB COUNTY, GEORGIA



Min. Bk. 53 Petition No. 2-94  
 Doc. Type Site Plan  
 Meeting Date Oct 16, 2007

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# MOORE INGRAM JOHNSON & STEE

A LIMITED LIABILITY PARTNERSHIP  
WWW.MIJS.COM

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JENNIFER S. WHITE\*  
RYAN G. PRESCOTT  
RICARDO J. DAMEDEIROS  
BRETT A. MILLER  
CHRISTOPHER C. MINGLEDORFF  
JAMES D. BUSCH\*  
COLE B. STINSON\*\*  
SUZANNE E. HENRICKSON  
ANGELA D. CHEATHAM  
CAREY E. ATKINS\*  
CHARLES PIERCE\*  
BRANDON C. HARDY

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C. DAMON GUNNELS  
GRAHAM E. MCDONALD  
KARINE M. POLIS  
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SARAH S. GRANT

OF COUNSEL:  
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN  
\* ALSO ADMITTED IN FL  
\*\* ALSO ADMITTED IN NM  
\*\*\* ALSO ADMITTED IN NC  
♦ ADMITTED ONLY IN TN

JOHN H. MOORE  
STEPHEN C. STEELE  
WILLIAM R. JOHNSON†  
ROBERT D. INGRAM†  
J. BRIAN O'NEIL  
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ELDON L. BASHAM  
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KIM A. ROPER  
TARA C. RIDDLE  
KELLI L. WOLK  
TANYA L. CROSSE♦  
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VICTOR P. VALMUS  
T. SHANE MAYES  
ANGELA H. SMITH  
OPHELIA W. CHAN  
DARRELL L. SUTTON

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October 1, 2007

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

Hand Delivered

Min. Bk. 53 Petition No. Z-94  
Doc. Type Letter of  
agreeable conditions  
Meeting Date 10-16-2007

RE: Application for Rezoning  
Application No.: Z-94 (2007)  
Applicant/

FILED WITH COUNTY CLERK THIS 1st Property Owner: Petty Development Corporation  
OF Oct. 20 2007 BY K. Moore Property: 6.47 acres located at the  
RE Z-94 intersection of the easterly  
Karen J. King right-of-way of West Cobb Loop  
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK and the northerly right-of-way  
COBB COUNTY, GEORGIA of Turner Road; northeasterly of  
Macland Road, Land Lot 470,  
19<sup>th</sup> District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent Petty Development Corporation, the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), in its Application for Rezoning with regard to approximately 6.47 acres of real property located in Land Lot 470, 19<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia (hereinafter referred to as the "Subject Property"). After meeting with planning and zoning

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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September 20, 2011  
Exhibit "A"  
Other Business Item 02

Petition No. 2-94  
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staff, reviewing the departmental comments and staff recommendations, and reviewing 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 that certain letter of agreeable zoning stipulations and conditions dated and filed September 26, 2007. The referenced stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning categories of Mobile Home Park ("MHP") and R-20 to the proposed zoning category of Neighborhood Retail Commercial ("NRC"), with reference to the revised Site Plan prepared for Applicant by The Crusselle Company December 6, 2006, last revised September 13, 2007, and submitted to the Cobb County Zoning Office on September 21, 2007.
- (3) The exterior of the proposed retail center and any out parcel buildings shall be brick, stone, or rock, with accents of stucco and related hard-surface materials on all four sides. Further, the architectural design shall be substantially similar to the elevations submitted as part of this Application.
- (4) Applicant agrees that the final architectural design shall be approved by the District Commissioner at the

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Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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conclusion of the plan review process; but prior to issuance of land disturbance permits. A designated representative of PLAN shall be provided copies of proposed architectural designs and shall have reasonable opportunity for input prior to final approval by the District Commissioner.

- (5) Any roof-mounted HVAC equipment shall be screened from adjacent rights-of-way by means of a continuous roof parapet. All other mechanical systems located on the ground shall be screened by landscaping and fences.
- (6) Entrance signage for the proposed retail center shall be ground based, monument style signage. The finish, materials, and colors for the signage shall be compatible with the retail center buildings. Further, such signage shall contain no flashing or scrolling 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.
- (7) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed retail center for the purpose of displaying tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicant and any prospective tenant, and Applicant agrees to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail center with "for sale" signs posted thereon.
- (8) Environmentally sensitive, shoe-box type, recessed lighting shall be utilized on poles with a maximum height of thirty-five (35) feet. Light bulbs shall be recessed within the fixtures and not extending below

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
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the fixtures and shall be shielded to prevent bulbs from being visible from adjoining properties. The poles and fixtures shall be designed and themed to blend with the architecture of the proposed buildings.

- (9) Security lighting on the structures 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.
- (10) All dumpsters servicing the proposed center shall be enclosed with a minimum six (6) foot high enclosure on three sides with a solid wooden screen, gate, or doors on the access side.
- (11) All grassed areas shall be sodded.
- (12) All landscaping for the proposed center shall be professionally designed, implemented, and maintained and shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development. The landscape plan shall include substantial, appropriate fencing and plantings within required landscaped buffers adjacent to existing residentially zoned properties.
- (13) The landscape plan shall contain fencing and landscaping features for the Subject Property's road frontage which are substantially similar to the frontage landscaping plans submitted as part of this Application.
- (14) Applicant agrees that the following uses shall be prohibited within the proposed retail center:
  - (a) Light automotive repair;

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
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- (b) Auto parts store;
  - (c) Beverage shop, excepting specialty wine shops;
  - (d) Billiard and pool halls;
  - (e) Carwashes;
  - (f) Drive-thru restaurants; excepting coffee, ice cream, or similar specialty item businesses;
  - (g) Full-service gas stations;
  - (h) Convenience stores with self-service fuel;
  - (i) Radio, television, and other telecommunication towers and antennas;
  
  - (j) Rest homes, personal care homes, or convalescent homes;
  - (k) Temporary uses;
  - (l) Any "adult-themed" business as that term is defined in the Cobb County Zoning Ordinance; and
  - (m) Outside storage.
- (15) Any restaurant use shall limit hours of operation to no later than midnight (12:00 a.m.).
- (16) All utilities for the proposed development shall be located underground.
- (17) Minor modifications to the referenced Site Plan, including, but not limited to, stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (18) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property; except that Applicant proposes an underground detention system.
- (19) If the detention area is located above ground, it shall be fenced and such fencing shall be a picket fence or black, vinyl-clad chain link fencing, with



**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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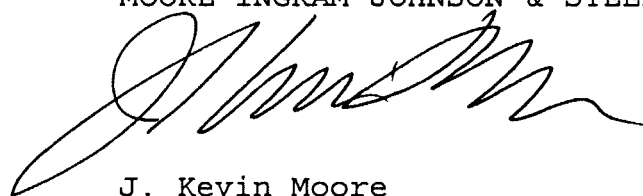
landscaping providing a substantial visual screen. Any walls or other structures associated with an above-ground detention pond shall have exterior materials architecturally consistent with the proposed retail building.

- (20) Applicant agrees to Cobb County Department of Transportation comments and recommendations, including those contained in the e-mail correspondence from John Morey, dated September 27, 2007, attached hereto as Exhibit "A" and incorporated herein by reference.

We believe the requested zoning, pursuant to the referenced Site Plan and the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changes within the area and the impact of those changes upon surrounding developments and area properties and owners thereof surrounding the proposed development. The proposed retail center shall be a quality development and shall be an enhancement to the Subject Property and the community as a whole. Thank you for your consideration in this request.

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc  
Attachment

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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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 Copy of Attachment)

Cobb County Planning Commission:

Murray Homan, Chairman  
Judy Williams  
Bob Hovey  
Christi S. Trombetti  
Bob Ott  
(With Copy of Attachment)

Keli Gambrill  
Vice President  
People Looking After Neighborhoods, Inc.  
(With Copy of Attachment)

David Welden  
Protect Cobb  
(With Copy of Attachment)

Petty Development Corporation  
(With Copy of Attachment)

Kevin Moore

**From:** Morey, John [John.Morey@cobbcounty.org]  
**Sent:** Friday, September 28, 2007 2:01 PM  
**To:** Kevin Moore  
**Subject:** FW: Devon Petty Z-94

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Hi Kevin,

This is a copy of the original e-mail to Commissioners Goreham and Hovey. Have a good weekend.

John M. Morey  
Cobb County Department of Transportation  
1890 County Services Parkway  
Marietta, Georgia 30008  
770-528-1661

Cobb County...Expect the Best

[www.cobbcounty.org](http://www.cobbcounty.org)

-----Original Message-----

**From:** Morey, John  
**Sent:** Thursday, September 27, 2007 11:18 AM  
**To:** Goreham, Helen; Hovey, Bob  
**Cc:** Killian, Janis; McKay, Tim; Cates, Michael  
**Subject:** Devon Petty Z-94

Good morning Commissioner Goreham and PC Commissioner Hovey,

In reviewing the Petty rezoning (Z-94), it seems like we do not a clear strategy on this. I have had several discussions with folks around the office and offer this as a recommendation.

Currently we are removing dirt to be utilized on the new GDOT site further north on Barrett Parkway. As a result, there is a significant grade difference between existing Turner Road and the dirt borrow area. The integrity of the roadway does not appear to be in question as a typical slope from the edge of paving is in place and not a sudden dropoff.

In discussions with Mr. Petty, he has indicated that he is willing to allow the County to take dirt off of his site as well if needed. With these things occurring, the existing Turner Road will also need to be lowered in order to allow access to the County roadway. Since it is doubtful that Mr. Petty requires this right-of-way for setbacks, square footage, or other needs beyond basic access, we believe that abandonment of the right-of-way is not necessary. Leaving the right-of-way in place will allow public access to the corner parcel that is County property as well as Mr. Petty's development.

EXHIBIT "A"

10/1/2007

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Exhibit "A"  
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What I foresee is that the County will excavate dirt as needed (both sides of the road), will lower the roadway commensurate with the new grades both for the corner parcel and Mr. Petty's development (with Mr. Petty being responsible for any further excavation and rebuilding of the roadway as is needed for his development) and that we would issue a landscape license agreement to Mr. Petty to allow him to landscape and maintain this corner parcel. This will provide a greenspace/pocket park for the County with no maintenance responsibilities and be an asset to Mr. Petty's development as well.

Does this seem like a good approach? Questions or Comments?

September 20, 2011  
Exhibit "B"  
Other Business Item 02

# Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 09/20/11

**Applicant:** David Roach Phone #: (770) 419-9234  
(applicant's name printed)

**Address:** 2480 Macland Road, Marietta, GA 30064 E-Mail: info@westcobbfuneralhome.com

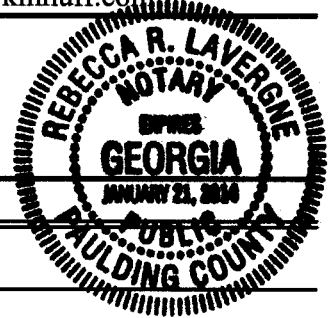
SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100  
Parks F. Huff Address: Marietta, GA 30064

(representative's name, printed)

[Signature] Phone #: (770) 422-7016 E-Mail: phuff@samslarkinbuff.com  
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] My commission expires: \_\_\_\_\_  
Notary Public



**Titleholder(s)** SEE ATTACHED Phone #: \_\_\_\_\_  
(property owner's name, printed)

**Address** \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

\_\_\_\_\_  
(Property owner's signature)

Signed, sealed and delivered in presence of:

\_\_\_\_\_  
Notary Public My commission expires: \_\_\_\_\_

**Commission District:** 1 **Zoning Case:** No. Z-94 (2007)

**Date of Zoning Decision:** October 16, 2007 **Original Date of Hearing:** October 16, 2007

**Location:** Northeast corner of Macland Road and Barrett Parkway  
(street address, if applicable; nearest intersection, etc.)

**Land Lot(s):** 470 **District(s):** 19

**State specifically the need or reason(s) for Other Business:** (1) Revise the site plan;  
(2) Remove the use restriction for gathering halls to allow for the proposed second chapel for the  
existing funeral home.

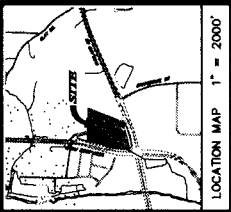
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(List or attach additional information if needed)

REV.	DATE	REVISION

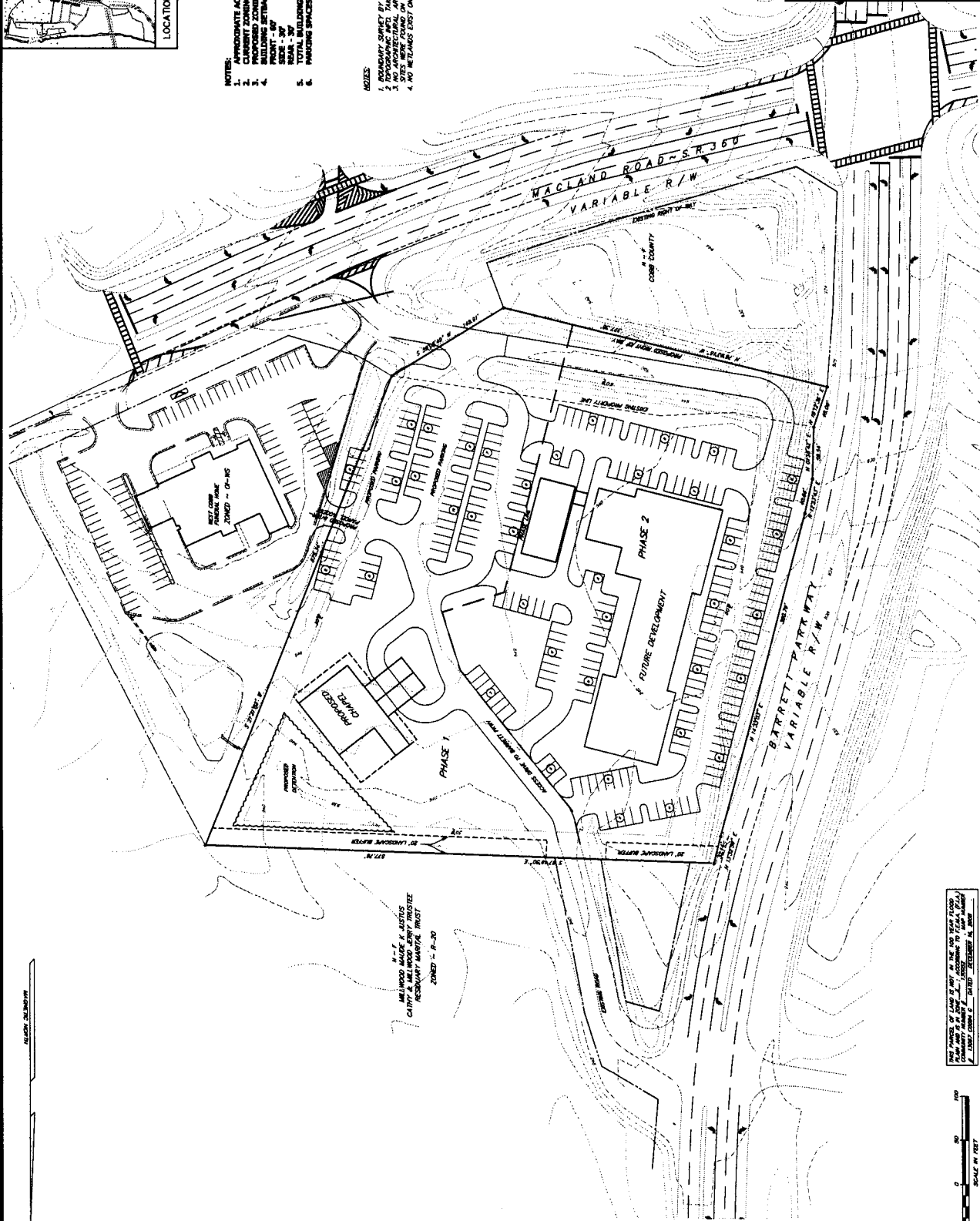
PROJECT I.D.	FIELD BOOK

September 20, 2011  
Exhibit "C"  
Other Business Item 02



- NOTES:**
- APPROXIMATE ACREAGE - 7.3 ACRES
  - EXISTING ZONING - R-30
  - PROPOSED ZONING - R-30
  - BUILDING SETBACKS:
  - FRONT - 30'
  - REAR - 30'
  - TOTAL BUILDING S.F. = 26,230
  - MAXIMUM SPACES SHOWN = 235
- NOTES:**
- PROPERTY OWNERS: JIM PAYNE, GS
  - DEVELOPING AND PLANNING FROM COB COUNTY, GS
  - NO IMPROVEMENTS, ARCHITECTURAL OR CELESTIAL
  - NO RETAINING WALLS ON THIS SITE.

**- PROPOSED -**



SCALE 1" = 2000'

SCALE IN FEET