

APPLICANT: Nick Letsos and Anna N. Letsos

(404) 636-0847

REPRESENTATIVE: Garvis L. Sams, Jr. (770) 422-7016

SAMS, LARKIN & HUFF, LLP

TITLEHOLDER: Nick P. Letsos and Anna N. Letsos

PROPERTY LOCATION: On the west side of Canton Road, north of

Westerly Way

(2389 Canton Road).

ACCESS TO PROPERTY: Canton Road

PHYSICAL CHARACTERISTICS TO SITE: Existing one (1)

story brick and frame structure.

PETITION NO: Z-13

HEARING DATE (PC): 04-03-12

HEARING DATE (BOC): 04-17-12

PRESENT ZONING: NS

PROPOSED ZONING: CRC

PROPOSED USE: Restaurant and Retail

SIZE OF TRACT: 1.253 acres

DISTRICT: 16

LAND LOT(S): 660

PARCEL(S): 4

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: NRC/ commercial daycare

SOUTH: CRC/ commercial lot

EAST: LRO/ office

WEST: R-20/ Fraser Subdivision

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

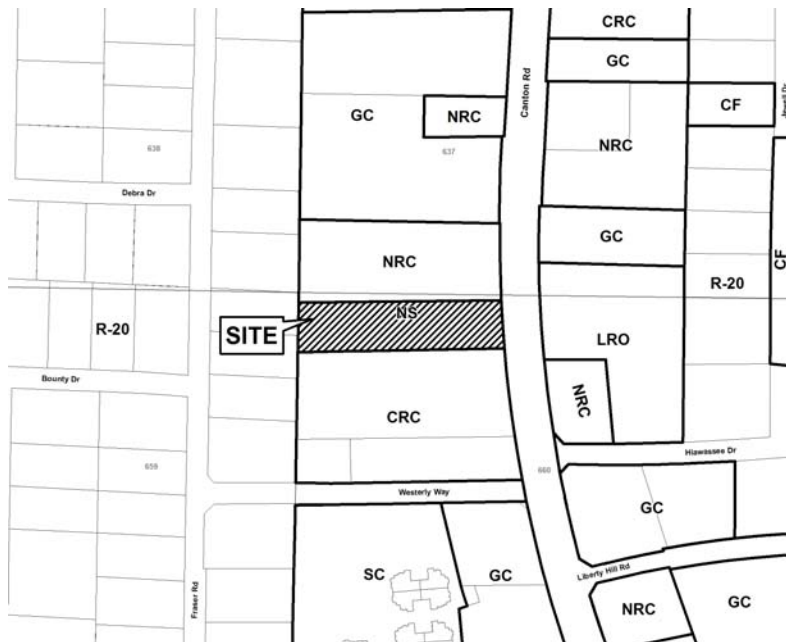
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

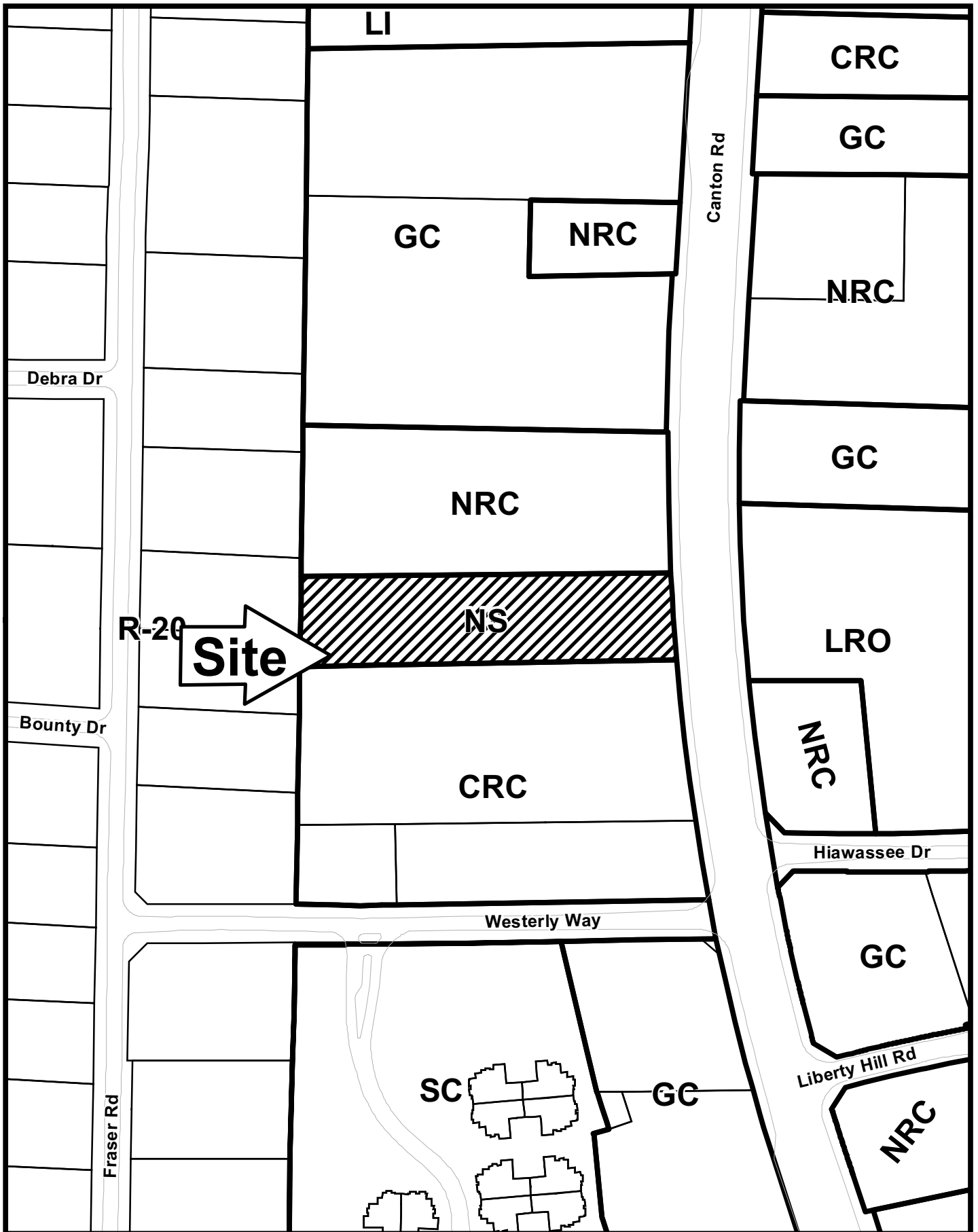
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

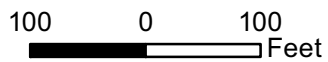
STIPULATIONS:



Z-13



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



City Boundary
Zoning Boundary

APPLICANT: Nick Letsos and Anna N. Letsos

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: CRC

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: NAC neighborhood activity center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 1,874 sq. ft.

F.A.R.: .03 **Square Footage/Acre:** 1,495 sq. ft.

Parking Spaces Required: 19 (restaurant) **Parking Spaces Provided:** 12

The applicant is requesting a rezoning from NS neighborhood shopping district to CRC community retail commercial district in order to operate a restaurant and/or retail space. Being located within a NAC neighborhood activity center future land use category, the property, a former dry cleaner, has lost its “grandfathered” status as it was closed for a period longer than six (6) months. The applicant would like to utilize the existing brick structure on the site, anticipating operation as a coffee/pastry shop and retail Monday through Saturday from 7 a.m. to 7 p.m. and from 7 a.m. to 12 noon on Sundays. In its current state, the property may be deficient in parking count and size per the County Code as well as lacks the required 35 foot landscape buffer where it backs up to residential property. Consideration should also be given to the property’s location within the Canton Road corridor and any applicable improvements that may be recommended by the Planning Division staff.

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: Nick Letsos and Anna N. Letsos

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: CRC

PLANNING COMMENTS:

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category with NS zoning designations. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical uses for these areas include small offices, limited retail and grocery stores.

Master Plan/Corridor Study

Please review and meet all applicable requirements as set forth in the Canton Road Design Guidelines prior to final approval.

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.

Design Guidelines

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

If yes, design guidelines area Canton Road

Does the current site plan comply with the design requirements?

Yes No Not applicable

APPLICANT Nick Letsos and Anna N. Letsos

PETITION NO. Z-013

PRESENT ZONING NS

PETITION FOR CRC

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): 12" DI W side of Canton Road

Additional Comments: Existing water customer

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: 250' W with easements

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

Treatment Plant: **Noonday**

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 and 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 Comments: Health Dept approval required for continued use of existing septic system. If improvements to septic system are necessary, site must connect to sanitary sewer

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: Nick Letsos & Anna N. Letsos

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: CRC

STORMWATER MANAGEMENT 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: Nick Letsos & Anna N. Letsos

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: CRC

**STORMWATER MANAGEMENT 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. No site improvements are proposed at this time. Any expansion or re-development of the site will be subject to applicable stormwater management code requirements.

APPLICANT: Nick Letsos and Anna N. Letsos

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: CRC

COBB COUNTY DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS

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
Canton Road	29700	Arterial	45 mph	Cobb County	100'

Based on 2011 traffic counting data taken by Cobb County DOT (Canton Road)

COMMENTS AND OBSERVATIONS

Canton Road is classified as an arterial and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

RECOMMENDATIONS

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 west side of Canton Road, a minimum of 50' from the roadway centerline.

Recommend sidewalk along Canton Road frontage.

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

STAFF RECOMMENDATIONS

Z-13 NICK LETSOS and ANNA N. LETSOS

- 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. Having an established history of commercial use, the property is located within a NAC neighborhood activity center along Canton Road and other commercial site are immediately adjacent and nearby.
- 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. As noted, neighboring properties are zoned commercially and the site is situated along Canton Road. Also noted, the residentially zoned properties to the west can be sufficiently buffered if the property is required to come into conformity with the Code required landscape buffer.
- 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*. The parcel that is the subject of this request is located within an NAC neighborhood activity center future land use category. The current request supports the *Plan's* goals of encouraging low intensity office and retail uses as well as transitional building type between higher intensity uses and neighboring residential areas.
- 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 approval of the applicant's rezoning proposal. The property, located within a NAC along Canton Road has existed as commercial property for several years. The current request would allow the applicant to bring the property back into commerce as well as potentially improve the site over its former use. This would also further the goals of the *Cobb County Comprehensive Plan*. With adequate consideration to the necessary Code mandated requirements of parking and residential buffering, as well as potential desirable improvements envisioned by the Canton Road Guidelines, the request may be favorably considered.

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

- Applicant submit plans to Plan Review for necessary site improvements such as parking and landscape buffer, with final approval by District Commissioner;
- Fire Department comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Water and Sewer Division 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; and
- Planning Division comments and recommendations.

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.

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April
2012

Summary of Intent for Rezoning*

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

Proposed unit square-footage(s): _____

Proposed building architecture: _____

Proposed selling prices(s): _____

a) List all requested variances: _____

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

a) Proposed use(s): Coffee/Pastry Shop & Retail

b) Proposed building architecture: Utilization of the existing brick structure on the site.

c) Proposed hours/days of operation: Monday through Saturday, 7:00 a.m. until 7:00 p.m.
and Sunday, 7:00 a.m. until 12:00 p.m.

d) List all requested variances: N/A

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

The subject property is presently zoned Neighborhood Shopping (NS) and lost its
"grandfathered" exemption when the property ceased being utilized as a dry
cleaning/laundry facility for a period exceeding six (6) months thus necessitating a
rezoning from non-conforming NS to CRC. The subject property is located within the
confines of a Neighborhood Activity Center (NAC) and is surrounded by properties
which are commercially zoned.

.....
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 those properties are located.)

N/A

*The applicant reserves the right to amend the Summary of Intent for Rezoning and the preliminary information provided therein at any time during the rezoning process.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF NICK LETSOS & ANNA N. LETSOS**

COME NOW, NICK LETSOS & ANNA N. LETSOS, 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 and located within the confines of a Neighborhood 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.
- 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 Neighborhood Activity Center (NAC).
- F. There is no substantial relationship between the existing non-conforming zoning classification of NS 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 18th day of January, 2012.

SAMS, LARKIN & HUFF, LLP

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant

Ga. Bar No. 623950

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JUSTIN H. MEEKS

March 13, 2012

SAMSLARKINHUFF.COM

VIA E-MAIL &
HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Community Development Agency
Zoning Division
1150 Powder Springs Road
Suite 400
Marietta, GA 30064



Re: Application of Nick Letsos & Anna N. Letsos to Rezone a 1.253 Acre Tract
From NS to CRC (No. Z-13)

Dear John:

This firm has been engaged by and represents Mr. and Mrs. Nick Letsos, the Applicants and property owners, concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on April 3, 2012 and, thereafter, scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on April 17, 2012.

The Application seeks to rezone the subject property from NS to CRC for the purposes of a pastry/coffee shop and retail. You may recall that the property was utilized for an extended length of time as a dry cleaning business. However, once considered a non-conforming exemption, the property no longer enjoys that status having not been utilized as a dry cleaner for a period in excess of six (6) months. Therefore, it is necessary to rezone the property from the nonconforming NS to CRC which is the same zoning classification as other properties belonging to Mr. and Mrs. Letsos which are contiguous and to the south of the subject property. As you know, the property is located within the confines of a Neighborhood Activity Center (NAC) and is adjacent to properties which are commercially zoned and utilized.

In accordance with the direction received from the County's Professional Staff and consistent with discussions with representatives of Canton Road Neighbors, Inc. and the Northeast Cobb Homeowner's Group, 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.

**VIA E-MAIL &
HAND DELIVERY**

Mr. John P. Pederson, AICP, Manager
Cobb County Community Development Agency
Zoning Division
March 13, 2012
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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.
2. Rezoning of the subject property shall be from Neighborhood Shopping (NS) to Community Retail Commercial (CRC) in substantial conformity to that certain site plan filed contemporaneously with the Application for Rezoning on January 18, 2012.
3. The total site area consists of 1.253 acres and is proposed to be utilized for pastry/coffee shop and retail.
4. The architectural style and composition of the building on the subject property shall remain the same as the building which presently exists thereon.
5. Additional signage shall be ground-based, monument style with finish materials and color being in substantial conformity to the existing architectural style and composition.
6. The Applicants intend to utilize the existing parking and security lighting on the site.
7. The dumpsters servicing the site shall be enclosed with a minimum 6' high enclosure on three (3) sides, with an opaque wooden door on the access side which shall remain in the closed position except when the dumpster is being emptied. All dumpsters shall have rubber lids to minimize noise.
8. The following otherwise permitted uses under the CRC classification shall be prohibited:
 - a. Video arcades as a primary business.
 - b. Tattoo parlors and body piercing shops.
 - c. Check cashing establishments.
 - d. Any business which principally features sexually explicit products or drug related paraphernalia.
9. There shall be no outside paging systems, phone bells or loudspeakers.

**VIA E-MAIL &
HAND DELIVERY**

Mr. John P. Pederson, AICP, Manager
Cobb County Community Development Agency
Zoning Division
March 13, 2012
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10. Upon a redevelopment of the subject property, the submission of a landscape plan during the Plan Review process subject to be reviewed and approval by the Community Development Agency.
11. Upon a redevelopment of the subject property, compliance with the following recommendations from the Cobb County Department of Transportation:
 - a. The voluntary donation and conveyance of additional right-of-way so that the County can achieve 50' from the centerline of Canton Road.
 - b. The installation of sidewalk along the subject property's frontage.
12. Compliance with the recommendations from Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds, upon a redevelopment of the subject property.
13. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
14. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property. The subject property has been inspected by the Health Department which has found that existing septic system is "generally suitable" for the use proposed.
15. Minor modifications to the site plan, landscape plan and this letter of agreeable stipulations/conditions may be approved by the District Commissioner.

This Application is more of a "housekeeping" matter in order to bring the property into compliance with the zoning ordinance by rezoning it from NS to CRC. Being situated within the Neighborhood Activity Center ("NAC") under the Future Land Use Map contemplates the uses proposed which are entirely appropriate when considered in the context of development along this section of the Canton Road Corridor.

**VIA E-MAIL &
HAND DELIVERY**

Mr. John P. Pederson, AICP, Manager
Cobb County Community Development Agency
Zoning Division
March 13, 2012
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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 kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr./brl

cc: Members, Cobb County Board of Commissioners – VIA E-Mail
Members, Cobb County Planning Commission – VIA E-Mail
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery
Mr. Jason Campbell, Planner III - VIA Hand Delivery
Mr. David W. Breaden, P.E. – VIA E-Mail
Ms. Jane Strickland, P.E. - VIA E-Mail
Ms. Karen L. King, Deputy County Clerk – VIA E-Mail
Ms. Lori Presnell, Deputy County Clerk – VIA E-Mail
Ms. Carol Brown, Chair, Canton Road Neighbors- VIA E-Mail
Mr. Norm Dewalt, President, Northeast Cobb Homeowner's Group - VIA Email
Mr. & Mrs. Nick Letsos - VIA E-Mail