

**MAY 15, 2012 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM # 1

PURPOSE

To consider amending the stipulations for Catherine S. Garner regarding Z-31 (Peach State Salvage, Inc.) of 2010, for property located in Land Lot 637 of the 16th District, on the west side of Canton Road, south of Blackwell Lane.

BACKGROUND

The subject property is zoned Neighborhood Retail Commercial (NRC) for a retail use. The original approval included a stipulation that there be no outdoor storage on the property. The owner of the property sells unique items that are used for outdoor recreation and decoration. A sample of these items includes pottery, plants and outdoor furniture. It is important to note that the applicant is not requesting intensive and massive outdoor storage, but would like to have a “limited outdoor display” of merchandise subject to the approval of the District Commissioner. If approved, all other zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENTS

Other Business Application and zoning stipulations.

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: 5-15-12

Applicant: CATHERINE S. GARNER Phone #: 770-429-5574
(applicant's name printed)

Address: 2405 CANTON RD MARIETTA, GA 30066 E-Mail: info@rustiqueonline.com

CATHERINE S. GARNER Address: 2405 CANTON RD MARIETTA, GA 30066
(representative's name, printed)

Catherine S. Garner Phone #: 770-429-5574 E-Mail: info@rustiqueonline.com
(representative's signature)

Signed, sealed and delivered in presence of:

Erin Chavda

ERIN CHAVDA
Notary Public
Cobb County
State of Georgia
My Commission Expires Jul 7, 2015

7-7-15

Notary Public

Titleholder(s): TONY MARVIN LITTLE Phone #: 770-429-5574
(property owner's name printed)

Address: 2427 CANTON ROAD MARIETTA GA 30066 E-Mail: info@rustiqueonline.com

Tony Marvin Little
(Property owner's signature)

Signed, sealed and delivered in presence of:

Erin Chavda

ERIN CHAVDA
Notary Public
Cobb County
State of Georgia
My Commission Expires Jul 7, 2015

7-7-15

Notary Public

Commission District: 3 Zoning Case: Z-31 OF 2010

Date of Zoning Decision: 10-19-10 Original Date of Hearing: _____

Location: 2405 CANTON RD MARIETTA, GA 30066
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 637 District(s): 14

State specifically the need or reason(s) for Other Business: _____

There is a stipulation in the zoning of this property that says: "No outside storage". Commissioner, Joann Birrell, advised me to apply for "other business item" to get approved for "limited outdoor display allowed". I need to be approved for "limited outdoor display" for: pottery, plants, and outdoor furniture.

(List or attach additional information if needed)

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COBB COUNTY BOARD OF COMMISSIONERS
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CONSENT AGENDA (Continued):

**Z-29 SWEETWATER CONGREGATION OF JEHOVAH'S WITNESSES
(Continued)**

- **Cobb 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**

VOTE: **ADOPTED** unanimously

Z-31 PEACH STATE SALVAGE, INC. (owner) requesting Rezoning from GC to NRC for the purpose of Retail in Land Lot 637 of the 16th District. Located on the west side of Canton Road, south of Blackwell Lane.

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

- **site plan received by the Zoning Division August 5, 2010, with the District Commissioner approving minor modifications (attached and made a part of these minutes)**
- **letter of agreeable conditions from Mr. Kevin Moore dated September 29, 2010 (attached and made a part of these minutes)**
- **no outdoor storage**
- **Fire Department comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Planning Division comments and recommendations**
- **Cobb 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**

VOTE: **ADOPTED** unanimously

Min. Bk. 61 Petition No. 31
Doc. Type letter of agreeable
conditions
Meeting Date 10/19/10

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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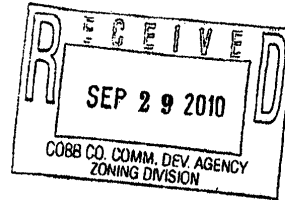
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*** ALSO ADMITTED IN CA
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September 29, 2010

Hand Delivered

Mr. Terry Martin, MPA
Planner II
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064



RE: Application for Rezoning - Application No. Z-31 (2010)
Applicant/Property Owner: Peach State Salvage, Inc.
Property: 0.46 acres located on the westerly side of
Canton Road, southerly of Blackwell Lane and
northerly of Westerly Way, being a portion of
Tax Parcel No. 16063700440, Land Lot 637,
16th District, 2nd Section, Cobb County, Georgia

Dear Terry:

As you know, the undersigned and this firm represent Peach State Salvage, Inc., the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), in its Application for Rezoning with regard to a 0.46 acre tract located on the westerly side of Canton Road, southerly of Blackwell Lane and northerly of Westerly Way, Land Lot 637, 16th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting with planning and zoning staff, discussions with area civic and homeowner representatives, and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant to submit this 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

MOORE INGRAM JOHNSON & STEELE

Mr. Terry Martin, MPA
Planner II
Zoning Division
Cobb County Community Development Agency
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requested zoning and shall be binding upon the Subject Property. The requested stipulations are as follows:

- (1) Applicant seeks rezoning of the Subject Property from the existing zoning category of General Commercial ("GC") to the proposed zoning category of Neighborhood Retail Commercial ("NRC"), with reference to the site plan prepared by Gaskins Surveying Company, Inc. dated April 22, 2010, last revised June 2, 2010.
- (2) Applicant agrees the following uses shall be prohibited:
 - (a) Adult-themed stores, including, but not limited to novelty stores, book stores, movie rental stores; or any type store where adult-themed materials is predominantly sold;
 - (b) Pawn, title pawn, or check cashing establishments;
 - (c) Tattoo parlors and body piercing establishments;
 - (d) Billiard and pool halls;
 - (e) Designated recycling collection locations;
 - (f) Self-service laundry facilities;
 - (g) Emission or inspection stations; and
 - (h) Radio, television, and other communication towers and antennas; as well as cell towers.
- (3) Minor modifications to the within stipulations or the referenced site plan may be approved by the District Commissioner, as needed or necessary.
- (4) Applicant agrees to comply with all Cobb County Fire Department requirements applicable to the Subject Property.
- (5) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.

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Mr. Terry Martin, MPA
Planner II
Zoning Division
Cobb County Community Development Agency
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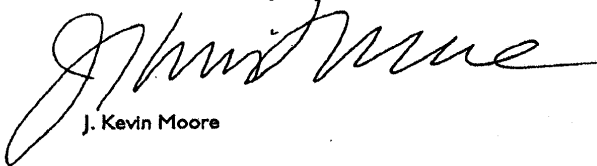
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- (6) The Subject Property has an Independent curb cut access which is separate from the adjacent, larger parcel.
- (7) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow which includes installation of the following:
 - (a) Construction of a sidewalk along the frontage of the Subject Property on Canton Road, to connect to the sidewalk of the contiguous property to the north of the Subject Property, within ninety (90) days of the final approval of the proposed rezoning by the Board of Commissioners.

The recent renovations and upgrades to the existing structure, together with the stipulations proposed herein, are an enhancement to the Subject Property as well as to the surrounding Canton Road community. We, therefore, believe the requested rezoning is an appropriate use of the Subject Property. We very much appreciate your consideration in this request.

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

MOORE INGRAM JOHNSON & STEELE

Mr. Terry Martin, MPA
Planner II
Zoning Division
Cobb County Community Development Agency
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c: Cobb County Board of Commissioners:
Tim Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert Ott
Thea Powell

Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Bob Hovey
Christi S. Trombetti
Mike Terry

Carol Brown, Chairperson
Canton Road Neighbors, Inc.

Peach State Salvage, Inc.

APPLICANT: Peach State Salvage, Inc.

PETITION NO.: Z-31

PRESENT ZONING: GC

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 3270

F.A.R.: .16 Square Footage/Acre: 7,108

Parking Spaces Required: 17 Parking Spaces Provided: 17

The applicant is requesting rezoning to the NRC Neighborhood Retail Commercial zoning district to be allowed to lease the existing, upgraded building for a retail commercial use as it is currently zoned GC General Commercial and is located outside of a Community or Regional Activity Center and has lost its "grandfathered" status. Unoccupied for more than two years, the structure has been renovated; including painting and new bathrooms, but must be rezoned in order to lease to a new tenant. The applicant has submitted a Zoning Impact Analysis (see Exhibit "A").

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

Cemetery Preservation: No comment.

FIRE COMMENTS:

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

STORMWATER MANAGEMENT COMMENTS:

The proposed use for this site is uncertain. If the future use is one that could be considered a "water quality hot-spot" (ie. automotive repair, landscaping service, etc.) then the owner will be required to install/retro-fit some type of water quality best management practice on the site. Full stormwater management measures will be required upon redevelopment.

APPLICANT: Peach State Salvage, Inc.

PETITION NO.: Z-31

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING DIVISION COMMENTS:

Master Plan/Corridor Study

According to the 2005 Canton Road Corridor Study, the following are items for consideration for the subject parcel:

- Retail and office uses should be restricted so that there are no twenty-four (24) hour establishments along the corridor.
- The site is located in an area that has been identified for mixed use development (Map #8); it is also located in the southern portion of the corridor representing the Loft District concept. This area provides a transition from the City of Marietta's Historic Area.
- When the property is redeveloped, the NAC designation areas shall allow a maximum building footprint of 35,000 sq. ft. for retail uses.
- When the property is redeveloped, all aspects of the Canton Road Design Guidelines will need to be incorporated into the site plan and architecture of the site.
- ✱ • Staff requests that a stipulation be included that has the applicant meet the sidewalk, street tree, and street light standards as detailed in the Canton Road Design Guidelines.

Design Guidelines

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

The Canton Road Design Guidelines cover only non-residential properties fronting Canton Road.

If yes, design guidelines area: Canton Road Design Guidelines

Does the current site plan comply with the design requirements?

Yes No Not applicable

Sidewalk taken care of.

APPLICANT Peach State Salvage, Inc.

PETITION NO. Z-031

PRESENT ZONING GC

PETITION FOR NRC

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 Canton Rd

Additional Comments: A separate CCWS meter to serve new parcel allowed only in conjunction with a separate sewer connection to CCWS sewer.

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: At site

Estimated Waste Generation (in G.P.D.): A D F +0 Peak= +0

Treatment Plant: Noondav

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

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

Drw 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 Comments: Records show property as connected. Private easements may be necessary if sewer services cross new property lines.

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: Peach State Salvage, Inc.

PETITION NO.: Z-31

PRESENT ZONING: GC

PETITION FOR: NRC

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
Canton Road	32500	Arterial	45 mph	Cobb County	100'

Based on 2009 traffic counting data taken by Cobb County DOT

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.

Install sidewalk along Canton Road frontage.

Canton Road is identified in the 2005 SPLOST as a roadway safety and operational improvement project.

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 installing sidewalk along the Canton Road frontage.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed roadway improvement project along Canton Road.

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