

APPLICANT: Mountainprize, Inc.

PETITION NO: Z-36

REPRESENTATIVE: Parks F. Huff

HEARING DATE (PC): 09-06-12

770-422-7016

HEARING DATE (BOC): 09-18-12

TITLEHOLDER: 1945 Powers Ferry Road Investors LLC

PRESENT ZONING: GC

with Stipulations

PROPERTY LOCATION: At the northwesterly intersection of Powers

PROPOSED ZONING: GC

with Stipulations

Ferry Road and Windy Ridge Parkway, and at the southwesterly intersection of

PROPOSED USE: Convenience Store

Windy Ridge Extension and Windy Ridge Parkway (1945 Powers Ferry Road).

with Fuel Sales

ACCESS TO PROPERTY: Powers Ferry Road and Windy Ridge

SIZE OF TRACT: 2.895 acres

Extension

DISTRICT: 17

PHYSICAL CHARACTERISTICS TO SITE: Existing abandoned

LAND LOT(S): 985, 986

restaurant site

PARCEL(S): 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/high-rise office
- SOUTH:** CRC/retail strip center
- EAST:** GC/retail bank
- WEST:** GC/restaurant

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

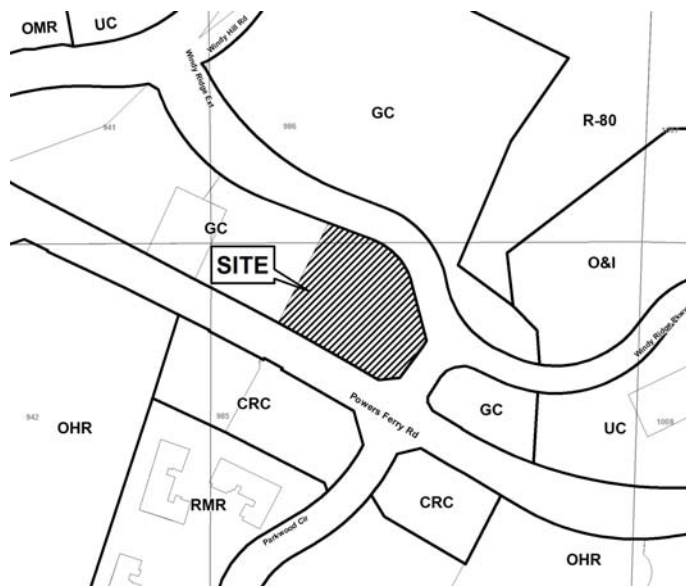
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

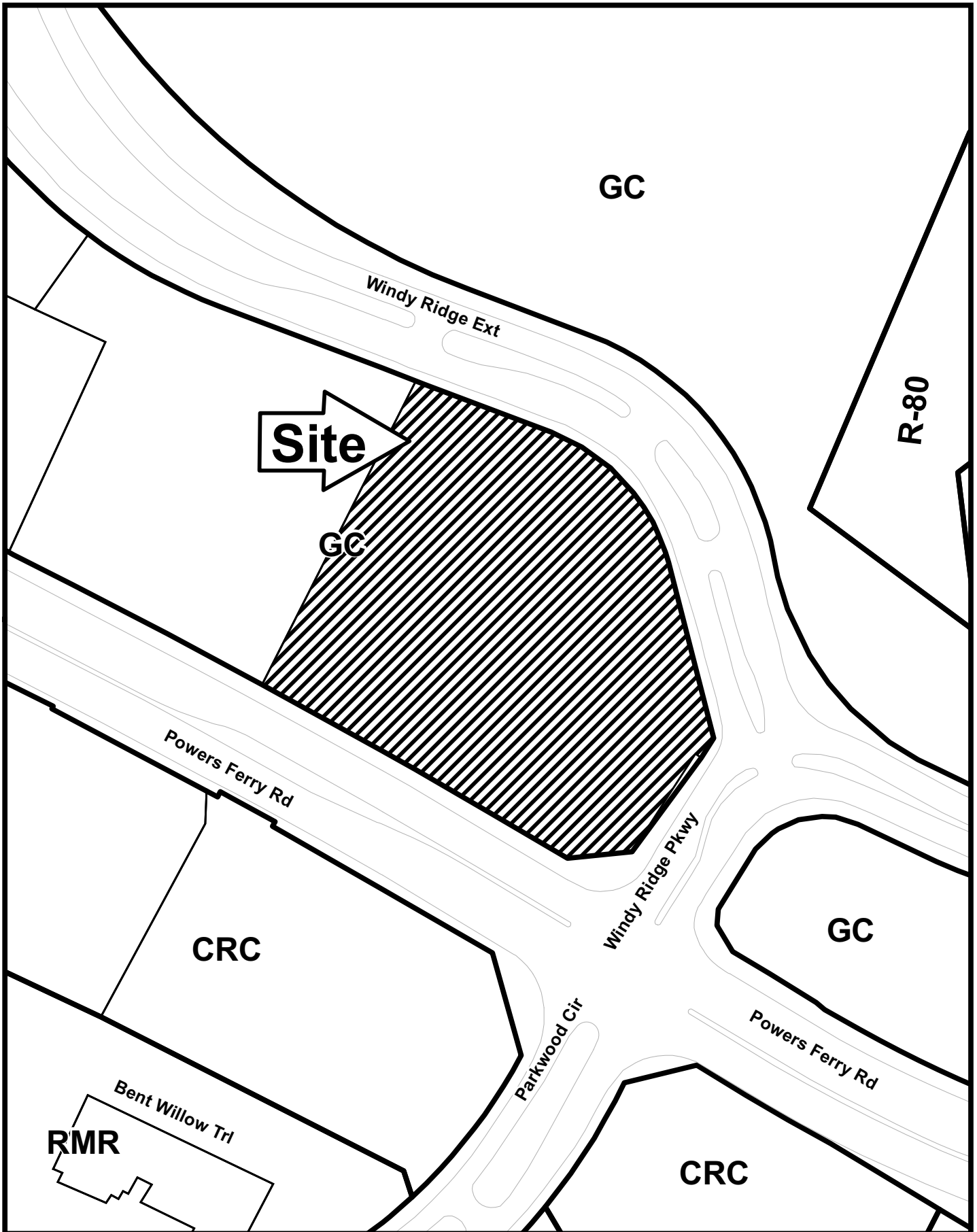
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

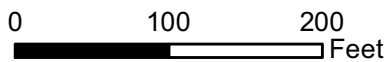
STIPULATIONS:





Z-36



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Mountainprize, Inc.

PETITION NO.: Z-36

PRESENT ZONING: GC with Stipulations

PETITION FOR: GC with Stipulations

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: RAC regional activity center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 5,928 sq. ft.

F.A.R.: .05 **Square Footage/Acre:** 2,048 sq. ft.

Parking Spaces Required: Min. 5, 1 per employee **Parking Spaces Provided:** 40

The applicant is requesting a rezoning from GC with stipulations to GC with stipulations in order to redevelop the site for a Racetrac convenience store with fuel sales. The subject property, being governed by stipulations of past rezoning case Z-441 of 1983, is limited to use as a restaurant only as previously approved. Representing a complete redevelopment of the site, if considered for approval, the applicant’s request may require approval specific to that certain site plan as presented in order to accommodate possible overages in maximum allowable impervious coverage and the store that is over the otherwise maximum 3,000 gross square foot size if amenable.

Cemetery Preservation: No comment.

FIRE COMMENTS:

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal’s Office is confident that all other items can be addressed during the Plan Review Stage.

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC with Stipulations to GC with Stipulations for purposes of convenience store with fuel sales. The 2.895 acre site is located at the northwesterly intersection of Powers Ferry Road and Windy Ridge Parkway, and at the southwesterly intersection of Windy Ridge Extension and Windy Ridge Parkway.

Comprehensive Plan

The parcel is within a Regional Activity Center (RAC) future land use category with GC zoning designation. The purpose of the RAC category is to provide for areas that can support a high intensity of development which serves a regional market. Typical uses include high-rise office buildings, malls and varying densities of residential development.

Master Plan/Corridor Study

Powers Ferry Master Plan

- Recommendation for a Mixed-use district (pg 85 and 87)

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 _____

Does the current site plan comply with the design requirements?

Yes No Not applicable

APPLICANT Mountainprize, Inc.

PETITION NO. Z-036

PRESENT ZONING GC w/stips

PETITION FOR GC w/stips

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" DI / S and W side of Windy Ridge Extension**

Additional Comments:

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 in Powers Ferry Road R-O-W**

Estimated Waste Generation (in G.P.D.): **ADF 237 Peak= 593**

Treatment Plant: **Sutton**

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:

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: Mountainprize, Inc.

PETITION NO.: Z-36

PRESENT ZONING: GC w/ stips

PETITION FOR: GC w/ stips

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Powers Branch 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 receiving system.

APPLICANT: Mountainprize, Inc.

PETITION NO.: Z-36

PRESENT ZONING: GC w/ stips

PETITION FOR: GC w/ stips

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. A fueling center is considered a stormwater quality “hot-spot” due to the potential for discharge of contaminated runoff. The installation of an oil/water separation device will be required to treat runoff from fueling pad and storage tank areas. The development of a written stormwater pollution prevention plan (SWPPP) will also be required for the site.

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
Powers Ferry Road	32,000	Arterial	45 mph	Cobb County	100'
Windy Ridge Parkway	N/A	Local	25 mph	Cobb County	60'
Windy Ridge Extension	N/A	Local	25 mph	Cobb County	60'

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

COMMENTS AND OBSERVATIONS

Powers Ferry Road is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Windy Ridge Parkway is classified as a non-residential local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Windy Ridge Extension is classified as a non-residential local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

Recommend no access to Windy Ridge Parkway.

Recommend applicant coordinate with Cobb DOT to ensure compatibility with CCID Powers Ferry Road Streetscape project.

Recommend sidewalk along Windy Ridge Parkway and Windy Ridge Extension frontages.

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

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STAFF RECOMMENDATIONS

Z-36 MOUNTAINPRIZE, INC.

- 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 RAC regional activity center along Powers Ferry Road surrounded by other office, retail, and high density residential uses.
- 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 Powers Ferry Road.
- 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 subject parcel is located within a Regional Activity Center (RAC) that seeks to encourage a high intensity of development that serves a regional market. Furthermore, the *Plan* categorizes areas within the RAC into sub areas in efforts to optimize the use of land within these future land use areas. This property is placed within the retail services sub area that considers retail stores and service operations to be the most appropriate. Additionally, the proposal is located within the Powers Ferry Master Plan Study area, which recommends this property be in a mixed used district. This may be problematic since this property is bounded on three sides by public roads, and due to the fact this property is not part of an assemblage.
- 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 RAC along Powers Ferry Road has a long history of commercial usage. The current request will allow redevelopment of the site for a use that supports the *Comprehensive Plan's* goals of retail stores and services that serve a larger regional area.

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

- Final site plan to be approved by District Commissioner;
- Fire Department comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Water and Sewer Division comments and recommendations; and
- Department of Transportation 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.

Summary of Intent for Rezoning

Z-36
Sept-2012

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

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



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

- a) Proposed use(s): Convenience Market with Fuel Sales
- b) Proposed building architecture: Traditional brick retail architecture with two entrance features with brick columns and standing seam gable roofs.
- c) Proposed hours/days of operation: Seven days a week, 24 hours per day
- d) List all requested variances: No variances noted.

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

The site is currently zoned GC. The original zoning included a reference to a site plan that depicted a restaurant on the property. The county contends that this site plan and the listed use must be revised. The applicant seeks to have the original alleged condition to be supplanted with the proposed site plan and use.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF MOUNTAINPRIZE, INC.**



COMES NOW, MOUNTAINPRIZE, INC, and pursuant to Section 134-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property that is suitable in the context of the development and existing zonings along this section of Powers Ferry Road. The subject property is at the intersection of Powers Ferry Road and Windy Ridge Parkway. The predominant zoning and development in the Powers Ferry Road corridor is regional office and commercial retail development that serves the surrounding regional offices and the public that travels Powers Ferry Road going to and from their homes and work places.
- B. The zoning proposal is only requesting a modification of an alleged site plan and use condition. The modification will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties. The properties located to the north east and west of the subject property are all zoned GC and the proposed development does not conflict with the Regional Activity Center (RAC) which dominates the entire area and is the county's most intensive land use category.
- C. The subject property's current zoning with the use and site plan restriction is

unconstitutional in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility.

Specifically, the closed restaurant site has been marketed for a restaurant use for many years without any offers for such use. The existing GC with stipulations limited to the site plan and use is a significant economic detriment to the subject property.

- 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. The proposed use will only serve the traffic that travels this transportation corridor. The site is in a Regional Activity Center which anticipates the most intensive uses allowed anywhere in Cobb County. The roads and other infrastructures are designed for much more intensive uses.
- E. The zoning proposal is consistent with the Regional Activity Center (RAC) land use designation as defined by the Cobb County's Comprehensive Land Use Plan and Future Land Use Map.
- F. There is no substantial relationship between the existing zoning classifications of GC subject to the previous site plan and the restaurant use limitation and the public health, safety and general welfare. Additionally, considered in the context of development along this section of Powers Ferry Road, there is no established land use planning principles or political consideration which would

vitiating the zoning proposal.

Respectfully submitted, this 5 day of July, 2012.

SAMS, LARKIN & HUFF, LLP

By: 

PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010

Original Date of Application: 12/13/83

Applicant's Name: WILDWOOD OFFICE PARK, INC.

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE COBB COUNTY PLANNING COMMISSION AND THE COBB COUNTY BOARD OF COMMISSIONERS

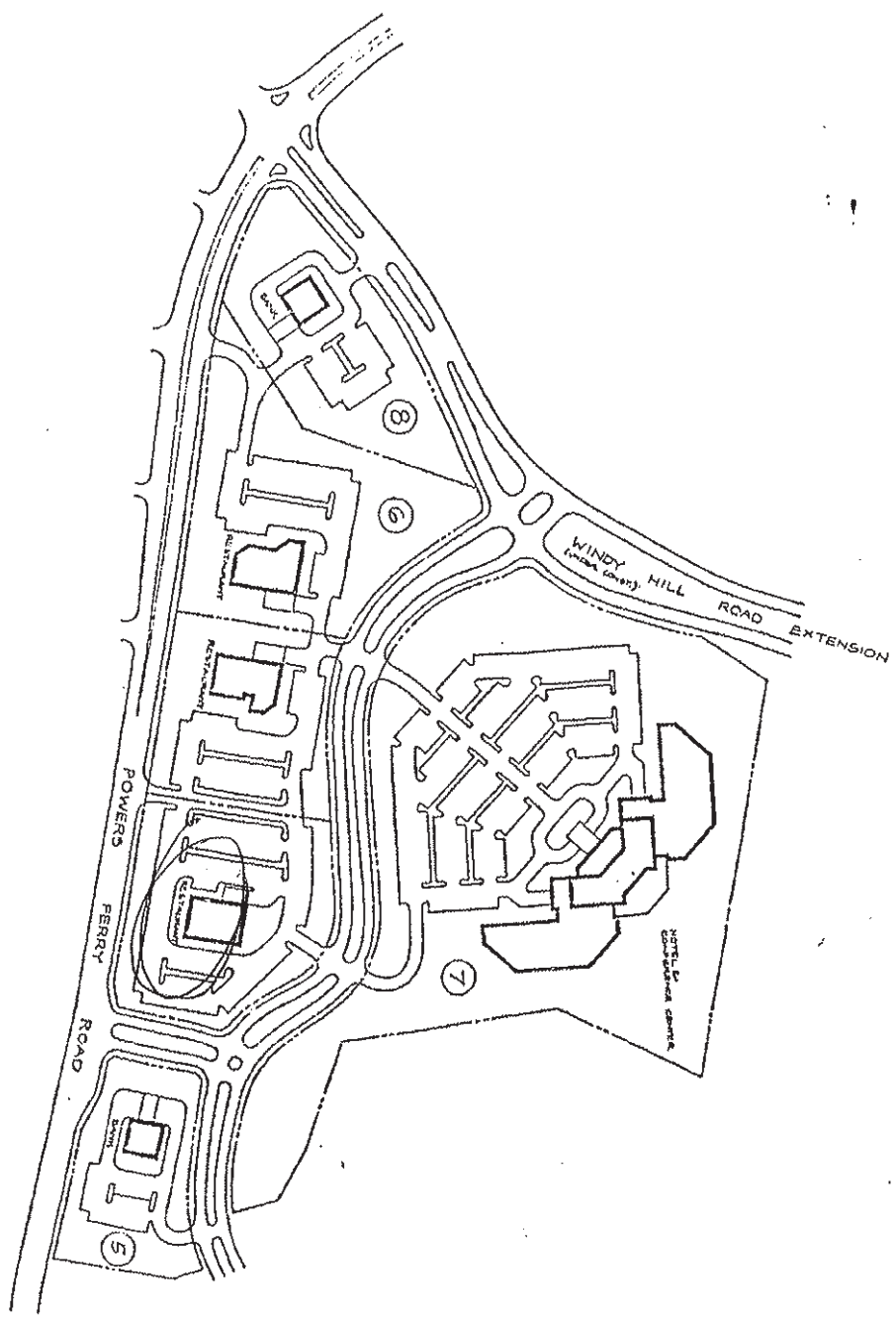
THE FOLLOWING IS AN EXCERPT FROM THE NOVEMBER 10, 1992 MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS:


Item #15: COMMUNITY DEVELOPMENT DEPARTMENT - APPROVAL OF SITE PLAN AMENDMENT FOR COUSINS PROPERTIES TO ALLOW ONE ADDITIONAL CURB CUT ONTO WINDY HILL ROAD WITHIN THE WILDWOOD OFFICE PARK TO ALLOW FOR THE DEVELOPMENT OF HOUSTONS RESTAURANT:

MOTION: Motion by Wysong to approve the site plan revision for Cousins Properties to allow one additional curb cut onto Windy Hill Road within the Wildwood Office Park for the development of a Houstons Restaurant, subject to all other previously adopted conditions and stipulations to remain in force. Copy of revised site plan attached and made a part hereof

VOTE: ADOPTED unanimously

Karen L. Hach
Karen L. Hach, Deputy Clerk
Cobb County Board of Commissioners




 WILDWOOD OFFICE PARK
 SCALE 1" = 100'-0"

SHEET MP-1
 COMPILED BY 1993

*Amended per
 1-10-12
 WJR*

COOPER CARRY & ASSOCIATES INC. ARCHITECTS ATLANTA, GEORGIA

ATTACHMENT B