

**FEBRUARY 19, 2013 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM #5

PURPOSE

To consider adopting the written decision to deny SLUP-6 (Rittner B. Nesbitt) of September 18, 2012, heard December 18, 2012, for property located on the west side of Burnt Hickory Road, south of Hadaway Road in Land Lot 261 of the 20th District.

BACKGROUND

This case was considered on December 18, 2012 and denied by the Board of Commissioners, with direction to the County Attorney to prepare in writing the denial of the application. The written decision will be distributed at the hearing.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the written decision and if found to be adequate, adopt the written decision.

ATTACHMENTS

Zoning decision and Staff analysis for SLUP-6 of 2012.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 18, 2012
PAGE 5

~~CONSENT AGENDA (CONT.)~~

~~LUP-26 KAREN STEWART (Jeremy R. Stewart and Karen M. Stewart, owners) requesting a Land Use Permit for the purpose of a Cottage Food Business in Land Lot 185 of the 17th District. Located on the west side of Collins Lake Drive, north of Fontaine Road (4855 Collins Lake Drive).~~

~~To approve Land Use Permit for 24 months.~~

~~CONSENT VOTE: ADOPTED unanimously~~

REGULAR AGENDA

SLUP-6 RITTNER B. NESBITT (Patricia A. Nesbitt, owner) requesting a Special Land Use Permit for the purpose of Construction and Erection of an Amateur Radio Antenna Tower in Land Lot 261 of the 20th District. Located on the west side of Burnt Hickory Road, south of the intersection of Burnt Hickory Road and Hadaway Road (4955 Burnt Hickory Road). *(Previously continued by the Planning Commission from their September 6, 2012 hearing and previously continued by the Board of Commissioners from their October 16, 2012 and November 20, 2012 hearings)*

The public hearing was opened and Mr. Christopher Balch and Ms. Jody J. Siciliano addressed the Board. As a basis for her motion, Commissioner Goreham read into the record the criteria for granting a Special Land Use Permit per Cobb County Code Section 134-37(e 1-15) with correlating conditions currently existing on the subject property. Following presentation and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Ott, to deny Special Land Use Permit *with the following directives:*

- County Attorney to prepare a written decision supporting the denial to be adopted at the February 19, 2013 Board of Commissioners Zoning Hearing
- All non-compliant towers and associated equipment to be dismantled and removed by May 19, 2013

VOTE: ADOPTED unanimously

SLUP-6
(2012)

AREA = 4.561 ACRES
198,687 SQ. FT.

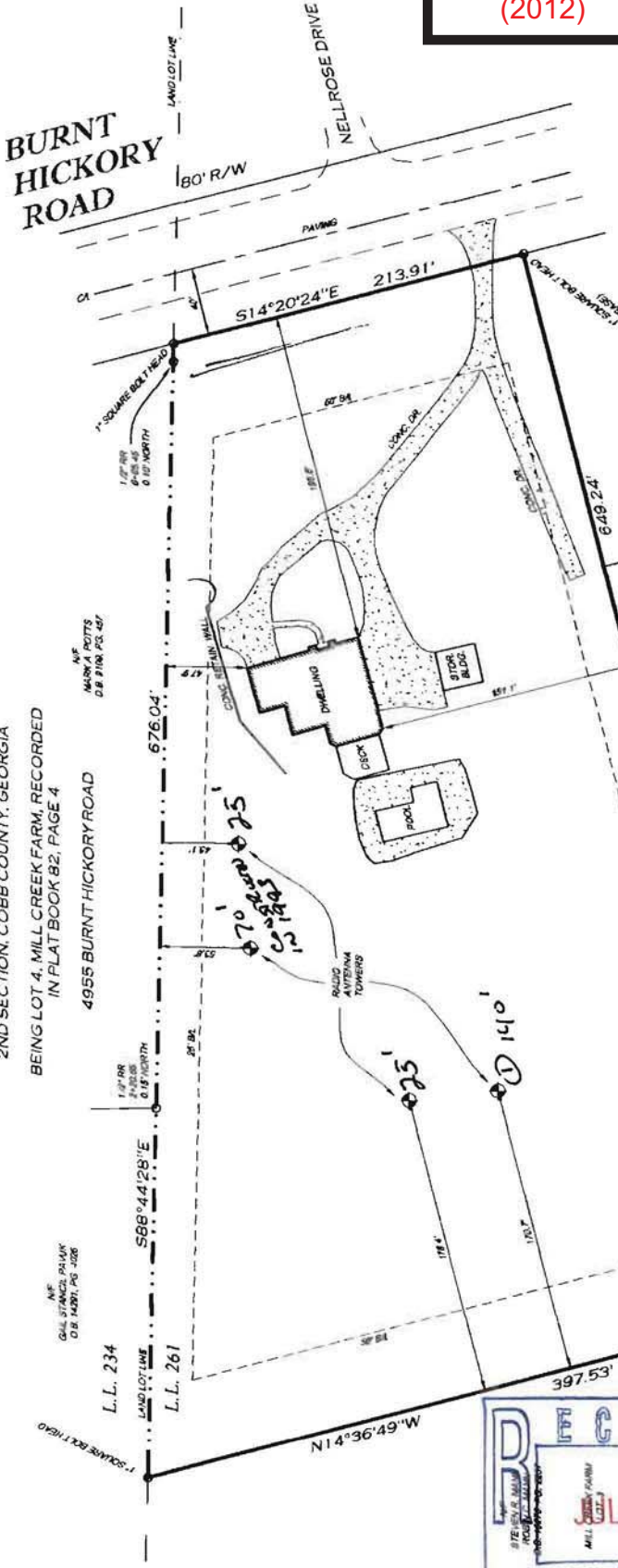
FLAT OF SURVEY FOR

RITNER B. NESBITT
PATRICIA A. NESBITT

LOCATED IN LAND LOT 261, 20TH DISTRICT,
2ND SECTION, COBB COUNTY, GEORGIA

BEING LOT 4, MILL CREEK FARM, RECORDED
IN PLAT BOOK B2, PAGE 4

4955 BURNT HICKORY ROAD



ZONING NOTES:
PROPERTY ZONED R80
BUILDING SETBACKS:
FRONT - 60'
SIDE - 25'
REAR - 50'

FLOOD STATEMENT
THE DATE OF THIS SURVEY WAS THE DATE OF THE FLOOD INSURANCE POLICY. THE INSURANCE POLICY WAS IN EFFECT ON THE DATE OF THIS SURVEY. THE MAP GRAPHICALLY DEPICTS THE SUBJECT PROPERTY TO BE IN ZONE "X". THE CHARACTERISTIC OF THIS ZONE IS AN AREA ABOVE THE 100 YEAR FLOOD ZONE.

DATE	REVISIONS	DESCRIPTION



THE RUSSELLE COMPANY
PROFESSIONAL LAND SURVEYOR
2617 POWDER SPRINGS ROAD
MARIETTA, GEORGIA 30066
PHONE: 770.945.8800
FAX: 770.945.8801
EMAIL: BR@RUSSELLE.COM



SURVEY NOTES:
THIS SURVEY WAS MADE BY THE SURVEYOR AND A REGISTERED PROFESSIONAL LAND SURVEYOR. THE SURVEY WAS MADE IN ACCORDANCE WITH THE GEORGIA SURVEYING ACT. THE SURVEYOR HAS REVIEWED THE PLAT AND FINDS IT TO BE ACCURATE AND CORRECT. THE SURVEYOR HAS REVIEWED THE ORIGINAL PLANS AND FOUND THEM TO BE ACCURATE AND CORRECT. THE SURVEYOR HAS REVIEWED THE ORIGINAL PLANS AND FOUND THEM TO BE ACCURATE AND CORRECT. THE SURVEYOR HAS REVIEWED THE ORIGINAL PLANS AND FOUND THEM TO BE ACCURATE AND CORRECT. THE SURVEYOR HAS REVIEWED THE ORIGINAL PLANS AND FOUND THEM TO BE ACCURATE AND CORRECT.

RECEIVED
JUL - 5 2012
MILL CREEK FARM (LOT 4)
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

- LEGEND**
- CORNER SET WITH A 1/2" STEEL REINFORCING ROD
 - UNMONUMENTED CORNER
 - CONCRETE TO BE SET WHEN CONSTRUCTION PERMITS
 - FENCE LINE
 - POWER POLE
 - CREAM TOP WATER PIPE
 - CENTERLINE
 - GUTTER
 - RIGHT OF WAY
 - LAND LOT LINE
 - WATER MAIN
 - GAS MAIN
 - SANITARY SEWER MAIN
 - NON-CONCRETE RIGHT OF WAY MONUMENT
 - MONUMENT SET AT BASE
 - MONUMENT SET AT BASE
 - MONUMENT SET AT BASE
 - MONUMENT SET AT BASE
 - MONUMENT SET AT BASE
 - MONUMENT SET AT BASE

1" SQUARE BOLT HEAD ON LINE

APPLICANT: Rittner B. Nesbitt
770-794-6279

REPRESENTATIVE: Christopher D. Balch
404-202-5934

TITLEHOLDER: Patricia A. Nesbitt

PROPERTY LOCATION: West side of Burnt Hickory Road, south of
the intersection of Burnt Hickory Road and Haddaway Road
(4955 Burnt Hickory Road).

ACCESS TO PROPERTY: Burnt Hickory Road

PHYSICAL CHARACTERISTICS TO SITE: Single-family house
and four radio antenna towers

PETITION NO: SLUP-6

HEARING DATE (PC): 09-06-12

HEARING DATE (BOC): 09-18-12

PRESENT ZONING: R-80

PROPOSED ZONING: Special Land
Use Permit

PROPOSED USE: Construction And Erection
Of An Amateur Radio Antenna Tower

SIZE OF TRACT: 4.56 acres

DISTRICT: 20

LAND LOT(S): 261

PARCEL(S): 12

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-30/Single-family houses
- SOUTH:** R-80/Mill Creek Subdivision
- EAST:** R-20/Burnt Hickory Farms Subdivision
- WEST:** R-80/Mill Creek Subdivision

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

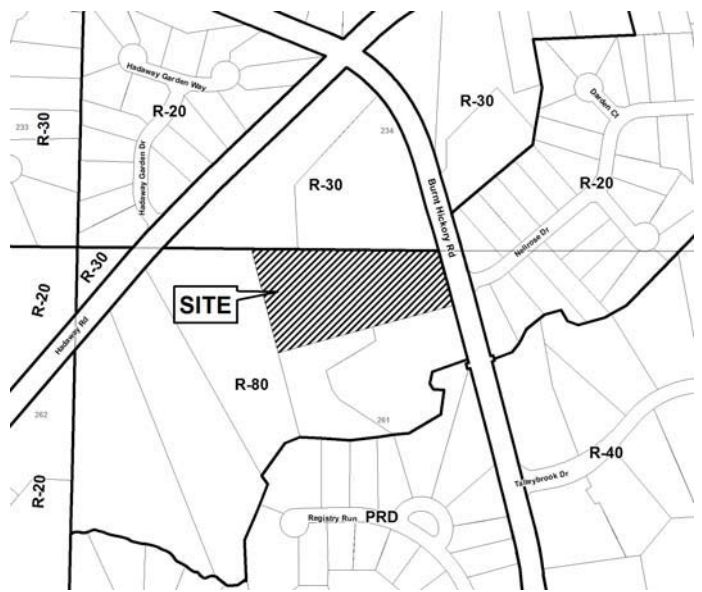
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

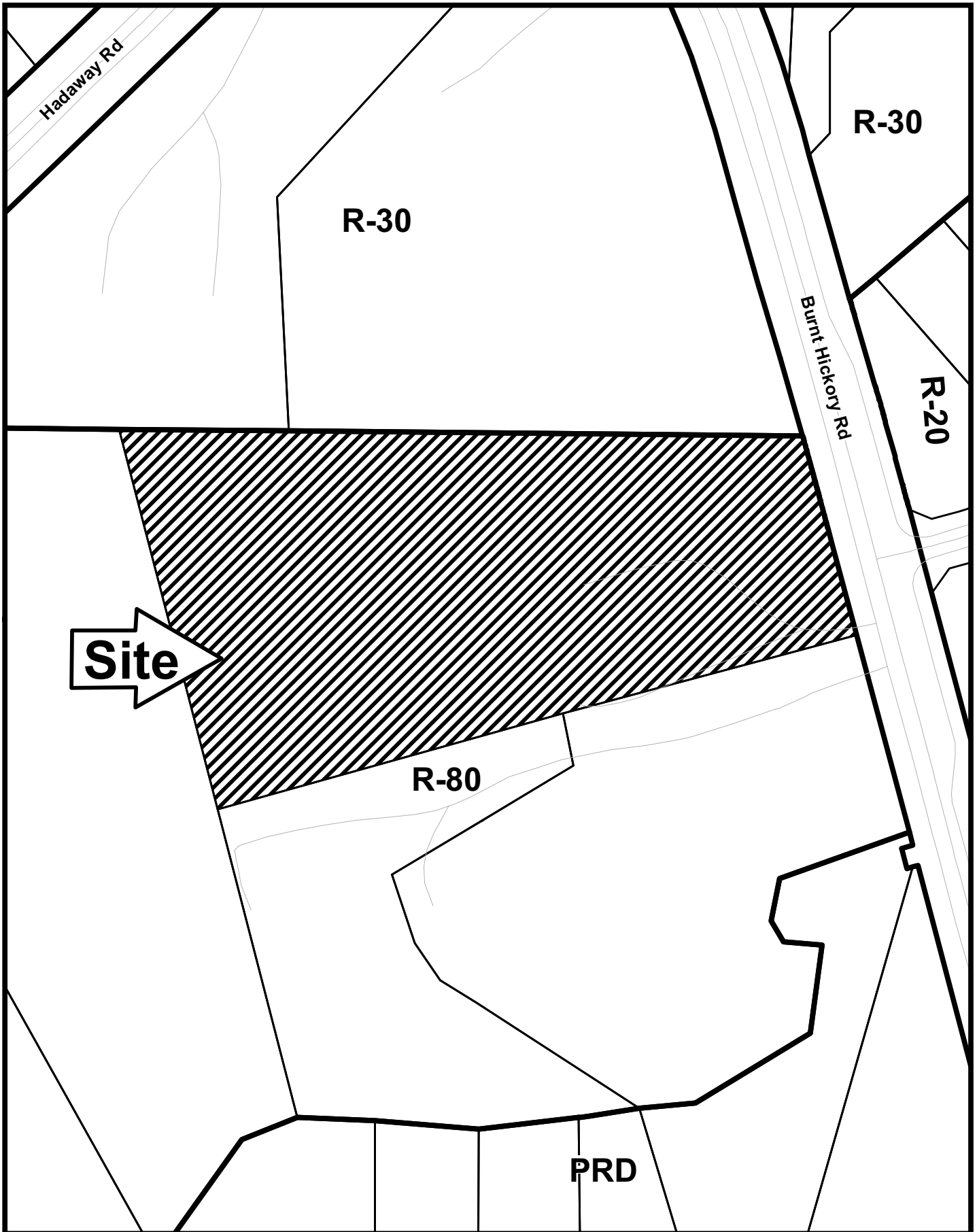
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

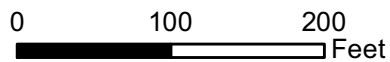
STIPULATIONS:





SLUP-6



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Rittner B. Nesbitt

PETITION NO.: SLUP-6

PRESENT ZONING: R-80

PETITION FOR: SLUP

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Applicant is requesting a Special Land Use Permit (SLUP) for the purpose of a 140-foot tall amateur radio antenna tower. The site plan submitted to the Zoning Division on July 5, 2012 indicates one tower on the property is 70 feet tall and two other towers on the property are 25 feet tall. Per §134-273(6)(a) of the Zoning Ordinance, “a single antenna under 70 feet in height owned and operated by a federally licensed amateur radio station operator shall be exempted from the requirements of this section”. This application is the result of actions through the Code Enforcement Division.

Historic Preservation: No comment.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

WATER & SEWER COMMENTS:

No comments.

TRAFFIC COMMENTS:

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

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.

APPLICANT: Rittner B. Nesbitt

PETITION NO.: SLUP-6

PRESENT ZONING: R-80

PETITION FOR: SLUP

STORMWATER MANAGEMENT COMMENTS

No comments.

STAFF RECOMMENDATIONS

SLUP-6 RITTNER B. NESBITT

Applicant's request for this SLUP is for the purpose of having a 140-foot radio antenna tower as shown on the site plan. The property currently has three other radio antenna towers on the property – one 70 feet tall and the other two are 25 feet tall. Per the *Cobb County Zoning Ordinance*, a single antenna under 70 feet in height owned and operated by a federally-licensed amateur radio station operator shall be exempted from the requirements of this section (§134-273(6)(a)). This application is the result of ongoing Code Enforcement actions.

Based upon the above analysis, Staff recommends DENIAL of the application and recommends the 140-foot tower be removed.

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.