

Z-68
(2013)

AREA = 0.564 ACRES
24581.797 SQ. FT.



LIMIT OF ACCESS LINE - I-285

AKERS MILL ROAD

#2201

ASPHALT AREA

CONCRETE PATIO

ONE STORY FRAME

230.00
S 02° 01' 32" E

N 44° 17' 00" E
251.85

R/W LINE - I-285

696.20 TO SOUTH
LINE OF L L 1032

N 44° 56' 49" W
76.51

130.00
S 87° 58' 28" W

I HAVE THIS DATE EXAMINED THE
ORIGINAL PLANS AND FOUND THEM TO BE
CORRECT BUT NOT IN AN AREA SUBJECT
SPECIAL FLOOD HAZARD



Survey For:
RUBIN PICHULIK

Land Lot 1057, 17th District 2nd Section
Cobb County, Georgia
Scale 1" = 40' Date 4-8-10/10%

D. W. Lynah Surveyors
Smyrna, Georgia (404) 433-2660

COBB COUNTY GEORGIA
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2013 OCT - 1 PM 3:38
COBB COUNTY ZONING DIVISION

APPLICANT: Rosebriar Partnership, LLLP
404-378-1115

REPRESENTATIVE: Elissa Pichulik
404-895-6600

TITLEHOLDER: Rosebriar Court Apartments

PROPERTY LOCATION: Southeast side of Akers Mill Road, south
of Powers Ferry Road
(2243 Akers Mill Road).

ACCESS TO PROPERTY: Akers Mill Road

PHYSICAL CHARACTERISTICS TO SITE: Existing convenience
store with restaurant

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** Akers Mill Road and I-285
- SOUTH:** RM-12/Riverbend Apartments
- EAST:** RM-12/Riverbend Apartments
- WEST:** RM-12/Riverbend Apartments

PETITION NO: Z- 68

HEARING DATE (PC): 12-03-13

HEARING DATE (BOC): 12-17-13

PRESENT ZONING: RM-12

PROPOSED ZONING: NRC

PROPOSED USE: Restaurant and Store

SIZE OF TRACT: 0.564 acre

DISTRICT: 17

LAND LOT(S): 1057

PARCEL(S): 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 2

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

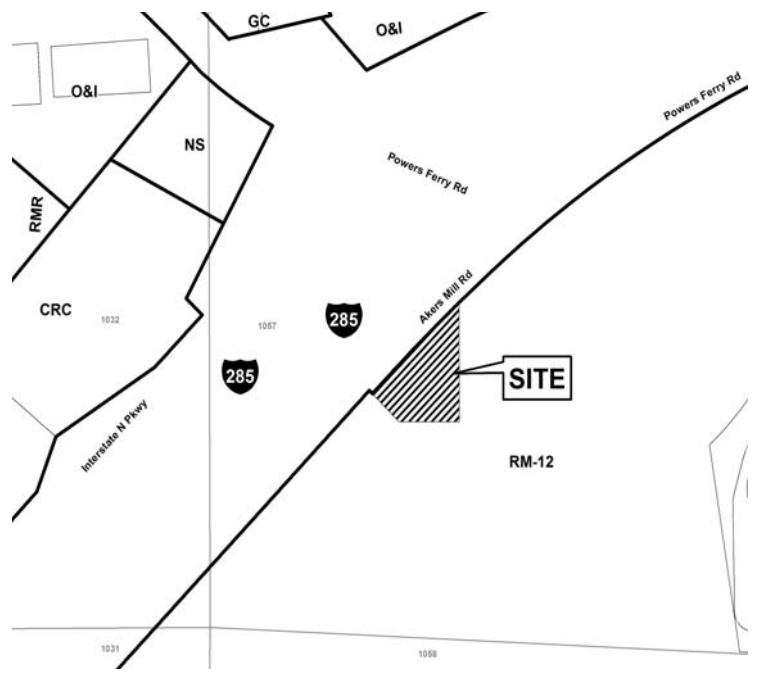
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

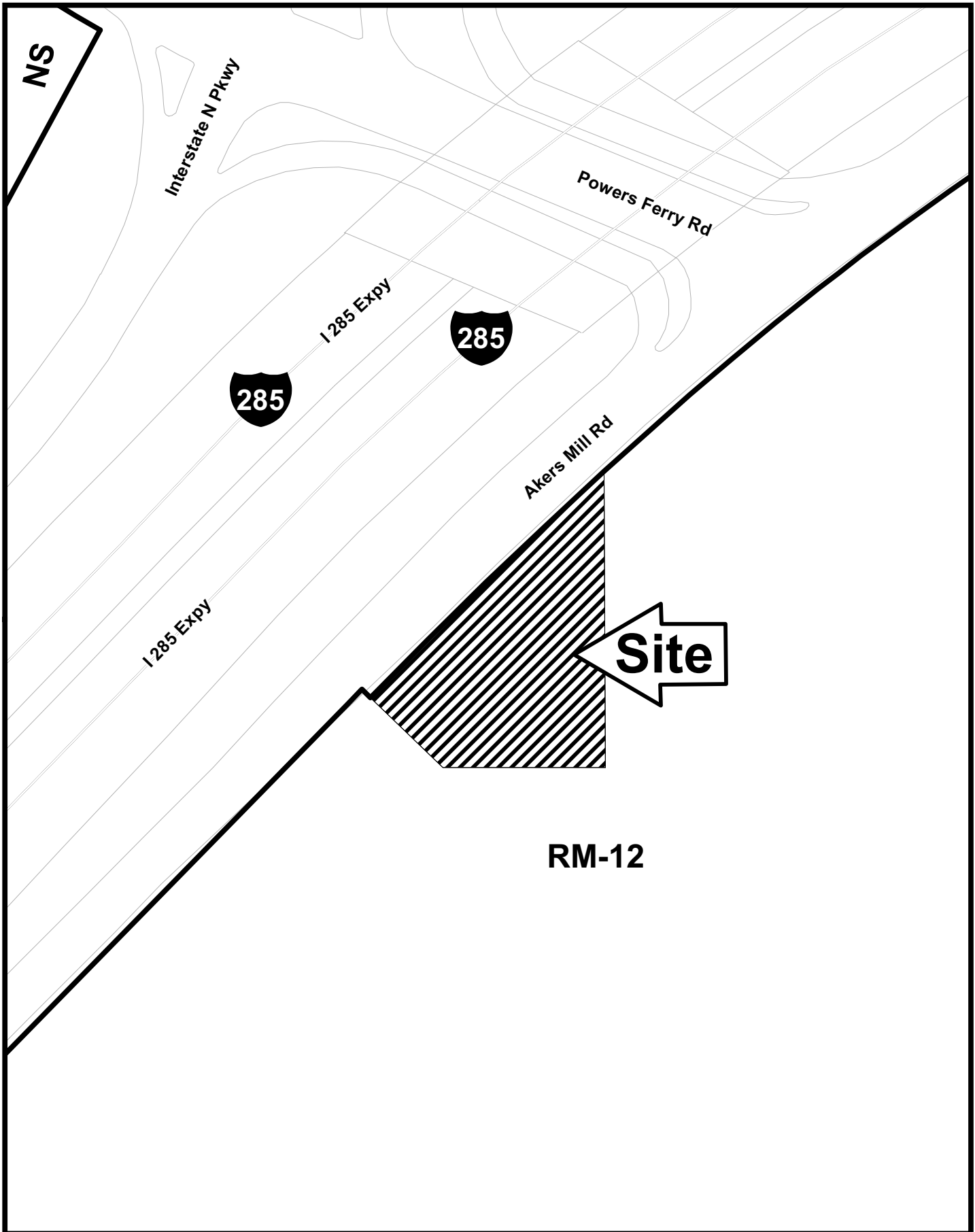
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

STIPULATIONS:



Z-68



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

0 100 200 Feet



City Boundary
Zoning Boundary

APPLICANT: Rosebriar Partnership, LLLP

PETITION NO.: Z-68

PRESENT ZONING: RM-12

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Regional Activity Center - Subcategory High Density Residential

Proposed Number of Buildings: 1(Existing)**Total Square Footage of Development:** 3,160

F.A.R.: 0.12 **Square Footage/Acre:** 5,602

Parking Spaces Required: 16 **Parking Spaces Provided:** 12

The applicant is requesting the Neighborhood Retail Commercial (NRC) zoning category for the purpose of maintaining an existing convenience store and barbeque restaurant. The property has been used in this manner for many years, but has been zoned RM-12 since the adoption of the Zoning Map in 1972. The convenience store is open seven days per week with hours of operation being Monday through Friday 6 a.m. to 1 a.m.

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.

APPLICANT: Rosebriar Partnership, LLLP

PETITION NO.: Z-68

PRESENT ZONING: RM-12

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from RM-12 to NRC for purpose of restaurant and store. The 0.564 acre site is located on the southeast side of Akers Mill Road, south of Powers Ferry Road.

Comprehensive Plan

The parcel is within a Regional Activity Center (RAC) future land use category, with RM-12 zoning designation. The purpose of the Regional Activity Center (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

Not applicable.

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?

Incentive Zones

Is the property within an Opportunity Zone? Yes No

The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone? Yes No

The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?

Yes No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

For more information on design guidelines, please contact the Community Development Planning Division at 770.528.2015.

For more information on incentives, please call the Office of Economic Development at 770.528.2607 or find information online at <http://economic.cobbcountyga.gov>.

APPLICANT Rosebriar Partnership, LLLP

PETITION NO. Z-068

PRESENT ZONING RM-12

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/ SE side of Akers Mill 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: **On site**

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

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 Existing sewer customer
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: Rosebriar Partnership, LLLP

PETITION NO.: Z-68

PRESENT ZONING: RM-12

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Chattahoochee River 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 _____.

APPLICANT: Rosebriar Partnership, LLLP

PETITION NO.: Z-68

PRESENT ZONING: RM-12

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS – Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit any future 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. This is an existing facility and no improvements are proposed at this time.

APPLICANT: Rosebriar Partnership, LLC

PETITION NO.: Z-68

PRESENT ZONING: RM-12

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 |
|-----------------|---------------------|------------------------|-------------|------------------------|--------------------------|
| Akers Mill Road | 15,300 | Arterial | 35 mph | Georgia DOT | 100' |
| | | | | | |

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

COMMENTS AND OBSERVATIONS

Akers Mill 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.

RECOMMENDATIONS

Recommend GDOT permits for all work that encroaches upon State right-of-way.

Recommend sidewalk along the Akers Mill Road frontage.

Recommend coordinating with Cobb DOT regarding the Bob Callan Loop Trail Phase 1 along Akers Mill Road.

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

STAFF RECOMMENDATIONS

Z-68 ROSEBRIAR PARTNERSHIP, LLP

- 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. The applicant's property is located in an area that contains a mixture of intense land uses, such as apartments, condominiums, offices, and a car dealership.
- 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. The applicant's property has been here operating for a very long time as a convenience store and a small restaurant.
- 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*, which delineates this property to be within a Regional Activity Center (RAC). However, the sub-area of this RAC calls for this property to be High Density Residential.
- 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 approving the applicant's rezoning proposal. The NRC zoning district would allow the applicant to use the property as proposed, and would provide a lower intensity zoning district adjacent to the apartments. The applicant's proposal is located within a Regional Activity Center (RAC). The applicant's property has been here for over 30 years. However, Staff would like to see the property improve aesthetically for the building and the landscaping, if considered for approval. The Cumberland/Galleria RAC has seen much redevelopment in the past few years that has improved the area.

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

- Site plan received by the Zoning Division on October 1, 2013, with the District Commissioner approving minor modifications;
- 10-foot landscape buffer be installed along Akers Mill Road;
- Building façade be upgraded and approved by the District Commissioner;
- No outdoor storage;
- All parking to be in legal parking spaces;
- Applicant to explore cross-parking easements with adjacent property owners;
- Fire Department comments and recommendations;
- Water and Sewer Division comments and recommendations;
- Stormwater Management 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.

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Application #: Z-68
PC Hearing Date: 12-3-13
BOC Hearing Date: 12-17-13

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 24581.797 sq. ft
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

COBB COUNTY ZONING DIVISION
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COBB COUNTY GEORGIA
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.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): restaurant & store - as is now
- b) Proposed building architecture: remain the same w/ additional patio usage & use of outside smoker
- c) Proposed hours/days of operation: _____
- d) List all requested variances: _____

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

This property should be grandfathered in as "commercial." It has always been used as such & was accidentally rezoned residential in February 1999.

.....
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 these properties are located). NO.

.....
Part 5. Is this application a result of a Code Enforcement action? No ; Yes (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: EPichulik Date: 9.30.13

Applicant name (printed): Elissa Pichulik, partner - Rosebrian Partnership, LLP

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COBB COUNTY ZONING DIVISION

Rosebriar Partnership, LLLP
114 E. Ponce de Leon Avenue
Suite C
Decatur, Georgia 30030
(P) 404.378.1115
(F) 404.378.1116

September 30, 2013

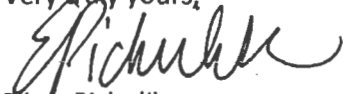
Cobb County Zoning division
1150 Powder Springs Street, Suite 400
Marietta, Georgia 30064

This letter is regarding our rezoning application for 2243 Akers Mill Road, Atlanta, Georgia 30339 from residential to commercial. Our property is where Heirloom BBQ and Akers Mill Food Mart are located. This is to serve as our documented analysis of the impact of the proposed rezoning as required in the rezoning application.

We are requesting that the zoning change to commercial as this permits a use that is suitable to the property. The use of the building is actually commercial and has been for many, many years. This property should be "grandfathered" as commercial due to the history of the usage of the property and the current usage. As the building is already used commercially, we would simply like to change the zoning to reflect such. Also, we are hoping that this zoning will allow Heirloom BBQ to resume the use of its patio and restaurant space.

We appreciate the consideration.

Very truly yours,



Elissa Pichulik
Partner

PAGE 4 OF 4

APPLICATION NO. Z-78

ORIGINAL DATE OF APPLICATION: 08-21-07

APPLICANTS NAME: ROSEBRIAR PARTNERSHIP, LLLP

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 08-21-07 ZONING HEARING:

ROSEBRIAR PARTNERSHIP, LLLP (Louis Pichulik, Rubin Pichulik and Anna Eda Pichulik Zukor, owners) requesting Rezoning from **RM-12** to **CRC** for the purpose of Retail in Land Lot 1057 of the 17th District. Located on the southeast side of Akers Mill Road, southwest of Powers Ferry Road.

The public hearing was opened and Mr. Louis Pichulik addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Kesting, to **reject** Rezoning.

VOTE: **ADOPTED** unanimously