

APPLICANT: Victor Nwala Ngon
404-645-1452

REPRESENTATIVE: Ken Waldrop
770-427-3131

TITLEHOLDER: Victor Nwala Ngon

PROPERTY LOCATION: East side of Austell Road, north of Byers Drive
(3077 Austell Road).

ACCESS TO PROPERTY: Austell Road

PHYSICAL CHARACTERISTICS TO SITE: Existing One Story Brick House

PETITION NO: Z- 66

HEARING DATE (PC): 12-03-13

HEARING DATE (BOC): 12-17-13

PRESENT ZONING: GC

PROPOSED ZONING: NRC

PROPOSED USE: Tire Store

SIZE OF TRACT: 0.403 acre

DISTRICT: 19

LAND LOT(S): 701, 702

PARCEL(S): 25

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** CF/ Commercial Use
- SOUTH:** GC/ Commercial Use
- EAST:** CF/ Milford Subdivision
- WEST:** R-20/ Church

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

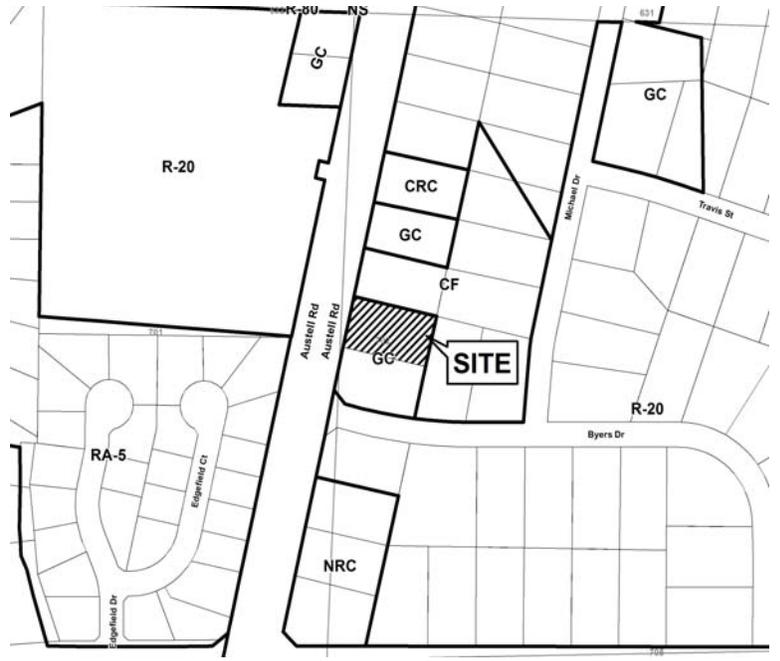
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

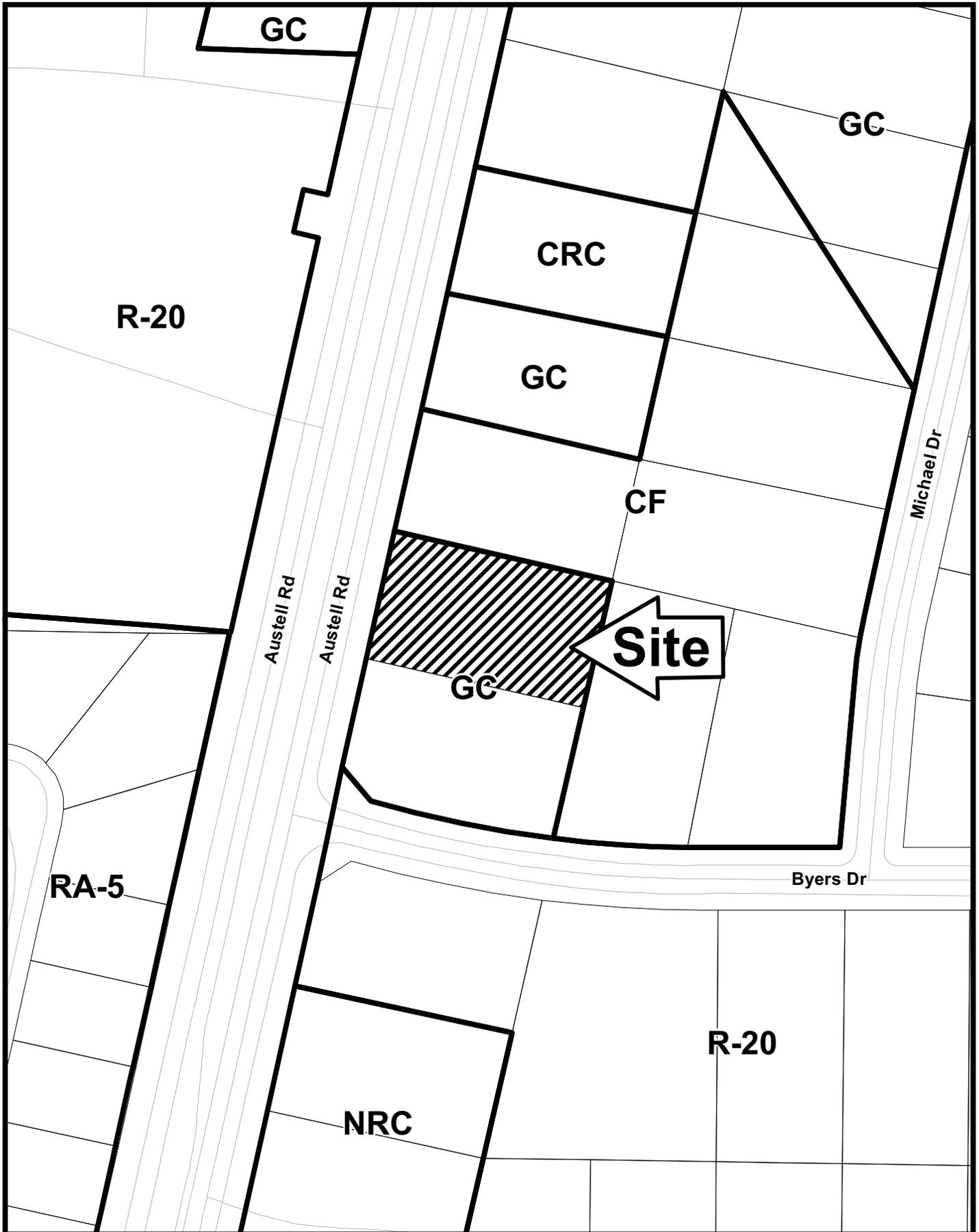
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-66



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: Victor Nwala Ngon

PETITION NO.: Z-66

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: 2 **Total Square Footage of Development:** 2,680 sq. ft.

F.A.R.: 0.15 **Square Footage/Acre:** 6,650

Parking Spaces Required: 5 **Parking Spaces Provided:** 7

This property, zoned GC general commercial district, is located within a NAC neighborhood activity center future land use area and therefore would be considered to be “grandfathered” as a result. This circumstance has necessitated the current request as the previous use (plumbing company) has been out of business since late 2009 according to County records. The applicant proposes to utilize the existing formerly converted residential structure as office space for a tire store while adding a 15’ by 25’ tire changing bay to the rear. There is also an existing shed to the rear of the property that will remain as storage. The hours of operation will be Monday through Saturday 7 a.m. to 7 p.m. and Sunday 9 a.m. to 4 p.m. The applicant requests a front setback variance from the required 50 feet to an existing 34 feet and a lot size variance from the required 20,000 sq. ft. to the existing 17,556 sq. ft. Also, as proposed, the site plan reflects the need for a variance of the drive aisle width from the required 24’ to 20.91’ and a waiver of the Code-required 8’ landscape enhancement strip where the parking area lies adjacent to the right-of-way. There is also an existing pole sign on the property.

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.

FIRE COMMENTS:

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

APPLICANT: Victor Nwala Ngon

PETITION NO.: Z-66

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC to NRC for purpose of tire store. The 0.4 acres site is located on the east side of Austell Road, north of Byers Drive.

Comprehensive Plan

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

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 Victor Nwala Ngon

PETITION NO. Z-066

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): *8" DI / E side of Austell Road*

Additional Comments: existing commercial 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: *W side of Austell Road ROW*

Estimated Waste Generation (in G.P.D.): **A D F** 166 **Peak=** 400

Treatment Plant: **South Cobb**

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 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: Victor Nwala Ngon

PETITION NO.: Z-66

PRESENT ZONING: GC

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Mill Creek #2 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 _____.

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PETITION NO.: Z-66

PRESENT ZONING: GC

PETITION FOR: NRC

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. The proposed site modifications do not exceed the threshold to require stormwater management for the site. However, if the site is redeveloped or expanded beyond the 5000 square foot threshold current stormwater management requirements must be met.

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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
Austell Road		Arterial	45 mph	Georgia DOT	100'

Based on 2012 traffic counting data taken by Georgia DOT (Austell Road)

COMMENTS AND OBSERVATIONS

Austell 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 the driveway apron be upgraded to the commercial standard.

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

STAFF RECOMMENDATIONS

Z-66 VICTOR NWALA NGON

- 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. Located within the NAC future land use area and along an established commercial area along Austell Road, the request proposes upgrades to the property that will allow a use similar to those in the area.
- 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. Bounded by commercial users to the north and south, the property and its proposed upgrades should present no additional adverse effects on adjacent properties particularly is additional screening is provided to the rear. While zoned CF future commercial, the properties directly abutting the rear of the proposed site seem to remain single-family residences and although not actually zoned residential, these long-existing residential uses can be best guarded and preserved from impact by way of landscape screening.
- 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*. Located in an area delineated as NAC neighborhood activity center on the future land use map, the proposed use will serve the *Plan's* intent of uses servicing neighborhood residents and businesses.
- 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 requested rezoning will allow a currently "grandfathered" property to be put back into commerce and allow improvements to the site as well that may serve to improve the surrounding area and limit any potential adverse effect upon adjacent properties. With enhancements such as replacing the currently existing sign with one that is ground-based monument style, allowing for a landscape enhancement strip along the front parking area, and possibly providing a rear 20' landscaped screening buffer, the property can become an asset to the surrounding community.

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

- Final site plan to be approved by the District Commissioner;
- Replacement of existing pole sign with a ground- based monument;
- Allowance of Code-required 8' landscape enhancement strip where first parking space lies adjacent to ROW;
- Provision of 20' landscape screening buffer along rear (eastern) property line;
- Fire Department comments and recommendations;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- 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.

COBB COUNTY GEORGIA
FILED IN OFFICE

2013 SEP 26 AM 10:17

COBB COUNTY ZONING DIVISION



Application #: 2-66

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

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

- a) Proposed use(s): Tire Store
- b) Proposed building architecture: Existing structure (house) will be used as an office & an addition of 13' x 25' tire changing bay will be added.
- c) Proposed hours/days of operation: Mon. through Saturday, 7:00 a.m. to 7:00 p.m.; Sunday, 9:00 a.m. to 4:00 p.m.
- d) List all requested variances: (1) proposed variance for front setback to 34' (2) proposed variance for lot size to 17,556 sq. feet

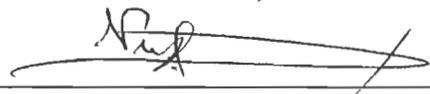
.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

Variance needed because State required additional right of way.

.....
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). Yes, right of way across front.

.....
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:  Date: 9-23-13

Applicant name (printed): Victor Nwala Ngon

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property which, on Austell Road in this area, is commercial.

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. There are similar types of businesses in the area.

The property is currently zoned GC and does have reasonable economic use as currently zoned.

The zoning proposal will not cause any excessive or burdensome use of existing streets, transportation facilities, utilities, or schools, as there should be no additional traffic from the current zoning use. The zoning request has no negative effect on schools

The zoning proposal is in conformity with the policy and intent of the land use plan.

The land use plan calls for Neighborhood Activity Center, to which the zoning request of NRC is compatible.



KEN WALDROP
Attorney for Petitioner

COBB COUNTY GEORGIA
FILED IN OFFICE
2013 SEP 26 AM 10:17
COBB COUNTY ZONING DIVISION



Center for Environmental

Z-66 (2013)
Health
Department
Letter

August 15, 2013

VICTOR NWALA
1884 Gherry Drive
Austell, GA 30106

RE: 3077 Austell Road, Marietta, Georgia

To Whom It May Concern:

An inspection of the property at the above referenced address was made on August 14, 2013, to verify the condition of the septic tank system. The inspection consisted of walking the lot and looking for evidence of septic line seepage, which is indicative of septic tank system failure.

There was no evidence of on-site sewage system failure at the time of the inspection. Property was vacant at the time of inspection. This property is approved for a personal care home with 4 residents and 2 employees.

Issuance of this visual inspection letter for an on-site sewage management system shall not be construed as a guarantee that such system will function satisfactorily for a given period of time; furthermore, said representatives do not, by any action taken, assume liability for damages which are caused, or may be caused by the malfunction of such system.

If you have any other questions, please contact me at 770-435-7815, ext. 5060.

Sincerely,

Jennifer Delveau
Environmental Health S. S. A.

/jdd

COBB COUNTY GEORGIA
FILED IN OFFICE
2013 SEP 26 AM 10:18
COBB COUNTY ZONING DIVISION

3077
AUSTELL RD LOT 13A MILFORD S/D. MARIETTA
7X5 X 3 1/2 (M)
465
236 X 24
STONE
ADKINSON
ALEXANDER
4-8-57
F.H.

Va Serial No:
Ca-97738
July 9, 1957

Z-66 (2013)
Health
Department
Letter

Any modifications
or additions to this
plan must be approved
thru this office.

APPROVED
J. Delveau 8-14-13
COBB COUNTY HEALTH
CENTER FOR ENVIRONMENTAL HEALTH
DATE

