

**AUGUST 19, 2014 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM OB-41 (continued from the July 15th Zoning Hearing)

PURPOSE

To consider a stipulation amendment for Diana Gutierrez regarding rezoning application Z-19 of 2011 (Angelyn Clay Walker), for property located at the northeast corner of Clay Road and Austell Road in Land Lots 1140 and 1141 of the 19th District.

BACKGROUND

The subject property was zoned CRC in 2011 for a carwash, fruit stand and for limited retail uses. The stipulations were expanded slightly in 2013 to include plant sales, seasonal items and other food products. The applicant would like to amend to stipulations to allow open a small Mexican restaurant to utilize part of the building on the property. The restaurant would be open seven days a week serving lunch and dinner. The business would predominately be for takeout orders, but there would be a few seats in the building and a few picnic tables outside. All other zoning stipulations would remain in effect.

FUNDING

N/A

STAFF COMMENTS

Water & Sewer Comments: Restaurant must comply with grease trap requirements and may be assessed additional sewer fee.

RECOMMENDATION

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

ATTACHMENTS

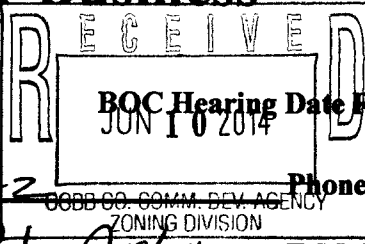
Other Business Application and zoning stipulations.

Application for "Other Business"

Cobb County, Georgia

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

06-41



Applicant: Diana Gutierrez (applicant's name printed) Phone #: 678-732-5795

Address: 4937 Austell Rd, Austell E-Mail: SMADAMS1101@gmail.com

Shelia M. Adams (representative's name, printed) Address: 4968 Austell Rd, Suite 132, Austell 30109

Shelia M. Adams (representative's signature) Phone #: 770-827-6255 E-Mail: SMADAMS1101@gmail.com

Signed, sealed and delivered in presence of:

R. D. Hutchins My commission expires: 8/27/14
Notary Public

Titleholder(s): Angelyn Clay Walker (property owner's name printed) Phone #: 770-827-6257

Address: 1837 Seapes Rd, Austell, GA 30106 E-Mail: EWalker1927@gmail.com

Angelyn C. Jay Walker (Property owner's signature)

Signed, sealed and delivered in presence of:

R. D. Hutchins My commission expires: 8/27/15
Notary Public

Commission District: 4th Zoning Case: 2-19

Date of Zoning Decision: _____ Original Date of Hearing: 6-17-11

Location: 4937 Austell Rd, Austell 30106
(street address, if applicable; nearest intersection, etc.)

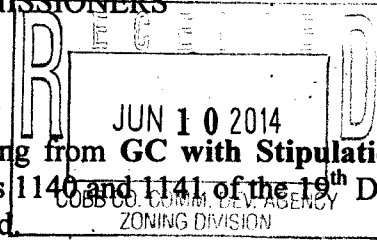
Land Lot(s): 1140 + 1141 District(s): 19th

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

Business

ORIGINAL DATE OF APPLICATION: 06-21-11APPLICANTS NAME: ANGELYN CLAY WALKERTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 06-21-11 ZONING HEARING:**

ANGELYN CLAY WALKER (owner) requesting Rezoning from GC with Stipulations to GC for the purpose of Service/Retail Businesses in Land Lots 1140 and 1141 of the 19th District. Located at the northeast corner of Clay Road and Austell Road.



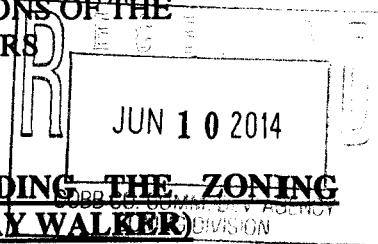
MOTION: Motion by Thompson, second by Birrell, as part of the Consent Agenda, to delete Rezoning to the CRC zoning district subject to:

- uses limited to carwash, fruit stand, and retail sales of high school related logo items and spirit wear *only*
- prohibited uses to include: tattoo parlors, check cashing establishments; gun, knife or weapons sales; sale of alcoholic beverages, and pawn shops
- no outdoor storage, including excess firewood
- any proposed use change occurring within the next three (3) years shall come back to the Board of Commissioners as an Other Business Item, with the District Commissioner approving any time extensions
- install signage at entrance from Clay Road indicating "*right in and right out only*"
- upon redevelopment, concrete access barriers to be installed restricting turning movements
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management 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

ORIGINAL DATE OF APPLICATION: 06-21-11APPLICANTS NAME: ANGELYN CLAY WALKER

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

BOC DECISION OF 08-20-13 ZONING HEARING:**OTHER BUSINESS ITEM #4 - TO CONSIDER AMENDING THE ZONING STIPULATIONS RELATING TO Z-19 OF 2011 (ANGELYN CLAY WALKER)**

To consider amending the zoning stipulations regarding Z-19 of 2011 (Angelyn Clay Walker), for property located at the northeast corner of Clay Road and Austell Road in Land Lots 1140 and 1141 of the 19th District.

Mr. Pederson provided information regarding a stipulation amendment to add an awning and expand sales. The public hearing was opened and Ms. Shelia Adams addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Cupid, second by Ott, to approve Other Business Item No. 4 for stipulation amendments regarding application Z-19 of 2011 (Angelyn Clay Walker), for property located at the northeast corner of Clay Road and Austell Road in Land Lots 1140 and 1141 of the 19th District subject to:

- **Request letter from Property Management Unlimited, Inc., (attached and made a part of these minutes) with the following changes:**
 - **Item No. 1 – Strike in its entirety and replace with: “The approval of this request is subject to the District Commissioner approval of an architectural plan (with the plan to be submitted within 60 days of this decision) which will include, but is not limited to, consideration of color of the building, and an awning or any modification of the finished material of the building.”**
 - **Item No. 2 – Strike in its entirety and replace with: “Food products and items sold on the property is limited primarily to fruits and vegetables (fresh, frozen, jarred or ready cut); meat, poultry or fish in the refrigerated area; breads, grains, dairy and health food items. Also permitted is the limited sale of “other” items such as ice, bottled non-alcoholic beverages and candy. The sale of “other” items is not to exceed 20 percent of the total items sold on the site.”**
 - **Item No. 5 – Add to the end: “The sale of other seasonal items to be approved by the District Commissioner.”**
 - **Item No. 6 – Strike in its entirety and replace with: “Any items that are sold in the front of the building or other parts of the building under the awning will be allowed to be displayed outdoors.”**
 - **Item No. 9 – Add to end: “The sale of firewood not to exceed 20 percent of the sales on the property unless approved by the District Commissioner and firewood is not to be cut on site.”**
 - **Item No. 10 – Revise to read: “Outside storage and display of merchandise is allowed subject to conditions herein listed.”**
- **All previous stipulations and conditions, not otherwise in conflict, to remain in effect**

VOTE: **ADOPTED** unanimously

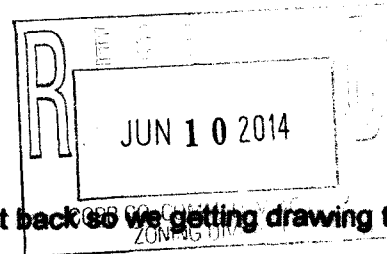


2-19 of 2011
Min. Bk. 69 Petition No. 034
Doc. Type Request Letter
Meeting Date August 20, 2013

PROPERTY MANAGEMENT UNLIMITED, INC.
4968 Austell Road, Suite 132
Austell, Georgia 30106
Ph: 770-941-7745 Ph: 770-944-9157
Fax: 770-941-8428

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Request to be added to Stipulation



1. Per survey there is 23' on Clay Rd. of clearance from awning to set back so we getting drawing to 20' out with canopy for plants display.
2. Sell all and any food products and items
3. Sell plants, bushes and small trees
4. Sell pumpkins and any Halloween decorations
5. Sell Christmas trees and related decorations
6. Anything under building addition on front and under awning considered in the right to display
7. We have plant license from state
8. We are waiting on food sales license from state
9. Sell neatly stacked firewood during season
10. Remove no outside storage, so we can do request outside display

PLAT OF SURVEY FOR ANGELYN CLAY WALKER

LOCATED IN LAND LOTS 1140 AND 1141,
19TH DISTRICT, 2ND SECTION,
COBB COUNTY, GA

4937 AUSTELL ROAD
F.K.A. 1950 CLAY ROAD

AREA - 0.719 ACRES
31,305 SQ. FT.

NOTE:

PROPOSED CHANGY AREA = 2,149 SQ. FT. TO BE
REMOVED FROM EXISTING PLANNING THEREAFTER
CHANGY AND INCORPORATED IN ADJACENT AREA.

ASSUMPTIONS:

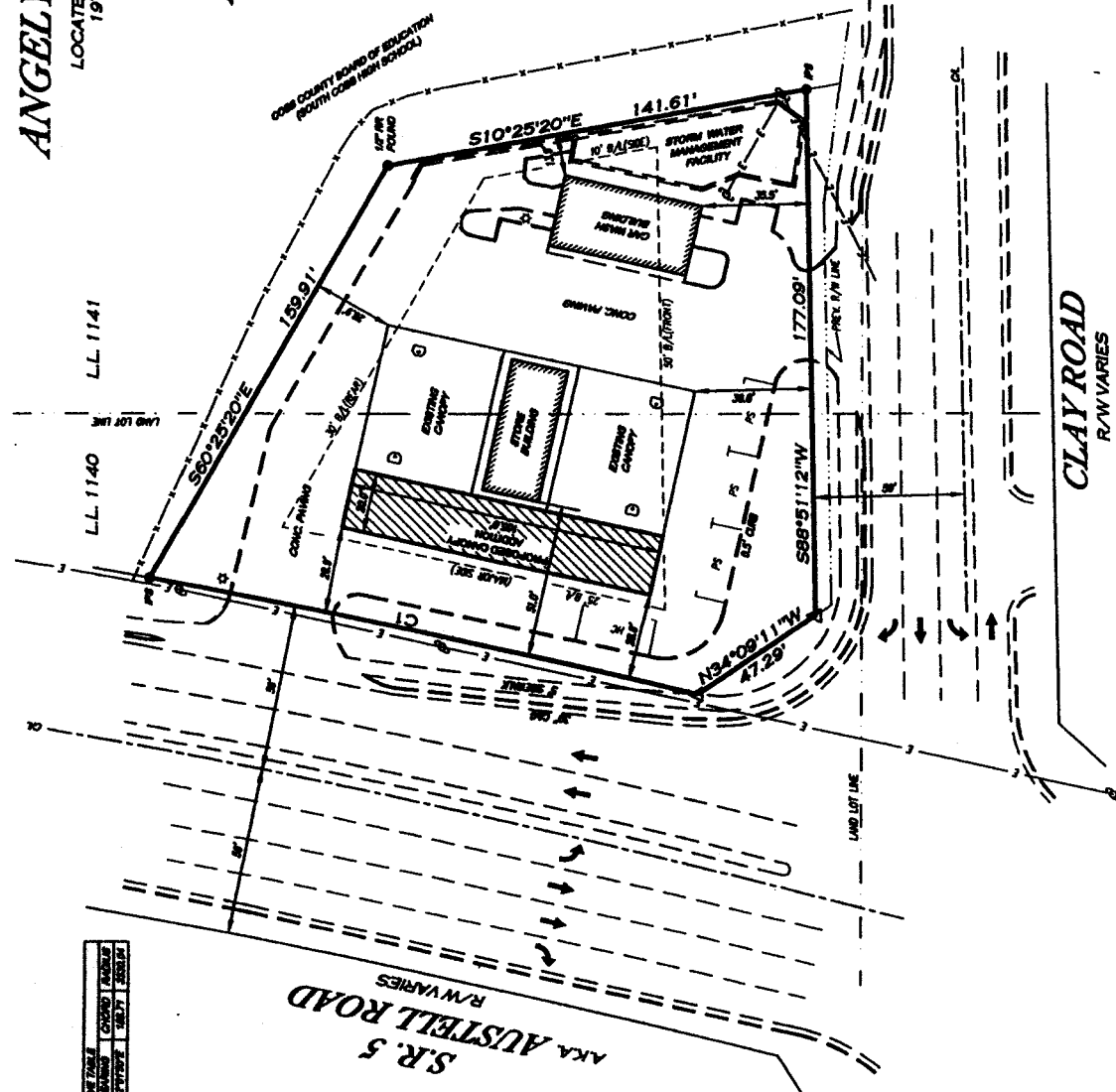
CONSTRUCTIVE LIABILITY/DEED TO ARISE IN CLAY
WALKER RECORDED IN DEED BOOK PAGE 144, PAGE 14.
COBB COUNTY CHANGY DEED RECORDED IN DEED BOOK
274, PAGE 141.

R
 JUN 10 2014
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

DATE	DESCRIPTION
06/10/2013	ADD PROPOSED CHANGY

THE RUSSELLE COMPANY
 PROFESSIONAL LAND SURVEYORS
 2807 POWDER SPRINGS ROAD
 MARIETTA, GEORGIA 30064
 (770) 843-0803
 E-MAIL: SURVEY@RUSSELLE.COM

PROJ. NO. 000209 P.L.C. COB10-000004-10-10-10-10
 FIELD SURVEY DATE: 06/10/2011
 PLAT DATE: 06/10/2013 SCALE: 1" = 30'



CURVE DATA	CHORD LENGTH	CHORD BEARING
CT 1	108.74'	S80°25'20\"/>



SURVEY NOTES:

1. THIS PLAT WAS PREPARED FOR EXCLUSIVE USE BY THE PERSONS AND/OR CONSTITUTIONS NAMED HEREON. THIS PLAT IS NOT BEING USED AS A METHOD OF THE REDEMPTION OF THE SURVEYOR.
 2. CHANGY, PLAT, LOTS, AND OTHER INFORMATION PROVIDED BY THE SURVEYOR AND THE INSTRUMENTS OF SURVEY AND ARE THE PROPERTY OF THE SURVEYOR.
 3. BUILDING SETBACKS ARE SHOWN BUT VERIFICATION OF THESE SETBACKS SHOULD BE OBTAINED FROM COBB COUNTY ZONING BEFORE ANY ADDITIONAL PERMITTING.

- LEGEND:**
- CONCRETE FOUNDATION WITH UP STEEL
 - CONCRETE FOUNDATION
 - UNCALCULATED CORNER
 - CORNER TO BE SET WHEN CONSTRUCTION PERMITS
 - X - X - FENCE LINE
 - PR - STEEL REINFORCING ROD
 - CTP - OPEN TOP WATER PIPE
 - CP - COVERED PIPE
 - CP - COVERED PIPE
 - SL - SILLING LINE
 - WY - RIGHT OF WAY
 - LL - LAND LOT LINE
 - WATER MAIN
 - SANITARY SEWER MAIN
 - HP - HIGH OR FORMERLY OWNED BY
 - MS - MAIL STOP AT THIS
 - MS - MAIL STOP AT THIS
 - D.E. - DEED BOOK
 - P.L.C. - PLAT BOOK
 - 2\"/>

FLOOD STATEMENT:
 I HAVE THIS DATE EXAMINED THE FLOOD INSURANCE RATE MAP, COMMUNITY NAME NO. 1507000000 EFFECTIVE DATE: DECEMBER 14, 2009. THE MAP UNFAVORABLY DEPICTS THE SUBJECT PROPERTY TO BE IN ZONE "X". THE CHARACTERISTICS OF THIS ZONE IS AS FOLLOWS: THE 100 YEAR FLOOD ZONE.



TRIMMED AND
 ANGLE ERROR: 0.0000
 SURVEY ADJUSTMENT: LEAST SQUARES
 RESEARCH: TOPCON GPT-3000
 PLAT PREPARED BY: J. RUSSELLE