

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

**ITEM OB-43 (continued from the July 15<sup>th</sup> Zoning Hearing)**

**PURPOSE**

To consider amending and clarifying zoning stipulations for Can Nguyen regarding rezoning application Z-14 of 2014, for property located on the north side of South Gordon Road, east of Starling Drive; in Land Lots 386 and 412 of the 18<sup>th</sup> District.

**BACKGROUND**

The subject property was rezoned for a meditation center on May 20, 2014 subject to numerous stipulations. The applicant would like to clarify and amend three zoning stipulations. First, the stipulations called for the building to be setback at least 490 feet from South Gordon Road. The building was shown on the zoning plan being 279 feet from South Gordon Road, which is what the applicant needs to properly design the site. Second, the applicant would like to delete the stipulation that requires them to obtain a parking agreement for 25 additional offsite parking spaces due to the fact they meet required parking. Additionally, the applicant will not have large gathering events on this property. Third, the applicant would like the District Commissioner to approve the final site plan, which accounts for some landscaping and parking space changes that may be made through the Plan Review process. If approved, all other zoning stipulations would remain in effect.

**FUNDING**

N/A

**RECOMMENDATION**

The Board of Commissioners conduct a Public Hearing and consider amending and clarifying the zoning stipulations.

**ATTACHMENTS**

Other Business application and current zoning stipulations.

REGULAR CASES (CONT.)

Z-14 CAN NGUYEN (CONT)

- At least 15 parking spaces to be installed with parking in designated spaces *only* (no parking on grass, along driveway, or streets); five of those spaces may be installed to the front or side of the structures, with the remaining spaces to be installed to the rear of the worship facility; a parking agreement for 25 additional parking spaces with a nearby property owner or owners shall be executed and submitted to Community Development prior to issuance of a Certificate of Occupancy to accommodate additional patronage of the worship facility during events
- All buildings and parking to be located in the interior portion of the property setback at least 490 feet from South Gordon Road
- Landscape or naturally maintained buffer of 35 feet on all property lines with the exception of South Gordon Road and the first 50 feet from South Gordon Road; landscape buffer with the purpose of providing visual and sound screening to be provided along the property lines adjacent to the driveway and parking lot areas; landscaping to be provided in the first 50 feet from South Gordon Road with landscape beds to include a variety of plants and shrubs; all buffers to be maintained and dead plants to be replaced within 60 days
- Naturally maintained 75 foot buffer adjacent to county owned park land
- Landscape plan to be submitted and approved by the District Commissioner and County Arborist
- No daycare use
- District Commissioner may approve minor modifications, except for those that increase overall square footage of a building; cause a reduction in the size of an approved buffer adjacent to a property that is zoned the same or is more restrictive in its designated zoning; cause the relocation of a structure closer to the property line of an adjacent property that is zoned the same or is more restrictive in its designated zoning; increase the height of a building adjacent to a property that is zoned the same or more restrictive zoning; or change access location to a different roadway
- Fire Department comments and recommendations, *not otherwise in conflict*
- Water and Sewer Division comments and recommendations, *not otherwise in conflict*
- Stormwater Management Division comments and recommendations, *not otherwise in conflict*
- Cobb DOT comments and recommendations, *not otherwise in conflict*
- 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

**REGULAR CASES (CONT.)**

**SLUP-13<sup>'13</sup>** **PEGASUS TOWER COMPANY, LLC** (Carter T. Samples, Jr. and Mildred B. Samples, owners) requesting a **Special Land Use Permit** for the purpose of a New 130 Foot Monopole Telecommunications Tower in Land Lots 406 and 497 of the 18<sup>th</sup> District. Located at the northwest intersection of Mableton Parkway and Queen Mill Road. *(Previously continued by Staff)*

The public hearing was opened and Mr. Tony Stewart, Mr. David Walker, and Ms. Robin Meyer addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Cupid, second by Ott, to **approve** Special Land Use Permit subject to:

- **Site plan received by the Zoning Division October 2, 2013 (attached and made a part of these minutes)**
- **Applicant to modify the support structure to a stealth pine tower per feedback from the community meeting on May 13, 2014 at the South Cobb Library**
- **Height of tower not to exceed 130 feet**
- **Applicant to install a landscape buffer around the compound area, with balance of parcel to remain in a natural maintained buffer state**
- **Applicant to provide a landscape plan subject to approval by the District Commissioner**
- **Applicant shall submit an as-built photographic representation of the proposed tower for approval with final design selection to be reviewed and approved by the District Commissioner**
- **No access to the parcel from Mableton Parkway**
- **No construction vehicles to be parked on right-of-way of either Mableton Parkway or Queen Mill Road**
- **District Commissioner may approve minor modifications except those that increase overall square footage; cause a reduction in the size of the approved buffers adjacent to properties with the same or more restrictive zoning; cause the relocation of a structure closer to the property line that is zoned the same or more restrictive zoning; increase the height; or change access location to a different roadway**
- **Applicant shall design the support structure to accommodate no less than a total of four antenna arras of like design**
- **Applicant to provide a detailed ground compound construction drawing which may add more conditions**



**APPLICANT:** Can Nguyen  
(678) 200-6808

**REPRESENTATIVE:** George Awuku  
(404) 597-6745

**TITLEHOLDER:** Can Van Nguyen

**PROPERTY LOCATION:** North side of South Gordon Road, east of  
Starling Drive, west of Mitchell Lane  
(540 South Gordon Road).

**ACCESS TO PROPERTY:** South Gordon Road

**PHYSICAL CHARACTERISTICS TO SITE:** Vacant, undeveloped  
acreage

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** R-20/Cobb County Undeveloped with lake
- SOUTH:** R-20/Single-family houses
- EAST:** R-20/Single-family houses
- WEST:** R-20/Single-family houses

**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:**

**PETITION NO:**        Z-14

**HEARING DATE (PC):**        04-01-14

**HEARING DATE (BOC):**        04-15-14

**PRESENT ZONING:**        RA-5

**PROPOSED ZONING:**        R-20

**PROPOSED USE:**        Meditation Center

**SIZE OF TRACT:**        10.296 acres

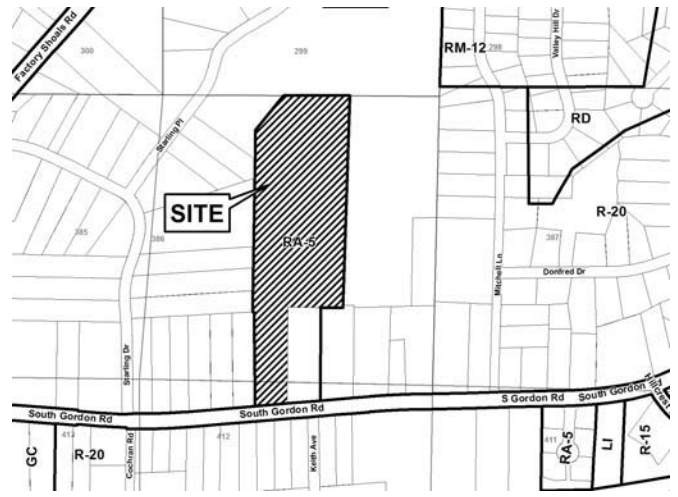
**DISTRICT:**        18

**LAND LOT(S):**        386, 412

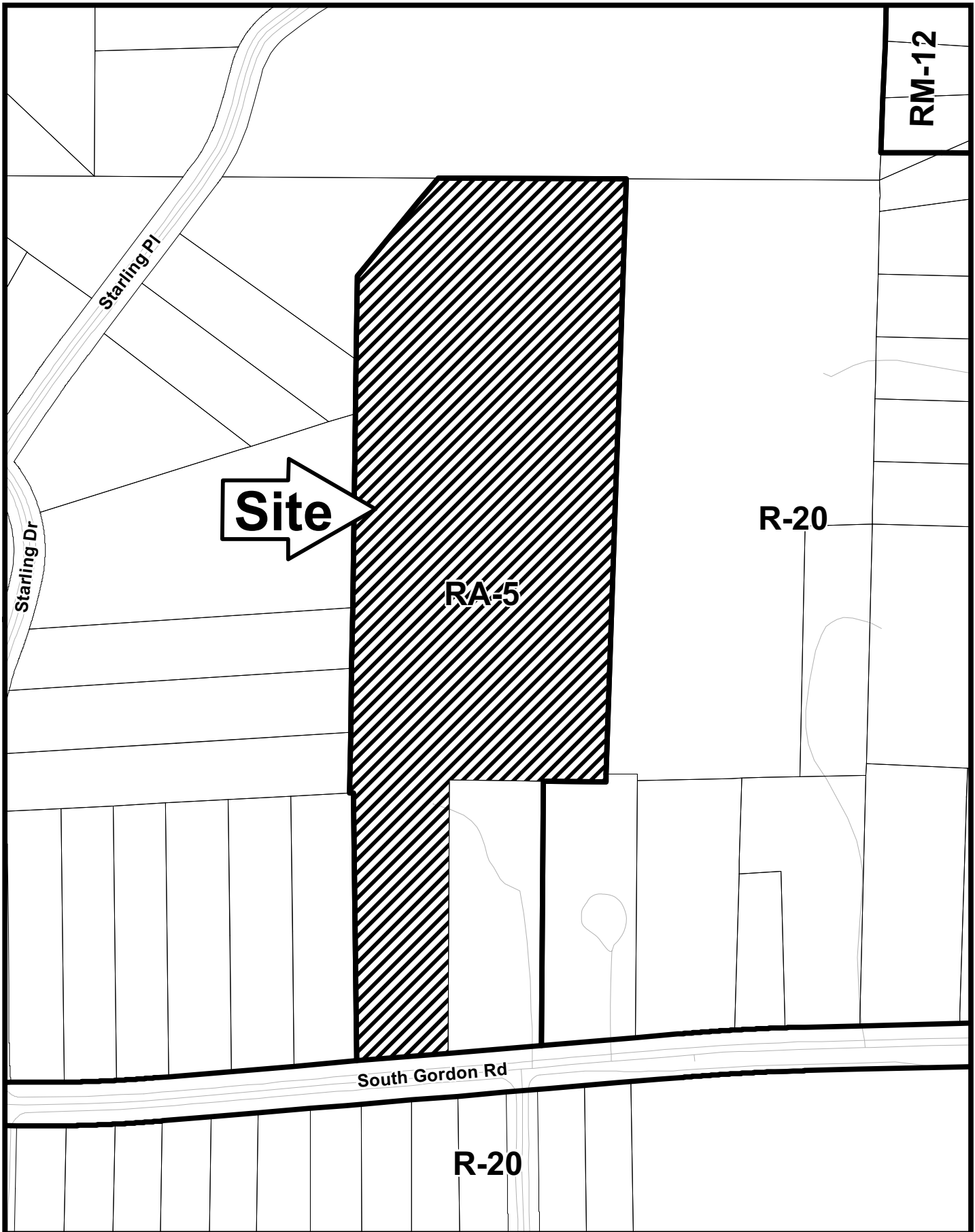
**PARCEL(S):**        15

**TAXES: PAID**   X   **DUE**       

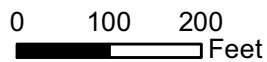
**COMMISSION DISTRICT:**   4  



# Z-14



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



City Boundary  
Zoning Boundary

**APPLICANT:** Can Nguyen

**PETITION NO.:** Z-14

**PRESENT ZONING:** RA-5

**PETITION FOR:** R-20

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**ZONING COMMENTS:**

**Staff Member Responsible:** Jason A. Campbell

**Land Use Plan Recommendation:** Medium Density Residential (2.5-5 units per acre)

**Proposed Number of Units:** 1 Building

**Staff estimate for allowable # of units:**46 (Z-163 of 2006) Units\*

**Decrease of:** 45 Units/Lots

\*Estimate could be higher or lower based on engineered plans taking into account topography, shape of property, utilities, roadways, natural features such as creeks, wetlands, etc., and other unforeseen circumstances.

Applicant is requesting the R-20 zoning category for the purpose of having a 3,200 square-foot Vietnam Buddhist Meditation Center. The building will be one-story, brick with metal or asphalt roofing. The proposed site plan indicates the building will be located 50 or more from the property lines and a 35-foot landscape buffer around the perimeter of the property. The site plan also indicates approximately 8.5 acres as wooded high value forest area that will be preserved for lifetime of meditation center. The subject property was rezoned to RA-5 in 2006 (Z-163, minutes attached) for a 46-lot single-family subdivision at a density of 3.88 units per acre.

The required parking for the proposed use is one space per four seats. The site plan indicates the required five parking spaces for 20 seats.

**Cemetery Preservation:** No comment.

APPLICANT: Can Nguyen

PETITION NO.: Z-14

PRESENT ZONING: RA-5

PETITION FOR: R-20

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**SCHOOL COMMENTS:**

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
<u>Elementary</u>	<u></u>	<u></u>	<u></u>
<u>Middle</u>	<u></u>	<u></u>	<u></u>
<u>High</u>	<u></u>	<u></u>	<u></u>

- School attendance zones are subject to revision at any time.

**Additional Comments:**

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**FIRE COMMENTS:**

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2006 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Dead-end access roads in excess of 150 feet shall be provided with a turn-around (IFC 503.2.5 2006 Edition). Cul-de-sac with or without an island: minimum 60-foot radius to outside curb, measured to inside of curb and a minimum lane width = 24 feet (Cobb County Development Standard 401.09). Single-Family cul-de-sac without island: 38-foot outside radius with island reverts to commercial dimensions. Hammerhead turn-around: total of 110 feet needed (45 feet + 20 feet wide roadway + 45 feet).

HYDRANT: Show fire hydrants arranged to have a hydrant available for the distribution of hose to any portion of any building on premises at distances not exceeding 500 feet (driving distance). Hydrants shall be at least 40 feet from the building (steamer connection facing street) (NFPA 24-7.2.3). Fire hydrants shall be spaced not more than 500 feet apart. Hydrants shall not be connected to water lines on the positive side (discharge side) of a fire pump. Minimum 8” supply lines to all hydrants.



APPLICANT: Can Nguyen

PETITION NO.: Z-14

PRESENT ZONING: RA-5

PETITION FOR: R-20

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning from RA-5 to R-20 for purposes of meditation center. The 10.296 acre site is located on the north side of South Gordon Road, east of Starling Drive, west of Mitchell Lane.

**Comprehensive Plan**

The parcel is within a Medium Density Residential (MDR) future land use category, with RA-5 zoning designation. The purpose of the Medium Density Residential (MDR) category is to provide for areas that are suitable for moderate density housing, between two and one-half (2.5) and five (5) dwelling units per acre.

**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.

**Special Districts**

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes  No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes  No

APPLICANT Can Nguyen

PETITION NO. Z-014

PRESENT ZONING RA-5

PETITION FOR R-20

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**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 / N side of South Gordon 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.

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**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: South Gordon Road ROW

Estimated Waste Generation (in G.P.D.): A D F= 160 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

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: Can Nguyen

PETITION NO.: Z-14

PRESENT ZONING: RA-5

PETITION FOR: R-20

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Queen Creek 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 systems.

APPLICANT: Can Nguyen

PETITION NO.: Z-14

PRESENT ZONING: RA-5

PETITION FOR: R-20

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**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

**APPLICANT: Can Nguyen**

**PETITION NO.: Z-14**

**PRESENT ZONING: RA-5**

**PETITION FOR: R-20**

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**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
South Gordon Road	6500	Major Collector	40 mph	Cobb County	80'

*Based on 2011 traffic counting data taken by Cobb County DOT (South Gordon Road).*

**COMMENTS AND OBSERVATIONS**

South Gordon Road is classified as a major collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of South Gordon Road, a minimum of 40' from the roadway centerline.

Recommend applicant verify that minimum intersection sight distance is available for ingress and egress maneuvers for the site if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement of 445'.

Recommend sidewalk along the South Gordon Road frontage.

Recommend a paved commercial driveway.

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

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## STAFF RECOMMENDATIONS

### Z-14 CAN NGUYEN

- 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 proposed use is allowed under the R-20 zoning category and meets the acreage, setback, landscape buffer and parking requirements.
- 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 proposed site plan indicates the building will be constructed on a small portion of the overall 10.296 acres and that 8.5 acres of the property will remain a forest area for the lifetime of the meditation center. The proposed facility will only have parking for five vehicles, in contrast to the volume of traffic that would be generated under the current RA-5 zoning for 46 residential lots.
- 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. The proposed site plan indicates that only five vehicles will be allowed on the property based on the size of the number of seats in the proposed building. Of the overall 10.296 acres, 8.5 acres will be set aside as a forest area for the duration of the meditation center.
- 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 the Medium Density Residential (MDR) land use category, having densities ranging from 2.5 – 5 units per acre. The proposed use is allowed as a special exception in residential zoning categories while meeting certain requirements. The proposed use and development meets those requirements.
- 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 subject property is currently zoned RA-5 for a 46-lot subdivision and, as such, has numerous stipulations under Z-163 of 2006 that would not allow the development of the proposed meditation center, only the 46-lot subdivision. The requested R-20 category will be still be in character with the other properties in the area and will allow the proposed development.

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

- Site plan received by the Zoning Division on February 6, 2014, with the District Commissioner approving minor modifications;
- Fire Department comments and recommendations;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation comments and recommendations; and
- 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.

**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-14  
PC Hearing Date: 4-1-14  
BOC Hearing Date: 4-15-14

## Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 3200 SF
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed selling prices(s): N/A
- d) List all requested variances: N/A

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

- a) Proposed use(s): \_\_\_\_\_
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: \_\_\_\_\_
- d) List all requested variances: NONE

COBB COUNTY ZONING DIVISION  
2014 FEB - 6 PM 12: 05  
COBB COUNTY GEORGIA  
FILED IN OFFICE

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

NONE  
\_\_\_\_\_  
\_\_\_\_\_

.....  
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: *Can Nguyen* Date: Jan 31, 2014  
Applicant name (printed): CAN NGUYEN