

**AUGUST 18, 2015 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 1**

**ITEM OB-35**

**PURPOSE**

To consider granting a Special Exception for backyard chickens as recommended by the Board of Zoning Appeals from their July 15, 2015 Variance Hearing regarding Variance Application:

V-77            Hugh Stith

**BACKGROUND**

In accordance with a Zoning Ordinance Amendment adopted by the Board of Commissioners on February 26, 2013, and amended on March 11, 2014, Section 134-94(4), the Board of Commissioners shall consider granting a Special Exception for backyard chickens, as pets or food source, after approval by the Board of Zoning Appeals. The Variance Analysis is attached for review. The Board of Zoning Appeals considered this appeal at the July 15, 2015 Variance Hearing and recommended approval of the Special Exception.

**FUNDING**

N/A

**RECOMMENDATION**

The Board of Commissioners consider granting a Special Exception for backyard chickens as recommended by the Board of Zoning Appeals for Variance case:

V-77            Hugh Stith

**ATTACHMENTS**

Variance analysis

MINUTES OF VARIANCE HEARING  
COBB COUNTY BOARD OF ZONING APPEALS  
JULY 15, 2015  
PAGE 3

~~CONTINUED, HELD, OR WITHDRAWN (CONT.)~~

V-98 WAM DOUGLAS, LLC (CONT.)

MOTION: Motion by Gunther, second Williams, to continue variance request V-98 until the August 12, 2015 Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED** 4-0, Trombetti absent

**REDUCTION IN LOT SIZE**

*Prior to reading the Consent Agenda, Mr. John Pederson, Zoning Division Manager, read a statement into the record regarding amendments to the Official Cobb County Code, Chapter 134, adopted by the Board of Commissioners on February 26, 2013 and amended on March 11, 2014, relative to variance applications requesting a reduction in lot size relating to backyard chickens. Applicants were advised that variance applications requesting a reduction in lot size which are approved by the Board of Zoning Appeals, take the form of a recommendation to the Board of Commissioners who makes a final determination whether to grant a special exception for the requested lot size reduction. There was one petition where this applied: V-77 being Hugh Stith. The Applicant and/or representatives were instructed that, if the Board of Zoning Appeals approved the application, a representative would need to be present at the Board of Commissioners Zoning Hearing on Tuesday, August 18, 2015 at 9:00 a.m. for final determination.*

**CONSENT AGENDA**

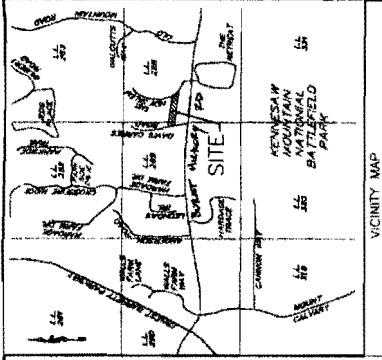
MOTION: Motion by Gunther, second by Williams, to approve the following cases on the Consent Agenda:

V-77 **HUGH STITH** (Hugh D. Stith, owner) requesting a variance to: 1) an authorization upon appeal related to the minimum lot size of two acres required to maintain poultry as pets or food source; and 2) allow an accessory structure on a lot without a primary structure (proposed chicken coup) in Land Lot 288 of the 20<sup>th</sup> District. Located on the west side of East New Salem Common, north of Burnt Hickory Road (Tract B). *(Previously held by the Board of Zoning Appeals from their May 13, 2015 hearing and previously continued by Staff until the July 15, 2015 hearing)*

To approve variance request for 12 months subject to:

- **Chicken coup to be located in the southwestern part of Tract B in the existing garden area**

V-77  
(2015)



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C1	97.65'	225.00'	27.48.32"	96.65'	N17.40.27"W
C2	27.28'	466.57'	3.71.02"	27.28'	S38.13.18"E
C3	37.71'	135.00'	16.00.20"	37.58'	S28.32.40"E

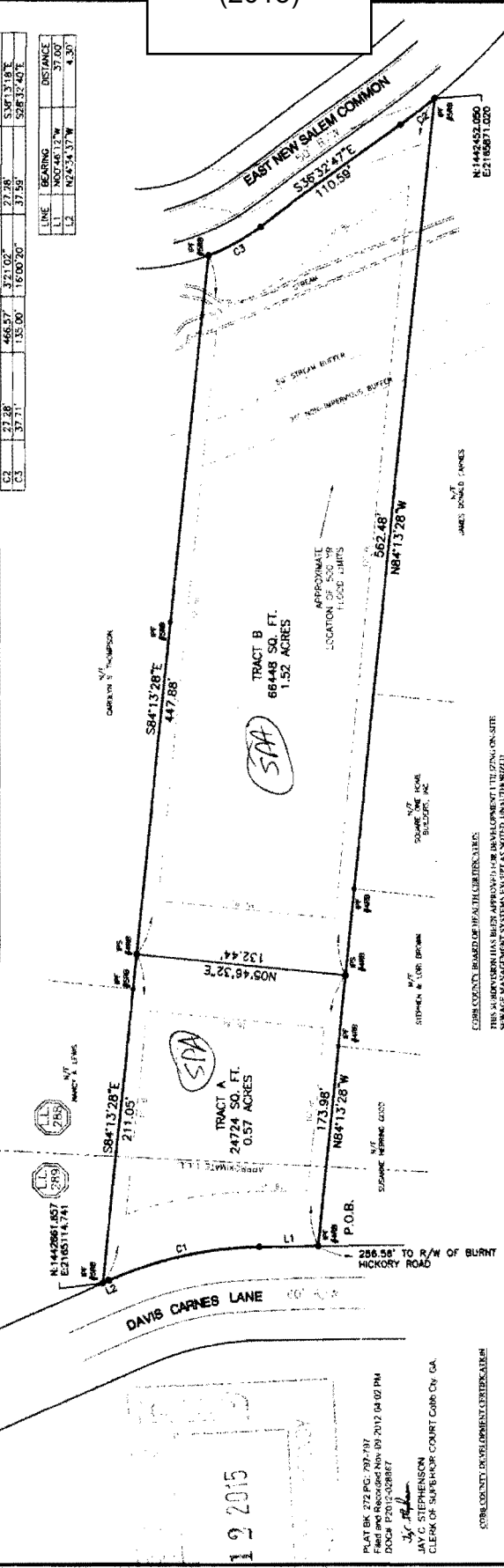
LINE	BEARING	DISTANCE
L1	N00.48.17"W	37.00'
L2	N22.54.31"W	4.33'

- FIRE APPARATUS ACCESS SHALL MEET THE FOLLOWING:
  - DRIVEWAY MUST HAVE A MINIMUM 12' DRIVING SURFACE WIDTH (CROSSING DRIVEWAY) WITH MINIMUM FULLY DEVELOPED LANDSCAPING SHALL BE AT LEAST 10' FROM CENTER OF DRIVEWAY CLEAR
  - MAXIMUM GRADE SHALL NOT EXCEED 10% ANGLE OF DEPARTURE SHALL NOT EXCEED 45%
  - DRIVEWAY MUST EXTEND WITHIN 5' OF THE WEST REAR CORNER OF THE STRUCTURE
  - RESIDENTIAL C.O.D.R.S. WITHIN 100' SHALL HAVE A 34-FOOT OUTSIDE RADIUS AROUND CURVE SAC WITH AN ISLAND REVERTS TO THE COMMERCIAL STANDARDS, REFER TO www.commercial.org FOR DIMENSIONS.
  - TURN-AROUND JAG TO BE A MINIMUM OF 20 FT WIDE
  - DRIVEWAY MUST SUPPORT 25 TONS (AND OVER)
  - PROVIDE EMERGENCY ACCESS THROUGHOUT ALL GATES SECURING THE DEPT. ACCESS WITH A MINIMUM 12' CLEAR WIDTH AND APPROVED SIGNAGE OPERATING 24 HOURS PER DAY
- FIRE HYDRANT ACCESS AND FLOW SHALL MEET THE FOLLOWING:
  - HYDRANT LOCATION WITHIN 50' OF THE MOST REMOTE PORTION OF THE STRUCTURE
  - FIRE FLOW TEST FROM CLOSEST EXISTING HYDRANT SHALL BE PROVIDED MEETING THE MINIMUM REQUIRED FLOW: 1000 GPM @ 20 PSI.

AN ALTERNATE DEVELOPMENT FOR THE ABOVE HIGHWAY PROJECT, SUBJECT TO APPROVAL BY THE COBB COUNTY FIRE MARSHALS OFFICE IS ONE OF THE FOLLOWING:

- NEPA 3D SPINNAKER SYSTEM
- COMPLETE STRUCTURE FRAMING AND PACKING MATERIALS TREATED WITH A SHARPENING SOLUTION THAT WILL PREVENT FIRE DAMAGE TO THE STRUCTURE
- NON-COMBUSTIBLE CONSTRUCTION

(NOTE: STATE ON THE SITE PLAN WHICH OPTION WILL BE UTILIZED)



COBB COUNTY BOARD OF HEALTH OFFICIALS:  
THIS DEVELOPMENT HAS BEEN APPROVED FOR INSTALLATION OF THE ON-SITE SWAGE MANAGEMENT SYSTEM AS SHOWN AS NOTED UNLESS OTHERWISE SPECIFIED OR FILLING OF LOTS MAY BE UNDER THEIR APPROVAL.

DATE: 11-6-12 DAY OF April, 2012  
BY: [Signature] ENVIRONMENTAL HEALTH OFFICIAL (PUBLIC HEALTH) DIST. DESIGNATION

APPROVAL OF INDIVIDUAL SITE PLAN REQUIRED PRIOR TO INSTALLATION OF ON-SITE SWAGE MANAGEMENT SYSTEM (SEE NOTE #1)

APPROVAL OF INDIVIDUAL SITE PLAN INCLUDING ALTERNATIVE ON-SITE SWAGE MANAGEMENT SYSTEM REQUIRED PRIOR TO PERMIT ISSUANCE.

APPROVAL OF INDIVIDUAL SITE PLAN REQUIRED PRIOR TO INSTALLATION OF ON-SITE SWAGE MANAGEMENT SYSTEM (SEE NOTE #1)

APPROVAL OF INDIVIDUAL SITE PLAN INCLUDING ALTERNATIVE ON-SITE SWAGE MANAGEMENT SYSTEM REQUIRED PRIOR TO PERMIT ISSUANCE.

THIS PLAT WAS CALCULATED FOR ERROR AND IS ACCURATE TO BETTER THAN 1/100,000' UNLESS OTHERWISE NOTED.

OFFICIAL FLOOD HAZARD ZONE MAP DATED 12/16/2009 SHOWING THIS PROPERTY TO BE IN A SPECIAL FLOOD HAZARD AREA.

PROPERTY ZONED R-20  
SUNSHINE CITY IS IN FLOOD ZONE "X" SHOWN. REQUIREMENTS ARE SATISFIED WITHIN THE DESIGN AND LAYOUT OF THESE PLANS.  
THESE PLANS ARE TO BE FILED INSIDE COUNTY OFFICE-WAY. THE PROPERTY SPLIT WILL NOT RECEIVE AN ADDRESS UNTIL DEVELOPED.  
THE UNITED STATES POSTAL SERVICE MUST BE CONTACTED IN ORDER TO OBTAIN A POSTAL SERVICE MAIL DELIVERY. CONTACT THE USPS AT 1-800-375-3889.  
ORIGINAL PARCEL NUMBER: 20 0288 0 028 0 (QUADRANT--NW)

OWNER'S ACKNOWLEDGMENT

I HEREBY CERTIFY THAT I AM THE OWNER OF THE LAND SHOWN ON THIS PLAT OR A FULLY AUTHORIZED AGENT THEREOF WHOSE NAME IS SUBSCRIBED HEREIN. I ACKNOWLEDGE THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY UNDERSTANDING THAT THE APPROVAL OF THIS PLAT BY COBB COUNTY IS ONLY FOR THE SUBDIVISION OR COMBINATION OF THIS PROPERTY, AND IS NOT MEANT TO SERVE AS APPROVAL OF ANY NON-COMMERCIALLY RELATED USES OR EASEMENTS ON THIS PROPERTY OR WILL BE CREATED BY THE SUBDIVISION OR COMBINATION OF THIS PROPERTY.

AND FURTHER, I WARRANT THAT I OWN THE SIMPLE TITLE TO THE PROPERTY SHOWN HEREON AND AGREE THAT THE PROPERTY SHOWN HEREON IS SUBJECT TO ANY EASEMENTS, ENCUMBRANCES, OR OTHER MATTERS WHATSOEVER THAT RESULTING FROM THE RECORDS OF SAID PLAT, AND ANY OTHER MATTER WHATSOEVER, I FURTHER WARRANT THAT I HAVE THE RIGHT TO SELL AND CONVEY THE LAND ACCORDING TO THIS PLAT AND DO HEREBY BIND OWNERS AND MYSELF SUCCESSORS IN TITLE TO DEFEND BY VIRTUE OF THESE PRESENTS.

Rita M. Prichard PRINTED NAME  
[Signature] SIGNATURE  
DATE: 11-6-12

RECORDING INFORMATION

I HEREBY CERTIFY THAT THE PLAT SHOWN AND DESCRIBED HEREON IS A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON, AND IS TO THE ACCURACY AND PARTICULARS REQUIRED BY THE COBB COUNTY DEVELOPMENT STANDARDS.

Thomas M. Giny Jr PRINTED NAME  
[Signature] SIGNATURE  
DATE: 12-30-12

REGISTERED PLAT SURVEYOR  
#10749

PLAT 66, 372 PGS. 707-707  
FILED IN PLAT BOOK 101, PAGE 101  
BOOK P2012-028877

[Signature] J. K. PETERSON  
CLERK OF SUPERIOR COURT COBB CO. GA.

COBB COUNTY DEVELOPMENT ENGINEER

THIS PLAT, HAVING BEEN SUBMITTED TO COMPLETENESS AND HAVING BEEN FOUND TO COMPLY WITH THE REQUIREMENTS OF THE DEVELOPMENT STANDARDS IS APPROVED FOR RECORDATION.

[Signature] DATE: 11-7-12

[Signature] DATE: 11/6/12

[Signature] DATE: 11/07/12

COBB COUNTY BOARD OF HEALTH OFFICIALS:  
THIS DEVELOPMENT HAS BEEN APPROVED FOR INSTALLATION OF THE ON-SITE SWAGE MANAGEMENT SYSTEM AS SHOWN AS NOTED UNLESS OTHERWISE SPECIFIED OR FILLING OF LOTS MAY BE UNDER THEIR APPROVAL.

DATE: 11-6-12 DAY OF April, 2012  
BY: [Signature] ENVIRONMENTAL HEALTH OFFICIAL (PUBLIC HEALTH) DIST. DESIGNATION

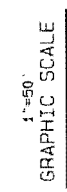
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PROPERTY ZONED R-20  
SUNSHINE CITY IS IN FLOOD ZONE "X" SHOWN. REQUIREMENTS ARE SATISFIED WITHIN THE DESIGN AND LAYOUT OF THESE PLANS.  
THESE PLANS ARE TO BE FILED INSIDE COUNTY OFFICE-WAY. THE PROPERTY SPLIT WILL NOT RECEIVE AN ADDRESS UNTIL DEVELOPED.  
THE UNITED STATES POSTAL SERVICE MUST BE CONTACTED IN ORDER TO OBTAIN A POSTAL SERVICE MAIL DELIVERY. CONTACT THE USPS AT 1-800-375-3889.  
ORIGINAL PARCEL NUMBER: 20 0288 0 028 0 (QUADRANT--NW)



TOTAL AREA  
91,172 SQ. FT.  
2.09 ACRES

NO.	DATE	Cobb County Comments	PKG	BY
1	10/26/12	Cobb County Comments		



SOUTHERN SURVEYING & MAPPING COMPANY, INC.  
4076 EBENEZER ROAD, N.E., MARIETTA, GA. 30066  
PHONE: (770) 926-7759

DRAWING DATE: 8/20/2012  
FIELD WORK DATE: 3/27/12  
SCALE: 1"=50'  
C. KRIG-12

MAR 12 2015

**APPLICANT:** Hugh Stith

**PETITION No.:** V-77

**PHONE:** 404-313-3964

**DATE OF HEARING:** 05-13-2015

**REPRESENTATIVE:** Judson C. Thompson

**PRESENT ZONING:** R-20

**PHONE:** 770-377-8260

**LAND LOT(S):** 288

**TITLEHOLDER:** Hugh D. Stith

**DISTRICT:** 20

**PROPERTY LOCATION:** On the west side of  
East New Salem Common, north of Burnt Hickory Road  
(Tract B).

**SIZE OF TRACT:** 1.52 acres

**COMMISSION DISTRICT:** 1

**TYPE OF VARIANCE:** 1) An authorization upon appeal related to the minimum lot size of two acres required to  
maintain poultry as pets or food source; and 2) allow an accessory structure on a lot without a primary structure  
(proposed chicken coup).

**OPPOSITION:** No. OPPOSED \_\_\_\_\_ PETITION No. \_\_\_\_\_ SPOKESMAN \_\_\_\_\_

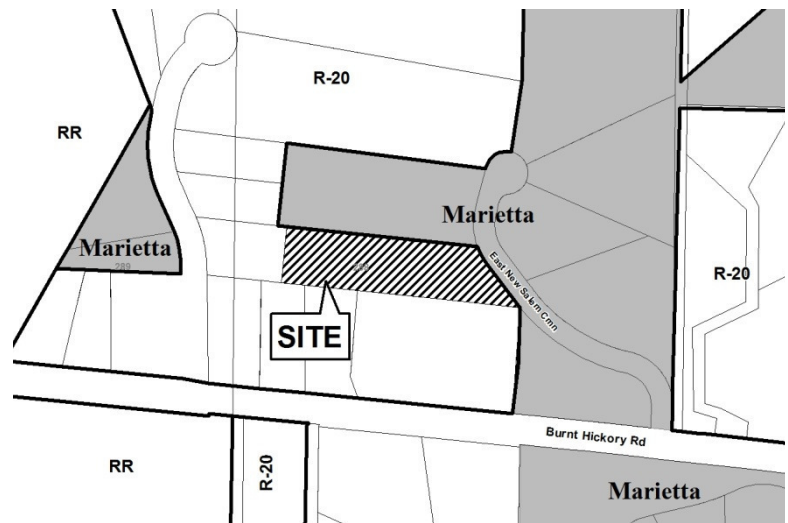
**BOARD OF APPEALS DECISION**

APPROVED \_\_\_\_\_ MOTION BY \_\_\_\_\_

REJECTED \_\_\_\_\_ SECONDED \_\_\_\_\_

HELD \_\_\_\_\_ CARRIED \_\_\_\_\_

STIPULATIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**APPLICANT:** Hugh Stith **PETITION No.:** V-77

\*\*\*\*\*

**COMMENTS**

**TRAFFIC:** This request will not have an adverse impact on the transportation network.

**DEVELOPMENT & INSPECTIONS:** No comment.

**SITE PLAN REVIEW:** No comment.

**STORMWATER MANAGEMENT:** No comment.

**HISTORIC PRESERVATION:** After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources.

**DESIGN GUIDELINES:** 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 out.

**WATER:** No conflict.

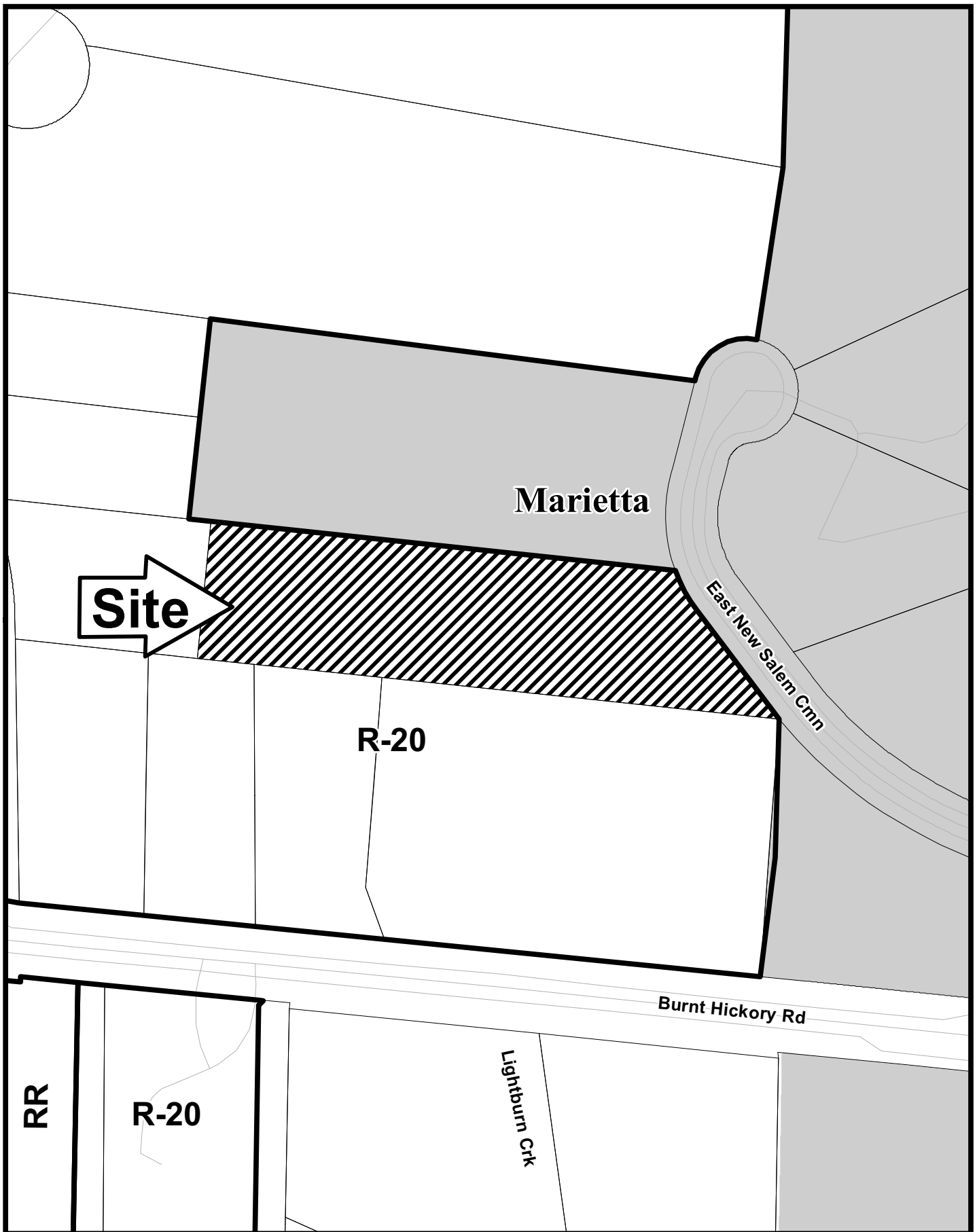
**SEWER:** No conflict.

**APPLICANT:** Hugh Stith **PETITION No.:** V-77

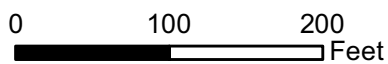
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**FIRE DEPARTMENT:** After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

# V-77



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



-  City Boundary
-  Zoning Boundary

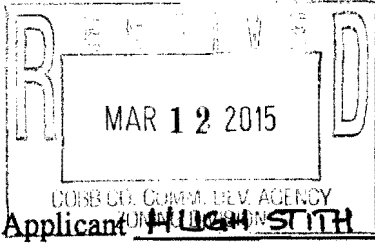
# Application for Variance

## Cobb County

(type or print clearly)

Application No. V-77

Hearing Date: 5-13-15



Applicant HUGH STITH

Phone # 404 313-3964

E-mail HSTITH@TRACTOR-EQUIPMENT.CO

JUDSON C THOMPSON

(representative's name, printed)

Address 553 E. NEW SALEM COMMON

(street, city, state and zip code)

(representative's signature)

Phone # 770 377-8260

E-mail JUDSON.C.THOMPSON@ATT.N

Signed, sealed and delivered in presence of:

My commission expires: November 4, 2016

Patricia A. Foglia

Notary Public

Titleholder HUGH STITH

Phone # 404 313-3964

E-mail HSTITH@TRACTOR-EQUIPMENT.CO

Signature Hugh Stith  
(attach additional signatures, if needed)

Address: 3100 BRAWDY STATION, ATL GA  
(street, city, state and zip code) 30339

Signed, sealed and delivered in presence of:

My commission expires: November 4, 2016

Patricia A. Foglia

Notary Public

Present Zoning of Property R-20

Location EAST NEWSALEM COMMON

(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 288 & 289

District ZOT4

Size of Tract 1.5254 Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property  Shape of Property \_\_\_\_\_ Topography of Property \_\_\_\_\_ Other

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance (if applying for Backyard Chickens pursuant to Sec. 134-94(4), then leave this part blank).

WE ARE APPLYING FOR A VARIANCE BASED ON THE LOT SIZE. WE OWN 2 ACRES IN THE CITY AND 1.5254 ACRES IN THE COUNTY. WE FEEL WE SHOULD HAVE THE RIGHT TO OWN 3 HENS BASED ON THE FACT THAT OUR ENTIRE FAMILY OWNED PROPERTY IS 3.52 ACRES.

List type of variance requested: \_\_\_\_\_



V-77  
(2015)  
Exhibit

Application No. V-77  
Hearing Date: 5-13-15

**Applicant's information for requesting backyard chickens**

1. How many hens do you propose (no male birds allowed)? 3.
2. Have you mailed a notice of your application and its information to your Homeowners Association (if such exists. Instructions for identifying whether or not Homeowners Associations exist are available for downloading via the Community Development webpage. YES \_\_\_; NO \_\_\_; NO HOA .
3. Can you comply with the County Code Sec-134-94(4)(a-i) below? YES \_\_\_ NO \_\_\_.

  
Signature

JUDSON C THOMPSON  
Print Name

**County Code adopted by the Board of Commissioners March 11, 2014:**

Sec. 134-94 (4) Authorize upon appeal in specific cases related to the minimum lot size of two acres required to maintain poultry as pets or food source. Poultry meaning a female pullet or hen of the Gallus gallus domesticus; also referred to as backyard chickens which are or may be raised for the purpose of providing food or companionship as a pet. In considering whether to authorize the keeping of poultry as provided in this paragraph, the board of zoning appeals shall take into account the impact upon the adjoining property. For the purposes of this section, adjoining shall mean those properties that are directly contiguous and not separated by a public or private roadway. Further, all such applications recommended by the board of zoning appeals for approval shall be subject to the following requirements:

- (a) The poultry shall be kept/ maintained within a fenced area to the rear of the house;
- (b) Coops, or other buildings used for the poultry shall be located at least ten feet off any property line and/or in compliance with the accessory structure requirements in each zoning district;
- (c) The owner of the poultry shall keep the property maintained in a fashion that eliminates odors, pollution or other negative effects resulting from the poultry;
- (d) The poultry shall not cause a nuisance, as defined by State Law;
- (e) There shall be a maximum ratio of one bird per 5,000 square foot of lot area on any lot less than two acres;
- (f) The slaughter of any hen on site is strictly prohibited;
- (g) The fee for the variance application shall be \$150.00; renewal fees shall be \$100.00
- (h) The duration of any Variance approved for Poultry as Pets or Food Source shall not exceed two years; renewable for up to two year terms thereafter;
- (i) Any Variance approved for Poultry as Pets or Food Source shall be considered by the board of commissioners in accordance with Section 134-271. The board of commissioners may add, delete or modify any of the board of zoning appeals stipulations pertaining to this section.

**IMPORTANT NOTE:** The following announcement concerns variance applications requesting backyard chickens relating to the Official Code of Cobb County, Chapter 134-94(4), adopted by the Board of Commissioners on March 11, 2014. Applicants are advised that variance applications requesting backyard chickens which are approved by the Board of Zoning Appeals take the form of a recommendation to the Board of Commissioners (BOC). The Board of Commissioners may add, delete or modify any of the board of zoning appeals stipulations pertaining to this section. The BOC determination will take place the following month at the scheduled Zoning Hearing.