

APPLICANT: Joshua and Lauren Powell

PETITION NO: Z-100

PHONE#: (404) 956-7116 **EMAIL:** powellmom21@yahoo.com

HEARING DATE (PC): 12-01-15

REPRESENTATIVE: _____

HEARING DATE (BOC): 12-15-15

PHONE#: _____ **EMAIL:** _____

PRESENT ZONING R-20 with

TITLEHOLDER: Joshua D. Powell and Lauren Powell

PROPOSED ZONING: R-20 with

PROPERTY LOCATION: West side of Heathermoor Hill Drive,

north of Roswell Road

(2225 Heathermoor Hill Drive)

PROPOSED USE: Amending the Cemetery

ACCESS TO PROPERTY: Heathermoor Hill Drive

SIZE OF TRACT: 0.4594 acre

PHYSICAL CHARACTERISTICS TO SITE: Single-family house

DISTRICT: 1

LAND LOT(S): 166

PARCEL(S): 56

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/Heathermoor Subdivision

SOUTH: R-20/Heathermoor Subdivision

EAST: R-20/Heathermoor Subdivision

WEST: R-20/Willeo Cemetery

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

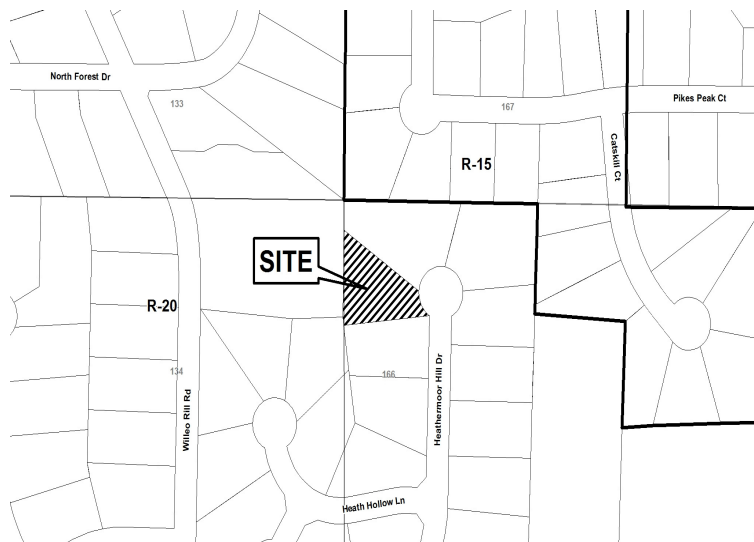
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

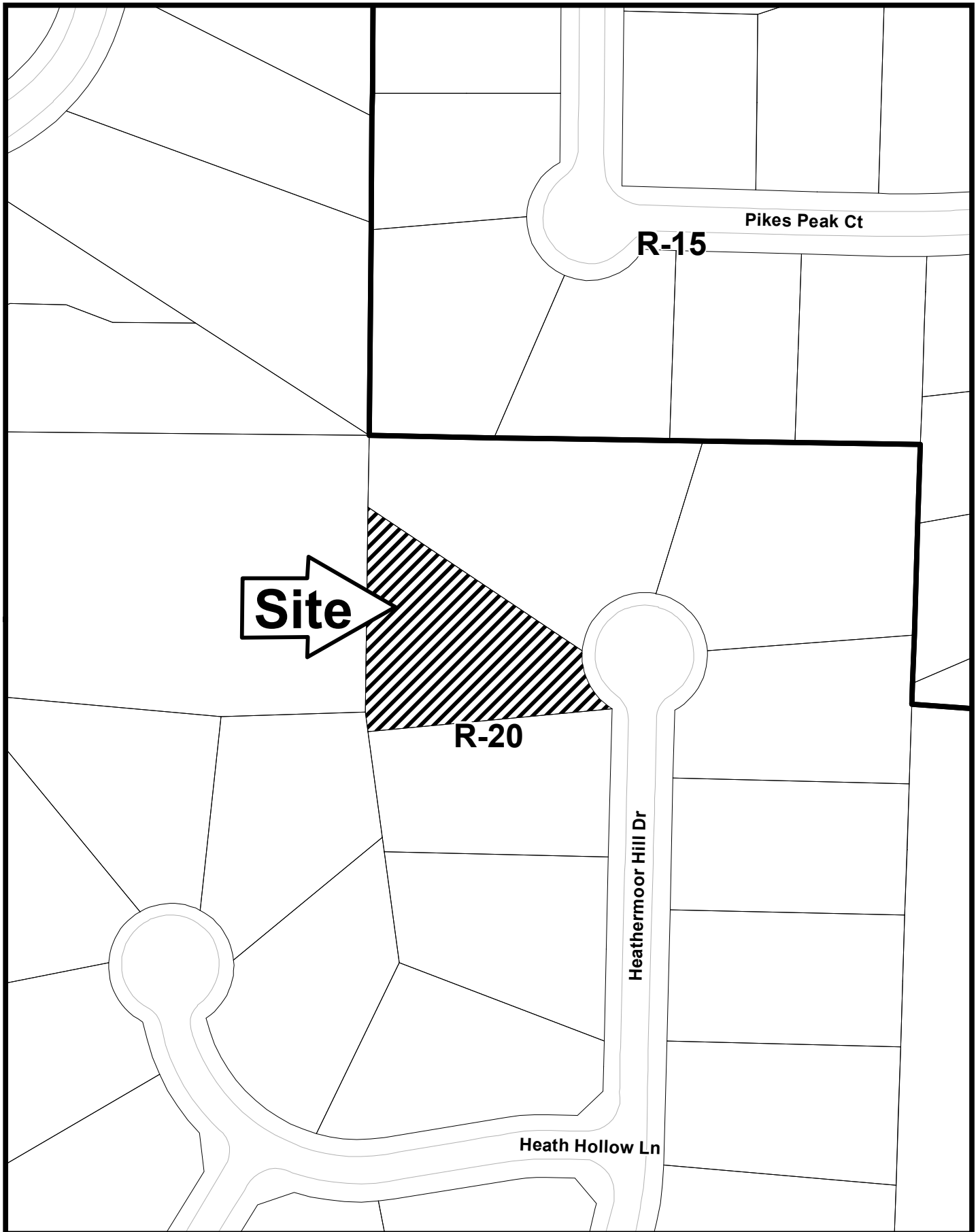
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

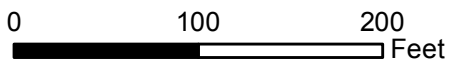
STIPULATIONS:





Z-100



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Joshua and Lauren Powell

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PRESENT ZONING: R-20 with Stipulations

PETITION FOR: R-20 with Stipulations

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Low Density Residential (1-2.5 units per acre)

Proposed Number of Units: 1 (Existing) **Overall Density:** 1.83 (Existing Subdivision) **Units/Acre**

Staff estimate for allowable # of units: 1 **Units*** **Increase of:** 0 **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.

Applicants are requesting to rezone their property from R-20 with stipulations to R-20 with stipulations in order to revise the cemetery buffer requirement. The subdivision was originally rezoned in 2004 (as Z-25) and included numerous stipulations, including a 50-foot undisturbed buffer abutting the cemetery. This buffer has subsequently been indicated on recorded plats for Heathermoor Subdivision. The property was again part of another rezoning application from 2014 (Z-78) for same purpose. That case was denied and the applicant was instructed by the Board of Commissioners to work with the County Arborist in order to restore the 50-foot buffer.

Cemetery Preservation: Zoning petition Z-100, 2015 (parcel 56 in land lot 166 of the 1st District) shows the presence of Willeo Baptist Cemetery.

The applicant is requesting a modification to the application that was approved February 17, 2004 (Exhibit A).

To reduce the cemetery buffer along the rear property line of lot from a 50-foot undisturbed, natural buffer to an undetermined amount.

Our Cemetery Preservation Committee does not support their request to:

Decrease the buffer. We are not prepared to change the development standards and compromise the original stipulations that were approved by the Cobb County Board of Commissioners on February 17, 2004.

The changes proposed would set precedent for the county and jeopardizes the sanctity of cemeteries throughout the county.

The buffer is clearly shown on the final plat of the subdivision that all homeowners receive. The Willeo Baptist Cemetery predates the Heathermoor Subdivision by over 100 years and the development standards are in place to ensure that the cemetery remains protected for another 100 years.

The Cemetery Preservation Committee is unanimous in its recommendation to the Cobb County Board of Commissioners to deny application Z-100.

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FIRE COMMENTS:

No comment. 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: Joshua and Lauren Powell
PRESENT ZONING: R-20 with Stipulations

PETITION NO.: Z-100
PETITION FOR: R-20 with Stipulations

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 with stipulations to R-20 with stipulations for the purpose of single family residential (existing). The .4594 acre site is located on the west side of Heathermoor Hill Drive.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary? Yes No
If yes, has the city of _____ been notified? Yes No / N/A

Comprehensive Plan

The parcel is within a Low Density Residential (LDR) future land use category, with R-20 zoning designation. The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre, and non supportive senior living housing that in certain circumstances may reach five (5) dwelling units per acre, depending on existing conditions such as product type and mix, structure/building height, tract size, topographic conditions, etc in order to provide compatibility with adjacent residential uses.

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

North: Low Density Residential (LDR)
East: Low Density Residential (LDR)
South: City of Smyrna
West: Public Institution (PI) and Low Density Residential (LDR)

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

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

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PLANNING COMMENTS: **Continued**

The Smyrna-Osborne 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 incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

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

Is this property within the Six Flags Special Service District?
 Yes No

APPLICANT Joshua and Lauren Powell

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PRESENT ZONING R-20 with stips

PETITION FOR R-20 with stips

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): 6" DI / W side of Heathermoor drive

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: Heathermoor Drive

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

Treatment Plant: Big Creek

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.

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PRESENT ZONING: R-20 w/ stips

PETITION FOR: R-20 w/ stips

STORMWATER MANAGEMENT COMMENTS

The Stormwater Management Division is not in favor of a reduction or elimination of the existing undisturbed buffer.

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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
Heathermoor Hill Drive	N/A	Local	25 mph	Cobb County	50'

COMMENTS AND OBSERVATIONS

Heathermoor Hill Drive is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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

STAFF RECOMMENDATIONS

Z-100 JOSHUA AND LAUREN POWELL

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is not suitable in view of the use and development of adjacent and nearby properties. The property's original rezoning stipulated a 50-foot cemetery buffer in order to properly protect the adjacent cemetery.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. The requested reduction in the cemetery buffer may allow encroachment and disturbance into the cemetery.
- C. It is Staff's opinion that the applicant's rezoning proposal will 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 is delineated as Low Density Residential (LDR) and the density of the existing subdivision is within the LDR range of 1-2.5 units per acre. However, this request is to revise the stipulated 50-foot undisturbed cemetery buffer, which is of great concern for the Cobb County Cemetery Preservation Commission because the buffer was put in place specifically to protect the cemetery.
- 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 denying the applicant's rezoning proposal. The original zoning application from 2004 (Z-25) was approved with the stipulation that the 50-foot undisturbed buffer be put in to protect the abutting Willeo Cemetery. At that time, front setbacks were reduced on several lots, including the subject parcel, waiving rear setbacks – with the exception of the 50-foot undisturbed cemetery buffer. Staff believes approving this request will set a precedence that would allow encroachments in similar cemetery buffers.

Based on the above analysis, Staff recommends DENIAL.

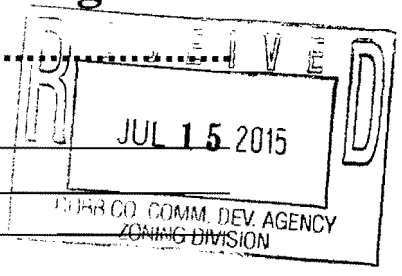
The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

Application No. Z-168

PC: 12-1-15

BOC: 12-15-15

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): N/A Existing structure
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

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

- a) Proposed use(s): N/A
- b) Proposed building architecture: _____
- c) Proposed hours/days of operation: _____
- d) List all requested variances: _____

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

The subject property was rezoned to the R-20 zoning classification on February 17, 2004 (Z-25 Cornerstone Craftsmen, Inc.) subject to numerous stipulations/conditions. The Applicants submit this rezoning request to revise one of the stipulations requiring a 50 foot natural, undisturbed cemetery buffer along the rear property line of the subject property.

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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). N/A

*Applicants specifically reserve the right to amend any information set forth in this Summary of Intent for Rezoning, or any other portion of the Application for Rezoning, at any time during the rezoning process.