

APPLICANT: Joshua Powell, Sr. and Lauren Powell
PHONE#: (404) 956-7116 **EMAIL:** powellmom21@yahoo.com
REPRESENTATIVE: Lauren Powell
PHONE#: (404) 956-7116 **EMAIL:** powellmom21@yahoo.com
TITLEHOLDER: Joshua D. Powell and Lauren Powell

PETITION NO: Z-5
HEARING DATE (PC): 02-07-17
HEARING DATE (BOC): 02-21-17
PRESENT ZONING: R-20 with Stipulations
PROPOSED ZONING: R-20 with Stipulations

PROPERTY LOCATION: West side of Heathermoor Hill Drive,
north of Roswell Road
(2225 Heathermoor Hill Drive)
ACCESS TO PROPERTY: Heathermoor Hill Drive
PHYSICAL CHARACTERISTICS TO SITE: Single Family House

PROPOSED USE: Amending the Cemetery
Preservation Stipulations
SIZE OF TRACT: 0.4594 acres
DISTRICT: 1
LAND LOT(S): 166
PARCEL(S): 56
TAXES: PAID X **DUE** _____
COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/Heathermoor Subdivision
SOUTH: R-20/Heathermoor Subdivision
EAST: R-20/Heathermoor Subdivision
WEST: R-20/Willeo Cemetery

Adjacent Future Land Use:

Northeast: Low Density Residential (LDR)
 East: Low Density Residential (LDR)
 South : Low Density Residential (LDR)
 West: Public Institutional (PI) and Low Density Residential (LDR)

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

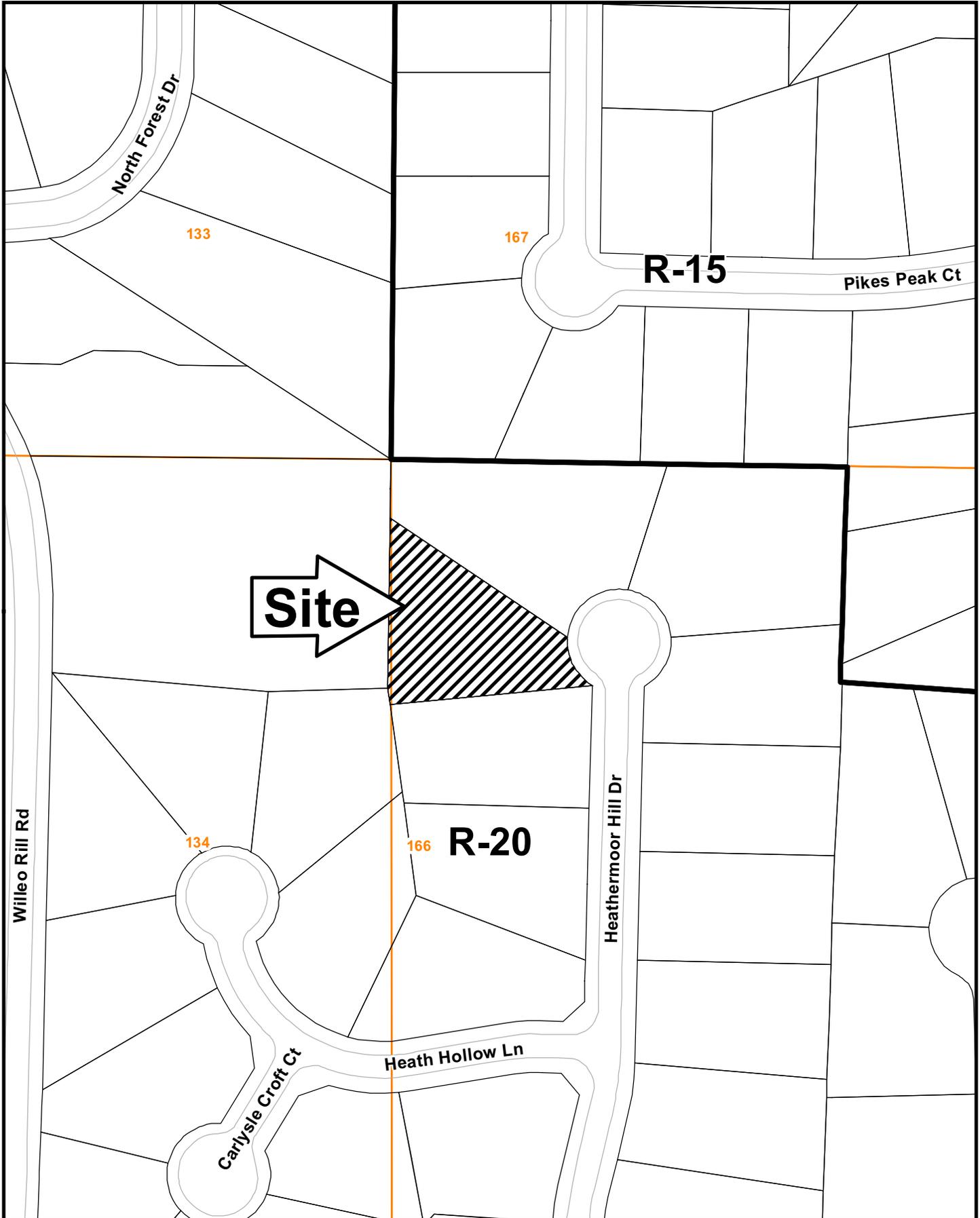
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

STIPULATIONS:



Z-5-2017 GIS



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: Joshua Powell, Sr. and Lauren Powell

PETITION NO.: Z-5

PRESENT ZONING: R-20 w/Stipulations

PETITION FOR: R-20 w/Stipulations

ZONING COMMENTS:

Staff Member Responsible: Donald Wells & John Pederson

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. The property again part of another rezoning application in 2015 (Z-100). That application was denied as well with instructing by the Board of Commissioners to work with the County Arborist in order to restore the 50-foot buffer. As of the filling of this application the buffer has not been restored.

Cemetery Preservation: Zoning petition Z-5, 2017 (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-5.

APPLICANT: Joshua Powell, Sr. and Lauren Powell

PETITION NO.: Z-5

PRESENT ZONING: R-20 w/Stipulations

PETITION FOR: R-20 w/Stipulations

SCHOOL COMMENTS:

Approval of this petition will not have an impact on the enrollment at Cobb County schools.

APPLICANT: Joshua Powell Sr & Lauren Powell

PETITION NO.: Z-5

FIRE COMMENTS:

NO COMMENTS: 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 Powel, Sr. and Lauren Powell
PRESENT ZONING: R-20 with Stipulations

PETITION NO.: Z-5
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 amending the cemetery preservation stipulations. The 0.4594 acre site is located on the west side of Heathermoor Hill Drive, north of Roswell Road (2225 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. This category presents a range of densities.

Specific Area Policy Guidelines:

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

Adjacent Future Land Use:

Northeast: Low Density Residential (LDR)
East: Low Density Residential (LDR)
South : Low Density Residential (LDR)
West: Public Institutional (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
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.

APPLICANT: Joshua Powel, Sr. and Lauren Powell
PRESENT ZONING: R-20 with Stipulations

PETITION NO.: Z-5
PETITION FOR: R-20
with Stipulations

PLANNING COMMENTS:

CONT.

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

Is the property within the Dobbins Airfield Safety Zone?

Yes No

If so, which particular safety zone is this property within?

CZ (Clear Zone) APZ I (Accident Potential Zone I)

APZ II (Accident Potential Zone II)

Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Joshua Powell Sr and Lauren Powell

PETITION NO. Z-005

PRESENT ZONING R-20 w/stips

PETITION FOR R-20 w/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 Hill Dr.

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 Hill Drive ROW

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

Dry 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: Existing sewer customer

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: Joshua Powell, Sr and Lauren Powell

PETITION NO.: Z-5

PRESENT ZONING: R-20 w/ stips

PETITION FOR: R-20 w/ stips

STORMWATER MANAGEMENT COMMENTS

No comments.

APPLICANT: Joshua Powell, Sr. and Lauren Powell

PETITION NO.: Z-5

PRESENT ZONING: R-20 with stipulations

PETITION FOR: R-20 w/stipulations

TRANSPORTATION COMMENTS:

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-5 JOSHUA POWELL, SR. AND LAUREN POWELL

- A. It is Staff's opinion that the applicant's rezoning proposal may 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. Staff has not been supportive of completely waiving the required cemetery buffer for the last two rezoning cases for this property.
- B. It is Staff's opinion that the applicant's rezoning proposal may have an adverse effect on the usability of adjacent or nearby property. Staff is not supportive of reducing the buffer completely. However, the 50' cemetery buffer comes up along the rear line of the back of the house. Staff would be supportive of reducing the cemetery buffer to 25' for this lot after visiting the site. This would allow the applicant to have a small backyard to enjoy and would allow a cemetery buffer that could provide a visual and noise screen between the uses.
- 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 approving the applicant's rezoning proposal for a 25' reduction in the cemetery buffer. After an onsite visit, Staff believes a 25' landscape and natural buffer would provide protection for the cemetery. At the onsite visit, Staff did note that the applicant's house sits lower than the cemetery and the applicant has a row of leland cypress trees that already provide for visual screening between the uses (see attached photos). Staff does believe more landscaping would have to be added in certain areas to improve screening which would have to be approved by the county arborist.

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

1. Cemetery buffer be reduced to 25'.
2. Applicant submit a landscape plan to the County Arborist within 30 days of the final rezoning decision.
3. Applicant to have the 25' cemetery buffer planted within 60 days of the final rezoning decision.
4. Allowance to keep retaining wall in its current location and size.
5. All previous stipulations not in conflict.

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. 2-5

Feb. 2017

Summary of Intent for Rezoning

.....
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: _____
- _____

.....
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: _____
- _____

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

The subject property was rezoned to the R-20 zoning classification 2/17/04 (2-25) Limestone (craftsmen) subject to numerous stipulations (conditions) we are submitting this application to revise one of the stipulations requiring the 50 ft. buffer & be able to allow the wall and maintain the property.

.....
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

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 15, 2015
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REGULAR AGENDA (CONT.)

Z-97 SUNSPRING LAND INVESTORS (CONT.)

9. **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

Clerk's Note: Chairman Lee expressed his concern for the sensitivity of lake regarding sedimentation in the future.

The above motion and stipulations for Z-97 were amended later in the hearing, see page 22 of these minutes for additional stipulations.

Z-100 JOSHUA AND LAUREN POWELL (Joshua D. Powell and Lauren Powell, owners) requesting Rezoning from **R-20 with Stipulations** to **R-20 with Stipulations** for the purpose of Amending The Cemetery Preservation Stipulations From A Previous Zoning Case in Land Lot 166 of the 1st District. Located on the west side of Heathermoor Hill Drive, north of Roswell Road (2225 Heathermoor Hill Drive).

The public hearing was opened, and Ms. Lauren Powell and Ms. Jill Flamm addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Ott, to **deny** Z-100.

VOTE: ADOPTED 4-1, Cupid opposed

Clerk's Note: Commissioner Birrell directed the Applicant to work with the County Arborist to restore the buffer.

~~*Chairman Lee called for a recess at 10:49 a.m., the hearing reconvened at 10:56 a.m.*~~

Z-5 photo from cemetery side #1

Applicant house



Z-5 photo from cemetery side #2

Applicant house

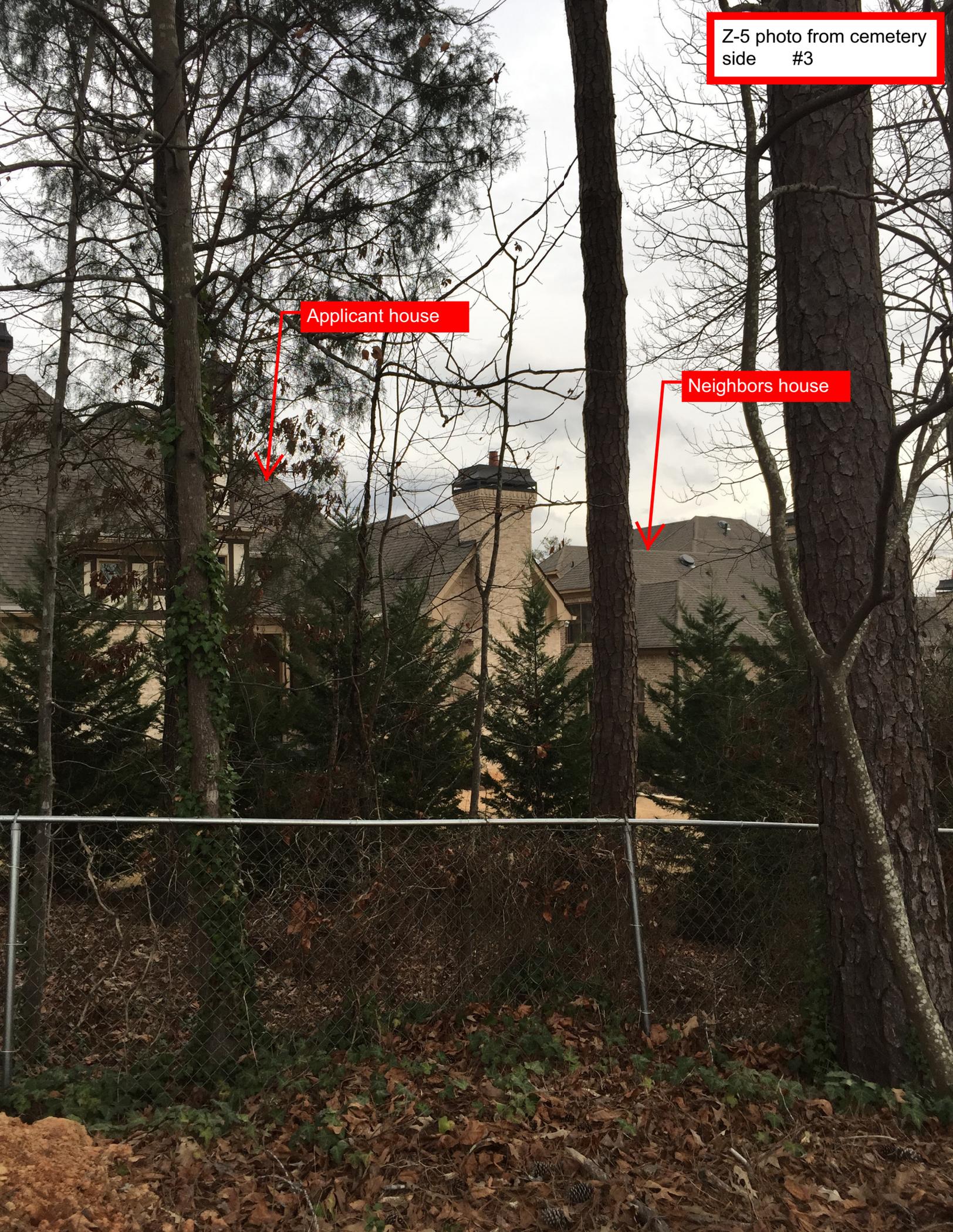
Neighbors house



Z-5 photo from cemetery side #3

Applicant house

Neighbors house



Z-5 photo from cemetery side #4

Applicant house



