



**APPLICANT:** Capkey Real Estate Advisors

**PHONE#:** 404-220-7608 **EMAIL:** Loren.wimptheimer@capkeyrealestate.com

**REPRESENTATIVE:** Garvis L. Sams, Jr.

**PHONE#:** 770-422-7016 **EMAIL:** gsams@slhb-law.com

**TITLEHOLDER:** See file for list of titleholders

**PROPERTY LOCATION:** Located on the north side of Dallas

Highway, on the east side of County Road, and on the west side of

Bob Fleming Road

**ACCESS TO PROPERTY:** Dallas Highway and County Road

**PHYSICAL CHARACTERISTICS TO SITE:** Single-family houses

on large tracts and undeveloped acreage

**CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** R-30/Sweet Pine Creek Subdivision and single-family houses

**SOUTH:** R-30/Single-family houses

**EAST:** R-30/Green Meadows Preserve Park

**WEST:** R-30/Single-family houses

**PETITION NO:** Z-114

**HEARING DATE (PC):** ~~12-06-16~~ 02-07-17

**HEARING DATE (BOC):** ~~12-20-16~~ 02-21-17

**PRESENT ZONING:** R-30

**PROPOSED ZONING:** R-20 OSC

**PROPOSED USE:** Residential subdivision

**SIZE OF TRACT:** 67.721 acres

**DISTRICT:** 20

**LAND LOT(S):** 335

**PARCEL(S):** 1, 3, 20, 22, 24, 25

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 1

*Adjacent Future Land Use:*

North: Very Low Density Residential (VLDR)

East: Park / Recreation / Conservation (PRC)

South: Very Low Density Residential (VLDR)

West: Very Low Density Residential (VLDR)

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

**PLANNING COMMISSION RECOMMENDATION**

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

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

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

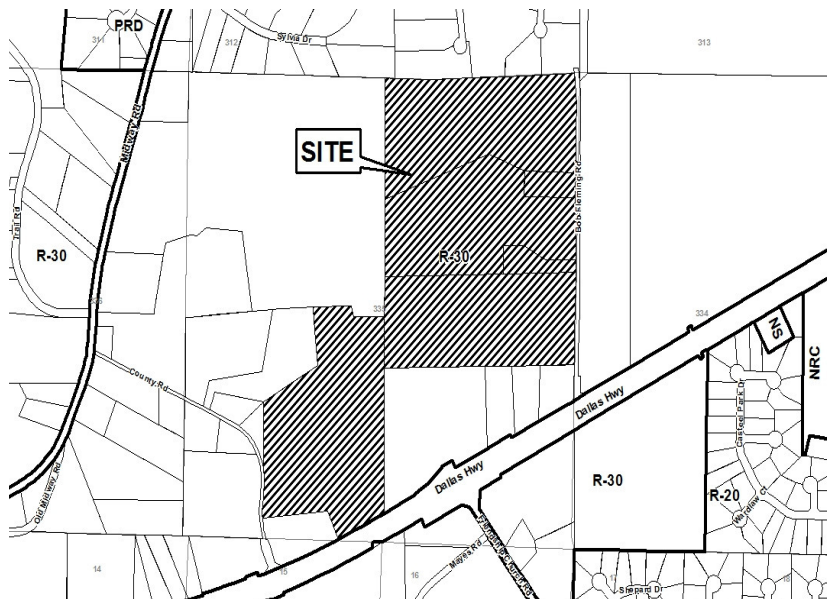
**BOARD OF COMMISSIONERS DECISION**

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

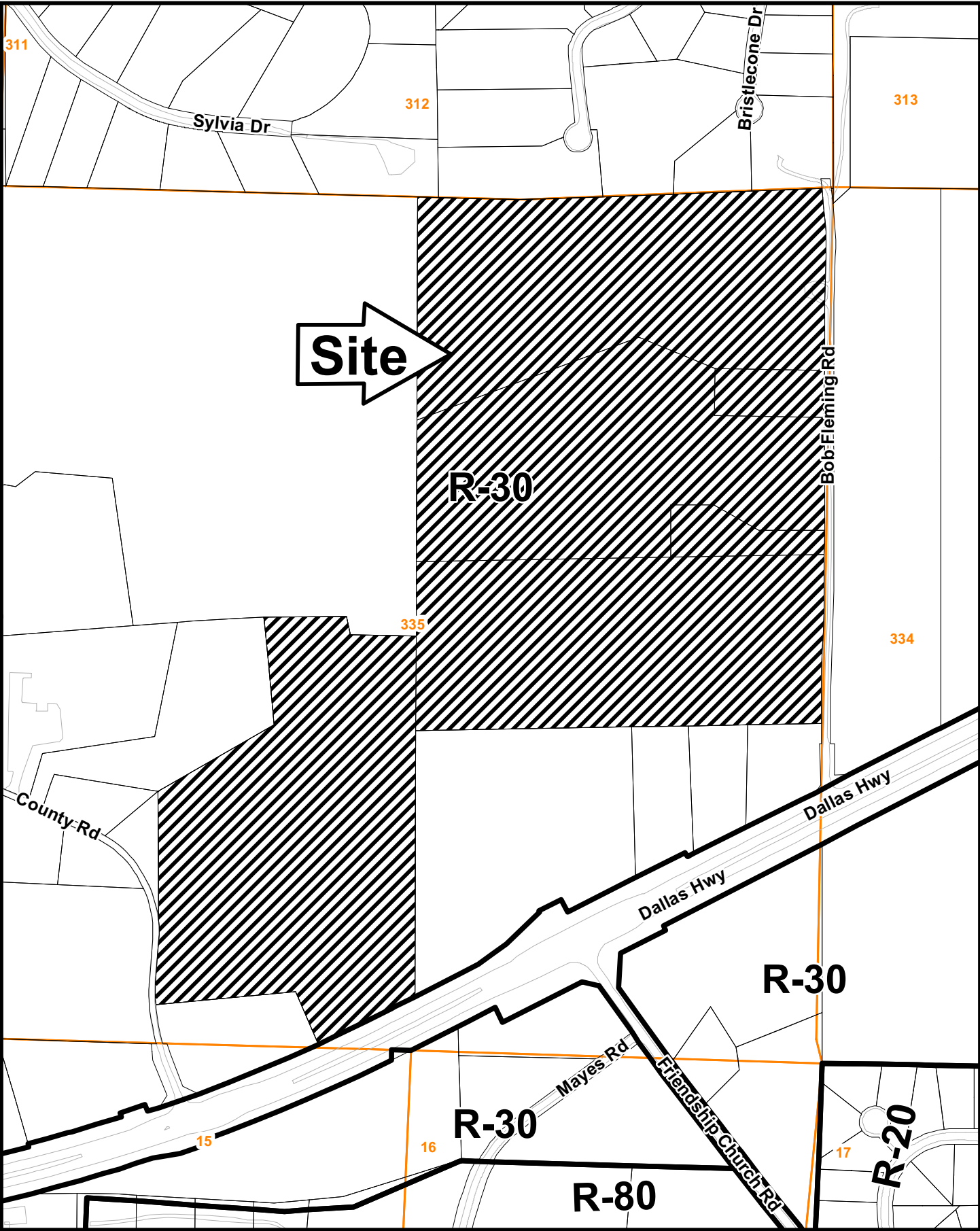
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

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

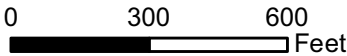
**STIPULATIONS:**



# Z-114-2016 GIS



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



- City Boundary
- Zoning Boundary

**APPLICANT:** Capkey Real Estate Advisors

**PETITION NO.:** Z-114

**PRESENT ZONING:** R-30

**PETITION FOR:** R-20 OSC

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**ZONING COMMENTS:**

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

**Land Use Plan Recommendation:** Very Low Density Residential (0-2 units per acre)

**Proposed Number of Units:** 108      **Overall Density:** 1.64      **Units/Acre**

**Staff estimate for allowable # of units:** 72      **Units\***      **Increase of:** 36      **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/OSC zoning district for the purpose of developing a 108-lot single-family open space subdivision. The proposed houses will range in size from 3,000 square feet to 4,500 square feet, and will be traditional with four-sided architecture. The price range will be \$350,000 to \$450,000 (price is only for informational purposes, home prices cannot be set by the County).

The proposed site plan indicates 29.5 acres (43.6%) to be set aside as open space. The minimum proposed lot size is 10,000 square feet, with an average lot size of 10,400 square feet.

The proposed site plan will require a contemporaneous variance to waive the rear setbacks on lots abutting R-30 from 40 feet to 30 feet.

**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 lot.

**APPLICANT:** Capkey Real Estate Advisors

**PETITION NO.:** Z-114

**PRESENT ZONING:** R-30

**PETITION FOR:** R-20 OSC

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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>Due West</u>	<u>601</u>	<u>494</u>	<u>                    </u>
<b>Elementary</b> <u>Lost Mountain</u>	<u>1064</u>	<u>1046</u>	<u>                    </u>
<b>Middle</b> <u>Harrison</u>	<u>1990</u>	<u>2587</u>	<u>                    </u>

**High**

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

**Additional Comments:** Approval of this petition will have a significant impact on the enrollment at these schools, and we oppose its approval.

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**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: Capkey Real Estate Advisors**

**PETITION NO.: Z-114**

**PRESENT ZONING: R-30**

**PETITION FOR: R-20 OSC**

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning from R-30 to R-20 Open Space Community (OSC) for the purpose of a residential subdivision. The 68.87 acre site is located on the north side of Dallas Highway, on the east side of County Road, and on the west side of Bob Fleming Road.

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 Very Low Density Residential (VLDR) future land use category, with R-30 zoning designation. The purpose of the Very Low Density Residential (VLDR) category is to provide for areas that are suitable for very low density housing, particularly in locations which may not have basic services such as sewer, or where the existing or desired residential development pattern is zero to two (2) dwelling units per acre.

Specific Area Policy Guidelines:

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

Adjacent Future Land Use:

North: Very Low Density Residential (VLDR)  
East: Park / Recreation / Conservation (PRC)  
South: Very Low Density Residential (VLDR)  
West: Very Low Density Residential (VLDR)

Master Plan/Corridor Study

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

Historic Preservation

After reviewing various county resources including historic and archeological resource surveys and documented Civil War trench maps, it is determined that a c. 1870 house is located within the project area. Due to the age and location of the structure, information about this resource and its occupants appears to have the potential to contribute significantly to the county's public history. Staff recommends the home either be incorporated into the development or, alternately, documented if destroyed.

In order to properly document this structure, its inhabitants, and the role it played in Cobb County's history, staff requests a history of the home and its occupants (as well as archival-quality photographs of the structure, all outbuildings, and its setting) be completed by a cultural resource consultant. These materials should be submitted to the historic preservation planner.

Design Guidelines

If yes, design guidelines area Dallas Highway Design Guidelines

Does the current site plan comply with the design requirements?

- Pedestrian access to buildings  
 Yes  No  Not applicable
- Streetscape elements  
 Yes  No  Not applicable

**APPLICANT: Capkey Real Estate Advisors**

**PETITION NO.: Z-114**

**PRESENT ZONING: R-30**

**PETITION FOR: R-20 OSC**

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**PLANNING COMMENTS:**

CONT.

- Building Frontage  
 Yes      No      Not applicable
- Parking Standard  
 Yes      No      Not applicable
- Architecture standard  
 Yes      No      Not applicable

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.

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

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## **COBB COUNTY COMMUNITY DEVELOPMENT AGENCY**

Planning Division  
1150 Powder Springs Street  
Marietta, Georgia 30060  
(770) 528-2018

Planning Staff Analysis

### **Z-114**

Date: **January 6, 2017**  
Site Plan Date: **Revised Stamped Received December 28, 2016**  
Contact: Philip Westbrook (770) 528-2014

**Property Location:** North side of Dallas Hwy., east side of County Rd., west side of Bob Fleming Rd.  
**Land Lot/District:** 335 / 20  
**Current Zoning:** R-30  
**Proposed Use:** R-20 OSC

**Total Area:** 67.721 acres  
**Floodplain/Wetland Area/Cemetery:** 1.81  
**Net Buildable Area:** 65.9  
**Base Density Allowed:** 1.75 upa  
**Base Density Allowed w/Bonus:** 1.92 upa  
**Proposed Lots:** 108  
**Net Density:** 1.64 upa  
**Future Land Use:** Very Low Density Residential (0 to 2 upa)

**Open Space Requirement:** 23.7 acres or 35%; for bonus 26.1 acres or 38.5%  
**Open Space Proposed:** 29.5 acres or 43.6%  
**Percentage of Open Space within Floodplain, Wetlands, & Lakes:** 6%

#### **Setbacks:**

Front: 15'  
Rear: Interior = 20'; Exterior = 30' lot setback  
Side: 7.5'

**NOTE:** Open Space community overlay plans are approved as site plan specific

#### **Comments:**

1. Overall development shall be compatible with neighboring residential uses. To help mitigate concerns in areas where adjoining neighborhood lots are larger than those proposed, the plan should incorporate larger lots adjacent to the existing neighborhoods with smaller lots designed to the interior.
2. Site plan notes Amenity & Parking area within Open Space. Need to indicate acreage of Amenity and Parking area and subtract it out of Open Space. Open space requirement will still need to be at least 35%.

3. A Conservation Easement must be recorded in the mandatory subdivision covenants and with Cobb Superior Court, thereby protecting the “Open Space” from development in perpetuity as owned by the mandatory Home Owners Association. Conservation Easement application must be submitted to the Planning Division before final plat approval.

**Recommendations:**

4. For all lots contiguous to open space staff recommends including a deed during sale of homes so that future lot owners are aware that commonly owned open space exists adjacent to their property and cannot be built on.
5. As another form of privacy barrier staff recommends installing fence (split rail or any fencing compatible with architecture/landscaping/design of development) to the rear of lots that are adjacent to open space

APPLICANT Capkey Real Estate Advisor

PETITION NO. Z-114

PRESENT ZONING R-30

PETITION FOR R-20 OSC

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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 Dallas Hwy

Additional Comments: Development Standards call for secondary water feed

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: 600' N with easements

Estimated Waste Generation (in G.P.D.): A D F= 21,120 Peak= 52,800

Treatment Plant: Northwest

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:

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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PETITION NO.: Z-114

PRESENT ZONING: R-30

PETITION FOR: R-20 OSC

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Trib to Allatoona 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: within or adjacent to stream channels

- 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 CONDITIONS

- 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 stream.

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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 Revised Comments based on Plan received 12/28/2016

1. This site is located adjacent to an unnamed tributary to Allatoona Creek just north of Dallas Highway and west of Bob Fleming Road. The site is mostly wooded with several small cleared areas. Average slopes range widely from approximately 3 to 20%. There is a small existing pond (~0.5 ac) located in the north central portion of the site. This dam must be brought up to current Cobb County design standards. The current approximate 100-year floodplain on the site encumbers approximately 3.5 acres.
2. The site is located within the 7-mile water intake on Allatoona Creek and therefore the main stream through the site has an expanded 100-foot undisturbed buffer and 50-foot impervious setback. . This stream is also considered an impaired stream and has a TMDL limit established for fecal coliform. Elevated water quality measures will be required. Due to the impaired status of this stream it is unlikely that any buffer variances would be allowed.

**APPLICANT:** Capkey Real Estate Advisors

**PETITION NO.:** Z-114

**PRESENT ZONING:** R-30

**PETITION FOR:** R-20, OSC

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**TRANSPORTATION COMMENTS:**

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Dallas Highway	43,300	Arterial	55 mph	Georgia DOT	100'
County Road	N/A	Local	25 mph	Cobb County	50'
Bob Fleming Road	N/A	Local	25 mph	Cobb County	50'

*Based on 2002 traffic counting data taken by Cobb County DOT for Dallas Highway.*

**COMMENTS AND OBSERVATIONS**

Dallas Highway is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

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

Bob Fleming Road is classified as a local 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 to 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 east side of County Road, a minimum of 25' from the roadway centerline.

Recommend applicant consider entering into a development agreement pursuant to 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 west side of Bob Fleming Road, a minimum of 25' from the roadway centerline upon redevelopment.

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

Recommend curb and gutter along both sides and sidewalk along one side of proposed development roadway.

Recommend curb, gutter, and sidewalk along the frontage of Dallas Highway.

Recommend a deceleration lane on Dallas Highway for the entrance.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

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## STAFF RECOMMENDATIONS

### **Z-114 CAPKEY REAL ESTATE ADVISORS**

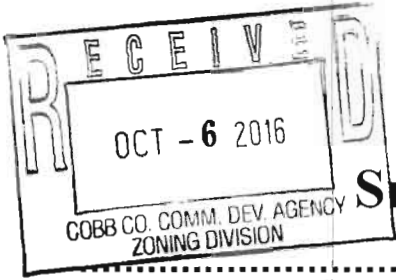
- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. Other properties in the area are zoned R-30 and R-20 for single-family subdivisions and houses and the subject property is bordered by Green Meadows Preserve Park to the east.
- 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 density is similar to some of the subdivisions in this area.
- 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 or utilities. This opinion can be supported by the departmental comments contained in this analysis. However, the School System is concerned the proposal could significantly impact certain schools.
- 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 as being in the Very Low Density Residential (VLDR) land use category, having densities ranging from 0-2 units per acre. The applicant's requested R-20/OSC and proposed density of 1.64 units per acre are compatible with the VLDR land use category. Other developments in the area include: Sweet Pine Creek Subdivision, Unit IV (zoned R-30 at 0.48 units per acre); Madison Woods, Unit II, Phase 3 (zoned PRD at 1.50 units per acre); Casteel Park (zoned R-20 at 1.66 units per acre); and Churchill Manor (zoned R-20 at approximately 1.88 units per acre).
- 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 applicant's proposal is consistent with the VLDR land use designation at 1.64 units per acre and is similar to some of the developments in the area.

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

1. Site plan received by the Zoning Division on December 28, 2016, with the District Commissioner approving minor modifications;
2. Variance mentioned in the Zoning Comments section;
3. Planning Division comments and recommendations;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations;
6. Department of Transportation comments and recommendations; and
7. 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.**





Application No. Z-114

PC Hearing: 12-6-2016  
BOC Hearing: 12-20-2016

## Summary of Intent for Rezoning\*

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

- a) Proposed unit square-footage(s): 3,000 - 4,500 and greater
- b) Proposed building architecture: Traditional - Four Sided Architecture
- c) Proposed selling prices(s): \$350,000 - \$450,000
- d) List all requested variances: As shown on the site plan.

.....  
**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)**

This tract is situated within a Very Low Density Residential (VLDR) future land use category with an R-30 zoning designation. The development and the site plan, as proposed, meet the technical requirements of the OSC ordinance and the minimum required percentage of Open Space for an R-20 OSC development, and is consistent with the County's Future Land Use Map at a density of 1.92 units per acre.

.....  
**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).** None known at this time.

\* Applicant specifically reserves 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.