



APPLICANT: Fatimah Willoughby

PETITION NO: Z-28

PHONE#: (404) 729-1529 EMAIL: lsfwilloughby@gmail.com

HEARING DATE (PC): 06-06-17

REPRESENTATIVE: Garvis L. Sams, Jr.

HEARING DATE (BOC): 06-20-17

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

PRESENT ZONING: NS

TITLEHOLDER: Marietta Properties, LLC

PROPOSED ZONING: NRC

PROPERTY LOCATION: North side of Shallowford Road, west of  
Steinhauer Road  
(2499 Shallowford Road)

PROPOSED USE: Nursery School/Child Day  
Care

ACCESS TO PROPERTY: Shallowford Road

SIZE OF TRACT: 0.94 acres

PHYSICAL CHARACTERISTICS TO SITE: Existing Daycare

DISTRICT: 16

LAND LOT(S): 311

PARCEL(S): 40

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

COMMISSION DISTRICT: 3

**CONTIGUOUS ZONING/DEVELOPMENT**

NORTH: R-20/ Carlile Acres Subdivision

SOUTH: NRC/ Hardware Store

EAST: NRC/ Office Condos

WEST: R-20/ Undeveloped Lot

Adjacent Future Land Use:

North: Low Density Residential (LDR)

Southeast: Neighborhood Activity Center (NAC)

South: Neighborhood Activity Center (NAC)

(diagonally to the west across the road ROW,  
there is Low Density Residential)

West: Neighborhood Activity Center (NAC)

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

**PLANNING COMMISSION RECOMMENDATION**

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

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

HELD \_\_\_\_\_ VOTE \_\_\_\_\_

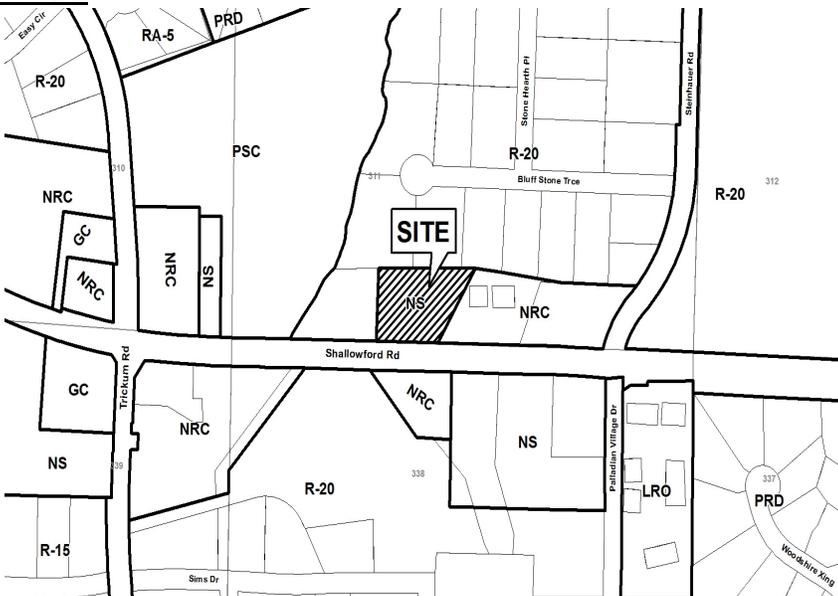
**BOARD OF COMMISSIONERS DECISION**

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

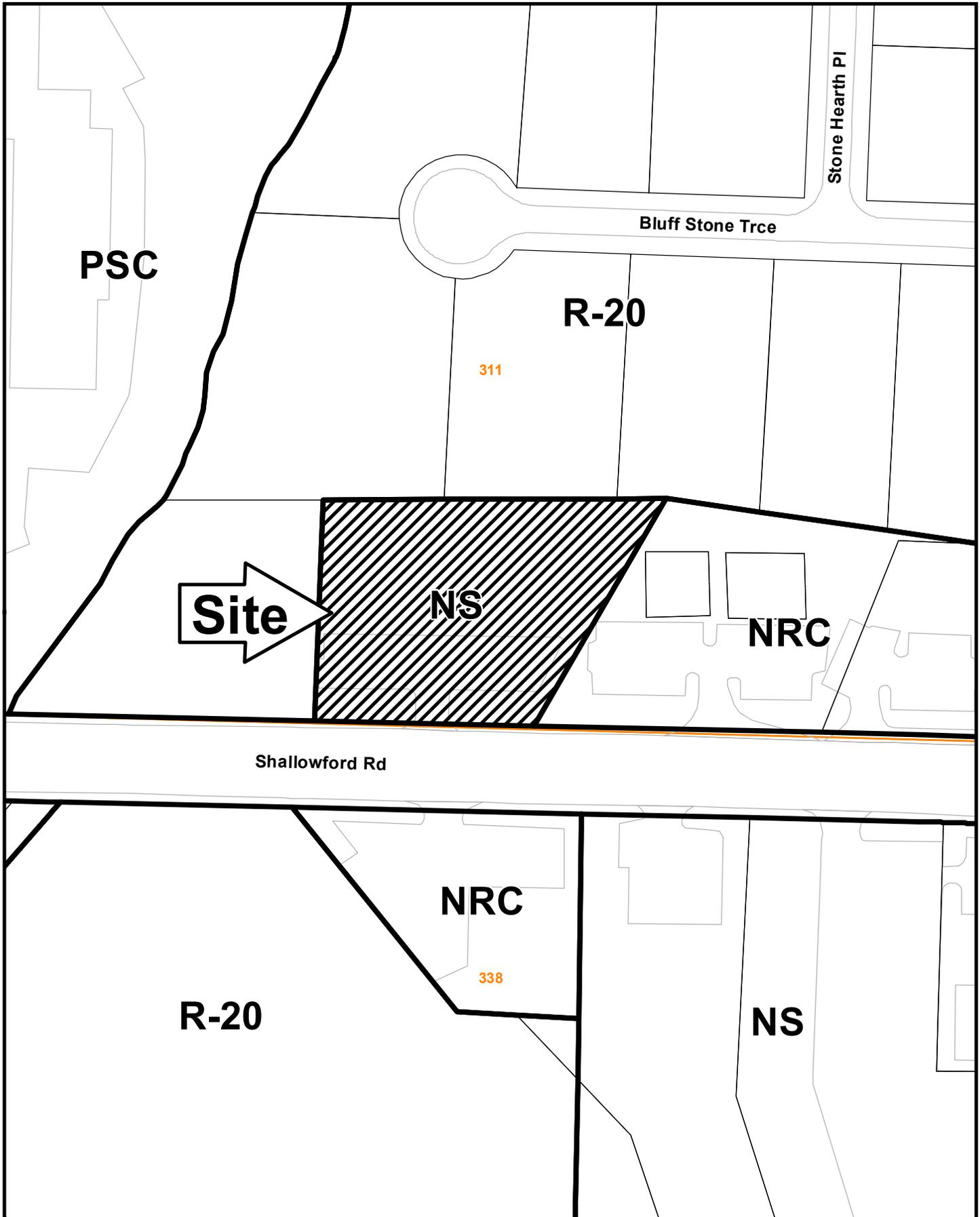
REJECTED \_\_\_\_\_ SECONDED \_\_\_\_\_

HELD \_\_\_\_\_ VOTE \_\_\_\_\_

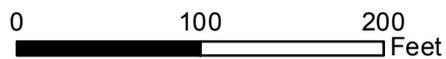
STIPULATIONS:



# Z-28-2017-GIS



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



-  City Boundary
-  Zoning Boundary

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**PRESENT ZONING:** NS

**PETITION FOR:** NRC

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**ZONING COMMENTS:**

**Staff Member Responsible:** Donald Wells

**Land Use Plan Recommendation:** Neighborhood Activity Center (NAC)

**Proposed Number of Buildings:** 1 (existing) **Total Square Footage of Development:** 5136

**F.A.R.:** 1.25 **Square Footage/Acre:** 5464

**Parking Spaces Required:** 20 **Parking Spaces Provided:** 21

The applicant is applying for the NRC zoning district to operate a daycare. The daycare will be open Monday through Friday from 6:30 AM to 7:00 PM. The applicant will use the building as it is with only minor modifications and improvements. The building was built for a daycare in 1987 and has been used as a daycare. The current NS zoning district requires the Future Land Use category to be a Regional Activity Center or a Community Activity Center, if the property is not the property is considered nonconforming. A nonconforming use cannot be reinstated after it has been abandoned for longer than 6 months.

**Cemetery Preservation:** No comment.

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**SCHOOL COMMENTS:**

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

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

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

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**SITE PLAN REVIEW SECTION COMMENTS:**

The property owner will be required to obtain a Land Disturbance Permit if there are any staff comments or approval stipulations which require any type of site modifications (fencing, landscaping, curb/gutter and sidewalk installation, etc.).

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**FIRE COMMENTS:**

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**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.

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PRESENT ZONING: NS

PETITION FOR: NRC

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning from NS to NRC for the purpose of nursery school / child day care. The 0.94 acre site is located on the north side of Shallowford Road, west of Steinhauer Road (2499 Shallowford 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 Neighborhood Activity Center (NAC) future land use category, with NS zoning designation. The purpose of the Neighborhood Activity Center (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

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)  
Southeast: Neighborhood Activity Center (NAC)  
South: Neighborhood Activity Center (NAC) (diagonally to the west across the road ROW, there is Low Density Residential)  
West: Neighborhood Activity Center (NAC)

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.

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**PRESENT ZONING: NS** \_\_\_\_\_

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**PETITION FOR: NRC** \_\_\_\_\_

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**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?
- 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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PRESENT ZONING NS

PETITION FOR NRC

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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): 12" DI / S side of Shallowford 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: Shallowford Road ROW

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

Treatment Plant: Noontday

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 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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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:    YES    NO    POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Trib to Rubes 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 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 easements 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 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 any 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.

ADDITIONAL COMMENTS

1. This is an existing facility that is served by an onsite stormwater pond.

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**TRANSPORTATION COMMENTS:**

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Shallowford Road	Arterial	45 mph	Cobb County	100'

ROADWAY	LOCATION	AVERAGE DAILY TRIPS	LEVEL OF SERVICE
Shallowford Road	East of Steinhauer Road	27,900	D

*Based on 2015AADT counting data taken by GDOT, as published on their website, for Shallowford Road.  
 Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.  
 LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

**COMMENTS AND OBSERVATIONS**

Shallowford Road is classified as an arterial 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 north side of Shallowford Road, a minimum of 50' from the roadway centerline.

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

## STAFF RECOMMENDATIONS

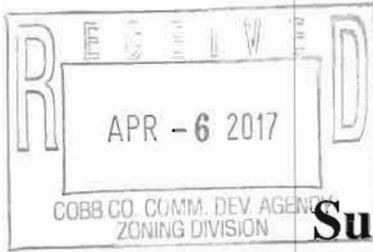
### **Z-28 FATIMAH WILLOUGHBY**

- 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 building has been at this location for the past 30 years with the only uses being a daycare.
- 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. There will be no changes to the use or the building. The use had existed for a long time in the past without negatively affecting other properties.
- 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.
- 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 the property to be within the NAC neighborhood activity center. The purpose of the Neighborhood Activity Center category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.
- 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 intends to use the property as it was intended to be use when it was developed. The property is in need of a facelift and the applicant use and maintain the property.

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

1. Site plan received by the Zoning Division on April 6, 2017 with District Commissioner approving minor modifications;
2. No automotive related uses;
3. District Commissioner to approve any other uses allowed within the NRC zoning district;
4. Fire Department comments and recommendations;
5. Water and Sewer Division comments and recommendations;
6. Stormwater Management Division comments and recommendations;
7. Department of Transportation comments and recommendations; and
8. 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-28

PC Hearing: June 6, 2017  
BOC Hearing: June 20, 2017

## Summary of Intent for Rezoning \*

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

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

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

- a) Proposed use(s): Nursery School/Child Day Care
- b) Proposed building architecture: As built, with minor modifications and improvements
- c) Proposed hours/days of operation: 6:30 a.m. - 7:00 p.m. - Monday - Friday
- d) List all requested variances: None known at this time.

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

The requested rezoning to the NRC zoning district will bring the subject property into substantial compliance with its positioning on the Future Land Use Map as being part of a Neighborhood Activity Center ("NAC"). In fact, in the past the subject property operated as a Day Care facility.

- .....  
**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.



**ZONING IMPACT STATEMENT**  
**FOR THE REZONING APPLICATION**  
**OF FATIMAH WILLOUGHBY**

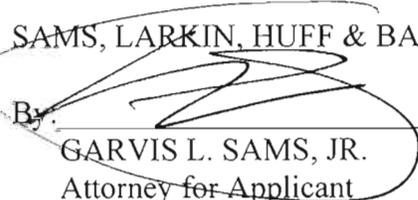
COMES NOW, FATIMAH WILLOUGHBY, and pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Shallowford Road Corridor. The subject property is zoned NS and nearby properties fronting on both sides of Shallowford Road are zoned and commercially utilized. The rear of the Subject Property abuts the Fieldstone (formerly Carlisle Acres) Subdivision which was originally platted in 1979, and the home directly behind the site was built in 1985. The subject property has been used as a Day Care since its original construction.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties.
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. The existing NS zoning classification is a significant economic detriment to the owner of the subject property. Because the property is a developed and zoned NS use located within an area denominated as Neighborhood Activity Center (“NAC”) on the County’s Future Land Use Map, it is deemed to be a grandfathered, nonconforming use and must be rezoned to allow the continued use of the property.

- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.
- E. The property is located within a Neighborhood Activity Center (“NAC”) under and pursuant to Cobb County’s Future Land Use Map and Comprehensive Land Use Plan.
- F. There is no substantial relationship between the existing zoning classification of NS and NRC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this area of the Shallowford Road Corridor, there are no established land use planning principles or political considerations which work against the proposed rezoning.

Respectfully submitted, this the 5 day of April, 2017.

SAMS, LARKIN, HUFF & BALLI, LLP

By:   
GARVIS L. SAMS, JR.  
Attorney for Applicant  
Ga. Bar No. 623950