



**APPLICANT:** Bertilia Maldonado

**PETITION NO:** LUP-26

**PHONE#:** (770) 866-1608 **EMAIL:** \_\_\_\_\_

**HEARING DATE (PC):** 12-05-17

**REPRESENTATIVE:** Bertilia Maldonado

**HEARING DATE (BOC):** 12-19-17

**PHONE#:** (770) 866-1608 **EMAIL:** \_\_\_\_\_

**PRESENT ZONING:** R-15

**TITLEHOLDER:** Tony A. Maldonado and Bertilia A. Maldonado

**PROPOSED ZONING:** Land Use Permit

**PROPERTY LOCATION:** west end of Perch Drive, south of

Perch Court

**PROPOSED USE:** poultry, livestock

(3299 Perch Drive)

**ACCESS TO PROPERTY:** Perch Drive

**SIZE OF TRACT:** 0.4607 acres

**DISTRICT:** 19

**PHYSICAL CHARACTERISTICS TO SITE:** single-family

**LAND LOT(S):** 713

residence

**PARCEL(S):** 33

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

**COMMISSION DISTRICT:** 4

**CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** R-15/Single family residences

**SOUTH:** R-20/Single family residences

**EAST:** R-15/Single family residences

**WEST:** LRO/Single story house

*Adjacent Future Land Use:*

Northeast: LDR

Southeast: LDR

West: CAC

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

**PLANNING COMMISSION RECOMMENDATION**

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

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

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

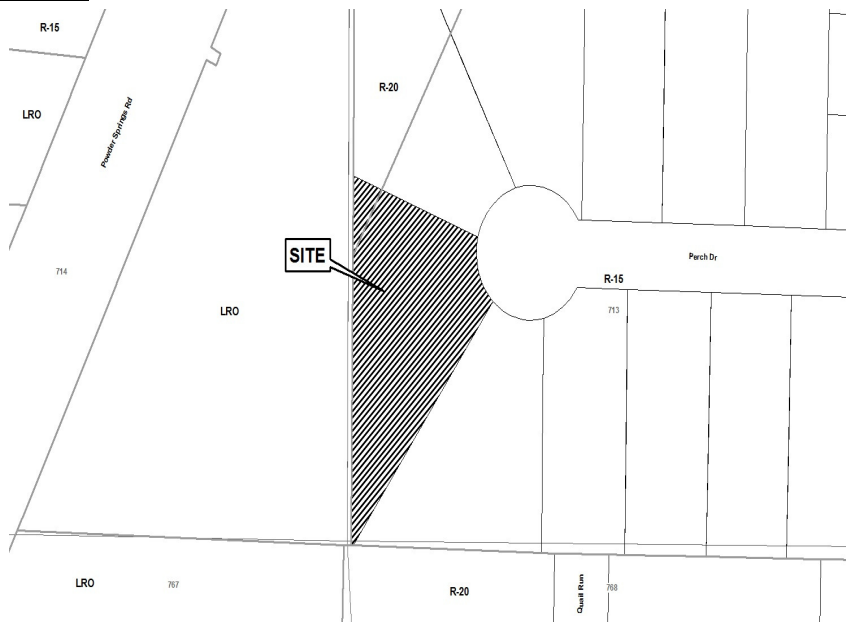
**BOARD OF COMMISSIONERS DECISION**

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

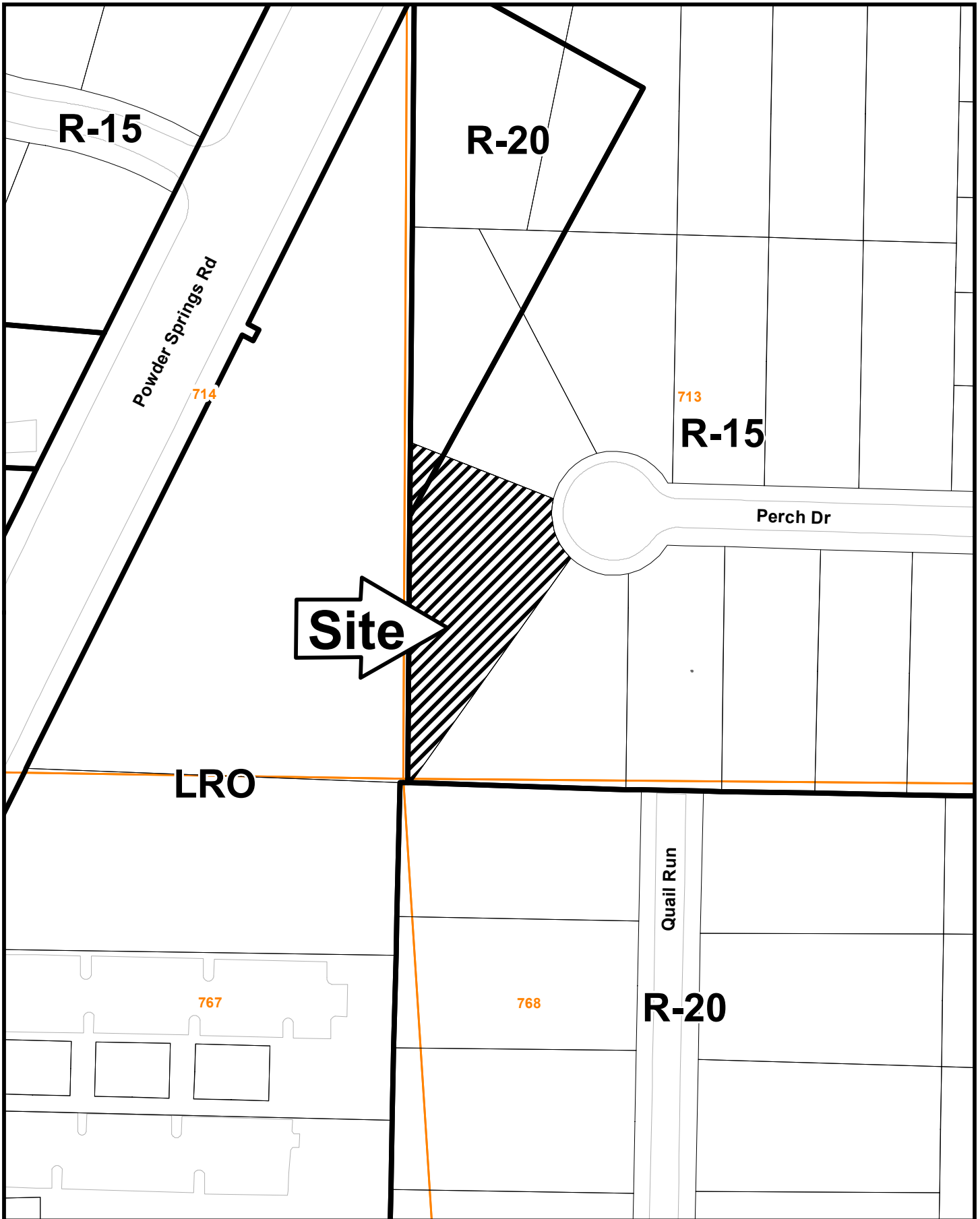
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

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

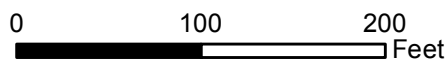
**STIPULATIONS:**





# LUP-26 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

**APPLICANT:** Bertilia Maldonado

**PETITION NO.:** LUP-26

**PRESENT ZONING:** R-15

**PETITION FOR:** LUP

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**ZONING COMMENTS:** Staff Member Responsible: Tannessa Bates

The applicant is requesting a Temporary Land Use Permit to allow 26 hens for the purpose of poultry husbandry. The property is 0.4607 acres and abuts a two-acre lot to the west. The applicant states the hens will be housed in a chicken coop that will be to the rear of the property. There is a 40-foot undisturbed buffer in the rear on the left side of the house where the applicant is proposing to place the coop. This request is in response to a Code Enforcement complaint.

The applicant will need the following variances:

1. Allow the coop to be zero feet from the rear property line instead of 30’;
2. Increase the allowable number of hens from four hens to 26 hens; and
3. Allow the coop in the 40’ undisturbed buffer.

**Historic Preservation:** No comment.

**Cemetery Preservation:** No comment.

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**WATER & SEWER COMMENTS:**

Current water and sewer customer.

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**TRAFFIC COMMENTS:**

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

**APPLICANT: Bertilia Maldonado**

**PETITION NO.:** LUP-26

**PRESENT ZONING: R-15**

**PETITION FOR:** LUP

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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: Bertilia Maldonado**

**PETITION NO.: LUP-26**

**PRESENT ZONING: R-15**

**PETITION FOR: LUP**

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<b>STORMWATER MANAGEMENT COMMENTS</b>
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No comment.

## STAFF RECOMMENDATIONS

### LUP-26      BERTILIA MALDONADO

There are twelve criteria that must be considered for a Temporary Land Use Permit. However nine of the twelve criteria have to do with “commercial uses” within a residential area and these nine criteria do not apply to chickens. The three criteria that may be considered are below in numbered italics, with the Staff analysis following in bold.

- (1) *Safety, health, welfare and moral concerns involving the surrounding neighborhood.*  
**This request may affect the safety, health, or welfare of the surrounding neighborhoods. Previous chicken cases have had opposition that have presented testimony relating to concerns about negative effects of chicken manure, and that chickens may attract predators and/or rodents.**
- (2) *Effect on property values of surrounding property.*  
**This request could have the potential to affect property values in the area. Previous chicken cases have had opposition that have presented testimony relating to concerns about negative effects on property values when located within a platted residential subdivision.**
- (3) *Circumstances surrounding neighborhood complaints.*  
**This application is the result of a Code Enforcement violation. That violation included outside storage, litter, parking standards, and livestock. The case is still active pending the outcome of this request. This property owner has created an eyesore for the neighbors.**

Additionally, Staff will review the ten requirements of the poultry ordinance for compliance regarding this recommendation and these are listed below by lettered italics and the staff analysis for these are in bold:

- (a) *There shall be a maximum ratio of one poultry per 5,000 square feet of lot area on any lot less than two acres.*  
**The applicant would be permitted to have four hens based on the submitted survey. The applicant’s request is for 26 hens.**
- (b) *Only hens are kept on the property.*  
**The applicant has only requested to have hens on the property.**
- (c) *The poultry shall be kept/maintained within a fenced area to the rear of the house.*  
**The applicant will have the hens in a coop inside a run or pen.**
- (d) *Coops, or other buildings used for the poultry shall be located at least 30 feet off any property line. Coops are considered an accessory structure and all conditions for accessory structures in that zoning district shall also apply. Where a conflict exists, this section shall control.*  
**The applicant has indicated that the chicken run/coop will be zero feet from the rear property line and in the recorded 40-foot undisturbed buffer. The final location is to be determined by the Board of Commissioners.**

**LUP-26      BERTILIA MALDONADO (Continued)**

*(e) The owner(s) of the poultry shall keep the property maintained in a fashion that eliminates the potential negative effects resulting from the poultry, including but not limited to, odors, pollution, noise, insects, rodents and other wild animals.*

**To be monitored by Code Enforcement.**

*(f) The poultry shall not cause a nuisance, as defined by state law.*

**To be monitored by Code Enforcement.**

*(g) The slaughter of any hen on site is prohibited.*

**The applicant understands, and will comply.**

*(h) The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00.*

**Fees have been paid.**

*(i) The duration of any land use permit approved for poultry as pets or food source shall not exceed two years, renewable for up to two-year terms thereafter.*

**To be determined by the Board of Commissioners.**

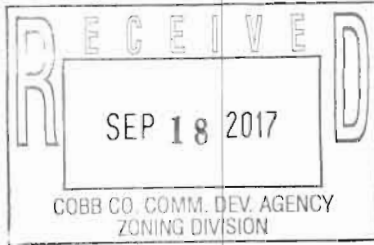
*(j) At least two weeks prior to the hearing before the planning commission, applicant shall notify all contiguous property owners in writing.*

**The applicant has notified all contiguous property owners, and obtained signatures supporting his request from the neighbors at 3295, 3298 and 3289 Perch Drive. Staff is concerned that other neighbors may not be supportive of the application.**

Based on the above analysis, specifically items 1, 2, 3 and j, 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 #: LVP-26  
PC Hearing Date: 12-5-17  
BOC Hearing Date: 12-19-17

### TEMPORARY LAND USE PERMIT WORKSHEET (FOR BUSINESS USE OR FOR A USE NOT PERMITTED)

1. Type of business, or request? Poultry, livestock
2. Number of employees? \_\_\_\_\_
3. Days of operation? \_\_\_\_\_
4. Hours of operation? \_\_\_\_\_
5. Number of clients, customers, or sales persons coming to the house per day? \_\_\_\_\_ ; Per week? \_\_\_\_\_
6. Where do clients, customers and/or employees park?  
Driveway: \_\_\_\_\_ ; Street: \_\_\_\_\_ ; Other (Explain): \_\_\_\_\_

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7. Signs? No: \_\_\_\_\_ ; Yes: \_\_\_\_\_. (If yes, then how many, size, and location): \_\_\_\_\_

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8. Number of vehicles related to this request? (Please also state type of vehicle, i.e. dump truck, bobcat, trailer, etc.): \_\_\_\_\_

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9. Deliveries? No \_\_\_\_\_ ; Yes \_\_\_\_\_ (If yes, then how many per day or week, and is the delivery via semi-truck, USPS, Fedex, UPS, etc.)

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10. Does the applicant live in the house? Yes X \_\_\_\_\_ ; No \_\_\_\_\_
11. Any outdoor storage? No \_\_\_\_\_ ; Yes X (If yes, please state what is kept outside): Garden tools

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12. Length of time requested (24 months maximum): 24 months
13. Is this application a result of a Code Enforcement action? No \_\_\_\_\_ ; Yes ✓ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).
14. Any additional information? (Please attach additional information if needed): \_\_\_\_\_

X Applicant signature: Bertilia Maldonado Date: 3-2-17

Applicant name (printed): Bertilia Maldonado

Application No. LUP-26  
PC Hearing Date: 12-5-17  
BOC Hearing Date: 12-19-17

**Requirements for Temporary Land Use Permit Application.**

**Applicant's information for requesting poultry on less than 2 acres**

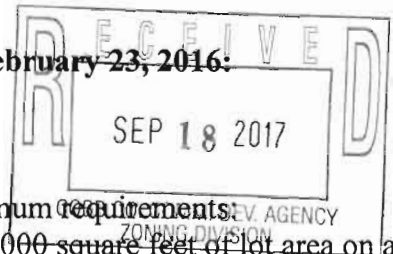
1. How many hens do you propose (no male birds allowed)? 26.
2. Can you comply with the County Code Sec-134-36 (d)(5)(a-j) below? YES X NO \_\_\_\_\_.

Bertilia Maldonado  
Signature

Bertilia Maldonado  
Print Name

**County Code adopted by the Board of Commissioners February 23, 2016:**

Sec. 134-36 (d)(5)(a-j). Temporary Land Use Permits.



Poultry on less than two acres subject to the following minimum requirements:

- a) There shall be a maximum ratio of one poultry per 5,000 square feet of lot area on any lot less than two acres;
- b) Only hens are kept on the property;
- c) The poultry shall be kept/maintained within a fenced area to the rear of the house;
- d) Coops, or other buildings used for the poultry shall be located at least 30 feet off any property line. Coops are considered an accessory structure and all conditions for accessory structures in that zoning district shall also apply. Where a conflict exists, this section shall control;
- e) The owner(s) of the poultry shall keep the property maintained in a fashion that eliminates the potential negative effects resulting from the poultry, including but not limited to, odors, pollution, noise, insects, rodents and other wild animals;
- f) The poultry shall not cause a nuisance, as defined by state law;
- g) The slaughter of any hen on site is prohibited;
- h) The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00; and
- i) The duration of any land use permit approved for poultry as pets or food source shall not exceed two years, renewable for up to two-year terms thereafter.
- j) At least two weeks prior to the hearing before the planning commission, applicant shall notify all contiguous property owners in writing.

**CONSENT OF CONTIGUOUS OCCUPANTS OR LAND OWNER  
 TO ACCOMPANY APPLICATION FOR LAND USE PERMIT**

By signature, it is hereby acknowledged that I give my consent/or have no objection that Bertilia  
Maldonado intends to make an application for a Land Use Permit for the purpose of  
poultry on the premises described in the application.

	Signature	Printed name	Address
1.		Gumer Lopez	3295 Perch Dr. Marietta GA
2.		Calletano	3289 perch Dr. Marietta GA 30008
3.		Johanna	3288 perch Dr. Marietta 30008
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