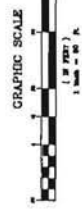


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**APPLICANT:** Bank of America, N.A.

972-868-5437

**REPRESENTATIVE:** J. Kevin Moore 770-429-1499

Moore Ingram Johnson & Steele, LLP

**TITLEHOLDER:** Bank of America, N.A., as trustee for the registered holders

of First Union Nation Bank-Chase Manhattan Bank Commercial Mortgage Trust

**PROPERTY LOCATION:** On the west side of Atlanta Road, north of

Daniell Drive

(1940 Atlanta Road).

**ACCESS TO PROPERTY:** Atlanta Road

**PHYSICAL CHARACTERISTICS TO SITE:** Existing seven (7)

building apartment complex

#### **CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** CRC/LI/ vacant

**SOUTH:** R-20/ Green Acres Heights subdivision

**EAST:** HI/ Lockheed Martin

**WEST:** R-20/ Green Acres Subdivision

**PETITION NO:** Z-39

**HEARING DATE (PC):** 09-06-12

**HEARING DATE (BOC):** 09-18-12

**PRESENT ZONING:** RM-12, R-20, NS, CRC

**PROPOSED ZONING:** RM-12

**PROPOSED USE:** Multi-Family Residential

**SIZE OF TRACT:** 9.816 acres

**DISTRICT:** 17

**LAND LOT(S):** 421, 422, 444

**PARCEL(S):** 2

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

**COMMISSION DISTRICT:** 4

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

#### **PLANNING COMMISSION RECOMMENDATION**

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

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

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

#### **BOARD OF COMMISSIONERS DECISION**

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

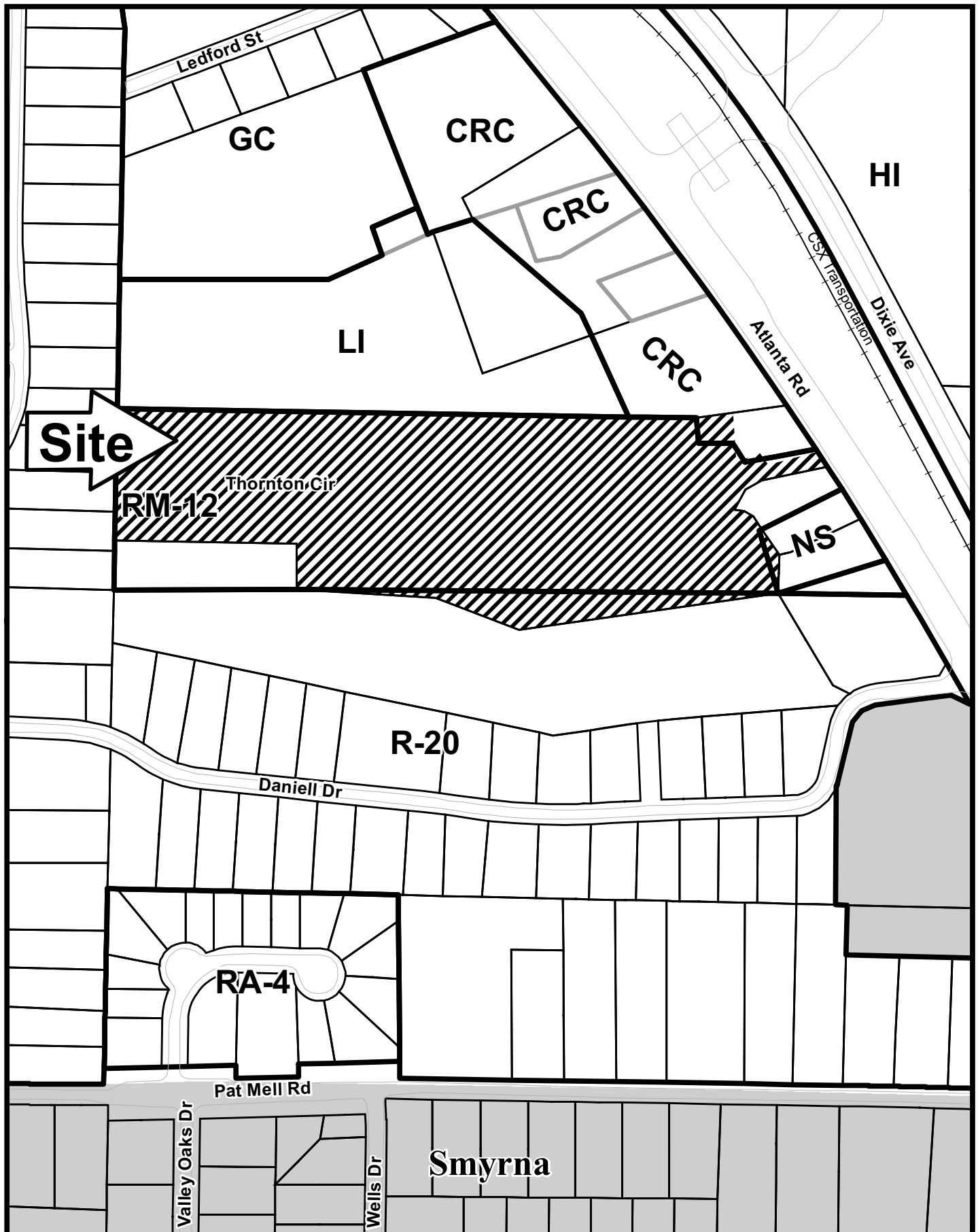
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

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

#### **STIPULATIONS:**



# Z-39



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

0 200 400 Feet



City Boundary  
Zoning Boundary

APPLICANT: Bank of America, N.A.

PETITION NO.: Z-39

PRESENT ZONING: RM-12, R-20, NS, CRC

PETITION FOR: RM-12

\*\*\*\*\*

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: CAC Community Activity Center and IC Industrial Compatible

Proposed Number of Units: Overall Density: Units/Acre

Present Zoning Would Allow: Units Increase of: Units/Lots

The applicant is requesting a rezoning from the RM-12 residential multifamily district, CRC community retail commercial district, and the R-20 single-family residential district to the RM-12 district to consolidate the property's zoning classification to mirror is currently existing use. Also, the applicant has requested that the rezoning be approved "site plan specific" to accommodate apparent existing encroachments into the required setbacks by the existing buildings' footprints (see submitted site plan). Too, the site plan specific request, if considered favorably, will serve to waive the otherwise required 25 ft. landscaped buffer where the property abuts the more restrictive R-20 single-family district properties to the south and west. It appears that the property is separated from those single family homes to the south by an undeveloped parcel that currently serves the purpose as a buffer but is not owned by the applicant and should not be considered as a perpetual buffer for the fact that it may be developed sometime in the future.

Cemetery Preservation: No comment.

\*\*\*\*\*

PLANNING COMMENTS:

The applicant is requesting a rezoning from RM-12 to RM-12 with stipulations for purposes of multifamily residential. The 9.816 acre site is located at the west side of Atlanta Road, north of Daniell Drive.

### Comprehensive Plan

The parcel is within an Industrial Compatible (IC) future land use category with RM-12 zoning designation. The purpose of the IC category is to provide for areas that can support light industrial, office/warehouse and distribution uses. Typical uses include professional business parks and distribution centers.

### Master Plan/Corridor Study

Not applicable.

### 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?

☐ Yes ☐ No ☒ Not applicable

APPLICANT: Bank of America, N.A.

PETITION NO.: Z-39

PRESENT ZONING: RM-12, R-20, NS, CRC

PETITION FOR: RM-12

\*\*\*\*\*

SCHOOL COMMENTS:

		Capacity	Number of
Name of School	Enrollment	Status	Portable
Nickajack	931	Over	
Elementary			
Campbell	985	Under	
Middle			
Campbell	2,280	Under	

High  
\*School attendance zones are subject to revision at any time.

Additional Comments: Nickajack Elementary School is currently severely over-crowded; therefore, approval of this zoning could adversely impact enrollment at Nickajack Elementary School.

\*\*\*\*\*

FIRE 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 Bank of America, N.A.

PETITION NO. Z-039

PRESENT ZONING RM-12, R-20, NS, CRC

PETITION FOR RM-12

\*\*\*\*\*

**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): ***16" DI / W side of Atlanta 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.

\*\*\*\*\*

**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: ***At site***

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

Treatment Plant: **S Cobb**

Plant Capacity: ☒ Available ☐ Not Available

Line Capacity: ☒ Available ☐ Not Available

Projected Plant Availability: ☒ 0 - 5 years ☐ 5 - 10 years ☐ over 10 years

Drw 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.



**APPLICANT: Bank of America, NA**

**PETITION NO.: Z-39**

**PRESENT ZONING: RM-12, R-20, NS, CRC**

**PETITION FOR: RM-12**

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<b>STORMWATER MANAGEMENT COMMENTS</b>
---------------------------------------

No site work is proposed. No comments.

**APPLICANT: Bank of America, N.A.**

**PETITION NO.: Z-39**

**PRESENT ZONING: RM-12, R-20, NS, CRC**

**PETITION FOR: RM-12**

\*\*\*\*\*

<b>COBB COUNTY DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS</b>
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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
Atlanta Road	16,100	Arterial	45 mph	Cobb County	100'

*Based on 2011 traffic counting data taken by Cobb County DOT (Atlanta Road)*

### COMMENTS AND OBSERVATIONS

Atlanta Road is classified as an arterial 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.

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## **STAFF RECOMMENDATIONS**

### **Z-39 BANK OF AMERICA, N.A.**

- 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 property has been utilized in its current multifamily residential form for many years and may be viewed as a means of transitioning from those more intense commercial uses that exist along Atlanta Road to the single family homes immediately to the west of the property.
- 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 request is to simply consolidate the zoning of the property to reflect the use that has existed for many years.
- 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*. While the property is located within both a CAC community activity center future land use area along Atlanta Road and an IC industrial compatible area immediately behind this to the west, the use and those adjacent have been established for many years. While the CAC category supports the properties existing use as higher density residential as a transition between the adjacent higher intensity uses and adjacent residential uses, it may not follow the intents of the IC category. However, as the area is quite established in its existing uses, this may not be reason to consider the current request unfavorably but a time to consider the appropriateness of the existing IC category that exists here between Atlanta Road and the adjacent subdivisions of Green Acres and Green Acres Heights.
- 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 use is one that has existed for many years and the current request does not propose any changes to this use but serves as a means to consolidate the property's zoning classification to more closely reflect its established use. The request, if considered favorably, should be approved site plan specific to accommodate existing encroachments by the buildings into the required setbacks as well as to excuse the lack of a 25 ft. landscape buffer otherwise required by Code where the property abuts more restrictive residential categories to the south and west. Also, the existing use supports the *Cobb County Comprehensive Plan* in serving as a transitional use within the CAC along Atlanta Road but may not adhere to the incongruent IC category currently existing within this area.

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

- Site plan received by Zoning Division on July 5, 2012, with District Commissioner approving minor modifications;
- Fire Department comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Water and Sewer Division comments and recommendations; and
- Department of Transportation comments and recommendations.

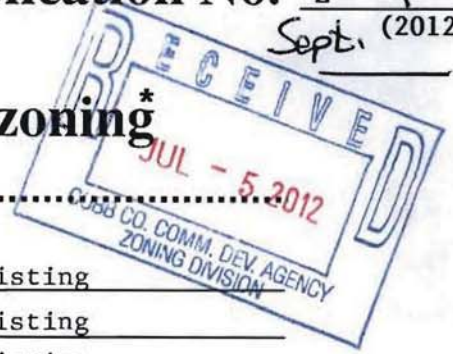
**The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**

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Application No. z- 39  
Sept. (2012)

## Summary of Intent for Rezoning\*



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

- a) Proposed unit square-footage(s): Not Applicable - Existing
- b) Proposed building architecture: Not Applicable - Existing
- c) Proposed selling prices(s): Not Applicable - Existing
- d) List all requested variances: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

- a) Proposed use(s): \_\_\_\_\_  
\_\_\_\_\_
- 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)

Property is considered "grandfathered" and non-conforming. Property  
is under contract for sale and rezoning is necessary in order to remove  
the "grandfathered" non-conforming status.

.....  
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 herein, or in any part of the Application for Rezoning, at any time during the rezoning process.