

Z-7
(2013)

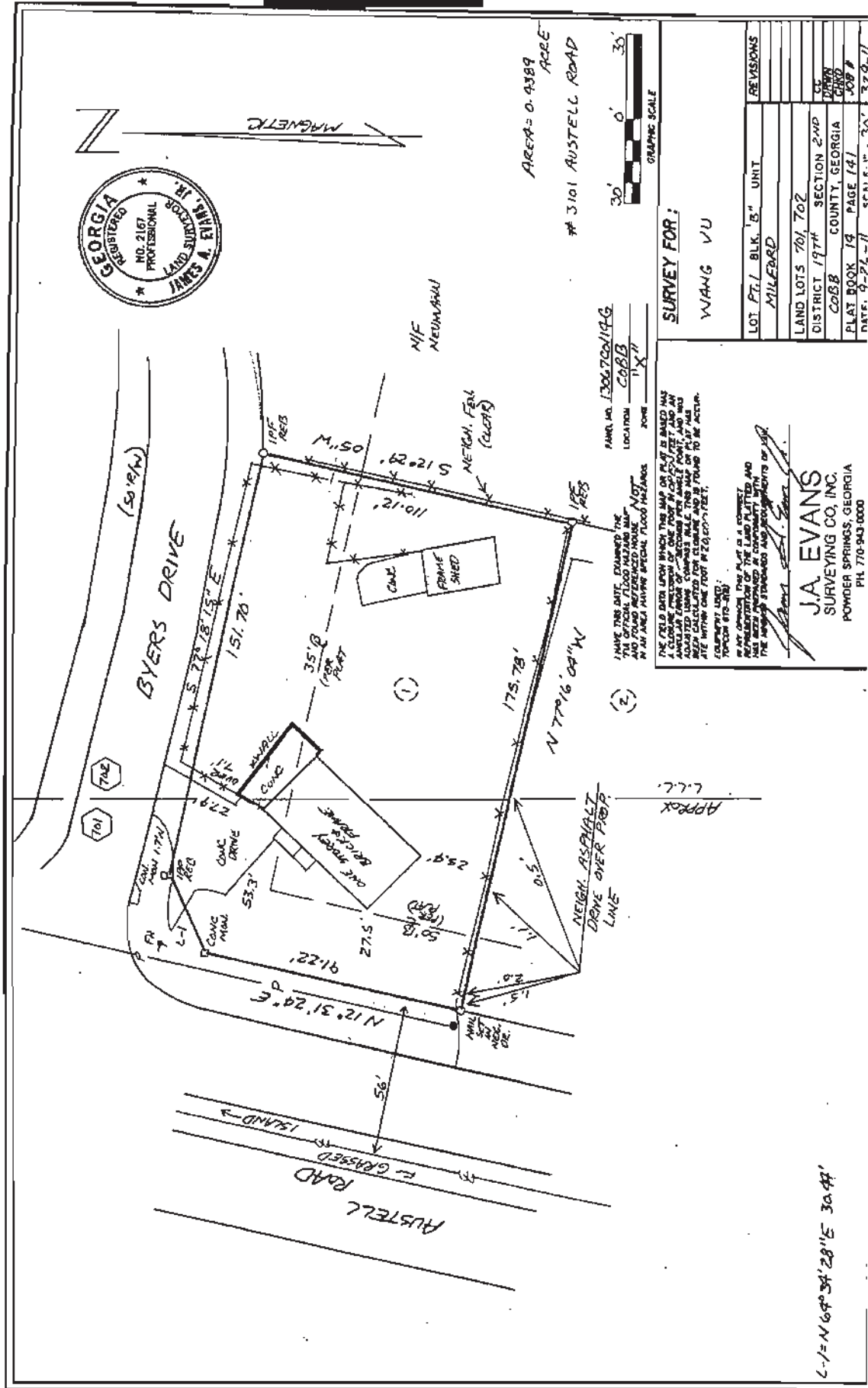
COBB COUNTY GEORGIA
FILED IN OFFICE

2012 DEC 21 PH 2:48

COBB COUNTY ZONING DIVISION

Deed Book 14981 Pg 3675
Jay C. Stephenson
Clerk of Superior Court Cobb City, Ga.

EXHIBIT A



AREA = 0.4389 ACRES

3101 RUSTELL ROAD



PANEL NO. 1306702/196
LOCATION COBB
ZONE 11X

SURVEY FOR:

WANG VU

LOT	PT. 1	BLK.	5"	UNIT	REVISIONS
				MILEARD	
				LAND LOTS 701, 702	
				DISTRICT 19TH SECTION 2ND	
				COBB COUNTY, GEORGIA	
				PLAT BOOK 19 PAGE 141	
				DATE: 9-22-11	

I HAVE THIS DATE EXAMINED THE NOTARIAL PUBLIC RECORDS OF THE OFFICIAL FLOOD HAZARD MAP AND FOUND REFERENCED HOUSE IN AN AREA HAVING SPECIAL FLOOD HAZARD ZONE 11X.

THE FIELD DATA UPON WHICH THIS MAP OR PLAN IS BASED HAS A CLOSING ERROR OF ONE FOOT IN 100,000 FEET, AND ANY ADJUSTED LINE COMPASS WILL BE TRUED TO THE TRUE MERIDIAN BY THE METHOD OF STURSON AND ADJUSTMENTS BY THE FOLLOWING EQUATION:

FOR EACH LINE:
 CORRECTION = (DISTANCE IN FEET) x (MAGNETIC DECLINATION) x (TAN OF ANGLE) x (TAN OF ANGLE)

J.A. EVANS
SURVEYING CO. INC.
POWDER SPRINGS, GEORGIA
PH. 770-943-0000

L-1 = N 69° 54' 28" E 30.49'

APPLICANT: Wang N. Vu
770-433-3330

REPRESENTATIVE: Wang N. Vu
770-433-3330

TITLEHOLDER: Wang Vu

PROPERTY LOCATION: Southeast intersection of Austell Road and
Byers Drive
(3101 Austell Road).

ACCESS TO PROPERTY: Byers Drive

PHYSICAL CHARACTERISTICS TO SITE: Existing single-family
house and storage building

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/House converted to business
- SOUTH:** NRC/Jewelry Store
- EAST:** R-20/Milford Subdivision
- WEST:** RA-5/Spring Hill Place Subdivision

PETITION NO: Z-7

HEARING DATE (PC): 03-05-13

HEARING DATE (BOC): 03-19-13

PRESENT ZONING: R-20

PROPOSED ZONING: NRC

PROPOSED USE: Retail and Services

SIZE OF TRACT: 0.4389 acre

DISTRICT: 19

LAND LOT(S): 701, 702

PARCEL(S): 27

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 4

OPPOSITION: NO. OPPOSED PETITION NO: SPOKESMAN

PLANNING COMMISSION RECOMMENDATION

APPROVED MOTION BY
 REJECTED SECONDED
 HELD CARRIED

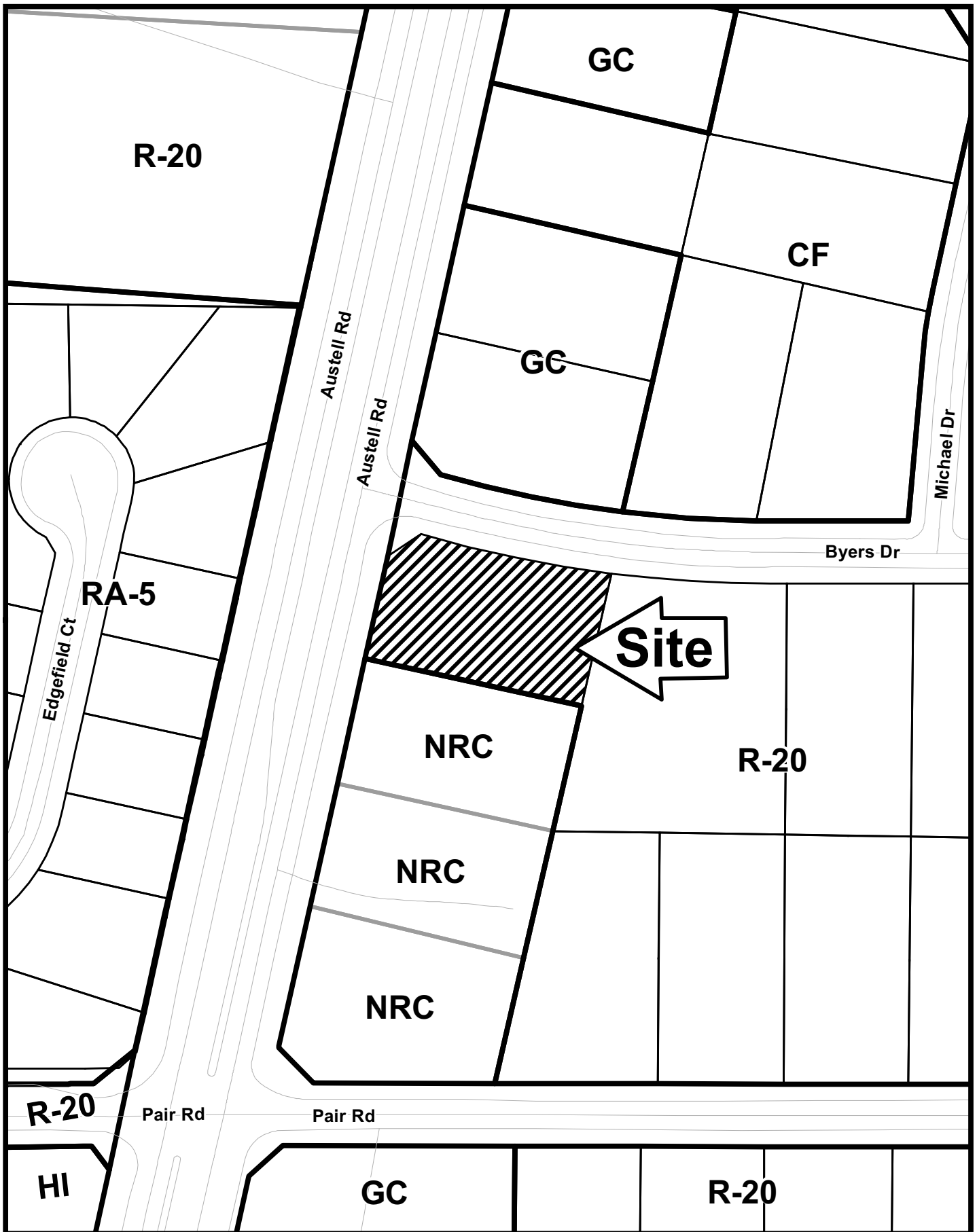
BOARD OF COMMISSIONERS DECISION

APPROVED MOTION BY
 REJECTED SECONDED
 HELD CARRIED

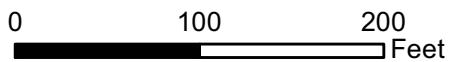
STIPULATIONS:



Z-7



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



City Boundary
Zoning Boundary

APPLICANT: Wang N. Vu

PETITION NO.: Z-7

PRESENT ZONING: R-20

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Medium Density Residential (2.5--5 units per acre)

Proposed Number of Buildings: 1 (Existing) **Total Square Footage of Development:** 1300

F.A.R.: .067 **Square Footage/Acre:** 2,961

Parking Spaces Required: 6 **Parking Spaces Provided:** None/Concrete Driveway

Applicant is requesting the Neighborhood Retail Commercial category for the purpose of converting the existing house to retail space. The hours of operation will be Monday through Saturday from 10 a.m. until 6 p.m.

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.

FIRE COMMENTS:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 and NRC for purpose retail services use. The 0.438 acre site is located at the southeast intersection of Austell Road and Byers Drive.

Comprehensive Plan

The parcel is within a Medium Density Residential (MDR) future land use category, with R-20 zoning designation. The purpose of the MDR category is to provide for areas that are suitable for moderate density housing between two and one-half (2.5) and five (5) dwelling units per acre.

Master Plan/Corridor Study

Austell Road Livable Centers Initiative

The Austell Road Livable Centers Initiative recommends the land use for the parcel in question to be Medium Density Residential. There are no recommended transportation improvements identified in this study that impact this parcel.

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?

APPLICANT Wang N. Vu

PETITION NO. Z-007

PRESENT ZONING R-20

PETITION FOR NRC

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 / E side of Austell Road**

Additional Comments:

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: **500' S in Pair Road ROW**

Estimated Waste Generation (in G.P.D.): **ADF 160 Peak= 400**

Treatment Plant: **South 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 Comments: Health Dept approval required for continued use of existing septic system. If improvements to septic system are necessary, site must connect to sanitary sewer

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: Wang N. Vu

PETITION NO.: Z-7

PRESENT ZONING: R-20

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Mill Creek #2 (Nickajack Basin) 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 CONDITION

- 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 system and adjacent parcels.

APPLICANT: Wang N. Vu

PETITION NO.: Z-7

PRESENT ZONING: R-20

PETITION FOR: NRC

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

1. Any site improvements must meet County Stormwater Management Requirements.

APPLICANT: Wang N. Vu

PETITION NO.: Z-7

PRESENT ZONING: R-20

PETITION FOR: NRC

TRANSPORTATION COMMENTS

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
Austell Road	35200	Arterial	45 mph	Georgia DOT	100'
Byers Drive	N/A	Local	25 mph	Cobb County	50'

Based on 2013 traffic counting data taken by Cobb DOT (Austell Road)

COMMENTS AND OBSERVATIONS

Austell 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.

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

Recommend relocating and reconstructing the driveway to meet the commercial standard.

Recommend interparcel access with 3113 Austell Road.

Recommend no parking on the right-of-way.

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

THIS

PAGE

INTENTIONALLY

LEFT

BLANK

STAFF RECOMMENDATIONS

Z-7 WANG N. VU

- A. It is Staff's opinion that the applicant's rezoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. The properties to the east of the subject property are all zoned R-20 and are part of Milford Subdivision. While some parcels in the area consist of houses converted to commercial, the subject parcel remains zoned residential and is the entrance to Milford Subdivision. The parcels immediately to the north are zoned GC with commercial uses.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. Allowing the proposed rezoning with access on Byers Drive could increase traffic for residents of Milford Subdivision. However, the applicant also owns the jewelry store immediately to the south. A number of changes would be needed in order for staff to support this application. Those changes would start with a lot combination (applicant owns the parcel to the immediate south), restricting access to Austell Road and changing the *Cobb County Comprehensive Plan* designation of Medium Density Residential to Neighborhood Activity Center (NAC) and then making this request for rezoning.
- 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 not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. The subject parcel has remained in the Medium Density Residential (MDR) land use category while parcels to the south were zoned to NRC at a time when those parcels were in the Neighborhood Activity Center land use category. The NRC zoning category is not compatible with the MDR land use category.
- 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 denying the applicant's rezoning proposal. When the two parcels south of the subject property were rezoned to NRC, they were in the Neighborhood Activity Center land use category. The current applicant rezoned the parcel to the immediate south in 2000. Since the rezoning of those other parcels, the *Cobb County Comprehensive Plan* for the parcels along this stretch of Austell Road between Pair Road and Byers Drive has changed to Medium Density Residential. One of the main themes of the Austell Road Corridor Study (2001) was the aesthetics of the Austell Road corridor. Staff does not believe using this dated house, virtually on the road, would be beneficial for Austell Road. Staff believes a new building, meeting the current building setbacks would be the best scenario for this part of Austell Road.

Based on the above analysis, 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.

THIS

PAGE

INTENTIONALLY

LEFT

BLANK

2012 DEC 21 PM 2:49

March
2013

COBB COUNTY ZONING DIVISION

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 1400
- b) Proposed building architecture: Brick
- c) Proposed selling prices(s): \$159,000
- d) List all requested variances: _____

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

- a) Proposed use(s): retail and services neighborhood retail
Commercial (NRC)
- b) Proposed building architecture: Brick
- c) Proposed hours/days of operation: 10AM - 6PM Monday - Saturday
- d) List all requested variances: _____

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

.....
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).

Sidewalk, Austell road
Right-of-way + Byers dr