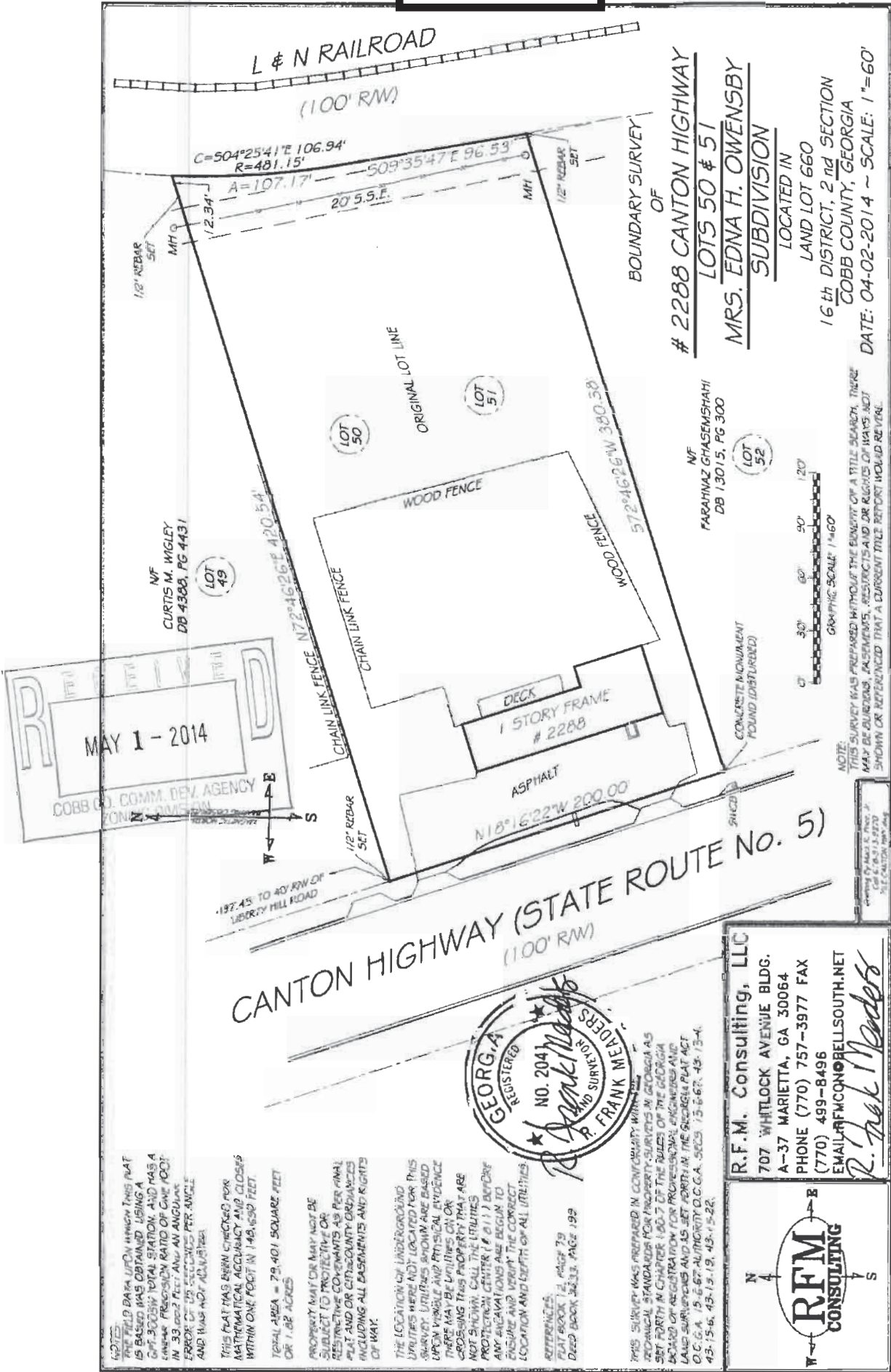


Z-43
(2014)



RECEIVED
MAY 1 - 2014
COBB CO. COMM. DEV. AGENCY
CONTRACT # 2014-001

CANTON HIGHWAY (STATE ROUTE NO. 5)
(100' RW)

BOUNDARY SURVEY
OF
2288 CANTON HIGHWAY
LOTS 50 & 51
MRS. EDNA H. OWENSBY
SUBDIVISION
LOCATED IN
LAND LOT 660
16th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA
DATE: 04-02-2014 ~ SCALE: 1"=60'

GRAPHIC SCALE: 1"=60'
0' 30' 60' 90' 120'

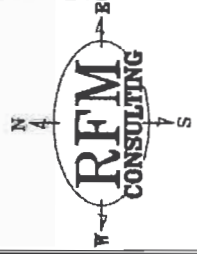
NOTE:
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH. THERE
MAY BE BURDENS, ENCUMBRANCES, EASEMENTS, RESTRICTIONS AND/OR RIGHTS OF WAY NOT
SHOWN OR REFERENCED THAT A CURRENT TITLE REPORT WOULD REVEAL.

NOTES:
THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED USING A GPS-BASED TOTAL STATION, AND HAS A LINEAR PRECISION RATIO OF ONE FOOT IN 33,000.2 FEET AND AN ANGULAR ERROR OF 25 SECONDS PER ANGLE AND WAS NOT ADJUSTED.
THIS PLAT HAS BEEN CHECKED FOR MATHEMATICAL ACCURACY AND CLOSURE WITHIN ONE FOOT IN 149,165.0 FEET.
TOTAL AREA = 79,401 SQUARE FEET OR 1.82 ACRES
PROPERTY MAY OR MAY NOT BE SUBJECT TO PROTECTIVE OR RESTRICTIVE COVENANTS AS PER FINAL PLAT AND OR CITY/COUNTY ORDINANCES INCLUDING ALL EASEMENTS AND RIGHTS OF WAY.
THE LOCATION OF UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY. UTILITIES SHOWN ARE BASED UPON VISIBLE AND PHYSICAL EVIDENCE THERE MAY BE UTILITIES ON OR CROSSING THIS PROPERTY THAT ARE NOT SHOWN. CALL THE UTILITIES PROTECTION CENTER (1-811) BEFORE ANY EXCAVATIONS ARE BEGUN TO ENSURE AND VERIFY THE CORRECT LOCATION AND DEPTH OF ALL UTILITIES.

REGISTERED SURVEYOR
NO. 2041
P. FRANK WEIDERS

REFERENCES:
PLAT BOOK 1, PAGE 79
DEED BOOK 333, PAGE 199
THIS SURVEY WAS PREPARED IN CONFORMANCE WITH THE PROFESSIONAL STANDARDS FOR PROFESSIONAL SURVEYORS IN GEORGIA AS SET FORTH IN CHAPTER 180.7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67 AUTHORITY O.C.G.A. SECS. 15-6-67, 43-13-4, 43-15-6, 43-13-19, 43-13-22.

R.F.M. Consulting, LLC
707 WHITLOCK AVENUE BLDG.
A-37 MARIETTA, GA 30064
PHONE (770) 757-3977 FAX
(770) 499-8496
EMAIL: RFMC@BELLSOUTH.NET
R. Frank Weiders



APPLICANT: John F. Papazian & Donna D. Papazian
PHONE#: (706) 994-2500 **EMAIL:** john_papazian@yahoo.com
REPRESENTATIVE: Garvis L. Sams, Jr.
PHONE#: (770) 422-7016 **EMAIL:** gsams@slhb-law.com
TITLEHOLDER: John F. Papazian & Donna D. Papazian

PETITION NO.: Z-43
HEARING DATE (PC): 07-01-14
HEARING DATE (BOC): 07-15-14
PRESENT ZONING: R-20
PROPOSED ZONING: NRC

PROPERTY LOCATION: East side of Canton Road, south of
Liberty Hill Road
(2288 Canton Road).

PROPOSED USE: Daycare (Existing)

ACCESS TO PROPERTY: Canton Road

SIZE OF TRACT: 1.82 acres

PHYSICAL CHARACTERISTICS TO SITE: One Story Frame
Building

DISTRICT: 16

LAND LOT(S): 660

PARCEL(S): 23

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** NS, GC/ Formerly Property Masters
- SOUTH:** NS/ Undeveloped
- EAST:** R-20, R-15/ Single-family Residences
- WEST:** NRC/ Undeveloped (Subject of Z-50 for July 2014)

OPPOSITION: NO. OPPOSED **PETITION NO.:** _____ **SPOKESMAN** _____

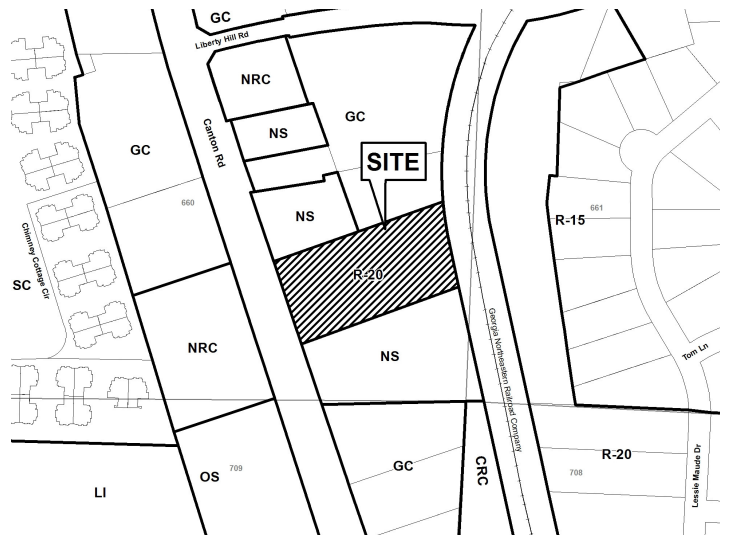
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

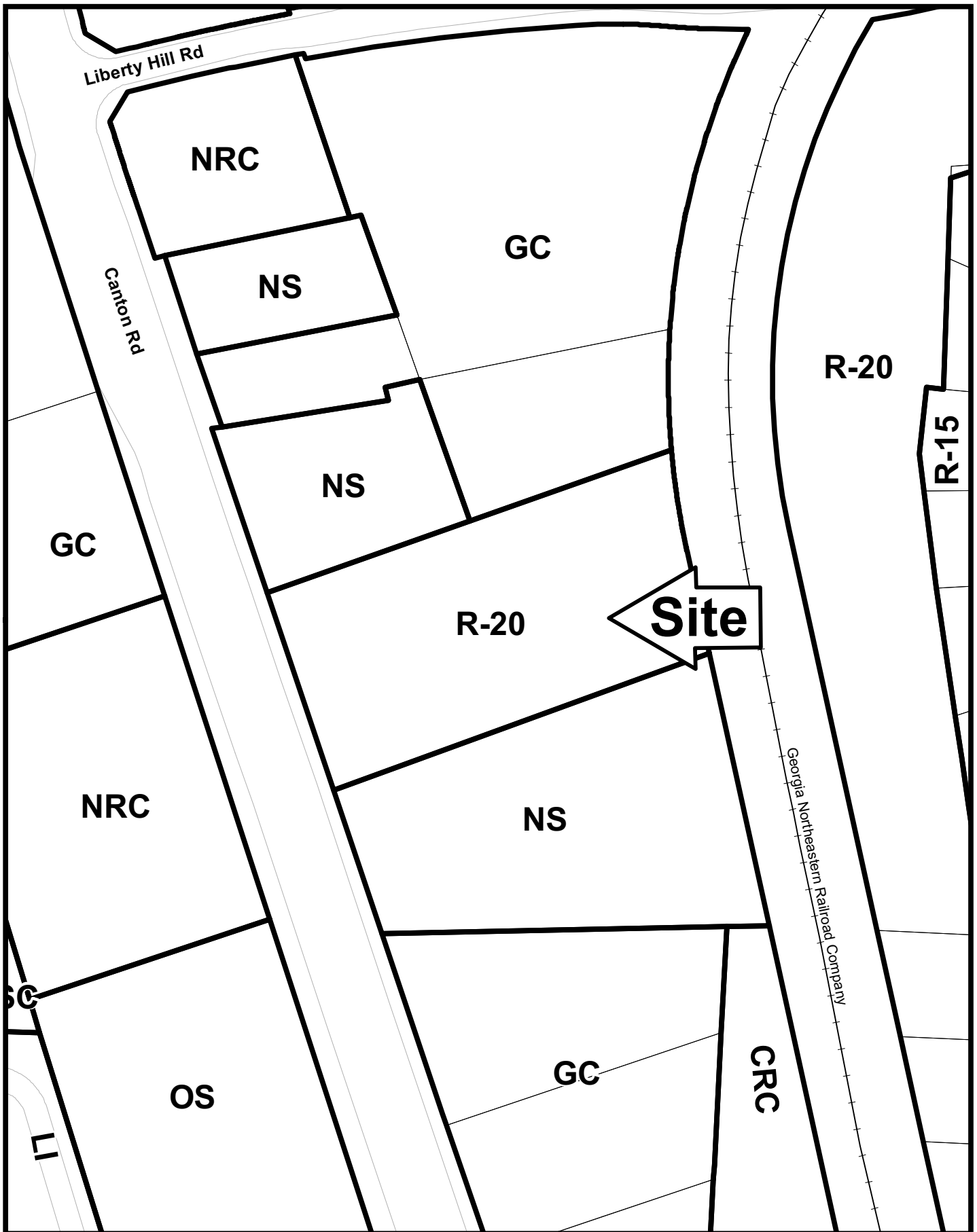
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

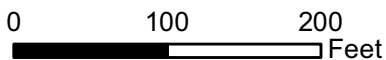
STIPULATIONS:





Z-43



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



-  City Boundary
-  Zoning Boundary

APPLICANT: John F. Papazian & Donna D. Papazian

PETITION NO.: Z-43

PRESENT ZONING: R-20

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: Neighborhood Activity Center (NAC)

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 5,160 sq. ft.

F.A.R.: 0.06 **Square Footage/Acre:** 2,835 sq. ft.

Parking Spaces Required: 20 **Parking Spaces Provided:** 10 Estimated (None Striped)

Though currently zoned R-20 single-family residential district, this property has operated as a day care center since the 1970s, enjoying a “grandfathered” status since. The request is to bring the property’s zoning into conformity with its past and current use as commercial. The applicant’s request will allow for the continuing operation of a day care center with the intention of using the property as-is. Hours of operation will be Monday through Friday 6 a.m. to 7 p.m. While the Code requires 20 parking spaces for all day care facilities, the submitted site plan, as well as aerial photography, indicates no defined spaces in front of the existing building.

Cemetery Preservation: No comment.

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: John F. Papazian & Donna D. Papazian

PETITION NO.: Z-43

PRESENT ZONING: R-20

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 to NRC for purpose of existing daycare. The 1.82 acre site is located on east side of Canton Road, south of Liberty Hill Road.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with NRC zoning designation. The purpose of the (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.

Master Plan/Corridor Study

Canton Road 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 Canton Corridor Streetscape and Architectural 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
- 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 Office of Economic Development at 770.528.2607 or find information online at <http://economic.cobbcountyga.gov>.

APPLICANT: John F. Papazian & Donna D. Papazian

PETITION NO.: Z-43

PRESENT ZONING: R-20

PETITION FOR: NRC

PLANNING COMMENTS: **Continued**

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

APPLICANT John F. Papazian & Donna D. Papazian

PETITION NO. Z-043

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 Canton 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: on site

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

Drv 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. Customer is aware of Liberty Hill Sewer Assessment fee balance.
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: John F. & Donna D. Papazian

PETITION NO.: Z-43

PRESENT ZONING: R-20

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

No site improvements are proposed at the present time. Any future improvements or redevelopment must meet current Stormwater Management requirements.

APPLICANT: John F. Papazian & Donna D. Papazian

PETITION NO.: Z-43

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
Canton Road	29,700	Arterial	45 mph	Cobb County	100'

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

COMMENTS AND OBSERVATIONS

Canton 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 east side of Canton Road, a minimum of 50' from the roadway centerline.

Recommend sidewalk along the Canton Road frontage.

Recommend one driveway be used as ingress only and the other driveway be used as egress only.

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

STAFF RECOMMENDATIONS

Z-43 JOHN F. PAPAZIAN & DONNA D. PAPAZIAN

- 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 request is to allow continuing operation of the property as a day care center as it has operated since the 1970s.
- 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. With no additions proposed, the request will allow continuation of that use which has existed upon the property historically.
- 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*. The property, located within an area delineated as NAC neighborhood activity center on the future land use map, will further the *Plan's* goal of providing for areas that serve neighborhood residents and businesses if rezoned to the NRC district.
- 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 request will allow the property to conform to the Code as it continues its operation as a day care center by rezoning it to a suitable commercial category from its current residential zoning. This will not only allow continued use of this historically commercial property, but may also encourage further investment into the property by removing any limitations associated with the property being "grandfathered."

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

- Site plan to be approved by District Commissioner indicating striped parking at a number deemed suitable, such striping to be completed within 30 days of plan approval;
- Letter from Garvis L. Sams, Jr., dated June 6, 2014;
- Fire Department Comments and Recommendations;
- Water and Sewer Division Comments and Recommendations;
- Stormwater Management Division Comments and Recommendations;
- Department of Transportation Comments and Recommendations; and
- 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.

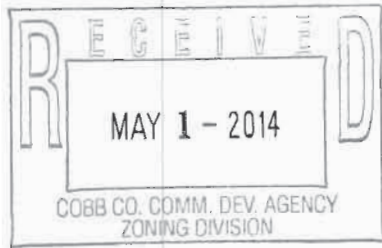
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Application #: Z- 43

PC Hearing Date: July 1, 2014

BOC Hearing Date: July 15, 2014

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

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

- a) Proposed use(s): continuing operation of a day care center
- b) Proposed building architecture: as-built architecture
- c) Proposed hours/days of operation: Monday through Friday from 6 a.m. to 7 p.m.
- d) List all requested variances: none at this time

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

The subject property is located within the confines of a Neighborhood Activity Center ("NAC"); has operated as a day care center since 1975; and, is adjacent and directly contiguous to other commercial businesses.

.....
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). not applicable

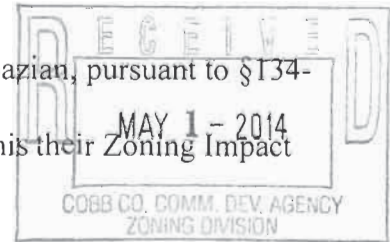
.....
Part 5. Is this application a result of a Code Enforcement action? No X; Yes ____ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: _____ Date: _____

Applicant name (printed): _____

ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF Mr. & Mrs. John F. Papazian

COMES NOW, Mr. & Mrs. John F. Papazian, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, file this their Zoning Impact Statement, as follows:



- A. The zoning proposal will permit a continued use of the property which is suitable in the context of development and existing zonings along this section of the Canton Road Corridor.

- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties, the majority of which are commercial.

- C. The subject property to be affected by the zoning proposal has limited economic use as currently zoned.

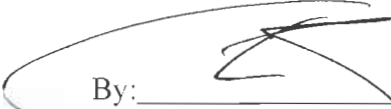
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being within an existing Neighborhood Activity Center (NAC).

- F. There is no substantial relationship between the existing zoning classification of R-20 and NRC which limit 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 section of the Canton Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 15th day of May, 2014.

SAMS, LARKIN, HUFF & BALLI, LLP

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

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

JUSTIN H. MEEKS

SLHB-LAW.COM

June 6, 2014

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064



Re: Application of Mr. & Mrs. John F. Papazian to Rezone a 1.82 Acre Tract from R-20 to NRC (No. Z-43)

Dear John:

As you know, this firm represents the Applicants who are also the property owners concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on July 1, 2014 and, thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on July 15, 2014.

With respect to the foregoing and in keeping with the dialogue which we have established with the County's professional staff and with Canton Road Neighbors, Inc. ("CRN"), this letter will constitute the Papazians' expression of agreement with the following stipulations which shall become conditions in a part of the grant of the requested Rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to wit:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Rezoning of the subject property shall be from R-20 to NRC in substantial conformity to that certain zoning as-built site plan which was filed contemporaneously with the Application for Rezoning.
3. The total site area of the subject property (1.82 Acres) shall be utilized as a day care and child development center.¹

¹ The subject property has been utilized for child day care services since the early 1970's and was considered a nonconforming "Grandfathered" use until the business and use was discontinued for a period exceeding 6 months.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
June 6, 2014
Page 2

-
4. The architectural style, composition and treatment of the building shall remain in its as-built condition.
 5. The entrance signage for the day care and child development center shall remain the same.
 6. The business will have a maximum of 110 children and will utilize 7 full time and 5 part time employees.
 7. The hours of operation shall be from 6 a.m. until 10 p.m. with staggered drop off and pick up times which will be 6:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:30 p.m.
 8. Upon a redevelopment of the subject property, the owners agree to the installation of a deceleration lane and an appropriate taper on the subject property's frontage on Canton Road.
 9. Compliance with recommendations from the Cobb County Water System with respect to the availability of water and sewer to the site.²
 10. Compliance with recommendations from the Stormwater Management Division with respect to Stormwater Management, Detention, Hydrology and Downstream Considerations. Presently, the Stormwater Management Division will not be requiring the installation of detention, water quality or any type of Stormwater management components unless the requisite percentage of impervious surface is later added to the site under a redevelopment scenario.
 11. The following otherwise permitted uses under the NRC classification shall be prohibited:³
 - a. Video arcades as primary businesses.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.

² The subject property is located within the "Liberty Hill District Sewer Extension Agreement Area". As such, the Owners understand their obligation to participate to the extent that Cobb County financed the sewer extension within this sub-area of the county.

³ Said uses shall be construed as conditional prohibitions and the Owners or future developer(s) shall have the right to appear before the Board of Commissioners in the context of the filing of an Other Business Application.

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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
June 6, 2014
Page 3

- d. Pawn shops or check cashing establishments.
 - e. Package sale of alcoholic beverages as a primary use; excepting a store specializing exclusively in the sale of wines.
 - f. Any business which principally features sexually explicit products or drug-related paraphernalia.
 - g. Automotive parts, sales and service.
12. The District Commissioner shall have the authority to approve minor modifications as the development proposal proceeds through the Plan Review process and thereafter, except for those that:
- a. Increase the density on the site.
 - b. Reduce the size of an Approval buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
 - c. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.
 - d. Increase the height of the building that is adjacent to property that is zoned in the same or more restrictive zoning district.
 - e. Change access locations to a different roadway.
-

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VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
June 6, 2014
Page 4

I would appreciate it if you would ensure that this letter of stipulations/conditions is included in the final Zoning Analysis. In the interim, please do not hesitate to contact me should you or your staff require additional information or documentation prior the formulation of staff's Zoning Analysis and Recommendations. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.

gsams@slhb-law.com

GLS/ebr

Cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP, Director (via email)
Mr. Dana Johnson, AICP, Assistant Director (via email)
Mr. Terry Martin, Planner II (via email)
Mr. Jason Campbell, Planner III (via email)
Mr. David Breden, P.E. (via email)
Ms. Jane Stricklin, P.E. (via email)
Ms. Karen King, Assistant County Clerk (via email)
Ms. Lori Barton, Deputy County Clerk (via email)
Ms. Carol Brown, Canton Road Neighbors, Inc. (via email)
Mr. & Mrs. John F. Papazian (via email)