

APPLICANT: Jerry L. Jackson and James E. Baker
PHONE#: (770) 499-9950 and (678) 371-5891
EMAIL: JJ@ASCOPIERS.com and JAMESE_BAKER@BELLSOUTH.net
REPRESENTATIVE: Jerry L. Jackson
PHONE#: (770) 499-9950 **EMAIL:** JJ@ASCOPIERS.com
TITLEHOLDER: Jerry L. Jackson and James E. Baker

PETITION NO: Z-41
HEARING DATE (PC): 07-01-14
HEARING DATE (BOC): 07-15-14
PRESENT ZONING: GC
PROPOSED ZONING: NRC

PROPERTY LOCATION: Southeast side of Austell Road, northeast of Austell Circle (1801 Austell Road).

PROPOSED USE: Retail and Offices

ACCESS TO PROPERTY: Austell Road

SIZE OF TRACT: 0.37 acre

DISTRICT: 17

PHYSICAL CHARACTERISTICS TO SITE: 1 Story Brick House with Basement

LAND LOT(S): 154, 155

PARCEL(S): 25

TAXES: PAID X DUE

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/ Vacant Commercial Lot
- SOUTH:** R-20/ Single-family Residence
- EAST:** R-20/ Single-family Residence
- WEST:** RM-12/ Somerpoint Apartment Homes

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

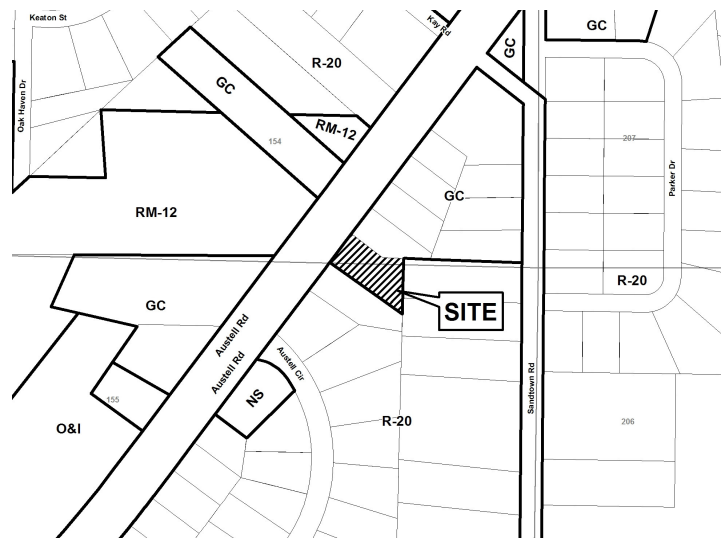
PLANNING COMMISSION RECOMMENDATION

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

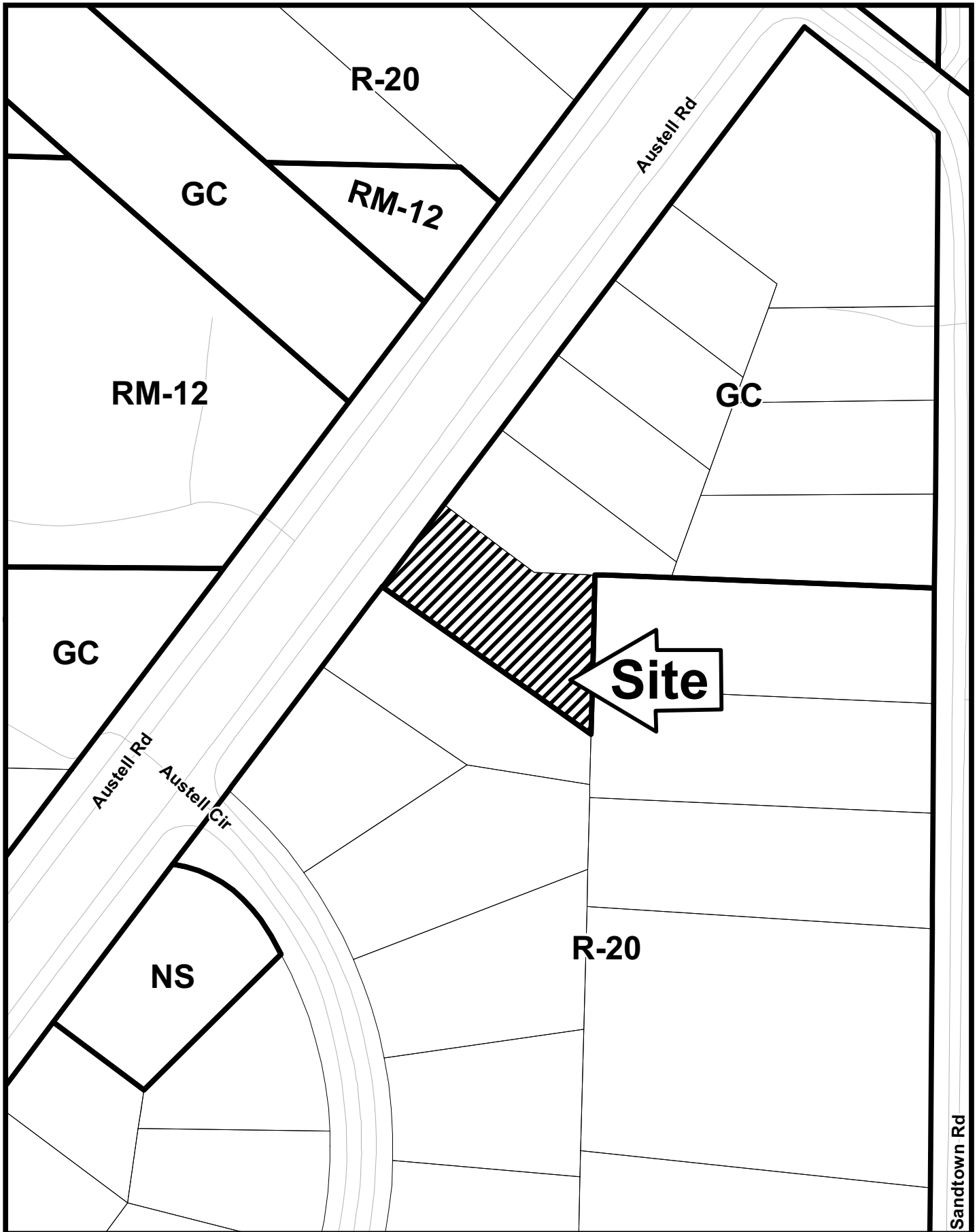
BOARD OF COMMISSIONERS DECISION

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

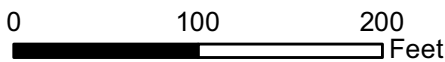
STIPULATIONS:





Z-41



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Jerry L. Jackson and James E. Baker

PETITION NO.: Z-41

PRESENT ZONING: GC

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

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

Proposed Number of Buildings: 2 **Total Square Footage of Development:** 4,992 sq. ft.

F.A.R.: 0.3 **Square Footage/Acre:** 13,492 sq. ft.

Parking Spaces Required: 25 (retail uses) **Parking Spaces Provided:** None Striped

The applicant is requesting rezoning to the NRC neighborhood retail commercial district to continue operation of the property for retail and office uses as it has been in the past. Located within an area delineated as MDR medium density residential, the existing GC general commercial district is considered to be “grandfathered” and as such, the current request is necessitated by the property’s changing tenants/having gone six (6) months without a tenant. The current GC zoning was granted by the Board of Commissioners under Z-20 of 1990 which stipulated “office/retail use only, no outside storage, landscape plan to be approved by staff,” and department comments.

The following variances will be required as presented:

1. Waive the front setback from the required 50 feet to 24 feet;
2. Waive the required 20 foot landscape screening buffer adjacent to the south and east property lines;
3. Waive the rear setback from the required 30 feet to 1 foot;
4. Waive the maximum floor area ratio from 0.25 for retail uses to 0.32.
5. Waive the number of required parking spaces from 25 to a minimum of 10 paved and striped to Cobb County Standards.

Cemetery Preservation: No comment.

FIRE COMMENTS:

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

APPLICANT: Jerry L. Jackson and James E. Baker

PETITION NO.: Z-41

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC and R-20 to NRC for purpose of retail and offices. The 0.37 acre site is located on the southeast side of Austell Road, northeast of Austell Circle.

Comprehensive Plan

The parcel is within the Medium Density Residential (MDR) area future land use category, with GC zoning designation. The purpose of the Medium Density Residential (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

The parcel is located within the Austell 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 _____

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.

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.

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 Jerry L. Jackson and James E. Baker

PETITION NO. Z-041

PRESENT ZONING GC

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 / SE side of Austell 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: 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 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: Jerry L. Jackson and James E. Baker

PETITION NO.: Z-41

PRESENT ZONING: GC

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: Jerry L. Jackson and James E. Baker

PETITION NO.: Z-41

PRESENT ZONING: GC

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	31,400	Arterial	45 mph	Georgia DOT	100'

Based on 2005 traffic counting data taken by Georgia 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.

RECOMMENDATIONS

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

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.

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STAFF RECOMMENDATIONS

Z-41 JERRY L. JACKSON AND JAMES E. BAKER

- 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 continue the property's use as it has been for decades and as uses immediately to the north are currently used.
- 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. As a request to correct a loss of the property's "grandfathered" status, the proposed use as retail/office will mirror those uses the property has been site to in the past. Moreover, with insurances that applicable protections such as landscape buffers are maintained, the property's continued operation as commercial should no negatively affect adjacent 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 not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*. Located within a MDR medium density residential area on the future land use map, the request to continue the property's decades long use as retail/office does not further the goals of the *Plan*.
- 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. Having lost its "grandfathered" status as a result of its current GC zoning and MDR future land use designation, the request will allow the property to continue operation as retail/office serving neighborhood residents. With appropriate protections such as adequate landscaping, the request should not negatively affect adjacent residential properties.

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

- Site plan received by the Zoning Division on April 29, 2014 with District Commissioner approving minor modifications ;
- Professional Office and/or Neighborhood Retail Uses only;
- No outside storage;
- Landscape plan to be approved by County Arborist for adequate screening against adjacent residential properties;
- Minimum of 10 parking spaces paved and striped according to Cobb County Standards;
- Fire Department Comments and Recommendations;
- Water and Sewer Division Comments and Recommendations;
- Stormwater Management 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 #: 2-41

PC Hearing Date: 7-1-14

BOC Hearing Date: 7-15-14

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): _____
- b) Proposed building architecture: _____
- c) Proposed hours/days of operation: _____
- d) List all requested variances: _____

COBB COUNTY ZONING DIVISION
2014 APR 29 AM 11:33
COBB COUNTY GEORGIA
FILED IN OFFICE

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

LOST ZONING WAS GRAND FATHER IV HAS
BEEN COMMERCIAL FOR 40+ YRS.

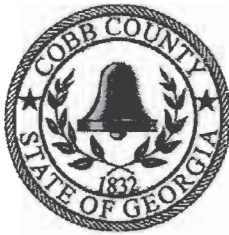
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Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(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). NO

.....
Part 5. 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).

Applicant signature: [Signature] Date: _____

Applicant name (printed): JERRY L JACKSON



Application #: E-41
 PC Hearing Date: 7-1-14
 BOC Hearing Date: 7-15-14

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): _____
- 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)

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

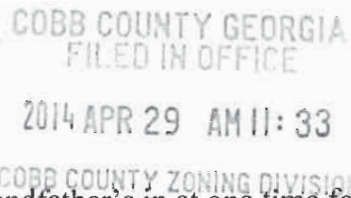
(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). _____

.....
Part 5. 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).

Applicant signature: James E. Baker Date: 4-10-14

Applicant name (printed): James E. Baker

COBB COUNTY ZONING DIVISION
 2014 APR 29 AM 11:33
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QUESTION # 9 - RESPONSE

- A) All of the lots that are adjacent were grandfather's in at one time for commercial use. There have been many different types of businesses adjacent to this property.
- B) This property will not affect the existing use or usability of adjacent or nearby property. It has been used and zoned commercial for 30 plus years.
- C) It would depend on what type of business is allowed under the new zoning.
- D) Would not have any excessive or burdensome use of existing streets or transportation facilities, utilities or schools. There have been no changes in 30 plus years.
- E) It would be in conformity with the policy and intent of the zoning.
- F) Since it has been used for 30 plus years, it would continue to an asset for the community.

Application for Variance Cobb County

(type or print clearly)

Z-41 (2014)
Previous
Variance

Application No. #V-105
Hearing Date: 08/12/92

Applicant Jerry L. Jackson Business Phone 434-5274 Home Phone 427-1274

Jerry L. Jackson Address 567 Cupelo Drive, Marietta, Ga. 30064

(representative's name, printed)

[Signature] Business Phone 434-5274

(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

Notary Public, Georgia, County of Cobb
My Commission Expires August 15, 1994
My commission expires: _____

Titleholder Jerry L. Jackson and Mary W. Jackson Business Phone 434-5274 Home Phone 427-1274

Signature [Signature] Address 567 Cupelo Dr., Marietta, Ga. 30064

(attach additional signatures, if needed)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

Notary Public, Georgia, County of Cobb
My Commission Expires August 15, 1994
My commission expires: _____

Present Zoning of Property Reverted from General Commercial to CF under the non-conforming use law/Records destroyed from 1969 down by the County.

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property x Shape of Property _____ Topography of property _____ Other _____

The Cobb County Zoning Ordinance Section 3-28-9.12A states that the Cobb County Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance. The property has been used from commercial business for the last 37 years. It has been brought to our attention by the County that the property has never been zoned. The property is not suitable for residential use due to the commercial building that was constructed 37 years ago.

List type of variance requested: 435 PJA 8/2/92 Lot size 12,460 sq. ft. Variance requested due to size of property.

Location Located on the west side of Favor Road, 100 feet north of Pat Mell Road.

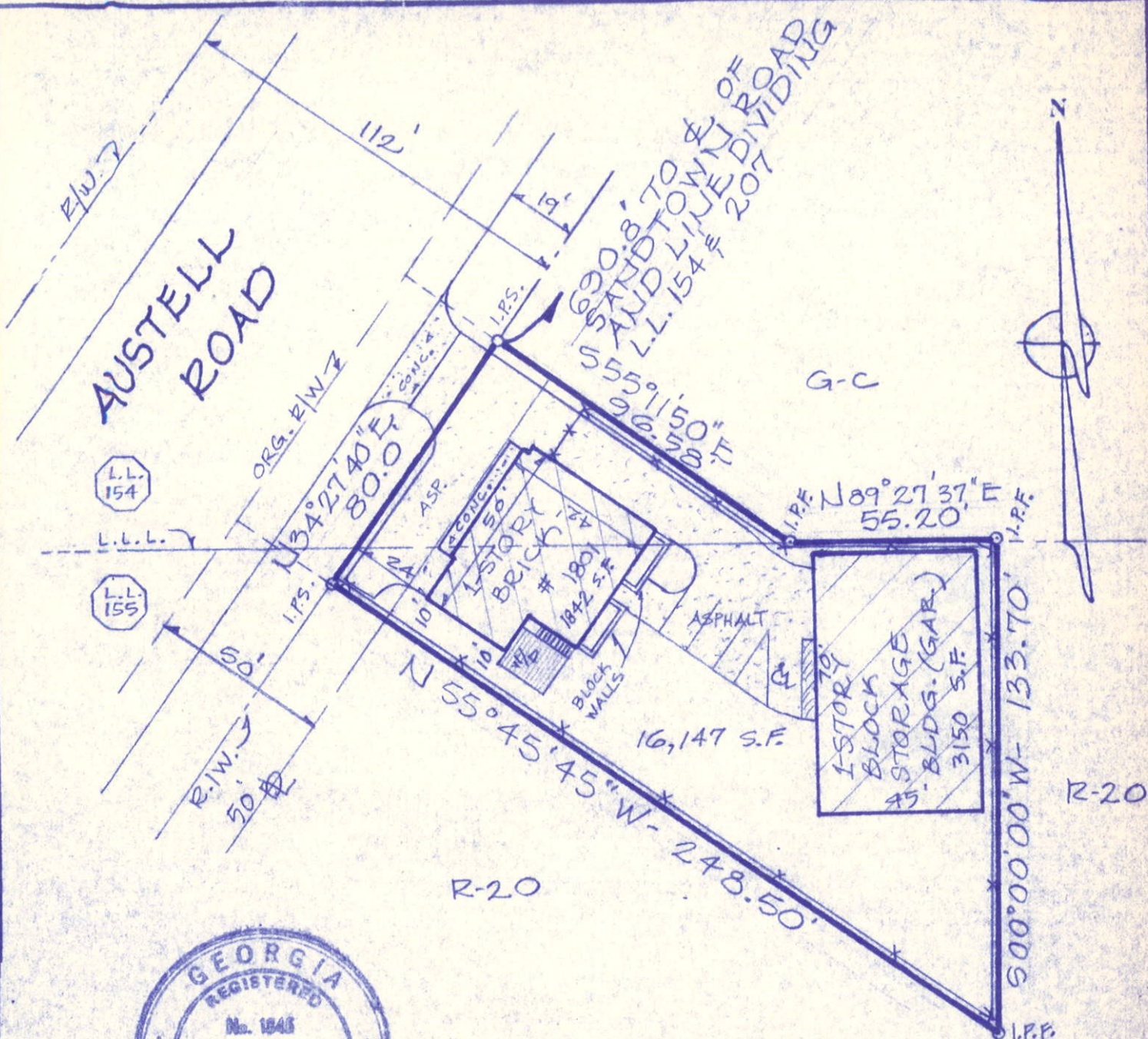
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 133 District 17th Size of Tract 0.33 Acre(s)

OFFICE USE ONLY

Decision of Board of Zoning Appeals 08/12/92 The Board of Zoning Appeals *approved*
application to waive the lot size from required 20,000 square feet to 12,425 square feet to allow
applicant to apply for rezoning. Motion by Hallinan, second by Muir, carried 5-0.


Secretary, Board of Zoning Appeals



David W. Lynah

I HAVE THIS DATE EXAMINED THE F.I.R.M. OFFICIAL FLOOD MAP AND FOUND REFERENCED LOT IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARD.
 COMMUNITY 130052
 MAP 75 B

REF. P.B. 13 PG. 69 - DB. 1253 PG. 51

Survey For: MARTHA L. MOORE
 & STELLA CAPPS

PART OF
 Lot 15 Block Unit
 Subdivision SANTELL
 Land Lot 154 & 155 District 17TH. 2^{ND.} SECTION
 COBB County, Georgia

Scale : 1" = 40' Date : OCT. 18^{TH.} 1987

D. W. Lynah Surveyors
 Smyrna, Georgia (404) 433-2660

Application for Rezoning COBB COUNTY

(type or print clearly)

Application No. 2-20
Hearing Date 3-22-90

Stella Capps
Applicant Martha L. Moore Business Phone None Home Phone (904) 563-2791
Jerry L. Jackson Address 567 Cupelo Dr., Marietta, Ga. 30060
(representative's name, printed)
[Signature] Business Phone 434-5274 Home Phone 427-1274
(representative's signature)

Stella Capps
Titleholder Martha L. Moore Business Phone None Home Phone (904) 563-2791
Signature [Signature] Address 6665 W. Riverbend Rd., Dunnellon, Fla. 32630
(attach additional signatures, if needed)
[Signature]

Zoning Request From Residential R-20 To General Commercial
(present zoning) (proposed zoning)

For the Purpose of Office Machines Sales & Service Size of Tract 1/2 acre(s)

(subdivision, restaurant, warehouse, apts., etc.)
Location 1801 Austell Rd., Marietta, Ga. 30060

(street address, if applicable, nearest intersection, etc.)
Land Lot(s) 154 & 155 District 17th.

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are no there are such assets. If any, they are as follows:

[Signature]
[Signature]
Applicant's Signature

FOR OFFICIAL USE ONLY

Recommendation of Planning Commission 3-22-90 Planning Commission recommended approval of application **subject to: 1) office/retail use only; 2) no outside storage; 3) Cobb Department of Transportation comments; 4) landscape plan to be approved by Staff; 5) Water and Sewer Department comments.** Motion by Dameron, second by Dawson, carried 5-0.

[Signature] Chairman

Board of Commissioners' Decision 3-22-90 Board of Commissioners **approved** application as recommended by the Planning Commission. VOTE: 5-0.

[Signature] Chairman

APPLICANT Stella Capps & Martha L. Moore PETITION NO. Z-20

PRESENT ZONING R-20 PETITION FOR GC

NOTE: Comments only reflect what facilities are currently in existence at the time of review.

WATER COMMENTS:

Available at Development: Yes No Fire Flow Test Required: Yes No
Size of Existing Main and Location: 8 inch on Austell Road.
Additional Comments: None.

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:

In Drainage Basin: Yes No At Development: Yes No
Approximate Distance To Nearest Sewer: In Austell Road.
Estimated Waste Generation 400 ADF 1,000 Peak.
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.
Dry Sewers Required: Yes No
On-site Easements Required: Yes No
Flow Test Required: Yes No
LETTER OF ALLOCATION Issued: Yes No
Septic Tank: Not recommended by this Department.
 Subject to Health Department approval.
Additional Comments: None.

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 off site easements, dedication of on and/or off site water & sewer to Cobb County, as may be required. Rezoning does not insure water/sewer capacity.

FIRE COMMENTS:

<u>Station No. & Location</u>	<u>Response Time</u>	<u>X adequate</u>	<u>inadequate</u>
<u>1. Rescue # 2 Barber Road</u>	<u>2</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>2. Engine #2 Barber Road</u>	<u>3</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>3. Engine #7 Hurt Road</u>	<u>6</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GPM Requirements 1,500 Water Main Size Required: 8 inch
Additional Comments: None.

APPLICANT Stella Capps & Martha L. Moore PETITION NO. Z-20

PRESENT ZONING R-20 PETITION FOR GC

TRAFFIC COMMENTS:

	<u>Average Daily Trips</u>	<u>Classification</u>	<u>Minimum Right-of-Way Requirements</u>
<u>Austell Road</u>	<u>19,900</u>	<u>Arterial</u>	<u>112 feet</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Additional Comments: None.

Staff Recommendations: Georgia Department of Transportation permit required for access to Austell Road. Sidewalk is required along Austell Road.

SCHOOL COMMENTS:

<u>Area Schools</u>	<u>Instructional Units Available</u>	<u># Of Teachers Assigned</u>	<u>Average Daily Attendance</u>	<u>Capacity</u>
<u>Funded Future Construction School Grade Level</u>		<u>Anticipated Completion Of Construction</u>		<u>Planned Enrollment</u>

DRAINAGE COMMENTS:

Basin Affected Olley Creek Within 100 Yr. Flood Plain Yes No

Is Project Located Within MRPA Yes No

Percentage & Location of Flood Plain N/A

Additional Comments: Submit site improvements to plan review. Control site runoff not to exceed capacity of downstream storm drainage systems. Minimize runoff into public roads.