

APPLICANT: Thuan Thi Lam

PHONE#: (678)567-1553 **EMAIL:** lamthuan76@yahoo.com

REPRESENTATIVE: John H. Moore, Moore Ingram Johnson & Steele,LLP

PHONE#: (770)429-1499 **EMAIL:** jmoore@mijs.com

TITLEHOLDER: Thuan Thi Lam and Thang Thi Lam

PROPERTY LOCATION: Northeast intersection of Elmwood Drive and Austell Road (4399 Austell Road).

ACCESS TO PROPERTY: Austell Road

PHYSICAL CHARACTERISTICS TO SITE: Existing building

PETITION NO: Z-19

HEARING DATE (PC): 02-03-15

HEARING DATE (BOC): 02-17-15

PRESENT ZONING: NS

PROPOSED ZONING: NRC

PROPOSED USE: Office/Retail

SIZE OF TRACT: 0.46 acres

DISTRICT: 19

LAND LOT(S): 1006

PARCEL(S): 4

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** NS/ Single family house
- SOUTH:** NRC/ Single family house
- EAST:** NS, R-20/ Single family house
- WEST:** CRC/ Racetrac

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

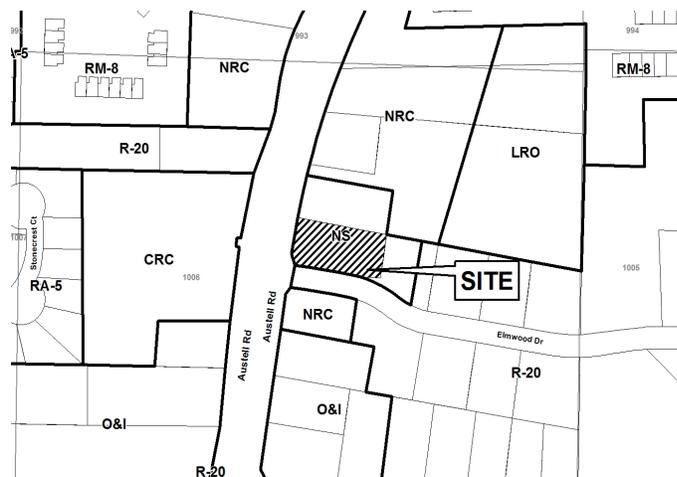
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

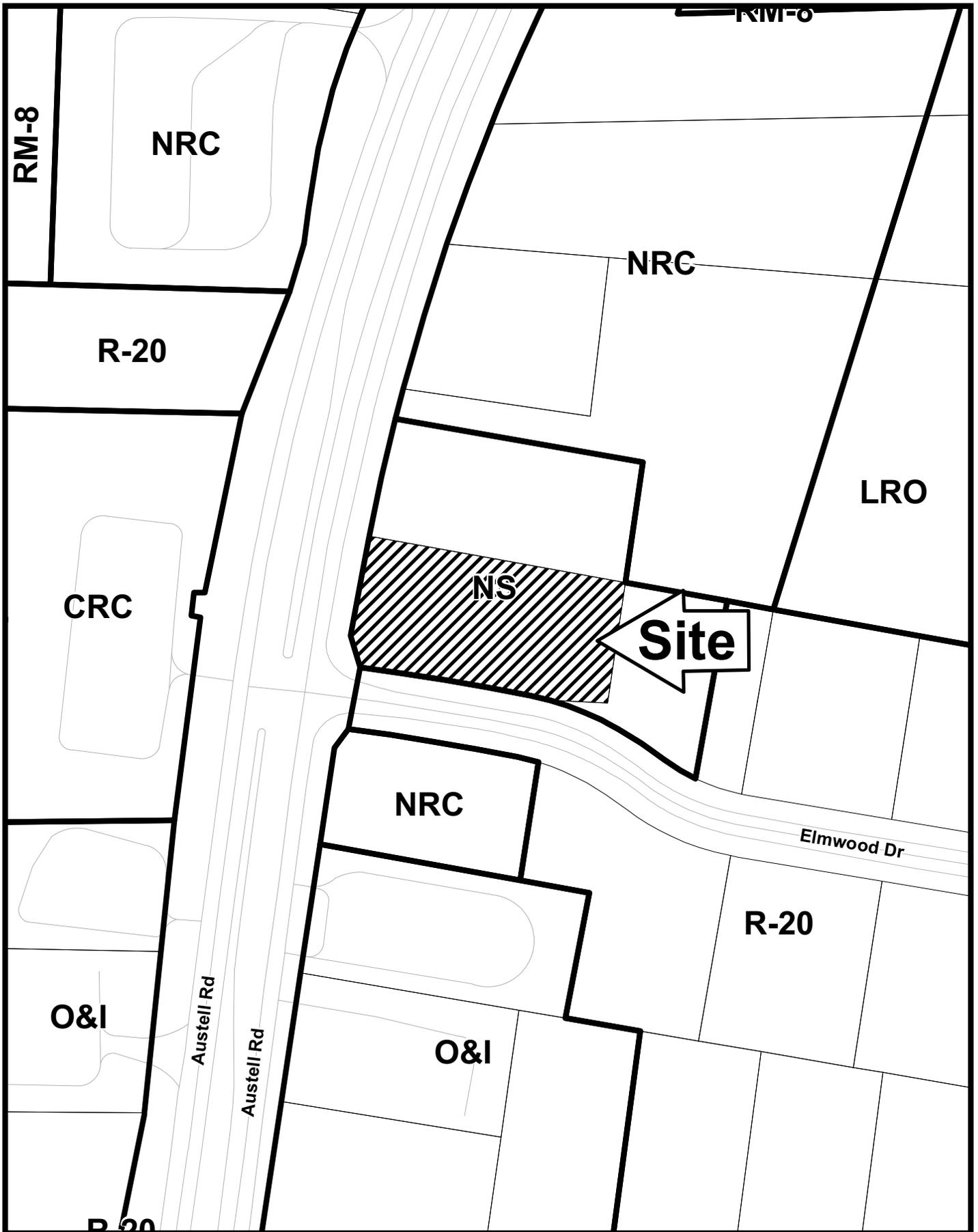
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

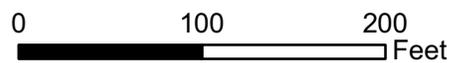
STIPULATIONS:



Z-19



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Thuan Thi Lam

PETITION NO.: Z-19

PRESENT ZONING: NS

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: John P. Pederson

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 1,338

F.A.R.: 0.08 **Square Footage/Acre:** 2,908

Parking Spaces Required: 9 **Parking Spaces Provided:** 9 (Estimated front & back lots)

The applicant is requesting the NRC zoning district in order to bring this property into compliance with the Cobb County Comprehensive Plan. The building is one story in height with a painted brick exterior. The property was last used as a Chiropractic office, and cannot be changed to a different use because it is a non-conforming use. The applicant would like to have the ability to either use the property for an office or for retail.

The applicant would need three contemporaneous variances for existing conditions. First they would need a variance to waive the front setback from 50 feet to 29 feet. Second, a variance would be needed to waive the major side setback from 25 feet to 20 feet. Third, waive the required 8 foot landscape strip along the roads.

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: Thuan Thi Lam

PETITION NO.: Z-19

PRESENT ZONING: NS

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from NS to NRC for purpose of office and retail. The 0.819 acre site is located at the northeast intersection of Elmwood Drive and Austell Road.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with NS 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

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?

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 Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

APPLICANT: Thuan Thi Lam

PETITION NO.: Z-19

PRESENT ZONING: NS

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

Is this property within the Six Flags Special Service District?

Yes No

APPLICANT Thuan Thi Lam

PETITION NO. Z-019

PRESENT ZONING NS

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): 6" DI/ E 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: 1,260' E in Elmwood Drive

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

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 Health Dept approval required for continued use of existing septic system.
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: Thuan Thi Lam

PETITION NO.: Z-19

PRESENT ZONING: NS

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

The applicant intends to use the existing structure, however it appears that there is not adequate parking or access provided. Any increase in impervious coverage over the 5000 square foot threshold or redevelopment must meet full stormwater management requirements

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PETITION NO.: Z-19

PRESENT ZONING: NS

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	34,500	Arterial	45	GDOT	100'

Based on [2013] traffic counting data taken by Cobb County DOT

COMMENTS AND OBSERVATIONS

Austell Road is classified as an arterial, a state route, 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.

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

Recommend the driveway apron be upgraded to the commercial standard.

STAFF RECOMMENDATIONS

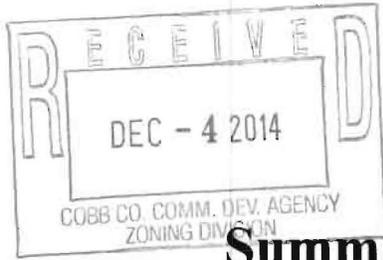
Z-19 THUAN THI LAM

- 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. This area contains mostly commercial zoned development along Austell Road.
- 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 applicant's property has been used commercially for many years without negatively affecting nearby residential 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 in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center.
- 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 Austell Road corridor is mostly commercial in nature with a wide variety of commercial businesses. The applicant's property has been used commercially for many years prior to the redesignation of Austell Road in 2013 to a Neighborhood Activity Center. The applicant's proposal is consistent with the Cobb County Comprehensive Plan.

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

- Site plan received December 4, 2014;
- Applicant to submit a parking lot plan that meets county standards prior to any new business using this property, to be approved by the District Commissioner after review from Zoning Staff;
- No outdoor storage or displays;
- No auto repair establishments or tire shops;
- 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.



Application #: Z- 19 (2015)

PC Hearing Date: 02/03/2015

BOC Hearing Date: 02/17/2015

Summary of Intent for Rezoning*

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

- a) Proposed unit square-footage(s): Not Applicable.
- 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): Retail/Office
- b) Proposed building architecture: Brick (existing structure)
- c) Proposed hours/days of operation: Unknown at this time.
- d) List all requested variances: None known at this time.

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

None known at this time.

.....
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.

.....
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).

MOORE INGRAM JOHNSON & STEELE, LLP

Applicant signature: [Signature] BY: _____ Date: December 4, 2014

John H. Moore; Georgia Bar No. 519800

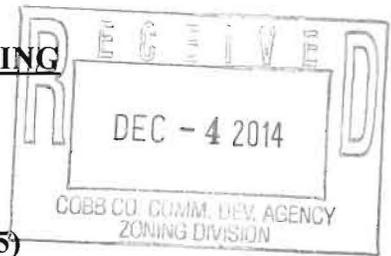
Applicant name (printed): Attorneys for Applicant and Property Owners

***Applicant specifically reserves the right to amend any information set forth within the Summary of Intent for Rezoning, or any other part of the Application for Rezoning, at any time during the rezoning process.**

Revised August 21, 2013

ATTACHMENT TO APPLICATION FOR REZONING

IMPACT ANALYSIS STATEMENT



Application No.: Z- 19 (2015)
Hearing Dates: February 3, 2015
February 17, 2015

Applicant: Thuan Thi Lam
Titleholders: Thuan Thi Lam and Thang Thi Lam

Analysis of impact of the proposed rezoning with respect to the following:

- (a) The Application for Rezoning requests rezoning of a 0.819 acre parcel, with an existing structure and parking area located thereon, located at 4399 Austell Road (at the northeasterly intersection of Austell Road and Elmwood Drive) (hereinafter the “Subject Property” or “Property”). The Property is currently zoned Neighborhood Shopping (“NS”) and has been utilized for many years for various retail and office uses. Due to a change in tenants, Applicant is now required to seek rezoning in order to accommodate the proposed, future tenants.
- (b) This zoning proposal will have no adverse effect on the existing use or usability of adjacent or nearby property. The use of the Subject Property as retail or office will not change under the proposed NRC zoning classification. Therefore, rezoning of the Subject Property to the NRC zoning classification will have a minimal, if any, impact on surrounding properties.
- (c) The property as zoned does not have a reasonable economic use. Approval of the requested rezoning will allow for the Subject Property to be used appropriately under the proposed zoning classification.
- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- (e) The zoning proposal is in conformity with the Land Use Map of Cobb County, Georgia; as well as the policy and intent of the Land Use Plan as evidenced by the existing zoning category of Neighborhood Shopping; as well as, the designation of Neighborhood Activity Center on the Land Use Map.
- (f) The Subject Property is currently zoned to the NS category within a Neighborhood Activity Center (“NAC”). Granting the requested rezoning will allow for the Property to continue being utilized for retail and office uses.