

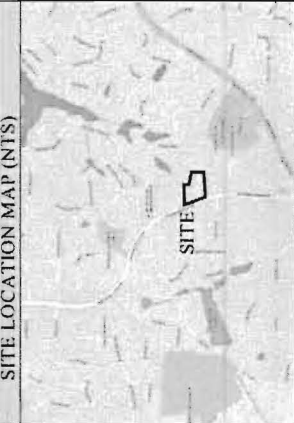
Z-26
(2015)

PLANNERS AND ENGINEERS COLLABORATIVE
"WE PROVIDE SOLUTIONS"
SITE PLANNING & LANDSCAPE ARCHITECTURE CIVIL ENGINEERING & LAND SURVEYING
300 RESEARCH COURT • MONKIOS, GEORGIA 30093 • (770) 512-7411 • FAX (770) 512-7411 • WWW.PEACAT.COM
Cobb County
JAN 2015

Jim Beveridge / Duke Land Group
A Member Fidelity Residential Community
4333 ASHFORTH DRIVE, SUITE 100
ATLANTA, GEORGIA 30343
PHONE (770) 491-1233

REVISION

REZONING SITE PLAN
DATE: November 28, 2014
PROJECT: 1413140
SCALE: 1" = 30'



CONTACT
Jim Beveridge @ 404-697-7700

LOT AREA SUMMARY

LOT	AREA (SF)
1	13,325
2	9,101
3	9,101
4	8,970
5	10,520
6	11,515
7	12,308
8	12,308
9	13,144
10	28,236
TOTAL	141,314

SITE DATA:

TOTAL SITE AREA	
3.76 ACRES	

PROPERTY INFORMATION:

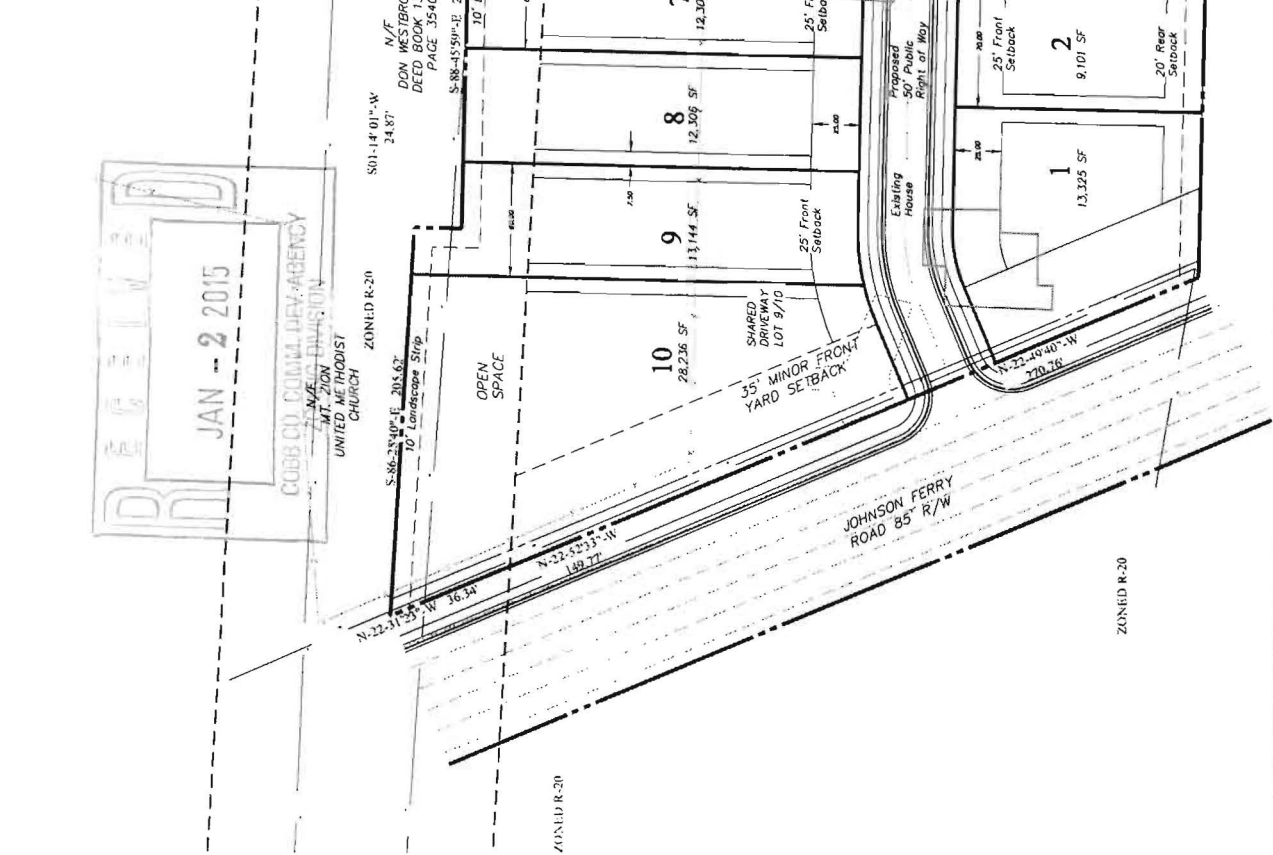
PROPERTY ADDRESS	DEED BOOK	PAGE
1668 JOHNSON FERRY ROAD	13291	3540

PROPERTY SETBACKS:

FRONT	REAR	SIDE
25' Front Setback	20' Rear Setback	10' Side Setback

PROPERTY SERVICES:

PROPERTY SERVICES	PROPERTY SERVICES
1. LOT	2. LOT
3. LOT	4. LOT
5. LOT	6. LOT
7. LOT	8. LOT
9. LOT	10. LOT



APPLICANT: James Beveridge

PHONE#: (404) 697-7700 **EMAIL:** jimbeveridge2121@gmail.com

REPRESENTATIVE: Ellen W. Smith

PHONE#: (770) 661-1216 **EMAIL:** esmith@hznzw.com

TITLEHOLDER: The Board of Trustees of the Mount Zion United

Methodist Church and Johnson Ferry Holdings, LLC

PROPERTY LOCATION: East side of Johnson Ferry Road, south of

Bishop Lake Road

(1668 Johnson Ferry Road).

ACCESS TO PROPERTY: Johnson Ferry Road

PHYSICAL CHARACTERISTICS TO SITE: Vacant, wooded

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/ Mt. Zion United Methodist Church Property

SOUTH: R-20/ Ivywood Subdivision

EAST: R-20/ Bishop's Hollow Subdivision

WEST: R-20/ Hunters Trace Subdivision

PETITION NO: Z-26

HEARING DATE (PC): 03-03-15

HEARING DATE (BOC): 03-17-15

PRESENT ZONING: R-20

PROPOSED ZONING: RA-5

PROPOSED USE: Single-Family Residential

SIZE OF TRACT: 3.96 acres

DISTRICT: 16

LAND LOT(S): 827, 830

PARCEL(S): 6, 32

TAXES: PAID X **DUE**

COMMISSION DISTRICT: 2

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

PLANNING COMMISSION RECOMMENDATION

APPROVED **MOTION BY**

REJECTED **SECONDED**

HELD **CARRIED**

BOARD OF COMMISSIONERS DECISION

APPROVED **MOTION BY**

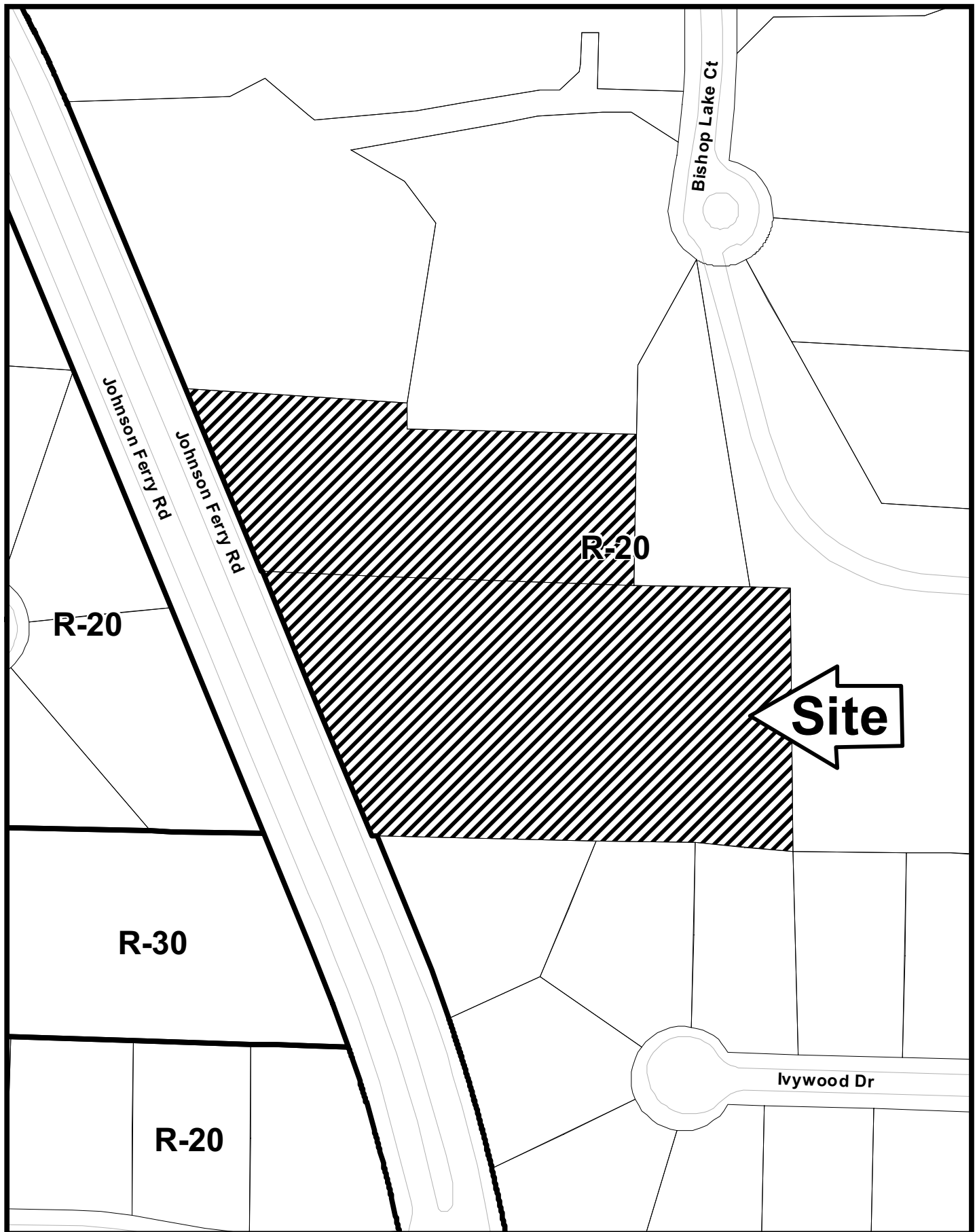
REJECTED **SECONDED**

HELD **CARRIED**

STIPULATIONS:



Z-26



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

0 100 200 Feet



City Boundary
Zoning Boundary

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: Low Density Residential (1-2.5 units per acre)

Proposed Number of Units: 10 Overall Density: 2.52 Units/Acre

Staff estimate for allowable # of units: 7 Units* Increase of: 3 Units/Lots

*Estimate could be higher or lower based on engineered plans taking into account topography, shape of property, utilities, roadways, natural features such as creeks, wetlands, etc., and other unforeseen circumstances.

The applicant is requesting a rezoning of the property from the current R-20 single-family residential district to the RA-5 single-family detached residential district in order to develop a 10 lot subdivision. The proposed single-family, detached homes will be 2,800 to 4,500 square feet in size and consist of European or Traditional architecture. The community anticipates the use of a mail kiosk as required by the United States Postal Service and has located it upon its own lot to be owned and maintained by the Homeowner's Association.

As presented, the applicant's site plan anticipates the granting of a variance on the rear setback from the required 40 feet for exterior lots to 20 feet while still complying with the Code required 10 foot landscape buffer around the perimeter where the community abuts adjacent properties of a more restrictive zoning designation.

Cemetery Preservation: No comment.

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

SCHOOL COMMENTS:

Name of School	Enrollment	Capacity Status	Number of Portable Classrooms
Timber Ridge	609	Over	
Elementary Dodgen	1,226	Over	
Middle Walton	2,674	Over	

High

- School attendance zones are subject to revision at any time.

Additional Comments: Approval of this petition could seriously and adversely affect the enrollment at Timber Ridge Elementary, Dodgen Middle, and Walton High schools, all of which are severely over capacity at this time.

FIRE COMMENTS:

When projects contemplate less than 20 foot separation between units, guest parking shall be provided or the streets shall be labeled as a fire lane.

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 to RA-5 for purpose of single-family residential. The 3.96 acre site is located east side of Johnson Ferry Road, south of Bishop Lake Road.

Comprehensive Plan

The parcel is within a Low Density Residential (**LDR**) future land use category, with R-20 zoning designation. The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre. This category presents a range of densities.

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.

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

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 James Beveridge

PETITION NO. Z-026

PRESENT ZONING R-20

PETITION FOR RA-5

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): 12" DI / E side of Johnson Ferry Rd

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: 300' W on western side of Johnson Ferry Rd if elevations allow

Estimated Waste Generation (in G.P.D.): A D F= 1,660 Peak= 4,000

Treatment Plant: Sutton

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: It appears that an existing water/sewer easement in Hunters Trace is available for use

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: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Unnamed Trib to Willeo Creek 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 CONDITIONS

- ☐ 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 **Bishop's Hollow S/D.**
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 existing downstream private driveway culvert and Bishop's Hollow Lake.

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

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. This site is located just east of Johnson Ferry Road and is surrounded by Ivywood Subdivision to the south and Bishop's Hollow Subdivision to the north and east. The site is wooded with a mixture of soft and hardwood and average slopes are mild to moderate (5-14%). The entire site drains to the east to an existing stream channel at the rear of the site.
2. A drainage easement will likely be required along the side of Lot 6. This will impact the usable building area on this lot since there is a 10-foot landscape strip shown that the easement will not be able to encroach.
3. As indicated in the Downstream Conditions Comments, there is a lake located immediately downstream of this site. A pre- and post-sediment survey will be required to document any changes in sediment levels during construction.

APPLICANT: James Beveridge

PETITION NO.: Z-26

PRESENT ZONING: R-20

PETITION FOR: RA-5

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
Johnson Ferry Road	39,300	Arterial	45	Cobb	100'

Based on [2009] traffic counting data taken by Cobb County DOT

COMMENTS AND OBSERVATIONS

Johnson Ferry 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 be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend sidewalks within subdivision.

Recommend deceleration lane for the Johnson Ferry Road entrance.

Recommend right-in/right-out only.

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 Johnson Ferry Road, a minimum of 50' from the roadway centerline.

STAFF RECOMMENDATIONS

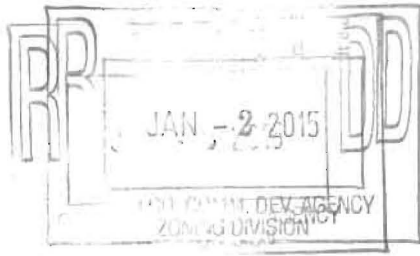
Z-26 JAMES BEVERIDGE

- A. It is Staff's opinion that the applicant's rezoning proposal may permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area contains single family houses and churches. Predominately a residential area, nearby subdivisions include Ivywood and Hunters Trace Unit 1 developed at 1.83 units per acre and 1.59 units per acre, respectively.
- B. It is Staff's opinion that the applicant's rezoning proposal may not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal is more dense than nearby subdivisions. Staff would suggest deleting the request to R-15, which fits the character of the area much better.
- C. It is Staff's opinion that the applicant's rezoning proposal may 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 an area delineated as LDR Low Density Residential which forecasts developments ranging from 1 to 2.5 units per acre, the applicant's proposal can be viewed as in keeping with the *Plan* as it proposes a yield of 2.52 units per acre.
- 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 deleting the applicant's rezoning proposal. The applicant's proposal will result in a community that is slightly more dense than those existing in the area. Deleting the request to R-15 would fit the area better, which has R-15 and R-20 sized lots.

Based on the above analysis, Staff recommends **DELETING TO R-15** subject to the following conditions:

- Site plan to be approved by District Commissioner;
- Maximum eight lots;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Fire Department 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 No. Z-26

March
2015

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): Mix of 2,800 to 4,500 sq. ft.
- b) Proposed building architecture: European or Traditional (see Summary of Intent)
- c) Proposed selling prices(s): _____
- d) List all requested variances: Reduce minimum lot width at
front setback to 60' on some lots as shown on site plan
- _____
- _____

Part 2. Non-residential Rezoning Information (attach additional information if needed) NOT APPLICABLE

- 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)

See attached Summary of Intent

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.

HOLT NEY ZATCOFF & WASSERMAN, LLP

ATTORNEYS AT LAW

100 GALLERIA PARKWAY, SUITE 1800

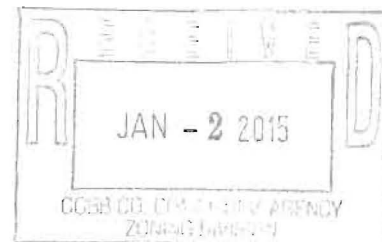
ATLANTA, GEORGIA 30339-5960

TELEPHONE 770-956-9600 FACSIMILE 770-956-1490

Ellen W. Smith

e-mail esmith@hnzw.com

January 2, 2015



BY HAND DELIVERY

Zoning Division

Community Development Agency

Cobb County, Georgia

1150 Powder Springs Street

Suite 400

Marietta, Georgia 30064

SUMMARY OF INTENT

Re: Application for Rezoning, Cobb County, Georgia ("***Application***") by James M. Beveridge ("***Applicant***") with respect to that certain approximately 3.96-acre property commonly known as 1668 Johnson Ferry Road, Georgia (the "***Property***")

Ladies and Gentlemen:

This law firm has the pleasure of representing Applicant with respect to the Application. Applicant respectfully submits for consideration the Application, seeking to rezone the Property from R-20 to RA-5 (Detached) to allow the development of the Property as a 10-unit single family subdivision.

Background - The Property

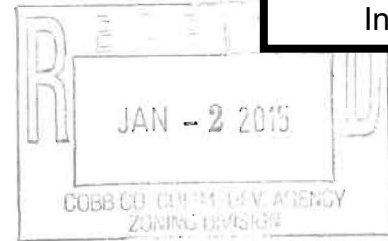
The Property is owned by the Board of Trustees of Mt. Zion United Methodist Church and Johnson Ferry Land Holdings, LLC (collectively, "***Owner***"), and is an approximately 3.96-acre tract zoned R-20, with frontage along Johnson Ferry Road. The Property is unimproved, and is surrounded by property zoned R-20 on all sides although there is R-30 just to the southwest, and north of the Church. Owner has contracted to sell the Property to Applicant, subject to the approval of his requested rezoning.

Proposed Rezoning

Applicant seeks to rezone the Property from R-20 to RA-5 to allow for the installation of a single street, 10 home subdivision within the Property. Currently, the property has remained

HOLT NEY ZATCOFF & WASSERMAN, LLP

Zoning Division
Community Development Agency
Cobb County, Georgia
January 2, 2015
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undeveloped as a result of the difficulty of obtaining sewer service. Applicant has been able to resolve this issue, and accordingly, seeks to develop the Property for single family use.¹ The density proposed by Applicant will serve as a buffer from the Church use on the Property to the north and the existing single family subdivision to the south.

Application Requirements

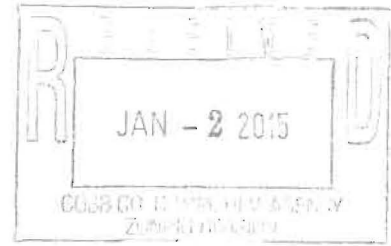
Section 134-121 of the Zoning Ordinance sets forth the various requirements applicable to requests for rezonings, some of which are addressed above and the remainder of which are addressed in supporting documents. Specifically, in support of the Application, Applicant submits the following documents:

- (1) Original notarized signatures of Owner, Applicant and representative;
- (2) Copies of the deeds to Owner;
- (3) Metes and bounds legal description of the Property;
- (4) Copy of the paid tax receipts (or evidence of exemption with respect to the Church-owned portion of the Property);
- (5) Copy of current boundary survey depicting all required items;

¹ Applicant notifies Cobb County of its constitutional concerns with respect to its Application. If the Board denies the Application in whole or in part, then the Property does not have a reasonable economic use under Chapter 134 of the Official Code of Cobb County, Georgia, as amended from time to time (the "**Zoning Ordinance**"). Moreover, the Application meets the test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. *See Guhl vs. Holcomb Bridge Road*, 238 Ga. 322 (1977). If the Cobb County Board of Commissioners (the "**Board**") denies the Application in whole or in part, such an action will deprive Owner and Applicant of the ability to use the Property in accordance with its highest and best use. Similarly, if the Board rezones the Property to some classification other than the RA-5 zoning district without Applicant's consent, or if the Board limits its approval by attaching conditions to such approval affecting the Property or the use thereof without Owner's consent, then such approval would deprive Owner and Applicant of any reasonable use and development of the Property. Any such action is unconstitutional and will result in a taking of property rights in violation of the just compensation clause of the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 3, para. 1(a)*), and the just compensation clause of the Fifth Amendment to the United States Constitution (*see U.S. Const. Amend. 5*). To the extent that the Zoning Ordinance allows such an action by the Board, the Zoning Ordinance is unconstitutional. Any such denial or conditional approval would discriminate between Owner and Applicant and owners of similarly situated property in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of Article I, Section I, Paragraph 2 of the Georgia Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Finally, a failure to grant the Application or a conditional approval of the Application (with conditions not expressly approved by Applicant) would constitute a gross abuse of discretion and would constitute an unconstitutional violation of Applicant's rights to substantive and procedural due process as guaranteed by the Georgia Constitution (*see Ga. Const. 1983, Art. I, § 1, para. 1*) and the Fifth and Fourteenth Amendments of the United States Constitution (*see U.S. Const. Amend. 5 and 14*). Applicant further challenges the constitutionality and enforceability of the Zoning Ordinance, in whole and in relevant part, for lack of objective standards, guidelines or criteria limiting the Board's discretion in considering or deciding applications for rezonings. Applicant remains optimistic that Cobb County's consideration of the Application will be conducted in a constitutional manner.

HOLT NEY ZATCOFF & WASSERMAN, LLP

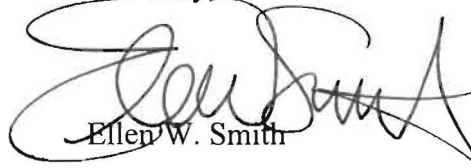
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- (6) Site Plan reflecting proposed improvements;
- (7) Zoning Application Disclosure forms;
- (8) Application and Sign Fees;
- (9) This Summary of Intent.

The Application, this letter and accompanying documents support Applicant's request for rezoning, and Applicant respectfully requests that the Zoning Division recommend approval of the Application to the Board. Applicant is happy to answer questions or provide any additional information that the Zoning Division may have with regard to this Application.

Sincerely,



Ellen W. Smith

EWS/ews

cc: Mr. James M. Beveridge
James M. Ney, Esq.