

MURCHISON COMMERCIAL REAL ESTATE, INC.
AUTHORIZED BY TOM WOUTERS
LAND LOT 124 - 19TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA



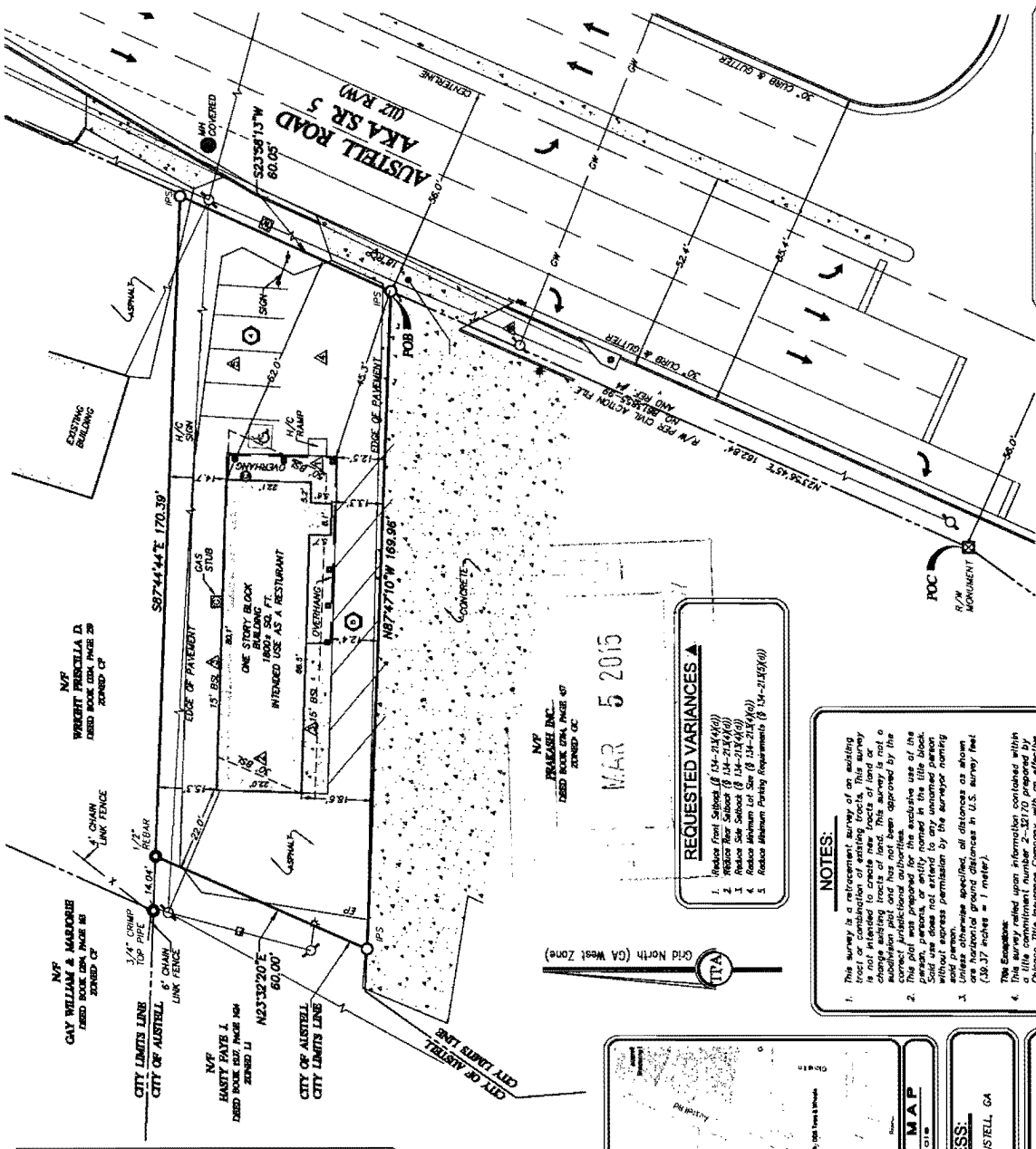
For The Firm
Travis Pruitt & Associates, Inc.
This survey was prepared in conformity with the Technical Standards for Property Surveys in Georgia as set forth in Chapter 1807 of the Rules of the Georgia Board of Registration in Land Surveying and as set forth in the Georgia Plat Act O.C.G.A. 15-6-97.

PLAT DATE: FEB 27, 2015
FIELD DATE: JAN 15, 2015
SCALE: 1" = 30'
BN: 115.0071.000
BN: 115-C-2640

Certificate of Authorization Number 613
www.travispruitt.com
Phone: (770)416-6759
Fax: (770)416-7511
Norcross, Georgia 30093
4317 Park Drive, Suite 400



SITE PLAN



REFERENCE PLATS:

- Site plan for B.R. Hest by D.R. Lynch, Surveyors dated April 27, 1984.
- Survey for Melrose Holdings, Inc., Summit National Bank and Commonwealth Land Title Insurance Company by John W. Hest, dated February 27, 2015, recorded in Plat Book 133, Page 24, Cobb County Records.
- Subdivision Plat for Doby Subdivision, recorded in Plat Book 19, Page 74, Cobb County Records.

ZONING: NRC

Front Yard: 50'
Side Yard: 15'
Rear Yard: 30'

This information is reported from public information obtained from the county records on January 27, 2015. The information is not a guarantee of accuracy, interpretation or make conclusions regarding the zoning designation shown hereon.

REQUESTED VARIANCES

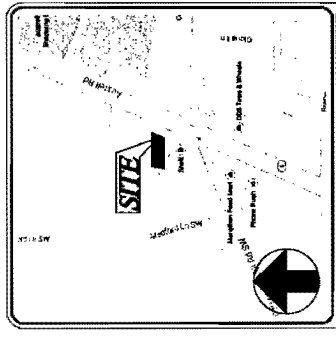
- Reduce Front Setback (8 1/4'-214'(6))
- Reduce Rear Setback (8 1/4'-214'(6))
- Reduce Side Setback (8 1/4'-214'(6))
- Reduce Minimum Lot Size (8 1/4'-214'(6))
- Reduce Minimum Parking Requirements (8 1/4'-214'(6))

NOTES:

- This survey is a preliminary survey of an existing tract or parcels of land. This survey is not intended to create new tracts of land or change existing tracts of land. This survey is not a guarantee of accuracy and is subject to the correct jurisdictional authorities.
- This plat was prepared for the exclusive use of the client and is not to be used for any other purpose. Survey points are not to be used without express permission by the surveyor naming and printing the name of the surveyor on the plat.
- Horizontal and vertical distances as shown are horizontal ground distances in U.S. survey feet (1.25 inches = 1 meter).
- The Enclosure:
This survey relied upon information contained within a title commitment number 2-32710 prepared by the Fidelity Title Insurance Company, effective date of January 5, 2015, with respect to the property surveyed described in "Exhibit A", and the exceptions listed in "Schedule B, Section 4".
- Flood Hazard Note:
By graphic platting only, this property DOES NOT lie within a 100 Year Flood Hazard Area as shown on the F.F.M. Flood Hazard Risk Map of Cobb County, Georgia and incorporated areas map number 1306702030K, effective date March 4, 2013.
- Underground utilities are not field verified.

LEGEND:

■	SURVEY COLLAR
□	SECURITY CAMERA
○	500V
○	NEW 1/2\"/>



LOCATION MAP
NOT TO SCALE

SITE ADDRESS:
5150 AUSTELL ROAD, AUSTELL, GA

SITE AREA:
0.22 ACRES / 9,502 sq.ft.

PARKING SUMMARY:
Regular Parking Spaces: 9
Handicap Parking Spaces: 1

APPLICANT: MCRE Magnolia Estates, LP

PETITION NO: Z-45

PHONE#: (404) 965-3673 **EMAIL:** matt@glawgp.com

HEARING DATE (PC): 05-05-15

REPRESENTATIVE: Tom Wouters

HEARING DATE (BOC): 05-19-15

PHONE#: (404) 662-2522 **EMAIL:** twouters@murchisoncommercial.com

PRESENT ZONING: NS

TITLEHOLDER: MCRE Magnolia Estates, LP

PROPOSED ZONING: NRC

PROPERTY LOCATION: West side of Austell Road, north of

Perkerson Mill Road

PROPOSED USE: Eating and Drinking

(5150 Austell Road).

Establishment

ACCESS TO PROPERTY: Austell Road

SIZE OF TRACT: 0.22 acre

DISTRICT: 19

PHYSICAL CHARACTERISTICS TO SITE: One story block

LAND LOT(S): 1214

building, former restaurant (Huddle House)

PARCEL(S): 49

TAXES: PAID **DUE** _____

CONTIGUOUS ZONING/DEVELOPMENT

COMMISSION DISTRICT: 4

NORTH: CF/ professional office

SOUTH: GC/ convenience store with fuel sales

EAST: NS/ eating and drinking establishment, undeveloped land

WEST: City fo Austell/ self-storage

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

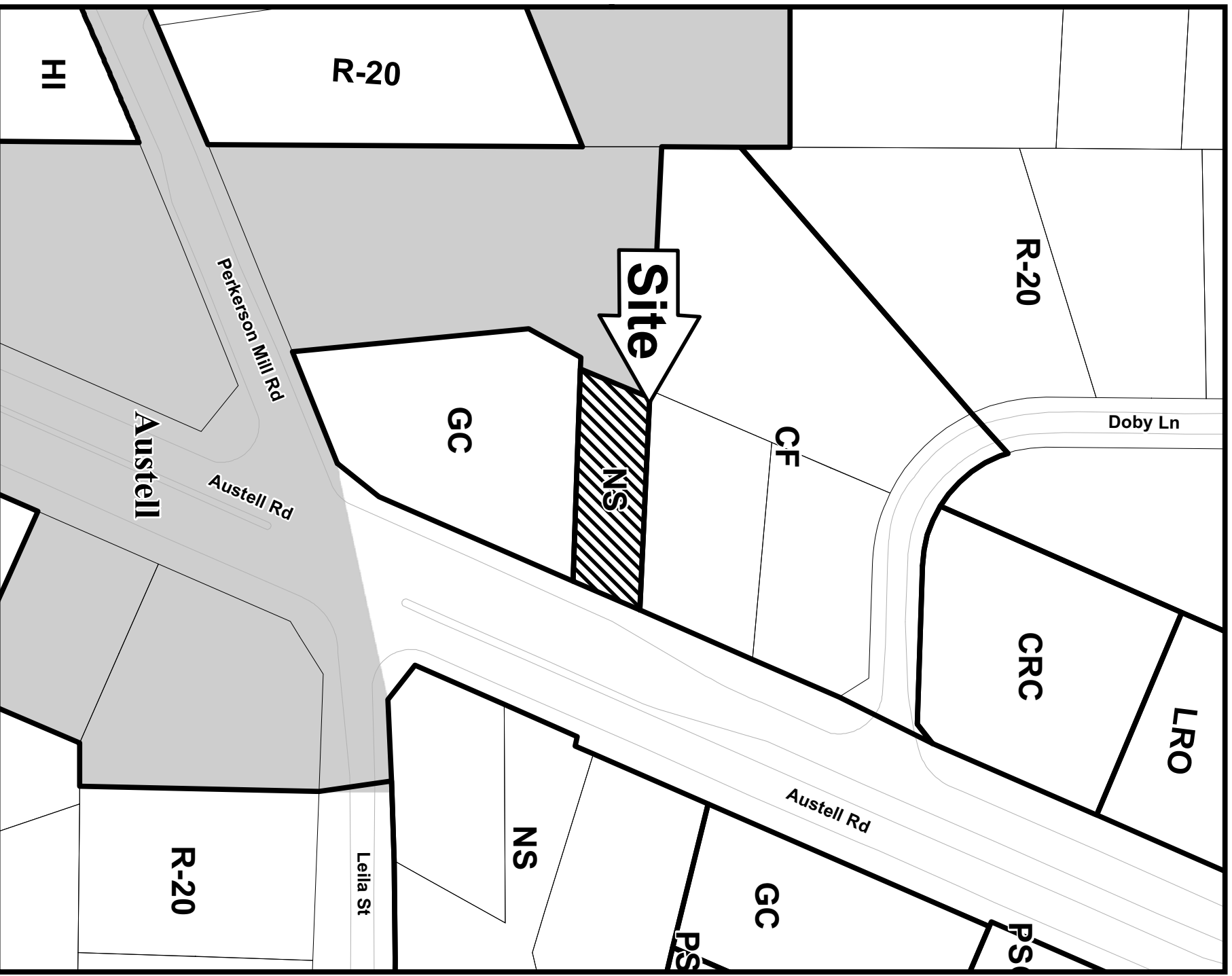
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-45



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



City Boundary
Zoning Boundary

APPLICANT: MCRE Magnolia Estates, LP

PETITION NO.: Z-45

PRESENT ZONING: NS

PETITION FOR: NRC

ZONING COMMENTS: Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: NAC neighborhood activity center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 1,800 sq. ft.

F.A.R.: 0.19 **Square Footage/Acre:** 8,181.82 sq. ft.

Parking Spaces Required: 18 **Parking Spaces Provided:** 10

The applicant is requesting a rezoning of the subject property from the current NS neighborhood shopping zoning district to the NRC neighborhood retail commercial zoning district in order to renovate and reopen the existing restaurant building as an eating and drinking establishment. The property currently zoned NS and located within a NAC future land use area would be considered “grandfathered.” As such, having been vacant for longer than 6 months, the current request is necessary to allow the desired renovation and reopening of the restaurant.

No expansions are planned for the building, just renovations where necessary to the interior as well as exterior. Proposed hours for the restaurant will be from 5 a.m. to 12 a.m., seven (7) days a week. The existing pole sign will be modified to comply with current sign code requirements.

The following variances are being requested contemporaneously with the rezoning request to address existing conditions:

- Waive the setback for a freestanding sign from the required 62 feet from the centerline of the roadway to 58 feet;
- Waive the front setback from the required 50 feet to 45 feet;
- Waive the rear setback from the required 30 feet to 22 feet;
- Waive the side setback from the required 15 feet to 14 adjacent to the northern property line and to 12 feet adjacent to the southern property line;
- Waive the minimum lot size from the required 20,000 square feet to 9,502 square feet; and
- Waive the minimum number of parking spaces from the required 18 to 10.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

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: MCRE Magnolia Estates, LP

PETITION NO.: Z-45

PRESENT ZONING: NS

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from NS to NRC for purpose of eating and drinking establishment. The 0.22 acre site is located on the west side of Austell Road, north of Perkerson Mill 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.

APPLICANT: MCRE Magnolia Estates, LP

PETITION NO.: Z-45

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 MCRE Magnolia Estates LP
PRESENT ZONING NS

PETITION NO. Z-045
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): 12" Di / W side of Austell Road

Additional Comments: Records show property a served by Austell Water and Sewer

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: 170' SW in Austell Rd

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 Availabilitv: 0 - 5 years 5 - 10 years over 10 years

Drv Sewers Required: Yes No

Off-site Easements Required: Yes* No

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 Records show property a served by Austell Water and Sewer
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: MCRE Magnolia Estates, LP

PETITION NO.: Z-45

PRESENT ZONING: NS

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Olley 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 CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
- Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on _____.

APPLICANT: MCRE Magnolia Estates, LP

PETITION NO.: Z-45

PRESENT ZONING: NS

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS – Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. No site improvements are proposed. Stormwater Management must be provided upon redevelopment or substantial site improvement.

APPLICANT: MCRE Magnolia Estates

PETITION NO.: Z-45

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 sidewalk along Austell Road frontage.

Recommend sign removed from right-of-way.

Recommend closest parking space be more than 25' away from Austell Road right-of-way.

STAFF RECOMMENDATIONS

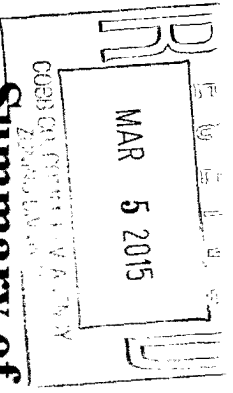
Z-45 MCRE MAGNOLIA ESTATES, LP

- 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 property is situated in an area with a long established pattern of commercial uses including a convenience store, self-storage facility, offices, and other restaurant uses in the immediate area.
- 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 request is to allow the renovation and reopening of a former restaurant site. The property will be brought into compliance in relation to zoning and improvements that are planned will serve to enhance the area by bringing back into commerce an existing facility.
- 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*. Located within an area delineated as NAC neighborhood activity center, the request will allow furtherance of that category's goals of providing for uses that serve neighborhood residents and businesses by reusing an existing site for its former purpose of an eating and drinking establishment.
- 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. Located within an area that contains several other commercial uses, the request seeks to reutilize an existing facility for its former use as a restaurant. The property, having lost its "grandfathered" status after being vacant for longer than six (6) months, requires the rezoning in order to be renovated and reopened in a manner that is in keeping with its designated future land use as neighborhood activity center.

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

- Restaurant use only;
- Site plan received by the Zoning Division on March 6, 2015, with District Commissioner approving minor modifications;
- District Commissioner to approve proposed building rendering and sign elevations before begun;
- Sewer and Water Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Fire Department comments and recommendations; and
- Cobb DOT 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.



Summary of Intent for Rezoning

Application No. Z-45
May 2015

.....
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): Eating and drinking establishment
- b) Proposed building architecture: The Applicant will renovate the existing restaurant structure located on the Property.
- c) Proposed hours/days of operation: Proposed: open 7 days a week, 5 a.m. to 12 a.m. (midnight)
- d) List all requested variances:
 - 1) Reduce Front Setback (Sec. 134-213(4)(d))
 - 2) Reduce Rear Setback (Sec. 134-213(4)(d))
 - 3) Reduce Side Setback (Sec. 134-213(4)(d))
 - 4) Reduce Minimum Lot Size (Sec. 134-213(4)(a))
 - 5) Reduce Minimum Parking Requirement (Sec. 134-272(5)(d))

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

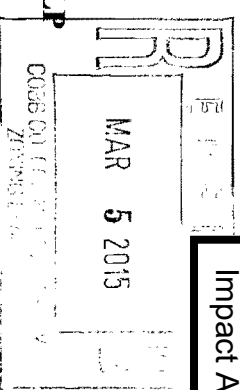
Please see attached Letter of Intent.

.....
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. _____

**REZONING IMPACT ANALYSIS
COBB COUNTY, GEORGIA
APPLICANT: MCRE Magnolia Estates, LP**



As required by Cobb County Zoning Ordinance § 134-121(a)(7), the Applicant provides the following responses to the Impact Analysis criteria.

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property

The proposed eating and drinking establishment use is suitable in view of the use and development of adjacent and nearby properties, which include a convenience store with self-service fuel sales, a professional office, a self-storage use, and residential uses.

2. Whether the zoning proposal will adversely affect the existing use or usability of adjacent and nearby property

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. It is anticipated that the proposed NRC classification, and the return of the vacant existing restaurant structure to productive use, will have a positive effect on adjacent and nearby properties.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned

The Property does not have a reasonable economic use as currently zoned. The Property's NS classification, in conjunction with the Property's location in a Neighborhood Activity Center area, prohibits renovation and re-use of the Property without the proposed rezoning. The proposed rezoning will make the zoning classification of the Property consistent with the Comprehensive Plan and allow for the proposed reinstatement of the restaurant use.

4. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools

The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The Property is currently served by adequate transportation and utility infrastructure. The proposed restaurant use will not generate students.

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan

The zoning proposal is in conformity with the policy and intent of the land use plan. The Property is located in a Neighborhood Activity Center area. The requested NRC zoning classification is an allowed zoning classification in Neighborhood Activity Centers.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal

The existing restaurant structure located on the Property has stood vacant for a substantial amount of time, and the Property is in disrepair. These conditions give supporting grounds for approving the zoning proposal to the NRC classification, which would allow for a renovation of the structure and a reestablishment of a restaurant use on the Property.

**LETTER OF INTENT
APPLICATION FOR REZONING
COBB COUNTY, GEORGIA**

MAR 5 2015

The Applicant, MCRE Magnolia Estates, LP (the “Applicant”), requests the rezoning of approximately 0.22 acres located at 5150 Austell Road SW, in the northwest quadrant of the intersection of Austell Road SW, Perkerson Mill Road SW, and Leila Street SW, Cobb County Tax Parcel ID 19121400490 (the “Property”). The Applicant requests that the Property be rezoned from its current NS (Neighborhood Shopping) classification to the NRC (Neighborhood Retail Commercial) classification in order to renovate the Property for a neighborhood restaurant use.

The Property is improved with an approximately 1,800 square foot restaurant space and associated surface parking that currently sit vacant. The Applicant proposes to make interior and exterior renovations to rehabilitate the building for a neighborhood eating and drinking establishment, which is an allowed use in NRC districts. The proposed restaurant would operate in the original restaurant building structure and would not expand the building area nor intensify the previous restaurant use. In addition, the Applicant proposes to modify the existing pole sign on the Property to comply with NRC district regulations.

The Applicant requests the rezoning because the proposed renovation and re-use of the Property is prohibited under the Property’s current zoning classification due to the Property’s location in an area identified in the Cobb County 2030 Comprehensive Plan as “Neighborhood Activity Center.” The location of the Property in a Neighborhood Activity Center, combined with its current NS zoning classification, renders the Property “legal, nonconforming.” Section 134-224(1) of the Cobb County Zoning Ordinance states that “[a]ny existing, developed NS zoning/use located outside of a community activity center or regional activity center shall be deemed to be a grandfathered, nonconforming use.” Section 134-31(b)(4) prohibits the reinstatement of nonconforming uses that have been abandoned, and deems any nonconforming use to be abandoned if it has been discontinued for no less than six (6) months. The previous restaurant use on the Property was discontinued by the previous owner for at least six (6) months. Therefore, the restaurant use is a nonconforming use that cannot be reinstated due to the Property’s NS zoning classification and location in a Neighborhood Activity Center. The proposed rezoning would remove the Property’s nonconforming status and bring the Property

into consistency with the zoning classifications recommended in the Comprehensive Plan for Neighborhood Activity Centers.

The proposed zoning classification is compatible with the diverse zoning classifications of adjacent and nearby properties. The property lying immediately to the north is zoned to the CF (Future Commercial) classification. The property lying immediately to the south is zoned to the GC (General Commercial) classification. Immediately to the west lies property in the City of Austell that is zoned to the Light Industrial classification. Other nearby parcels located to the west of the Property are zoned to the R-20 classification. Nearby properties located to the north are zoned to the LRO and CRC classifications. Nearby properties located across the street on the east side of Austell Road SW are zoned to the PSC, GC, NS, and R-20 classifications.

The Property is compatible with adjacent land uses. The adjacent property located to the south of the Property contains a convenience store with self-service fuel sales. The adjacent property located to the north appears to contain a professional office. The adjacent property located to the west, in the City of Austell, contains a self-storage use. Properties across Austell Road to the east include a commercial space and undeveloped land.

The proposed rezoning is consistent with the goals of the Cobb County 2030 Comprehensive Plan. The NRC classification is allowed in a Neighborhood Activity Center. Neighborhood Activity Centers are intended to contain uses that serve neighborhood residents and businesses, such as the neighborhood restaurant that the Applicant proposes. Further, the proposed renovation of the Property is consistent with the Comprehensive Plan recommendation to maximize the use of existing infrastructure and encourage infill redevelopment in Neighborhood Activity Center areas.

The Applicant anticipates the need for five variances to accommodate the existing structures in the NRC zoning classification. Variance One is requested to reduce the fifty (50) foot front setback required in NRC districts (§ 134-213(4)(d)). As shown on the Site Plan, a portion of the overhang attached to the existing restaurant building extends into the front yard to a point that is 45.3 feet from the property line. Accordingly, Variance One is requested to reduce the front yard setback on the Property to 45.3 feet.

Variance Two is requested to reduce the thirty (30) foot rear setback required in NRC districts (§ 134-213(4)(d)). As shown on the Site Plan, a portion of the existing restaurant building extends into the rear yard setback to a point that is 22 feet from the property line.

Accordingly, Variance Two is requested to reduce the rear yard setback on the Property to 22 feet.

Variance Three is requested to reduce the fifteen (15) foot side setback required in NRC districts (§ 134-213(4)(d)). As shown on the Site Plan, a portion of the existing overhang on the south side of the restaurant building extends into the side yard setback to a point that is 12.4 feet from the south property line. Accordingly, Variance Three is requested to reduce the side yard setback on the Property to 12.4 feet.

Variance Four is requested to reduce the 20,000 square foot minimum lot size required in NRC districts (§ 134-213(4)(a)). As shown on the Site Plan, the Property is comprised of only 9,502 square feet. Accordingly, Variance Four is requested to reduce the minimum lot size on the Property to 9,502 square feet.

Variance Five is requested to reduce the minimum number of off-street parking spaces required for eating and drinking establishments (§ 134-272(5)(d)). Section 134-272(5)(d) imposes a requirement of “1 space per 100 square feet (net) of floorspace.” The existing restaurant structure contains approximately 1,800 square feet of floorspace, for which the Ordinance would require eighteen (18) parking spaces. However, as shown on the Site Plan the Property can only accommodate ten (10) parking spaces. Accordingly, Variance Five is requested to reduce the parking requirement on the Property to ten (10) parking spaces.

The Applicant responds to the variance criteria contained in § 134-94(3) as follows. First, there are extraordinary and exceptional conditions pertaining to the Property because of its size and shape. The Property is relatively small in size, and long and narrow in shape. This constrains the buildable area on the Property such that the small existing restaurant structure encroaches into setbacks. Further, the Property’s small size limits the amount of surface parking that can be accommodated on site.


Second, the application of the referenced sections of the Zoning Ordinance to the Property would create an unnecessary hardship because the Property could not be returned to productive use. Further, it would be a hardship to impose legal, nonconforming status on certain features of the improvements on the Property where the Applicant seeks a rezoning to return the Property to productive use.

Third, the conditions described above are peculiar to the Property, which appears to be the smallest commercially zoned parcel in the area.

Fourth, relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter. To the contrary, granting relief would benefit the public good by allowing the Property to be returned to productive use. Further, granting relief would be consistent with the purposes and intent of the Cobb County Zoning Ordinance, which include facilitating the orderly use of property.

Accordingly, the Applicant respectfully requests that the Board of Commissioners of Cobb County grant the requested rezoning and associated variances.

THE GALLOWAY LAW GROUP, LLC

By: 
Matthew J. Vivian
Attorney for Applicant

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Suite 760
Atlanta, Georgia 30326
(404) 965-3680

199210