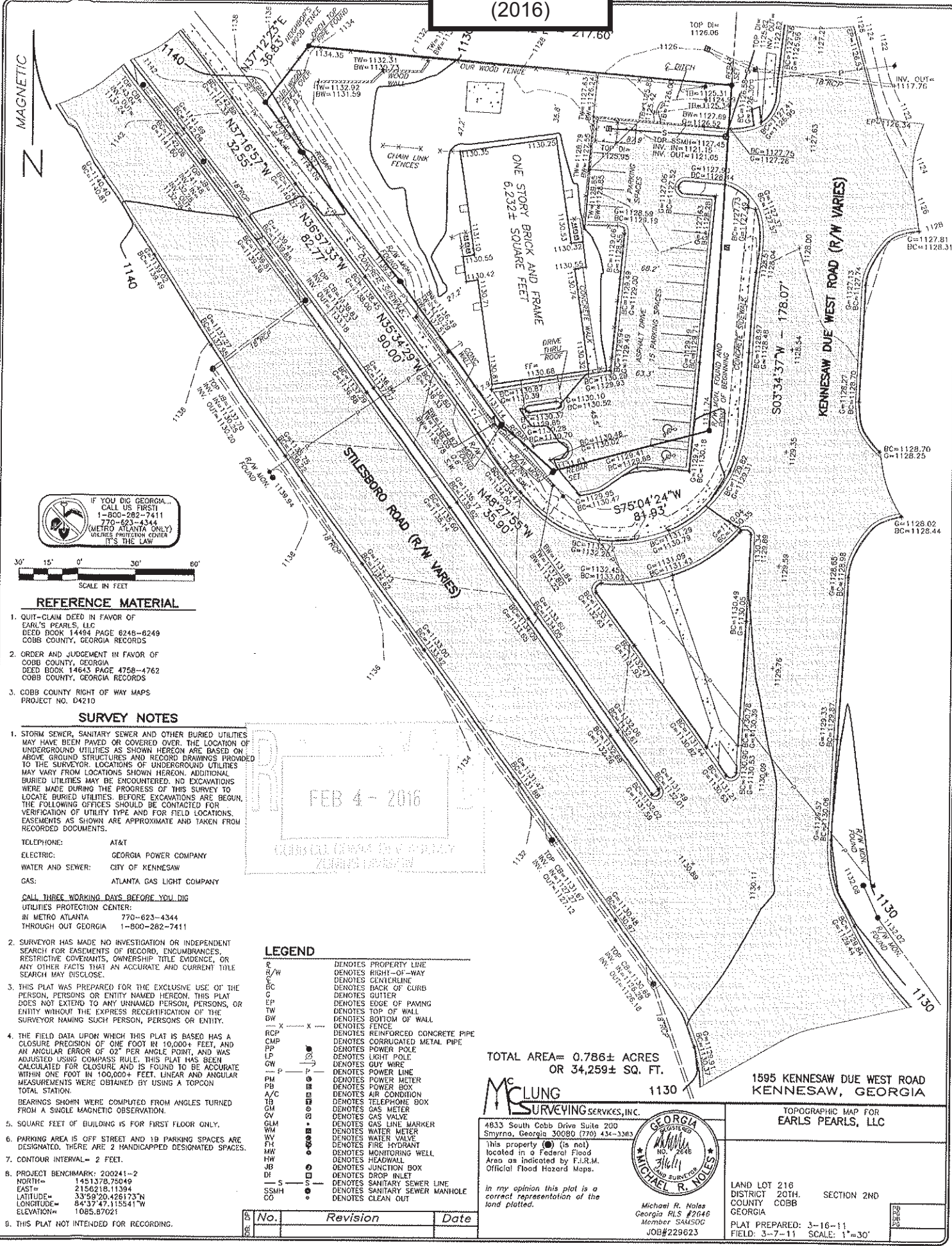


Z-28
(2016)



REFERENCE MATERIAL

- QUIT-CLAIM DEED IN FAVOR OF EARL'S PEARLS, LLC DEED BOOK 14494 PAGE 6246-6249 COBB COUNTY, GEORGIA RECORDS
- ORDER AND JUDGEMENT IN FAVOR OF COBB COUNTY, GEORGIA DEED BOOK 14643 PAGE 4758-4762 COBB COUNTY, GEORGIA RECORDS
- COBB COUNTY RIGHT OF WAY MAPS PROJECT NO. D4210

SURVEY NOTES

1. STORM SEWER, SANITARY SEWER AND OTHER BURIED UTILITIES MAY HAVE BEEN PAVED OR COVERED OVER. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON ARE BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES. BEFORE EXCAVATIONS ARE BEGUN, THE FOLLOWING OFFICES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS. EASEMENTS AS SHOWN ARE APPROXIMATE AND TAKEN FROM RECORDED DOCUMENTS.

TELEPHONE: AT&T
 ELECTRIC: GEORGIA POWER COMPANY
 WATER AND SEWER: CITY OF KENNESAW
 GAS: ATLANTA GAS LIGHT COMPANY

CALL THREE WORKING DAYS BEFORE YOU DIG UTILITIES PROTECTION CENTER:
 IN METRO ATLANTA 770-623-4344
 THROUGH OUT GEORGIA 1-800-282-7411

- SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT THE EXPRESS RECOGNITION OF THE SURVEYOR HAVING SUCH PERSON, PERSONS OR ENTITY.
- THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET, AND AN ANGULAR ERROR OF 02" PER ANGLE POINT, AND WAS ADJUSTED USING COMPOUND RULE. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET. LINEAR AND ANGULAR MEASUREMENTS WERE OBTAINED BY USING A TOPCON TOTAL STATION.
- BEARINGS SHOWN WERE COMPUTED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.
- SQUARE FEET OF BUILDING IS FOR FIRST FLOOR ONLY.
- PARKING AREA IS OFF STREET AND 19 PARKING SPACES ARE DESIGNATED. THERE ARE 2 HANDICAPPED DESIGNATED SPACES.
- CONTOUR INTERVAL = 2 FEET.
- PROJECT BENCHMARK: 200241-2
 NORTH= 1451378.75049
 EAST= 2156218.11394
 LATITUDE= 33°59'20.426173"N
 LONGITUDE= 84°37'47.115541"W
 ELEVATION= 1085.87021
- THIS PLAT NOT INTENDED FOR RECORDING.

LEGEND

R	PROPERTY LINE
R/W	RIGHT-OF-WAY
CL	CENTERLINE
BC	BACK OF CURB
G	GUTTER
EP	EDGE OF PAVING
TW	TOP OF WALL
BW	BOTTOM OF WALL
X-X	FENCE
RCP	REINFORCED CONCRETE PIPE
CMP	CORRUGATED METAL PIPE
PP	POWER POLE
LP	LIGHT POLE
GW	GUY WIRE
P	POWER METER
PB	POWER BOX
A/C	AIR CONDITION
TB	TELEPHONE BOX
GM	GAS METER
GV	GAS VALVE
GLM	GAS LINE MARKER
WM	WATER METER
WV	WATER VALVE
FX	FIRE HYDRANT
MW	MONITORING WELL
HW	HEADWALL
JB	JUNCTION BOX
DI	DROP INLET
S	SANITARY SEWER LINE
SSMH	SANITARY SEWER MANHOLE
CS	CLEAN OUT

TOTAL AREA= 0.786± ACRES
 OR 34,259± SQ. FT.

McLUNG SURVEYING SERVICES, INC.
 4833 South Cobb Drive Suite 200
 Smyrna, Georgia 30080 (770) 434-3345

This property (●) is not located in a Federal Flood Area as indicated by F.I.R.M. Official Flood Hazard Maps.

In my opinion this plat is a correct representation of the land platted.



Michael R. Noles
 Georgia RLS #2066
 Member SA450C
 JOB#229623

1595 KENNESAW DUE WEST ROAD
 KENNESAW, GEORGIA

TOPOGRAPHIC MAP FOR
 EARL'S PEARLS, LLC

LAND LOT 216
 DISTRICT 20TH.
 COUNTY COBB SECTION 2ND
 PLAT PREPARED: 3-16-11
 FIELD: 3-7-11 SCALE: 1"=30'

No.	Revision	Date

APPLICANT: Fatimah Willoughby

PETITION NO: Z-28

PHONE#: 404-729-1529 **EMAIL:** lsfwilloughby@gmail.com

HEARING DATE (PC): 04-01-16

REPRESENTATIVE: Garvis L. Sams, Jr.

HEARING DATE (BOC): 04-19-16

PHONE#: 770-422-7016 **EMAIL:** gsams@slhb-law.com

PRESENT ZONING R-20

TITLEHOLDER: Earl's Pearls, LLC

PROPOSED ZONING: NRC

PROPERTY LOCATION: West side of Kennesaw Due West Road,
east side of Stilesboro Road
(1595 Kennesaw Due West Road).

PROPOSED USE: Child Daycare Academy

ACCESS TO PROPERTY: Kennesaw Due West Road

SIZE OF TRACT: 0.786 acre

DISTRICT: 20

PHYSICAL CHARACTERISTICS TO SITE: One story brick and
frame building

LAND LOT(S): 216

PARCEL(S): 130

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: City of Kennesaw/ Stilesboro Crossing Subdivision

SOUTH: LRC/ Drug Store

EAST: NRC/ Stilesboro Crossing Business Park

WEST: RSL/ Arbor Green Subdivision

Adjacent Future Land Use:

North: Low Density Residential (LDR)

East: Neighborhood Activity Center (NAC)

South: Neighborhood Activity Center (NAC)

West: Neighborhood Activity Center (NAC) and Low Density Residential (LDR)

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **VOTE** _____

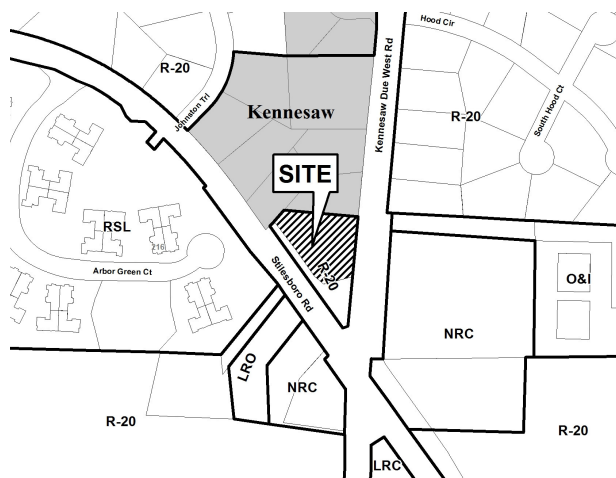
BOARD OF COMMISSIONERS DECISION

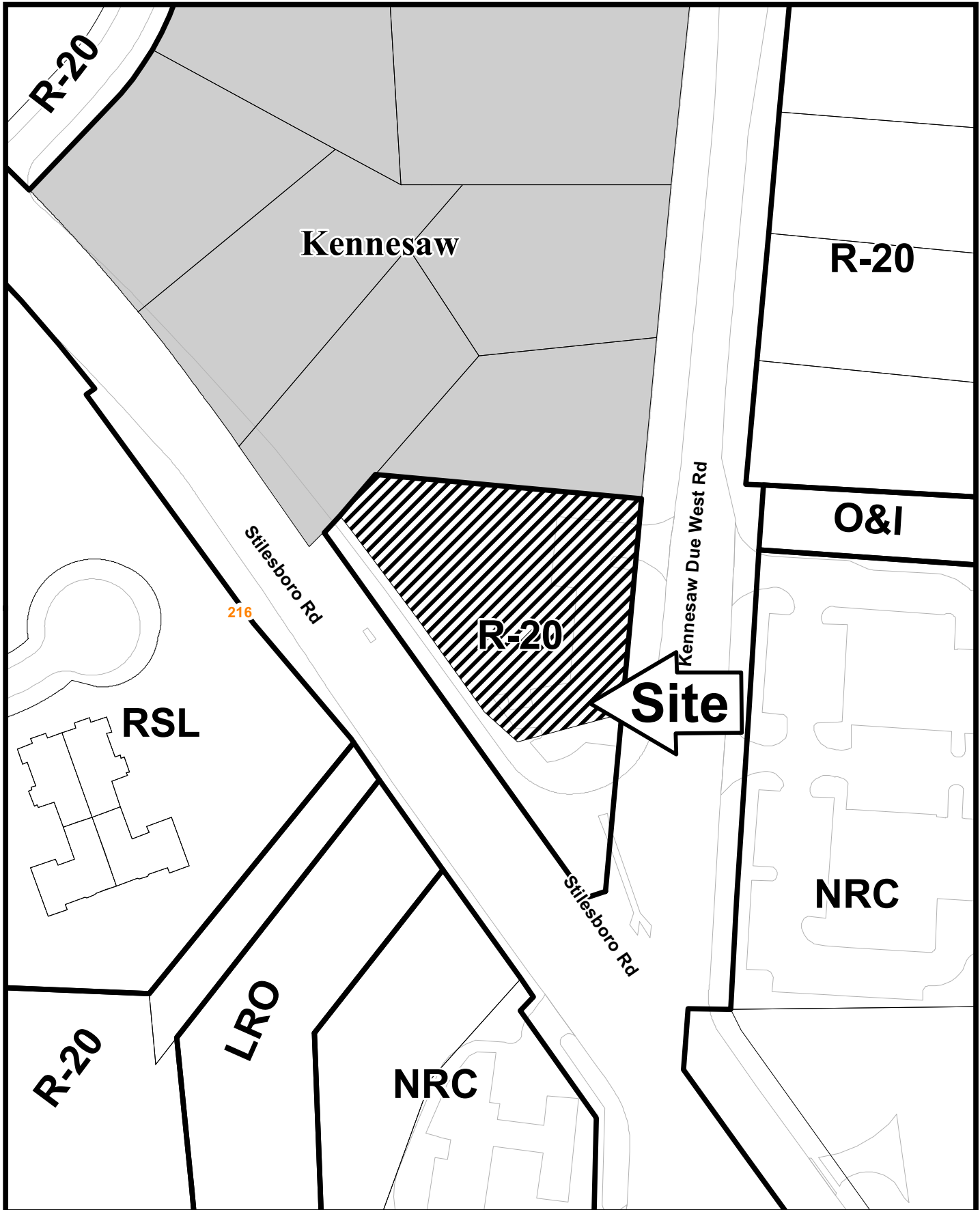
APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

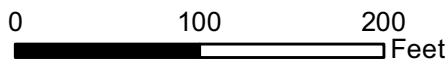
HELD _____ **VOTE** _____



STIPULATIONS:





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



-  City Boundary
-  Zoning Boundary

APPLICANT: Fatimah Willoughby

PETITION NO.: Z-28

PRESENT ZONING: R-20

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Donald Wells

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 6232

F.A.R.: 0.18 **Square Footage/Acre:** 7898.60

Parking Spaces Required: 20 **Parking Spaces Provided:** 19

The applicant is requesting to rezone from R-20 to the NRC zoning category. The property was rezoned in 1991 to LRO for a daycare only. It was stipulated that “should such use as a day care center be discontinued for any reason for more than six consecutive months then the zoning shall revert to the original R-20 zoning classification.” The property has not had an active business license for a daycare in the past 3 years. The applicant intends to operate in the existing building between the hours of 6:30 am and 6:30 pm Monday through Friday. The site plan submitted by the applicant anticipates the following variance:

- Waive the minimum parking requirements from 20 spaces to 19 spaces;
- Setbacks as shown on site plan received by the Zoning Division February 11, 2016.

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: Fatimah Willoughby

PETITION NO.: Z-28

PRESENT ZONING: R-20

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 to NRC for the purpose a child daycare academy. The .786 acre site is on the west side of Kennesaw Due West road and the east side of Stilesboro Road.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary? Yes No
If yes, has the city of Kennesaw been notified? Yes No / N/A

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with R-20 zoning designation. The purpose of the Neighborhood Activity Center (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.

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

North: Low Density Residential (LDR)
East: Neighborhood Activity Center (NAC)
South: Neighborhood Activity Center (NAC)
West: Neighborhood Activity Center (NAC) and Low Density Residential (LDR)

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or 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?

APPLICANT: Fatimah Willoughby

PETITION NO.: Z-28

PRESENT ZONING: R-20

PETITION FOR: NRC

PLANNING COMMENTS: (Continued)

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>.

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

Is the property within the Dobbins Airfield Safety Zone?

Yes No

If so, which particular safety zone is this property within?

CZ (Clear Zone) APZ I (Accident Potential Zone I)

APZ II (Accident Potential Zone II)

Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Fatimah Willoughby

PETITION NO. Z-028

PRESENT ZONING R-20

PETITION FOR NRC

WATER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 6" AC / E side of Silesboro Rd

Additional Comments: Existing water customer

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin: Yes No

At Development: Yes No

Approximate Distance to Nearest Sewer: On site

Estimated Waste Generation (in G.P.D.): A D F= +0 Peak= +0

Treatment Plant: Noontday

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years

Dry 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: Fatimah Willoughby

PETITION NO.: Z-28

PRESENT ZONING: R-20

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

This is an existing facility and no significant site disturbance is proposed. Subject to onsite stormwater management being upgraded to meet current standards upon redevelopment or substantial improvement.

APPLICANT: Fatimah Willoughby

PETITION NO.: Z-28

PRESENT ZONING: R-20

PETITION FOR: NRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Stilesboro Road	16,100	Arterial	45 mph	Cobb County	100'
Kennesaw Due West Road	14,400	Arterial	45 mph	Cobb County	100'

*Based on 2014 traffic counting data taken by Cobb County DOT for Stilesboro Road.
Based on 2011 traffic counting data taken by Cobb County DOT for Kennesaw Due West Road.*

COMMENTS AND OBSERVATIONS

Stilesboro Road is classified as an arterial and according to the available information the existing right-of-way may meet the minimum requirements for this classification.

Kennesaw Due West Road is classified as an arterial and according to the available information the existing right-of-way may 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 removing the parking from the right-of-way.

Recommend left turn lane on Kennesaw Due West Road.

Recommend aligning driveway with the driveway across Kennesaw Due West Road.

STAFF RECOMMENDATIONS

Z-28 FATIMAH WILLOUGHBY

- 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 building was built in 1992 as a daycare, and the applicant intends to continue that use.
- 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 proposed use will in fact have a positive effect, the applicant will use the building as it was intended to be use. It will allow the applicant to maintain the property and help prevent an unsightly blight in the neighborhood.
- 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 as being in the Neighborhood Activity Center (NAC) land use category which is to provide areas that serve neighborhood residents and businesses. The Neighborhood Retail Commercial (NRC) zoning district is compatible with the NAC land use category, and the proposed use is permitted under NRC.
- 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 to LRO. The property was previously zoned LRO with a revision clause. At the time of the original rezoning this area was rural and was delineated as low density residential. That area has now shifted from a rural area to a more retail area with nearby convince stores and office suites.

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

1. Site plan received by the Zoning Division February 11, 2016, with the District Commissioner approving minor modifications;
2. All variances listed in this analysis;
3. Daycare use only;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations; and
6. 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.



Application No. z-28
April 2016

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): Daycare Academy
 - b) Proposed building architecture: As-built
 - c) Proposed hours/days of operation: Monday-Friday from 6:30 a.m. until 6:30 p.m.
 - d) List all requested variances: As shown on site plan.
- _____

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

The subject property is located within an area under Cobb County's Future Land Use Map which is denominated as a Neighborhood Activity Center ("NAC") which contemplates the use sought. In fact, the subject property operated as a Primrose Daycare for a number of years from this same building.

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government? (Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

Not applicable.

*Applicant specifically reserves the right to amend and/or revise any information set forth in this Summary of Intent for Rezoning or any portion of the Application for Rezoning at any time during the Rezoning process.



**ZONING IMPACT STATEMENT FOR THE REZONING
APPLICATION OF FATIMA WILLOUGHBY**

COMES NOW, FATIMA WILLOUGHBY, and, pursuant to §134-

121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

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

- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties with the subject property. The property is within an area designated as a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map. The property is adjacent to a multiplicity of commercial and retail uses.

- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility.

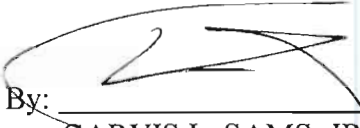
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is located within a Neighborhood Activity Center category and is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.

- F. There is no substantial relationship between the existing zoning classification of R-20 which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this area of the Kennesaw Due West Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 4th day of Feb., 2016.

SAMS, LARKIN, HUFF AND BALLI, LLP

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