

**NOVEMBER 15, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM OB-070

To consider a stipulation amendment for Greenhouse Properties of Atlanta, LLC regarding rezoning application Z-6 of 2016 (Greenhouse Properties of Atlanta, LLC), for property located on the north side of Lee Road, west of Atlanta Road, in Land Lot 696 of the 17th District (2019 and 2039 Lee Road).

BACKGROUND

The subject property was rezoned to R-12 in 2016 for a five lot subdivision. One of the zoning conditions required curb, gutter and sidewalk along the applicant’s frontage. The applicant would like to delete this requirement since sidewalk already exists on the other side of the street. This was discussed at the zoning hearing, but did not make it into the zoning minutes. If approved, all other zoning stipulations would remain in effect.

STAFF COMMENTS

COBB D.O.T.: Recommend curb, gutter, and sidewalk along the frontage of Lee Road.

RECOMMENDATION

The Board of Commissioners consider the request for the stipulation amendment.

ATTACHMENTS

Other Business application and stipulations.

Application for "Other Business" Cobb County, Georgia

08-070-2016

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: November 15, 2016

Applicant: Greenhouse Properties of Atlanta, LLC **Phone #:** (678) 522-9392
(applicant's name printed)

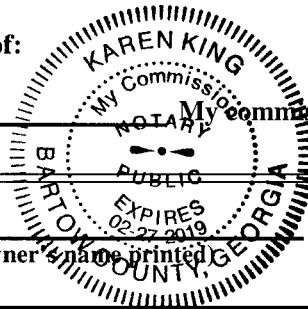
Address: 1579 Monroe Drive, Suite F330, Atlanta, GA 30324 **E-Mail:** Samantha@greenhousepropertiesllc.com
SAMS, LARKIN, HUFF & BALLI, LLP

by: Garvis L. Sams, Jr. **Address:** 376 Powder Springs Street, Suite 100, Marietta, GA 30064
(representative's name, printed)

(representative's signature) **Phone #:** 770-422-7016 **E-Mail:** gsams@slhb-law.com

Signed, sealed and delivered in presence of:

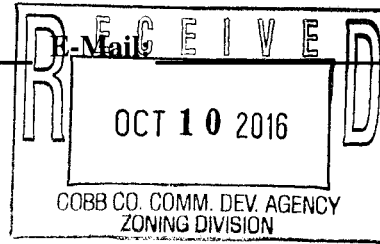
Karen L. King **My commission expires:** 2-27-19
Notary Public



Titleholder(s): See Attached **Phone #:** _____
(property owner's name printed)

Address: _____

(Property owner's signature)



Signed, sealed and delivered in presence of:

_____ **My commission expires:** _____
Notary Public

Commission District: 3 **Zoning Case:** Z-6 of 2016

Size of property in acres: 1.89 **Original Date of Hearing:** April 19, 2016

Location: On the north side of Lee Road, west of Atlanta Road (2019 and 2039 Lee Road)
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 696 **District(s):** 17th

State specifically the need or reason(s) for Other Business: To amend stipulations: removing requirements for installation of curb, gutter and sidewalk.

* Applicant specifically reserves the right to amend any information set forth in this Other Business Application at any time during the Other Business process.

(List or attach additional information if needed)

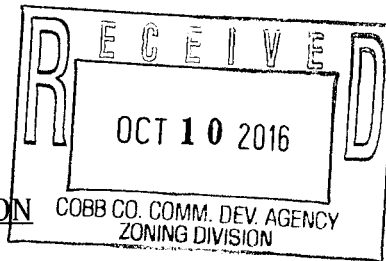
ATTACHMENT TO OTHER BUSINESS APPLICATION

OB Application No.: 070
BOC Hearing Date: November 15, 2016

Applicant: GREENHOUSE PROPERTIES OF ATLANTA, LLC

Titleholder: GREENHOUSE PROPERTIES OF ATLANTA, LLC

PINs: 17069600440
17069600380



PROPERTY OWNER'S CERTIFICATION

The undersigned(s) below, or as attached, is the owner of the property considered in this application.

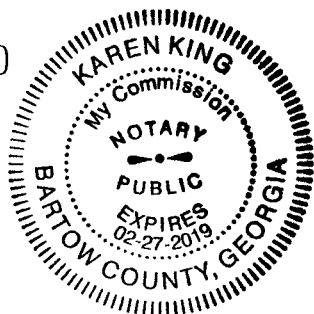
Samuel King 10/10/16
Signature of Owner Date
GREENHOUSE PROPERTIES OF ATLANTA, LLC

Address: 1579 Monroe Dr Ste 330
Atlanta GA 30384

Telephone No.: 678, 522-9392

Karen L. King 10-10-16
Signature of Notary Public Date

(Notary Seal)



**CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE
OTHER BUSINESS APPLICATION**

1.

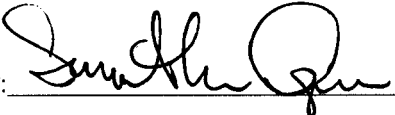
My name is Samantha Agron. I am the secretary, assistant secretary or other officer to whom the operating agreement or bylaws has delegated the responsibility for authenticating records of the company **GREENHOUSE PROPERTIES OF ATLANTA, LLC**, a Domestic Limited Liability Company, (the "Applicant and Titleholder"). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Other Business Application concerning certain real property located in Cobb County, Georgia.

2.

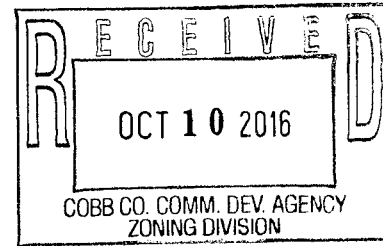
In accordance with the Requirements for Completing a Cobb County Other Business Application, I hereby attest on behalf of the Applicant and the Titleholder that I have reviewed the Other Business Application and related documents which are being filed simultaneously therewith by the Applicant and Titleholder Company (collectively, the "Other Business") to which this Certificate is attached and hereby certify:

- (a) That signature or facsimile affixed to the Other Business Application is in fact the seal of the officer executing on behalf of Applicant and Titleholder and is a true representation thereof; and
- (b) That the officer or other representative of the Applicant and Titleholder who executed the Other Business Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Other Business Application on behalf of the Applicant and Titleholder, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Other Business Application and the filing of the Other Business Application by the Applicant is with the express permission of the Titleholder Company.

GREENHOUSE PROPERTIES OF ATLANTA, LLC

By:  (CORPORATE SEAL)

Its: Via President



REGULAR AGENDA (CONT.)

Z-6 GREENHOUSE PROPERTIES OF ATLANTA, LLC (owner) requesting Rezoning from **R-20** to **RA-5** for the purpose of Single-Family Residential in Land Lot 696 of the 17th District. Located on the north side of Lee Road, west of Atlanta Road (2019 and 2039 Lee Road). *(Previously continued by Staff until the March 1, 2016 Planning Commission hearing and the March 15, 2016 Board of Commissioners hearing)*

The public hearing was opened, and Mr. Garvis L. Sams, Jr., Mr. Taylor Vaughan, Ms. Mary Rose Barnes, and Ms. Nadine Luke addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Ott, second by Birrell, to delete Z-6 to the **R-12** zoning category, subject to:

1. *Revised site plan dated April 12, 2016 (attached and made a part of these minutes)*
2. Letter of agreeable conditions from Mr. Garvis L. Sams, Jr. dated April 13, 2016 (attached and made a part of these minutes), with the following change:
 - i. Item No. 5, subset d. – add to end: *“District Commissioner to have final approval of the landscape plan.”*
3. Site rendering submitted by Mr. Garvis L. Sams, Jr. at this hearing, with the District Commissioner approving final site plan for each lot (attached and made a part of these minutes)
4. Elevations submitted with the above referenced letter of agreeable conditions, with final approval by the District Commissioner (attached and made a part of these minutes)
5. Maximum of five homes
6. Reversionary clause back to original zoning if land disturbance permit is not issued within 12 months of this decision
7. Applicant to consider moving the driveway to the opposite side on lot number five to create more distance
8. Fire Department comments and recommendations, *not otherwise in conflict*
9. Water and Sewer Division comments and recommendations, *not otherwise in conflict*
10. Stormwater Management Division comments and recommendations, *not otherwise in conflict*
11. Department of Transportation comments and recommendations, *not otherwise in conflict*
12. 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

VOTE: **ADOPTED** 4-0, Lee absent

Rezoning Plat I

Lee Road Tract

Cobb County, Georgia Land Lot 696, 17th District, 2nd Section

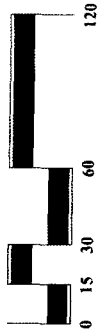
prepared for:
Greenhouse Properties of Atlanta
3943 Pinedge Road
Smyrna, Georgia 30080

Min. Bk. 78 Petition No. Z-6
Doc. Type Revised site plan
Meeting Date 4-19-16

DGM
LAND PLANNING
CONSULTANTS



975 Cox Place
Buckhead Station
Atlanta, Georgia 30319
770 514-3006
FAX 514-9491



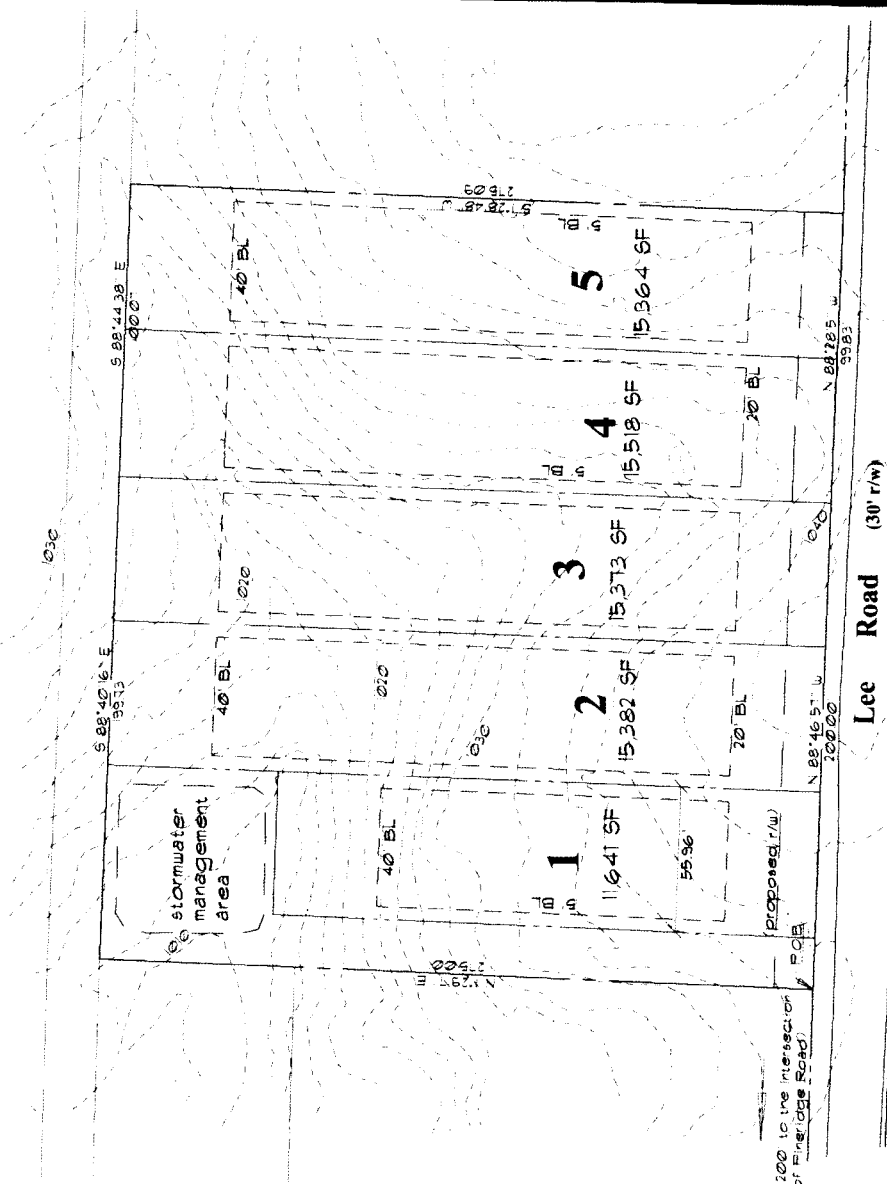
Scale: 1" = 30'
April 12, 2016



Site Data

Total Site Area: 1.89 AC
Existing Zoning: R-20
Proposed Zoning: R-12
Total Units Shown: 5
Density: 2.64 UN/AC
Proposed Building Setbacks:
front: 20'
side: 5'
rear: 30'
Minimum Lot Width: 55.5'
Average Lot Size: 14,656 SF

- NOTES:**
- Boundary survey by Gaskins Surveying and Engineering dated 2/15/13.
 - Topographic information from Cobb County GIS.
 - As shown on this site plan, the State Map (R-12) 10/26/2012 dated December 16, 2009, no portion of this site contains floodplain.
 - No easements are known to exist on site.
 - Streets and/or utilities are known to exist on site and have been shown as well as required buffers. All utility easements are shown as well as required buffers. All utility easements are known to exist on site.
 - No utility easements are known to exist on site.



Min. Bk. 78 Petition No. Z-6
Doc. Type letter
Meeting Date 4-19-16

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

ADAM J. ROZEN

SLHB-LAW.COM

April 13, 2016

VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

Re: Application of Greenhouse Properties of Atlanta, LLC to Rezone a 1.89 Acre Tract from R-20 to R-12 (No. Z-6)

Dear John:

This firm represents Greenhouse Properties of Atlanta, LLC ("Greenhouse") which is the Applicant and Property Owner concerning the above-captioned Application for Rezoning. The application was heard, considered and held by the Cobb County Board of Commissioners at the latest zoning hearing on March 15, 2016. The application is now scheduled to be heard and again considered for final action by the Board of Commissioners on April 19, 2016.

As you know, you and your Staff recommended that the application be approved based upon the original plan for seven (7) lots under the RA-5 classification. However, even though the Planning Commission recommended approval of the application, its recommendation was for a rezoning from R-20 to R-12 for a total number of five (5) lots. Since being held by the Board of Commissioners, the site plan has been revised and the proposal of Greenhouse has been modified to reflect a request for a change in zoning from R-20 to R-12 for a total number of five (5) homes. In that regard, enclosed please find the requisite number of copies of the revised site plan reflecting the revised proposal.

The balance of this letter will serve a consolidated revised stipulation letter which reflects that Greenhouse is amenable to the following stipulations becoming conditions and a part of the grant of the requested Rezoning, as revised and modified and binding upon the subject property thereafter:

1. The revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which have been proposed or which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
April 13, 2016
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2. The Rezoning of the subject property shall be from R-20 to R-12 in substantial conformity to the revised site plan, prepared by DGM Land Planning Consultants ("DGM"), dated April 12, 2016, which is being submitted concurrently herewith. All of the lots exceed the minimum lot size of 12,000 square feet except for the lot upon which the stormwater management area has been placed which is 11,641 square feet in size. The average lot size taking into consideration all five (5) lots is 14,656 square feet.
3. The subject property, consisting of a total of 1.89 acres, shall be developed for a Single-Family, Detached Residential Community consisting of a maximum number of five (5) homes at a maximum density of 2.64 units per acre.¹
4. The residences to be constructed shall have a minimum of Thirty-Six Hundred square feet (3,600 sq. ft.) and greater and shall be traditional in styling and with four-sided architecture as is more accurately depicted on the architectural renderings/elevations, prepared by Caldwell-Cline and the photographs which are being resubmitted concurrently herewith.
5. The submission of a landscape plan during the Plan Review process, subject to the Arborist's review and approval. Additionally, the following shall be components of that landscape plan:
 - a. All front, side and rear yards of the residences to be constructed shall be sodded and irrigated. However, neither Greenhouse nor the ultimate owners of said homes shall be precluded from constructing and enjoying outdoor patios, fireplaces and similar recreation/entertainment components within the range of allowed impervious surface percentages.
 - b. All utilities servicing the residences shall be underground.

¹ The subject property is located in an area on Cobb County's Future Land Use Map which is denominated as both Medium Density Residential and Low Density Residential and is situated in a sub-area where considerable Medium Density development has taken place, including Central Garden Subdivision which is located approximately 100 feet east of the subject property which is being built-out at RA-5 at a density of 4.27 units per acre.

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VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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- c. The Detention/Water Quality area shall be fenced with a black vinyl-coated chain link fence, six feet (6') in height with attendant landscaping for purposes of visual screening.
 - d. The installation of a quality wrought iron or wrought iron-type fence with stone columns and attendant landscaping along the subject property's frontage on Lee Road which will take into consideration the positioning of the individual driveways to the homes proposed for the subject property.
6. The creation of a Mandatory Homeowners Association ("HOA") consistent with upscale communities within this area. The Mandatory HOA will be responsible for the upkeep and maintenance of any common areas which may be created, the upkeep and maintenance of the U.S. Postal Service mail kiosk, any fencing which may be erected, attendant landscaping and any other portions of the proposed community which fall under the mandates of the Mandatory HOA.
 7. In conjunction with the creation of the Mandatory HOA, Greenhouse agrees to the recordation and enforcement of Protective Covenants which will contain Covenants, Rules and Regulations applicable to the proposed Residential Community. Said Covenants shall include recitals which mandate that all fencing within the community shall be uniform and substantially similar to the architectural style and composition of the homes.
 8. Compliance with the following recommendations emanating from the Cobb County Department of Transportation with respect to traffic and transportation issues, as follows:
 - a. The voluntary donation and conveyance of right-of-way so that the County can achieve twenty-five feet (25') from the center line of Lee Road.
 - b. The installation of curb, gutter and sidewalk along the subject property's frontage on Lee Road.
 - c. The Covenants will ensure that all homes will have two (2) or three (3) car garages for vehicular parking purposes.²

² Because of the fact that the revised site plan reflects the requisite distance between homes, § 401.08.02 (Local Residential Streets) requiring additional guest parking does not come into play.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & EMAIL:

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Cobb County Zoning Division
Community Development Agency
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9. Subject to all recommendations from the Cobb County Stormwater Management Division with respect to stormwater management, detention, hydrology and downstream considerations including, but not limited to, the positioning and configuration of on-site detention and/or water quality features.³
 10. Compliance with recommendations from the Cobb County Water System with respect to the availability and capacity of water and sewer for the site.
 11. Compliance with recommendations from the Cobb County Fire Department with respect to Fire Prevention and Life-Safety issues.
 12. Adherence to the following construction hours:
 - a. 7:00 a.m. until 5:00 p.m., Monday through Friday, from October 1st through March 31st.
 - b. 7:00 a.m. until 7:00 p.m., Monday through Friday from April 1st through September 30th.
 - c. 9:00 a.m. until 5:00 p.m. on Saturdays.
 - d. No work on Sundays.
 - e. All construction and worker vehicles shall be parked on the subject property during the construction and build-out of the subdivision. There shall be no parking allowed on Lee Road.
 13. Greenhouse will agree to undertake whatever remedial steps are indicated and secure whatever reports are required by local or state governmental entities concerning the demolition of any existing structures on the subject property. Any on-site existing structures will be boarded up within 60 days of the Board of Commissioners' approval and demolished within 120 days of the Board of Commissioners' approval.

³ A representative of DGM met on the site with Frank Gipson who is Cobb County's Erosion & Sediment Control Manager. In that regard, Mr. Gipson has determined that, what at first appeared to be a stream traversing the subject property, is in fact a drainage swale and does not meet the threshold of being classified as state waters.

Petition No. Z-6
Meeting Date 4-19-16
Continued

SAMS, LARKIN, HUFF & BALLI
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VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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14. The granting of the following concurrent variances:
- a. The waiver of minimum lot widths from seventy-five feet (75') to fifty-five and one half feet (55.5').
 - b. A waiver of front setbacks from 40 feet to 20 feet with the commensurate amount of space to the rear of the homes being added so as not to increase the "building envelopes".
15. The District Commissioner shall have the authority to approve minor modifications to these stipulations/conditions, except for those that:
- a. Reduce the size of an approved buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
 - b. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.
 - c. Increase the height of a building that is adjacent to property that is zoned in the same or more restrictive zoning district.
 - d. Violate the Cobb County Zoning Ordinance.
 - e. Change access locations to different roadways.
 - f. Would be in direct conflict with, or direct contradiction to, Cobb County regulations.

The clear trend for development within this sub-area of Cobb County is for High-End Residential Development which is compatible with surrounding neighborhoods and which enhances existing and proposed communities within this area. In that regard, this revised proposal by Greenhouse is entirely appropriate from a Land Use Planning perspective, particularly when considered in the context of the above-referenced revised stipulations/conditions, and as evidenced by Staff's and the Planning Commission's respective recommendations for approval.

Petition No. 2-6
Meeting Date 4-19-16
Continued

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

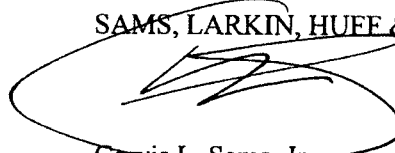
VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
April 13, 2016
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Please do not hesitate to contact me should you or the Staff require any further information or documentation prior to this application being heard by the Board of Commissioners on April 19, 2016. With kind regards I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/dsj
Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
BOC Commission Assistants (via email w/attachments)
Mr. Dana Johnson, AICP Director (via email w/attachments)
Mr. Lee McClead, Assistant Director (via email w/attachments)
Mr. Jason S. Gaines, AICP, Planning Manager (via email w/attachments)
Mr. Jason Campbell, Planner III (via email w/attachments)
Mr. Terry Martin, Planner II (via email w/attachments)
Ms. Kim Wakefield, Zoning Analyst (via email w/attachments)
Mr. Donald Wells, Zoning Analyst (via email w/attachments)
Ms. Pam Mabry, County Clerk (via email w/attachments)
Ms. Lori Barton, Deputy County Clerk (via email w/attachments)
Ms. Robin Presley, Deputy County Clerk (via email w/attachments)
Mr. David Breaden, P.E. (via email w/attachments)
Ms. Jane Stricklin, P.E. (via email w/attachments)
Mr. Tim Davidson, P.E. (via email w/attachments)
Ms. Mary Rose Barnes, Oakdale Civic Association (via email w/attachments)
Ms. Samantha Agron (via email w/attachments)
Ms. Traci DiPrima (via email w/attachments)
Mr. David Meyer, RLA (via email w/attachments)

APPLICANT: Greenhouse Properties of Atlanta, LLC

PETITION NO.: Z-6

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
Lee Road	N/A	Local	25 mph	Cobb County	50'

COMMENTS AND OBSERVATIONS

Lee Road is classified as a local 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 applicant consider entering into a development agreement pursuant of 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 north side of Lee Road, a minimum of 25' from the roadway centerline.

Recommend curb, gutter, and sidewalk along the Lee Road frontage.

Lee Road is a substandard street. Recommend improving Lee Road along the frontage to comply with Cobb County Standards.