

JUNE 20, 2017 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3

ITEM 015

PURPOSE

To consider a Settlement of Litigation for *Denome v. Cobb County, Georgia*, Cobb County Superior Court, Civil Action File Number: 16-1-9822-53 regarding rezoning application Z-35 (Adventur Living, LLC) of 2016, for property located on the east side of Ebenezer Road and at the western terminus of Cedar Ridge Road in Land Lot 304 of the 16th District. *(Continued by the Board of Commissioners from the May 16, 2017 hearing)*

BACKGROUND

This settlement proposal concerns property which was part of a May 2016 rezoning application on Ebenezer Road in which rezoning from R-20 to RSL was sought. After many continuances and substantial opposition, the Board of Commissioners rezoned the property to R-15 with stipulations on September 20, 2016. Then on November 15, 2016 the Board of Commissioners voted to rescind the September 20, 2016 rezoning action. The rescission of the zoning decision caused the property’s zoning designation to return to R-20 and the Z-35 application returned to a pending zoning application. Rather than consider the pending application at the November meeting, with the agreement of the parties, the Board voted to hold the zoning decision until the next month, so the applicant and opposition could meet. Prior to the December zoning hearing, a property owner of the original application filed a suit in Superior Court appealing the Board’s decision to rescind. At the end of March 2017, Paran Homes submitted a site plan for consideration as settlement of litigation. A settlement of litigation letter submitted by Parks Huff on May 10, 2017 asks for the property to be rezoned to R-15 subject to the site plan, house elevations submitted and many stipulations suggested by the opposition. The letter, site plan and house elevations are attached for review.

STAFF COMMENTS

Attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the Settlement of Litigation proposal.

ATTACHMENTS

Staff comments, Settlement letter, staff report and the zoning hearing minutes.

APPLICANT: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-15

PETITION FOR: R-15

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Rubes 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 _____.
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 downstream receiving system including the existing culvert at Cedar Ridge Road.

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

Revised Comments based on Site Plan received 4/17/2017

1. This site is located to the west of Ebenezer Road between its intersections with Blackwell and May Breeze Roads. It abuts Princeton Manor Subdivision to the north and North Ridge (aka Heritage Farms) Subdivision to the east and south. The site is primarily pasture with small wooded areas along the fence rows and the northern and southern boundaries. Average slopes on the site range from 5 to 15%. The majority of the site drains to the east into and through the North Ridge Subdivision via an existing channel platted as a drainage easement. A very small portion of the northwest corner of the site (0.3 ac) drains across Ebenezer Road to the Phillips Farm property to the west.
2. All current site runoff bypass into 1443 Cedar Ridge Road must be directed to the proposed stormwater management facility.

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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

May 10, 2017

VIA EMAIL AND HAND DELIVERY:

Mr. John P. Pederson, AICP
Zoning Division Manager
Cobb County Community Development Agency
P. O. Box 649
Marietta, GA 30061-0649

Re: Settlement of Litigation for T.M. Denome a/k/a/ Toni Barnes regarding
Application of Adventur Living, LLC (No. Z-35 - 2016)

Dear John:

I represent Toni Barnes and Paran Homes in relation to settling the litigation related to the county's attempt to rescind the motion to rezone the property to R-15. On September 20, 2016, the Board of Commissioners rezoned the property from R-20 to R-15. On November 15, 2016, the Board of Commissioners made a motion to rescind this decision despite numerous acts by the property owner in reliance upon the R-15. Subsequently, the property owner filed a lawsuit challenging the vote to rescind the R-15 zoning.

In an effort to resolve this dispute, Paran Homes has met with the county and neighbors to address concerns related to the proposed development. Following is a list of stipulations that Paran will agree to become a condition on the confirmation of the R-15 zoning.

- 1) The property will be zoned R-15 for a maximum of 16 lots consistent with the attached site plan (Exhibit "A").
- 2) The two lots that directly access Ebenezer Road shall have a shared driveway.
- 3) There shall be no more than two (2) homes rented at one time to ensure the neighborhood remains an owner occupied community.
- 4) The front setbacks for all lots that do not front on Ebenezer Road will be reduced to a minimum of twenty five (25) feet from thirty five (35) feet with a corresponding increase in the rear setback of the amount of the reduction of the front setback actually used. However, lots 8-16 shall have a forty (40) foot rear setback to ensure

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VIA EMAIL:

Mr. John P. Pederson, AICP, Division Manager
Zoning Division
Cobb County Community Development Agency
May 10, 2017
Page 2

these lots will have a larger rear setback than R-20. Lot 6 shall have a fifteen (15) foot side setback.

- 5) There shall be a ten (10) foot wide buffer along the eastern and the northern property line as depicted in the attached site plan. The buffer will be undisturbed where grading is not required for utilities and stormwater drainage control with amended evergreen plantings to create a visual screen. The buffer plan is to be reviewed by the county arborist with final approval of the District Commissioner. Property owners can elect to place a privacy fence within the buffer.
- 6) Paran will work with the Cobb County Stormwater Management Division during plan review to direct water that currently flows to 1443 Cedar Ridge Road to the proposed stormwater management pond in the proposed development with the goal of reducing the stormwater drainage that currently causes problems on 1443 Cedar Ridge Road.
- 7) There will be no connection to Cedar Ridge Road which currently dead ends into the subject property.
- 8) The developer shall comply with the requests of the Water Department related to incorporating easements in the plan at no cost to the neighbors so sewer can be extended to nearby properties.
- 9) The home exteriors shall be constructed of at least three sided brick, stone, stacked stone, board and batten, and cementitious board siding or any combination thereof. No vinyl siding is permitted. The architecture shall be similar to the attached renderings (Exhibit "B") with the final plans to be approved by the District Commissioner. There will be a minimum of 2,500 square feet of climate controlled space per home.
- 10) Any HVAC unit that is visible to the surrounding residential properties will be screened with landscaping.
- 11) Any permanent signage shall be ground-based, monument style signage that is integrated with the landscaping and in conformity with County requirements. The entrance landscape plan to be approved by the county arborist and the District Commissioner.

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Zoning Division
Cobb County Community Development Agency
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- 12) Public sidewalks, curbs and gutters shall be installed along Ebenezer Road and internally as required by the Cobb County Development Standards.
- 13) All streets, detention ponds and lighting shall be constructed to the Cobb County Development Standards and maintained by Cobb County or the utility company.
- 14) The owner/developer shall enter into a Development Agreement pursuant to O.C.G.A. 36-71-13 for dedication of any system improvement to address and mitigate traffic issues that are a result of this project.
- 15) The developer shall comply with the recommendations from the Cobb County Stormwater Management Division with respect to the configuration and methodology of onsite detention and water quality. The stormwater management facility will be attractively landscaped and fenced in compliance with county standards. If there are any concrete walls that would be visible offsite, they shall be decoratively faced with rock or stone or landscaped to create a visual buffer.
- 16) The developer shall incorporate all recommended measures by the county in designing, installing and implementing a soil erosion plan to negate any negative effects on nearby property owners.
- 17) The homes shall be consistent with the attached renderings with the final architectural design and renderings are to be approved by the District Commissioner. The homes shall contain the architectural elements that are contained in the attached renderings.
- 18) The developer will provide a twenty four (24) hour contact person to all adjacent property owners. All construction vehicles and related traffic will park on-site with no parking on Ebenezer Road or Cedar Ridge Road. No construction shall occur on Sundays or legal or religious holidays. Construction shall occur between the hours of 7:00 a.m. and 7:00 p.m. Monday thru Friday, and 10:00 a.m. to 5:00 p.m. on Saturdays. There will be a washing station on site for all construction vehicles. Toilet facilities for workers shall be maintained in a sanitary condition in compliance with all applicable laws, ordinances, rules and regulations and shall not emit any odors off site.
- 19) Minor modifications to the within and foregoing stipulations/conditions, the site plan, other site features and the like may be approved by the District Commissioner as needed or necessary, except for those that:

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Cobb County Community Development Agency
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- a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
- b. Relocate a structure closer to the property line of an adjacent property which is zoned on the same or a more restrictive zoning district.
- c. Increase the height of a building which is adjacent to a property which is zoned the same or in a more restrictive zoning district.
- d. Change access locations to a different right-of-way.
- e. Require a variance or are in contravention to the terms and provisions of the Cobb County Zoning Ordinance.

Please let me know if you need any additional information or have any questions regarding this request.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff
phuff@slhb-law.com

PFH/sfw

Attachments

cc: Listed on next page

- cc: Members, Cobb County Board of Commissioners (via email w/attachment)
Commission Assistants, Cobb County BOC (via email w/attachment)
Mr. Dana Johnson, AICP, Director (via email w/attachment)
Mr. Lee McClead, Deputy Director (via email w/attachment)
Mr. Jason Gaines, AICP, Planning Division Manager (via email w/attachment)
Mr. Jason Campbell, Planner III (via email w/attachment)
Mr. Terry Martin, Planner II (via email w/attachment)
Mr. Donald Wells, Zoning Analyst (via email w/attachment)

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Zoning Division
Cobb County Community Development Agency
May 10, 2017
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Mr. David Breaden, P.E. (via email w/attachment)
Ms. Ashley White, P.E., Cobb DOT (via email w/attachment)
Mr. Tim Davidson, Plan Review Engineer (via email w/attachment)
Ms. Pam Mabry, County Clerk (via email w/attachment)
Ms. Lori Barton, Deputy County Clerk (via email w/attachment)
Ms. Robin Presley, Deputy County Clerk (via email w/attachment)
R. Lawton Jordan, Esq. (via email w/attachment)

Exhibit “A”

Exhibit “B”



**Traditions at Braselton
Richmond
"A" Traditional Style**

06.03.16



The drawings are intended as a guide only. The contractor is responsible for obtaining all necessary permits and for checking all local codes, ordinances, and regulations. The contractor is also responsible for obtaining all necessary permits and for checking all local codes, ordinances, and regulations. The contractor is also responsible for obtaining all necessary permits and for checking all local codes, ordinances, and regulations.



Traditions at Braselton
 Richmond
 "B" Cottage Style

06.03.16



The drawings provided are illustrations of structures, materials, and design intent only, and are not to be used for construction. All dimensions are approximate. All materials, finishes, and colors are subject to change without notice. ©2016 gmdgroup.com or gpa, Inc.



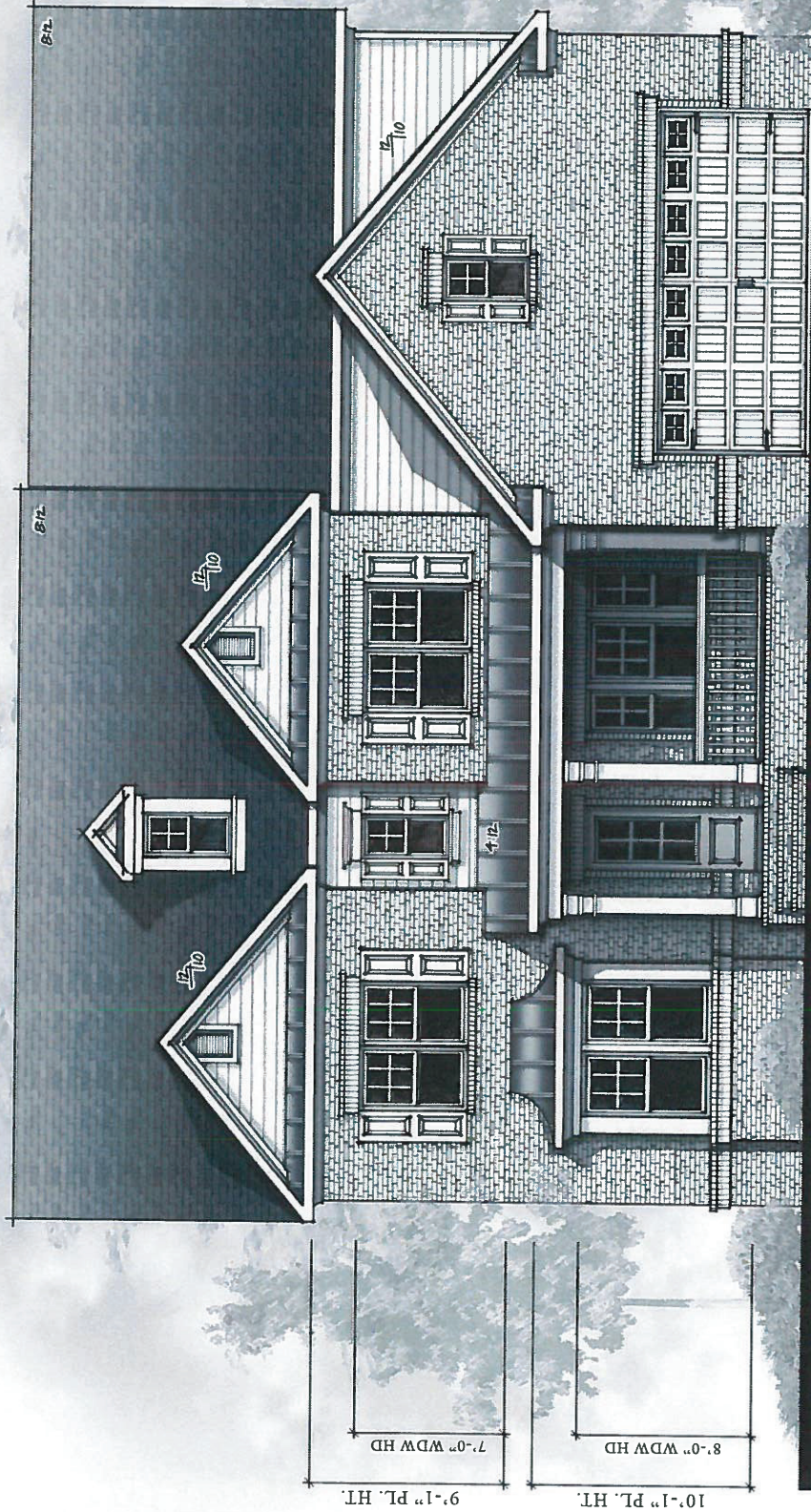
10'-1" PL. HT.
8'-0" WDW HD.
9'-1" PL. HT.
7'-0" WDW HD.

**Traditions at Braselton
Richmond
"C" French Style**

06.03.16



The drawings presented are preliminary. The contractor and design team shall be responsible for all details, including but not limited to, window and door sizes, materials, and construction methods. All dimensions and elevations are approximate and subject to change without notice. ©2016 GMD Design Group, Inc.



Traditions at Braselton
 Manchester
 "A" Traditional Style

06.03.16



The drawings presented are the property of the architect and are not to be used for any other purpose without the written consent of the architect. All dimensions are in feet and inches. All materials and finishes are subject to change without notice. © 2016 gmdgroup.com



**Traditions at Braselton
Manchester
"B" Cottage Style**

06.03.16



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**Traditions at Braselton
Manchester
"C" French Style**

06.03.16



The drawings presented are illustrations of character and design intent only, and are not to be used for construction purposes. All dimensions and materials shall be as indicated, and shall change as required. Use only / As per (shown, etc.)
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10'-1" PL. HT.
8'-0" WDW HD.
9'-1" PL. HT.
7'-0" WDW HD.

**Traditions at Braselton
Frederickson
"A" Traditional Style**

06.03.16



The drawings provided are a disclaimer of contractor and design fees. They are not intended to be used for construction or other purposes without the written consent of the design group. All rights reserved. ©2016 gmdgroup.com



**Traditions at Braselton
 Frederickson
 "B" Cottage Style**

06.03.16



The drawings are provided for information only. The contractor is responsible for obtaining all necessary permits, and for ensuring that the construction complies with all applicable codes, regulations, and standards. All dimensions are in feet and inches. © 2016 gmdgroup.com



10'-1" PL. HT.
8'-0" WDW HD.

9'-1" PL. HT.
7'-0" WDW HD.

**Traditions at Braselton
Frederickson
"C" French Style**

06.03.16



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Z-35
(2016)

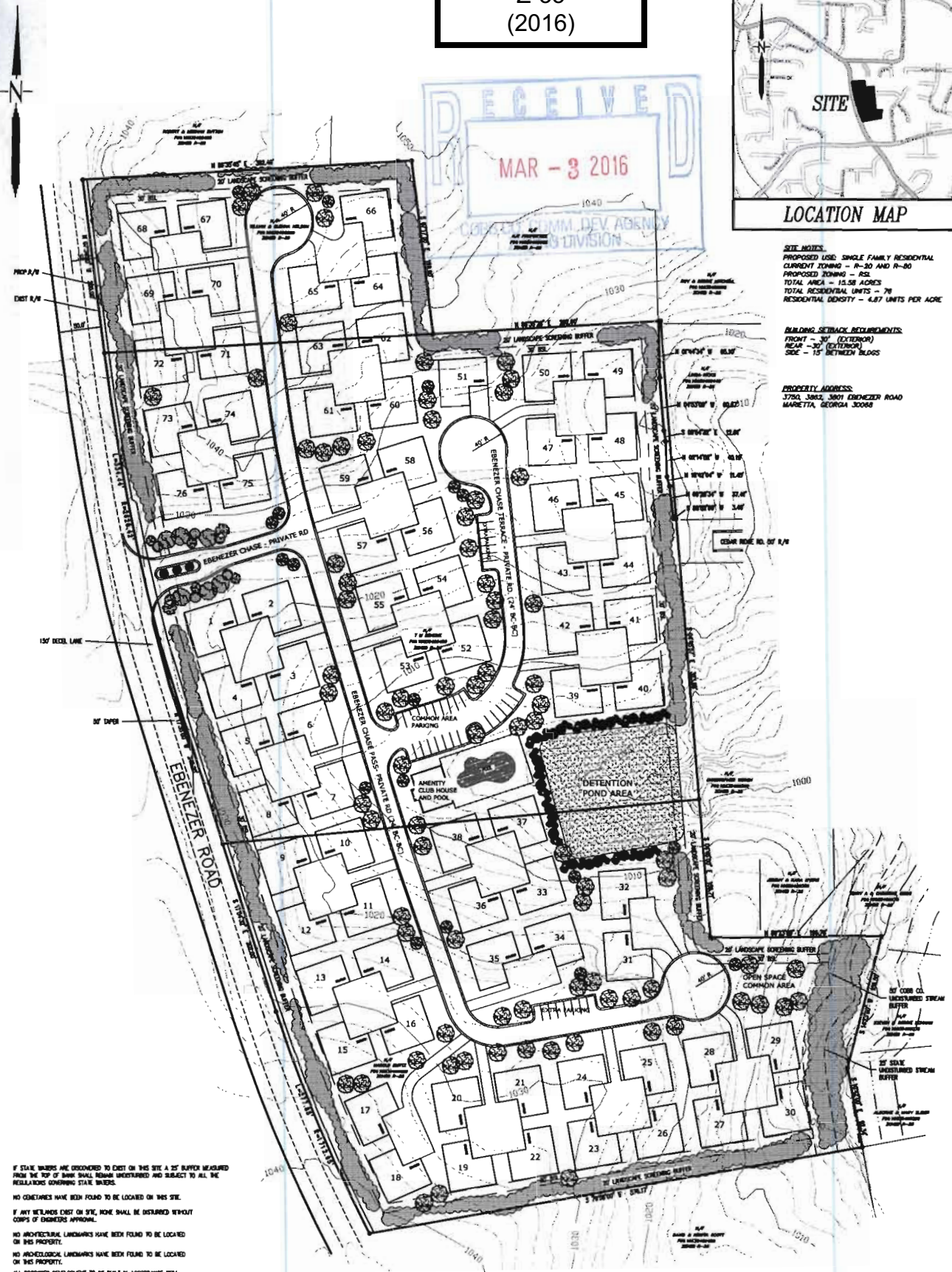


LOCATION MAP

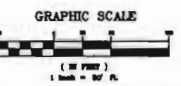
SITE NOTES:
 PROPOSED USE - SINGLE FAMILY RESIDENTIAL
 CURRENT ZONING - R-30 AND R-30
 PROPOSED ZONING - RSL
 TOTAL AREA - 13.58 ACRES
 TOTAL RESIDENTIAL UNITS - 78
 RESIDENTIAL DENSITY - 4.87 UNITS PER ACRE

BUILDING SETBACK REQUIREMENTS:
 FRONT - 30' (EXTENSION)
 REAR - 30' (EXTENSION)
 SIDE - 15' BETWEEN BLOBS

PROPERTY ADDRESS:
 1700 S.W. 3RD AVENUE
 MARIETTA, GEORGIA 30066



IF STATE WATERS ARE DETERMINED TO EXIST ON THIS SITE A 20' BUFFER MEASURED FROM THE TOP OF BANK SHALL REMAIN UNDISTURBED AND SUBJECT TO ALL THE REGULATIONS GOVERNING STATE WATERS.
 NO CONCRETES HAVE BEEN FOUND TO BE LOCATED ON THIS SITE.
 IF ANY METALINES EXIST ON SITE, NONE SHALL BE DISTURBED WITHOUT CORPS OF ENGINEERS APPROVAL.
 NO ARCHITECTURAL LANDMARKS HAVE BEEN FOUND TO BE LOCATED ON THIS PROPERTY.
 NO ARCHEOLOGICAL LANDMARKS HAVE BEEN FOUND TO BE LOCATED ON THIS PROPERTY.
 ALL PROPOSED DEVELOPMENT TO BE BUILT IN ACCORDANCE WITH COBB COUNTY STANDARD SPECIFICATIONS AND REQUIREMENTS.
 THE LAYOUT SHOWN IS A CONCEPTUAL REPRESENTATION OF THE PROPOSED CONFIGURATION FOR THIS SITE. SPECIFIC DESIGN CRITERIA IS THE RESPONSIBILITY OF THE DEVELOPER AND SUBJECT TO THE COBB COUNTY STANDARD SPECIFICATIONS AND APPROVAL PROCEDURES.
 ALL EXISTING STRUCTURES TO BE REMOVED.



APPLICANT/DEVELOPER/OWNER:
 BURTZ BUILDERS, INC.
 3750 EBENEZER ROAD
 MARIETTA, GEORGIA 30066
24 HOUR CONTACT:
 HAROLD BURTZ
 770-971-2517

NO.	DATE	REVISION DESCRIPTION	BY

CONCEPT PLAN FOR
EBENEZER CHASE
 LAND LOT 304 & 304, 16TH DISTRICT, 2ND SECTION
 COBB COUNTY, GEORGIA

centerline
 Surveying and Land Planning, Inc.
 1801 BULLOCK ROAD, SUITE 1810, KENNESAW, GA 30144
 PHONE: (770) 424-0088 FAX: (770) 424-8888

APPLICANT: Adventur Living LLC

PHONE#: 770-652-0044 **EMAIL:** Berniesmith@kw.com

REPRESENTATIVE: Bernie Smith

PHONE#: 770-652-0044 **EMAIL:** Berniesmith@kw.com

TITLEHOLDER: T.M. Denome, William Harry Nelson and Glenna S. Nelson; and Harold R. Burtz

PROPERTY LOCATION: East side of Ebenezer Road, north of Blackwell Road, and the western terminus of Cedar Ridge Road (3750, 3860 and 3862 Ebenezer Road)

ACCESS TO PROPERTY: Ebenezer Road

PHYSICAL CHARACTERISTICS TO SITE: Single-family houses

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/Single-family house and Princeton Manor
SOUTH: R-20/Wooded lot
EAST: R-20/North Ridge
WEST: R-20/Single-family houses

Adjacent Future Land Use:
Northeast: Low Density Residential (LDR)
Southeast: Low Density Residential (LDR)
Southwest: Low Density Residential (LDR)
Northwest: Low Density Residential (LDR)

PETITION NO: Z-35

HEARING DATE (PC): 05-03-16

HEARING DATE (BOC): 05-17-16

PRESENT ZONING: R-20, R-80

PROPOSED ZONING: RSL

PROPOSED USE: Senior Living

SIZE OF TRACT: 15.58 acres

DISTRICT: 16

LAND LOT(S): 304,345

PARCEL(S): 9,45,2

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

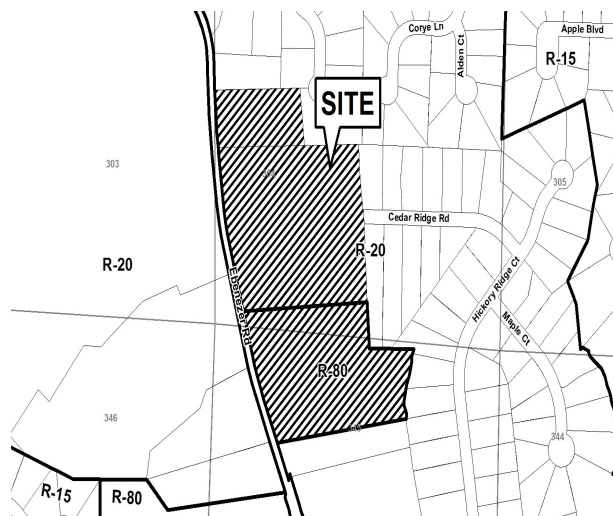
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

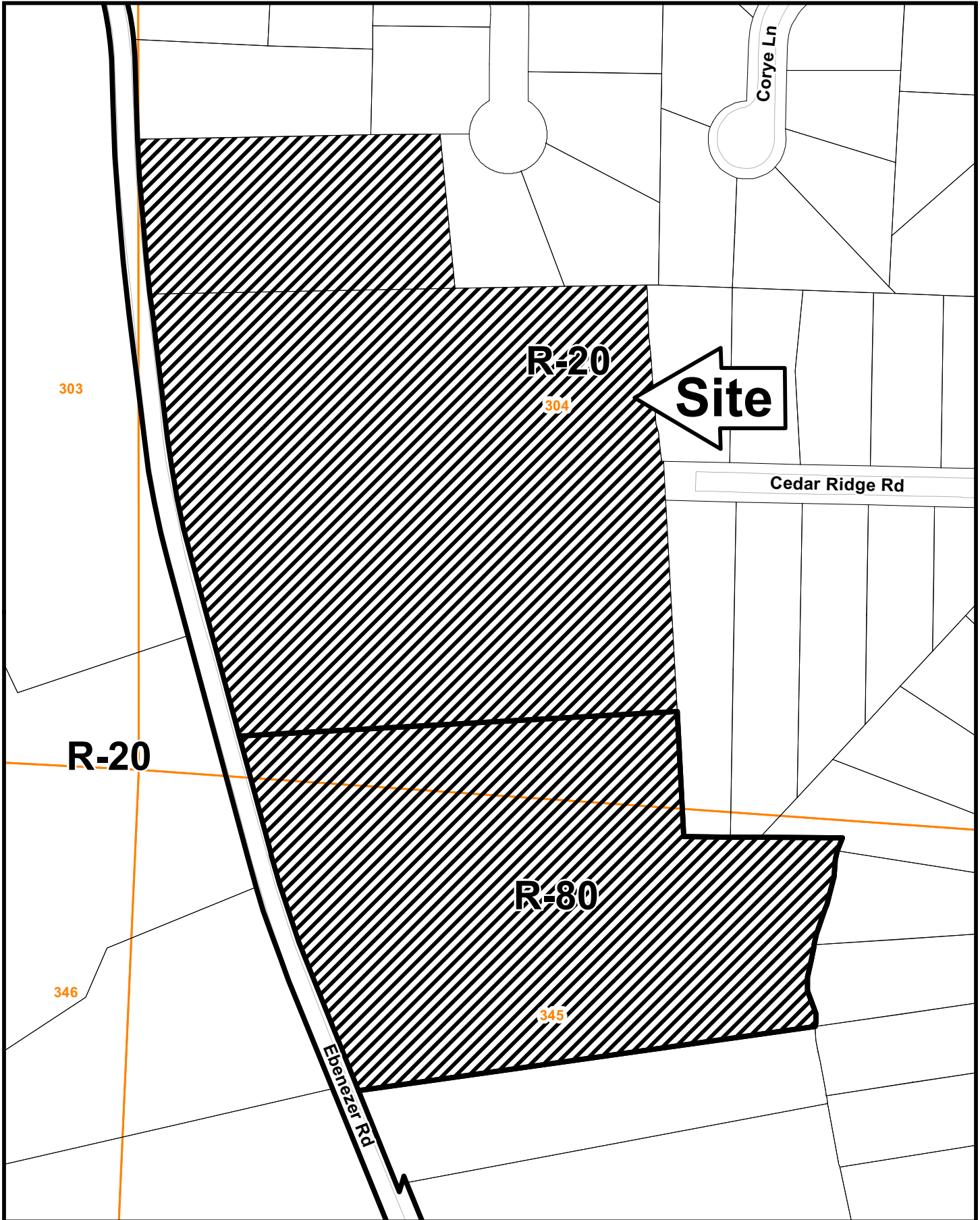
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-35



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: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

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

Proposed Number of Units: 76 **Overall Density:** 4.87 **Units/Acre**

Staff estimate for allowable # of units: 27 **Units*** **Increase of:** 49 **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.

Applicant is requesting the Residential Senior Living (RSL) zoning district for the purpose of a 76-unit non-supportive senior living development. The units will be detached and arranged in quads. The units will be traditional one and a half stories, and will range in size from 1,750 square feet and up. Prices will range in from \$300,000 to \$450,000. The proposed development includes private streets, clubhouse and pool. The site plan indicates the required 20-foot landscape buffer abutting more restrictive residentially zoned properties.

Cemetery Preservation: No comments.

Site Plan Review: No comment.

APPLICANT: Adventur Living LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

FIRE COMMENTS:

NO 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: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

SCHOOL COMMENTS:

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
<u>Elementary</u>	<u> </u>	<u> </u>	<u> </u>
<u>Middle</u>	<u> </u>	<u> </u>	<u> </u>
<u>High</u>	<u> </u>	<u> </u>	<u> </u>

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

Additional Comments:

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 and r-80 to RSL for the purpose of senior living. The .15.58 acre site is located on the east side of Ebenezer Road, north of Blackwell Road, and the western terminus of Cedar Ridge 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 _____ been notified? Yes No / N/A

Comprehensive Plan

The parcel is within a Low Density Residential (LDR) future land use category, with R-20 and R-80 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, and non supportive senior living housing that in certain circumstances may reach five (5) dwelling units per acre, depending on existing conditions such as product type and mix, structure/building height, tract size, topographic conditions, etc in order to provide compatibility with adjacent residential uses.

Specific Area Policy Guidelines:

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

APPLICANT: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

PLANNING COMMENTS: Continued

Adjacent Future Land Use:

Northeast: Low Density Residential (LDR)

Southeast: Low Density Residential (LDR)

Southwest: Low Density Residential (LDR)

Northwest: 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?

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

APPLICANT: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

PLANNING COMMENTS: Continued

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 Adventur Living, LLC

PETITION NO. Z-035

PRESENT ZONING R-20, R-80

PETITION FOR RSL

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 Ebenezer Road

Additional Comments: Secondary water feed will be required at Plan Review

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: 80' E in Cedar Ridge Rd ROW

Estimated Waste Generation (in G.P.D.): A D F= 12,160 Peak= 30,400

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 Sewer flow study may be required at Plan Review. On-site easement(s) will be required to
Comments: accommodate public water and sewer.

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: Adventur Living, LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Rubes 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 _____.
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 downstream receiving system including the existing culvert at Cedar Ridge Road.

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 to the west of Ebenezer Road between its intersections with Blackwell and May Breeze Roads. It abuts Princeton Manor Subdivision to the north and North Ridge (aka Heritage Farms) Subdivision to the east and south. The site is primarily pasture with small wooded areas along the fence rows and the northern and southern boundaries. Average slopes on the site range from 5 to 15%. The majority of the site drains to the east into and through the North Ridge Subdivision via an existing channel platted as a drainage easement. A very small portion of the northwest corner of the site (1.3 ac) drains across Ebenezer Road to the Phillips Farm property to the west.
2. Development of this project will result in an increase in impervious coverage, storm runoff and non-point source pollution compared to build-out under the current single-family zoning categories. To mitigate, the First Flush Water Quality Best Management Practice Requirements must be elevated to the 1.5-inch rainfall event and each larger storm discharge controlled not to exceed the allowable discharge of the next lower, more frequent storm event (ie. 5-year storm event released at 2-year rate; 10-year event at 5-year rate; etc. to 100-year event at 50-year rate).
3. Pervious pavers may be required for selected areas to meet the 55% impervious coverage limit.

APPLICANT: Adventur Living LLC

PETITION NO.: Z-35

PRESENT ZONING: R-20, R-80

PETITION FOR: RSL

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
Ebenezer Road	4200	Major Collector	35 mph	Cobb County	80'

Based on 2008 traffic counting data taken by Cobb County DOT for Ebenezer Road.

COMMENTS AND OBSERVATIONS

Ebenezer Road is classified as a major collector 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 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 Ebenezer Road, a minimum of 40' from the roadway centerline.

Recommend a left turn land and a deceleration lane on Ebenezer Road for the entrance.

Recommend private streets be constructed to the Cobb County Standard Specifications.

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

Recommend curb and gutter along both sides and sidewalk along one side of proposed development roadway.

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STAFF RECOMMENDATIONS

Z-35 ADVENTUR LIVING, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal may not permit a use that is suitable in view of the use and development of adjacent and nearby properties. Other properties in this area are zoned and developed for single-family houses on individual lots.
- 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 proposed development has a higher density than other single-family residential subdivisions in this area.
- 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*, as far as being an allowed category in the Low Density Residential (LDR) land use category. However, the proposed density of 4.87 units per acre is not compatible with some of the abutting and nearby single-family residential subdivisions. These subdivisions include: North Ridge Unit Two (zoned R-20 at approximately 1.40 units per acre); Princeton Manor (zoned R-20 at 1.7 units per acre); and Kristen Trace (zoned R-20 at 2.169 units per acre). The area also includes single-family house on large tracts of land.
- 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, but at a density that is compatible with the LDR range of 1-2.5 units per acre. While the RSL nonsupportive district is allowed in the Low Density Residential (LDR) land use category, one of the requirements in that section of the ordinance is that the proposed RSL development be compatible with existing development. The developed single-family subdivisions in the area are at lower densities than the proposed 4.87 units per acre proposed in this application.

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

1. Board of Commissioners to approve final site plan, with the District Commissioner approving minor modifications;
2. Maximum density of 2.5 units per acre;
3. Water and Sewer Division comments and recommendations;
4. Stormwater Management Division comments and recommendations;
5. Department of Transportation comments and recommendations; and
6. 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-35

May 2016

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): MIN 1780 SF + GREATER
- b) Proposed building architecture: TRADITIONAL
- c) Proposed selling prices(s): 295K + GREATER
- d) List all requested variances: _____

Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): NOT APPLICABLE
- 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)

NONE AT THIS TIME

Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

NONE KNOWN AT THIS TIME

* APPLICANT SPECIFICALLY RESERVES THE RIGHT TO AMEND ANY INFORMATION SET FORTH IN THE SUMMARY OF INTENT, OR ANY PORTION OF THE APPLICATION FOR REZONING AT ANY TIME DURING THE RE ZONING PROCESS.



Application No. Z-35
May 2016

Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 1780 sq/optional 1000 SF up
- b) Proposed building architecture: 1 1/2 story
- c) Proposed selling prices(s): \$300,000 to \$450,000
- d) List all requested variances: _____

.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): _____

- b) Proposed building architecture: _____

- c) Proposed hours/days of operation: 8 AM to 6 PM M-F
- d) List all requested variances: _____

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

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

None

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 20, 2016
PAGE 13**

REGULAR AGENDA

Z-35 **ADVENTUR LIVING LLC** (T.M. Denome, William Harry Nelson and Glenna S. Nelson, and Harold R. Burtz, owners) requesting Rezoning from **R-20** and **R-80** to **RSL(Non-Supportive)** for the purpose of Senior Living in Land Lots 304 and 345 of the 16th District. Located on the east side of Ebenezer Road, north of Blackwell Road, and the western terminus of Cedar Ridge Road (3750, 3860, and 3862 Ebenezer Road). *(Previously continued by the Board of Commissioners at the June 21, 2016 hearing until their July 19, 2016 hearing: Continued by staff from the July 19, 2016 and August 16, 2016 hearing dates until the September 20, 2016 hearing date.)*

The public hearing was opened, and Mr. Parks F. Huff, Mr. Lawton Jordan, and Mr. Tom Dilbeck addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Weatherford, to delete Z-35 to the **R-15** zoning category, subject to:

- 1. Final site plan, architectural design, and renderings are to be approved by the District Commissioner**
- 2. Landscape plan to be approved by the County Arborist and District Commissioner**
- 3. Minimum 15,000 square foot lots**
- 4. If variances are granted on the front setback, they can be allowed at the same amount added to the rear setback**
- 5. Must be in compliance with all County standards and ordinances**
- 6. Construction vehicles to be contained on site**
- 7. Exterior construction hours to be 7:00 a.m. to 6:00 p.m. Monday through Friday; 9:00 a.m. until 4:00 p.m. on Saturday; no work on Sundays or legal holidays**

VOTE: **ADOPTED** 4-1, Ott opposed

Clerk's Note: Commissioner Birrell noted that the District Commissioner will share the site plan and landscape plan with the neighbors prior to any approvals.

Chairman Lee called for a break at 10:08 a.m.; the hearing reconvened at 10:15 a.m.

CONSENT AGENDA (CONT.)

O.B. 73 To consider a stipulation amendment and site plan amendment for The Pacific Group, Inc. regarding rezoning application Z-6 of 2013 (Brooks Chadwick Capital, LLC), for property located on the east side of Johnson Ferry Road, north of Riverhill Road, in Land Lot 84 of the 1st District.

To approve O.B. 73 for 2013 (Brooks Chadwick Capital, LLC), for property located on the east side of Johnson Ferry Road, north of Riverhill Road, in Land Lot 84 of the 1st District, subject to:

1. Letter of agreeable conditions from Mr. John Moore dated November 14, 2016, including site plan and amended *Exhibit B*, (attached and made a part of these minutes.)
2. Department of Transportation comments and recommendations: ~~Recommend developer contribute 100% of the cost for a traffic signal at the entrance, if and when warranted and installation approved by the DOT; the signal warrant study shall be completed after full build-out of the development when true traffic data is available; recommend restricting left turn lanes onto Johnson Ferry Road, if signal is not warranted~~
3. All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect

Scrivener's Error:
strike stipulation



MOTION: Motion by Ott, second by Birrell, to add O.B. 73 to the Consent Agenda.

VOTE: ADOPTED 5-0

CONSENT VOTE: ADOPTED 5-0

MOTION TO RESCIND Z-35 OF 2016

Mr. John Pederson presented the request to consider a Motion to Rescind the action on September 20, 2016 regarding Z-35 (Adventur Living LLC) which deleted the property zoning from R-20 to R-15, provided background information, and read the following into the record:

Z-35 **ADVENTUR LIVING LLC** requesting Rezoning from **R-20** to **RSL (Non-Supportive)** for the purpose of Senior Living in Land Lots 304 and 345 of the 16th District. Located on the east side of Ebenezer Road, north of Blackwell Road, and the western terminus of Cedar Ridge Road.

Mr. Parks Huff, Applicant's Representative for Adventur Living LLC and the property owner, addressed the Board regarding his client's opposition to the proposed Motion to Rescind and referenced the letters dated November 2, 2016 and November 14, 2016 (attached and made a part of these minutes) detailing the objections. Ms. Debbie Blair, Associate County Attorney, provided information regarding the County's position on the proposed motion.

MOTION TO RESCIND Z-35 OF 2016 (CONT.)

Commissioner Birrell stated that her intent was to allow the community opportunity to provide input on an R-15 plan. Following discussion, the following motion was made:

MOTION: Motion by Birrell, second by Ott, to **rescind** the Board of Commissioners' action of September 20, 2016 for deletion of rezoning from R-20 to R-15 for Z-35 of 2016 (Adventur Living LLC).

VOTE: **ADOPTED 5-0**

Following the vote, additional discussion ensued. Commissioner Cupid stated her desire that the \$200.00 application fee be refunded to the Applicant.

Chairman Lee suggested that this case be held until the December 20, 2016 Zoning Hearing, Commissioner Birrell called the attorneys, Mr. Parks Huff and Mr. Lawton Jordan, to confirm the parties were agreeable to the hold; both parties agreed. Thereafter, the following motion was made:

MOTION: Motion by Birrell, second by Weatherford, to **hold** Z-35 until the December 20, 2016 Board of Commissioners' Zoning Hearing, *with the following directive:*

1. Opposition and Applicant to meet regarding a potential rezoning plan

Commissioner Birrell asked Mr. Huff to work with the neighbors and come to an agreement prior to filing any appeal for the motion to rescind, and he agreed to this request. Commissioner Birrell also requested that she, along with the neighbors, be notified of the meeting

VOTE: **ADOPTED 5-0**

REGULAR AGENDA (CONT.)

~~Z-75 WINDSONG PROPERTIES, LLC (Clarence Luther McConnell, Jr.; Gayle L. Norton, a/k/a/ Gayle L. Richards, owners) requesting Rezoning from R-30 to RSL for the purpose of Residential Senior Living (non-supportive) in Land Lots 139, 140, & 157 of the 10th District. Located on the northwest corner of Lost Mountain Road and Corner Road, on the east side of McConnell Road, and on the north side of Pickens Road. (Previously continued by the Board of Commissioners from the September 20, 2016 and October 18, 2016 hearings)~~