

Rezoning Plat

2596 Austell Road Tract

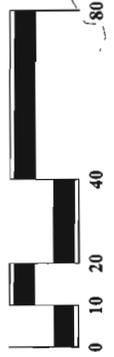
Cobb County, Georgia
Land Lot 556, 19th District, 2nd Section

prepared for:
Todd Lavelle

DGM
LAND PLANNING
CONSULTANTS



975 Cobb Place
Bldg. Sum 212
ALPHARETTA, GA 30144
770 514-9006
FAX 514-9481



October 23, 2017

Site Data

Total Site Area: .77 AC
Existing Zoning: GC
Proposed Zoning: NRC
NRC Building Setbacks:
front: 50' (arterial)
side: 15' (*major side = 25')
rear: 30'

Contemporaneous Variances

Requested:

- *reduction in front setback from 50' to 18'
- *reduction in major side setback from 25' to 10'
- *reduction in rear setback from 50' to 21'

Notes:

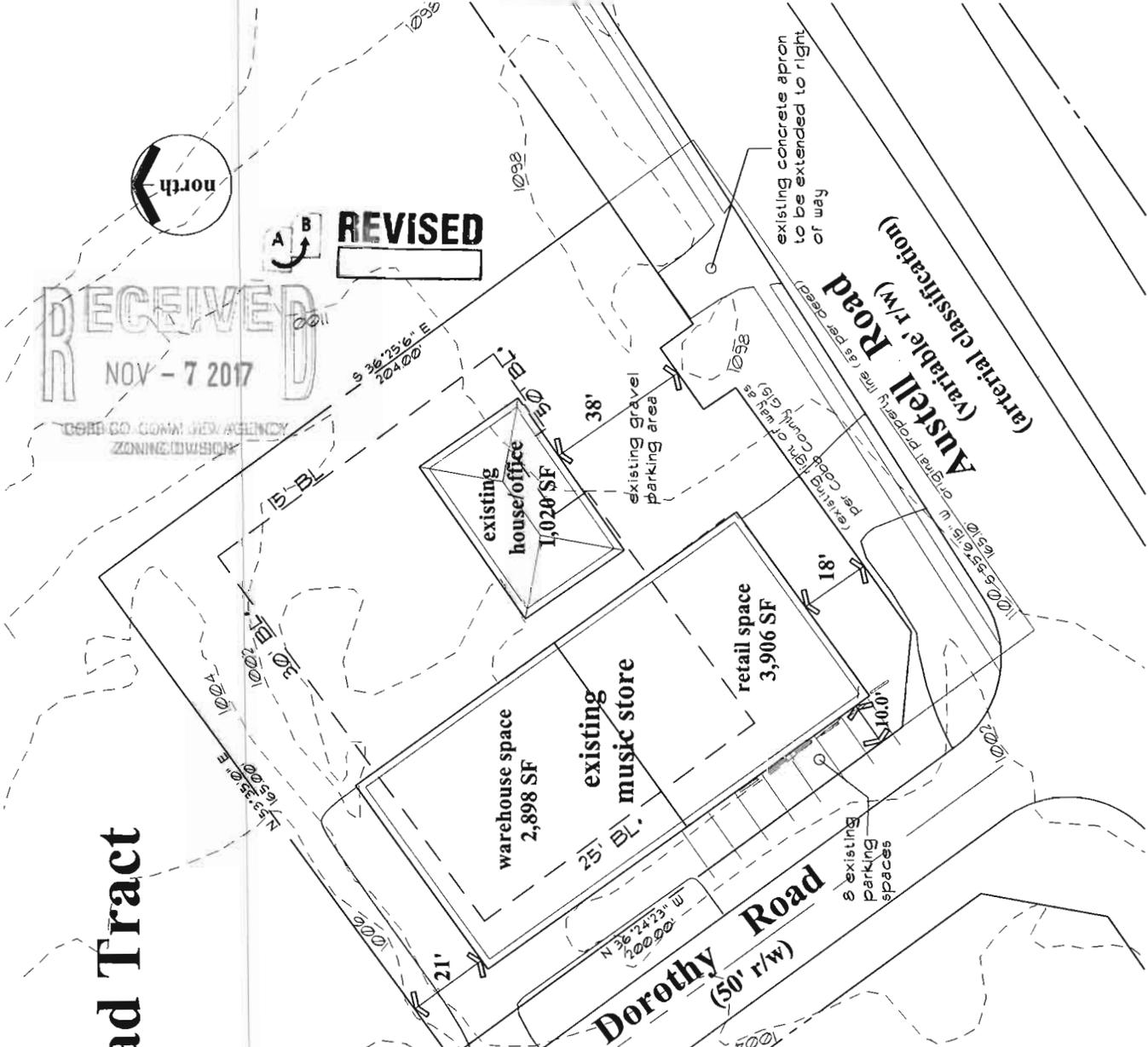
1. Boundary from Warranty Deed, dated 2011-6-21, on file with Cobb County Superior Court.
2. Topographic information from Cobb County GIS.
3. Address information from Cobb County GIS.
4. No easements are known to exist on this site.
5. No wetlands or water bodies are known to exist on this site.
6. No archaeological or historical resources are known to exist on this site.
7. No utility easements are known to exist on site.

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COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



REVISED



APPLICANT: Todd LaVelle

PETITION NO: Z-81

PHONE #: EMAIL:

HEARING DATE (PC): 12-05-17

REPRESENTATIVE: Adam J. Rozen

HEARING DATE (BOC): 12-19-17

PHONE #: (770) 422-7016 EMAIL: arozen@slhb-law.com

PRESENT ZONING: GC

TITLEHOLDER: Mutt Planet, LLC

PROPOSED ZONING: NRC

PROPERTY LOCATION: northeast corner of Austell Road and

Dorothy Drive

PROPOSED USE: retail

(2596 Austell Road)

ACCESS TO PROPERTY: Austell Road and Dorothy Lane

SIZE OF TRACT: 0.77 acres

DISTRICT: 19

PHYSICAL CHARACTERISTICS TO SITE: existing commercial

LAND LOT(S): 556

building and existing converted residence

PARCEL(S): 6

TAXES: PAID X DUE

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH: R-20/ Single-family residence
- SOUTH: RA-5/ Overton Park townhome community
- EAST: NS/ Converted residence
- WEST: R-20/ Single-family residence

Adjacent Future Land Use:

- Northwest: LDR
- Northeast: NAC
- Southeast: MDR
- Southwest: NAC

OPPOSITION: NO. OPPOSED PETITION NO: SPOKESMAN

PLANNING COMMISSION RECOMMENDATION

APPROVED MOTION BY

REJECTED SECONDED

HELD VOTE

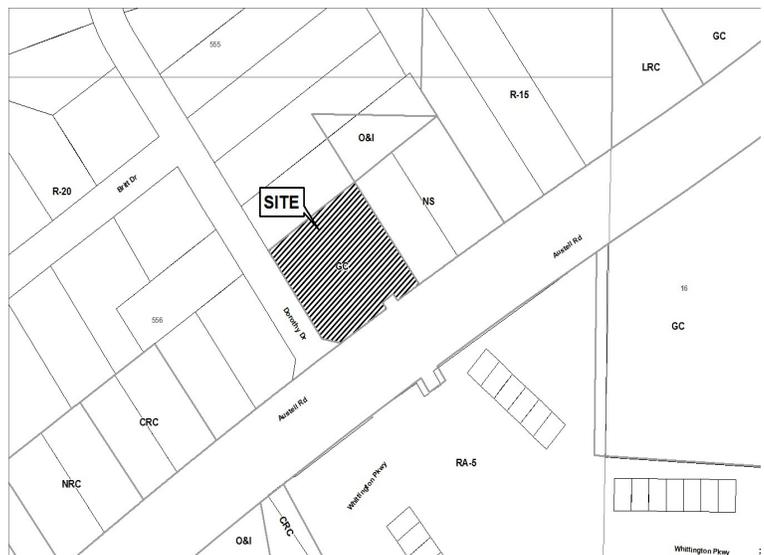
BOARD OF COMMISSIONERS DECISION

APPROVED MOTION BY

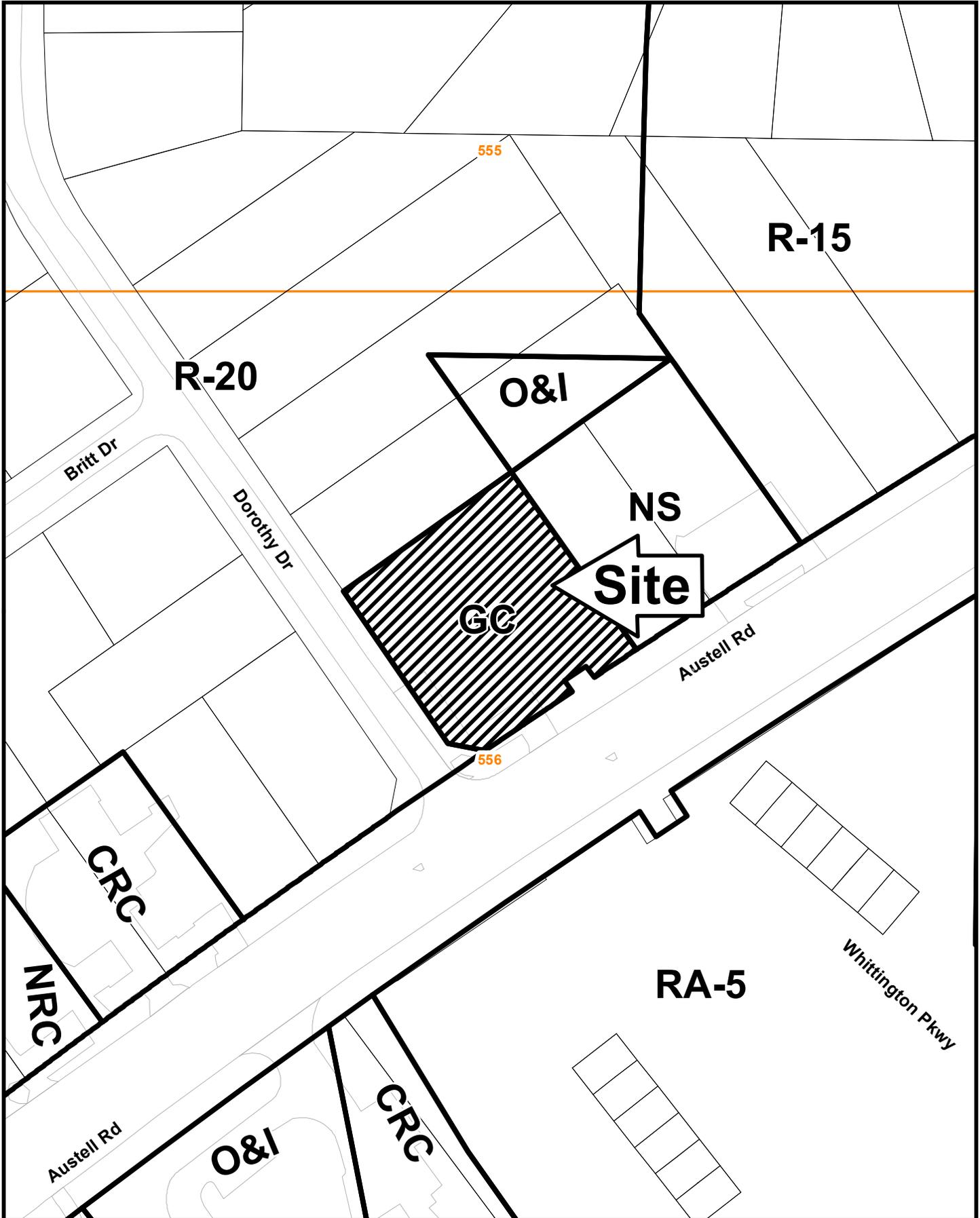
REJECTED SECONDED

HELD VOTE

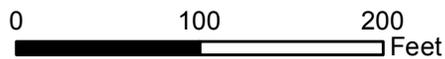
STIPULATIONS:



Z-81 2017-GIS



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Todd LaVelle

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Terry Martin, MPA

Land Use Plan Recommendation: Neighborhood Activity Center (NAC)

Proposed Number of Buildings: 2 **Total Square Footage of Development:** 7,824 sq. ft.

F.A.R.: 0.23 **Square Footage/Acre:** 10,161 sq. ft.

Parking Spaces Required: 24 **Parking Spaces Provided:** 8

The applicant is requesting a rezoning of the subject property from General Commercial (GC) to Neighborhood Retail Commercial (NRC) in order to utilize the property for retail use. The site had lost its grandfathered status because it was closed six months. The applicant intends to utilize the property in its as-built condition which includes an existing 6,804 square-foot commercial building and existing 1,020 square-foot converted residence.

Though the property abuts residentially zoned property to the north, it does not currently provide for the otherwise Code-required 20 foot landscape screening buffer that the proposed NRC district requires. However, there may be room for some screening to include a reduced buffer and fencing. The existing locations of the buildings do not currently adhere to required setbacks. Based on the indicated square footage of the two buildings, 26 parking spaces are required for any intended retail uses while only eight are currently provided, situated directly off of Dorothy Road. There may be no space to add parking elsewhere on the site due to the location of the existing septic system.

Therefore, if the request is approved, the following variances will be required:

1. Waive the front setback from the required 50 feet to 18 feet;
2. Waive the rear setback from the required 30 feet to 21 feet;
3. Waive the major side setback from the required 25 feet to 10 feet;
4. Waive the landscape screening buffer from the required 20 feet to five feet with six-foot opaque fence;
5. Waive the number of parking spaces from the required 26 to eight;
6. Allow parking and access on a gravel surface for the house/office; and
7. Waive eight-foot landscape enhancement strip.

Cemetery Preservation: No comment.

APPLICANT: Todd LaVella

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

SITE PLAN REVIEW SECTION COMMENTS:

The property owner will be required to obtain a Land Disturbance Permit if there are any staff comments or approval stipulations which require any type of site modifications (fencing, landscaping, curb/gutter & sidewalk installation, etc.). Contact Site Plan Review, 770-528-2147.

APPLICANT: Todd LaVelle _____

PETITION NO.: Z-81 _____

PRESENT ZONING: GC _____

PETITION FOR: NRC _____

FIRE COMMENTS:

Modifications may be required to incorporate the Cobb County Fire Marshal's Office comments.

C/O: Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

APPLICANT: Todd LaVelle

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning to allow the site to be used for retail. The 0.77 acre site is located on the northeast corner of Austell Road and Dorothy Drive (2596 Austell 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

This application pertains to a site designated as Neighborhood Activity Center (NAC) future land use category. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

Specific Area Policy Guidelines:

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

Adjacent Future Land Use:

Northwest: Low Density Residential (LDR)
Northeast: NAC
Southeast: Medium Density Residential (MDR)
Southwest: NAC

Master Plan/Corridor Study

The property is located within the boundary of the Austell Road 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 Smyrna-Osborne 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: Todd LaVelle

PRESENT ZONING: GC

PETITION NO.: Z-81

PETITION FOR: NRC

PLANNING COMMENTS:

CONT.

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 www.cobbcounty.org/planning.

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?
- CZ (Clear Zone)
- APZ I (Accident Potential Zone I)
- APZ II (Accident Potential Zone II)
- Noise Zone
- Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Todd LaVelle

PETITION NO. Z-081

PRESENT ZONING GC

PETITION FOR NRC

WATER COMMENTS:

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

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 12" DI / N side of Austell Road

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: +/- 30' from property line on Dorothy Drive

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

Treatment Plant: South Cobb

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

Projected Plant 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 Comments: Existing septic system. Deemed "approved as submitted" by Env Health Dept.

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: Todd LaVelle

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

Site grading plan approval by Stormwater Management Division will be required prior to any land disturbance permitting. Stormwater management must be provided upon redevelopment or substantial improvement that exceeds 5000 sf.

APPLICANT: Todd LaVelle

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

TRANSPORTATION COMMENTS:

ROADWAY	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Austell Road	Arterial	45 mph	Georgia DOT	100'
Dorothy Drive	Local	25 mph	Cobb County	50'

ROADWAY	LOCATION	AVERAGE DAILY TRIPS	LEVEL OF SERVICE
Austell Road	South of Dorothy Drive	28,900	D
Dorothy Drive	N/A	N/A	N/A

*Based on 2016 AADT counting data taken by GDOT, as published on their website, for Austell Road.
 Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.
 LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

COMMENTS AND OBSERVATIONS

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

Dorothy Road is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

The current parking configuration will cause vehicles to back out onto Dorothy Drive. Recommend parking be relocated to the rear of the building.

The southernmost entrance on Dorothy Drive is not in compliance with Cobb County Development Standards for Non-Residential Driveways. Recommend closing this entrance and utilizing the northernmost entrance on Dorothy Drive to access parking.

RECOMMENDATIONS

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend gravel driveway on Austell Road be paved with a treated hardened surface for a minimum of 25' from the edge of pavement or to the County right-of-way, whichever is greater in length.

Recommend closing the southernmost entrance on Dorothy Drive.

Recommend removing parking spaces out of the right-of-way during any future project improvements.

Recommend the northernmost entrance on Dorothy Drive be upgraded to meet Section 402.08, Non-Residential Driveways, of the Cobb County Development Standards.

APPLICANT: Todd LaVelle

PETITION NO.: Z-81

PRESENT ZONING: GC

PETITION FOR: NRC

Recommend curb, gutter, and sidewalk along the Dorothy Drive frontage.

Recommend replacing disturbed curb, gutter, and sidewalk along the Austell Road frontage.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

STAFF RECOMMENDATIONS

Z-81 TODD LAVELLE

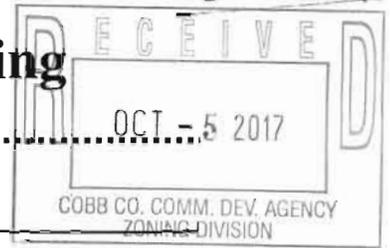
- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. This section of Austell Road contains a mixture of residential and commercial uses. Uses on both sides of the property are anticipated to be commercially zoned.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse effect on the usability of adjacent or nearby property. The request is to allow reutilization of an existing commercial property. The use would be consistent and compatible with adjacent and nearby uses.
- 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 the property to be within the NAC neighborhood activity center. This future land use category seeks to encourage uses such as small offices, limited retail and grocery stores, the type of uses the applicant intends to put on the property. Given the property's current General Commercial (GC) zoning, the request seeks to bring the property in line with its given future land use category by placing it within the NRC district.
- 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. The request is to reutilize an existing, as-built, commercial property which has lost its previous grandfathered status due to the inconsistency of its current GC district zoning and the Neighborhood Activity Center (NAC) future land use category. Rezoning the property will not only allow its continued use but provide opportunity to improve the site with needed additions in regards to landscaping and parking.

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

1. Site plan received November 7, 2017, with the District Commissioner approving the final plan;
2. Variances for setbacks as mentioned in the Zoning comments;
3. Applicant to meet the 20' landscape buffer along rear where possible, and also install a six foot tall solid wooden privacy fence;
4. 8' landscape enhancement strip to be waived;
5. Applicant to install four more parking spaces for a total of 12 parking spaces with District Commissioner to approve the final parking plan and access plan;
6. No light automotive repair facility including used tire store;
7. Department of Transportation comments and recommendations;
8. Fire Department comments and recommendations;
9. Stormwater Management Division comments and recommendations; and
10. Water and Sewer Division comments and recommendations.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

Summary of Intent for Rezoning



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

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) List all requested variances: _____

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

- a) Proposed use(s): Neighborhood Retail uses.
- b) Proposed building architecture: As-built existing buildings
- c) Proposed hours/days of operation: To be determined.
- d) List all requested variances: Applicant requests reduction in front setback from 50' to 9'; applicant requests reduction in major side setback from 25' to 20.5' to accommodate as-built structures

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

This existing and developed GC zoning and use is located outside a CAC or RAC and is therefore deemed to be a grandfathered, nonconforming use and zoning. Since a nonconforming use cannot be reinstated after it has been vacant/abandoned for longer than 6 months, a Rezoning of the property is necessitated by the dictates of the Zoning Ordinance

.....
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).

See site plan



ZONING IMPACT STATEMENT
FOR THE REZONING APPLICATION
OF TODD LAVELLE

COMES NOW, TODD LAVELLE, and pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

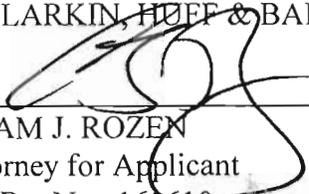
- A. The zoning proposal will permit a use of the Subject Property which is suitable in the context of development and existing zonings along the Austell Road corridor. The Subject Property is zoned GC and most of the other properties on Austell Road are zoned NRC, CRC or other commercial zonings. This section of Austell Road has few remaining parcels of residential and is more oriented toward commercial and office uses.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties. The buildings have been used for retail and office and the applicant intends to continue utilizing the building for the same or similar 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. Additionally, the present owner of the property is suffering a significant economic detriment by virtue of the continuation of the present non-conforming classification of GC.
- 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 property is located within an area denominated as Neighborhood Activity Center (“NAC”) under and pursuant to Cobb County’s Future Land Use Map and

Comprehensive Land Use Plan and is adjoined and surrounded by properties which are either zoned GC, CRC or other commercial zonings and are utilized in a commercial or office manner. Because the Subject Property is a developed and zoned GC use located within a NAC, it is deemed to be a grandfathered, nonconforming use and must be rezoned to allow the continued and existing use of the property.

F. The existing conditions are similar to or the same as the conditions which have existed in this sub-area of the County since at least 1972 which is largely of a commercial character. The subject property has no utility under its present GC zoning. Such historical and present utility as well as the contemplation that this sub-area will continue to be an appropriate location for commercial uses provides supporting grounds for approval of the zoning proposal.

Respectfully submitted, this the 5th day of October, 2017.

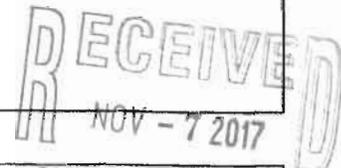
SAMS, LARKIN, HUFF & BALLI, LLP

By: 
ADAM J. ROZEN
Attorney for Applicant
Ga. Bar No. 161610



Existing On-site Sewage Management System Performance Evaluation Report Form

Applicant: <u>Todd Lavelle</u>		Reason for Existing Sewage System Evaluation: zoning
Property/System Address: <u>2596 AUSTELL RD MARIETTA, GA 30008</u>		
Subdivision Name:	Lot: Block:	
Existing System Information: Water Supply (circle) <input checked="" type="radio"/> (1) Public <input type="radio"/> (2) Private Well <input type="radio"/> (3) Community	Number of Bedrooms/GPD: <u>0/0</u>	



*** One of Section A, B, or C should be Completed ***

SECTION A - System on Record

<input checked="" type="radio"/> (1) Yes <input type="radio"/> (2) No	Existing On-site Sewage Management System inspection records indicate that all components of the system were properly constructed and installed at the time of the original inspection.	Comments: COBB CO. COMMUNITY DEVELOPMENT THIS BUILDING IS APPROVED FOR ZONING FOR A OFFICE OR SHOP OR STORE WITH 3 OR LESS EMPLOYEES ONLY. CANNOT BE USED FOR A VET OFFICE OR BEAUTY SHOP.	
<input checked="" type="radio"/> (1) Yes <input type="radio"/> (2) No	A copy of the original On-site Sewage Management System Inspection Report is attached.		
<input type="radio"/> (1) Yes <input checked="" type="radio"/> (2) No	Maintenance records indicate that the system has been pumped out or serviced within the last five (5) years or the system was installed within that time frame.		
<input checked="" type="radio"/> (1) Yes <input type="radio"/> (2) No	A site evaluation of the system on this date revealed no evidence of system failure or of conditions which would adversely affect the functioning of the system.		
Evaluating Environmentalist <u>J. Delveau</u>	Title: <u>EHS I</u>	Date: <u>19-Sep-17</u>	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.

SECTION B - System Not on Record

<input type="radio"/> (1) Yes	No inspection records are on file showing the On-site Sewage Management System was inspected and approved at the time of the installation.	Comments:	
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	The septic tank was uncovered at the time of the evaluation and it appears to meet the required design, construction and installation criteria.		
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	Documentation from a Georgia Certified Installer has been provided as to the condition of the septic tank and its respective components, certifying its design, construction, and installation criteria. A copy is attached.		
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	Maintenance records indicate that the system has been pumped out or serviced within the last five (5) years or the system was installed within that time frame.		
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	A site evaluation of the system on this date revealed no evidence of system failure or of conditions which would adversely affect the functioning of the system; however, appropriateness of the sizing and installation cannot be verified since no initial inspection records exist.		
Evaluating Environmentalist	Title:	Date:	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.

SECTION C - System Not Approved

<input type="radio"/> (1) Yes <input type="radio"/> (2) No	The On-site Sewage Management System was disapproved at the time of the initial and is thus not considered an approved system.	Comments:	
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	Evaluation of the system revealed evidence of system failure or malfunction, and will therefore require corrective action in order to obtain approval of the system.		
<input type="radio"/> (1) Yes <input type="radio"/> (2) No	Evaluation of the system revealed conditions which would adversely affect the proper functioning of the system, and will therefore require corrective action in order to obtain approval of the system.		
Evaluating Environmentalist	Title:	Date:	I verify this data to be correct at the time of the evaluation. This verification shall not be construed as a guarantee of the proper functioning of this system for any given period of time. No liability is assumed for future damages that may be caused by malfunction.

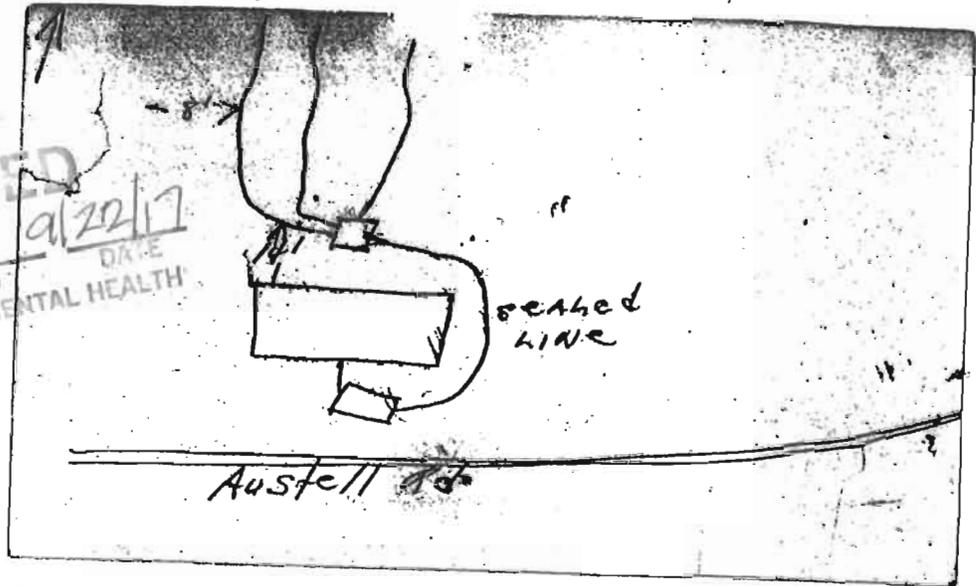
SECTION D - Addition to Property or Relocation of Home (section completed in conjunction with A, B, or C above)

<input type="radio"/> (1) Yes <input type="radio"/> (2) No	An existing On-site Sewage Management System is located on the property listed above and has been evaluated in accordance with Section A or B above.	Comments:
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NOV - 7 2017

COBB GO. COMM. DEV. AGENCY
ZONING DIVISION

APPROVED
J. Delveau
DATE 9/22/17
CENTER FOR ENVIRONMENTAL HEALTH



Any modifications
or additions to this
plan must be approved
thru this office.

PERMIT VALID
FOR ONE YEAR ONLY
NOT TRANSFERABLE

2500 P.O. box 6 E. Memphis, TN 38150
17 x 3 1/2 x 5 (me)
240 1/2 in dia
100 x 30" + 100 x 30" + 100 x 30" = 750 in
stone
King Cole
Res. Reality
11-3-51
etc
E.K.H. 10-101640
11/6/58