



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z- 21  
Public Hearing Dates:  
PC: 04-03-18  
BOC: 04-17-18

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**SITE BACKGROUND**

Applicant: W. Reed Konigsmark

Phone: (770)-856-1534

Email: wrk2@att.net

Representative Contact: Garvis L. Sams, Jr.

Phone: (770) 422-7016

Email: gsams@slhb-law.com

Titleholder: Jaynie B. Pickens

Property Location: Southeast side of Dallas Highway, northwest side of Poplar Springs Road

Address: 800 Poplar Springs Road

Access to Property: Poplar Springs Road

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**QUICK FACTS**

Commission District: 1-Weatherford

Current Zoning: R-30 (Single-family Residential)

Current use of property: Single-family House

Proposed zoning: R-20/OSC (Single-family Open Space Community)

Proposed use: Single-family Subdivision

Future Land Use Designation: VLDR (Very Low Density Residential)

Site Acreage: 11.23 ac

District: 19

Land Lot: 80, 143 and 144

Parcel #: 19014300050

Taxes Paid: Yes

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**FINAL ZONING STAFF RECOMMENDATION:**  
(Zoning staff member: Jason Campbell)

Based on the analysis of this case, Staff recommends **APPROVAL** subject to the following:

1. Maximum of 19 lots with the Board of Commissioners approving the final site plan and the District Commissioner approving minor modifications;
2. No variances for setbacks or density;
3. Fire Department comments and recommendations;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations; and
6. Department of Transportation comments and recommendations.



# Z-21 2018-Aerial Map



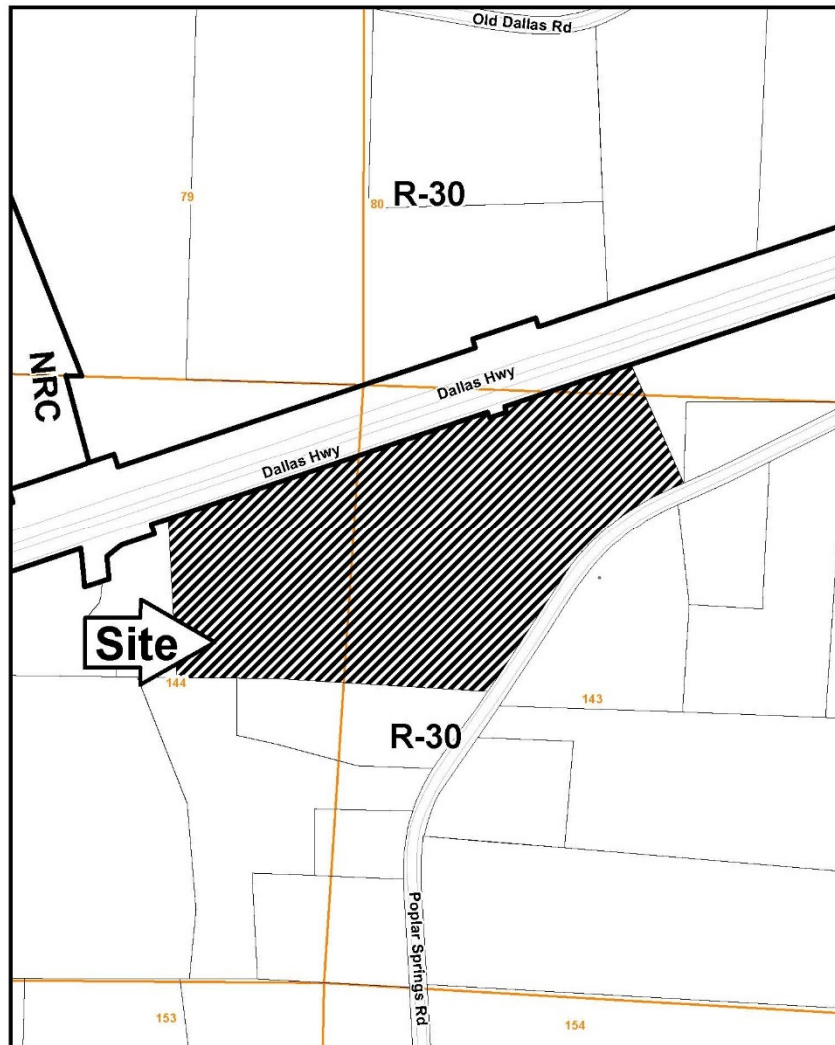
This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200  
Feet

Land Lot  
City Boundary

North  
**Zoning:** R-30 (Single-family Residential)  
**Future Land Use:** Very Low Density Residential (VLDR)

**Z-21 2018-GIS**



WEST  
**Zoning:** R-30 (Single-family Residential)  
**Future Land Use:** Very Low Density Residential (VLDR)

EAST  
**Zoning:** R-30 (Single-family Residential used as a plant nursery).  
**Future Land Use:** Very Low Density Residential (VLDR)

SOUTH  
**Zoning:** R-30 (Single-family Residential)  
**Future Land Use:** Very Low Density Residential (VLDR)

## DEPARTMENT COMMENTS- Zoning Division

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### **Current zoning district for the property**

The R-30 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When residentially compatible institutional and recreational uses are developed within the R-30 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

### **Requested zoning district for the property**

The OSC overlay district is established to encourage the preservation of natural resources within residential development. The district may be overlaid upon the R-30, R20, and R-15 zoning districts. The overlay district is intended to provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure; to provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land; to preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat; to permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; to reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development; to promote interconnected greenways and corridors throughout the community; to promote greenspace contiguous with adjacent jurisdictions; to promote greenspace as passive recreation; to encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood; to encourage street designs that reduce traffic speeds and reliance on main arteries; to promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles; to conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and to preserve important historic and archeological sites. Land and water are protected by limiting land disturbance and decreasing the percentage of impervious surface within the planned community, and by adding flexibility to site plan design. Open space design is intended to result in more efficient use of land, lower development and infrastructure costs, and the conservation of land for recreation or aesthetic and environmental enrichment.

## DEPARTMENT COMMENTS- Zoning Division (Continued)

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### Summary of the applicant's proposal

Applicant is requesting the R-20/Open Space Community zoning district for the purpose of developing a 20-lot single-family residential subdivision. The applicant plans to set aside 3.9305 acres (35%) of the total 11.23 acres as open space. The proposed houses will be a minimum of 2,500 square feet with masonry fronts.

### Open space community comments

Future land use: Very Low Density Residential (VLDR)

Current zoning: R-30

Allowable # of units permitted by R-30: 12

Proposed zoning: R-20 OSC

Proposed # lots as R-20 OSC: 20

Total area: 11.23 acres

Floodplain/Wetland Area/Cemetery/Amenity Area: None

Net buildable area: 11.23 acres

Maximum density allowed for R-20 OSC: 1.75 units per acre

Net density of the proposal: 1.78 units per acre

Open space requirement: 3.93 acres (35%)

Open space proposed: 3.93 acres (35%)

Percentage of open space within floodplain, wetlands, & lakes: None

Minimum lot size: 13,000 square-feet

Front setback: 35'

Rear setback: 35'

Side setback: 7.5'

Major side setback: 15'

#### Additional comments:

- 1.) The rear setback for lots 1-8 & 9 is shown as 35', but should be 40'. Staff believes the 40' rear setback for these lots is obtainable, and a variance should not be granted from the code.
- 2.) Fencing that is compatible with the architecture/landscaping/design of development, shall be erected just inside dedicated open space that is contiguous to proposed lots. Fencing should be installed using techniques that provide as minimal disturbance to the open space as possible.
- 3.) A conservation easement shall be recorded within the mandatory subdivision covenants and with Cobb Superior Court, thereby protecting the open space from development in perpetuity as owned by the mandatory homeowner's association. A conservation easement application shall be submitted to the Planning Division prior to final plat approval.

## **DEPARTMENT COMMENTS- Zoning Division (Continued)**

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### **Are there any zoning variances?**

Yes. The applicant will require contemporaneous variances for the following:

1. Waiving the rear setback from 40 feet to 35 feet abutting R-30 properties;
2. Exceeding the maximum density for R-20 OSC, from 1.75 units per acre to 1.78 units per acre.

## **DEPARTMENT COMMENTS- Fire Department**

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Modifications will be required to incorporate the Cobb County Fire Marshal's Office comments. GUEST PARKING: When projects contemplate less than 20 foot separation between units, guest parking shall be provided at a ratio of one-half space for each dwelling unit (1 space/ 2 units).

## **DEPARTMENT COMMENTS- Site Plan Review (County Arborist)**

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No comment.

## **DEPARTMENT COMMENTS- Cemetery Preservation**

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No comment.

## DEPARTMENT COMMENTS- School System

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School	Student Capacity	Student Enrollment	Capacity Status
Kemp ES	962	969	7 over capacity
Lost Mountain MS	1162	1092	70 under capacity
Hillgrove HS	1912	2465	553 over capacity

### COMMENTS

Approval of this petition will cause concern for CCSD, as it will result in an impact in the enrollment for schools already over capacity

NOTE: Hillgrove HS will be relieved by SPLOST V building addition.

## DEPARTMENT COMMENTS- Stormwater Management

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1. Flood hazard: Yes
2. Flood hazard zone: Zone X
3. Drainage Basin: Tributary to Mill Creek #1
4. Flood Damage Prevention Ordinance Designated Flood Hazard
5. Wetlands: No
6. Streambank buffer zone: Yes
7. County Buffer Ordinance: 50' each side of creek channel.
8. Stormwater discharges must be controlled not to exceed the capacity of the existing downstream storm drainage systems.
9. Minimize the effect of concentrated stormwater discharges onto adjacent properties.
10. Developer must secure drainage easement(s) to receive concentrated discharges where none naturally exist.
11. Existing Lake Downstream (Shurling Lake) Additional BMP's for erosion & sediment control will be required.
12. Lake Study will required to document pre- and post-development sediment levels in Shurling Lake.
13. Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream drainage systems including Shurling Lake.



## DEPARTMENT COMMENTS- Planning Division

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**Cobb 2040 Comprehensive Plan:** The parcel is within a Very Low Density Residential (VLDR) future land use category, within the R-30 zoning district. The purpose of the VLDR category is to provide for areas that are suitable for very low-density housing, particularly in locations that may not have basic services such as sewer, or where the existing or desired residential density is zero to two (2) dwelling units per acre.

Comprehensive Plan Designation:  Consistent  Inconsistent

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### House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary?  Yes  No

Was the city notified?  Yes  No

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Specific Area Policy Guidelines:  Yes  No

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Masterplan/ Corridor Study  Yes  No

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Design guidelines area?  Yes  No

If yes, design guidelines area is Dallas Highway Design Guidelines

Does the current site plan comply with the design requirements?

- |                                  |                              |  |   |
|----------------------------------|------------------------------|--|---|
| • Pedestrian access to buildings | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not applicable |
| • Streetscape elements           | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not applicable |
| • Building Frontage              | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not applicable |
| • Parking Standard               | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not applicable |
| • Architecture standard          | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not applicable |
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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 for new or existing businesses)*

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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 investment)*

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**DEPARTMENT COMMENTS- Planning Division**

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Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?

Yes  No

*(The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas)*

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**Note: For more information on incentives, please call the Community Development Agency- Economic Development Division at 770-528-2018 or find information online at [www.cobbcounty.org/econdev](http://www.cobbcounty.org/econdev).**

**Special District**

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

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**Dobbins Air Reserve Base Zones**

Is the property within the Dobbins Airfield Safety Zone?

Yes  No

Is the property within the Clear Zone (CZ)?

Yes  No

Is the property within the Accident Potential Zone (APZ I)?

Yes  No

Is the property within the Accident Potential Zone II (APZ II)?

Yes  No

Is the property within the Bird/Wildlife Air Strike Hazard Area (BASH)?

Yes  No

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**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.

**DEPARTMENT COMMENTS- Water and Sewer**

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**Water comments:**

Available at development:  YES  NO

Fire flow test required:  YES  NO

Size and location of existing water main(s): 6" on north side of Poplar Springs Road

Additional water comments:

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process.

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**Sewer comments:**

In the drainage basin:  YES  NO

At development:  YES  NO

Approximate distance to nearest sewer: 40' west of southwest property line

Estimated waste generation (in G.P.D.): Average daily flow = 3,200; Peak flow = 8,000

Treatment plant: South Cobb

Plant capacity:  Yes  NO

Line capacity:  YES  NO

Projected plant availability:  0-5 years  5-10 years  over 10 years

Dry sewers required:  YES  NO

Off-site easement required:  YES\*  NO

Flow test required:  YES  NO

Letter of allocation issued:  YES  NO

Septic tank recommended by this department:  YES  NO

Subject to Health Department approval:  YES  NO

\*If off-site easements are required, the developer/owner must submit easements to the CCWS for review and 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/owner.

Additional sewer comments

Note: The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining on and/or offsite easements, dedication or on and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

## DEPARTMENT COMMENTS- Transportation

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Dallas Highway	Arterial	55	Georgia DOT	100'
Poplar Springs Road	Minor Collector	35	Cobb County	60'

Roadway	Location	Average daily trips	Level of service
Dallas Highway	West of Poplar Springs Road	32,200	D
Poplar Springs Road	South of Dallas Highway	3,800	C

*Based on 2016 AADT counting data taken by GDOT, as published on their website, for Dallas Highway.*

*Based on 2016 traffic counting data taken by Cobb County DOT for Poplar Springs 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

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

Poplar Springs Road is classified as a minor collector roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

### Recommendations

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 west side of Poplar Springs Road, a minimum of 30' from the roadway centerline.

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

Recommend applicant verify that minimum intersection sight distance is available for Poplar Springs Road access and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement of 390'.

## **DEPARTMENT COMMENTS- Transportation (Continued)**

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

Recommend curb, gutter, and sidewalk along the Poplar Springs Road frontage.

Recommend curb, gutter, and sidewalk along the Dallas Highway frontage.

Recommend a deceleration lane on Poplar Springs Road for the entrance.

Recommend driveways be a minimum of 50' from Poplar Springs Road.

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

Recommend a no access easement for the lots along the Dallas Highway frontage.

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STAFF ANALYSIS

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Per section 134-122 of the Official Code of Cobb County, below is a written zoning analysis relating to the following (question in bold; the answer is not bold):

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

It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area has residential and non-residential uses. There is NRC across Dallas Highway and a plant nursery directly east of this property.

**B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;**

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 applicant proposes an R-20/OSC development with 20 lots and having a density of 1.78 units per acre. This area contains a mixture of single-family houses on larger lots and developed subdivisions. Other properties in the area are zoned R-30, R-20, CS, RSL, PRD, and NRC. Residential developments in the area include: Echo Mill Unit IX (zoned PRD at 1.19 units per acre), Hawthorne at Lost Mountain (zoned R-30/OSC at 1.301 units per acre), Poplar Springs (zoned CS at 1.31 units per acre), Bridge Creek Unit II (zoned R-20 at approximately 1.50 units per acre), The Park at Kyle Farm Unit II, Phase I (zoned CS at 1.549 units per acre), and Amberton Unit VI (zoned PRD at 2.00 units per acre).

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

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, or utilities. However, the Cobb County School System has concerns that this proposal will have an impact on the enrollment for schools already over capacity. This opinion can be supported by the departmental comments contained in this analysis.

**D. Whether the zoning proposal is in conformity with the policies and intent of the comprehensive plan;**

It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property as being with the Very Low Density Residential (VLDR) future land use category. The VLDR land use category has a density range of 0-2 units per acre. The applicant is proposing 1.78 units per acre, and will be setting aside 3.9305 acres as open space.

STAFF ANALYSIS (Continued)

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

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 applicant's proposed 1.78 units per acre is in the VLDR future land use density range, and it is within the range of other subdivisions in the area that range from 1.19 to 2.00 units per acre. However, the OSC code limits the max density to 1.75 units per acre. Staff would recommend that one lot be removed to comply with the density cap for OSC.

**The staff analysis and recommendation 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.**



RECEIVED  
JAN 3 - 2013

Application No. 2-2J  
April 2018

COBB CO. COMM. DEV. AGENCY  
ZONING DEPARTMENT

## Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 2500+ sq ft
- b) Proposed building architecture: 2 story; float masonry
- c) List all requested variances: none that we know of at this time other than a buffer variance, but our understanding, from Mr. Pederson, is that will not be part of zoning but up to Mr. Frank Gipson.

### 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: \_\_\_\_\_
- 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).

\_\_\_\_\_

\_\_\_\_\_

**Planning Commission Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

_____	_____
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Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_

**Board of Commissioners Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

_____	_____
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 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_