



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z- 21  
Public Hearing Dates:  
PC: ~~4-3-18~~ 7-3-18  
BOC: ~~4-17-18~~ 7-17-18

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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, Isaac Watson

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: 11.44 ac

District: 19

Land Lot: 80, 143 and 144

Parcel #: 19014300050, 19014400050

Taxes Paid: Yes

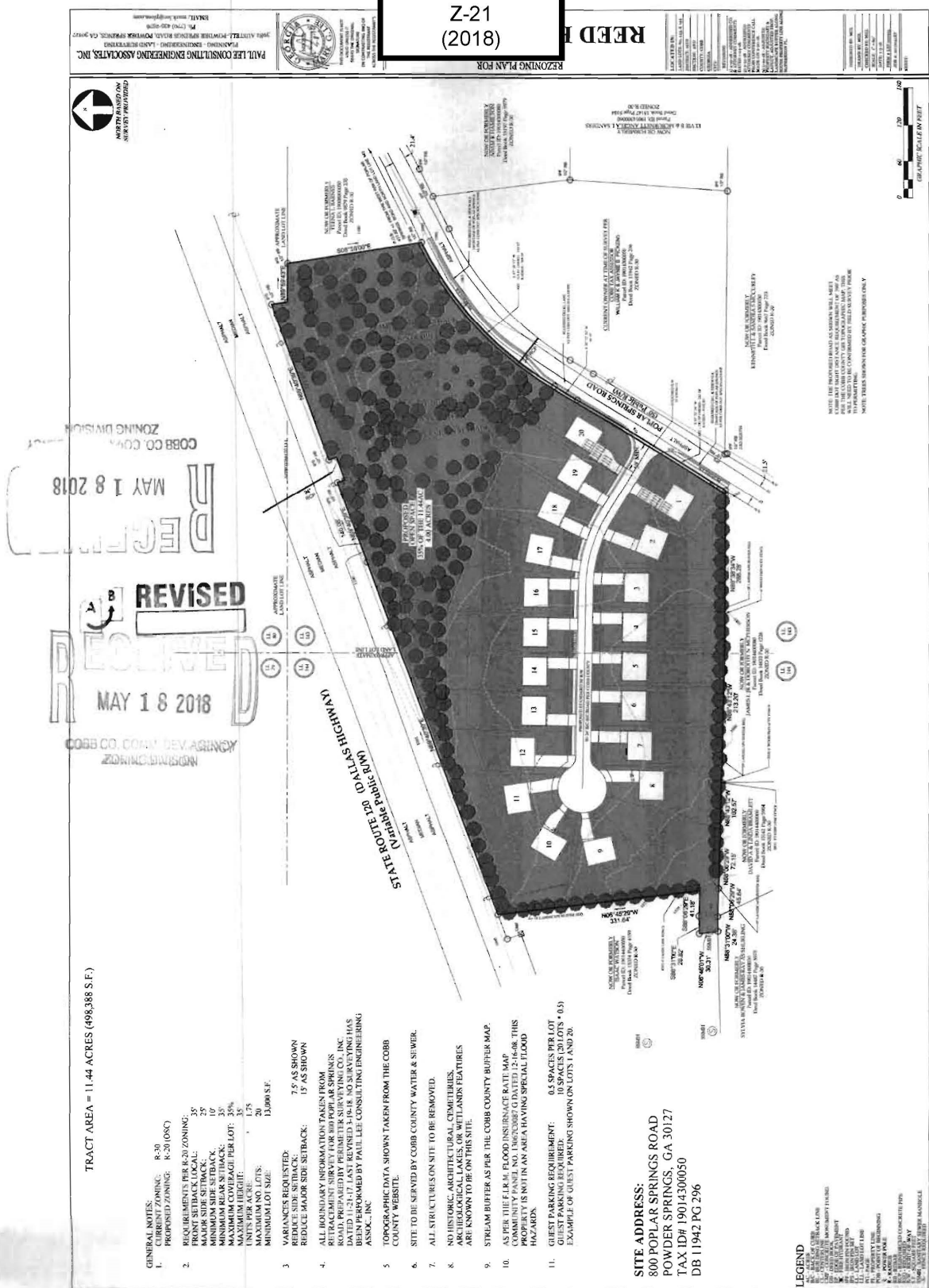
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**FINAL ZONING STAFF RECOMMENDATION:**  
(Zoning staff member: Jason Campbell)

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

1. Site plan received May 18, 2018 with the District Commissioner approving minor modifications;
2. Letter from Mr. Garvis L. Sams Jr. dated May 18, 2018;
3. Fire Department comments and recommendations;
4. Water and Sewer Division comments and recommendations;
5. Stormwater Management Division comments and recommendations;
6. Department of Transportation comments and recommendations; and
7. The three additional comments under Open Space Community comments.

Z-21  
(2018)



PAUL LEE CONSULTING ENGINEERING ASSOCIATES, INC.  
 3015 ALYDRA POWER CENTER BLDG. MONTESSA SPRINGS, GA 30655  
 TEL: (770) 453-9978  
 FAX: (770) 453-9979  
 WWW.PLCEA.COM

RECEIVED  
 MAY 18 2018  
 COBB CO. COM. DEV. AGENCY  
 ZONING DIVISION

RECEIVED  
 MAY 18 2018  
 COBB CO. COM. DEV. DIVISION  
 ZONING DIVISION

TRACT AREA = 11.44 ACRES (498,388 S.F.)

- GENERAL NOTES:
- CURRENT ZONING: R-30 (OSG)  
PROPOSED ZONING: R-20 (OSG)
  - REQUIREMENTS PER R-20 ZONING:  
FRONT SETBACK: LOCAL: 35'  
FRONT SETBACK: STATE: 35'  
MINIMUM SIDE SETBACK: 10'  
MINIMUM REAR SETBACK: 35'  
MINIMUM SIDE SETBACK: 35'  
MAXIMUM COVERAGE PER LOT: 35%  
UNITS PER ACRE: 1.75  
MAXIMUM NO. LOTS: 20  
MINIMUM LOT SIZE: 12,000 S.F.
  - VARIANCES REQUESTED:  
REDUCE SIDE SETBACK: 15' AS SHOWN  
REDUCE FRONT SIDE SETBACK: 15' AS SHOWN
  - ALL BOUNDARY INFORMATION TAKEN FROM THE RECORD PLAT FOR THIS PROJECT. BOUNDARY INFORMATION PREPARED BY PRIME SURVEYING INC., INC. DATED 11-21-17. LAST REVISED 1-9-18. NO SURVEYING HAS BEEN PERFORMED BY PAUL LEE CONSULTING ENGINEERING ASSOC., INC.
  - TOPOGRAPHIC DATA SHOWN TAKEN FROM THE COBB COUNTY WEBSITE.
  - SITE TO BE SERVED BY COBB COUNTY WATER & SEWER.
  - ALL STRUCTURES ON SITE TO BE REMOVED.
  - NO HISTORIC, ARCHITECTURAL, CEMETERIES, ARCHIOLOGICAL LARGES OR WETLANDS FEATURES ARE KNOWN TO BE ON THIS SITE.
  - STREAM BUFFER AS PER THE COBB COUNTY BUFFER MAP.
  - AS PER THE FIRMAL FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 136230887 G DATED 12-16-08. THIS PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARD.
  - GUEST PARKING REQUIREMENT:  
10 SPACES (50 LOTS \* 0.5)  
EXAMPLE OF GUEST PARKING SHOWN ON LOTS 1 AND 20.

**SITE ADDRESS:**  
 800 POPLAR SPRINGS ROAD  
 POWDER SPRINGS, GA 30127  
 TAX ID# 19014300050  
 DB 11942 PG 296

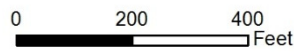
**LEGEND**



1	EXISTING LOT LINES
2	PROPOSED LOT LINES
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4	PROPOSED SIDEWALK
5	PROPOSED PARKING
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# Z-21 2018-Aerial Map



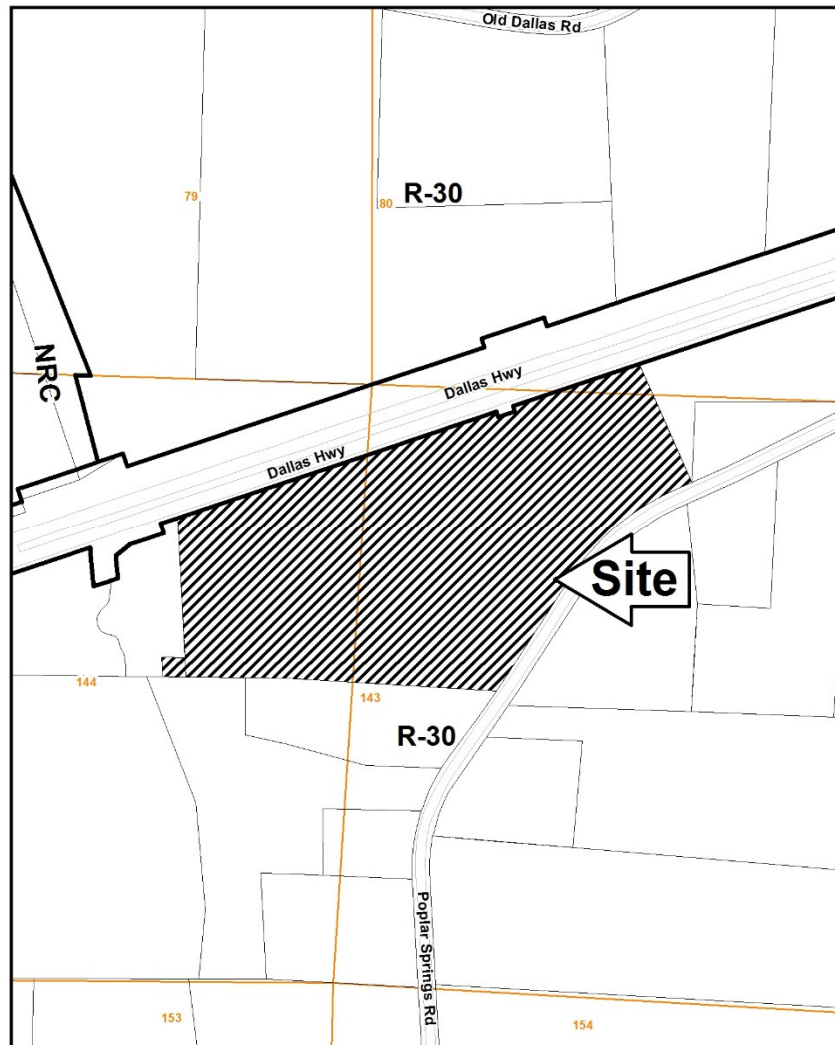
This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  Zoning Boundary
-  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 4.0 acres (35%) of the total 11.44 acres as open space. The proposed houses will have two car garages (at a minimum) and be a minimum of 2,500 square feet. The applicant has submitted proposed elevations, which are attached to this analysis for review.

### 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: 11.44 acres

Floodplain/Wetland Area/Cemetery/Amenity Area: None

Net buildable area: 11.44 acres

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

Net density of the proposal: 1.748 units per acre

Open space requirement: 4.0 acres (35%)

Open space proposed: 4.0 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. Waive the major side setback from 25' to 15'.

### **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

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

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  Yes  No  Not applicable
  - Streetscape elements  Yes  No  Not applicable
  - Building Frontage  Yes  No  Not applicable
  - Parking Standard  Yes  No  Not applicable
  - Architecture standard  Yes  No  Not applicable
- 

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** *(Comments Revised on 2/22/18)*

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)** *(Comments Revised on 2/22/18)*

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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, unless it is not recommended by GDOT.

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 (via approved LUP) 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 1.748 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 1.748 units per acre, and will be setting aside 4.0 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 applicants proposed 1.748 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. Approval of a residential use directly along Dallas Highway will continue to demonstrate residential property is developable along this busy roadway.

Note: Staff analysis and recommendation revised June 14, 2018.

**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.**



**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 \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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

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

770-422-7016  
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FACSIMILE

ADAM J. ROZEN



WWW.SLHB-LAW.COM

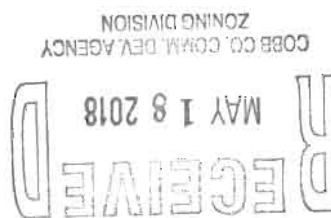
May 18, 2018

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

## (REVISED STIPULATION LETTER, REVISED SITE PLAN & REVISED ARCHITECTURAL RENDERINGS/ELEVATIONS)

### VIA HAND DELIVERY & EMAIL:

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



Re: Application of W. Reed Konigsmark to Rezone an 11.44 Acre Tract from R-30 to R-20 - OSC (No. Z-21).

Dear John:

As you know, this firm represents W. Reed Konigsmark concerning the above-captioned Application for Rezoning. The Application was previously continued by the staff and is now scheduled to be heard and considered by the Cobb County Planning Commission on June 5, 2018. Thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners ("BOC") on June 19, 2018.

The subject property consists of an approximate 11.44 acre tract of land which is located on the northwest side of Poplar Springs Road, south of Dallas Highway (S.R. 120) and in an area designated on the Future Land Use Map ("FLUM") for single-family detached residential developments at densities up to 2 units per acre. In that regard, Mr. Konigsmark's proposal and its density are:

- entirely appropriate from a land use planning perspective;
- consistent with the County's FLUM; representative of the policy of the BOC as embodied in the County's Comprehensive Land Use Plan ("Comp Plan");
- in compliance with the County's professional staff's recommendations for approval; and,
- compliant with the revised Open Space Community District ("OSC") which promotes environmentally sensitive and efficient uses of property.<sup>1</sup>

<sup>1</sup> The OSC district provides for the preservation of greenspace and watershed protection and provides environmentally sensitive and efficient uses of property by limiting land disturbance and decreasing the percentage of impervious surfaces which results in a more efficient use and conservation of land.

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY & EMAIL:

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
May 18, 2018  
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After discussions which have occurred with adjacent and contiguous and property owners; with County staff members; and, with the input and direction we have received from elected and appointed officials, this letter will serve as Mr. Konigsmark's Revised expression of agreement with the following Revised stipulations. These Revised stipulations shall become conditions and a part of the grant of the requested Rezoning and binding upon the subject property thereafter:

1. These Revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The subject property shall be developed in substantial conformity to that certain Revised Site Plan prepared by Paul Lee Consulting Engineering Associates, Inc., which is being submitted concurrently herewith. Also submitted is the appropriate signatures, Vesting Deed and other components which are necessary as a result of additional property being added to this proposal.
3. A maximum number of twenty (20) single-family detached homes, at a maximum density of 1.75 units per acre. This proposal and Revised Site Plan result in 4.0 acres (35%) of the subject property being placed in meaningfully positioned Open Space.<sup>2</sup>
4. The minimum house size for the proposed residential community shall be 2,500 square feet and range up to 3,500 square feet and greater.<sup>3</sup> Each of the homes shall have, at a minimum, an attached 2-car garage which shall be used for the parking and storage of vehicles as well as additional parking on the homes' driveways to accommodate sufficient width and length to park at least three (3) additional vehicles.

Reference is made to the Revised Site Plan (specifically lots 1 and 20) which depicts driveways with more than sufficient width and length to park enough individual vehicles to accommodate Fire Marshall Standards.

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<sup>2</sup> Under the Cobb County Zoning Ordinance, the number of lots and the density is equivalent to the density which can be achieved under a "straight" R-20 single-family detached subdivision.

<sup>3</sup> Price points are anticipated ranging from \$395,000 to \$450,000.

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5. The architectural style and composition of the homes shall consist of brick, stacked stone, cedar shake, hardi-plank shake and/or hardi-plank siding and/or combinations thereof as more fully depicted on the Revised architectural renderings/elevations which are being submitted concurrently herewith. The architectural style and composition of the homes shall be subject to final review and approval by the District Commissioner.
6. The creation of a mandatory Homeowners Association (“HOA”) and the submission of Declaration of Covenants, Conditions and Restrictions (“CCRs”) which shall include, among other components, strict architectural controls.
7. The mandatory HOA shall be responsible for maintaining fencing, landscaping, Open Space areas, the entrance to the proposed community and entrance signage (including lighting, irrigation and landscaping).
8. Subdivision entrance signage which shall be located on Poplar Springs Road and shall be ground-based, monument-style, consistent with the architectural style and composition mentioned above and shown by the attachments and consistent with provisions of the Cobb County Sign Ordinance. Additionally, said entrance signage shall be incorporated into the Landscape Plan for the subdivision and shall be fully landscaped and irrigated by professionals in both disciplines.
9. The submission of a Landscape Plan during the Plan Review Process which shall be subject to review and approval by the County’s Arborist and which shall include, as shown on the Revised Site Plan, a twenty foot (20’) Open Space buffer area and a concurrent thirty-five foot (35’) setback around the perimeter of the “to be developed” portions of the subject property which are contiguous and/or adjacent to other single-family residential properties.

The subject property has numerous contiguous and/or adjacent property owners. In that regard, Mr. Konigsmark has entered into the following agreement with Mr. and Mrs. James McPherson (854 Poplar Springs Road):

- a. For the entire length of the McPhersons’ property contiguous to the subject property, Mr. Konigsmark shall construct and erect a six foot (6’) decorative wooden privacy fence along that common property line for approximately three hundred (300) lineal feet. Thereafter, Mr. Konigsmark shall construct and erect a five foot (5’) black vinyl chain-link fence along the balance of the common property line between the subject property and land owned by Mr. & Mrs. David Bramlett (868 Poplar Springs Road).

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- b. The buffer along McPherson's property line shall consist of a twenty-foot (20') undisturbed buffer. The chain link fence will connect to the detention pond fence wherein the undisturbed buffer shall be lessened to ten feet (10') in width in accordance with Ordinance requirements.<sup>4</sup>
10. For those lots directly contiguous to Open Space areas, the deeds conveying and vesting title in the ultimate owners of said lots shall contain a recital explaining that said lots are being purchased with the owners' acknowledgement that commonly owned Open Space exists to the rear of their respective properties and cannot be encroached within or built upon.
11. A Conservation Easement shall be granted and conveyed to Cobb County and shall be recorded within the Subdivision Covenants in the Superior Court of Cobb County Deed Records for the purpose of protecting Open Space from development. The Conservation Easement shall be submitted to the Planning and/or Zoning Divisions of the Community Development Agency prior to final plat approval.

One of the purposes of the Open Space is to include the conservation of watershed and natural components. However, based upon input received from respective County Divisions during the pendency of this Application, portions of said Open Space may contain walking and/or pedestrian trails therein. Open Space areas adjoining lots shall contain individual, small, ground-based monumentation for the purposes of the demarcation of Open Space areas.
12. Mr. Konigsmark and/or his successor(s) in interest shall provide contiguous property owners with written notice regarding any proposed changes, modifications or revisions to the development which require Cobb County's or the District Commissioner's review and approval.

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<sup>4</sup> As a result of Mr. Konigsmark's agreement with Mr. and Mrs. McPherson, Mr. and Mrs. David Bramlett (868 Poplar Springs Road) have stated in writing that that they are also in support of Mr. Konigsmark's rezoning proposal.

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13. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer for the subject property.<sup>5</sup>
14. Subject to recommendations from the Cobb County Stormwater Management Division regarding detention, stormwater management, hydrology and downstream considerations, including the following:
  - a. The ultimate permanent location and configuration of on-site detention, stormwater management and water quality components.
  - b. Mr. Konigsmark has reached an agreement with contiguous property owner Mr. Isaac Watson (5797 Dallas Highway) in order to secure the requisite off-site easements to sewer for the site. Mr. Watson has also provided a letter specifically supporting the total of twenty (20) lots under the R-20 OSC Zoning District for the subject property.
  - c. A pre-development and post-development lake study shall be conducted on the lake adjacent to the west of the subject property.<sup>6</sup>
  - d. Recognizing the seventy-five foot (75') streambank buffers on either side of the centerline of the stream which traverses the northeastern portion of the subject property and the placement of same within a Conservation Easement in favor of Cobb County.<sup>7</sup>

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<sup>5</sup> Along the subject property's northern property line on Dallas Highway there is a Cobb-Marietta Water Authority waterline which runs parallel to the subject property along said property line; however, it does not affect the development of any portion of the subject property.

<sup>6</sup> The downstream lake located adjacent to Poplar Springs Road will not require any studies since the stream bypasses that particular lake. An adjacent property owner, Mr. Jim Shurling (5805 Dallas Highway) owns land adjacent to the subject property which is located west and downstream of the subject property. Having owned that property since 1961 Mr. Shurling reports that since Dallas Highway was widened 20± years ago, the lake on his property has suffered significant silt buildup washed from the shoulders of Dallas Highway.

<sup>7</sup> Originally, Mr. Konigsmark requested and the County had preliminarily and administratively approved buffer averaging. However, that request is not now needed and is hereby Withdrawn.

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15. Subject to the following recommendations from the Cobb County Department of Transportation (“DOT”):

- a. The voluntary donation and conveyance of right-of-way along Poplar Springs Road so that the County can achieve an additional five feet (5’) of right-of-way on Poplar Springs Road.
- b. The installation of a one-hundred fifty foot (150’) deceleration lane with a fifty foot (50’) taper.
- c. The installation of sidewalk, curb and gutter along the subject property’s frontage on Poplar Springs Road.
- d. The installation of sidewalk, curb and gutter on at least one (1) side of the interior streets.
- e. In accordance with specific direction from Bryan S. Carter, P.E. with the Georgia Department of Transportation (“GDOT”), there will be no requirements for the installation of sidewalk, curb and gutter along Dallas Highway (S.R. 120) in accordance with an email from Mr. Carter and GDOT to Mark Lee, P.E., dated February 5, 2018.
- f. The installation of a ten foot (10’) No-access Easement along those portions of the subject property which have direct frontage on and direct contiguity to Dallas Highway, as shown on the Revised Site Plan.
- g. Verification of minimum sight distance of three-hundred, ninety feet (390’) on Poplar Springs Road or the implementation of remedial measures in which to mitigate same.
- h. The first driveway (Lot 20) within the subject property shall be positioned a minimum of fifty feet (50’) from the intersection of Poplar Springs Road with the subject property’s point of ingress/egress.

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16. Subject to recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues and guest parking requirements as mentioned above.
17. Adherence to the following construction hours:
  - a. 7:00 a.m. – 7:00 p.m., Monday through Friday, from October 1<sup>st</sup> to March 31<sup>st</sup>.
  - b. 7:00 a.m. until 7:00 p.m., Monday through Friday, from April 1<sup>st</sup> to September 30<sup>th</sup>.
  - c. 9:00 a.m. until 6:00 p.m. on Saturdays.
  - d. No outside work on Sundays or the following national holidays: Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Eve, New Year's Day and Easter Day.
18. All construction and worker vehicles shall be parked on the subject property (not public rights-of-way) during the construction and build-out of the proposed subdivision.
19. The granting of the following concurrent Variances:
  - a. A reduction in the distance between homes from twenty feet (20') to fifteen feet (15').
  - b. A reduction in the Major Side Setback to fifteen feet (15').
20. If curb, gutter and sidewalk are not installed and at least one (1) Construction Permit is not issued within 24-months from the Board of Commissioners' decision to rezone the subject property, said property shall revert to its current R-30 zoning classification.
21. Mr. Konigsmark and/or his successor(s) in interest agree to allow the Georgia Native Plant Society ("GNPS") to conduct a plant rescue prior to the commencement of construction and the development of the subject property.



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22. The District Commissioner shall have the authority to approve minor modifications to these stipulations/conditions, the site plan, the architecture and other issues as the development proposal proceeds through the Plan Review Process and thereafter except for those that:
- a. Increase the density unless other tracts of land are added to the proposed development at a later date and taken through the entitlement process.
  - b. Reduce the size of approved buffers adjacent to property which is zoned the same or in a more restrictive zoning district.
  - c. Relocate a structure closer to the property line of adjacent property that is zoned in the same or a more restrictive zoning district.
  - d. Increase the height of a building which is adjacent to property which is zoned in the same or a more restrictive zoning district.
  - e. Change access locations to a different right-of-way.
  - f. Require additional Variances or is in violation of the Cobb County Zoning Ordinance.

This Revised proposal is consistent with the County's FLUM, Comp Plan and OSC requirements; is located approximately two-hundred feet (200') from the nearest commercially zoned NRC property on Dallas Highway whereupon an approved 6,000+ square foot RaceTrac proto-type will be constructed. Moreover, with staff's previously issued recommendation for approval; the stipulations/conditions contained within this Revised Letter; and, the Revised Site Plan and Architectural Renderings/Elevations, this Revised zoning proposed is entirely appropriate from a land use planning perspective.

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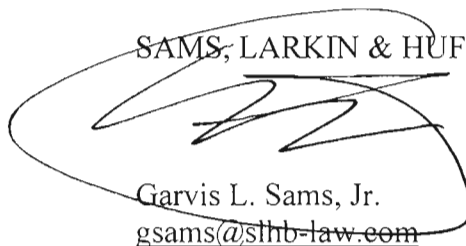
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Please do not hesitate to contact me should you or your Staff require additional information or documentation prior to this application being heard and considered by the Planning Commission and the Board of Commissioners next month. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)

GLS, Jr./klk  
Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)  
Mr. Bob Weatherford, Commissioner (via email w/attachments)  
Mr. Robert L. Hosack, AICP, County Manager (via email w/attachments)  
Members, Cobb County Planning Commission (via email w/attachments)  
BOC Commission Assistants (via email w/attachments)  
Mr. Dana Johnson, AICP, Director (via email w/attachments)  
Mr. Lee McClead, Deputy Director (via email w/attachments)  
Mr. Jason S. Gaines, AICP, Planning Division Manager (via email w/attachments)  
Mr. Jason Campbell, Planner III (via email w/attachments)  
Mr. Terry Martin, Planner III (via email w/attachments)  
Mr. Phillip Westbrook, Planner III (via email w/attachments)  
Mr. Donald Wells, Planner I (via email w/attachments)  
Ms. Tannessa Bates, Planner I (via email w/attachments)  
Ms. Pamela Mabry, County Clerk (via email w/attachments)  
Ms. Robin Pressley, Deputy County Clerk (via email w/attachments)  
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)  
Captain Robert "Rock" Toler, Fire Department (via email w/attachments)  
Mr. David Breden, P.E. (via email w/attachments)  
Ms. Amy Diaz, P.E. (via email w/attachments)  
Ms. Ashley White, P.E. (via email w/attachments)  
Mr. Tim Davidson (via email w/attachments)  
Ms. Sheri George, GNPS (via email w/attachments)  
Mr. and Mrs. James McPherson (via email w/attachments)

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Mr. and Mrs. David Bramlett (via email w/attachments)  
Mr. Isaac Watson (via email w/attachments)  
Mr. Jim Shurling (via email w/attachments)  
Mr. Malik Lee, Poplar Springs HOA (via email w/attachments)  
Mr. Mark Lee, P.E. (via email w/attachments)  
Mr. W. Reed Konigsmark (via email w/attachments)



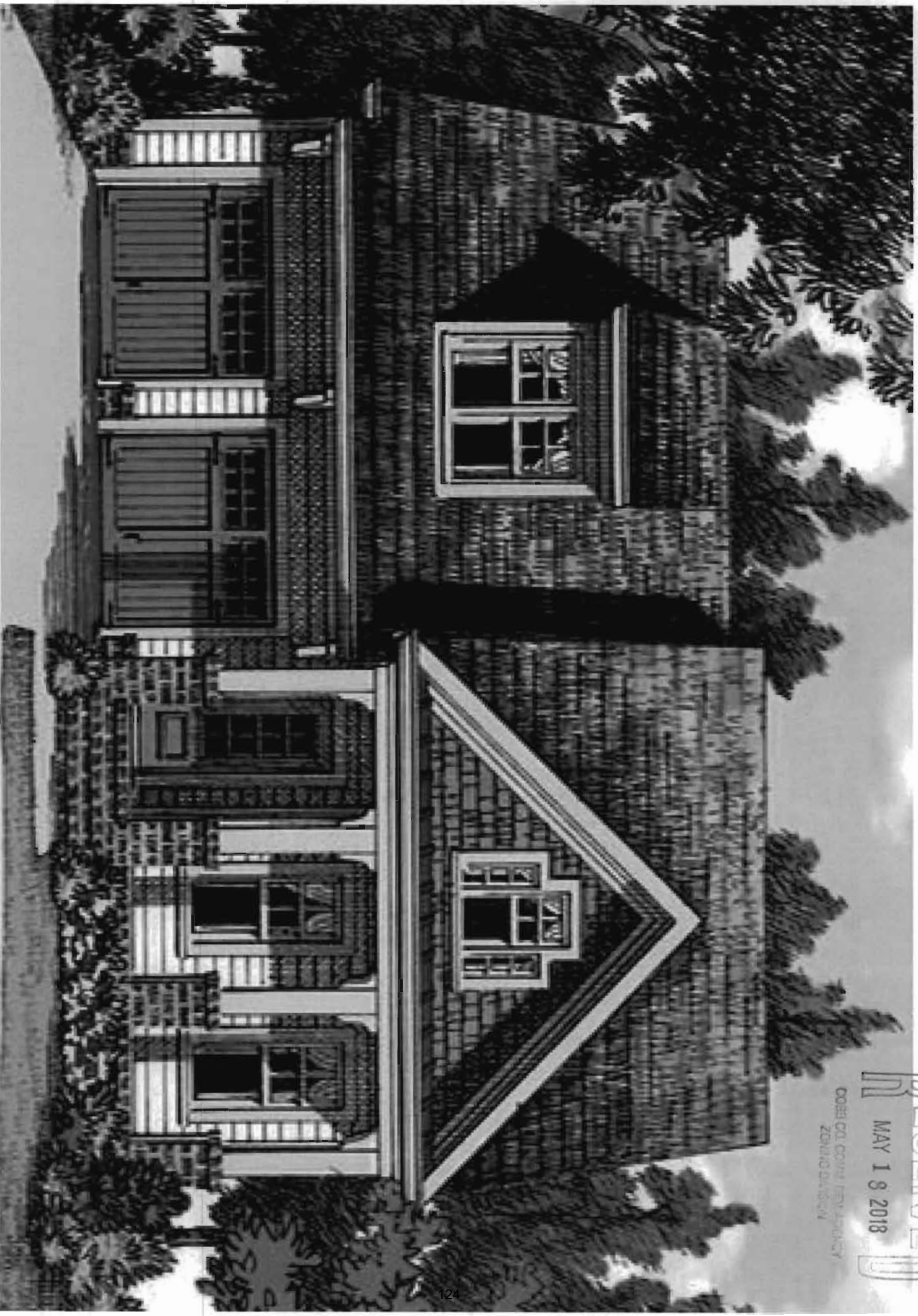


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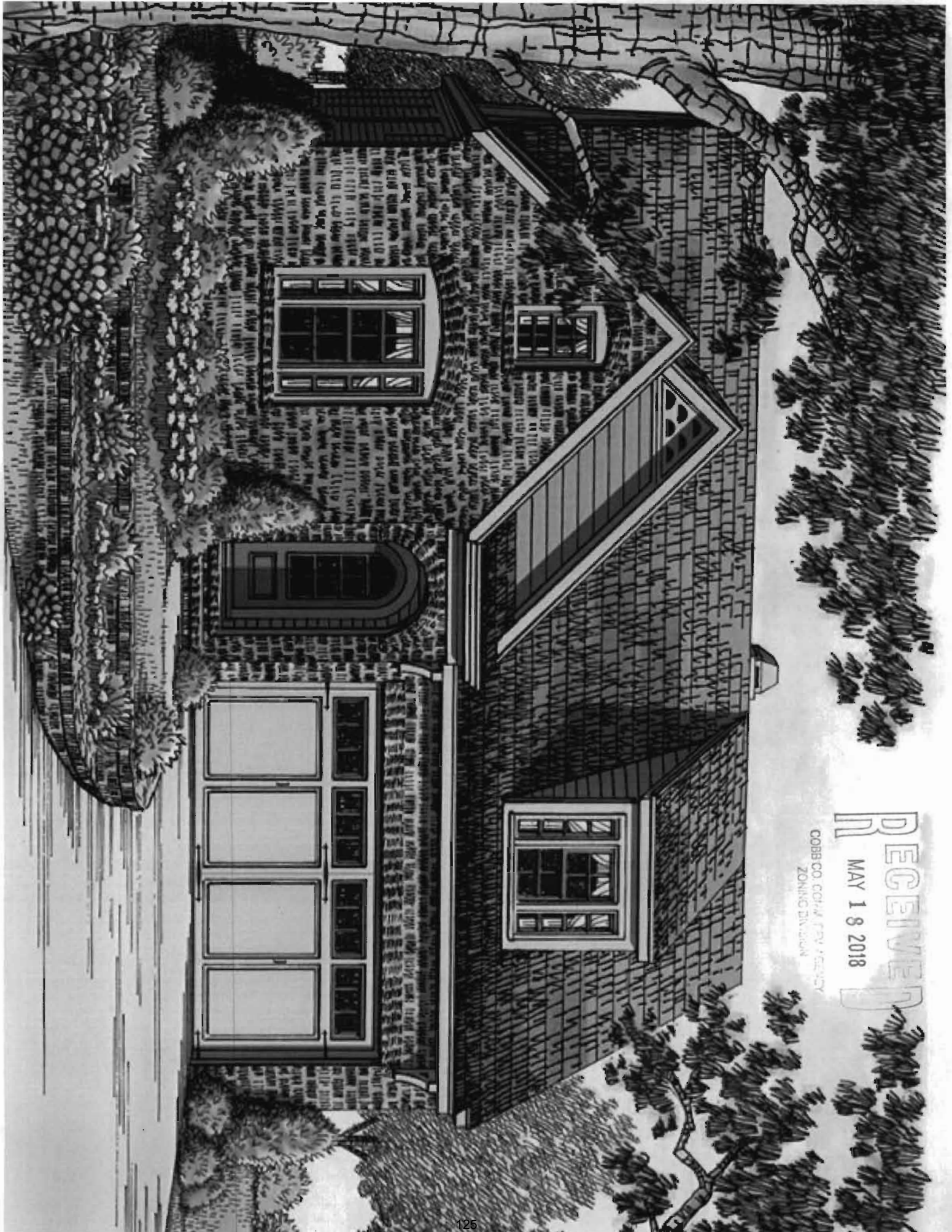
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