



Cobb County Community Development Agency
Zoning Division
1150 Powder Springs St. Marietta, Georgia 30064

Case# LUP-9
Public Hearing Dates:
PC: 08-07-18
BOC: 08-21-18

SITE BACKGROUND

Applicant: Cecile Ferguson

Phone: (678) 698-7553

Email: cef1632@gmail.com

Representative Contact: Cecile Ferguson

Phone: (678) 698-7553

Email: cef1632@gmail.com

Titleholder: Cecile E. Ferguson

Property Location: South side of Blackwell Road,
west of Knight Road

Address: 1632 Blackwell Road

Access to Property: Blackwell Road

QUICK FACTS

Commission District: 3-Birrell

Current Zoning: R-20 (Single-family Residential)

Current use of property: Single-family House

Proposed use: Backyard Chickens/Poultry

Future Land Use Designation: LDR (Low Density
Residential)

Site Acreage: 0.762 ac

District: 16

Land Lot: 344

Parcel #: 16034400210

Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION:
(Zoning staff member: Tannesha Bates)

Based on the analysis and the Code, Staff recommends **DENIAL** of the application.





LUP-9 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

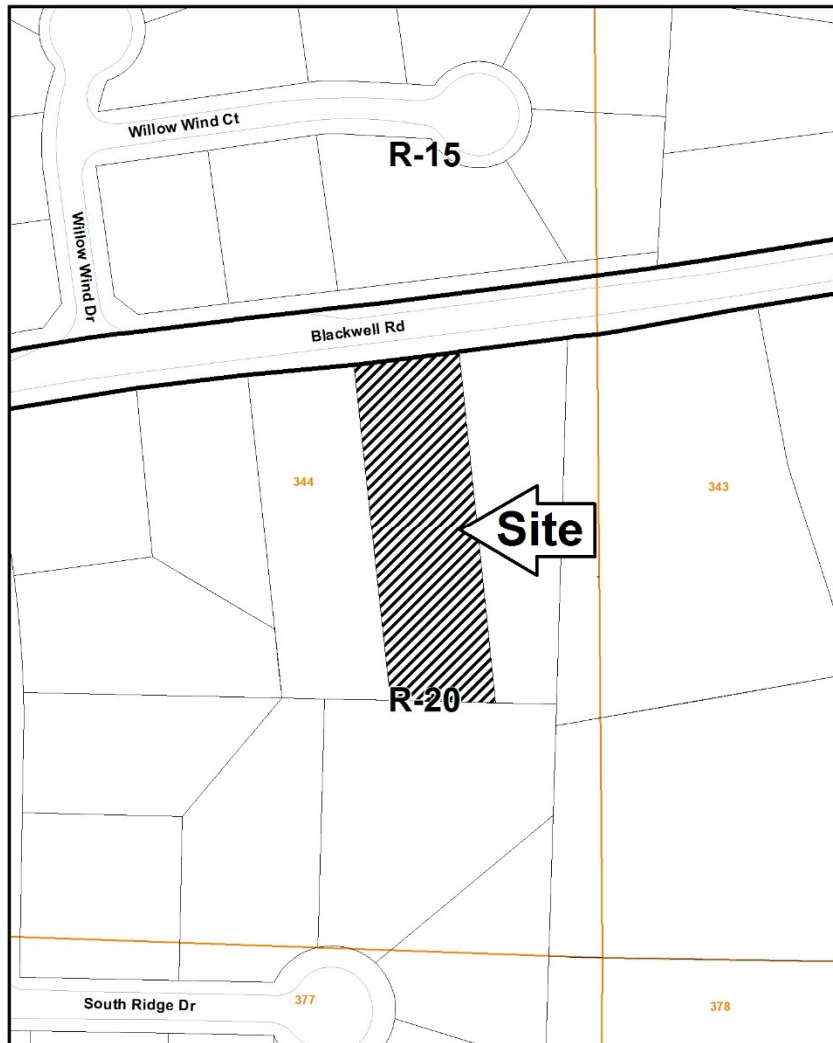
 Zoning Boundary
 City Boundary

North

Zoning: R-15



Future Land Use: LDR (Low Density Residential)

LUP-9 2018-GIS



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

0 100 200 Feet

 Zoning Boundary
 City Boundary

WEST

Zoning: R-20

Future Land Use: LDR (Low Density Residential)

EAST

Zoning: R-20

Future Land Use: LDR (Low Density Residential)

SOUTH

Zoning: R-20

Future Land Use: LDR (Low Density Residential)

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The R-20 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-20 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.

Request for a Temporary Land Use Permit

The Board of Commissioners may permit temporary land use permits for uses that are uniquely located and are considered compatible with adjoining zoning districts and nearby uses for designated periods of time for uses, exceptions or professions in areas, along roadways and within districts where the zoning regulations would otherwise prohibit such operations.

Summary of the applicant's proposal

The applicant is requesting a Temporary Land Use Permit to allow six chickens for the purpose of therapy pets for her autistic son. The property is 0.762 acres and is in a subdivision. The applicant states the poultry will be housed in 8' x 10' chicken coop with a 47' x 56' fenced enclosure. This request is not in response to any Code Enforcement complaints. The applicant is requesting to be approved for 24 months.

DEPARTMENT COMMENTS- Fire Department

No comment.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

No comment.

DEPARTMENT COMMENTS- Cemetery Preservation

No comment.

DEPARTMENT COMMENTS- School System

No comment.

DEPARTMENT COMMENTS- Stormwater Management

1. Flood hazard: Yes
2. Flood hazard zone: Zone A
3. Drainage Basin: Tributary to Rubes Creek
4. FEMA Designated 100-year Floodplain Flood.
5. Wetlands: No
6. Streambank buffer zone: Yes
7. County Buffer Ordinance: 50' each side of creek channel.
8. Special site conditions and/or additional comments:
 - The proposed livestock enclosure is located within 20 feet of a stormwater conveyance. This is too close to provide adequate mitigation of non-point source pollution.
 - This parcel is the subject of a current variance case (V-49 June) for multiple setback encroachments. The existing greenhouse structure is located within a recorded drainage easement. If the variance is granted and the structure is allowed to remain, a hold harmless agreement will need to be provided by the owner.

DEPARTMENT COMMENTS- Transportation

No comment.

DEPARTMENT COMMENTS- Planning Division

No comment.

DEPARTMENT COMMENTS- Water and Sewer

No comments. Existing water and sewer customer

STAFF ANALYSIS

There are twelve criteria that must be considered for a Temporary Land Use Permit. However, nine of the twelve criteria have to do with “commercial uses” within a residential area do not apply to chickens. The three criteria that may be considered are below in bold, and the Staff analysis following is not.

(1) Safety, health, welfare and moral concerns involving the surrounding neighborhood.

This request may affect the safety, health, or welfare of the surrounding neighborhoods.

There have been concerns about negative effects of chicken manure, and possible attractions of predators and/or rodents.

(2) Effect on property values surrounding property.

This request could have the potential to affect property values in the area. Previous chicken cases have had opposition that have presented testimony relating to concerns about negative effects on property values when located within a platted residential subdivision.

(3) Circumstances surrounding neighborhood complaints.

This application is not the result of a Code Enforcement violation.

Additionally, Staff will review the ten requirements of the poultry ordinance for compliance regarding this recommendation and these are listed below by lettered italics and the staff analysis for these are in bold:

(a) There shall be a maximum ratio of one poultry per 5,000 square feet of lot area on any lot less than two acres.

The applicant would be permitted to have six hens based on the submitted survey. The applicant’s request is for six hens.

(b) Only hens are kept on the property.

The applicant has requested six hens on the property.

(c) The poultry shall be kept/maintained within a fenced area to the rear of the house.

The applicant will have the hens in a coop with a 47’ x 56’ fenced enclosure.

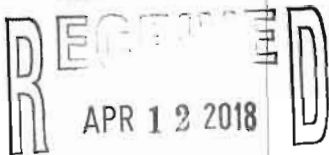
(d) Coops, or other buildings used for the poultry shall be located at least 30 feet off any property line. Coops are considered an accessory structure and all conditions for accessory structures in that zoning district shall also apply. Where a conflict exists, this section shall control.

The applicant has indicated that the chicken coop will be 30 feet off any property line. The final location is to be determined by the Board of Commissioners.

STAFF ANALYSIS (Continued)

- (e) The owner(s) of the poultry shall keep the property maintained in a fashion that eliminates the potential negative effects resulting from the poultry, including but not limited to, odors, pollution, noise, insects, rodents and other wild animals.**
This could be monitored by Code Enforcement.
- (f) The poultry shall not cause a nuisance, as defined by state law.**
This could be monitored by Code Enforcement.
- (g) The slaughter of any hen on site is prohibited.**
The applicant understands and will comply.
- (h) The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00.**
The required fees have been paid.
- (i) The duration of any land use permit approved for poultry as pets or food source shall not exceed two years, renewable for up to two-years terms thereafter.**
This is to be determined by the Board of Commissioners.
- (j) At least thirty calendar days prior to the hearing before the board of commissioners, applicant shall notify all contiguous property owners in writing.**
The applicant is aware of the required notification to all contiguous property owners in writing.

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.



COB:

AGENCY

Application No.
PC Hearing Date:
BOC Hearing Date:

LUP.9
8-7-18
8-21-18

Requirements for Temporary Land Use Permit Application.

Applicant's information for requesting poultry on less than 2 acres

1. How many hens do you propose (no male birds allowed)? 6.
2. Can you comply with the County Code Sec-134-36 (d)(5)(a-j) below? YES NO.

Signature

Print Name

County Code adopted by the Board of Commissioners February 23, 2016:

Sec. 134-36 (d)(5)(a-j). Temporary Land Use Permits.

Poultry on less than two acres subject to the following minimum requirements:

- There shall be a maximum ratio of one poultry per 5,000 square feet of lot area on any lot less than two acres;
- Only hens are kept on the property;
- The poultry shall be kept/maintained within a fenced area to the rear of the house;
- Coops, or other buildings used for the poultry shall be located at least 30 feet off any property line. Coops are considered an accessory structure and all conditions for accessory structures in that zoning district shall also apply. Where a conflict exists, this section shall control;
- The owner(s) of the poultry shall keep the property maintained in a fashion that eliminates the potential negative effects resulting from the poultry, including but not limited to, odors, pollution, noise, insects, rodents and other wild animals;
- The poultry shall not cause a nuisance, as defined by state law;
- The slaughter of any hen on site is prohibited;
- The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00; and
- The duration of any land use permit approved for poultry as pets or food source shall not exceed two years, renewable for up to two-year terms thereafter.
- At least two weeks prior to the hearing before the planning commission, applicant shall notify all contiguous property owners in writing.

CONSENT OF CONTIGUOUS OCCUPANTS OR LAND OWNERS

TO ACCOMPANY APPLICATION FOR LAND USE PERMIT

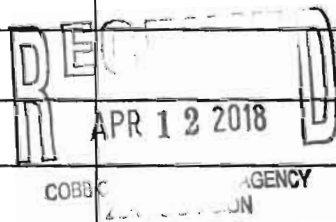
By signature, it is hereby acknowledged that I give my consent/or have no objection that Leela

Ferguson intends to make an application for a Land Use Permit for the purpose of

Backyard Poultry
Chicken

on the premises described in the application.

Signature	Printed name	Address
1. <u>Tyrone Colbert</u>	Tyrone Colbert	1622 Blackwell Rd, Marietta GA 30066
2. <u>Maria Carrillo</u> <u>Lazaro Carrillo</u>	Lazaro Carrillo	1642 Blackwell Rd Marietta GA 30066
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CONSENT OF CONTIGUOUS OCCUPANTS OR LAND OWNERS

TO ACCOMPANY APPLICATION FOR LAND USE PERMIT

By signature, it is hereby acknowledged that I give my consent/or have no objection that Cecile

Ferguson intends to make an application for a Land Use Permit for the purpose of Backyard Poultry on the premises described in the application.

Signature	Printed name	Address
1. <u>K Davis</u>	<u>KARIN DAVIS</u>	<u>1635 S Ridge DR. Marietta GA 30066</u>
2. <u>* NO ROOSTERS please *</u>		
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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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_____	_____
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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 _____

Stipulation letter from _____ dated _____