



Case# LUP-11
Public Hearing Dates:
PC: 10-02-18
BOC: 10-16-18

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

SITE BACKGROUND

Applicant: James E. McGuire

Phone: (404) 384-4777

Email: jmcg1827@bellsouth.net

Representative Contact: James E. McGuire

Phone: (404) 384-4777

Email: jmcg1827@bellsouth.net

Titleholder: James E. McGuire and Deborah S. McGuire

Property Location: South side of Lakeshore Drive, west of Blackland Drive

Address: 3725 Lakeshore Drive

Access to Property: Lakeshore Drive

QUICK FACTS

Commission District: 2-Ott

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

Current use of property: Single-family house

Proposed use: LUP Renewal - Poultry

Future Land Use Designation: LDR (Low Density Residential)

Site Acreage: 0.65 ac

District: 16

Land Lot: 1191, 1258

Parcel #: 16119100420

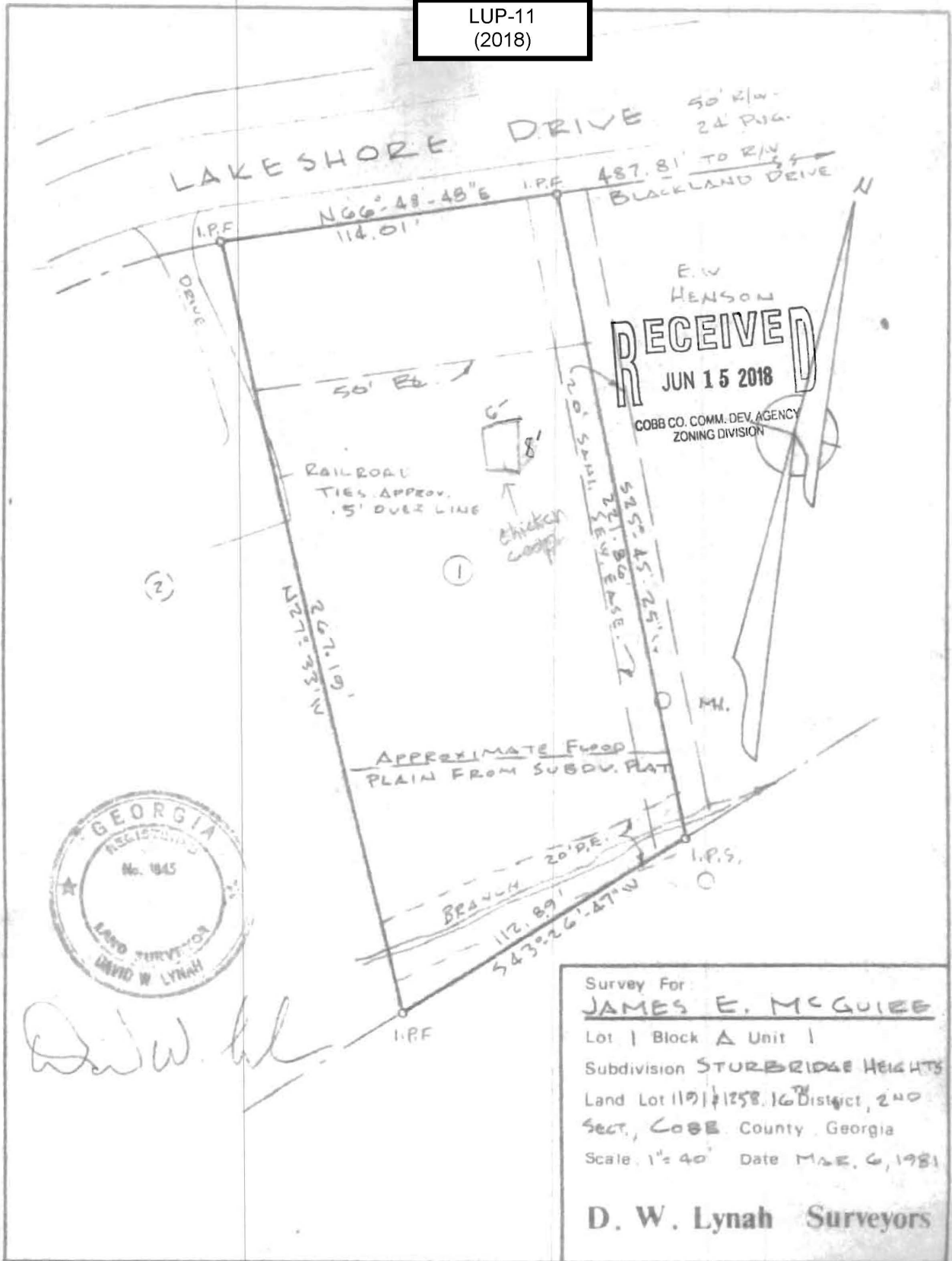
Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION:
(Zoning staff member: Donald Wells)

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

1. Maximum of four hens;
2. No roosters;
3. To continue to allow accessory building on the property without a primary structure;
4. Chicken coop to be no less than 100 feet from the rear property line and 100 feet from the front curb if the coop stays out of the flood plain. Front setback can be reduced if floodplain is effected;
5. Stormwater Management Division comments and recommendations.

LUP-11
(2018)



LUP-11 2018-Aerial Map



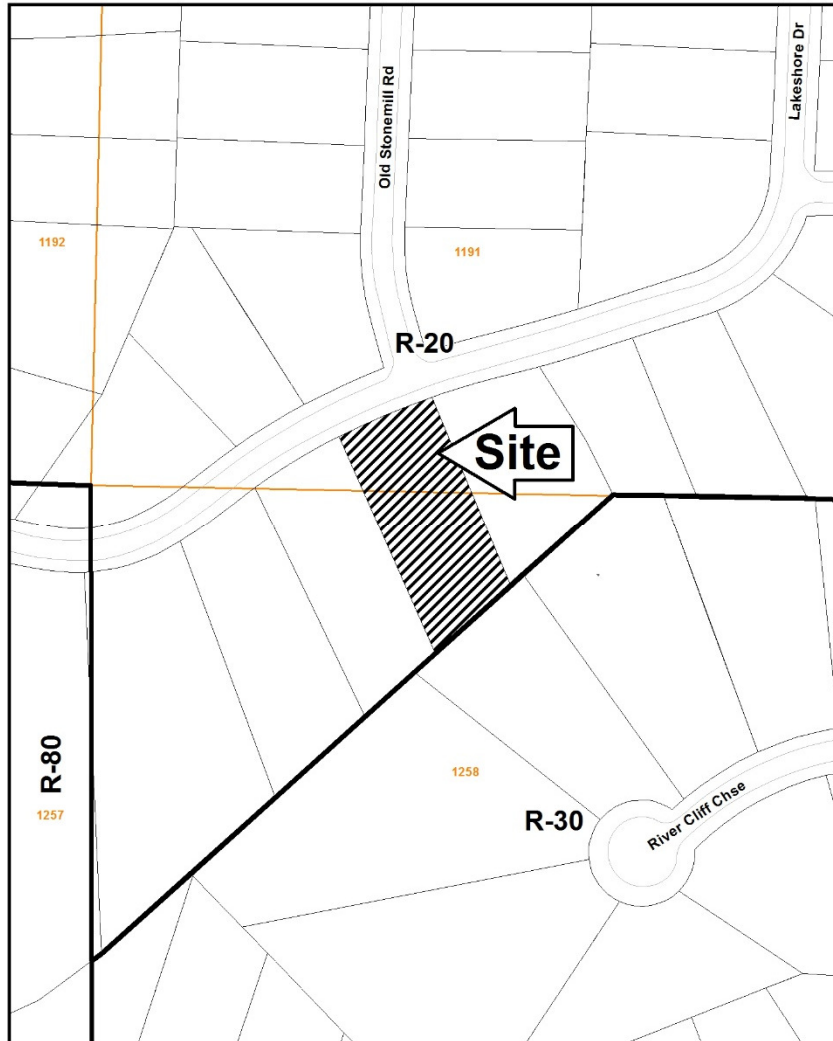
This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200 Feet

— Zoning Boundary
— City Boundary

North
Zoning: R-20 (Single Family Residential)
Future Land Use: LDR (Low Density Residential)

LUP-11 2018-GIS

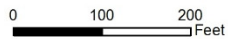


WEST
Zoning: R-20 (Single Family Residential)
Future Land Use: LDR (Low Density Residential)

EAST
Zoning: R-20 (Single Family Residential)
Future Land Use: LDR (Low Density Residential)

SOUTH
Zoning: R-30 (Single Family Residential)
Future Land Use: LDR (Low Density Residential)

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Zoning Boundary
City Boundary

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. Customary home occupations as defined in this chapter do not require a temporary land use permit.

Summary of the applicant's proposal

The applicant is requesting a renewal of a land use permit to have 4 chickens on less than two acres of land adjacent to their home. The applicant indicates they will have a small chicken coop with a fenced in area for four female chickens. This request is a renewal to LUP-24 of 2016, which was approved for 24 months. There have not been any filed complaints to code enforcement for this property.

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

No comments (Renewal).

DEPARTMENT COMMENTS- Transportation

This request will not have an adverse impact on the transportation network.

DEPARTMENT COMMENTS- Planning Division

Comprehensive Plan Designation: Consistent Inconsistent

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 N/A

Comments:

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 five hens based on the county code. The applicant’s request is for four hens.

(b) Only hens are kept on the property.

The applicant has requested four 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 6’x8’ coop with a fenced area.

(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 will continue to keep the coop and fenced area 100 feet from the front and rear property line as approved in the previous land use permit. There is no primary building on the property, so the previously approved variance will still apply.

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.**
There have not been any Code Enforcement complaints for the past 2 years. Code Enforcement can continue to monitor the property.
- (f) The poultry shall not cause a nuisance, as defined by state law.**
There has not been any founded or filed complaints for the past 2 years that the hens have been on the property. Code Enforcement can continue to monitor.
- (g) The slaughter of any hen on site is prohibited.**
The applicant understands and will continue to comply.
- (h) The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00.**
The required renewal fee has 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 a renewal for the applicant. The initial application was approved for 24 months.
- (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 applicant has received written consent from 2 of the 3 contiguous neighbors.

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.

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JUN 15 2018

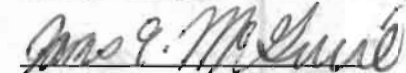
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

Application No. LVP-11

Hearing Date: 10-16-18

Applicant's information for requesting backyard chickens

1. How many hens do you propose (no male birds allowed)? 4
2. Can you comply with the County Code Sec-134-94(4)(a-i) below? YES NO


Signature

James E. McGuire
Print Name

County Code adopted by the Board of Commissioners March 22, 2016:

Sec. 134-94 (5) Poultry on less than two acres subject to the following minimum requirements:

- 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;
- b. Only hens are kept on the property;
- c. The poultry shall be kept/maintained within a fenced area to the rear of the house;
- 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;
- 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;
- f. The poultry shall not cause a nuisance, as defined by state law;
- g. The slaughter of any hen on site is prohibited;
- h. The fee for the land use permit for backyard poultry shall be \$75.00 with renewal fees being \$50.00; and
- 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-year terms thereafter.
- j. 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 THE PURPOSE OF VARIANCE REQUEST

LAND USE PERMIT

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

Deborah S. McGuire intends to make an application to the appropriate Cobb County Authorities for a variance request for the purpose of **erection of chicken coop with runner** on the premises described in the application.

Signature	Printed name	Address
	David James Pair	4180 River Cliff Chase, Marietta, GA 30067
	Tami S. Pair	4180 River Cliff Chase, Marietta, GA 30067
<i>Paige D. Golden</i>	Paige D. Golden	4 Lakeshore Drive, Marietta, GA 30067
<i>James E. McGuire</i>	James E. McGuire	3745 Lakeshore Drive, Marietta, GA 30067
<i>Deborah S. McGuire</i>	Deborah S. McGuire	3745 Lakeshore Drive, Marietta, GA 30067
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 JUN 15 2018

COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

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 _____
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