



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-53  
Public Hearing Dates:  
PC: 09-04-18  
BOC: 09-18-18

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### SITE BACKGROUND

Applicant: Elvia Benitez

Phone: (470) 798-7810

Email: [benitez.anai@icloud.com](mailto:benitez.anai@icloud.com);  
[Nayeli.benitez@outlook.com](mailto:Nayeli.benitez@outlook.com)

Representative Contact: Elvia Benitez

Phone: (470) 798-7810

Email: [benitez.anai@icloud.com](mailto:benitez.anai@icloud.com);  
[Nayeli.benitez@outlook.com](mailto:Nayeli.benitez@outlook.com)

Titleholder: Elvia Benitez

Property Location: North side of Michael Drive,  
east of Brackett Street

Address: 646 Michael Drive

Access to Property: Michael Drive

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### QUICK FACTS

Commission District: 4-Cupid

Current Zoning: LRO (Low Rise Office)

Current use of property: Vacant daycare facility

Proposed zoning: R-20 (Single-family Residential)

Proposed use: Single-family House

Future Land Use Designation: Neighborhood  
Activity Center (NAC)

Site Acreage: 1.17 ac

District: 17

Land Lot: 59

Parcel #: 17005900120

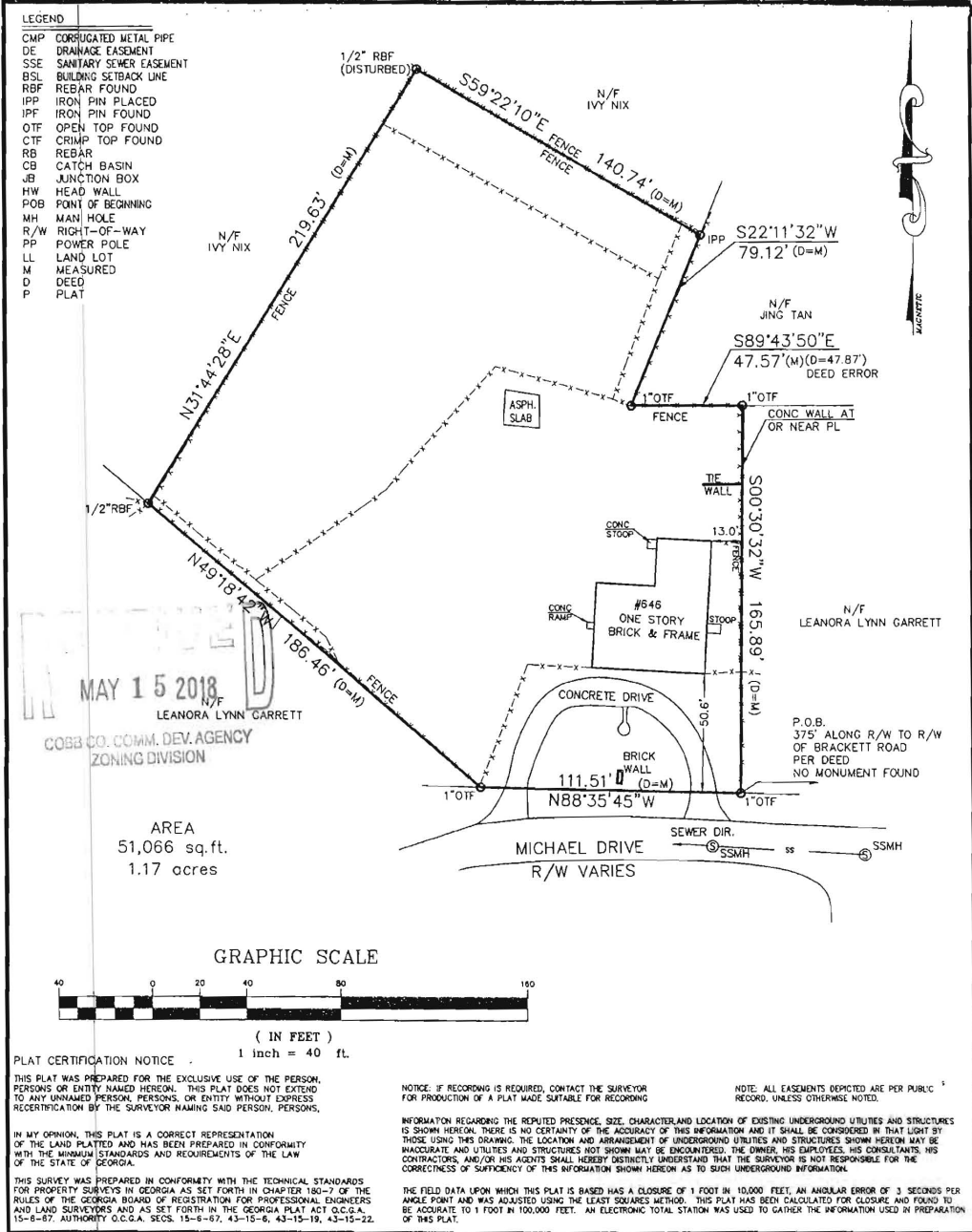
Taxes Paid: Yes

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FINAL ZONING STAFF RECOMMENDATION:  
(Zoning staff member: Terry Martin, MPA)

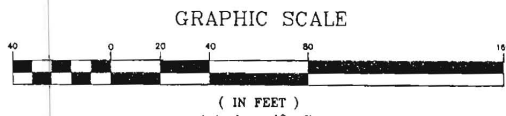
Based on the included analysis, staff recommends **DENIAL.**


Z-53  
(2018)



MAY 15 2018  
LEONORA LYNN GARRETT  
COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

AREA  
51,066 sq. ft.  
1.17 acres

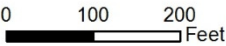


JOB NUMBER: 17-878		ABOVE THE GROUND AS BUILT SURVEY PREPARED FOR: JORGE GONZALEZ	DATE 03-06-2017
		OWNER / PURCHASER ELVIA BENITEZ	SCALE 1" = 40'
		LAND LOT 59      17th DISTRICT      2nd SECTION	COBB COUNTY, GEORGIA
		LOT                      BLOCK                      UNIT	AREA OF LOT: 51,066 sq. ft.
		SUBDIVISION	
PLAT BOOK DEED BOOK	PAGE 15191, PAGE 3370	ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED	

# Z-53 2018-Aerial Map



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



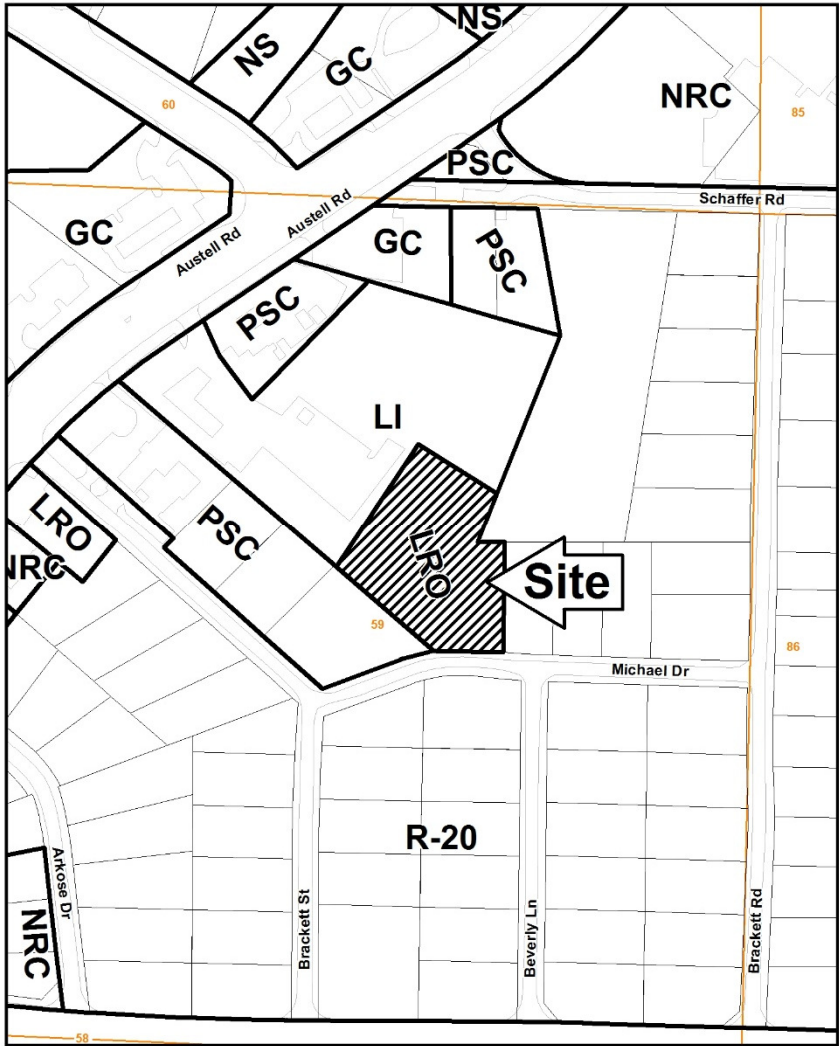
- Zoning Boundary
- City Boundary



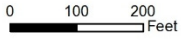
North



**Zoning:** LI (Light Industrial), R-20 (Single-family Residential)  
**Future Land Use:** NAC (Neighborhood Activity Center)

**Z-53 2018-GIS**



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



 Zoning Boundary  
 City Boundary

WEST

**Zoning:** LI (Light Industrial), PSC (Planned Shopping Center)  
**Future Land Use:** NAC (Neighborhood Activity Center)

EAST

**Zoning:** R-20 (Single-family Residential)  
**Future Land Use:** LDR (Low Density Residential)

SOUTH

**Zoning:** R-20 (Single-family Residential)  
**Future Land Use:** LDR (Low Density Residential)

## DEPARTMENT COMMENTS- Zoning Division

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### Current zoning district for the property

The LRO district is established to provide locations for low scale professional offices and other nonretail commercial uses such as offices and nursery schools, which are on properties delineated within or on the edge of a neighborhood activity center, community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When located on the edge of a neighborhood activity center node as defined by the comprehensive plan, the LRO district should provide for office uses that are low in intensity to ensure 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 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.

### Summary of the applicant's proposal

The applicant is requesting a rezoning from the existing LRO (Low Rise Office District) per previous case Z-23 of 2017 to the R-20 (Single-family Residential District) in order to use the existing structure as a residence. Though the property had formerly been used as a daycare facility, it had lost its "grandfathered" status which necessitated the rezoning in 2017. The property was not opened as a daycare following that approval and the applicant wants to use it as a single-family house.

### Residential criteria

Allowable units as zoned: 0

Proposed # of units: 1

Net density: 0.85

Increase of units: 1

Acres of floodplain/wetlands: 0

Impervious surface shown: 10%

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

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

There are no required variances.

### **DEPARTMENT COMMENTS- Fire Department**

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No Comments.

### **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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Approval of this petition will not have an impact on the enrollment.

### **DEPARTMENT COMMENTS- Stormwater Management**

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1. Flood hazard: No
2. Flood hazard zone: Zone X
3. Drainage Basin: Favor Creek
4. Wetlands: No
5. Streambank buffer zone: No
6. Existing facility.
7. Special site conditions and/or additional comments:
  - No significant site improvements are proposed.
  - Stormwater management must be provided upon redevelopment or substantial site improvement.

## DEPARTMENT COMMENTS- Planning Division

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**Cobb 2040 Comprehensive Plan:** The parcel is within the Neighborhood Activity Center (NAC) future land use category. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail, and grocery stores.

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

Specific Area Policy Guidelines:  Yes  No

Masterplan/ Corridor Study  Yes  No

Design guidelines area?  Yes  No

Does the proposal plan comply with the design requirements?  Yes  No  N/A

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)*

Is the property within an Enterprise Zone?  Yes  No

*(The Smyrna-Osborne Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investment)*

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)*

**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).**

(Planning comments continued on the next page)

**DEPARTMENT COMMENTS- Planning Division** (continued)

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**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 Noise Zone?  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" in Michael Drive

Additional water comments: Existing water customer.

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: in Michael Drive ROW

Estimated waste generation (in G.P.D.): Average daily flow = +0; Peak flow = +0

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

Additional sewer comments: existing sewer customer

\*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.

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 onsite and/or offsite easements, and dedication of onsite 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.

**DEPARTMENT COMMENTS- Transportation**

<b>Roadway</b>	<b>Roadway classification</b>	<b>Speed limit (MPH)</b>	<b>Jurisdictional control</b>	<b>Min. R.O.W. requirements</b>
Michael Drive	Local	25	Cobb County	50'

<b>Roadway</b>	<b>Location</b>	<b>Average daily trips</b>	<b>Level of service</b>
Michael Drive	N/A	N/A	N/A

**Comments and observations**

Michael Drive is classified as a local roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

**Recommendations**

1. 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 north side of Michael Drive, a minimum of 25' from the roadway centerline.
2. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
3. Recommend removing the second driveway upon redevelopment.

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;**

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. Other uses in the area include residential uses as well as commercial uses along Austell Road.

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

The zoning proposal will not adversely affect the existing use or usability of the adjacent or nearby properties. The applicant's proposal would allow reutilization of the property as residential similar to those immediately adjacent properties which are zoned commercially but are used residentially.

**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, utilities, or schools. 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;**

The zoning proposal is not in conformity with the policies and intent of the comprehensive plan which delineates the property to be within the NAC (Neighborhood Activity Center) future land use category. This category seeks to encourage retail commercial uses which serve neighborhood residents and businesses.

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 denying the applicant's rezoning proposal. While the requested change to residential zoning would not adversely affect those existing residential neighbors in the area, the current LRO district zoning complies with the NAC future land use category.

**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  
MAY 15 2018

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

Application No. 2-53

Sept. 2018

## Summary of Intent for Rezoning

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

- a) Proposed unit square-footage(s): 2157
- b) Proposed building architecture: N/A
- c) List all requested variances: NONE
- N/A

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

- a) Proposed use(s): N/A
- b) Proposed building architecture: N/A
- c) Proposed hours/days of operation: N/A
- d) List all requested variances: N/A

.....  
**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).**

N/A



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