

**OCTOBER 16, 2018 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1**

ITEM OB-040

PURPOSE

To consider a reduction of public road frontage for proposed lots 1-3 from 75' to 7' per lot for John and Mona Loyd for property located on the south side of Hadaway Road, east of Oak Mountain Road, in Land Lots 270 and 271 of the 20th District (5257 Hadaway Road). (Continued by Staff from the August 21, 2018; Pending from the Board of Commissioners September 18, 2018 hearing due to a tie vote until the October 16, 2018 hearing)

BACKGROUND

The Board of Commissioners considers all reductions to minimum road frontages pursuant to a code amendment to Sec. 134-271(7)(a) adopted on February 27, 2018. The subject property is zoned R-30 and the applicant would like to create three additional lots behind the existing house. The applicant would like the Board of Commissioners to consider a reduction of public road frontage for proposed lots 1-3 from 75' to 7' per lot. Each of the proposed lots would exceed the minimum lot size for R-30 and would meet other zoning criteria such as setbacks and impervious surface. There would be a shared driveway for the three lots.

STAFF COMMENTS

Water and Sewer: Cobb County Code 122-130 requires all lots less than 80,000 ft² in a new subdivision to connect to active sewer.

Stormwater Management: The Stormwater Management Division cannot support this request without provision for providing stormwater management as required by County Development Standards. The layout must provide for a stormwater management facility on its own parcel with 20-foot minimum flagged access to the public right-of-way. This can be addressed at Plan Review.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum road frontage.

ATTACHMENT

Other Business application.

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

RECEIVED
JUL 16 2018
BOC Hearing Date Requested:
COBB CO. COMMUNITY AGENCY
ZONING DIVISION

08-040-2018

8/21/18

Applicant: John E and Mona Loyd
(applicant's name printed)

Phone #: 770-846-5116 c
770-794-9435 H

Address: 5257 HADAWAY ROAD KENNESAW GA E-Mail: NUCLOYD@HOTMAIL.COM

John I Loyd Address: 4651 WOODSACK RD STE 208-106, Roswell GA 30075
(representative's name, printed)

[Signature] Phone #: 770.868.7591 E-Mail: John@CREATINGENG.COM
(representative's signature)

Signed, sealed and delivered in presence of:

Tannisha Bates My commission expires: 12/21/2020
Notary Public

Titleholder(s): Muham. Loyd, Sr Phone #: 770-846-5116 cell
(property owner's name printed) 770-794-9435 home

Address: 5257 HADAWAY ROAD KENNESAW GA E-Mail: NUCLOYD@HOTMAIL.COM

[Signature] Mona M Loyd
(Property owner's signature)

Signed, sealed and delivered in presence of:
[Signature] My commission expires: 12/22/2019
Notary Public

Commission District: 1st Zoning Case: N/A

Size of property in acres: 4.6 AC Original Date of Hearing: N/A

Location: 5257 HADAWAY RD, KENNESAW GA 30152
(street address, if applicable; nearest intersection, etc.)

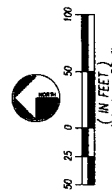
Land Lot(s): 271 District(s): 20

State specifically the need or reason(s) for Other Business: REDUCTION OF REQUIRED FRONTAGE TO 7' TO ESTABLISH 3 NEW LOTS OF AT LEAST 40,000 SQFT EACH

(List or attach additional information if needed)

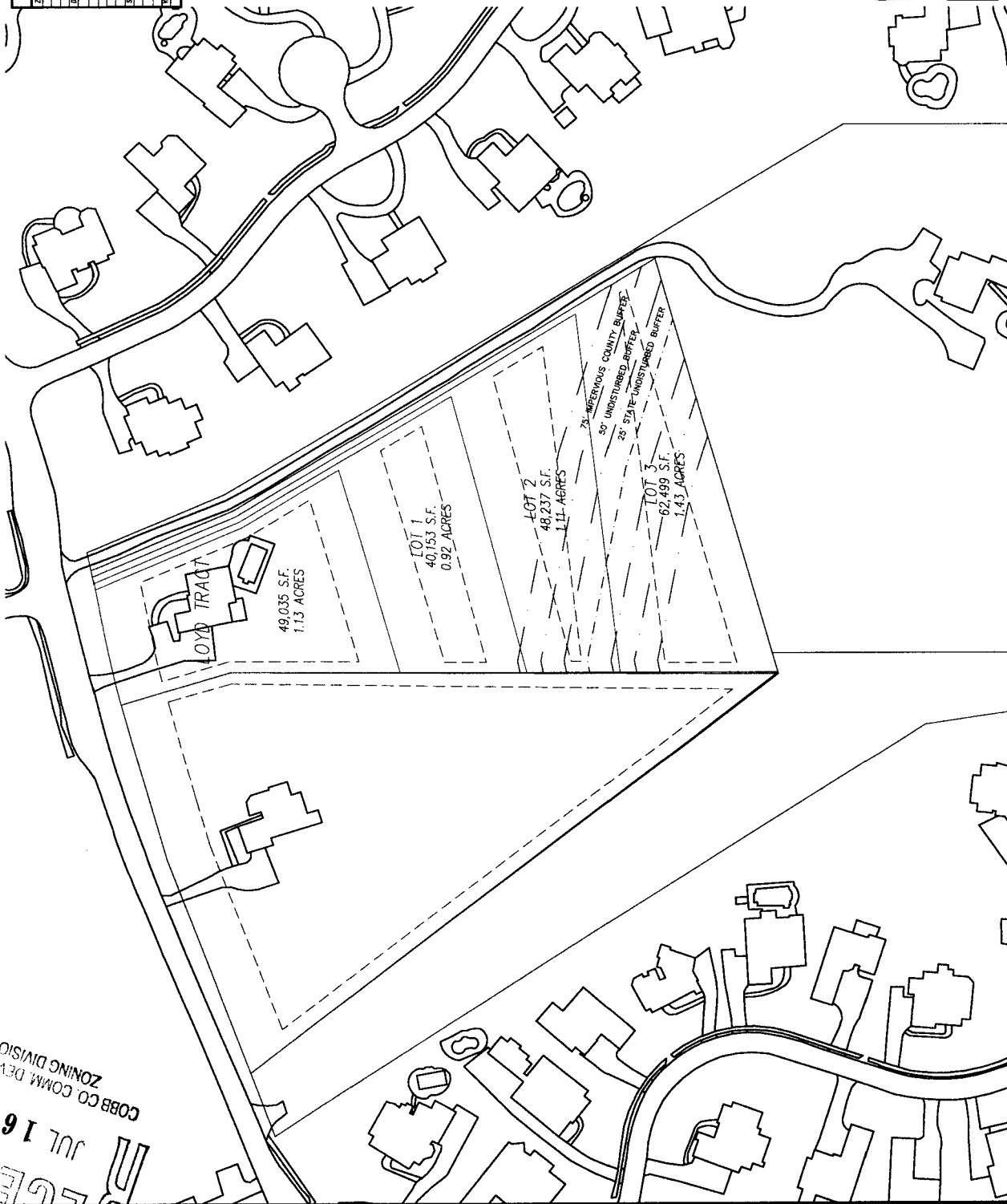


DEVELOPMENT SUMMARY	
ZONING	R-30
EXISTING ZONING	R-30
PROPOSED ZONING	R-30
REVISIONS	SEE NOTES
NUMBER OF LOTS	4 LOTS
PROPOSED DENSITY	27 UNITS/ACRE
PROPOSED UNIT TYPE	30' x 120' x 120'
MINIMUM LOTS PER ACRE	1.00
MINIMUM BUILDING HEIGHT	30 FEET
MINIMUM SETBACK	50 FEET
MINIMUM FRONT SETBACK	12 FEET
MINIMUM SIDE SETBACK	12 FEET
MINIMUM REAR SETBACK	12 FEET
MINIMUM FRONT YARD SETBACK	12 FEET
MINIMUM REAR YARD SETBACK	12 FEET
MINIMUM SIDE YARD SETBACK	12 FEET



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Utilities Production Center, Inc.

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THE SERVICE PROVIDED HEREIN IS FOR THE CONTRACTOR'S CONFORMANCE ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION, DEPTH AND TYPE OF ALL UTILITIES PRIOR TO ANY EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE STATE DEPARTMENT OF THE CONSTRUCTION.



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JUL 16 2018
COBB CO COMM DEV DIVISION
ZONING DIVISION



CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

RECEIVED
 JUL 16 2018
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

Printed: 7/16/2018

Cobb County Online Tax Receipt

Thank you for your payment!

Payer:
JOHN E & MONA M LOYD

LOYD JOHN E JR & MONA M

Payment Date: 10/16/2017

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2017	20027100520	10/15/2017	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$5,178.94	\$0.00



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SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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

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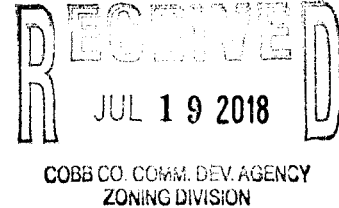
ADAM J. ROZEN

SLHB-LAW.COM

July 19, 2018

VIA EMAIL & HAND DELIVERY

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



Re: Other Business Application of John E. and Mona Loyd regarding 5257 Hadaway Road

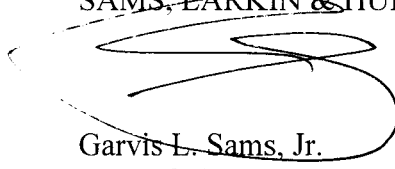
Dear John:

As I have been engaged by and will be representing Mr. and Mrs. John E. Loyd in connection with the above-captioned Other Business Application, enclosed please find a Constitutional Challenge to the zoning conditions imposed by the current zoning district and classification. In that regard, I would appreciate it if you would make note of that fact in the Other Business file and in Zoning Analysis and please update your records, communications and/or electronic transmissions/postings accordingly.

I will appear before the Cobb County Board of Commissioners on August 21, 2018. Additionally, I look forward to working with you in connection with this Application. Please do not hesitate to contact me should you have any questions or require any additional documentation. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Enclosure/Attachment

cc: Mr. John Loyd (via email w/attachment)

TO THE COBB COUNTY BOARD OF COMMISSIONERS
COBB COUNTY, GEORGIA

RECEIVED
JUL 19 2018

CONSTITUTIONAL CHALLENGE

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

COMES NOW, JOHN E. AND MONA LOYD, hereinafter referred to as

the "Applicants", for themselves and/or acting on behalf of the Owners, asserts the following, to wit:

1.

By Application to which this exhibit relates, Applicants have applied for an Other Business Item regarding certain real property lying and being in Cobb County, Georgia, a more particular description and delineation of the subject property hereinafter referred to as the "Property", being set forth in said Other Business Application.

2.

The Application seeks approval of an Other Business Application and for grant of special exception by the governing authority of Cobb County, Georgia to waive certain zoning condition(s) imposed by the current zoning district and classification.

3.

Applicants state that a literal interpretation and enforcement of Ordinance provisions creates an unnecessary and unreasonable hardship with no resulting substantial benefit to the public good.

SAMS, LARKIN, HUFF
& BALLI, LLP
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS ST.
MARIETTA, GA 30064
770.422.7016

4.

The exception and variance sought by the Applicants concerning the Subject Property will not impair the purpose, spirit and intent of the Ordinance and stands to alleviate any and all non-compliance of the foregoing requirements while causing no substantial detriment to the public good.

5.

The current zoning classification and any conditions are unconstitutional in that they deprive the Applicants under and pursuant to Article 1, Section I, Paragraphs I and II of the Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States. This deprivation of property rights without due process violates constitutional prohibitions against the taking of private property without just compensation.

6.

The zoning conditions and stipulations as they presently exist violate the Applicants' right to the unfettered use of the property in that the existing conditions and stipulations do not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said requirements are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicants.

7.

The Cobb County Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with Other Business Applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 19 day of July, 2018.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

GARVIS L. SAMS, JR.
Attorney for Applicants
Ga. Bar No. 623950