

APPLICANT: Harrison Koger c/o Wendy Butler and Associates, LLC

PETITION NO: Z-32

REPRESENTATIVE: Wendy Butler
770-814-4257

HEARING DATE (PC): 07-01-08

HEARING DATE (BOC): 07-15-08

TITLEHOLDER: LN Gordon Road, LLC

PRESENT ZONING: PSC

PROPOSED ZONING: GC

PROPERTY LOCATION: Located on the east side of Mableton Parkway, north of Lynne Circle and on the south side of Gresham Road, east of Mableton Parkway.

PROPOSED USE: Flea Market And Other Commercial Uses

ACCESS TO PROPERTY: Mableton Parkway, Gresham Road

SIZE OF TRACT: 7.98 acres

PHYSICAL CHARACTERISTICS TO SITE: Existing shopping center

DISTRICT: 18

LAND LOT(S): 77, 156

PARCEL(S): 9

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: GC, R-20/ Colonial Bank, Tire Tech, Single-family houses

SOUTH: GC/ Wachovia, Popeyes

EAST: R-20/ Single-family houses, undeveloped

WEST: R-20/ Single-family houses, undeveloped

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

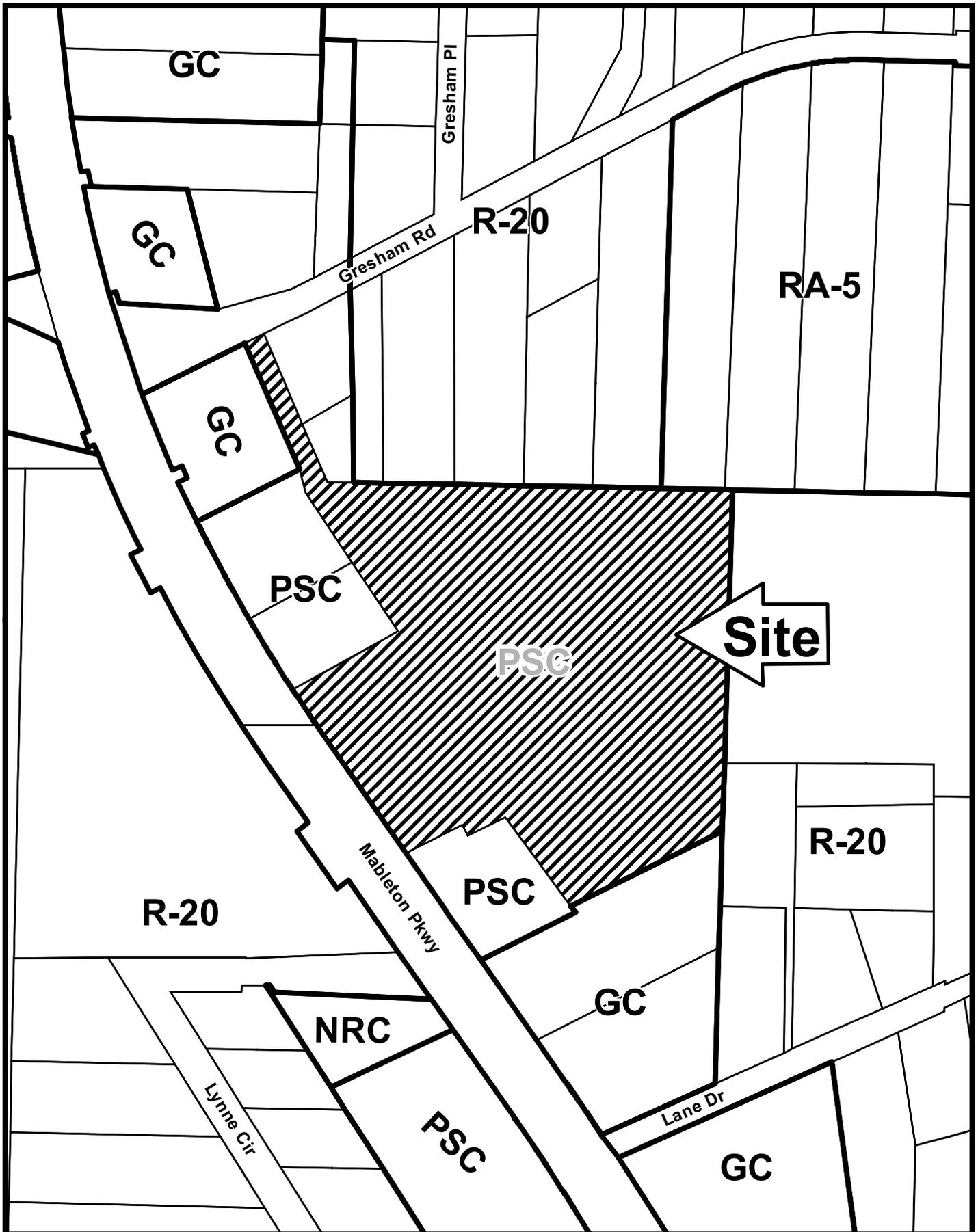
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

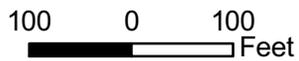
STIPULATIONS:



Z-32



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



 City Boundary
 Zoning Boundary

APPLICANT: Harrison Koger c/o Wendy Butler and Assoc.

PETITION NO.: Z-32

PRESENT ZONING: PSC

PETITION FOR: GC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: 1(existing) **Total Square Footage of Development:** 66,000

F.A.R.: 0.19 **Square Footage/Acre:** 8,270

Parking Spaces Required: 330 **Parking Spaces Provided:** 362

The applicant is requesting the GC zoning district to operate a flea market from this existing shopping center. The existing building is one-story with a brick and stucco front. The flea market will occupy approximately 23,500 square-feet of the building, with the balance of the building being leased to retail, office and/or restaurant uses. The flea market will only be open Thursday through Sunday. The hours on Thursdays and Sundays will be 11:00 a.m. to 6:00 p.m., and on Fridays and Saturdays from 10:00 a.m. to 7:00 p.m. The applicant has submitted a letter of intent which also contains the Zoning Impact Analysis (see Exhibit "A").

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. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE COMMENTS:

Obtain Occupancy Permits.

APPLICANT Harrison Koger c/o Wendy Butler & Assoc, LLC

PETITION NO. Z-032

PRESENT ZONING PSC

PETITION FOR GC

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 12" DI / E side Mableton Pkwy

Additional Comments: Records show address is connected

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: In road

Estimated Waste Generation (in G.P.D.): **A D F** ~0 net **Peak** ~0 net

Treatment Plant: S Cobb

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Records show address is connected

Notes FYI:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

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DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Milam Branch** FLOOD HAZARD INFO: Zone X

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location:

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream drainage system.

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DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit any proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS/SUGGESTIONS

1. This is an existing commercial shopping center with an existing detention pond. There has been a significant amount of debris/junk including tires that have been dumped into the pond. This material must be removed and any additional maintenance performed to return the pond to proper function as a stormwater management facility.

APPLICANT: Harrison Koger c/o Wendy Butler & Assoc.s PETITION NO.: Z-32

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TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Mableton Parkway	19900	Arterial	45 mph	GDOT	100'
Gresham Road	700	Local	25 mph	Cobb County	50'

*Based on 2006 traffic counting data taken by GDOT. (Mableton Parkway)
Based on 2000 traffic counting data taken by Cobb County DOT. (Gresham Road)*

COMMENTS AND OBSERVATIONS

Mableton Parkway is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Gresham Road is classified as a Local and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

As necessitated by this development for egress from Mableton Parkway, a deceleration lane will be required at the main/central access point when site is redeveloped.

GDOT permits will be required for all work that encroaches upon the State right-of-way.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of 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 east side of Mableton Parkway, a minimum of 50' from the roadway centerline.

Recommend a deceleration lane for the centrally located access point along Mableton Parkway when site is redeveloped.

Recommend GDOT permits for all work within State right-of-way.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF RECOMMENDATIONS

Z-32

HARRISON KOGER C/O WENDY BUTLER AND ASSOCIATES, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. Mableton Parkway has seen several new commercial and residential developments in the past few years that have raised the standard of living and property values in the area. The flea market land use has caused enforcement problems for Cobb County at other flea market locations.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. The property has been zoned and used commercially for many years for typical community commercial uses (i.e. retail, office and restaurants). Additionally, this property is within the boundaries of the *Veterans Memorial Enterprise Zone*, which was established to encourage existing companies to expand and create new jobs, and to stimulate economic activity. Introducing this commercial use may inhibit future uses in the shopping center and area. Cobb County has had issues with other flea markets concerning the sale of contraband, live animals, stolen merchandise, and food preparation. The proposal would diminish the positive advances the Mableton area has experienced in quality of life and property values.
- C. 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. It should be noted Cobb DOT is concerned about the number of curb cuts, and has asked for transportation improvements along the property frontage.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with some of the policy and intent of the *Cobb County Comprehensive Plan* (the Plan), which delineates this property to be within a Community Activity Center. However, the Plan contains a range of zoning districts and land use types which may not be appropriate for the property or the area. Additionally, the flea market use must also have a Special Land Use Permit to evaluate detrimental effects on the surrounding area. The CRC zoning district would fit the character of the area better than the older, more intense zoning district of GC.
- E. 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. The area is transitioning to newer residential and commercial developments. Staff is aware of problems that flea markets typically generate, based on experience with other flea markets. These problems would affects quality of life, standards of living and property values. It is Staff's opinion the applicant's proposal does not meet the intent of the *Veteran Memorial Enterprise Zone* in paragraphs B of this recommendation, which has aided the County in improving property in the area. Lastly, the operation of flea markets is subject to state law that requires detailed record keeping by the vendors (O.C.G.A. §10-1-360), of which there is little oversight by the State.

Based on the above analysis, Staff recommends DENIAL.

The recommendations 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.



Main: 770-814-4255

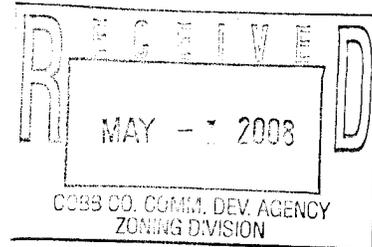
Direct: 770-814-4257

Fax: 770-814-4258

VIA: HAND DELIVERY

April 30, 2008

Mr. Rob Hosack, AICP, Director
Planning and Zoning Division
Cobb County Community Development Department
191 Lawrence Street
Building E
Marietta Georgia



IN RE: Letter of Intent for Applications for Rezoning and a Special Use Permit for 7.98 Acre Property located at 6027 Mableton Parkway, Unincorporated Cobb County, Georgia 30126; Tax I.D. 18015600090 (the "Subject Property") to Allow a Flea Market to be Located in an Existing Shopping Center Complex Currently Known as Gordon Road Village

Dear Hosack;

I am writing on behalf of Mr. Harrison Koger, the proposed operator and Applicant as well as the property owner, LN Gordon Road, LLC to submit the following Letter of Intent and materials required to request that the Subject Property be rezoned from Planned Shopping Center (PSC) to General Commercial (GC) with a Special Land Use Permit. The proposed rezoning and Special Use Permit would allow the currently vacant anchor space in the Gordon Road Village Shopping to be used for a Flea Market use. The proposed use is consistent with the development patterns, surrounding zoning classifications and the current Land use Plan designation of Community Activity Center.

The 66,000 square foot existing square foot Gordon Road Village shopping center is the largest shopping center in the area and is anchored by the 23,500 +/- square foot space which was previously operated as a Fred's Department Store prior to becoming vacant as it stands today. Other operators in the Gordon Road Village Shopping Center include a Coin Laundry, Buffalo Wing and Pizza Company, a dentist office, AllState Insurance Company, an Evangelical Church, boxing gym and Bethel One Voice Outreach Ministry.

The site has high visibility along the moderately traveled 4-lane corridor of Mableton Parkway among a variety of similar uses and a mix of PSC, GC, NRC and O&I



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Zoning classifications. The site is conveniently located within proximity to low to medium density residential development which exists behind each of the commercially zoned properties along Mableton Parkway which are zoned R-20 and RA-5. The proposed use will offer residents and businesses a variety of goods and services at low to moderate prices with the flexibility to forgo commuting to the mall or similar facilities located further away in Marietta or within the Atlanta Metro area. As the anchor tenant and the largest shopping center in the area, the proposed use will encourage the economic viability of the area and offer consumer goods which are not currently available at moderate price points without requiring residences in the area to drive long distances to similar facilities located further away in Marietta.

The proposed use will provide economic activity and mitigate concerns related to public safety which can be associated when business centers remain vacant for extended periods of time. However, the operation of the flea market will have minimal impact on resident's daily commutes due to its limited schedule of operations. The hours of operation will be Thursday (11 a.m. – 6 p.m.), Friday (10 a.m. – 7 p.m.), Saturday (10 a.m. until 7 p.m.) and Sunday (11 a.m. – 6 p.m.).

The following paragraphs will provide a written response and analysis of the Steinberg Criteria serving as a basis to understand the impact of the proposed use which support the requested rezoning to General Commercial (GC) and accompanying Special Use Permit.

(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 is consistent with the adjacent and nearby developments, as well as the zoning and land use classifications along Mableton Parkway and will provide the residents in the area a variety of consumer goods without having to drive longer distances to malls or similar facilities in the region.

(b) Whether the zoning proposal will adversely affect the existing use or usability of the adjacent or nearby property;

The proposed rezoning will not adversely affect the existing use or usability of the adjacent or nearby property. The site of the proposed use has been previously operated as a Winn Dixie then a Fred's Department store. This 23,400 +/- square foot anchor space in what is the largest shopping center in the area has been vacant for nearly a year. The proposed use will offer consumer goods not otherwise offered in the area and encourage the continued viability of this commercial area while mitigating safety concerns



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associated with vacant commercial structure for the nearby residents which it will serve.

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The existing anchor space in the largest retail center in the area has been vacant for over one year. Based on the forgoing, the property owner and its leasing experts have determined that the existing zoning restricts the reasonable economic use of the property and may adversely impact the economic viability of the area.

(d) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities and schools;

The Subject Property has been developed as a large commercial shopping center for many years. In light of the limited hours of operation, the proposed use will not result in excessive or burdensome use of existing streets, transportation facilities or utilities and will only positively impact the school system by providing tax revenues without adding students.

(e) Whether the zoning proposal is in conformity with the policy and intent of the land use plan; and

The proposed use is consistent with the Community Activity Center Land Use designation for this property and the area. The flea market is designed to serve the immediate needs of the neighborhoods and businesses in the area by offering a variety of goods at a low to moderate price range and will assist in maintaining the economic sustainability of this area.

(f) 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.

The closure of the previous commercial retail operators, Winn Dixie and then Fred's Department store in the anchor space of what is the largest shopping center in the area and continued vacancy of this space with no ability to lease it under the current zoning designation provide existing and changing conditions which support the approval of the zoning proposal.



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We look forward to working with the Cobb County Community Development Department, the businesses and residents in the area and the District Commissioner Annette Kesting on the proposed rezoning and Special Use Permit request. Should you have any question, feel free to contact me at the numbers above or on my cell phone at 404-583-2255.

With Best regards, I am

Very Truly,

Wendy S. Butler, Esq.

Encls.

Cc: Lee Najjar, LN Gordon Road LLC, w/encl.
Harrison Koger, Koger Enterprises, w/encl.
Sam Hale, Brown Realty Advisors, w/encl.
Mike Jacobs, Esq. w/encl.