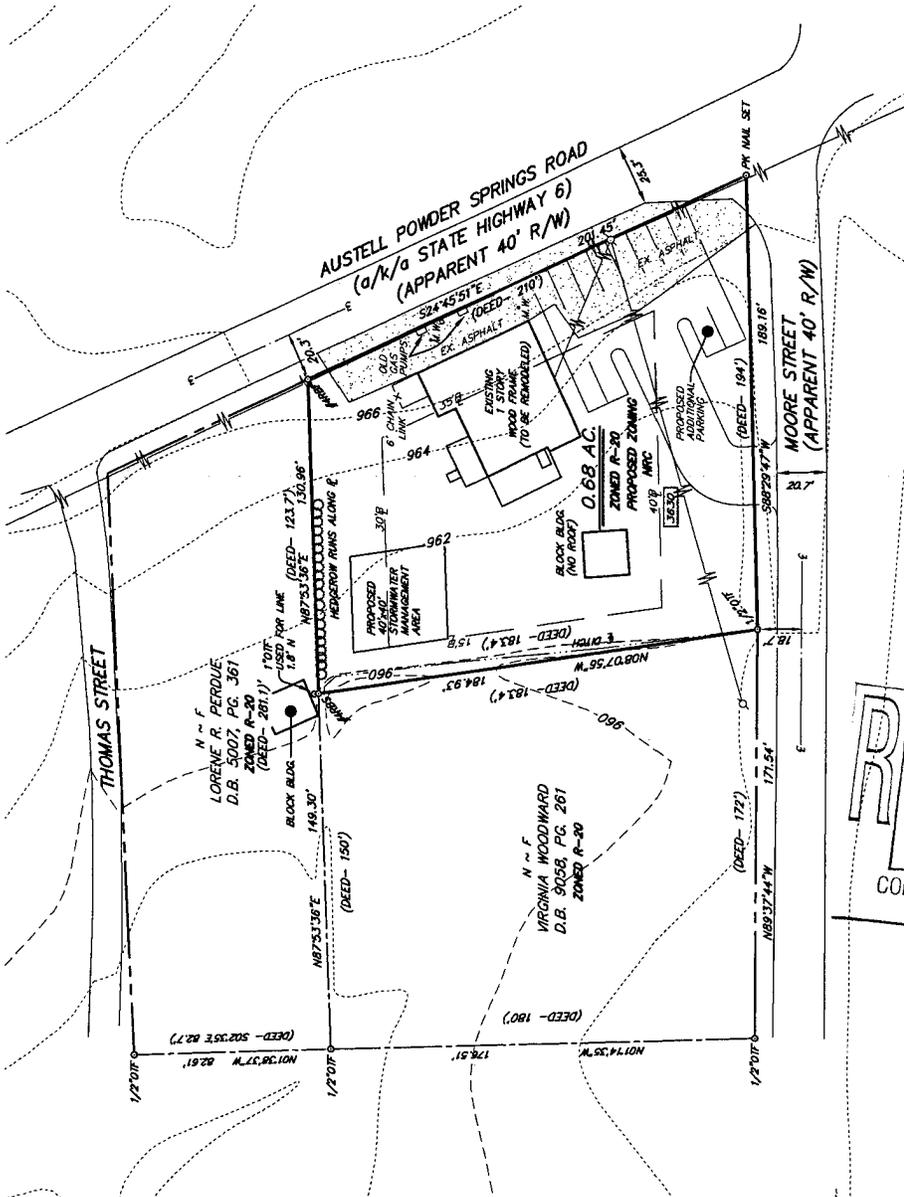




ZONING PLAT NOTES:

- 1.) EXISTING ZONING ~ R-20
- 2.) PROPOSED ZONING ~ MRC
- 3.) TOTAL SITE AREA ~ 0.68 ACRES
- 4.) BOUNDARY SURVEY BY GASKINS
- 5.) NO CEMETARIES, ARCHEOLOGICAL OR ARCHITECTURAL FEATURES ARE APPARENT ON THIS SITE.
- 6.) PROPOSED PARKING SHOWN AS 12 SPACES A/P ZONING REQUIREMENTS.
- 7.) EXISTING HOUSE TO BE REMODELED.



VARIANCE PLAT FOR:

SHAWN & FERDINAND PINNOCK
3630 MOORE STREET

LOCATED IN L.L. 1092
19th DISTRICT, 2nd SECTION
COBB COUNTY, GA.

DATE	: 3-5-08	REVISIONS
SCALE	: 1"=40'	
DRAWN BY	: MAN	
CHECKED BY	: CAF	
FIELD BOOK	: 457	

Gaskins
ENGINEERING • SURVEYING • LAND PLANNING • ENVIRONMENTAL
1266 Powder Springs Rd
Marietta, Georgia 30064
Phone: (770) 424-1188
Fax: (770) 424-1993
www.gaskinsurvey.com



RECORDED
JUN - 5 2008
COBB CO. COMM. DEV. AUTH.
ZONING DIVISION

LEGEND	
P.P.	POWER POLE
L.P.	LIGHT POLE
F.H.	FIRE HYDRANT
M.H.	SANITARY SEWER MANHOLE
W.M.	WATER METER
G.M.	GAS METER
R.B.S.	REINFORCING BAR SET
R.B.F.	REINFORCING BAR FOUND
C.T.F.	CRIMP TOP PIPE FOUND
O.T.F.	OPEN TOP PIPE FOUND
R/W MON.	RIGHT-OF-WAY MONUMENT
X	TYPE OF FENCE
J.B.	JUNCTION BOX
D.I.	DROP INLET / YARD INLET
C.B.	CATCH BASIN
R.C.P.	REINFORCED CONCRETE PIPE
C.M.P.	CORRUGATED METAL PIPE
F.F.E.	FINISHED FLOOR ELEVATION
W.V.	WATER VALVE
TELEPHONE MANHOLE	
OVERHEAD POWER LINES	
H.K.	HEADWALL
P.B.X.	POWERBOX
STREET ADDRESS	
WATER LINE	
---T---	UNDERGROUND TELEPHONE LINE
---	GAS LINE
---	UNDERGROUND ELECTRICAL LINE

SURVEYOR'S NOTES:

- 1.) BOUNDARY LINES ALONG THE RIGHT OF WAY OF MOORE STREET AND AUSTELL POWDER SPRINGS ROAD ARE SHOWN BASED ON MONUMENTS FOUND IN THE FIELD AND ON POSSESSION LIMITS.

THIS PARCEL OF LAND IS NOT IN THE 100 YEAR FLOOD PLAIN AND IS IN ZONE X-1; ACCORDING TO F.E.M.A. (F.L.A.) COMMUNITY NUMBER 130052, MAP NUMBER 13067 C 0260 F, DATED AUGUST 18, 1992.

THE UNDERGROUND UTILITIES (EXCEPT THE LOCATION OF EXISTING DRAINAGE, SEWER AND IRRIGATION UTILITIES AS WELL AS UTILIZING RADIO FREQUENCY TECHNIQUE) THIS TECHNIQUE IS CAPABLE OF LOCATING METALLIC UTILITIES (THROUGH TRACER WIRE) ARE NOT LOCATED. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN-SERVICE OR ABANDONED. THIS TECHNIQUE MAY EXIST ON THIS SITE BUT NOT BE SHOWN AND MAY BE FOUND UPON EXCAVATION. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. INFORMATION REGARDING MATERIAL AND SIZE OF UTILITIES IS BASED ON RECORDS ACQUIRED FROM THE UTILITY OWNERS.

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE MEASUREMENT SYSTEM. THE HORIZONTAL AND VERTICAL ANGLES AND DISTANCES MEASURED IN THIS PLAT HAVE BEEN ADJUSTED USING THE COMPASS RULE. UNLESS OTHERWISE SPECIFIED, ALL MATTERS OF TITLE ARE EXCEPTED.

APPLICANT: Shawn A. Pinnock and Ferdinand Pinnock
678-366-6361

PETITION NO: Z-38
HEARING DATE (PC): 08-05-08

REPRESENTATIVE: Moore Ingram Johnson & Steele, LLP
J. Kevin Moore 770-429-1499

HEARING DATE (BOC): 08-19-08
PRESENT ZONING: R-20

TITLEHOLDER: Shawn A. Pinnock and Ferdinand Pinnock

PROPOSED ZONING: NRC

PROPERTY LOCATION: Located at the northwest intersection of
Austell Powder Springs Road and Moore Street.

PROPOSED USE: Restaurant and Fresh
Food Sales

ACCESS TO PROPERTY: Austell Powder Springs Road and
Moore Street

SIZE OF TRACT: 0.68 acre
DISTRICT: 19

PHYSICAL CHARACTERISTICS TO SITE: Existing house

LAND LOT(S): 1092
PARCEL(S): 20

TAXES: PAID X **DUE** _____
COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/ Single-family house
- SOUTH:** City of Austell/ Norfolk-Southern Intermodal Transfer Station
- EAST:** R-20/ Single-family house ; City of Austell/ Cobb Pawn Shop, Caribbean Food Store
- WEST:** R-20/ Single-family house

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

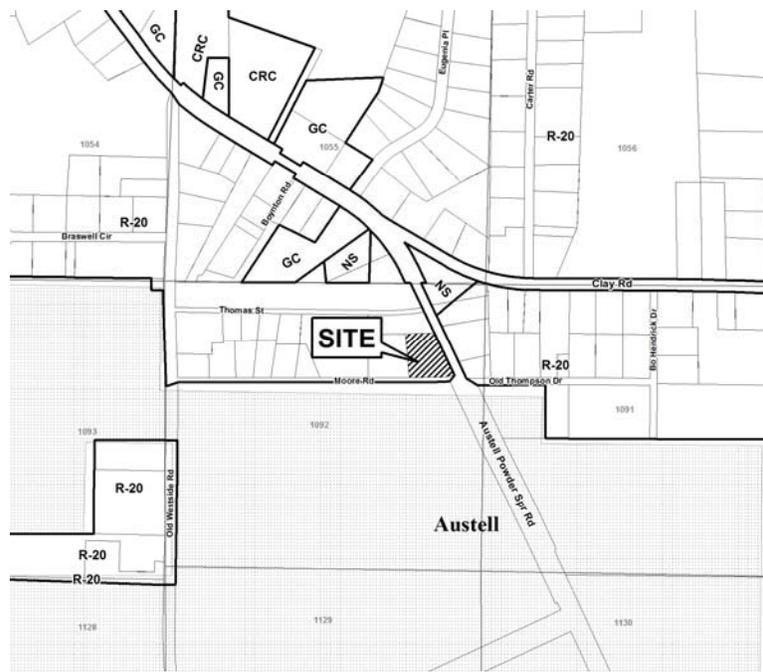
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

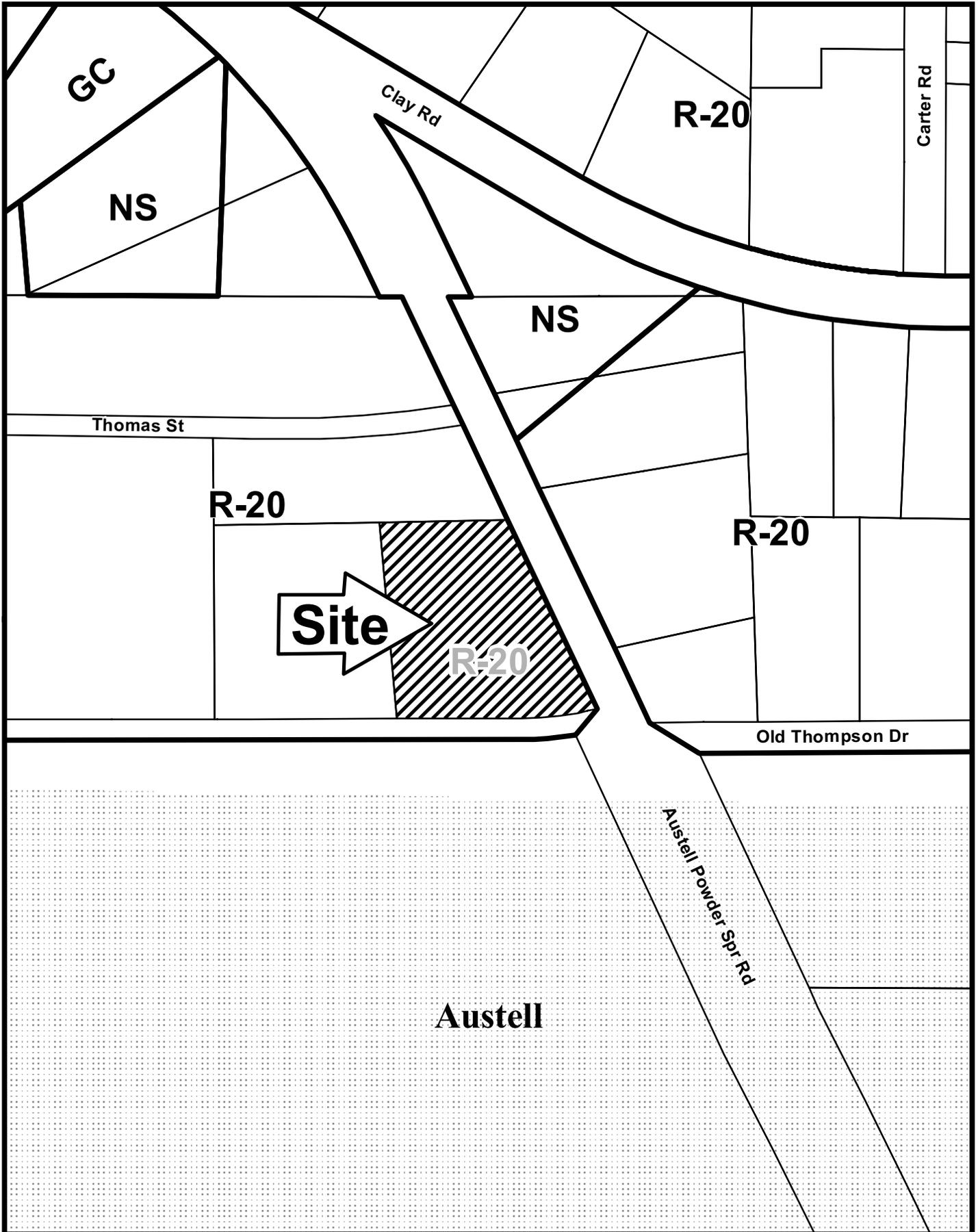
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

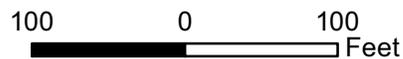
STIPULATIONS:



Z-38



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Shawn A. Pinnock and Ferdinand Pinnock

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: NRC

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: 2,350

F.A.R.: 0.08 Square Footage/Acre: 3,455

Parking Spaces Required: 12 Parking Spaces Provided: 12

The applicant is requesting the NRC zoning district to operate a restaurant and fresh food market from this property. The old house would be renovated with a brick store front, with the rest of the building being covered in siding. The hours of operation would be Monday through Friday, from 7:00 a.m. to 9:00 p.m., Saturday from 8:00 a.m. to 10:00 p.m., and Sunday from 9:00 a.m. to 6:00 p.m. There will be a 20-foot landscape buffer adjacent to all residentially zoned property. The applicant is showing a contemporaneous variance to allow the major side setback to be 17-feet in lieu of 25-feet (existing). The applicant has submitted a Zoning Impact Analysis, which is attached as 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 DEPARTMENT COMMENTS:

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT Shawn Pinnock & Ferdinand Pinnock

PETITION NO. Z-038

PRESENT ZONING R-20

PETITION FOR NRC

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) CITY OF POWDER SPRINGS SERVICE AREA

Additional Comments:

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: CITY OF POWDER SPRINGS SERVICE AREA

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

Treatment Plant:

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:

Grease trap required for restaurant operation if connected to sewer

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.

APPLICANT: Shawn A. & Ferdinand Pinnock

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: NRC

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Powder Springs Creek 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 **receiving system**.

APPLICANT: Shawn A. & Ferdinand Pinnock

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: NRC

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all 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

1. Any remaining underground fuel storage tanks must be removed per Georgia EPD UST guidelines.
2. If the total impervious coverage exceeds 35% then elevated water quality and detention will be required as follows: the First Flush Water Quality Best Management Practice Requirements must be elevated to the 1.5-inch rainfall event and each larger storm discharge controlled not to exceed the allowable discharge of the next lower, more frequent storm event (ie. 5-year storm event released at 2-year rate; 10-year event at 5-year rate; etc. to 100-year event at 50-year rate).
3. The site is drained by a very small ditch that runs along the adjacent residential parcel lines and then across the church property to a 12-inch culvert under Thomas Street. The limited capacity of this receiving system must be accounted for in the allowable design discharges for the proposed stormwater management facility.

APPLICANT: Shawn A. Pinnock & Ferdinand Pinnock

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: NRC

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
Austell Powder Springs Rd	11500	Arterial	45 mph	Cobb County	100'
Moore Street	NA	Local	25 mph	Cobb County	50'

Based on 2007 traffic counting data taken by GDOT.

COMMENTS AND OBSERVATIONS

Austell Powder Springs Road 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.

Moore Street is classified as a Local and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Austell-Powder Springs Road at Clay Road is identified as an intersection improvement project.

Verify that underground store tanks for the gas pumps have been removed.

Access driveway along Moore Street should comply with Cobb County commercial standards.

Install sidewalk, curb and gutter along both road frontages.

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 west side of Austell Powder Springs Road, a minimum of 50' from the roadway centerline, with 10' being donated as part of this rezoning and the additional 20' being donated when site is redeveloped, b) donation of right-of-way on the north side of Moore Street, a minimum of 25' from the roadway centerline, and c) donation of right-of-way on the northwest side of Austell Powder Springs Road and Moore Street intersection, a minimum of a 20' x 20' miter.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed roadway improvements.

Recommend applicant verify the removal of any underground storage tanks associated with the gas pumps.

Recommend installing sidewalk, curb and gutter along both road frontages.

Recommend access driveway along Moore Street comply with Cobb County commercial standards.

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

STAFF RECOMMENDATIONS

Z-38 SHAWN A. PINNOCK AND FERDINAND PINNOCK

- 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. The properties to the east, west and north are used residentially. There is commercially used property in the City of Austell located southeasterly of this property. The property to the south is part of a large privacy berm and buffer installed by Norfolk Southern Railroad.

- 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 character of the area is predominately residential. Staff believes using this outdated structure that is within the future right-of-way of Austell Powder Springs Road would not be beneficial for the area, and would inhibit future improvements.

- 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.

- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.

- 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 applicant's proposal is has a majority of residentially used property surrounding it, with single-family houses. Even though this property is in a Community Activity Center, the character of the area is residential. Staff is concerned that using this old house, within close proximity to the road would inhibit any type of assemblage or redevelopment in the area. There are other parts of the County where this type of scenario has happened, which has stagnated any type of new development.

Based on the above analysis, Staff recommends DENIAL.

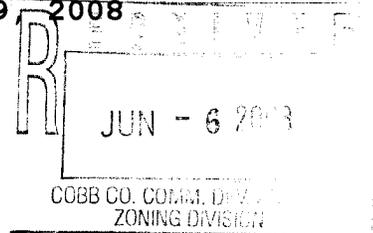
The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

ATTACHMENT TO APPLICATION FOR REZONING

IMPACT ANALYSIS STATEMENT

Application No.: Z-38 (2008)
Hearing Dates: August 5, 2008 and
August 19, 2008

Applicants/
Titleholders: Shawn A. Pinnock and
Ferdinand Pinnock



Analysis of impact of the proposed rezoning with respect to the following:

- (a) This Application for Rezoning requests rezoning of a 0.68 acre tract from the existing zoning category of R-20 to the proposed zoning category of Neighborhood Retail Commercial ("NRC"). The requested category of NRC will permit uses that are more suitable in view of the location and use and development of adjacent and nearby properties. The Subject Property is currently zoned R-20 and is located at the northwesterly intersection of Moore Street and Austell-Powder Springs Road. A number of properties in close proximity to the Subject Property operate as commercial businesses. Also, in recent years, travel along the Austell-Powder Springs Road corridor has increased significantly. Roadway improvements and turning lanes have improved the traffic flow; however, the use of the Subject Property as residential has become less desirable. Applicants propose to upgrade, renovate, and refurbish the existing structure located on the Subject Property to allow for a cultural restaurant and the sale of food, condiments, and fresh produce.
- (b) This zoning proposal should have no adverse effect on the existing use or usability of adjacent or nearby property. The proposed uses should have a minimal, if any, impact on surrounding properties. The rezoning should have a positive effect due to the renovation and refurbishing of the existing structures and improvements and maintenance to

the surrounding property. If approved and developed according to the request, the adjacent and nearby property owners should benefit in higher land values. The county will benefit in increased tax revenue.

- (c) The property as zoned does not have a reasonable economic use.
- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- (e) The zoning proposal is not in conformity with the Land Use Map of Cobb County, Georgia, but is in conformity with the policy and intent of the Land Use Plan. This zoning is in conformity with Cobb County's nodal, step-down zoning method.
- (f) This zoning proposal is consistent with the current conditions affecting the development of this property. The location of the Subject Property along a heavily traveled highway makes it undesirable for use in its existing zoning category. Additionally, the changing uses of surrounding properties as well as development of properties in the general vicinity of the Subject Property have played a major role in the change of the character of the area. The proposed rezoning to the NRC category would allow the Subject Property to be redeveloped and re-vitalized for retail use utilizing the existing structure which would be complementary to the surrounding neighborhoods and the area as a whole.