1. Agenda

   Documents:

   010819RM.PDF

2. Z2020-02 Cole St 104, Fort St 314, 320

   Documents:

   Z2020-02 COLE ST 104, FORT ST 314, 320.PDF

3. V2020-01 Williams Dr 1811

   Documents:

   V2020-01 WILLIAMS DR 1811.PDF

4. Executed Variances

   Documents:

   V2020-01 WILLIAMS DR 1811.PDF

City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Agenda

CITY COUNCIL

R. Steve Tumlin, Mayor
Cheryl Richardson, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Reggie Copeland, Ward 5
Michelle Cooper Kelly, Ward 6
Joseph R. Goldstein, Ward 7

Wednesday, January 8, 2020 | **7:00 PM** | **Council Chamber**

CALL TO ORDER:

INVOCATION:

Council Member Joseph Goldstein, Ward 7

PLEDGE OF ALLEGIANCE:

PROCLAMATIONS:

20200030 **Recognition of Anna Cate McLeod**

Presentation of a Proclamation by Mayor Tumlin and Council Member Michelle Cooper Kelly to Anna Cate McLeod from Marietta High School in Recognition for her International Mission to Uganda.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

SCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

20191161 **Scheduled Appearance**

Scheduled Appearance - Larry Wills

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

PRESENTATIONS:

20200027 **Swearing in the Chief Judge**

Swearing in Judge Roger J. Rozen as Chief Judge of the City of Marietta Municipal Court.

20200028 **Swearing in the Prosecuting Attorney**

Swearing in Ben F. Smith as Prosecuting Attorney of the City of Marietta Municipal Court.

MINUTES:

* **20191178** **Special Meeting - December 11, 2019**

Review and approval of the December 11, 2019 special meeting minutes.

* **20191179** **Regular Meeting - December 11, 2019**

Review and approval of the December 11, 2019 regular meeting minutes.

* **20191180** **Special Meeting - December 17, 2019**

Review and approval of the December 17, 2019 special meeting minutes.

MAYOR'S APPOINTMENTS:

* **20200001** **Mayor Pro tem**

Appointment of Michelle Cooper Kelly as Mayor Pro tem for a term of one year expiring on January 13, 2021.

* **20200003** **Presiding Officer**

Appointment of Cheryl Richardson as Presiding Office/Parliamentarian for a term of one year expiring on January 13, 2021.

* **20200004** **Economic/Community Development Committee**

Appointment of Johnny Walker as Chairman, Grif Chalfant as Vice Chair and Andy Morris to the Economic/Community Development Committee for a term of one year expiring on January 13, 2021.

* **20200005** **Finance/Investments Committee**

Appointment of Joseph R. Goldstein as Chairman, Reggie Copeland as Vice Chair and Michelle Cooper Kelly to the Finance/Investments Committee for a term of one year expiring on January 13, 2021.

* **20200006** **Judicial/Legislative Committee**

Appointment of Andy Morris as Chairman, Cheryl Richardson as Vice Chair and Joseph R. Goldstein to the Judicial/Legislative Committee for a term of one year expiring on January 13, 2021.

* **20200007** **Parks, Recreation & Tourism Committee**

Appointment of Michelle Cooper Kelly as Chairman, Andy Morris as Vice Chair and Reggie Copeland to the Parks, Recreation and Tourism Committee for a term of one year expiring on January 13, 2021.

* **20200008** **Personnel/Insurance Committee**

Appointment of Cheryl Richardson as Chairman, Joseph R. Goldstein as Vice Chair and Grif Chalfant to the Personnel/Insurance Committee for a term of one year expiring on January 13, 2021.

* **20200009** **Public Safety Committee**

Appointment of Reggie Copeland as Chairman, Johnny Walker as Vice Chair and Cheryl Richardson to the Public Safety Committee for a term of one year expiring on January 13, 2021.

* **20200010** **Public Works Committee**

Appointment of Grif Chalfant as Chairman, Michelle Cooper Kelly as Vice Chair and Johnny Walker to the Public Works Committee for a term of one year expiring on January 13, 2021.

CITY COUNCIL APPOINTMENTS:

***** **20200012** **Appointment of Chief Judge**

Nomination of Judge Roger J. Rozen as Chief Judge of the City of Marietta Municipal Court to continue his term through January 13, 2022 and until a successor is appointed incorporating the conflicting charter provisions and the minutes of January 10, 2018 for acknowledgment of term since January 10, 2018 until January 13, 2022.

***** **20200013** **Appointment of Associate Judges**

Appointment of Melinda Taylor, Lawrence "Larry" Burke, Nathan Wade and Joan Bloom as Associate Judges of City of Marietta Municipal Court for a term ending January 13, 2022 or until a successor is appointed.

***** **20200011** **Appointment of Prosecuting Attorney**

Appointment of Ben F. Smith as the Prosecuting Attorney of the Municipal Court for a two-year term expiring January 13, 2022.

***** **20200019** **Appointment of Assistant Prosecuting Attorneys**

Appointment of Latonia Hines, Thomas Griner, Jason Treadaway, Donna Merrell, Robert Donovan and Robert Schnatmeier, Jr., as Assistant Prosecuting Attorneys of the City of Marietta Municipal Court, for a term ending January 13, 2022.

***** **20200014** **Appointment of Municipal Court Clerk**

Appointment of Pam Allen as Municipal Court Clerk with term ending January 13, 2022.

***** **20200016** **Cobb Municipal Association 2020 Delegates**

Appointment of Council Member Grif Chalfant and Council Member Reggie Copeland as voting delegates for the Cobb Municipal Association (CMA) business meetings.

ORDINANCES:

20191100 **Z2020-02 [REZONING] THAD HIGGINS (JEAN E. JOHNSON JR & JOHN S. THOMBLEY)**

Z2020-02 [REZONING] THAD HIGGINS (JEAN E. JOHNSON JR & JOHN S. THOMBLEY) are requesting the rezoning of 0.52 acres located in Land Lot 1216, District 16, Parcels 0180, 0190, & 0200 of the 2nd Section, Cobb County, Georgia, and being known as 104 Cole Street and 314 & 320 Fort Street from OI (Office Institutional) to R-4 (Single Family Residential - 4 units/acre). Ward 5A.

Public Hearing (All Parties are Sworn In)

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Johnny Walker, Chairperson

2. Finance/Investment: Joseph R. Goldstein, Chairperson

3. Judicial/Legislative: G. A. (Andy) Morris, Chairperson

* **20191149** **Revised Detailed Plan - 218 & 234 Roswell Street**

Motion to approve the revised detailed plan requested by Tanalta Real Estate for the construction of two buildings at the corner of Meeting Street and Roswell Street, zoned MXD (Mixed Use Development) and located within the Commercial Corridor Design Overlay - Tier A.

Council Member Goldstein opposed

* **20191150** **Revised Detail Plan: Heritage Ridge**

Motion to approve the revised detail plan for Heritage Ridge to reduce the front, side, and rear setbacks on lots 12, 18, 19, and 26-32, as referenced in the staff memorandum dated December 12, 2019, with an added stipulation that the garages shall be used for the parking and storage of vehicles only and may not be enclosed to provide for additional residential space. A recital of this requirement shall be contained within the covenants to ensure enforcement.

Council Member Goldstein opposed

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson

5. Personnel/Insurance: Cheryl Richardson, Chairperson

6. Public Safety Committee: Reggie Copeland, Chairperson

7. Public Works Committee: Grif Chalfant, Chairperson

* **20191145** **Rigby Street Traffic Calming**

Motion authorizing Public Works to conduct the speed study of the Rigby Street area to determine if traffic calming devices are needed.

* **20191146** **Franklin Drive Utilities**

Motion authorizing a variance from the Underground Utilities ordinance to allow the installation of fiber to be over lashed on existing fiber along Franklin Drive from Cobb Parkway South to Hidden Glen Drive. This motion does not grant a perpetual variance. MCIMetro/Verizon must relocate underground at their expense if other utilities at the location are moved underground.

OTHER BUSINESS:

20191081 **V2020-01 [VARIANCE] WAFFLE HOUSE, INC**

V2020-01 [VARIANCE] WAFFLE HOUSE, INC is requesting variances for properties located in Land Lot 0781, District 16, Parcel 00140, 2nd Section of Cobb County, Marietta, Georgia and being known as **1811 Williams Drive**. Ward 5B.
Variance to reduce the minor side yard setback from fifteen (15) feet to ten (10) feet for only the existing structure [§708.16 (H)]
Variance to allow parking spaces to encroach within the ten (10) foot landscape strip [§712.08 (G-1a.)]
Variance to reduce the rear yard setback from thirty-five (35) feet to twenty-two (22) feet for only the existing structure [§708.16 (H)]
Variance to increase the maximum allowable sign height for a monument sign from ten (10) feet to fifteen (15) feet along a collector road [§714.04 (H)]
Variance to increase maximum allowable sign face area from fifty (50) square feet to ninety (90) square feet along a collector road [§714.04 (H)]
Variance to waive the required sidewalks [§732.07]

Public Hearing (All parties are sworn in)

20200029 **115 S. Fairground Street Easement Acquisition**

Motion authorizing acquisition of a portion of property and easements at 115 S. Fairground Street from Fairground Properties, LLC for the purpose of constructing the Fairground St - South Marietta Parkway to Roswell Street (Fairground B) Project in exchange for $3000.00.

20200031 **600 Powder Springs Road**

Motion to authorize the acquisition of property owned by H&D Investments, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20191175** **Annual Financial Audit Report FY2019**

Motion to receive and file the FY2019 Annual Audit Report.

* **20191205** **BLW Actions of January 6, 2020**

Review and approval of the January 6, 2020 actions and minutes of Marietta Board of Lights and Water.

UNSCHEDULED APPEARANCES:

Each speaker is allotted five (5) minutes.

ADJOURNMENT:

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

REZONING APPLICATION ANALYSIS

ZONING CASE #: Z2020-02 **LEGISTAR: 20191100**

LANDOWNERS: Jean E. Johnson Jr. & John S. Thombley
305 Lawrence St
Suite 200
Marietta, GA 30060

APPLICANT: Thad Higgins
2212 Shenley Park Ln
Duluth, GA 30097

PROPERTY ADDRESS: 104 Cole Street and 314 & 320 Fort Street

PARCEL DESCRIPTION: 16121600180, 16121600190, & 16121600200

AREA: 0.52 acres **COUNCIL WARD: 5A**

EXISTING ZONING: OI (Office Institutional) & R-4 (Single Family Residential – 4units/acre)

REQUEST: R-4 (Single Family Residential – 4units/acre)

FUTURE LAND USE: MDR (Medium Density Residential)

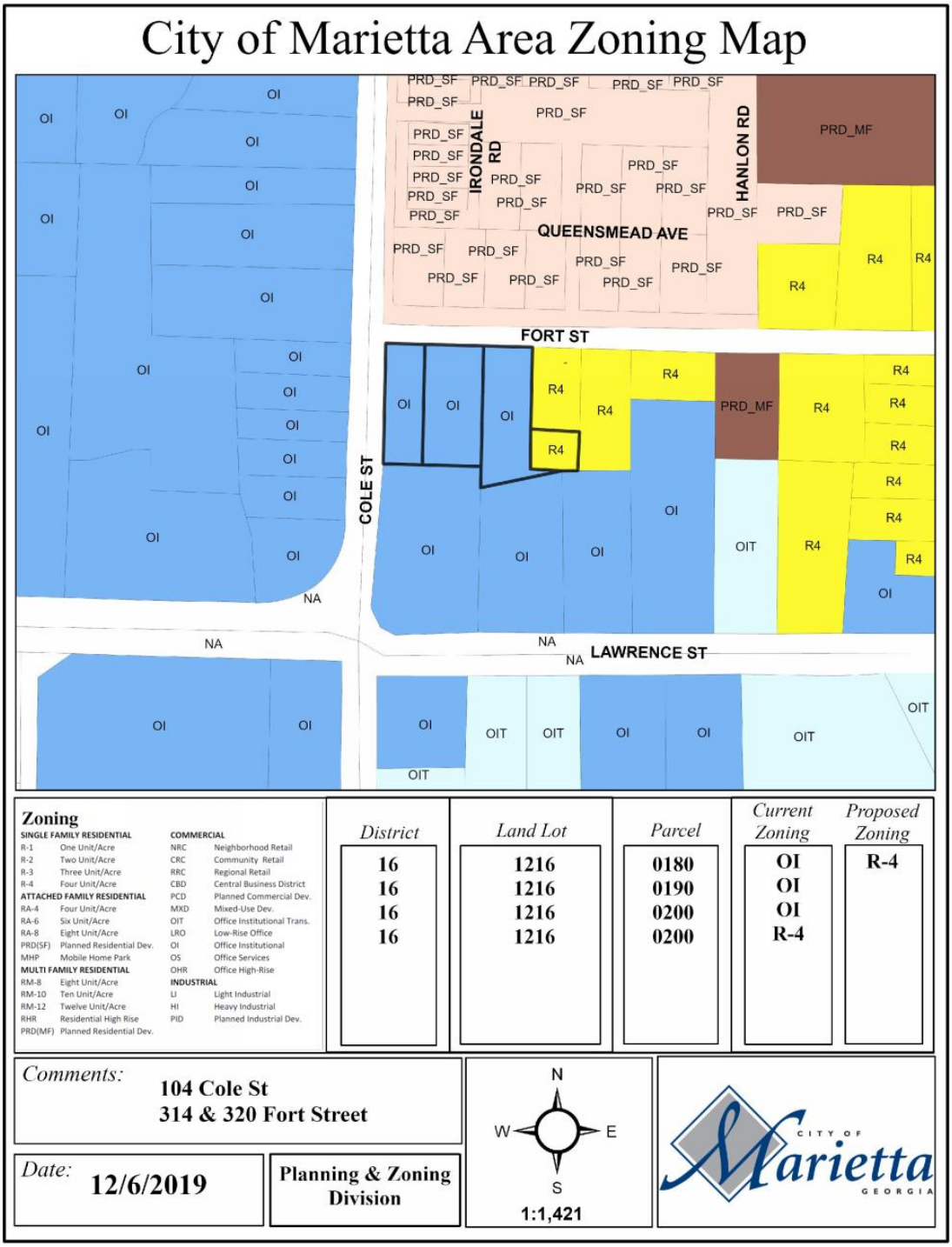
REASON FOR REQUEST: The applicant is requesting the rezoning of the subject properties from OI & R-4 to R-4 in order to develop three single family detached residences according to the Residential Infill Development Overlay District's development standards.

PLANNING COMMISSION HEARING: Tuesday, January 7, 2020 – 6:00 p.m.

CITY COUNCIL HEARING: Wednesday, January 8, 2020 – 7:00 p.m.

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

MAP



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

FLU MAP

City of Marietta Area FLU Map

Future Land Use

LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
NAC	Neighobrhood Activity
CAC	Community Activity Center
RAC	Regional Activity Center
CBD	Central Business District
IM	Industrial - Manufacturing
IW	Industrial - Warehousing
OSC	Open Space/Conservation
PR	Parks & Recreation
CSI	Community Service & Institutional
TCU	Transportation, Communication & Utilities
MXD	Mixed Use

District	*Land Lot*	*Parcel*	*Current FLU*	*Proposed FLU*
16	1216	0180	MDR	n/a
16	1216	0190		
16	1216	0200		
16	1216	0200		

Comments: **104 Cole Street**
314 & 320 Fort Street

Date: **12/6/2019**

Planning & Zoning Division

N W E S

1:1,421

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

PICTURES OF PROPERTY

104 Cole Street & 314 Fort Street

320 Fort Street

Existing sidewalk along Fort Street

Existing sidewalk along Cole Street

STAFF ANALYSIS

Location Compatibility

The applicant, Thad Higgins, is requesting the rezoning of three parcels, 104 Cole Street, 314 Fort Street, and 320 Fort Street, totaling approximately 0.52 acres, to R-4 (Single Family Residential – 4 units/acre). The properties are predominantly zoned OI (Office Institutional); however, the property at 320 Fort Street is zoned both OI and R-4. The surrounding properties to the west and south are zoned OI, east of the property is zoned R-4, and the properties north are zoned PRD-SF (Planned Residential Development – Single Family). This rezoning would allow the property lines to be reconfigured for the construction of three (3) single family detached residential units under the Residential Infill Development Overlay District's (Infill Overlay) development standards.

Use Potential and Impacts

The subject properties are located within the City's Infill Overlay District, which was implemented to encourage residential development in areas with existing infrastructure, facilities, and public services. Although the proposed zoning would be R-4, the typical development standards associated with R-4 would not be applied. The Infill Overlay promotes redevelopment and growth by allowing an increase in density up to eight (8) units per acre. Other development standards, such as setbacks and lot size, are reduced to allow more flexibility to build within the city center. For properties within 100 feet of a planned development, the Infill Ordinance allows a greater reduction in minimum lot size and setbacks. If rezoned, the proximity of the subject property to the Quad at Meeting Park would allow minimum lot sizes of 4,500 square feet with building setbacks of ten (10) feet on all sides.

The three resulting parcels would range in area from 4,645 square feet to 9,196 square feet. Each home would be two stories, approximately 2,500 square feet in area, and have front loaded garages with access from Fort Street. Overall, three homes on 0.445 acres (after right of way donation) yields a density of 6.74 units/acre. The density of the Quad at Meeting Park is 12 units/acre.

The Infill Ordinance also contains architectural design standards to ensure development is appealing and compatible with general housing trends. Architecturally, the homes must incorporate quality building materials, optimize privacy with strategic placement, and orient the building to provide direct and safe access to the street. In addition, they must achieve a minimum of five (5) out of the ten (10) design elements from the provided list in the ordinance. Although the applicant has not provided any architectural renderings, the letter provided by the applicant states the homes will be traditional or craftsman style with materials consisting of cementitious siding or shake, brick or stone masonry, board and batten, and combinations thereof. If the zoning is approved, staff would require architectural elevations prior to approval of an exemption plat to subdivide the lots.

The Future Land Use of the designated area is classified as MDR (Medium Density Residential). The purpose of the MDR category is to provide for residential areas with densities ranging from five (5) to eight (8) dwelling units per acre, including single-family detached housing, clustered housing, and/or townhomes. As a result, the proposed rezoning would be supported by the City's Comprehensive Plan.

Environmental Impacts

The property is currently vacant and undeveloped except for some asphalt paving. There is no indication of any streams, wetlands, or endangered species on the property.

Economic Functionality

The subject property has been vacant since the 1960s and is a desirable area for residences. The small lot size makes it more suitable for living rather than workspace. Therefore, the property does not have reasonable economic use as it is currently zoned.

Infrastructure

There is a narrow (3-4' wide) sidewalk along both the Cole Street and Fort Street frontages. The Infill Ordinance requires the provision of a 5-foot-wide sidewalk or the donation of right of way for future construction. The applicant indicates the donation of 2,941 square feet of right of way along Fort Street and Cole Street for sidewalks. However, the Public Works Engineers have recommended that the developer should provide the following:

- Widen the roadway to the greater of 12' from centerline to outside back of curb or to 20' from opposite face of curb, add a 2-foot grass strip, and increase sidewalk width to 5'.
- Increase edge of pavement radius at the intersection of Cole and Fort Streets to 25'.
- Construct ADA ramp for the pedestrian crossing over Fort Street at Cole Street.
- Remove existing retaining wall along Fort Street.

The addition of three (3) new single-family homes should not pose any adverse impacts to available water, sewer or other public infrastructure in the area. This location has access to both water and sanitary sewer infrastructure.

The serving elementary school would be Westside Elementary – which currently has exceeded their capacity.

STAFF ANALYSIS CONTINUED

Overhead Electrical/Utilities

There are overhead utilities surrounding the subject properties; however, there is a safe distance between the proposed buildings and should not lead to any issues or conflict.

History of Property

The subject properties were rezoned in 1987 (Z8713) from Multi-Family Planned Development to OI with the intent to build an office building. The following conditions were incorporated into the rezoning;

- Dedication of land to increase the radius to 30 feet with space for a sidewalk at the corner of Cole and Fort Street.
- Seven (7) feet of additional right-way for future widening of Cole Street.

Other Issues

An exemption plat would be required in order to properly move the property lines. Elevations will be required at that time to determine compliance with the architectural standards under the Infill Overlay district.

There is a fire escape attached to the exterior of the office building on the adjoining parcel to the south at 305 Lawrence Street. This exterior stairwell crosses over the property line onto the subject property. To correct this issue, the 294 square feet shown on the southern end of 314 Fort Street would need to be excluded from the rezoning and combined with the adjacent parcel to south.

The Fire Department has stated that the residences on the lots would require sprinklers as required by City Ordinance 2-6-140.

Marietta GEORGIA

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

ANALYSIS & CONCLUSION

Thad Higgins is requesting the rezoning of 104 Cole Street, 314 Fort Street, and 320 Fort Street to R-4 for the construction of three (3) single family homes under the Residential Infill Development Overlay District's (Infill Overlay) development standards. The majority of the property is zoned OI; however, the property at 320 Fort Street is zoned both OI and R-4. The surrounding properties are zoned OI, R-4, and PRD-SF.

The subject properties are located within the City's Infill Overlay District, which was implemented to encourage residential development in areas with existing infrastructure by allowing an increase in density up to eight (8) units per acre. Other development standards, such as setbacks and lot size, are reduced to allow more flexibility to build within the city center. Under this ordinance, properties within 100 feet of a planned development would be allowed a greater reduction in minimum lot size and setbacks. If rezoned, the proximity of the subject property to the Quad at Meeting Park would allow minimum lot sizes of 4,500 square feet with building setbacks of ten (10) feet on all sides.

The Infill Ordinance also contains architectural design standards where homes must include a minimum of five (5) out of ten (10) design elements, such as gables, covered porches, and shutters. The applicant has not provided any architectural renderings but has stated that the homes will be traditional or craftsman style with materials consisting of cementitious siding or shake, brick or stone masonry, board and batten, and combinations thereof.

The three resulting parcels would range in area from 4,645 sq. ft. to 9,196 sq. ft. The homes would be two stories, approximately 2,500 sq. ft. in area, and have front loaded garages with access from Fort Street. Overall, three homes on 0.445 acres (after right of way donation) would yield a density of 6.74 units/acre. The Public Works Engineers have recommended the following stipulations:

1. Widen the roadway to the greater of 12' from centerline to outside back of curb or to 20' from opposite face of curb, add a 2-foot grass strip, and increase sidewalk width to 5'.
2. Increase edge of pavement radius at the intersection of Cole and Fort Streets to 25'.
3. Construct ADA ramp for the pedestrian crossing over Fort Street at Cole Street.
4. Remove existing retaining wall along Fort Street.

The Future Land Use of the designated area is classified as MDR, which is intended for residential areas with densities ranging from five (5) to eight (8) dwelling units per acre. As a result, the proposed rezoning would be supported by the City's Comprehensive Plan.

Prepared by: Jasi Shut

Approved by: Rusty Roth

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

DATA APPENDIX

CITY OF MARIETTA - WATER

Is a water line adjacent to the property? _____

If not, how far is the closest water line? _____

Size of the water line? _____

Capacity of the water line? _____

Approximate water usage by proposed use? _____

CITY OF MARIETTA - WASTEWATER

Is a sewer line adjacent to the property? _____

If not, how far is the closest sewer line? _____

Size of the sewer line? _____

Capacity of the sewer line? _____

Estimated waste generated by proposed development? A.D.F _____ Peak _____

Treatment Plant Name? _____

Treatment Plant Capacity? _____

Future Plant Availability? _____

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

DATA APPENDIX CONTINUED

DRAINAGE AND ENVIRONMENTAL CONCERNS

Does flood plain exist on the property:	No
What percentage of the property is in the flood plain?	N/A
What is the drainage basin for the property?	Sope Creek
Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency?	No
If so, is the use compatible with the possible presence of wetlands?	No
Do stream bank buffers exist on the parcel?	No
Are there other topographical concerns on the parcel?	No
Are there storm water issues related to the application?	No
Potential presence of endangered species in the area?	N/A

- Full site development required.

TRANSPORTATION

What is the road affected by the proposed change?	Cole and Fort Streets
What is the classification of the road?	Local (both)
What is the traffic count for the road?	N/A
Estimated # of trips generated by the proposed development?	Daily 29 AM 2 PM 3
Estimated # of pass-by cars entering proposed development?	0
Do sidewalks exist in the area?	Yes
Transportation improvements in the area?	No
If yes, what are they?	na

Additional Comments:

- Recommend stipulation requiring the developer to construct similar improvements to sidewalks along Cole and Fort Streets that were implemented as part of the adjacent development to the north. Specifically, widen the roadway to the greater of 12 feet from centerline to outside back of curb or to 20 feet from opposite face of curb, add a 2-foot grass strip, and increase sidewalk width to 5 feet.

- Recommend stipulation requiring the developer to increase the edge of pavement radius at the intersection of Cole and Fort Streets to 25'.
- Recommend stipulation requiring the developer to construct an ADA ramp for the pedestrian crossing over Fort Street at Cole Street.
- Recommend stipulation requiring the developer to remove the existing retaining wall along Fort Street

EMERGENCY SERVICES

Nearest city or county fire station from the development?	51
Distance of the nearest station?	0.4 miles
Most likely station for 1st response?	51
Service burdens at the nearest city fire station (under, at, or above capacity)?	Under

Comments:

If approved the residences on the lots will more than likely be required to be equipped with automatic fire sprinklers, as required by City Ordinance 2-6-140.

MARIETTA POWER - ELECTRICAL

Does Marietta Power serve this site? Yes_____ No____x_____

If not, can this site be served? Yes___x_____ No_____

What special conditions would be involved in serving this site?

Additional comments:

DATA APPENDIX CONTINUED

MARIETTA CITY SCHOOLS

Marietta City Schools Impact Assessment:

Elementary School System Servicing Development:	**West Side Elementary**
Middle School Servicing Development:	**Marietta Middle School**
High School Servicing Development:	**Marietta High School**
Capacity at Elementary School:	**500**
Capacity at Middle School:	**1,350**
Capacity at Marietta Sixth Grade Academy:	**775**
Capacity at High School:	**2,150**
Current enrollment of Elementary School:	**530**
Current enrollment of Middle School:	**1,349**
Current enrollment of High School:	**2,395**
Number of students generated by present development:	**0**
Number of students projected from the proposed development:	
New schools pending to serve this area:	**0**
Comments:	

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Marietta GEORGIA

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Phone (770) 794-5440

APPLICATION FOR REZONING

(OWNER/APPLICANT OR REPRESENTATIVE MUST BE PRESENT AT ALL PUBLIC HEARINGS)
(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: 22020-02 **Legistar #:** 2019 1100 **PZ #:** 19-515

Planning Commission Hearing: 1-7-20 **City Council Hearing:** 1-8-20

Owner's Name JEAN E. JOHNSON, JR AND JOHN S. THOMBLEY

EMAIL Address: JJOHNSON@JEJPC.COM

Mailing Address 305 LAWRENCE ST, SUITE 200 MARIETTA, GA Zip Code: 30060 Telephone Number 770.427.8466

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant: THAD HIGGINS

EMAIL Address: THADHIGGINS@GMAIL.COM

Mailing Address 2212 SHENLEY PARK LN DULUTH, GA Zip Code: 30097

Telephone Number 810.459.9755 Email Address:

Address of property to be rezoned: 104 COLE ST, 314 & 320 FORT ST

Land Lot (s) 1216 District 16TH Parcel 180, 190, 200 Acreage 0.52 .45 Ward 5A Future Land Use: MDR

Present Zoning Classification: O-I, ~~R-4~~ Proposed Zoning Classification: R-4, RESIDENTIAL INFILL OVERLAY DISTRICT

REQUIRED INFORMATION

Applicant must submit the following information by **4:00 p.m.** on or before the application deadline. Failure to submit any item, or any additional information that might be requested, on or before the deadline will result in the application being held until the next scheduled meeting of the Planning Commission.

1. **The original application must be submitted with ALL ORIGINAL SIGNATURES - Copies of the application or signature(s) will NOT be accepted. ALL rezoning submittals must include proposed plans, supplementary material, etc. in Adobe Acrobat on computer disk.**
2. Legal Description. **Legal description must be in a WORD DOCUMENT.**
3. Application fee ($500)
4. Copy of the deed that reflects the current owner(s) of the property.
5. Copy of current tax bill showing payment or a certification from the City of Marietta Tax Office stating that taxes have been paid.
6. Site plan, plat or survey prepared by an architect, engineer (P.E. or Civil Engineer), Landscape Architect or Land Surveyor whose state registration is current and valid, and whose seal shall be affixed to the site plan/plat/survey.

   Copies Required: One (1) - (8 ½" x 11") -or- (11" x 17") drawn to scale. Optional Additional Plat size: (24"x 36").
   If providing (24"x 36") then **5** copies REQUIRED.
   The following information must be included:
   - Specific use or uses proposed for the site
   - Acreage, bearing and distances, other dimensions, and location of the tract(s)
   - Locations, sizes and setbacks of proposed structures, including the number of stories and total floor area
   - Detention/retention areas, and utility easements
   - Public or private street(s) - right of way and roadway widths, approximate grades
   - Location and size of parking area with proposed ingress and egress
   - Specific types and dimensions of protective measures, such as buffers
   - Landscaping
   - Wetlands, stream buffers, and 100 year floodplain
7. A detailed written description of the proposed development/project must be submitted with the application.

CAMPAIGN CONTRIBUTIONS

The Owner **and** Applicant herein certify that he/she ☐has ☑has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Planning Commission within the two (2) years preceding the filing of the this application.

Signature of Owner

Signature of Applicant

Jean E. Johnson Jr.
Print Name

THAD HIGGINS
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she ☐has ☐has not a financial interest in the property which is ten percent (10%) or more.

THAD HIGGINS
Print Name

Signature of Applicant

OWNER/APPLICANT CERTIFICATION

- The Owner **or** Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.

Signature

Jean E Johnson Jr.
Please Print

305 Lawrence St Marietta Ga 30060
Address

11/25/19
Date

Signed, sealed and delivered in the presence of:

My Commission Expires: 12-1-20

MARILYN CHRISTIAN
MY COMMISSION EXPIRES
NOTARY
PUBLIC
DECEMBER 01, 2020
COBB COUNTY, GEORGIA

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

CAMPAIGN CONTRIBUTIONS

The Owner **and** Applicant herein certify that he/she ☐has ☒has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Planning Commission within the two (2) years preceding the filing of the this application.

Signature of Owner

Signature of Applicant

JOHN S THUMBLY

Print Name

Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she ☐has ☐has not a financial interest in the property which is ten percent (10%) or more.

Print Name

Signature of Applicant

OWNER/APPLICANT CERTIFICATION

- The Owner **or** Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner or Applicant hereby gives permission to enter on the property for inspection during the time application is pending.

Signature

JOHN S THUMBLY

Please Print

2346 SAINT DAVIDS SQ KENNESAW GA 30152

Address

11-25-19

Date

Signed, sealed and delivered in the presence of:

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COBB COUNTY, GEORGIA

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Fort Street Rezoning Description

The Subject Property consists of 3 tracts, a total of 0.52 acres, more or less, and is located on the southerly side of Fort Street, easterly of Cole Street, being more particularly known as 104 Cole Street, 314 Fort Street and 320 Fort Street, Marietta, Georgia. Property is located within the City of Marietta. The Rezoning Application seeks approval of a request to rezone the Subject Property from the present O-I and R-4 zoning classification to the R-4 Residential Infill Overlay District for the development of three detached residences.

The Subject Property is undeveloped, except for one single-family dwelling that was demolished and removed from the property. Applicant proposes the construction of 3 detached, single-family residences. All residences shall be traditional or Craftsman style architecture and design, with the exteriors consisting of cementitious siding or shake, brick or stone masonry, board and batten, and combinations thereof.

TO: **Marietta Daily Journal**

FROM: **City of Marietta**

RUN AD DATE: **December 20, 2019**

CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS and VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held on the following by the Planning Commission on **Tuesday, January 7th, 2020, 6:00 P.M.,** City Hall, for a recommendation to the City Council at their meeting on **Wednesday, January 8th, 2020, 7:00 p.m.,** City Hall, for a final decision to be made.

Z2020-02 [REZONING] THAD HIGGINS (JEAN E. JOHNSON JR & JOHN S. THOMBLEY) are requesting the rezoning of 0.52 acres located in Land Lot 1216, District 16, Parcels 0180, 0190, & 0200 of the 2nd Section, Cobb County, Georgia, and being known as 104 Cole Street and 314 & 320 Fort Street from OI (Office Institutional) to R-4 (Single Family Residential – 4 units/acre). Ward 5A.

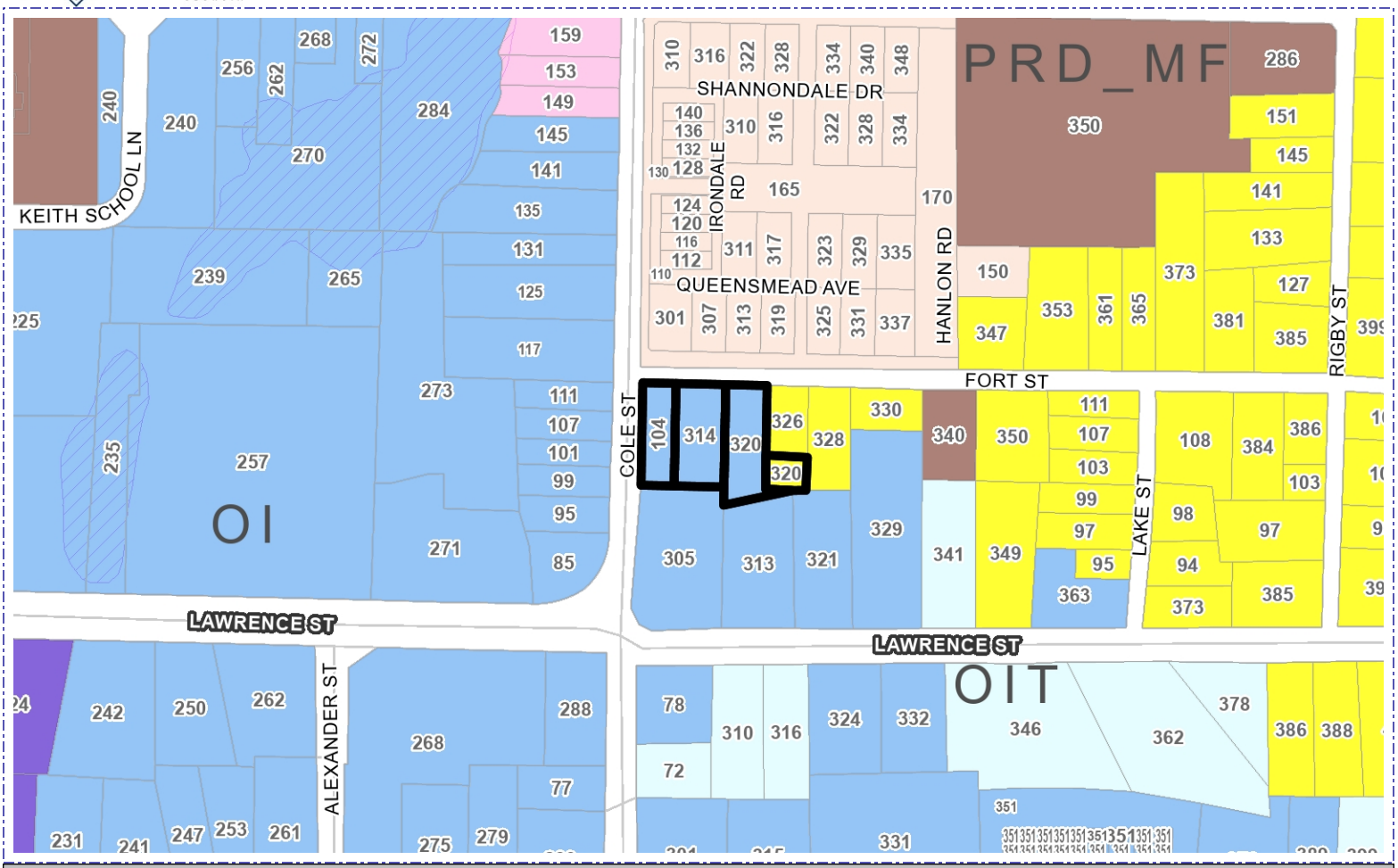
A description and plat of the property sought for the rezoning, special land use permit, and variances are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Rezoning



Address	Parcel Number	Acreage	Ward	Zoning	FLU
320 FORT ST	16121600200	0.046	5A	R4	MDR
314 FORT ST	16121600190	0.169	5A	OI	MDR
104 COLE ST	16121600180	0.113	5A	OI	MDR
320 FORT ST	16121600200	0.163	5A	OI	MDR

Property Owner: Jean E. Johnson, Jr. & John S. Thombley

Applicant: Thad Higgins

Proposed Zoning: OI to R4

Agent:

Proposed Use:

Planning Commission Date: 01/07/2020

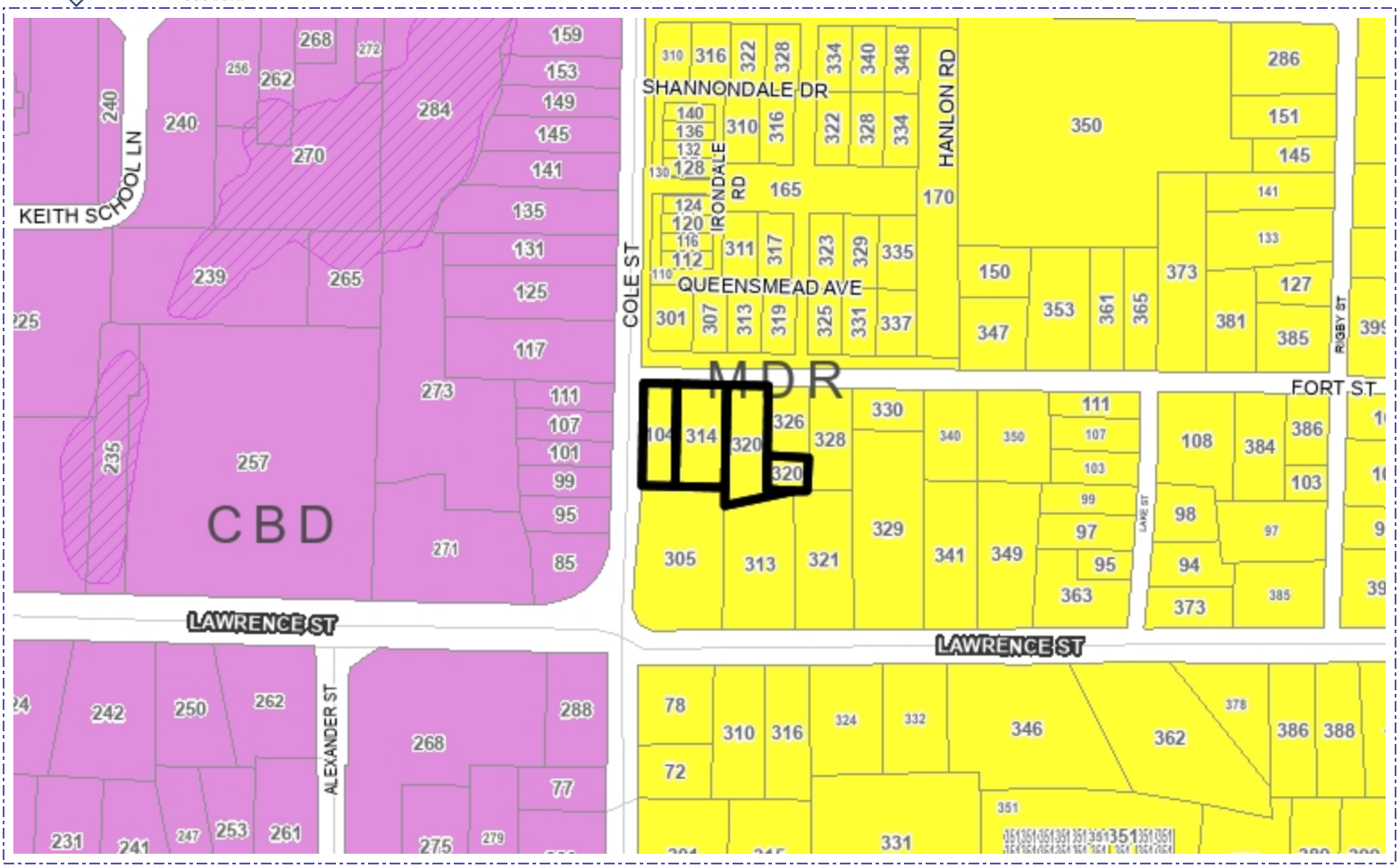
City Council Hearing Date: 01/08/2020 Case Number: Z2020-02

City of Marietta Planning & Zoning

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Moble Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

Future Land Use



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320 FORT ST	16121600200	0.163	5A	OI	MDR

Planning Commission Hearing Date: 01/07/2020

City Council Hearing Date: 01/08/2020

Future Land Use: MDR

Case Number:

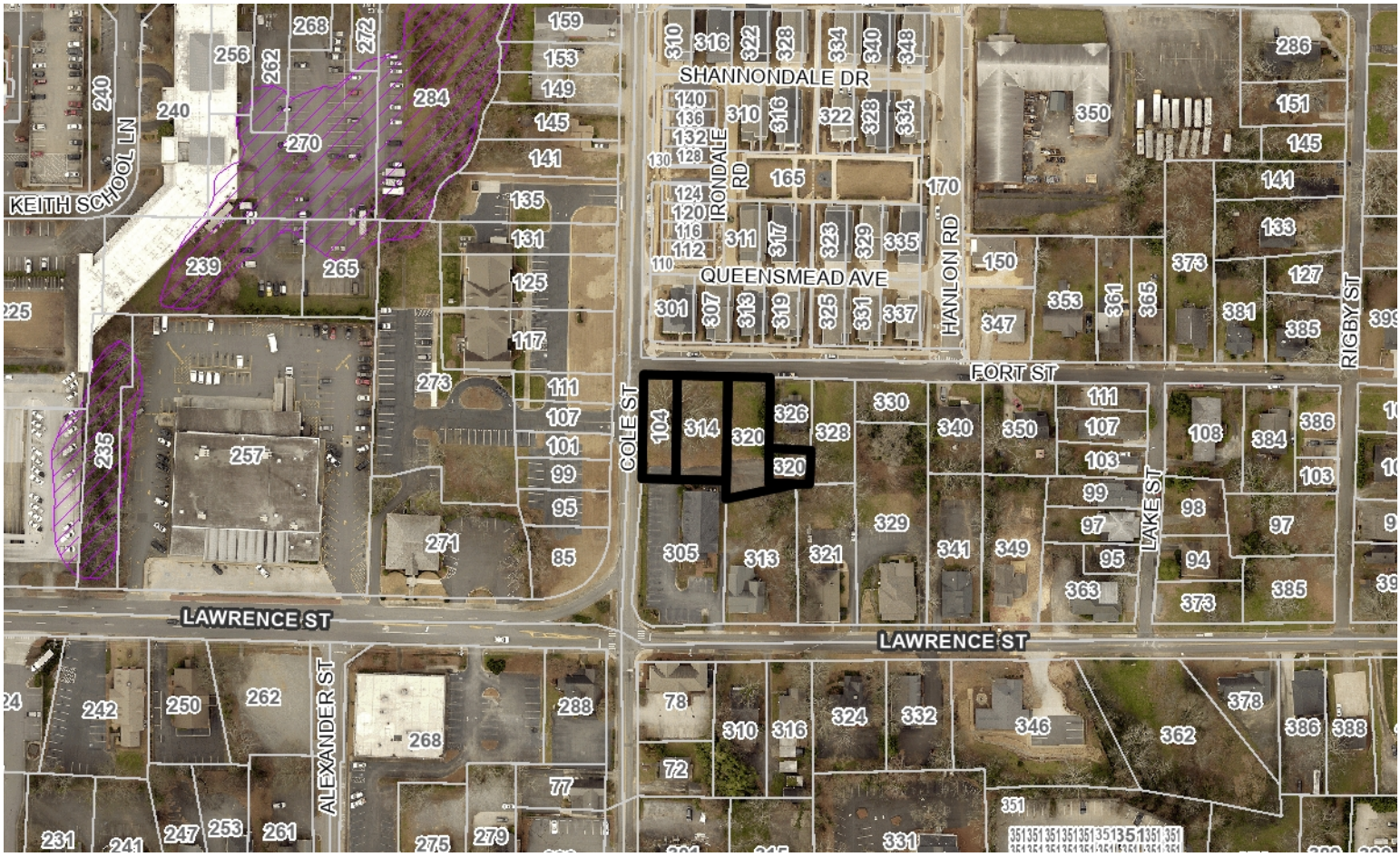
Comments:

City of Marietta Planning & Zoning

Future Land Use Symbols

- Railroads
- City Limits
- Cobb County Pockets
- RAC - Regional Activity Center
- CAC - Community Activity Center
- NAC - Neighborhood Activity Center
- CBD - Central Business District
- MXD - Mixed Use Development
- CSI - Community Service and Institutional
- HDR - High Density Residential
- MDR - Medium Density Residential
- LDR - Low Density Residential
- OSC - Open Space / Conservation
- PR - Parks / Recreation
- IW - Industrial Warehousing
- IM - Industrial Manufacturing
- TCU - Transportation and Utilities

Aerial Map



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320 FORT ST	16121600200	0.163	5A	OI	MDR

Property Owner: Jean E. Johnson, Jr. & John S. Thombley

Applicant: Thad Higgins

City Council Hearing Date: 01/08/2020

Planning Commission Hearing Date: 01/07/2020

BZA Hearing Date: Case Number: Z2020-02

Comments:

City of Marietta Planning & Zoning

Legend

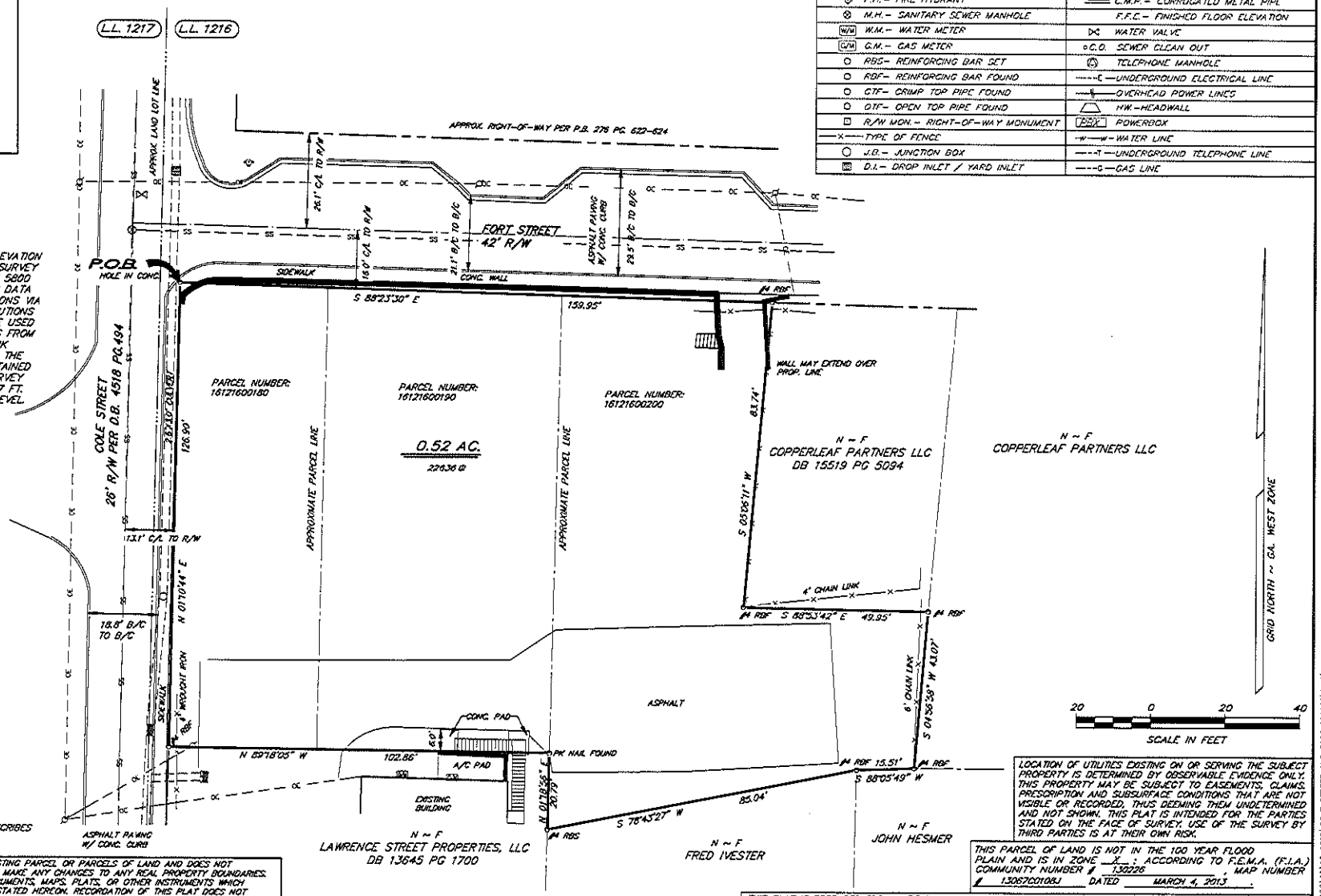
- Railroads
- City Limits
- Cobb County Pockets

CLERK OF THE SUPERIOR COURT
RECORDING INFORMATION

GPS NOTES:

1.) HORIZONTAL DATUM IS NAD 83.
VERTICAL DATUM IS NAVD 88.

2.) THE NORTHING, EASTING, AND ELEVATION OF THE STARTING POINTS FOR THIS SURVEY WERE OBTAINED UTILIZING A TRIMBLE 5800 GPS RECEIVER WITH A TRIMBLE TSC2 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A CELL PHONE FROM THE EGPS SOLUTIONS REAL TIME NETWORK. THE TECHNIQUE USED WAS RTK CORRECTED MEASUREMENTS FROM THE TRIMBLE VRS REAL TIME NETWORK OPERATED BY EGPS SOLUTIONS, INC. THE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WERE 0.04 FT. HORIZONTAL AND 0.07 FT. VERTICAL AT THE 95% CONFIDENCE LEVEL.



NOTE: TAX MAPS SHOW PROPERTY AS THREE PARCELS. HOWEVER, THE RECORD DESCRIPTION IN D.B. 4518, PG. 494 DESCRIBES ONE PARCEL AS SHOWN.

LOCATION OF UTILITIES EXISTING ON OR SERVING THE SUBJECT PROPERTY IS DETERMINED BY OBSERVABLE EVIDENCE ONLY. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, CLAIMS, PRESCRIPTION AND SUBSURFACE CONDITIONS THAT ARE NOT VISIBLE OR RECORDED, THUS DEEMING THEM UNDETERMINED AND NOT SHOWN. THIS PLAT IS INTENDED FOR THE PARTIES STATED ON THE FACE OF SURVEY. USE OF THE SURVEY BY THIRD PARTIES IS AT THEIR OWN RISK.

THIS PARCEL OF LAND IS NOT IN THE 100 YEAR FLOOD PLAIN AND IS IN ZONE X ; ACCORDING TO F.E.M.A. (F.I.A.) COMMUNITY NUMBER # 130226 , MAP NUMBER # 13067C0108J DATED MARCH 4, 2013 .

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE METER ; LINEAR PRECISION OF TRAVERSE : 1/46,118' ; ANGULAR ERROR: 04" PER POINT. THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE. LINEAR PRECISION OF THIS PLAT: 1/419,211' . MATTERS OF TITLE ARE EXCEPTED.

THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

GEORGIA REGISTERED 3215 LAND SURVEYOR JASON A. HOPKINS

10-16-19

JASON A. HOPKINS, RLS
GA RLS NO. 3215
EMAIL: JHOPKINS@GSCSURVEY

SURVEYOR REFERENCES:
D.B. 4518 PG.494

CURRENT OWNER:
JEAN E. JOHNSON JR.

REVISIONS

Gaskins

ENGINEERING•SURVEYING•PLANNING/CONSULTING•CONSTRUCTION MGMT
www.gscsurvey.com LSF# 789

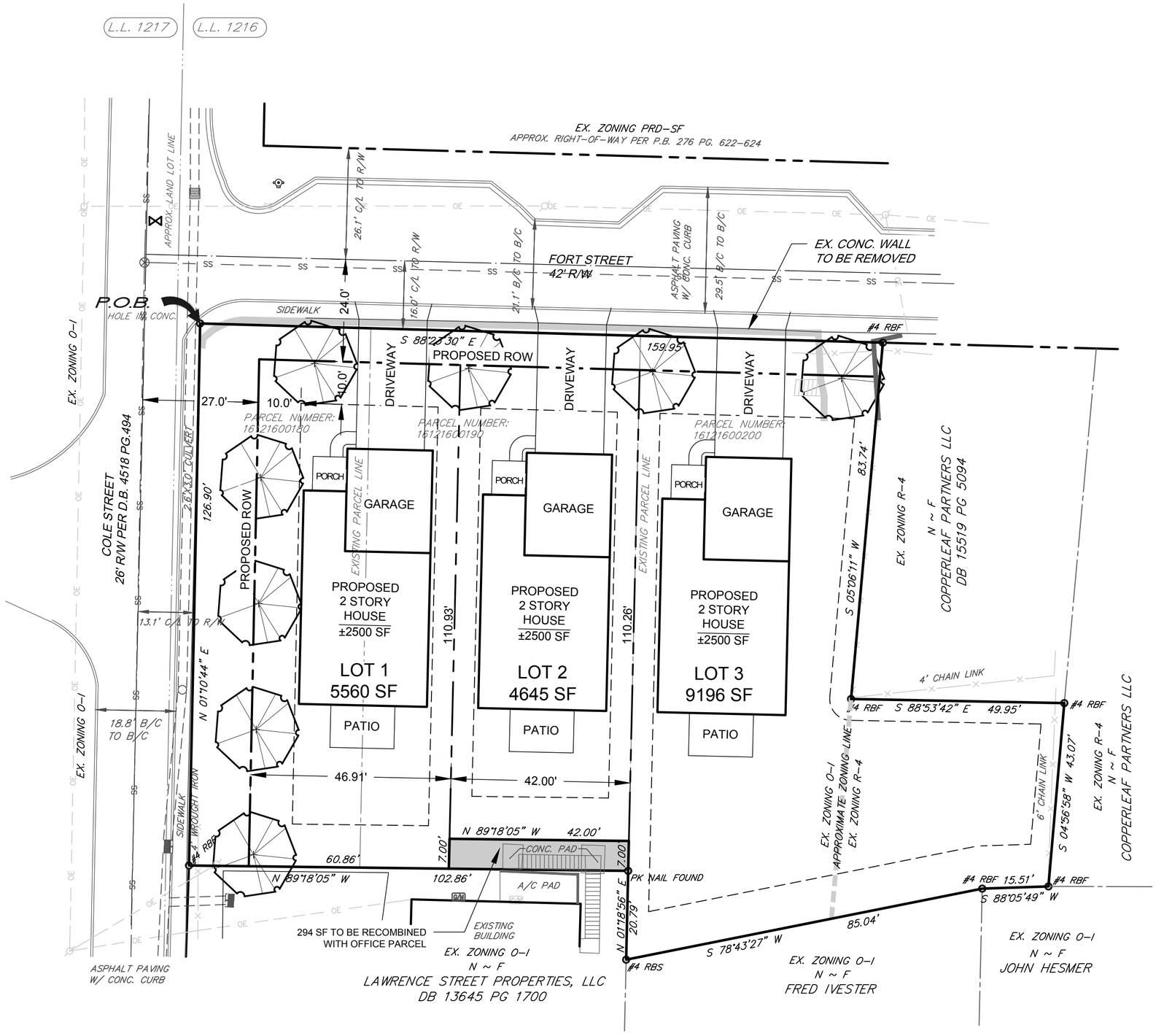
Lawrenceville Office	Marietta Office	Canton Office
538 Old Norcross Rd Ste. 204	1266 Powder Springs Rd	147 Reinhardt College Pkwy
Lawrenceville, GA 30043	Marietta, GA 30064	Ste. 3 Canton, GA 30114
Phone: (770) 424-7169	Phone: (770) 424-7169	Phone: (770) 479-9604

FIELD DATE: 10/14/19	DRAWN BY: TBS
OFFICE DATE: 10/16/19	CHECKED BY: JAH
SCALE: 1"=20'	FILE: S:/BND/COBB/16_1216

BOUNDARY RETRACEMENT SURVEY FOR:

JEAN E. JOHNSON, JR.
TAX PARCELS 16121600180, 16121600190 & 16121600200

LOCATED IN L.L. 1216
16th DISTRICT, 2ND SECTION
CITY OF MARIETTA
COBB COUNTY, GA.



SITE DATA

PARCEL IDs: 16121600180, 16121600190, 16121600200

CURRENT ZONING: O-I, R-4
PROPOSED ZONING: R-4, RESIDENTIAL INFILL OVERLAY DISTRICT

CURRENT USE: 3 VACANT LOTS
PROPOSED USE 3 SINGLE FAMILY DETACHED HOMES

REZONING SITE AREA: 22,342 SF
ROW DEDICATION 2,941 SF
NET SITE AREA: 19,401 SF

MIN. LOT SIZE: 4500 SF
MIN. LOT WIDTH: 40'
MAX. BUILDING HEIGHT: 35'
MAX. IMPERVIOUS COVERAGE: 75%
MIN. FLOOR AREA: 1800 SF

MIN. BUILDING SETBACKS
- FRONT: 10'
- SIDE: 5'
- REAR: 10'

THERE ARE NO WETLANDS OR FLOODPLAIN ON-SITE.
BOUNDARY SURVEY PROVIDED BY GASKINS DATED 10.16.19.

20 0 20 40
SCALE IN FEET

NORTH

GEORGIA PROFESSIONAL ENGINEER 19136 DAVID L. STUART

GASWCC LVL II CERT # 70003

REVISIONS

Gaskins
ENGINEERING•SURVEYING•PLANNING/CONSULTING•CONSTRUCTION MGMT
www.gscsurvey.com

Marietta	Lawrenceville	Canton
1266 Powder Springs Rd	558 Old Norcross Rd., Ste. 204	147 Reinhardt College Pkwy
Marietta, GA 30064	Lawrenceville, GA. 30046	Ste. 3 Canton, GA 30114
Phone: 770.424.7168	Phone: 770.424.7168	Phone: 770.479.9698

FIELD DATE: N/A	DRAWN BY: HLS
OFFICE DATE: 11/22/19	CHECKED BY: DFS
SCALE: 1"=20'	FILE:

REZONING SITE PLAN:

FORT STREET AND COLE STREET
104 COLE STREET
314 & 320 FORT STREET
MARIETTA, GA 30060

LOCATED IN L.L. 1216
COBB COUNTY, GA.

Plotted By:lsimpson Drawing name: C:\Users\lsimpson\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\RAZGZ50D\Fort St Rezoning plan 11.24.19.dwg Plotted on: Nov 26, 2019 - 9:00am

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

STAFF REVIEW

Variance Case #: V2020-01 **Legistar #: 20191081**

City Council Hearing: Wednesday, January 8, 2019 – 7:00 p.m.

Property Owner: **Waffle House, Inc.**
5986 Financial Drive
Norcross, GA 30071

Applicant: **Same as above**

Agent: **Kevin Moore, Esq.**
Moore, Ingram, Johnson & Steele, LLP
326 Roswell Street
Marietta, GA 30060

Address: **1811 Williams Drive**
Marietta, GA 30066

Land Lot: 781 **District: 16th** **Parcel: 0140**

Council Ward: 5B **Existing Zoning: CRC (Community Retail Commercial)**

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the minor side yard setback from 15 ft. to 10 ft. [§708.16 (H)]
2. Variance to allow parking spaces to encroach into the 10-ft landscape strip [§712.08 (G-1a.)]
3. Variance to reduce the rear yard setback from 35 ft. to 22 ft. [§708.16 (H)]
4. Variance to increase the maximum allowable sign height for a monument sign from 10 ft. to 15 ft. along a collector road [§714.04 (H)]
5. Variance to increase maximum allowable sign face area from 50 sq.ft. to 90 sq.ft. along a collector road [§714.04 (H)]
6. Variance to waive the required sidewalks. [§732.07]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city.

The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES

Subject Property at 1811 Williams Drive

Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

Building Encroaching Within Side-Yard Setback

Building Encroaching Within Rear-Yard Setback

Existing Parking Encroaching Into Proposed Lanscape Buffer Area

Accessory Structure (bulk sanitation container) Viewable From Public R/W

Staff Review:

The applicant, Waffle House, Inc., is requesting several variances to demolish the current building on-site and to develop a new building within the same footprint at 1811 Williams Drive. The property is zoned CRC (Community Retail Commercial) and is approximately 0.86 acres. The properties to the west and south of the subject property are zoned CRC as well, while to the north are unincorporated Cobb County and are zoned R-20 (Single-Family Residential – 20,000 square-foot lot size) and are used appropriately. It should be noted that to the west of the property is a commercial building that is La Petite Academy, a child daycare.

The applicant is preparing to build a new structure within the exact same footprint of the current building on-site, but feels that following current city ordinance stipulations for the development of a new building would hinder the operation of the restaurant; nor would he be able to reconstruct reasonably or economically within this parcel. In order for the applicant to keep the exact same non-conformities on site, a series of variance requests will be necessary.

Setback Reductions:

For a property zoned CRC located along a collector road, the setback requirements are as follows:

Front Setback (collector):	35 ft.
Side Setback (major):	25 ft.
Side Setback (minor):	15 ft.
Rear Setback:	35 ft.

It should be noted that there are only three setbacks for this particular property: a rear yard, a front yard, and a minor side yard. The applicant has stated that they would like to build upon the same footprint of the existing structure which would include encroachments along the rear yard and the minor side yard setback. Currently the structure is encroaching into the minor side yard setback by 5 feet and the rear yard setback by 7 feet; the applicant has requested a reduction in both setbacks in order to build within the same footprint to accommodate their preferred location. Most of the parcel is a paved area used for parking and thus limits the amount of space in order to develop the structure.

Encroachment Within Planted Strip/Border Areas

With this project being a new build on a property zoned commercial there are landscaping stipulations the applicant will need to follow such as a planted border area. The intent of the planted border area is to *create tree-lined roadways that improve the quality of the built environment for pedestrians and motorists alike*. For properties that abut public roadways, a 10-foot minimum width planted border is required (minimum one tree per 30 lineal feet). The proposed site plan indicates that the applicant will not include a minimum 10-foot planted border; and they would also like to keep 4 parking spaces encroaching into the 10-foot planted buffer.

Parking requirements for restaurants within commercial zoning districts is one per ever 175 square feet of building area. The total square footage for the proposed building according to the site plan is approximately 1,684 sq. ft. The parking requirement for this lot is 9.6 or approximately 10 parking spaces. The site plan indicates a total of 28 spaces - 26 standard spaces and 2 handicap spaces. The additional parking spaces are not required, so the and therefore staff does not see the planted border could be provided.

Sign Height and Area Restrictions:

The applicant is also requesting an increase in maximum allowable sign height and area for a detached monument-style sign along the frontage of the subject property. The stipulations put into place for freestanding signs were created in order to *account for varying travel speeds, sight distances and commercial conditions.* According to the applicant's proposed plan, a monument-style sign will be erected with a maximum sign height of 15 ft. and a maximum sign area of 90 sq. ft. City regulations allow a maximum sign height of 10 ft. for a property located along a collector road and the maximum allowable sign area is 50 sq. ft. Variances would be necessary to allow a sign with the dimensions shown on the plans.

Bulk Sanitation Location:

City regulations requires bulk sanitation containers (dumpsters) to be screened from view from the public right of way by being placed in either rear or side yards. The property overall is an irregular shaped parcel and therefore does not allow for the full use of space while regarding the appropriate setbacks. Installing a screening fence at least six (6) feet in height would obscure view of the dumpster from public right of way off Williams Drive.

Sidewalks and landscaping:

All new commercial development within the city requires a minimum five (5) foot sidewalk with a two (2) foot grass strip along all road frontages, and the proposed site plan does not indicate these requirements.

It should also be noted that, according to the Marietta Fire Department, the new building will need to be protected interiorly throughout with an approved automatic sprinkler system per City Code 2-6-140.

Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-01 **Legistar #:** 20191081 **BZA Hearing Dt:** –

City Council Hearing Dt (if applicable) #: 01/08/2020 **PZ #:** 19-512

This is a variance/appeal application for:

☐ **Board of Zoning Appeals** ☒ **City Council**

*Owner's Name Waffle House, Inc.

EMAIL Address:

Mailing Address 5986 Financial Drive Zip Code: Norcross, GA 30071 Phone Number (770) 529-5700

***Applicant/Owner's Representative – J. Kevin Moore – Moore Ingram Johnson & Steele, LLP**

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 1811 Williams Drive Date of Acquisition: 08/28/1986

Land Lot (s) 07810 District 16 Parcel 0140 Acreage 0.86± Zoned CRC Ward 5B FLU: IW

List the variance(s) or appeal requested (please attach any additional information): **See Attached Exhibit "B."**

Demolish Structure / Build New One

Required Information

1. Application fee ($250)
2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale**. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
   Copies Required: **One** (1) - (8 ½" x 11") **-or-** (11" x 17") drawn to scale.
   Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

EXHIBIT "B" - ATTACHMENT TO APPLICATION FOR VARIANCE

Application No.: _____
Legistar No.: _____
Hearing Dates: **January 7, 2020**
January 8, 2020

Applicant/Property Owner: Waffle House, Inc.

Listing of Requested Variance(s) and Statement of Hardship:

The property which is the subject of this Application for Variance contains approximately 0.86 acres and is located on the northerly and northwesterly side of Williams Drive, west of Griffin Road, Land Lot 781, 16th District, 2nd Section, City of Marietta, Cobb County, Georgia, and is more particularly known as 1811 Williams Drive (hereinafter "Property" or "Subject Property"). The Property is currently zoned Community Retail Commercial ("CRC") and a Waffle House restaurant has been in operation at this location since the Property was purchased by Waffle House in August 1986. Waffle House, Inc., as Applicant and Property Owner (hereinafter collectively "Applicant"), desires to remove the existing structure and construct a new restaurant facility to continue the operation of a Waffle House restaurant. Due to the size and location of the Property, Waffle House is required to seek approval of the following variances:

(1) Waiver of the side setback from the required fifteen (15) feet to 10.5 feet;

(2) Waiver to allow encroachment of four (4) existing parking spaces into the ten (10) foot landscape strip; and

(3) Waiver of the rear setback from the required thirty-five (35) feet to allow encroachment of a small corner of the proposed restaurant structure.

If the Setback Ordinance which governs the Subject Property is strictly adhered to, Waffle House would be unable to reasonably or economically reconstruct the new facility and continue the operation of the restaurant.

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she ☐has ☐has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

See Attached Exhibit "A"
Signature of Owner

See Attached Exhibit "A"
Signature of Applicant

Print Name

Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she ☐has ☐has not a financial interest in the property which is ten percent (10%) or more.

Print Name

See Attached Exhibit "A"
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

See Attached Exhibit "A"
Signature of Applicant

Date

Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

See Attached Exhibit "A"
Signature of Owner

Please Print

Address

Date

Signed, sealed and delivered in the presence of:

My Commission Expires:

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE

Application No.: _____
Legistar No.: _____
Hearing Dates: **January 7, 2020**
January 8, 2020

Applicant/Property Owner: Waffle House, Inc.

CAMPAIGN CONTRIBUTIONS

The Applicant/Property Owner, WAFFLE HOUSE, INC., by and through its undersigned attorney, herein certifies that it has not made campaign contributions or gifts aggregating $250 or more to the Mayor, any member of the City Council, any member of the Planning Commission, or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this Application.

FINANCIAL INTEREST

The Applicant/Property Owner, WAFFLE HOUSE, INC., by and through its undersigned attorney, herein certifies that it does have a financial interest in the property which is ten (10) percent or more.

APPLICANT/PROPERTY OWNER CERTIFICATION

The Applicant/Property Owner, WAFFLE HOUSE, INC., by and through its undersigned attorney, certifies that all information in this Application, and all information furnished in support of this Application, is true and complete to the best of Applicant's knowledge, information, and belief. Should any portion not be true, then the Application may be rejected.

Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious, or fraudulent statement of representations concerning this Application shall be denied the request stated in this Application.

Applicant/Property Owner, WAFFLE HOUSE, INC., by and through its undersigned attorney, hereby gives permission to Staff of the City of Marietta Planning and Zoning Department to enter upon the property for inspection during the time the Application is pending.

[Balance of page left intentionally blank]

[Signatures contained on page 2]

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE
(Page Two of Three)

Application No.: _____
Legistar No.: _____
Hearing Dates: **January 7, 2020**
January 8, 2020

Applicant/Property Owner: Waffle House, Inc.

MOORE INGRAM JOHNSON & STEELE, LLP

BY: _____
J. Kevin Moore
Georgia Bar No. 519728

Attorneys for Applicant/Property Owner

Date Executed: November 21, 2019

Signed, sealed, and delivered in the presence of:

_____
Notary Public
My Commission Expires: January 10, 2023

[Notary Seal]

CAROLYN E. COOK NOTARY PUBLIC Exp. Jan. 10, 2023 COBB COUNTY, GA

Applicant/Property Owner Address:

Waffle House, Inc.
5986 Financial Drive
Norcross, Georgia 30071
(770) 729-5700
(770) 729-5999 (Telefax)

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE
(Page Three of Three)

Application No.: _____
Legistar No.: _____
Hearing Dates: **January 7, 2020**
January 8, 2020

Applicant/Property Owner: Waffle House, Inc.

Applicant/Property Owner's Representative:

J. Kevin Moore, Esq.
Moore Ingram Johnson & Steele, LLP
Attorneys at Law
Emerson Overlook
Suite 100
326 Roswell Street
Marietta, Georgia 30060
(770) 429-1499
(770) 429-8631 (Telefax)
E-mail: jkm@mijs.com

TO: **Marietta Daily Journal**

FROM: **City of Marietta**

RUN AD DATE: **December 20, 2019**

CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS and VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests at the City Council meeting held on **Wednesday, January 8th, 2020, 7:00 p.m.,** City Hall, for a final decision to be made.

V2020-01 [VARIANCE] WAFFLE HOUSE, INC is requesting variances for property located in Land Lot 781, District 16, Parcel 0140, 2nd Section of Cobb County, Marietta, Georgia and being known as 1811 Williams Drive. Variance to reduce the minor side yard setback from 15' to 10'; variance to allow parking spaces to encroach within the 10' landscape strip; variance to reduce the rear yard setback from 35' to 22'; variance to increase the maximum allowable sign height for a monument sign from 10' to 15' feet along a collector road; variance to increase the maximum allowable sign face area from 50 square feet to 90 square feet along a collector road; variance to waive the required sidewalks. 5B.

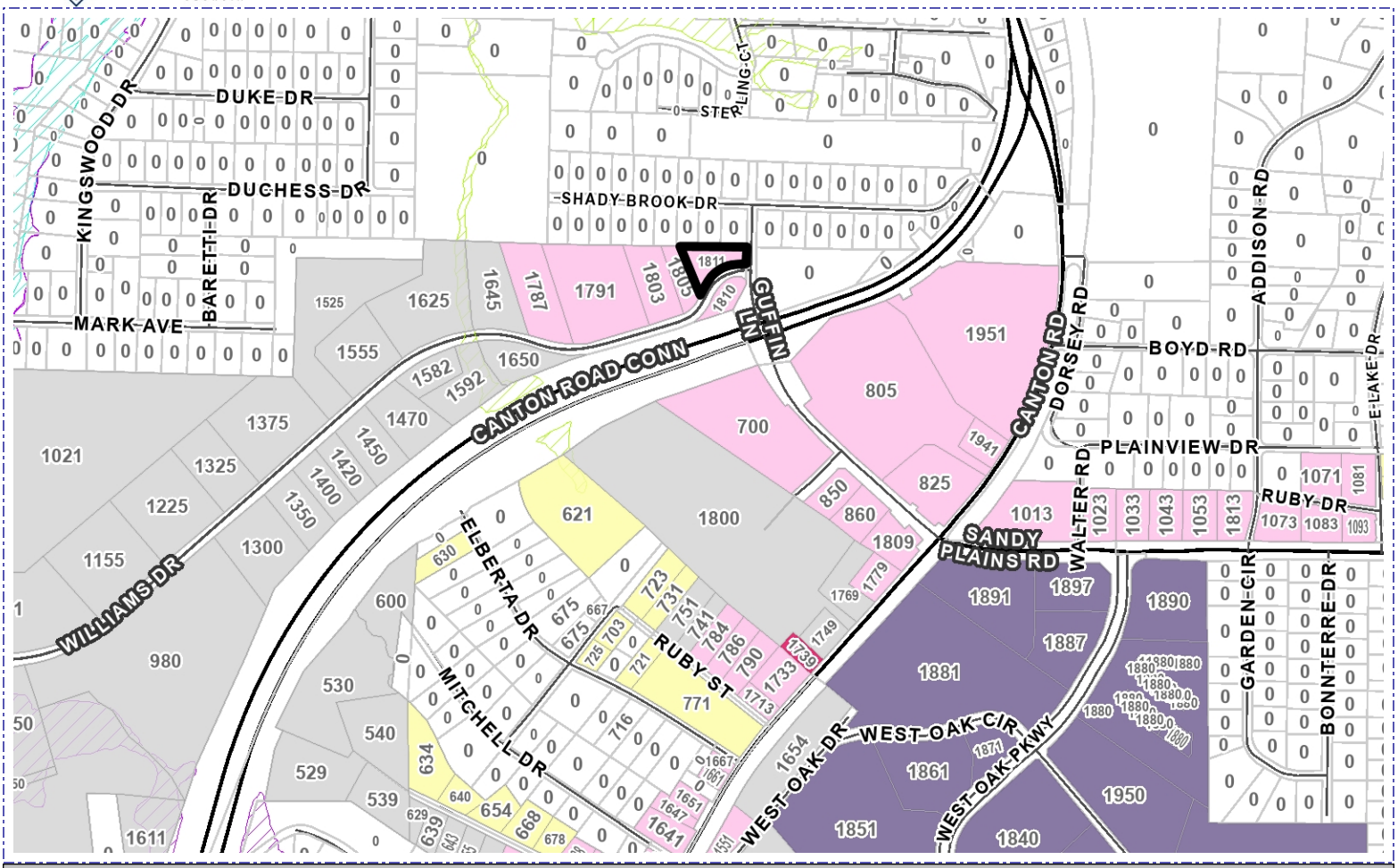
A description and plat of the property sought for the rezoning, special land use permit, and variances are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	*Parcel Number*	*Acreage*	*Ward*	*Zoning*	*FLU*
1811 WILLIAMS DR	16078100140	0.87	5B	CRC	IW

Property Owner: Waffle House

Applicant:

City Council Hearing Date: 01/08/2020

Acquisition Date:

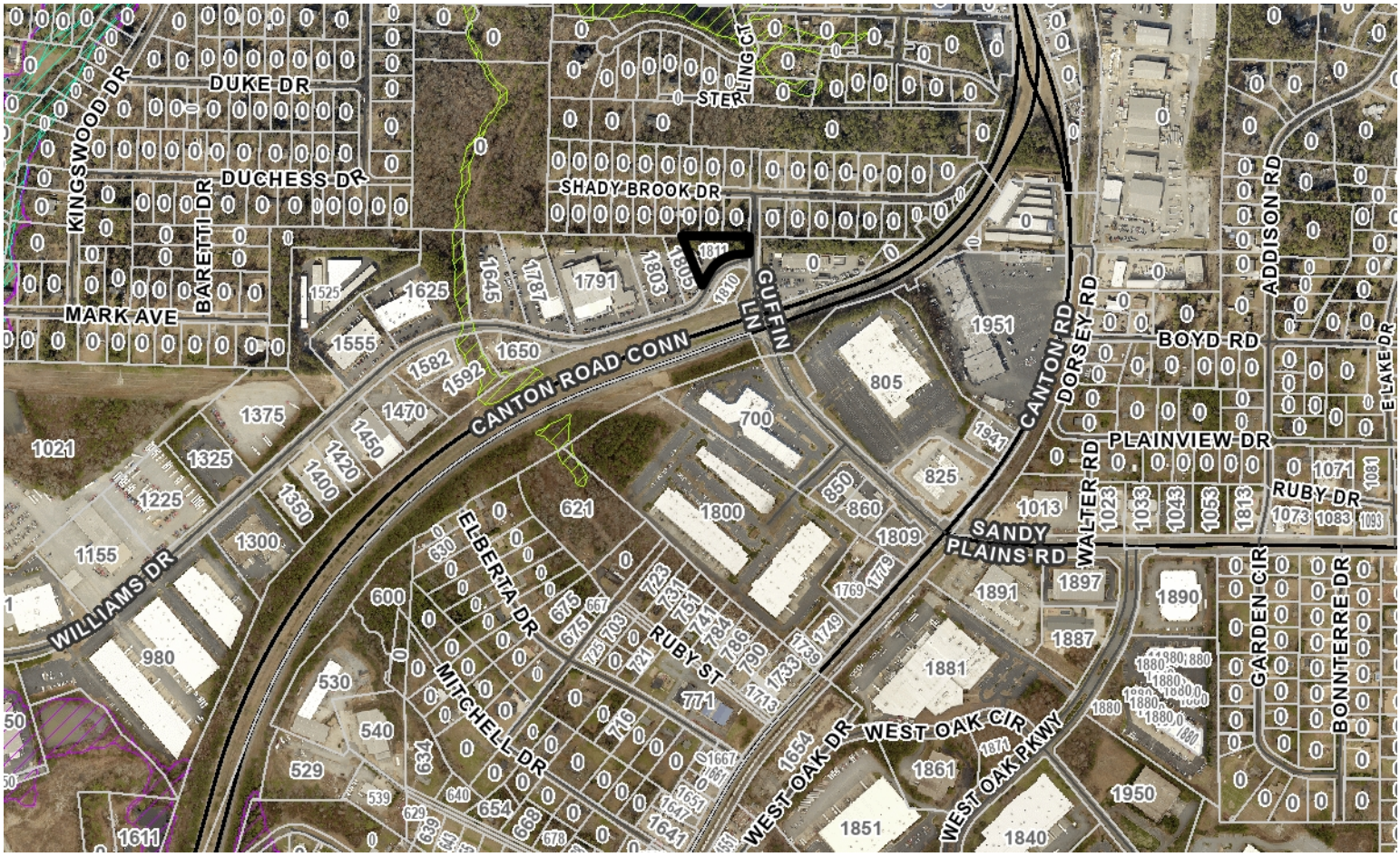
Case Number: V2020-01

City of Marietta Planning & Zoning

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Moble Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

Aerial Map



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1811 WILLIAMS DR	16078100140	0.87	5B	CRC	IW

Property Owner: Waffle House

Applicant:

City Council Hearing Date: 01/08/2020

Planning Commission Hearing Date:

BZA Hearing Date: Case Number: V2020-01

Comments:

Legend

- Railroads
- City Limits
- Cobb County Pockets

City of Marietta Planning & Zoning

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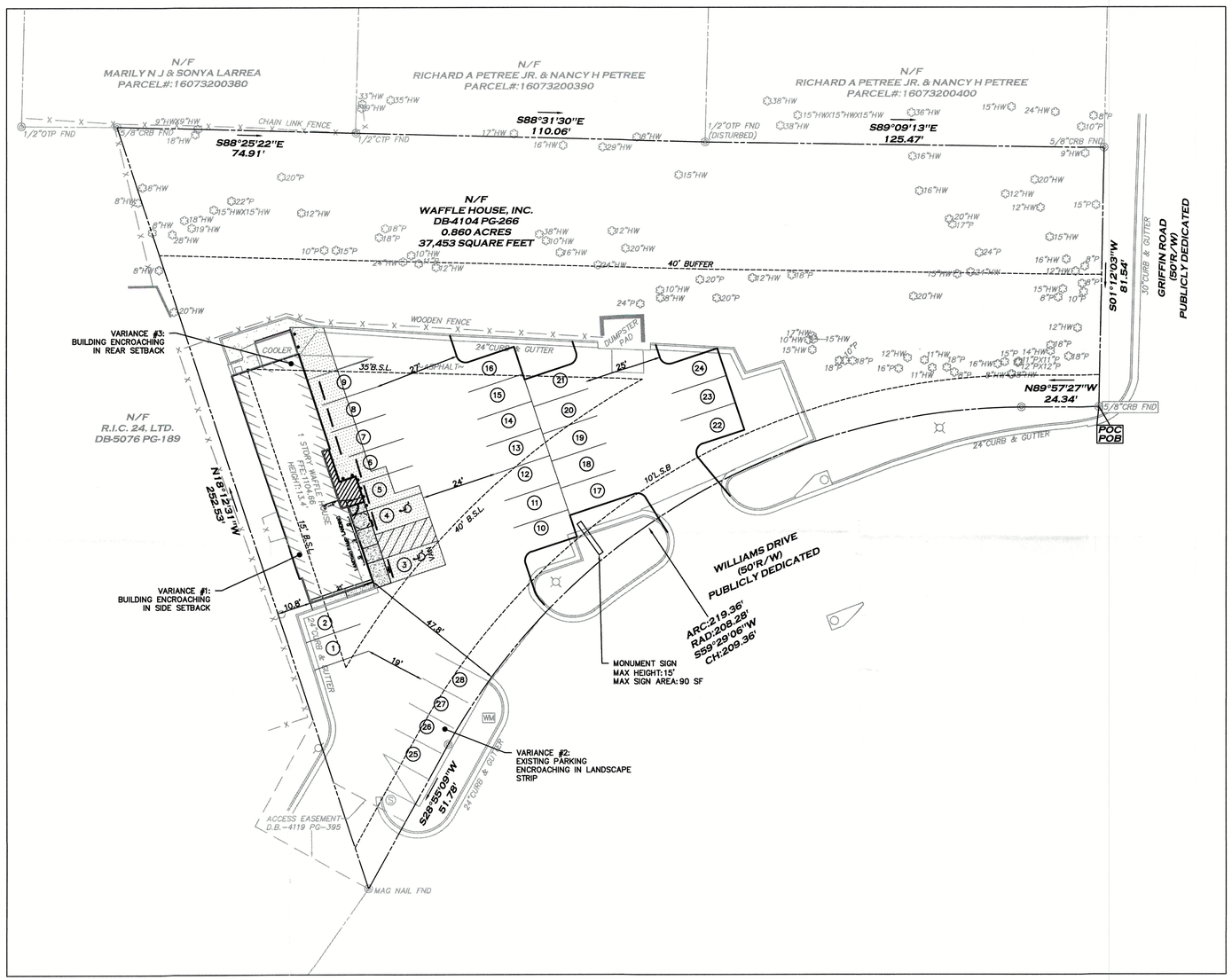
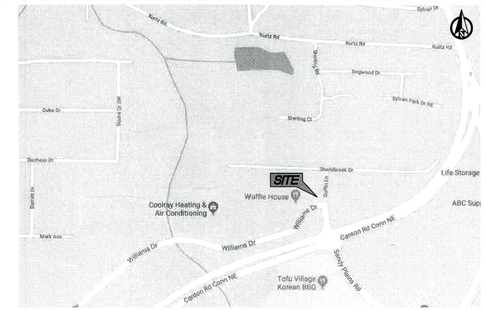




VICINITY MAP

N.T.S.

SITE SUMMARY

JURISDICTION	CITY OF MARIETTA
ZONING DISTRICT	CRC(COMMERCIAL RETAIL COMMERCIAL)
EXISTING AND PROPOSED USE	RESTAURANT
TOTAL SITE AREA	0.86 AC
PROPOSED BUILDINGS	1,684 SF
BUFFER ADJACENT TO RESIDENTIAL	40'
FRONT BUILDING SETBACK (ARTERIAL)	40'
SIDE BUILDING SETBACK (MAJOR)	25'
SIDE BUILDING SETBACK (MINOR)	15'
MIN. LANDSCAPE STRIPS	10'
MIN. LANDSCAPE STRIPS	10'
MIN. LANDSCAPE STRIPS	10'

PARKING SUMMARY

	MIN.	MAX.	PROVIDED
STANDARD STALLS			26
HANDICAP STALLS			2
TOTAL STALLS	10		28

REQUIREMENTS BASED ON:
MINIMUM: 1 SPACE PER 175 SF
EXISTING PARKING SPACES: 30

VARIANCE LIST
#1. 15' SIDE SETBACK BUILDING ENCROACHMENT
#2. 10' LANDSCAPE STRIP ENCROACHMENT WITH EXISTING PARKING
#3. 35' REAR SETBACK BUILDING ENCROACHMENT

GEORGIA REGISTERED No. 27880 PROFESSIONAL ENGINEER BRYAN H. RUSSELL

CONTINEO GROUP
755 COMMERCE DRIVE
SUITE 800
DECATUR, GA 30030
678.601.6046
www.tcg.engineer

"A UNIQUE AMERICAN PHENOMENON"
WAFFLE HOUSE®
"AMERICA'S PLACE TO EAT, AMERICA'S PLACE TO WORK"
5986 Financial Drive, Norcross, GA 30071
(770) 729-5700

UNIT #614

ISSUED FOR: CIVIL PLANS
JURSIDICTION: CITY OF MARIETTA
LOCATION: 1811 WILLIAMS DR, MARIETTA, GA 30066

#	DATE	REVISIONS

These drawings and the design represented herein are the exclusive property of The Contineo Group. Reproduction or any use of these drawings other than for the project intended without the express written consent of The Contineo Group is prohibited. Any unauthorized use will be subject to legal action.

DRAWN:	CHECK:
JPD	BHR
JOB NO:	DATE:
UNIT 614	09/11/19

SITE

SHEET

C:\USERS\CONTINEO03\DROPBOX (CONTINEO-MASTER)\WAFFLE HOUSE PORTAL\RE-IMAGING PROJECTS\0600-0699\614 - MARIETTA, GA\WORKING FILES

City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Motion Signature

File Number: 20191081

V2020-01 [VARIANCE] WAFFLE HOUSE, INC

V2020-01 [VARIANCE] WAFFLE HOUSE, INC is requesting variances for properties located in Land Lot 0781, District 16, Parcel 00140, 2nd Section of Cobb County, Marietta, Georgia and being known as **1811 Williams Drive**. Ward 5B.

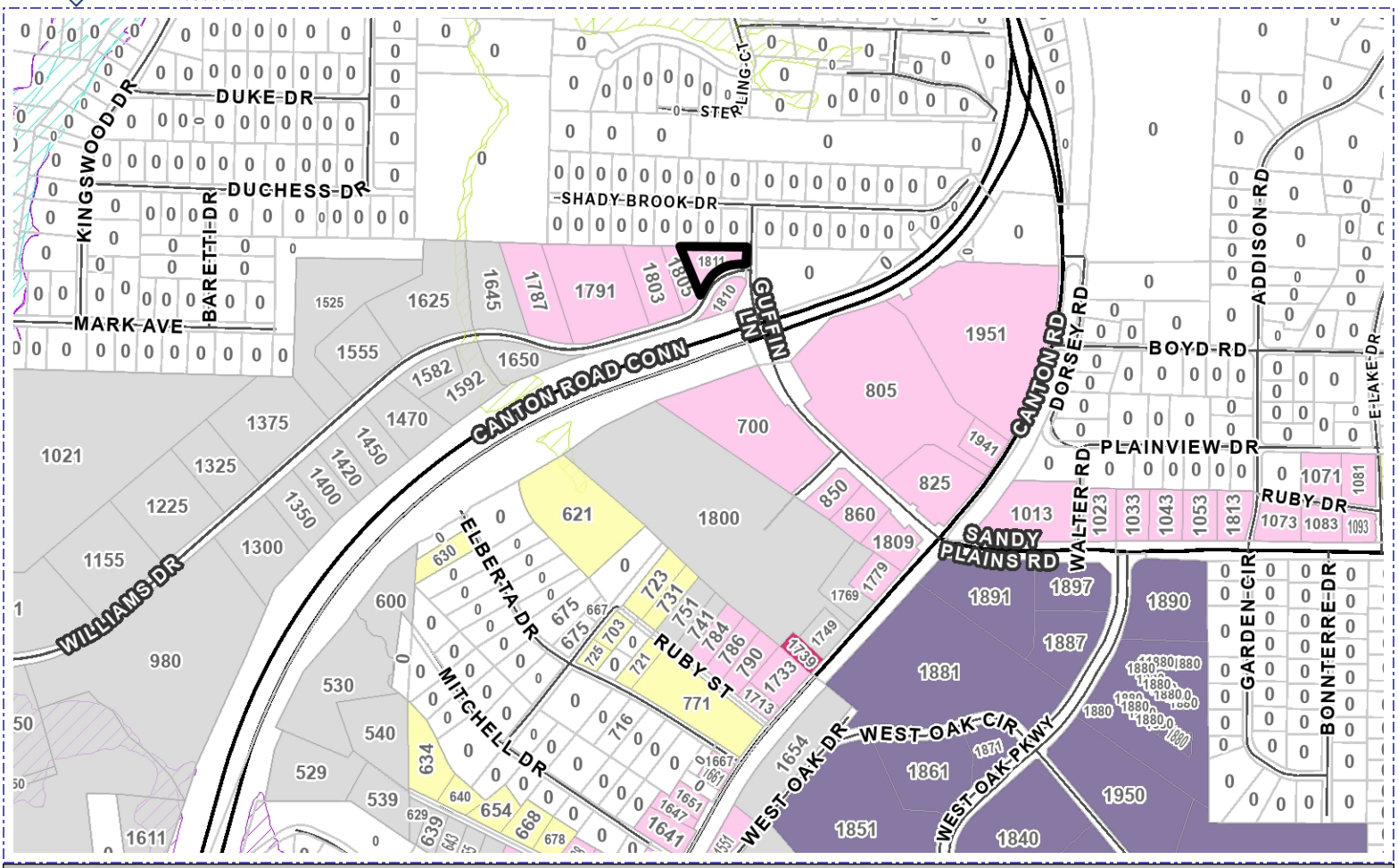
1. Variance to reduce the minor side yard setback from fifteen (15) feet to ten (10) feet for only the existing structure [§708.16 (H)]
2. Variance to allow parking spaces to encroach within the ten (10) foot landscape strip [§712.08 (G-1a.)]
3. Variance to reduce the rear yard setback from thirty-five (35) feet to twenty-two (22) feet for only the existing structure [§708.16 (H)]
4. Variance to increase the maximum allowable sign height for a monument sign from ten (10) feet to fifteen (15) feet along a collector road [§714.04 (H)]
5. Variance to increase maximum allowable sign face area from fifty (50) square feet to ninety (90) square feet along a collector road [§714.04 (H)]
6. Variance to waive the required sidewalks [§732.07]
7. Applicant agrees to donate up to 10' of additional right of way if a project in the future is necessary

DATE: January 8, 2020

R. Steve Tumlin, Jr., Mayor

Stephanie Guy, City Clerk

Variance



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Property Owner: Waffle House

Applicant:

City Council Hearing Date: 01/08/2020

Acquisition Date:

Case Number: V2020-01

City of Marietta Planning & Zoning

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