



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-05 Legistar #: 20120099

Board of Zoning Appeals Hearing: Monday, February 27, 2012 – 6:00 p.m.

Applicant: Jeffrey Geiger
 NCG Marietta, Inc.
 314 E. Comstock Street
 Owosso, MI 48867

Property Owner: Same as above

Address: 1050 Powder Springs Street

Land Lot: 00670 **District:** 17 **Parcel:** 0330

Council Ward: 2 **Existing Zoning:** CRC

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

1. Variance to allow required parking to be provided on other off-street property. [Section 716.07 (A)]

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



1050 Powder Springs Street



1150 Powder Springs Street



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Recommended Action:

Approval. The applicant, Jeffrey Geiger with NCG Marietta Inc., is requesting a variance to allow required parking be satisfied using spaces on an adjacent parcel. The subject property, located at 1050 Powder Springs Street and zoned CRC (Community Retail Commercial), has been used in the past as a place of assembly and movie theater. Zoned R-3 (Single Family Residential – 3 units per acre), Laurel Springs is located directly to the northeast and northwest. To the south and west are parcels also zoned CRC and containing Cobb County’s Community Development Department and an auto repair facility.

The building and site will be undergoing improvements so the property may be used as a movie theater again. However, the property has lost its nonconforming status with respect to parking and would have to satisfy current parking requirements, which require one space for every four seats. The applicant has stated that the cinema will contain 1,960 seats, requiring a total of 490 spaces.

Although the subject property will contain only 184 spaces after the site improvements are made, there is a cross access and parking easement agreement between the subject property and the Cobb County property located at 1150 Powder Springs Street. This agreement not only gives the subject property access to Powder Springs Street, it also allows the subject property parking rights to the 437 spaces on the Cobb County property between the hours of 6 p.m. and 11 p.m. on weekdays and 7 a.m. and 11 p.m. on Saturdays and Sundays.

Presumably Cobb County’s peak parking times would occur on weekdays during the day, while cinemas experience high demand in evenings and on weekends. The Zoning Ordinance, under Section 716.07 (B), allows parking spaces to be simultaneously assigned to two separate uses as long as the two uses are in operation at different times of the day and on the same parcel. A variance is necessary for this situation because they are sharing between separate parcels.

Approval of this variance would not negatively affect any adjacent parcels or the community as a whole. Further, allowing parking to be shared for uses with different peak times across property lines helps preserve valuable land resources within the City. **Staff recommends approval of this variance request.**