



Cobb County Community Development Agency
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-12

Public Hearing Dates:

PC: 2-5-20

BOC: 2-18-20

SITE BACKGROUND

Applicant: Yasmin Benichay-Biton

Phone: 678-233-4957

Email: yasmin1215@gmail.com

Representative Contact: Yasmin Benichay-Biton

Phone: 678-233-4957

Email: yasmin1215@gmail.com

Titleholder: Lior Biton, Ronen Shafiki

Property location and address: Northwest side of
Cooper Lake Road, north of Veterans Memorial
Highway
(9 and 11 Cooper Lake Road)

Access to Property: Cooper Lake Road

QUICK FACTS

Commission District: 4-Cupid

Current Zoning: CF (Future Commercial)

Current use of property: Single-family houses

Proposed zoning: R-12 (Single-family Residential)

Proposed use: Single-family houses

Future Land Use Designation: CAC (Community
Activity Center)

Site Acreage: 0.516 ac

District: 17

Land Lot: 180

Parcel #: 17018000460 and 17018000490

Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION:

(Zoning staff member: Donald Wells)

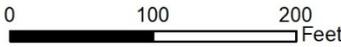
Based on the analysis of this case, Staff recommends **APPROVAL** subject to the following:

1. Site plan received by the Zoning Division on December 5, 2019, with the District Commissioner approving minor modifications;
2. Variances contained in the Zoning Section Comments;
3. Water and Sewer Division comments and recommendations;
4. Cobb County Department of Transportation comments and recommendations; and
5. Stormwater Management Division comments and recommendations.

Z-12 Aerial Map



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



Zoning Boundary
City Boundary

North

Zoning: GC (General Commercial)
Future Land Use: CAC (Community Activity Center)

WEST

Zoning: GC
 (General Commercial)

Future Land Use: CAC
 (Community Activity Center)



EAST

Zoning: RM-12
 (Multi-family Residential)

Future Land Use: LDR (Low Density Residential)

SOUTH

Zoning: RM-12 (Multi-family Residential)
Future Land Use: LDR (Low Density Residential)

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

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The CF future commercial district was originally established as a zone designated for future commercial use with no immediate right to use or occupy the zone for commercial purposes until an applicant shall have been regularly and properly granted specific zoning for the purposes described in any of the commercial districts enumerated in this chapter. Under the comprehensive amendment to the zoning ordinance, the board of commissioners resolved that an owner of property currently designated CF, and not developed, shall have until January 17, 1996, within which to commence development pursuant to the previous conditions. For purposes of this section, commencing development shall mean applying for rezoning to an appropriate zoning district, obtaining a building permit, and beginning construction on the development. If such development shall not occur by January 17, 1996, such portion of the undeveloped and unzoned property must be brought in for rezoning to another district which is compatible with the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990, prior to any future development. Additionally, no new applications for CF zoning may be accepted.

Requested zoning district for the property

The R-12 district is established to provide locations for single-family detached residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for low and medium density residential categories as defined and shown on the Cobb County Comprehensive Plan. When residentially compatible institutional and recreational uses or residential uses are developed within the R-12 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

Summary of the applicant's proposal

The applicant is requesting the R-12 (Single-family Residential) zoning district for constructing new two single-family houses. The property is not permitted to be redeveloped under its grandfathered status regarding its CF (Future Commercial) zoning district. The applicant has proposed two 11,250 square-foot lots, each having a 2,600 square-foot house. The two lots currently have two 1,000 square foot houses that were built in approximately 1948.

Residential criteria

Allowable units as zoned: 2

Proposed # of units: 2

Net density: 3.87 units per acre

Increase of units: 0

Acres of floodplain/wetlands: 0 ; Impervious surface shown: Maximum not to exceed 35%.

DEPARTMENT COMMENTS- Zoning Division (continued)

Are there any zoning variances?

Yes. The proposed site plan will require the following contemporaneous variances:

1. Reducing the exterior side setbacks from the required 20 feet to 5 feet;
2. Reducing the exterior rear setbacks from the required 40 feet to 20 feet;
3. Reducing the minimum lot size from the required 12,000 square feet to 11,250 square feet for 9 Cooper Lake Road; and
4. Reducing the minimum lot size from the required 12,000 square feet to 11,250 square feet for 11 Cooper Lake Road.

DEPARTMENT COMMENTS- Fire Department

No comments.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

No comments.

DEPARTMENT COMMENTS- Cemetery Preservation

There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

DEPARTMENT COMMENTS- School System

Approval of this petition will not have an impact on the enrollment of schools.

DEPARTMENT COMMENTS- Stormwater Management

Subject to Stormwater Management approval of individual lot grading plans.

DEPARTMENT COMMENTS- Planning Division

Cobb 2040 Comprehensive Plan: The parcel is within the Community Activity Center (CAC) future land use category. The purpose of the CAC category is to provide for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low to mid-rise office buildings and department stores.

Comprehensive Plan Designation: Consistent Inconsistent

House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary? Yes No

Was the city notified? Yes No N/A

Specific Area Policy Guidelines: Yes No

The parcels along Veterans Memorial Highway, east of the City of Austell are in need of redevelopment. Allowing mixed-use developments in this area will assist in creating live work areas as well as reduce traffic congestion and improve traffic flow. If mixed uses are to occur along the corridor, the mixing should occur vertically by encouraging village-style developments with residential over retail/office along major streets. On the minor streets within the development, stand-alone residential would be appropriate as long as there is a vertical mixed-use component included in the project. All areas of the new mixed-use development should be pedestrian friendly. Some of the basic characteristics of these developments should include:

- Well-designed buildings that create a frame for the street system by being constructed close to the sidewalk.
- On-street parking should be allowed where there is sufficient right-of-way and where it is appropriate for the particular roadway classification.
- Pedestrian-oriented amenities should be included within the site development to create an inviting atmosphere and encourage the use of public spaces as community gathering spaces. Pedestrian-oriented amenities include decorative paving, human scale street lighting, plazas, benches, landscaping, etc.
- Residential densities within the development should be determined on a case-by-case basis depending on the location of the project, intensity of the project and proximity to other stable residential uses.
- In order to make mixed-use developments along this corridor successful, scale is an important component. Mixed-use buildings should be no more than three stories tall. The three-story height limit will provide the necessary density to financially allow a mixed-use development and it will also provide a consistency of scale with the surrounding residential neighborhoods.
- Residential uses in the mixed-use developments should provide for additional owner-occupied housing opportunities.

(Planning comments continued on the next page)

DEPARTMENT COMMENTS- Planning Division (continued)

- Mixed-use developments adjacent to stable single-family residential neighborhoods should provide a change in scale or buffering/screening that will ensure the desirability and viability of the surrounding community

Masterplan/ Corridor Study South Cobb Implementation Strategy Yes No

Design guidelines area? Yes No

Does the proposal plan comply with the design requirements? Yes No N/A

Is the property within an Opportunity Zone? Yes No

(The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is for new or existing businesses)

Is the property within an Enterprise Zone? Yes No

(The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investment)

Is the property eligible for the Façade Improvement Program? Yes No

(The Façade Improvement Program is an incentive for owners and tenants to enhance the appearance of buildings. The CDBG program provides the funding. Properties must be either on the current inventory of redevelopment sites or in a corridor study area, and be in a census tract with at least 51% low and moderate income. The program serves to improve the economic viability of these areas.)

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program? Yes No

(The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas)

Note: For more information on incentives, please call the Community Development Agency- Economic Development Division at 770-528-2018 or find information online at www.cobbcounty.org/econdev.

Special District

Is this property within the Cumberland Special District #1 (hotel/motel fee)? Yes No

(Planning comments continued on the next page)

DEPARTMENT COMMENTS- Planning Division (continued)

Is this property within the Cumberland Special District #2 (ad valorem tax)? Yes No

Is this property within the Six Flags Special Service District? Yes No

Dobbins Air Reserve Base Zones

Is the property within the Dobbins Airfield Safety Zone? Yes No

Is the property within the Clear Zone (CZ)? Yes No

Is the property within the Accident Potential Zone (APZ I)? Yes No

Is the property within the Accident Potential Zone II (APZ II)? Yes No

Is the property within the Noise Zone? Yes No

Is the property within the Bird/Wildlife Air Strike Hazard Area (BASH)? Yes No

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.

DEPARTMENT COMMENTS- Water and Sewer

Water comments:

Available at development: YES NO

Fire flow test required: YES NO

Size and location of existing water main(s): 16" in Cooper Lake Rd

Additional water comments:

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process.

Sewer comments:

In the drainage basin: YES NO

At development: YES NO

Approximate distance to nearest sewer: In Cooper Lake Road along frontage

Sewer comments (Continued):

Estimated waste generation (in G.P.D.): Average daily flow = 320

Peak flow = 800

Treatment plant: South Cobb WRF

Plant capacity: Yes NO

Line capacity: YES NO

Projected plant availability: 0-5 years 5-10 years over 10 years

Dry sewers required: YES NO

Off-site easement required: YES* NO

Flow test required: YES NO

Letter of allocation issued: YES NO

Septic tank recommended by this department: YES NO

Subject to Health Department approval: YES NO

Additional sewer comments: Existing houses currently on septic systems

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

Note: The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining onsite and/or offsite easements, and dedication of onsite and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System.

DEPARTMENT COMMENTS- Transportation

| Roadway | Roadway classification | Speed limit (MPH) | Jurisdictional control | Min. R.O.W. requirements |
|------------------|------------------------|-------------------|------------------------|--------------------------|
| Cooper Lake Road | Major Collector | 35 | Cobb County | 80' |
| | | | | |

| Roadway | Location | Average daily trips | Level of service |
|------------------|----------------------|---------------------|------------------|
| Cooper Lake Road | North of Waits Drive | 7,150 | D |
| | | | |

Based on 2016 traffic counting data taken by Cobb County DOT for Cooper Lake Road.

Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.

LOS C or D is acceptable based on GDOT Design Policy Manual criteria.

Comments and observations

Cooper Lake Road is classified as a major collector roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Recommendations

1. Recommend applicant consider entering into a development agreement pursuant to 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 Cooper Lake Road, a minimum of 40' from the roadway centerline.
2. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
3. Recommend a minimum spacing of 50 ft. between driveways.

STAFF ANALYSIS

Per section 134-122 of the Official Code of Cobb County, below is a written zoning analysis relating to the following (question in bold; the answer is not bold):

A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

It is Staff's opinion that the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. The parcels are located in an area having a mixture R-20, R-15, RM-12, GC, and CF zoning districts.

B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

It is Staff's opinion that the zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The properties were adopted on the zoning map in 1972 as CF (Future Commercial), and have been used for single-family houses prior to the adoption of the Zoning Ordinance in 1972. The applicant is proposing to remove the existing houses and construct new houses on the existing lots.

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

It is Staff's opinion that the zoning proposal will not result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools. This comment can be supported by the department comments in this analysis.

D. Whether the zoning proposal is in conformity with the policies and intent of the comprehensive plan;

It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policies and intent of the *Cobb County Comprehensive Plan*, which delineates this property as being with the Community Activity Center (CAC) future land use category. The requested R-12 zoning district is for properties delineated for low and medium density residential categories. The Planning Division comments also point out this inconsistency, and the Specific Area Policy Guidelines in those comments speaks to mixed use development should occur in this corridor; however, Staff is concerned that the requirements of the zoning districts that would allow mixed use development cannot be met on the subject properties.

STAFF ANALYSIS (Continued)

E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;

It is Staff's opinion that there are existing or changing conditions affecting the use and development of the property which give supporting grounds for approval of the zoning proposal. The subject property is in an area that is predominantly single-, multi-, and cluster residential. There is commercial development at the northwest quadrant of Cooper Lake Road and Veterans Memorial Highway. The subject property was, and has continued to be, developed and utilized with single-family residential houses since the Zoning Ordinance was adopted in 1972. Staff believes the property is more suited to continue to be single-family residential as opposed to mixed use development as mentioned in the Specific Area Policy Guidelines.

The staff analysis and recommendation 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.

RECEIVED
DEC 05 2019
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

Application No. Z-12
2020

Summary of Intent for Rezoning

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Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): 2,650 Sqft
 - b) Proposed building architecture: Single Family Residence
 - c) List all requested variances: N/A
- _____

.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): N/A
 - b) Proposed building architecture: N/A
 - c) Proposed hours/days of operation: N/A
 - d) List all requested variances: N/A
- _____

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

N/A

.....
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

None

Planning Commission Decision

NO. OPPOSED: _____ APPROVED _____ DENIED _____ DELETED TO _____

NO. IN SUPPORT _____ MOTION BY: _____ SECONDED: _____ VOTE: _____

Names of those Opposed:

Comments:

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Stipulation letter from _____ dated _____
Stipulation letter from _____ dated _____
Stipulation letter from _____ dated _____

Board of Commissioners Decision

NO. OPPOSED: _____ APPROVED _____ DENIED _____ DELETED TO _____

NO. IN SUPPORT _____ MOTION BY: _____ SECONDED: _____ VOTE: _____

Names of those Opposed:

Comments:

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