



Cobb County Community Development Agency
Zoning Division
1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-41

Public Hearing Dates:

PC: 6-4-19

BOC: 6-18-19

SITE BACKGROUND

Applicant: Kenneth Mordi

Phone: 678-799-4934

Email: saego35@gmail.com

Representative Contact: Adam J. Rozen

Phone: 770-422-7016

Email: arozen@slhb-law.com

Titleholder: Kenneth Mordi

Property location and address: East side of
Powell Drive, south of Veterans Memorial
Highway (5777 Powell Drive)

Access to Property: Powell Drive

QUICK FACTS

Commission District: 4-Cupid

Current Zoning: R-20 (Single-family Residential) &
GC (General Commercial)

Current use of property: Automotive Services

Proposed zoning: CRC (Community Retail
Commercial)

Proposed use: Automotive Repair

Future Land Use Designation: NAC (Neighborhood
Activity Center)

Site Acreage: 0.91 ac

District: 18

Land Lots: 34

Parcel #'s: 18003400210

Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION:
(Zoning staff member: Terry Martin, MPA)

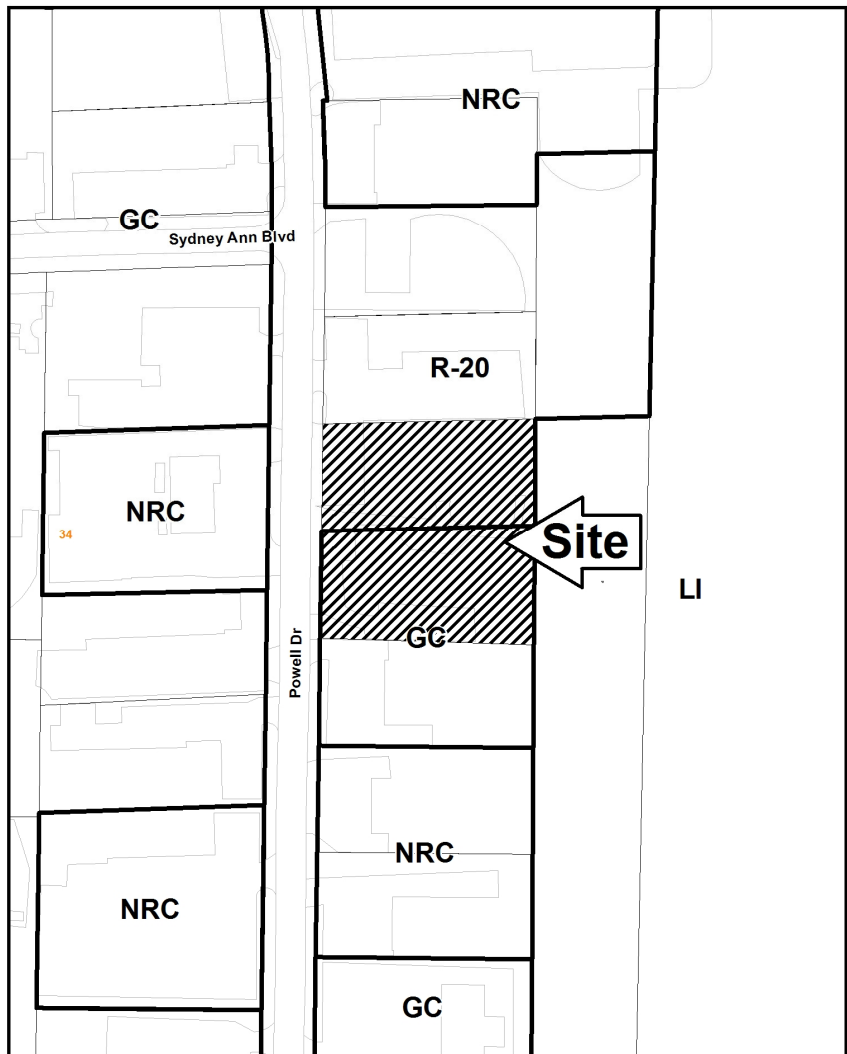
Based on the analysis of this case, Staff recommends **DENIAL.**

Z-41 2019-Aerial Map



North
Zoning: R-20 (Single-family Residential)
Future Land Use: NAC (Neighborhood Activity Center)

Z-41 2019-GIS



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

0 100 200 Feet

Zoning Boundary
City Boundary

WEST

Zoning: NRC
(Neighborhood
Retail
Commercial);
GC (General
Commercial)

**Future Land
Use:** NAC
(Neighborhood
Activity Center)

EAST

Zoning: LI
(Light
Industrial)

**Future Land
Use:** NAC
(Neighborhood
Activity Center)

SOUTH
Zoning: GC (General Commercial)
Future Land Use: NAC (Neighborhood Activity Center)

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The R-20 district is established to provide locations for single-family residential uses or residentially compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When residentially compatible institutional and recreational uses are developed within the R-20 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.

The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for major road access and visibility, are generally not listed as a permitted uses within the NRC (neighborhood retail commercial) and CRC (community retail commercial) districts or may have existing stipulations and conditions that limit certain intensive uses and are located in areas delineated within a community activity center and regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Any existing GC district, developed or undeveloped, located within an area delineated within an industrial-compatible area or industrial area as shown on the comprehensive plan, shall be deemed to be a grandfathered, nonconforming use after January 1, 1991, and subject to those provisions contained in this chapter.

Requested zoning district for the property

The CRC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the CRC district should be done so as compact unified centers. CRC districts should be located on properties which are delineated within a community activity center and regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Additionally, the desired quadrant location will provide for planned developments and one-destination shopping and service locations to serve the community, and will minimize traffic congestion.

Summary of the applicant's proposal

The applicant is seeking a rezoning of the subject property to the CRC community retail commercial district in order to operate a light automotive repair establishment. The business will operate Monday through Saturday 9am to 6pm with five (5) employees. The property is currently split zoned between the R-20 single-family residential district and the GC general commercial district. No new buildings are proposed as the existing structure is to be reused as-built.

DEPARTMENT COMMENTS- Zoning Division (continued)

Non-residential criteria

Proposed # of buildings: 1

Proposed # of stories: 1

Total sq. footage of development: 9,250 sq. ft.

Floor area ratio: 0.23

Square footage per acre: 10,076 sq. ft.

Required parking spaces: 16

Proposed parking spaces: none paved and striped

Acres in floodplain or wetlands: 0

Impervious surface shown: TBD

Are there any zoning variances?

The following variances are demonstrated:

1. Reduce the side setback adjacent to the north property line from the required 10 feet to zero feet (existing);
2. Reduce the front setback from the required 40 feet to 35 feet (existing);
3. Reduce the rear setback from the required 30 feet to 10 feet (existing); and
4. Reduce the landscape screening buffer adjacent to all residentially zoned property from the required 35 feet to zero feet adjacent to the north property line.

DEPARTMENT COMMENTS- Fire Department

No comments.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

The property owner will be required to obtain a Land Disturbance Permit if there are any staff comments or approval stipulations which require any type of site modifications (fencing, landscaping, curb/gutter & sidewalk installation, etc.). Contact Site Plan Review, 770-528-2147.

DEPARTMENT COMMENTS- Cemetery Preservation

No comment.

DEPARTMENT COMMENTS- School System

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

DEPARTMENT COMMENTS- Planning Division

Cobb 2040 Comprehensive Plan: The parcel is within the Neighborhood Activity Center (NAC) future land use category. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail, and grocery 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

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?

(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)

☐ Yes ☒ No

Is the property within an Enterprise Zone?

(The South Cobb 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)

☒ Yes ☐ No

Is the property eligible for the Façade Improvement Program?

(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.)

☐ Yes ☒ No

(Planning comments continued on the next page)

DEPARTMENT COMMENTS- Planning Division (continued)

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

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): 6" in Powell Drive

Additional water comments: Records show property currently served by water.

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: +/- 400' west in Sydney Ann Court w/easements

Estimated waste generation (in G.P.D.): Average daily flow = +/- nominal

Peak flow = +/- nominal

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

*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.

Additional sewer comments: No anticipated increase in wastewater generation. Recommend continued use of existing septic system, with Health Department confirmation.

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- Stormwater Management

Stormwater management must be provided upon redevelopment or substantial improvement.
All repairs must be performed inside the building.

DEPARTMENT COMMENTS- Transportation

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Powell Drive	Local	25	Cobb County	50'

Roadway	Location	Average daily trips	Level of service
Powell Drive	N/A	N/A	N/A

Comments and observations

Powell Drive is classified as a local roadway and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Recommendations

1. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
2. Recommend commercial driveway on Powell Drive to be upgraded per Section 402.08, Non-Residential Driveways, of the Cobb County Development Standards.
3. Recommend entrance on Powell Drive be a minimum of 24 ft and a maximum of 32 ft wide.

Recommend curb and gutter along the frontage of Powell Drive. Recommend fee in-lieu-of sidewalk along the Powell Drive frontage.

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;

The rezoning proposal is suitable in view of the use and development of adjacent and nearby property as it is to allow continued use of the property for light automotive repair, a use that has historically been conducted from this property in the past and is conducted on numerous other properties in the vicinity along Powell Drive.

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

The rezoning proposal will not adversely affect the existing use or usability of adjacent or nearby property as it is to facilitate continued use for light automotive repair, a use that has taken place on this property and currently takes place on neighboring properties. Also, due to the nonconforming status of the property, the request will allow reinvestment in the property and improvements that might not otherwise be allowed to the limitations of the grandfather clause it was previously subject to.

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 proposal will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

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

The rezoning proposal is not in conformity with the policies and intent of the *Cobb County Comprehensive Plan* as the property is located within the NAC neighborhood activity center future land use category. This category seeks to provide for areas that serve neighborhood residents and businesses and are generally of the type less intensive than allowed under the requested CRC district.

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 and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. Though previously "grandfathered" under its current R-20 and GC zoning, the request is to allow the property to be reutilized for the same light automotive repair use. However, the requested CRC zoning category is more intense than otherwise called for by the property's future land use designation of NAC. A request to another, more fitting zoning district may be appropriate.

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
MAR - 07 2019
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

ZONING IMPACT STATEMENT
FOR THE REZONING APPLICATION
OF KENNETH MORDI

RECEIVED
MAR - 7 2019
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

COMES NOW, KENNETH MORDI and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

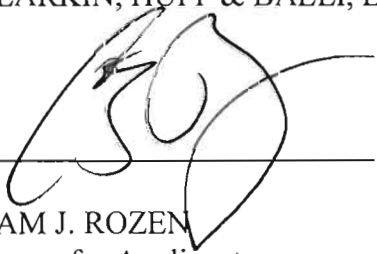
- A. The zoning proposal will permit a use of the property which is suitable in the context of development, uses and existing zonings in and around this section of Powell Drive.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties, the preponderance of which are zoned as General Commercial ("GC") and Light Industrial ("LI") and utilized for a range of industrial and heavy automotive uses.
- C. The Subject Property to be affected by the zoning proposal has limited economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owner of the Subject Property is suffering a significant economic detriment by virtue of the continuation of the present nonconforming classification of GC.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

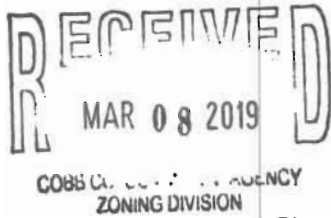
- E. The zoning proposal is consistent with the existing industrial and heavy automotive uses and businesses along Powell Drive.

There is no substantial relationship between the proposed zoning classifications of R-20 and GC, which currently limit the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development nearby and along this section of Powell Drive, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

SAMS, LARKIN, HUFF & BALLI, LLP

By: _____


ADAM J. ROZEN
Attorney for Applicant
Ga. Bar No. 161610



Application No. z-41

June 2019

Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed) Not Applicable

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) List all requested variances: _____
- _____
- _____
- _____

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

- a) Proposed use(s): Automotive Repair
- b) Proposed building architecture: As-built
- c) Proposed hours/days of operation: To be determined
- d) List all requested variances: To accommodate as-built circumstances of site
and building.
- _____
- _____
- _____

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

The present owner is suffering a significant economic detriment by virtue of the
continuation of the present nonconforming classification of GC. The Subject Property
is surrounded by existing automotive businesses and similarly intense uses which
dominate Powell Drive.

.....
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). No.

Planning Commission Decision

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

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

Names of those Opposed:**Comments:**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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:**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Stipulation letter from _____ dated _____

Stipulation letter from _____ dated _____

Stipulation letter from _____ dated _____