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Powder Springs, GA 30127
Phone: 770-943-1666
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December 31, 2014

Arbor Ridge Properties, LLC
3459 Acworth Due West Rd Ste. 317
Acworth, GA 30101

RE: Vineyards at New Macland, LL 651

To Whom it May Concern,

In response to your request, the present zoning on the property is MDR, Medium Density Residential with conditions. Zoning stipulations were placed on this subdivision on May 16, 2005, November 16, 2009, February 4, 2013, June 3, 2013 and August 18, 2014. Please see the attached for all zoning stipulations on this property.

Should you have any questions or if I can be of further assistance please feel free to contact my office at 770-943-1666.

Sincerely,

Tina Garver
Interim Community Development Director

/enclosures

REGULAR CITY COUNCIL MEETING
CITY OF POWDER SPRINGS
MAY 16, 2005

Mayor Vaughn called the meeting to order at 7:00 PM. All members of City Council were present. Also present was City Attorney Richard Calhoun, City Clerk Betty Brady and Major Mark Weaver.

Invocation: Council Member Nancy Arnold. Mayor Vaughn led the Pledge of Allegiance to the Flag.

Al Thurman moved to approve the May 2, 2005 regular City Council meeting minutes. Tom Bevirt made the second. Approved 5 to 0.

MAYOR'S COMMENTS:

- Mayor Vaughn announced the Lucille II Creek Trail (off Shipp Road) opening celebration would be Saturday, May 21st, from 9:00 AM to 11 AM. Mrs. Vaughn stated parking for the celebration will be at the Florence Road Trail Head and a shuttle service will be provided.
- Reported she, along with Council Members Bob Farmer, Tom Bevirt and Nancy Arnold, helped to dedicate the Patti Briel Parlor at the Seven Springs Museum on Thursday, May 12th. The dedication was held on Mrs. Briel's 65th birthday.
- Reported on the Town Hall meeting held on May 3rd at the Ford Center Reception Hall. Mrs. Vaughn stated the meeting was very successful. Mrs. Vaughn thanked all the citizens that attended.

Nancy Arnold moved to approve the hiring of Dane Perry as the new City Manager for the City. Bob Farmer made the second. Approved 5 to 0. Mr. Perry is coming from Cumming, Georgia.

Mayor Vaughn recognized and welcomed City Attorney Richard Calhoun. Mr. Calhoun replaces Ray Buday, who assumes the position as Chief Executive Officer with the Marietta Housing Authority on June 1st.

CITIZEN'S COMMENTS:

No one signed up to speak.

CITY ATTORNEY:

Richard Calhoun presented a rezoning application and opened the public hearing for Tomberlin Realty Services for property located on New Macland Road. The property would be for Woodland West Subdivision. Mr. Kevin Moore, Attorney for the applicant and property owners, was present. Mr. Tomberlin was also present. No one signed up to speak for or against the application. Mr. Moore stated his presentation is for the rezoning application as well as the annexation application that is also on the agenda. Mr. Moore stated the property is currently located in Cobb County and zoned R-20. Mr. Moore stated the rezoning request is to rezone to MDR (Medium Density Residential). Mr. Moore explained the application and also gave a review of his letter of (26) zoning stipulations dated May 16, 2005, addressed to the City Planner, Pam Conner, which he along with City Staff and the Planning & Zoning Commission had worked on. The stipulations are as follows:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property.
2. Rezoning of the Subject Property shall be from the R-20 zoning category (Cobb County) to the Medium Density Residential ("MDR") zoning category (City of Powder Springs) with reference to that certain revised Rezoning Plan prepared for Tomberlin Realty Services, LLC by Elite Engineering dated and last revised May 13, 2005.

3. By this revised letter of agreeable stipulations and conditions, Applicant amends its Application for Rezoning to include the revised Rezoning Plan hereinabove set forth, same being prepared by Elite Engineering, dated and last revised May 13, 2005.
4. The 21.081 acre tract (hereinafter "Subdivision") shall be developed for a single-family residential community containing a maximum of fifty-three (53) units for a maximum net density of 2.5 units per acre.
5. All residences constructed in the proposed Subdivision shall be traditional and craftsmen in styling and architecture.
6. Homes within the proposed Subdivision shall have the following minimum floor areas of heated and cooled living space:
 - (a) A maximum of ten (10) homes shall be between 2,500 square feet and 3,000 square feet; and
 - (b) The balance and remainder of the homes shall be greater than 3,000 square feet.
7. The facades of the residences within the proposed Subdivision shall be brick, stone, stacked stone, stucco-type, masonry siding, cedar shake shingles, or combinations thereof. Further, a minimum of fifty (50) percent of the residences shall have front elevations comprised entirely of brick or stone accents. No elevation shall be repeated within three (3) building lots.
8. Applicant agrees that all residences within the proposed Subdivision shall have two-car garages. A minimum of seventy-five (75) percent of the residences shall have side or rear entry garages.
9. Applicant agrees that there shall be no split-foyer plans within the proposed Subdivision; nor shall there be any vinyl siding placed on the exterior of the residences.
10. All lots in the proposed Subdivision shall have the following building setbacks:
 - (a) Front setback – Thirty-five (35) feet;
 - (b) Rear setback – Thirty (30) feet; and
 - (c) Side setback – Ten (10) feet (minimum thirty-five (35) feet for corner lot).
11. All front and side yards of the residences to be constructed within the proposed Subdivision shall be sodded.
12. The entrance to the proposed Subdivision shall be ground-based, monument style signage and shall be heavily and professionally landscaped; and shall be irrigated.
13. Applicant agrees to the creation of a mandatory homeowners association consistent with up-scale communities within the area. The mandatory homeowners association shall be responsible for the upkeep and maintenance of all common areas, including the amenity and entrance areas, contained within the proposed Subdivision.
14. Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed Subdivision, in perpetuity, which shall include a provision requiring a third-party management company which shall be responsible for the upkeep and maintenance of all common areas, in-ground irrigation system, landscaped areas, and amenity area within the proposed Subdivision. Applicant agrees to submit to the Mayor and Council for review the protective covenants for the proposed Subdivision. The Mayor and Council shall have the right to approve such covenants, which approval may not be unreasonably withheld. The approval is required prior to the issuance of building permits for the homes to be constructed, excepting only, any model homes.
15. Further, Applicant, together with any subsequent developer or builder, agrees to strictly enforce the provisions of the above-referenced covenants until turnover of the homeowners association to the future homeowners. During control by the developer, a minimum of one resident from the proposed Subdivision shall be a member of the Board of Directors with annual meetings to be conducted.

16. Amenities within the proposed Subdivision shall consist of a clubhouse, the exterior of which shall be consistent of that specified for the homes.
17. The utilities servicing the residences within the proposed Subdivision shall be underground.
18. Applicant agrees that it shall allocate the sum of \$10,000 to the mandatory homeowners association, which sum shall be deposited into the homeowners association account at the turnover of the association. This sum shall be in addition to any sums then remaining in said account.
19. Applicant agrees that upon turnover of the association, there shall be no debt incurred to the homeowners association.
20. Any lots not built upon within a period of seven (7) years of permitting of the proposed Subdivision shall be deeded to the homeowners association.
21. Applicant agrees to the construction of sidewalks on at least one side of all streets within the proposed Subdivision.
22. There shall be a natural, undisturbed buffer, supplemented by evergreen plan materials, as appropriate, along the rear lot line of every perimeter lot within the proposed Subdivision. The existence of said buffer area in each lot shall be preserved, in perpetuity, by placing a covenant within the warranty deed to subsequent homeowners concerning its existence, which shall be recorded in the Deed Records of the Superior Court of Cobb County, Georgia.
23. Applicant agrees to all transportation improvements recommended by the Cobb County Department of Transportation and the City of Powder Springs Public Works Departments, said improvements to be provided at no cost to either the City of Powder Springs or Cobb County.
24. Applicant agrees that if the builder for the homes within the proposed Subdivision should change, then the Mayor and City Council shall approve such builder for the City of Powder Springs.
25. Applicant agrees to comply with all City of Powder Springs model Stormwater Management requirements applicable to the Subject Property.
26. Applicant agrees to comply with all City of Powder Springs development standards and ordinances relating to project improvements, including all newly adopted model ordinances at the time of zoning approval, except as approved by the Mayor and City Council.

Richard Calhoun inquired of Kevin Moore if the Gravett & Martinez properties are part of the rezoning/annexation. Mr. Moore stated these two properties are to be included in the annexation at the zoning of R-20 but are not to be included in the rezoning.

A copy of a reduced sized architectural elevation was presented to City Clerk Betty Brady for the records. (copy attached) Mr. Moore stated Ryland Builders have a minimum of five different elevations that are part of this development.

Mr. Moore stated the club house will be constructed by Tomberlin using the same brick and stone exteriors as the development; the size of the club house will be approximately 1,200/1,500 square feet; and with a furnished kitchen. Mr. Tomberlin stated construction of the development should begin in August, 2005 with build out being about 18 months. Mr. Moore stated that there are five basic house plans and that there are multiple different types of elevations that go on the five different house plans (various materials that will go on each of the houses to make them look different). Mr. Moore stated the smallest lot size is 11,000 square feet, which is the minimum for the MDR zoning and ranging up to 20,000 square feet.

No one was present in opposition of the application. The public hearing was closed.

Richard Calhoun presented the second reading of Ordinance 2005-12 to annex 1.2 acres in Land Lot 651, owned by Helen E. Hill; 20 acres in Land Lot 651, owned by Thomas Harold Mobley, David Wayne Little, Catherine

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May 16, 2005
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Louise Little, Michael James Little, Paul Dwayne Little, and Thomas E. Little; .6 of an acre in Land Lot 651 owned by Anthony Gravett; .6 of an acre in Land Lot 651, owned by Peter Martinez and Norma Martinez. Each of the above parcels is located off New Macland Road. No one was present in opposition to the annexation. Bob Farmer moved to approve Ordinance 2005-12. Nancy Arnold made the second. Approved 5 to 0.

Ra Barr moved to approve the rezoning request by Tomberlin Realty, with the stipulations as presented in the May 16, 2005 letter from Kevin Moore to Pam Conner and with the following additional stipulations:

1. A minimum of a 20 ft perimeter buffer (to supplement stipulation #22 in the 5/16/05 letter)
2. 1,500 square foot furnished club house with a kitchen area
3. Elevation of houses to be submitted to Mayor & Council at plan review
4. Abide by the City's Stormwater Ordinance

Al Thurman made the second. Approved 5 to 0.

Richard Calhoun presented the second reading of Ordinance 2005-14 to amend the Code of Ordinances of the City of Powder Springs to permit the waiver of minimum distance requirements with respect to premises at which alcoholic beverages are sold; to establish criteria for such waivers; and to provide for the repeal of conflicting ordinances. Al Thurman moved to approve. Bob Farmer made the second. Approved 5 to 0.

Richard Calhoun presented the first reading of Ordinance 2005-15 to change the precinct location for City elections in Council District 3 from Compton Elementary School located at 3450 New Macland Road, Powder Springs, Georgia to the First Baptist Church of Powder Springs located at 4330 North Avenue, Powder Springs, Georgia.

Richard Calhoun presented the first reading of Ordinance 2005-16 to provide for permanent reduction in the vehicle speed limit to 25 MPH on Marietta Street from Brownsville Road to New Macland Road (a distance of 0.59 miles); to amend the Code of Ordinances to update incorporate speed limits approved by the Department of Public Safety.

Richard Calhoun presented the first reading of Ordinance 2005-17 to adopt a new classification and pay plan for the City of Powder Springs to add a fulltime Information Technician position.

Richard Calhoun presented the first reading of Ordinance 2005-18 to increase the compensation paid to the elected positions of Mayor and the members of the City Council of the City of Powder Springs. The compensation paid to the elected position of Mayor is to be increased to \$18,000 per year and the compensation paid to the council members is to be increased to \$12,000 per year. The increase in compensation shall not be effective until after taking of office of those elected at the next regular city election.

Richard Calhoun presented Resolution 2005-20 authorizing the Mayor to execute a Special Local Option Sales Tax (SPLOST) Intergovernmental Agreement with Cobb County Government. Mayor Vaughn read a list of proposed projects for the City of Powder Springs. Nancy Arnold moved to approve Resolution 2005-20. Ra Barr made the second. Approved 5 to 0.

Richard Calhoun presented Resolution 2005-22 authorizing the Mayor of the City of Powder Springs to authorize additional work through an additional work order under an existing agreement with Basile Baumann Prost & Associates, Inc. specifically, the evaluation of responses to redevelopment projects within the Town Center area and Tax Allocation District Calculations and Report on Tax Allocation District Bond Issues. The

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fee to be \$53,000 is a budgeted item. Nancy Arnold moved to approve. Tom Bevirt made the second. Approved 5 to 0.

COUNCIL REPORTS:

Nancy Arnold extended her appreciation to Mayor Vaughn for assuming the duties of Acting City Manager for the last three months. Mrs. Arnold welcomed City Attorney Richard Calhoun.

Mrs. Arnold commended the McEachern Track Team for placing third in the State in a competition in Jefferson, Georgia this past weekend. Ben Huber ran the 1600 and the 3200 and received the Gold in both and also received a special award for best in class for having the best time of all classifications of the meet. McEachern High School competes in 5AAAAA. Mrs. Arnold extended congratulations to Ben and also to McEachern High School.

Mrs. Arnold announced she had the privilege last Thursday to participate in the awarding the South Cobb Citizens of the Year, Mr. Pete Wood of Smyrna, Georgia. Mr. Wood was a charter member of the Cobb Hospital Authority.

Mrs. Arnold extended sympathy to Jerry Purcell, and his family, in the recent passing of his wife.

Bob Farmer thanked Mayor Vaughn for serving as Acting City Manager for the last three months. Mr. Farmer stated it was an honor to participate in the dedication of the Patti Briel Parlor at the Seven Springs Museum and encouraged the citizens to visit the museum.

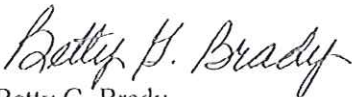
Tom Bevirt announced and luncheon of May 23, 2005, 12:00 noon to 2:00 PM with the Cobb Underage Drinking Task Force at the Marietta Conference Center.

Ra Barr thanked everyone who participated in the Town Hall meeting and appreciates all the good comments from a number of citizens on a number of subjects. Thanks to Richard Calhoun for rejoining the City of Powder Springs team. Reminded everyone of the Lucille Creek Trail dedication on Saturday, May 21st at 9:00 AM.

Al Thurman stated the Town Hall meeting went very well and was well attended. Thanked Mayor Vaughn for the work she has done as Acting City Manager for the past three months. Mr. Thurman also welcomed Richard Calhoun.

Mayor Vaughn reported several teenagers vandalized the new sidewalks on Marietta Street last week causing approximately \$7,000 and also caused a one-week delay on the Marietta Street Streetscape project construction. Mayor Vaughn stated the reason the vandals were caught was a citizen saw them and immediately went to the Police Station to report it. Mrs. Vaughn encouraged citizens to always be on the lookout for vandalism.

Al Thurman moved to adjourn. Bob Farmer made the second. Approved 5 to 0. The meeting adjourned at 8:10 PM.


Betty G. Brady
City Clerk



**City of Powder Springs
Council Minutes - Final
City Council**

City of Powder Springs
4484 Marietta Street
Powder Springs, GA
30127

**Mayor
Patricia C. Vaughn**

**Council Members:
Rosalyn Neal, Thomas Bevirt
Ra Barr, Al Thurman, Bob Farmer**

Monday, November 16, 2009

7:00 PM

Council Chambers

1. Call to Order

Mayor Vaughn called the meeting to order at 7:00 p.m. All council members were present with the exception of Bob Farmer. Also present were City Attorney Richard Calhoun, City Clerk Dawn Davis, Community Development Director Pam Conner, Special Project Assistants Tina Garver and Jesus Davila and Chief Richardson of the Powder Springs Police Department.

2. Invocation and Pledge of Allegiance

Mr. Thurman gave the invocation and the Mayor led the Pledge of Allegiance.

3. Approval of Minutes

Al Thurman made a motion to approve the November 2, 2009 minutes from the Regular City Council Meeting, Rosalyn Neal seconded, motion carried 4/0.

Al Thurman made a motion to approve the November 11, 2009 Special Meeting, Rosalyn Neal seconded, motion carried 4/0.

4. Mayor's Comments

Mayor Vaughn said that Mr. Farmer was improving and she hoped he would return for the December meeting. She extended her appreciation to American Legion Post 294 for their Veterans Day Celebration on November 11th. She said that it was the largest crowd she had seen at a Veterans Day Ceremony.

Mayor Vaughn announced the NAACP 100th Year Anniversary celebration on November 15, 2009, from 2:00 p.m. until 5:00 p.m. at Tapp Middle School. She said that all the cities in Cobb were asked to sponsor an event to celebrate the anniversary.

The Mayor said that the Volunteer Banquet would be on Thursday,

November 19th. She also reminded everyone of the tree lighting ceremony on December 5, 2009 at 5:00 p.m.

Mayor Vaughn nominated Kent Shelton to serve on the Downtown Development Authority. Ra Bar made a motion to approve, Tom Bevirt seconded, motion carried 4/0.

She wished everyone a happy and safe Thanksgiving holiday and reminded everyone that the council would only meet on the first Monday in December.

5. Citizens Comments

No one signed up to speak.

6. City Attorney

Consent Agenda

- A. **PZ-089132** Special Use - Mobile Food Service Vendor; David Austin/Gasan Awad 4113 Austell-Powder Springs Road; Land Lot 946; per stipulations listed on Exhibit A-Consent Agenda Attachment
- B. **ORD 09-57** 2nd Rding, an ordinance to amend the Code of Ordinances by revising certain penalty provisions for violations of the Code of Ordinances; to provide for an effective date; to repeal conflicting ordinances; and for other purposes.
- C. **ORD 09-58** 2nd Rding, an ordinance amending Article IV, "Municipal Court" Section 4.13 of the Charter of the City; to provide for an effective date; to repeal conflicting ordinances and Charter provisions; and for other purposes
- D. **RES0 09-94** A resolution authorizing the Mayor to accept and execute a proposal to complete engineering and construction revisions to certain areas of the Lewis Road Project; and for other purposes.
- E. **RES0 09-95** A resolution authorizing the Mayor to execute a Letter of Engagement for legal representation with McKenna Long & Aldridge relating to the Powder Springs Downtown Development Authority Revenue Bonds, 2006 Series, and agreement; and for other purposes.
- F. **RES0 09-96** A resolution approving and authorizing the Mayor to sign an acceptance of a conservation easement from H D Development of Maryland, Inc.; and for other purposes.
- G. **RES0 09-98** A resolution approving and authorizing the Mayor to execute an agreement with Monitronics International, Inc. for security alarm monitoring; and for other purposes.

Richard Calhoun presented the Consent Agenda and opened a hearing

on any of the items on the agenda which required a hearing. No one came forward to speak on any Consent Agenda item so the public hearing was closed. There was no discussion by the Council.

Rosalyn Neal made a motion to approve the Consent Agenda as presented, Al Thurman seconded, motion carried 4/0.

Regular Agenda

- H. **PZ-089122** Variance, Setbacks and Development Standards; Land Lot 651; Community Bank of the South-Vineyards at New Macland.
- Richard Calhoun opened the public hearing for agenda items "H" and "I" and said that these two items would be considered at the same time. Doug Dillard of Dillard and Galloway, LLC was present for the applicant. Mr. Dillard stated that the applicant was in agreement with all the conditions stated in the document dated November 16, 2009, prepared by Community Development. Mr. Dillard stated that they were not in agreement with the background information that was attached with the conditions but that was immaterial because the conditions would rule. Mr. Dillard read all 21 conditions into the record (attached to these minutes as Exhibit B, dated November 16, 2009). He stated that on condition #16, he wanted to insert "where these conditions are in conflict with city codes, the conditions would prevail with the exception of the HOA." Rosalyn Neal requested that an additional condition be added that stated "for every twelve homes built, three homes shall be three sided brick." Mr. Dillard stated that his client was in agreement with this additional condition. Mayor Vaughn recommended that the developer comply with the Property Owners Act which allows the covenants to be perpetual instead of having an expiration date of twenty years.
- Richard Calhoun asked if there was anyone present who wished to speak on these two agenda items and no one came forward. Mr. Calhoun closed the public hearing.
- Rosalyn Neal made a motion to approve agenda items "H" and "J" with the attached conditions (labeled Exhibit B, dated November 16, 2009) that were developed by City staff with the addition of an additional condition that stated "for every twelve house built, three of those houses must be three sided brick" and adding language to condition #16 "...where these conditions conflict with city codes, the conditions would prevail with the exception of HOA." Ra Barr seconded, motion carried 3/1 (Tom Bevirt opposed).**
- I. **PZ-089125** Zoning, Change in Conditions, Land Lot 651; Community Bank of the South-Vineyards at New Macland.
See Agenda Item "H".

- J. PZ-089116 Zoning, Change in Conditions, Land Lots 375, 976, 1024, 1023 and 1022; United Community Bank/D.R. Horton Homes - Springbrooke Estates.
The Mayor said that the applicant had made a request to withdraw this zoning application.

Rosalyn Neal made a motion to withdraw without prejudice, Al Thurman seconded, motion carried 4/0.

- K. ORD 09-60 1st Rding, an ordinance to amend Chapter 6 of the Code of Ordinances to provide for the appointment of multiple Municipal Court Judges and City Solicitors; to provide for an effective date; to repeal conflicting ordinances; and for other purposes.
Richard Calhoun presented the first reading, the second reading will be on December 5, 2009.

- L. ORD 09-61 1st Rding, an ordinance creating Chapter 21 of the Code of Ordinances to be known as the Powder Springs Nuisance Abatement Ordinance to create a process for addressing unsale properties; to provide for an effective date; to repeal conflicting ordinances; and for other purposes.
Richard Calhoun presented the first reading, the second reading will be on December 5, 2009.

- M. ORD 09-63 1st Rding, an ordinance to prohibit public combustible tobacco within the Powder Springs City Square during City Sponsored Events.
Richard Calhoun presented the first reading. The Mayor explained that this ordinance was a result of a senior project by Will Wizner. He in collaboration with the Mayor, City Attorney and the Community Development Director, developed the ordinance and is now presenting to the Council for their consideration. Mr. Wizner came forward and explained the proposed ordinance to the Council.

7. City Council Reports

Ra Barr: Mr. Barr said that he wished everyone a safe holiday.

Tom Bevirt: Mr. Bevirt did not have a report.

Rosalyn Neal: Ms. Neal said that McEachern Football team was great and that she enjoyed the New Hope Missionary Church's Men's Choir performance at the NAACP 100th Anniversary Celebration.

Al Thurman: Mr. Thurman did not have a report.

The Mayor said the Teresa Geiger had an announcement. Ms. Geiger told the Mayor and Council that she had a new great grand child born earlier in the day.

8. Executive Session

9. Adjournment

4/0. Meeting adjourned at 7:55 p.m.



Dawn R. Davis, City Clerk

Exhibit A
City of Powder Springs
City Council Meeting
November 16, 2009
Consent Agenda Attachment
Stipulations

Agenda Item PZ089132

Special Use Approval, Mobile Food Service Vendor, David Austin/Gasan Awad, 4113 Austell-Powder Springs Road, Land Lot 946

Stipulations:

1. That the approval shall expire in 2 years and the applicant shall reapply for Special Use Approval.
2. That the hours of operation shall be limited to 11:00 a.m. to 11:00 p.m., Wednesday through Sunday.
3. That the trailer be located behind the bollards and a minimum of 10 feet from the front (west) and interior side (south) property lines.
4. That annual approval from the Cobb County Health Department be received indicating compliance with health code regulations prior to renewal of a business license.
5. That proper on-site queuing for vehicles be provided.
6. That the trailer be stored and maintained off site at 2535 Powder Springs Road or where lawfully permitted.
7. That a temporary event permit or peddlers license be required prior to relocation from the subject property to any other property within the City.
8. Violation of the conditions of approval will render the approval null and void and the business license revoked.

Exhibit B

Zoning, Change in Conditions and Variance, Land Lot 651; Community Bank of the South-Vineyards at New Macland

Prepared By: Community Development

Recommendation:

With the following conditions, staff can support a recommendation of approval of the applications submitted by Community Bank of the South:

- ✓1. The property shall be rezoned from MDR conditional to MDR conditional with a maximum density of 2.5 units per acre.
- ✓2. ✓(1) The homes actually constructed on the property shall at all times contain the following amounts of heated and cooled living space:
 - a. No home shall contain less than 1980 sq. ft.;
 - b. Up to 40 % of said homes may contain 1980 to 2096 sq. ft.;
 - c. Up to 30 % of said homes may contain 2206 to 2300 sq. ft.; and
 - d. From 30% to 100% of said homes shall contain from 2301 to 2700 sq.ft.
- ✓(2) The approved homes for the development shall be the following as submitted by Red Oak Construction and Red Oak Realty:
 - ✓ Richton 1980
 - ✓ Bridleridge 1985
 - ✓ Shakelford 2096
 - ✓ Richwood 2206
 - ✓ Parker 2236
 - ✓ Buckhead 2242
 - ✓ Hathaway 2399
 - ✓ Richview 2408
 - ✓ Bostwick 2410
 - ✓ Hayden 2414
 - ✓ New Atlanta 2583
 - ✓ Corry 2700

- ✓(3) Any addition to plans shall be subject to approval by the Mayor and Council.
- ✓(4) No more than 5 of each model may be built without approval by Mayor and Council.
- ✓(5) A minimum of 20% of the homes (11 homes) shall have front and side elevations comprised entirely of brick or stone or a combination thereof. All remaining homes (42 homes) shall have front elevations comprised of a minimum 50% brick or stone or combination thereof.
- ✓3. The facades of the homes shall be brick, stone, stacked stone, hardiplank siding, cement lap siding, board and batten, cedar shake shingles or combinations thereof. No vinyl or stucco or split foyer plan shall be used. No house plan shall be repeated within five building lots or directly across the street, and various shades of brick shall be provided throughout the development.
- ✓4. The builder shall locate, at a minimum, one Hayden, New Atlanta and Corry, each with a side entry garage and full brick on the front and side elevations, on Lots 1 through 5 and Lots 50 through 53 (as shown on the existing Final Plat recorded at Book 255, page 91) and these shall be the first homes built.
- ✓5. The homes on Lots 1, 53, 47 and 46, shall provide full brick or stone on the front and side elevations.
- ✓6. A decorative style garage door shall be provided on all homes in the development (attach photo).
- ✓7. Each home shall have a 2 car garage, and 50% of the homes shall have side entry garages.
- ✓8. The side entry driveways shall have raised or sloping curbing located on that portion of the driveway which forms the turnaround adjacent to the side yard lot line.
- ✓9. A 25-foot front setback is allowed for all homes with a side entry garage, except for corner lot homes (Lots 17, 21, 33, 37, 38, 42, 43, 49 and 50 as shown on the Final Plat recorded at Book 255, page 91).
- ✓10. An amenity area consisting of a 400 square foot open air pavilion or gazebo and a playground shall be provided on Lots 15 and 23 (as shown on the existing Final Plat recorded at Book 255, page 91) which lots shall be replatted to remove current lot lines to reflect common open space.
- ✓11. Two parking spaces shall be provided at the entrance to Lots 15 and 23 in the form of pervious spaces with structural permeable pavers or similar material.
- ✓12. The entrance shall include a ground based monument style sign and shall be heavily and professionally landscaped and irrigated. Additional landscaping shall be installed at the front entrance to the subdivision to supplement what already exists. A landscape plan for the entrance shall be submitted to Community Development by December 15, 2009 to include additional

landscaping at the entrance. The plan shall include evergreens and flowering materials. Approval shall not be unreasonably withheld. The additional landscaping shall be installed prior to March 15, 2010.

- ✓ 13. There shall be a mandatory HOA responsible for the upkeep and maintenance of all common areas, including the amenity and entrance areas. The applicant and any subsequent developer or builder agrees to strictly enforce the provisions of the covenants until turnover to the HOA.
- ✓ 14. The Applicant and any subsequent builder or developer shall allocate the sum of \$12,000 to the mandatory HOA, which sum shall be on deposit with the HOA at the turnover of the association. Upon turnover there shall be no debt incurred to the HOA. Prior to issuance of a first building permit, the applicant shall deposit \$12,000 into a maintenance fund to provide for the first year of maintenance of the development.
- ✓ 15. The Applicant and any subsequent owner of any and all unbuilt lots shall remain a member of the HOA and abide by all covenants of the HOA.
- ✓ 16. The Covenants and Declarations attached and referenced as Exhibit 1 are simultaneously approved by Council and the mandatory homeowners association shall be established in accordance with the Covenants and Declarations. The Covenants and Declarations shall be included on the face of the final plat to be recorded. There shall be a covenant which clarifies that in the event of any conflict between the City code and covenants, the City's code shall prevail. *insert where these conditions conflict w/city codes, the conditions would prevail with the exception of HOA set*
- ✓ 17. There shall be a natural undisturbed buffer, supplemented by evergreen plant materials as appropriate, along the rear lot line of every perimeter lot within the development. This perimeter buffer shall be a minimum of 20 feet in width. There shall be a covenant which prohibits the removal of the buffer.
- ✓ 18. There shall be a covenant which prohibits fencing in the side yard at any point between the rear of the dwelling and the right of way of the street used to access the lot and which restricts from public view fencing commonly regarded as privacy fencing.
- ✓ 19. The front and side yards shall be sodded.
- ✓ 20. The side yard setback for the proposed homes shall be a minimum of 5 feet, and a minimum of 15 feet shall be maintained between the homes with side entry garages, and 20 feet maintained between all other homes.
- ✓ 21. There shall be sidewalks on at least one side of all streets within the development.
- 22. *for every 12 homes built three shall be 3 sided brick*

Background:

The subject property is located in Land Lot 651. The property was rezoned MDR on May 16,

2005. A land disturbance permit was issued on March 2, 2006 for the development of 53 single family residences. The infrastructure work on said permit has been completed. Community Bank of the South is the owner of the property and, through the law office of Dillard and Galloway LLC, is seeking to modify the previous stipulations for approval of the property and to vary provisions of the code. The law firm has indicated that the particular conditions of zoning placed on the property in 2005 makes the property unsaleable. The owner has indicated that there is a potential homebuilder interested in the purchasing the property contingent upon approval of the modified conditions and variance requests. The owner requests that 11 of the 30 previously approved conditions be modified.

Staff notes that some of the amendments sought by the applicant would be in direct conflict with the requirements of the UDC. Despite their inclusion in the conditions of zoning, any variances from or modification to these particular provisions are properly reviewed under the variance standards rather than the zoning standards because they are code provisions. Accordingly, a variance application is being sought contemporaneously with this request.

Analysis:

The Future Development Map of the Comprehensive Plan designates this property as Suburban Residential Neighborhood (SRN). Suburban Residential Neighborhoods form the backbone of the Powder Springs Community. As the city grows and develops, Suburban Residential Neighborhoods must be protected from the encroachment of traffic and incompatible uses. Traditional Neighborhood Development principles should be applied in appropriate residential communities in order to ensure that new development is supportive of pedestrian oriented development. Meanwhile, declining neighborhoods must be stabilized in order to protect the overall integrity of the city's residential communities. Infill development on vacant lands in established areas already served by utilities and other infrastructure may be appropriate if compatible in scope, design and density with the established area. Architectural standards could be adopted to ensure that higher densities permitted in an infill or traditional neighborhood development is mitigated with quality developments.

In review of the amendments proposed by the law firm, staff provides the following analysis.

1. Condition #4: Homes shall have the following minimum floor area of heated and cooled living space:
 - a. A maximum of 10 homes shall be between 2500 and 3000 SF.
 - b. The balance and remainder of homes shall be greater than 3000 SF.

Proposed: That the house size as set forth in Condition #4 be modified to a minimum of 1,980 square feet.

In itself, the reduction of the square footages would not lower the potential sales price nor diminish the quality of the homes. However, a loss of 40,351 square feet

is fairly significant change that could affect the quality of the overall development unless certain conditions remain in place.

2. Condition #11: Applicant agrees to the creation of an HOA consistent with up scale communities within the area. The mandatory HOA shall be responsible for the upkeep and maintenance of all common areas, including the amenity and entrance areas.

Proposed: That condition #11 be modified to allow the builder to choose the homeowners association and manage the same during build out, and that no residents would be on the homeowners' association board at this time.

By eliminating the homeowners from the board, the developer may be unable to adequately address their concerns. However, the applicant has agreed that they and any subsequent developer or builder agrees to strictly enforce the provisions of the covenants until turnover to the HOA.

3. Condition #12: Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules and regulations applicable to the proposed subdivision, in perpetuity, which shall include a provision requiring a 3rd party management company which shall be responsible for the upkeep and maintenance of all common areas, in ground irrigation system, landscape areas and amenity areas within the proposed subdivision. The Mayor and Council shall have the right to approve such covenants, which approval may not be unreasonably withheld. The approval is required prior to the issuance of building permits for the home to be constructed, excepting only, any model homes.

Proposed: That condition #12 be modified to include the following: That Mayor and Council approve the covenants simultaneously with approval of the application and that the requirement for third party management company be eliminated.

The City Attorney has reviewed the covenants and suggests that a provision be added to clarify that in the event of any inconsistency between the covenants and the City's Unified Development Code, the code should prevail over the covenants. Additionally staff notes the following inconsistencies and recommends that the covenants be modified accordingly: revised leasing provisions, outside storage, overnight parking of vehicles, decoration and holiday lighting, trash collection containers, owner occupancy, and revised privacy fencing.

4. Condition #14: Amenities within the proposed subdivision shall consist of a club house, the exterior of which shall be consistent of that specified for the homes. The clubhouse will be a minimum of 1,500 sf, furnished, and include a kitchen.

Proposed: That condition #14 be eliminated.

Typical amenity areas include a club house, pool, tennis courts, playgrounds, and/or open fields for active recreation. Amenity areas increase the quality and value of a subdivision and provide for a common meeting place for social, recreational, and HOA meetings for all the residents of the subdivision. An amenity should be provided.

5. Condition #18: Any lot not built upon within a period of 7 years of permitting the proposed subdivision shall be deeded to the HOA.

Proposed: That condition #18 be eliminated.

The intent behind this stipulation was to eliminate the unsightliness caused by overgrown and undeveloped parcels. This may be accomplished with a condition that the applicant or owner remain a member of the HOA as representative of unbuilt lots and comply with all covenants.

6. Condition #20: There shall be a natural undisturbed buffer, supplemented by evergreen plant materials, as appropriate, along the rear lot line of every perimeter lot within the proposed subdivision. The existence of solid buffer area in each lot shall be preserved, in perpetuity by placing a covenant within the warranty deed records of the Superior Court of Cobb County. This perimeter buffer shall be a minimum of 20' in width.

Proposed: That condition #20 is modified to eliminate the need for any landscaping so that the buffer shall remain natural and undisturbed.

Staff notes that the property is surrounded by existing single family residences with the City limits to the south and unincorporated Cobb County in the other cardinal locations. The buffer was presented by the previous owner to help mitigate any potential visual or aural impacts the original development would cause on the surrounding properties as a result of the increased density and smaller lots sizes. Staff notes that the lots have been cleared during the land disturbance process and gaps in the existing landscape are prevalent. The elimination of the buffer requirements and additional planting materials would detract from the intent of the original approval. However, it may be unnecessary to require the recording of the undisturbed buffer on the deed of each property. Rather, the covenants could simply be amended to prohibit property owners from removing the buffer.

7. Condition #22: Applicant agrees that if the builder for the new homes should change, then such builder shall be approved by the Mayor and Council of Powder Springs.

Condition #29: New Vision Communities, LLC shall be the approved builder.

Proposed: That conditions #22 and #29 regarding the selection of the builder and the builder (Vision Communities, LLC) which is the approved builder be eliminated.

The intent of this stipulation was to afford the Mayor and City Council the opportunity to meet the prospective builder, allow for dialogue between the builder and Council, and establish in writing who the builder would be. This can be accomplished through the design review process making these conditions unnecessary.

8. Condition #27: Side entry driveways shall have raised or sloping curbing located on that portion of the driveway which forms the turnaround adjacent to the side yard lot line.

Proposed: That condition #27 be amended to eliminate the requirements of raised curbs and driveways.

The intent of this stipulation was to provide a safety factor for cars exiting from side entry or rear entry garages. The raised curb at the turnaround provides for a physical warning by notifying the driver that he or she has reached the edge of the concrete pad. A distracted driver would back up of their driveway and either impact an adjacent owner's fence, back into a detention or drainage area, or cause damage to the vehicle or a person.

9. Condition #6: 75% of the homes shall include side entry garages.

Proposed: That condition # 6 be eliminated.

Side entry garages add to the quality of a home and development and help offset the reduction in square footage. While the previous developers had demonstrated with their renderings that it was feasible to install the side entry garage on the lots, it may be appropriate to provide some flexibility in the distance required between structures and in the front setback for the side-entry homes.

10. Condition #5: 50% of the homes shall be comprised of full brick on the front elevation.

Proposed: That condition # 5 be modified to allow brick or stone accents.

Brick or stone adds value to a home and should be prevalent throughout a development rather than as simple accents to maintain its quality. Like the side entry garage, brick or stone helps offset the reduction in square footage. However, it may be appropriate to modify how the percentage of brick within this development can be met.

Standards for Change in Conditions:

Section 11-2 of the Unified Development Code establishes the following standards the Planning and Zoning Commission and Mayor and City Council shall consider in evaluating zoning

petitions, "... giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:"

Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?

The comprehensive plan contains policies which reflect the purposes and intentions of the comprehensive plan overall. The Future Development Map of the Comprehensive Plan designates this property as Suburban Residential Neighborhood (SRN). The description of the suburban residential neighborhood character area designation (in which the subject property is located), provides in relevant part:

The comprehensive plan indicates the purpose of the Suburban Residential Neighborhood designation is to protect development within the neighborhood from the encroachment of traffic and incompatible uses. "Infill development on vacant lands in established areas already served by utilities and other infrastructure may be appropriate if compatible in scope, design and density with the established area. Architectural standards could be adopted to ensure that higher densities permitted in an infill or traditional neighborhood development is mitigated with quality developments." (p. 12 community agenda).

The use proposed is the same, single-family detached dwelling, but there are substantial differences in the result if the conditions are modified as originally requested. When the subject property was rezoned, it was approved at a higher density than the surrounding R-20-zoned neighborhoods. The area is surrounded by minimum 20,000 square foot lots. The rezoning allowed for the platting of smaller lot sizes, i.e., as low as 11,000 square feet, in exchange for a number of strict conditions of zoning that would mitigate the potentially negative effects of smaller lots on the R-20-zoned neighborhoods nearby. Staff maintains that the higher densities (i.e., smaller lot sizes) platted on the subject site are incompatible with the surrounding single-family dwellings and subdivisions, unless many if not all of the original conditions of approval are maintained. Additionally, staff notes that the requested changes would deviate from the vision statement in the comprehensive plan. The vision statement, among other things, indicates that the City will preserve and enhance the quality of life and integrity of its suburban residential neighborhoods. The proposed changes as originally requested would be inconsistent with the purposes of the comprehensive plan as articulated in the suburban residential neighborhood character area.

Is the proposed use consistent with the stated purpose of the zoning district being requested?

The Medium Density Residential District is established to provide locations for single-family detached residential uses on smaller lots with creative lot configurations, among other things. The MDR zoning district permits up to 3.2 units per acre for single family detached residences. The development would not introduce any additional units beyond that originally approved and platted at 2.5 units per acre, as originally limited under the agreement between the City and Cobb County during the annexation.

There is nothing particularly creative about the lot arrangement, except that the lots in the subject subdivision are smaller than the norm in the surrounding neighborhood. By creative, staff also interprets this term to mean something different from the norm and acceptable due to something different or unique about the development. The smaller lot configuration is considered creative only if there were additional architectural standards and other conditions applied to the development. Without those conditions, the proposed development is considered inconsistent with the purpose of the MDR zoning district.

Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?

The development permits a higher density than the surrounding neighborhoods. The smaller lot sizes and higher densities were only considered acceptable to the City and the surrounding neighborhoods if the conditions regarding architectural standards, buffering, house size, etc. were applied. If the applicant seeks to eliminate the conditions under which the subject subdivision was allowed in the first place, the change would not be suitable.

Are or will public facilities such as schools, water or sewer utilities, and police or fire protection be adequate to serve the proposed use?

The proposed rezoning will not further impact certain public services. It appears that water and sewer utilities are adequate to serve the site. The Public Works Department has indicated that it has no concerns with the proposed use. Staff has not received any reply from the Police Department. Staff notes that the original development would have provided additional opportunities for the area schools in the form of additional taxes. The changes as initially proposed may reduce the anticipated revenues envisioned by this development and may not provide the school district with the appropriate means to adequately serve the school age children of the development and the area in general.

Are there substantial reasons why the property cannot or should not be used as currently zoned?

The original zoning applicants specifically agreed to conditions from which the current applicant seeks relief. In fact, the prior zoning applicants approached the City and offered the conditions. That is considered as some evidence that the prior applicant believed it could be used as currently zoned, with conditions. And furthermore the prior applicant went so far as to develop the subdivision and final plat the lots.

The recession that has occurred is a change of conditions which certainly makes the sale or development of real estate more difficult than originally contemplated when the zoning as originally approved in 2005. However, market conditions in and of themselves do not, in staff's opinion, constitute a substantial reason why the applicant cannot develop houses on the lots as currently zoned. The applicant has not offered any evidence or substantial reasons other than bad market conditions to show that the lots cannot be built upon in accordance with the

approved zoning conditions. Staff is also very concerned about the precedent that such approval would set for other properties that are also potentially affected by bad market conditions. If relief is granted to this property owner as requested in the applications, there is then cause to relieve existing zoning conditions on other properties.

Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of the property?

The property would be used for houses on lots that are almost twice as small as the prevailing lot sizes in surrounding neighborhoods. The original conditions relating to architectural standards and appearance, buffers, amenities, etc., represented a reasonable balance to the developer to build at a higher density (smaller lot size). Without those conditions, the balance shifts in favor of the applicant who seeks relief and has capitalized on the zoning density permission without then upholding promises/conditions to provide higher quality homes. To approve changes as requested would not promote the public health, safety, morality or welfare and would instead allow a much higher density residential subdivision than its surroundings without any corresponding benefits to the neighborhood or the city as a whole.

Review under Guhl criteria (Guhl et al vs. Holcomb Bridge Road Corp et al., 238 Ga. 322,232 S.E.2.d 830 (1976)):

The criteria set forth by Guhl v. Holcomb provides standards which have been regarded as relevant. The following are the standards and staff's response to same.

(1) existing uses and zoning of nearby property;

The parcels, both in the City and in unincorporated Cobb County, on all four cardinal locations are zoned R-20. The parcel was rezoned from R-20 to MDR in 2005 with conditions that mitigated the affect of smaller lots size and increased density. Older surrounding neighborhoods provide smaller homes, which are primarily all brick and are located on half acre lots. Nearby properties contain similar larger lots as well as larger quality homes.

(2) the extent to which property values are diminished by the particular zoning restrictions;

The applicant has failed to show that the conditions of zoning applied to the subject property are a reason that the subject property has diminished in value. The applicant contends that the downturn in the market has diminished the saleability of the site and therefore has caused significant monetary hardship. Higher quality development standards, such as the recreational amenity, side entry garages, and brick and stone materials, are more likely to result in greater values of individual lots than any reduction of property value. The zoning, which allowed for smaller lot sizes than are built in the surrounding area, is likely to have increased the value of

the subject property above and beyond what it would be in the R-20 zoning district.

(3) the extent to which the destruction of property values of the plaintiff promotes the health, safety, morals or general welfare of the public;

Property values have gone down almost universally as a result of the economic recession. There are no reductions in property value that have been shown to be uniquely attributable to the zoning or zoning conditions initially offered by the original developer and approved by the City. To the contrary, staff believes the conditions of zoning, including the smaller lot size allowances, have the affect of making the subject property more valuable than properties and lots in surrounding and nearby residential neighborhoods. Since there are no reductions in property values attributed to the zoning, and in fact an opposite effect occurs with the current zoning, this criterion appears inapplicable. To the extent property value is a factor, staff believes maintaining certain conditions of zoning serve essential public purposes.

(4) the relative gain to the public, as compared to the hardship imposed upon the individual property owner;

There is significant gain to the public by upholding zoning conditions which mitigate potentially negative effects of smaller lots on the surrounding residential neighborhood.

(5) the suitability of the subject property for the zoned purposes; and

The subject property is not suitable for the lot sizes platted unless it is developed in conformity with architectural standards that will facilitate a quality development and mitigate impacts of smaller lots on adjacent properties.

(6) the length of time the property has been zoned, considered in the context of land development in the area in the vicinity of the project.

The subject property was annexed and rezoned from R20 to MDR conditional in 2005. Since 2005 the subject property was developed in accordance with the conditional MDR zoning approval, with public streets and utilities, and it was final platted (December 2006), in anticipation of development in accordance with the conditional zoning.

Standards for Variances

A special exception may be granted upon a finding that the relief, if granted, would not cause substantial detriment to the public good or be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity nor diminish and impair property values within the surrounding neighborhood or impair the purpose and intent of the Development Code.

Based on the analysis indicated in the above pages, the standards for a special exception variance regarding the front setback for specific homes with a side entry garage, side setback reduction, and the request to not require sod in the rear yard have been met.

Visuals:

Site plan of the overall property.

Summary:

A few of the requested changes appear to be appropriate and not inconsistent with the zoning standards and comprehensive plan and could therefore be recommended for approval. However, many of the changes as proposed in the application do not meet the intent and purpose of the Comprehensive Plan, would not promote the general welfare of the surrounding area, detract from the intent of the original development and are therefore not recommended for approval.

Accordingly, staff supports and recommends approval of the applications for a change in conditions and variance only as follows:

1. The property shall be rezoned from MDR conditional to MDR conditional with a maximum density of 2.5 units per acre.
2. The homes shall have the following minimum floor areas of heated and cooled living space:
 - (1) A maximum of 40% shall range from 1980 to 2096 square feet; a maximum of 30% shall range from 2206 to 2300 square feet; and a minimum of 30% shall range from 2301 to 2700 square feet or greater.
 - (2) The approved homes for the development shall be the following as submitted by Red Oak Construction and Red Oak Realty:

Richton 1980

Bridleridge 1985

Shakelford 2096

Richwood 2206

Parker 2236

Buckhead 2242

Hathaway 2399

Hathaway 2399

Richview 2408

Bostwick 2410

Hayden 2414

New Atlanta 2583

Corry 2700

(3) Any addition to plans shall be subject to approval by the Mayor and Council.

(4) No more than 5 of each model may be built without approval by Mayor and Council.

(5) A minimum of 20% of the homes (11 homes) shall have front and side elevations comprised entirely of brick or stone or a combination thereof. All remaining homes (42 homes) shall have front elevations comprised of a minimum 50% brick or stone or combination thereof.

3. The facades of the homes shall be brick, stone, stacked stone, hardiplank siding, cement lap siding, board and batten, cedar shake shingles or combinations thereof. No vinyl or stucco or split foyer plan shall be used. No house plan shall be repeated within five building lots or directly across the street, and various shades of brick shall be provided throughout the development.

4. The builder shall locate, at a minimum, one Hayden, New Atlanta and Corry, each with a side entry garage and full brick on the front and side elevations, on Lots 1 through 5 and Lots 50 through 53 (as shown on the existing Final Plat recorded at Book 255, page 91) and these shall be the first homes built.

5. The homes on Lots 1, 53, 47 and 46, shall provide full brick or stone on the front and side elevations.

6. A decorative style garage door shall be provided on all homes in the development (attach photo).

7. Each home shall have a 2 car garage, and 50% of the homes shall have side entry garages.

8. The side entry driveways shall have raised or sloping curbing located on that portion of the driveway which forms the turnaround adjacent to the side yard lot line.

9. A 25-foot front setback is allowed for all homes with a side entry garage, except for corner lot homes (Lots 17, 21, 33, 37, 38, 42, 43, 49 and 50 as shown on the Final Plat recorded at Book 255, page 91).

10. An amenity area consisting of a 400 square foot open air pavilion or gazebo and a playground shall be provided on Lots 15 and 23 (as shown on the existing Final Plat recorded at Book 255, page 91) which lots shall be replatted to remove current lot lines to reflect common open space.

11. Two parking spaces shall be provided at the entrance to Lots 15 and 23 in the form of pervious spaces with structural permeable pavers or similar material.

12. The entrance shall include a ground based monument style sign and shall be heavily and professionally landscaped and irrigated. Additional landscaping shall be installed at the front entrance to the subdivision to supplement what already exists. A landscape plan for the entrance shall be submitted to Community Development by December 15, 2009 to include additional landscaping at the entrance. The plan shall include evergreens and flowering materials. Approval shall not be unreasonably withheld. The additional landscaping shall be installed prior to March 15, 2010.

13. There shall be a mandatory HOA responsible for the upkeep and maintenance of all common areas, including the amenity and entrance areas. The applicant and any subsequent developer or builder agrees to strictly enforce the provisions of the covenants until turnover to the HOA.

14. The Applicant and any subsequent builder or developer shall allocate the sum of \$12,000 to the mandatory HOA, which sum shall be on deposit with the HOA at the turnover of the association. Upon turnover there shall be no debt incurred to the HOA. Prior to issuance of a first building permit, the applicant shall deposit \$12,000 into a maintenance fund to provide for the first year of maintenance of the development.

15. The Applicant and any subsequent owner of any and all unbuilt lots shall remain a member of the HOA and abide by all covenants of the HOA.

16. The Covenants and Declarations attached and referenced as Exhibit 1 are simultaneously approved by Council and the mandatory homeowners association shall be established in accordance with the Covenants and Declarations. The Covenants and Declarations shall be included on the face of the final plat to be recorded. There shall be a covenant which clarifies that in the event of any conflict between the City code and covenants, the City's code shall prevail.

17. There shall be a natural undisturbed buffer, supplemented by evergreen plant materials as appropriate, along the rear lot line of every perimeter lot within the development. This perimeter buffer shall be a minimum of 20 feet in width. There shall be a covenant which prohibits the removal of the buffer.

18. There shall be a covenant which prohibits fencing in the side yard at any point between the rear of the dwelling and the right of way of the street used to access the lot and which restricts from public view fencing commonly regarded as privacy fencing.

19. The front and side yards shall be sodded.

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20. The side yard setback for the proposed homes shall be a minimum of 5 feet, and a minimum of 15 feet shall be maintained between the homes with side entry garages, and 20 feet maintained between all other homes.

21. There shall be sidewalks on at least one side of all streets within the development.

Attachments:

The above mentioned visual.



**City of Powder Springs
Council Minutes
City Council**

City of Powder Springs
4484 Marietta Street
Powder Springs, GA
30127

**Mayor
Patricia C. Vaughn**

**Council Members:
Rosalyn Neal, Chris Wizner
Cheryl Sarvis, Al Thurman, Nancy Hudson**

Monday, February 4, 2013

7:00 PM

Council Chambers

1. Call to Order

The Mayor called the meeting to order. All Council Members were present. Also present were City Attorney Richard Calhoun, City Manager Brad Hulse, City Clerk Dawn Davis and Major John Robison of the Powder Springs Police Department.

2. Invocation and Pledge of Allegiance

Al Thurman gave the invocation and the Mayor led the Pledge of Allegiance.

3. Approval of Minutes

Rosalyn Neal made a motion to approve the January 21, 2013 Regular City Council Meeting and the Agenda Work Session minutes. Cheryl Sarvis seconded, motion carried 5-0.

4. Mayor's Comments

Mayor Vaughn reminded everyone of the Town Hall Meeting and State of the City on February 12, 2013, 7:00 p.m. at the Ford Center Reception Hall.

5. Citizens Comments

No one signed up to speak.

6. City Attorney

Consent Agenda

A. **ORD 13-004** An ordinance to amend the budget for Fiscal Year 2013; to establish an effective date; to repeal conflicting ordinance; and for other purposes.

B. **ORD 13-005** An ordinance amending Chapter 13 of the Code of Ordinances to add offenses for loitering and trespassing; to repeal conflicting ordinances.

Agenda. It was the first item discussed on the Regular Agenda. Richard Calhoun presented the second reading of the ordinance.

Mayor Vaughn asked Major Robison of the Powder Springs Police Department to explain the ordinance. Major Robison explained that loitering and trespassing was already state law and the police department is already enforcing. However, with the passage of this ordinance the Powder Springs Police Department will be able to issue a citation to anyone who is loitering or trespassing. Without the ordinance the police will have to continue to arrest people for violation of these offenses which requires an inordinate amount of time for the police.

Mr. Thurman stated that some of these laws are used to harass people and it depends of the integrity of the officer. Major Robison responded that they want citizens to report officers if they feel they are being harassed. He went on to explain that they are not trying to harass because this law is already on the books. Mr. Thurman asked if the City had a problem with loitering and trespassing and Major Robison said not really. Ms. Sarvis asked if the person is taken to jail or receives a citation would both of these charges be misdemeanors and the Major responded yes and it would be the officer's discretion as to whether or not to issue a citation or arrest the individual. Mr. Thurman stated that he had received complaints about this ordinance from the Powder Springs Task Force.

Rosalyn Neal made a motion to approve, Chris Wizner seconded. Motion carried 4-1 (Al Thurman opposed)

- C. **RES0 13-012** A resolution accepting & awarding bid for improvements to Sweetwater Landing Bridge and authorizing Mayor to execute agreement for said improvements.
- D. **RES0 13-013** A resolution adopting the Annual Update of the CIE of the Comprehensive Plan and Short Term Work Program.
- E. **RES0 13-014** A resolution approving and authorizing Mayor to execute certain obligation or guarantee covering special encroachment permits issued by GDOT for improvements in State Rights of Way.
- F. **RES0 13-015** A resolution declaring as surplus certain vehicles of the Police Department and authorizing disposition of same after advertisement and public auction.
- G. **RES0 13-016** A resolution approving and authorizing the Mayor to execute a Certification of Agreement to the Cobb County Tax Commissioner for the allocation and distribution of proceeds from the Title Ad Valorem Tax.
- H. **RES0 13-017** A resolution approving and authorizing the Mayor to execute an amended service agreement with SEDC for the Online Billing Payment and Processing of

utility payments.

- I. **RES0 13-018** A resolution appointing Cobb County to perform all duties as Superintendent of Elections pursuant to O.C.G.A. 21-2-45(c)(1).

Mr. Calhoun presented the Consent Agenda and Mr. Thurman requested that ORD 13-005 be removed from the Consent Agenda and placed on the Regular Agenda. Mr. Calhoun stated that the remaining items on the Consent Agenda would be read in summary form and that all contracts, conditions, stipulations, agreements and other matters referenced in any agenda item were incorporated herein as if fully read and at the beginning of the reading of the Consent Agenda he will open a hearing on any item and anyone who wishes to speak may do so at the conclusion of the reading of the Consent Agenda. Mr. Calhoun opened a public hearing and no one spoke for or against any item on the Consent Agenda. Mr. Calhoun closed the public hearing.

Cheryl Sarvis made a motion to approve the Consent Agenda as presented (removing ORD 2013-005. Al Thurman seconded, motion carried 5-0).

Regular Agenda

- J. **PZ-13-001** Special Use Approval: Edwin Garrard, Super Surplus Sales; general merchandise store; 3942 Austell Powder Springs Road.

Mr. Calhoun opened a public hearing. Mr. Edwin Garrard, 4150 Hiram Lithia Springs Road, the applicant was present. Mr. Garrard explained that he was trying to open a general merchandise store selling surplus merchandise that he purchases from bankrupt businesses. This property is in the Commercial Development Overlay and there are special conditions required before he can open the store on Austell Powder Springs Road. He said that he disagreed with a few of the stipulations such as having to remove the trailer and doing the landscaping. He also did not agree with the special use expiring in one year. Mr. Garrard said that he would remove the shed on the property if the Mayor and Council let him keep the trailer for storage. He said that he did not agree with the stipulation requiring him to put \$1,500 in escrow to insure that the required landscaping be completed. Mr. Garrard said that he is willing to spend \$500 but not \$1,500.

Mayor Vaughn stated that the City Council can not allow the trailer without doing a text amendment to the Unified Development Code. Mrs. Sarvis asked Mr. Garrard if he could put the trailer somewhere close by. He said that he could not and would have to drive 1 1/2 hours to his storage unit if the trailer has to go. Mayor Vaughn asked Mr. Garrard if he would like to have this application tabled in order to give him more time to resolve these issues. Mr. Garrard stated that he did not because of the time.

The following stipulations were presented as staff's recommendations:

1. That no equipment or merchandise be stored outside the store, except as permitted as a temporary event.
2. That the sale of used merchandise is not permitted.
3. That a plan be provided to staff for review showing traffic flow and parking lot striping for the site. If changes are required to the parking layout, changes must be completed within 60 days.
4. That the special use approval expire in 1 year.
5. That prior to opening of the business the "Tae Kwon Do" sign be removed.
6. That within 60 days of approval, the mansard roof be uniformly painted a color found on the fundamentally neutral color chart.
7. In lieu of and to compensate for the loss of the required 15 foot landscape strip (that would necessitate parking lot reconstruction), the applicant shall install tree canopy, shrubs and ground cover on the grass area on the southeast portion of the property, in a manner similar to the attached. The planting shall be completed by December 31, 2013 and that a performance bond or escrow of \$1,500 be provided to the city within 60 days of approval assuring landscape will be completed.
8. That garbage dumpster or containers be screened from view. An enclosure matching the exterior of the principal building is required if garbage containers are visible from the right-of-way.
9. Violation of the conditions of approval will render the approval null and void and the use vacated from the property.
10. The existing shed shall be screened from view of Atlanta Street by landscaping within 30 days of approval. Landscaping plan must be approved prior to planting.
11. Per the code, storage trailers are prohibited (variances not permitted for things prohibited; a text amendment would be required to allow storage trailers.

No one else spoke for or against the special use application therefore Mr. Calhoun closed the hearing.

Chris Wizner made a motion to approve the special use application with the staff's stipulations and that the landscaping costs not exceed \$1,500 and that Mr. Garrard work with City staff on the landscaping plan. Rosalyn Neal seconded, motion carried 5-0.

K. PZ-13-002

Variance, Special Exception to allow an accessory building to be setback less than permitted to a side property line, Luis Mata, 3151 Thornbush Ct.; Land Lot 719.

Mr. Calhoun opened the hearing and stated that there were citizens who had signed up to speak to this application. Mr. Matta, the applicant, was present and told the Council that he had built a shed on his property

without obtaining a setback variance or building permit and that he built the shed over his property line. Mr. Matta stated that he was willing to move the shed and build a smaller shed but would still require a hardship variance from the 5 foot setback requirement. He is asking that the setback be 1 1/2 feet from the property line.

Mr. Hulsey stated that the applicant needed to prove that he has a hardship in order to obtain a hardship variance. He also stated that the structure would need to match his house. Al Thurman asked Mr. Matta how much he had spent on this shed and he stated \$4,000.

Ardeen Goodwin, 3211 Rose Petal Lane, the treasurer for the Rosewood Subdivision Homeowners Association, read a letter to the Mayor and City Council stating the Homeowners Association's objection to the shed and that Mr. Matta had been told not to build the shed because it did not comply with the covenants. Mr. Thurman told Ms. Goodwin that whatever action the Council takes in the matter does not overwrite the subdivision's covenants. Mrs. Sarvis asked what the homeowners wanted to change and Ms. Goodwin stated that the shed needed to be smaller and placed behind the house. Mayor Vaughn stated that the City requires subdivision to have covenants so the City should support those covenants.

Kathleen McNeel, 3154 Thornbush Court, also spoke in opposition of the application. She stated that she lives directly across the street from where Mr. Matta built the shed. She asked that the Council uphold the City's ordinances and deny the application.

Al Thurman asked that if, from a technical aspect, where Mr. Matta placed the shed is in fact the back yard. Mr. Hulsey stated that since it is a corner lot that this is considered the back yard. Nancy Hudson asked how the Planning and Zoning Board voted on this application. Nancy Farmer, a member of the Planning and Zoning Board, stated that they denied this application because it was built over his property line.

Mayor Vaughn addressed Mr. Matta and stated that there were a group of neighbors attending this meeting that were upset and she understands what his neighbors are saying. She explained that they are asking the Council to uphold the ordinance. The Mayor said that he needed to work with his homeowners association.

Countess Broughton, 3231 Rose Petal Land, also spoke in opposition of this application.

Mr. Calhoun closed the public hearing. Al Thurman said that the Planning Department needed to work with the homeowner's association and Mr. Matta in order to come to some sort of compromise.

Cheryl Sarvis made a motion to table until February 18, 2013 in order to allow time for the Planning Department to work with the applicant and the Rosewood Homeowners Association. Al Thurman seconded, motion carried 5-0.

L. PZ-13-003

Special Use Approval: Tim McTyre; dumping of excavated material, landfill; 4818 Hill Road; LL 899 & 952.

Mr. Calhoun opened a Public Hearing. Mr. McTyre, the applicant, was present. Mayor Vaughn asked Mr. McTyre if he had submitted his land disturbance plans to the Planning Department. Mr. Hulseley stated that the Planning Department needed the land disturbance plan before the Council can consider the application.

Tim Coleman of Hydrovac, 3816 Parks Drive, spoke in support of this application. He stated that they are not hauling or dumping anything that would be inappropriate. Mr. Coleman stated that they only dump dirt and water.

Cheryl Sarvis asked Mr. McTyre if he had a business license and he said he did not. Ms. Sarvis asked if he knew of anything that would prohibit him from getting a business license and he stated he did not.

Evelyn Myers, 4900 Hill Road, stated that she lives near this property and has worked diligently for this community. She said that she was adamantly opposed to this application.

Steve Myers, 4900 Hill Road, stated that he is opposed to this application. He said that no one would be monitoring what is being dumped and the City would be relying on the integrity of Hydrovac. He said that the dumping on this site has been operating for more than one year. He requested that the City Council consider denying the special use permit because it would be detrimental to the community.

Mr. Calhoun closed the hearing.

Mr. Thurman asked Mr. Hulseley what was the zoning on this piece of property and Mr. Hulseley stated that it was zoned heavy industrial and that in order to dump on the site, the City requires a Special Use Permit. Mayor Vaughn stated that Mr. McTyre did not get a Land Disturbance Permit. Mr. Hulseley stated that Community Development issued a stop work order until his plans are approved. The Mayor said that the Council can not take any action on the application until the Planning Department has reviewed the plans.

Rosalyn Neal made a motion to table until February 18, 2013, Cheryl Sarvis seconded, motion carried 5-0.

M. PZ-13-004 Rezoning; Change in conditions Land Lot 651; Peachtree Communities.

Mr. Calhoun opened a Public Hearing. Michael Scipio and Bryan Shaw were present representing Peachtree Communities. Mr. Shaw explained that they are requesting to eliminate one the the zoning conditions that was placed with the property when rezoned. The condition they wish to eliminate reads "No more than 5 of each model may be built without approval from the Mayor and Council. Currently they have submitted applications for 8 waverlys, 7 Oakwoods and 5 Northpoints.

The Mayor stated that the Council had put this condition in place to prevent monotonous architectural designs within the subdivision and to provide for unique and different floor plans.

The Council discussed the stipulations proposed by staff and determined the following stipulations if approved.

1. That no more than 10 of any model be allowed in the subdivision.
2. That any additional Waverlys have Elevation E, F, or G beyond what has been applied for.
3. That any additional Oakwoods have Elevation E, G, H or J.
4. That different color brick shall be used on propoerties next to each other.
5. That if more than five houses of the same model are built in the subdivision, additional elevations are required, subject to administrative design review.
6. That the applicant present additional elevations for the Northpoint model. No more "c" elevations are permitted.
7. No more than three "C" elevations are permitted per model (excepting the already approved or pending approval "C" elevations on Waverly, Oakwood and Northpoint.
8. No "B" or "d" elevations are permitted, given their likeness to elevation "C" except that a "B" or "D" elevation can be substituted for one of the three allowed "C" elevations.
9. That all remaining stipulations from the May 16, 2005 and November 16, 2009 remain in full force and effect.

Cheryl Sarvis made a motion to approve with the stipulations proposed, Chris Wizner secondedm motion carried 5-0.

City Manager and City Council Reports

Cheryl Sarvis thanked everyone for attending the Municipal Court Grand Opening. She also said that she and the Mayor were working with a group of citizens that want to revive the Powder Springs Kiwanas Club.

8. Executive Session



City of Powder Springs
Council Minutes
City Council

City of Powder Springs
4484 Marietta Street
Powder Springs, GA
30127

Mayor
Patricia C. Vaughn

Council Members:
Rosalyn Neal, Chris Wizner
Cheryl Sarvis, Al Thurman, Nancy Hudson

Monday, June 3, 2013

7:00 PM

Council Chambers

1. Call to Order

The Mayor called the meeting to order. All Council Members were present. Also present were City Attorney Richard Calhoun, City Manager Brad Hulse, City Clerk Dawn Davis and Community Development Director Pam Conner.

2. Invocation and Pledge of Allegiance

Al Thurman gave the invocation and the Mayor led the Pledge of Allegiance.

3. Approval of Minutes

Cheryl Sarvis made a motion to approve the May 20, 2013 Regular City Council Meeting minutes and the May 29, 2013 Agenda Work Session minutes. Rosalyn Neal seconded, motion carried 5-0.

4. Mayor's Comments

Mayor Vaughn stated that the American Legion 294 had a beautiful Memorial Day Service and it was well attended. She also said that the first reading of the FY 2014 budget will be on June 14, 2013 and the second reading will be at a Special Called Meeting on June 24, 2013.

5. Citizens Comments

No one signed up to speak

6. City Attorney

Consent Agenda

A. 2nd Rding, an ordinance to amend the Personnel Policy Manual, Chapter 2 "Powder Springs Policies and Procedures"

B. A resolution updating and clarifying current fee schedule relating to development

costs associated with paving, land disturbance, tap and utility deposit fees.

- C. A resolution authorizing the Mayor to execute the annual anticipated collections addendum to complete the Memorandum of Agreement with the Department of Homeland Security.
- D. A resolution establishing August 27, 2013 through August 29, 2013 as the qualifying dates for the General Election to be held on November 5, 2013 for Ward 1, Ward 2 and Ward 3 City Council Positions.
- E. Special Use Application, Catering/ Mobile Food Service Vendor
Julian Graham, Kid City LLC, Golden Biscuit 4148 Marietta St, Land Lot 946;
per stipulations listed on the attached Consent Agenda Attachment, Exhibit A.
- F. Special Use to allow a commercial vehicle and landscape equipment in a residential zoning district as part of a home occupation; Miguel Solorzano, 3312 Mooring Drive; LL 726; per stipulations listed on the attached Consent Agenda Attachment, Exhibit A.
- G. Special Use Application for an 8 foot privacy fence in the front yard area with the stipulations that the panels be located along southern property line extending approximately 50 feet in front of the house and set back approximately 60 feet from the right of way; Don and Emily Morgan, 3693 Forest Hill Road; Land Lot 832
- H. Variance Application for an 8 foot privacy fence in the front yard area with stipulations that the panels to be located along the southern property line extending approximately 50 feet in front of the house and set back approximately 60 feet from the right of way, Don and Emily Morgan, 3693 Forest Hill Road; Land Lot 832

Dr. Wizner requested that Item I, PZ-13-022 be pulled from the Consent Agenda and be placed on the Regular Agenda. Mr. Calhoun presented the Consent Agenda. He stated that the items on the Consent Agenda would be read in summary form and that all contracts, conditions, stipulations, agreements and other matters referenced in any agenda item were incorporated herein as if fully read and at the beginning of the reading of the Consent Agenda he will open a hearing on any item and anyone who wishes to speak may do so at the conclusion of the reading of the Consent Agenda. Mr. Calhoun opened a public hearing and no one spoke for or against any item on the Consent Agenda. Mr. Calhoun closed the public hearing.

Rosalyn Neal made a motion to approve the Consent Agenda as presented (with Item I, PZ-13-022 removed). Cheryl Sarvis seconded, motion carried 5-0.

- I. Rezoning; change in conditions relating to set back requirements for front entry garages by allowing Lot 26 to have a front setback of 24.7 feet instead of 35 feet required for front entry garages, subject to all remaining stipulations from May 16, 2005 and February 4, 2013 remaining in effect. Land Lot 651; Peachtree Communities.

Richard Calhoun opened the Public Hearing. Bryan Shaw of Peachtree Communities was present. Mr. Shaw explained that the house in question was originally approved as a side entry garage with a 25 foot setback. However, according to the contractor, the topography of the site, in combination with it being a basement lot, caused the contractor to switch the placement of the garage. Mr. Shaw stated that he was relying on the general contractor of the project to know the setbacks since he was new to the project. He further explained that if the house was built with the 35 foot setback, as required, it would have required a larger retaining wall, and an alteration to the grading for the lot to the north. Additionally placement at the street would have limited the back yard of the lot due to the topography and required perimeter buffer. The Mayor asked if he has now made himself aware of the zoning stipulations and Mr. Shaw said that he has and that he will not violate any of the stipulations in the future. No one spoke in opposition. Mr. Calhoun closed the hearing.

Cheryl Sarvis made a motion to approve the change in conditions with the stipulations as noted. Chris Wizner seconded, motion carried 5-0.

Regular Agenda

- J. Special Use Application for a fence in the front yard area, Lorenzo Mancillas, 3377 Macedonia Road; Land Lot 720.
Chris Wizner made a motion to table until the June 17, 2013 Council Meeting, Rosalyn Neal seconded, motion carried 5-0.
- K. Variance Application for a fence in the front yard area, Lorenzo Mancillas, 3377 Macedonia Road; Land Lot 720.
Chris Wizner made a motion to table until the June 17, 2013 regular City Council Meeting. Rosalyn Neal seconded, motion carried 5-0.
- L. Rezoning - Change in Site Plan - MXU - Florence & Sailors Parkway/Lynn Wilson & Rea Ventures
Mr. Calhoun opened as public hearing. Eric Buffenbarger of Rea Ventures made a presentation of the type of senior living community that they were proposing to build on the parcel of property located at Florence Road, Sailors Parkway and Dallas Powder Springs Road.

Wendy Butler, attorney for Rea Ventures, explained to the Council that they could not tie their property to the property to the north since that belonged to another individual and they have no control over what the other owner is willing to do. Pam Conner, Community Development Director, stated that since the initial rezoning was based on both the northern and southern property, that they could not have a plan for the southern portion without including the northern property. Ms. Butler disagreed with Ms. Conner. Speaking in opposition of this change in site plan were Asa Candler, Philip Searles and David Searles. Mr. Calhoun read the proposed stipulations (attached to these minutes as Exhibit A) and Ms. Butler agreed to those stipulations. Mr. Calhoun closed the hearing.

Chris Wizner made a motion to approve with the stipulations read by the City Attorney (Exhibit A). Cheryl Sarvis seconded, motion carried 5-0.

Mr. Wizner stated that he wished to amend his motion to limit the number of living units that could be occupied by persons of low to moderate income to 95%. Rosalyn Neal seconded, motion carried 5-0.

M. An ordinance amending the Unified Development Code to allow backyard chickens under certain conditions.
Mr. Calhoun presented the first reading. He stated the second reading will be on June 17, 2013.

N. An ordinance to amend the budget for Fiscal Year 2013
Mr. Calhoun presented the first reading and stated that the second reading will be on June 17, 2013.

7. City Manager and City Council Reports

Nancy Hudson said that she had attended the Gun Safety Program that was sponsored by the Powder Springs Police Department and 19 people were in attendance. Mr. Hulsey stated that the FY 2014 Budget will be available for public view on June 10.

8. Executive Session

9. Adjournment

Rosalyn Neal made a motion to recess to go into a budget worksession, Nancy Hudson seconded, motion carried 5-0. Rosalyn Neal made a motion to recess the budget work session, Cheryl Sarvis seconded. Nancy Hudson made a motion to adjourn the Council Meeting, Rosalyn Neal seconded, motion carried 5-0.

Exhibit A
City of Powder Springs
City Council Meeting
June 3, 2013
Stipulations

PZ 13-016

Special Use Approval Application, Catering/ Mobile Food Service Vendor Julian Graham, Kid City LLC, Golden Biscuit 4148 Marietta St, Land Lot 946 with the following stipulations:

1. That the approval shall expire in 5 years and the applicant shall reapply for Special Use Approval.
2. That the food trailer included in this application be stored in the drive through of the convenience store located on the property, subject to fire marshal approval. Should the convenience store be occupied, alternative requests for storage of the trailer may be considered by staff as long as it is stored in the rear yard of the property and screened from the right-of-way.
3. Should the applicant decide to operate the food trailer within the city limits, he would need to apply for peddlers and temporary event permits.
4. Violation of the conditions of approval will render the approval null and void and the business license revoked.

PZ 13-017

Renewal of Special Use Approval to allow a commercial vehicle and landscape equipment in a residential zoning district as part of a home occupation; Miguel Solorzano, 3312 Mooring Drive; LL 726 with the following stipulations:

1. That the vehicle be parked on a hardened surface to the east of the existing home.
2. That no repair work of any kind be done on the vehicle at the property.
3. Any violations of this approval will render the approval null and void and require immediate removal of the vehicle from the property.
4. That the front of the truck be parked as far back as possible so that it does not extend in front of the house.
5. That the applicant install a fence along the side of the hardened surface/driveway on the east side of the home to better screen it from neighboring properties.
6. That the special use approval be valid for 5 years, at which time the applicant shall reapply.

- L. **RES0** A resolution of the Mayor and Council of the City of Powder Springs to enter
 14-105 into certain agreements with Powder Springs Downtown Development
 Authority and Raymond James & Associates with regard to the issuance of
 Series 2014 Bonds.
- M. **RES0** A resolution accepting a bid proposal from Henry Incorporated, for an amount
 14-106 not to exceed \$45,292, to refurbish certain city maintained road signs.
- N. **RES0** A resolution approving and authorizing the Mayor to execute a service
 14-107 agreement with John Weber to provide concession services on the Silver Comet
 Trail.
- O. **PZ 14--027** Rezoning - Change in Conditions of Approval - Undisturbed Buffer - Vineyards
 Subdivision, Lots 1-6, 8, 25, 31-32. Approval to (1) delete the condition of
 approval that requires the covenants to contain a provision requiring a twenty
 foot undisturbed buffer on all perimeter lots; (2) for the above identified lots,
 modify the condition that required a twenty foot undisturbed buffer and instead
 allow encroachment into this buffer using one of the following methods: (a)
 owner may place or retain the privacy fence at a location on the property
 selected by the property owner on the condition that the property owner submit
 to staff, within 60 days of this approval, a landscape plan for the replanting of
 ten feet of the buffer area by March 1, 2015, said landscape plan to include a
 mix of evergreen trees and shrubs of a species approved by staff to be planted in
 two staggered rows or (b) owner may place or relocate a privacy fence 5 feet
 from the rear of the property line and replant said five feet of the buffer area
 outside of the fence location by March 1, 2015 with a mix of evergreen trees of
 a species approved by staff.
- P. **PZ 14--029** Certificate of Appropriateness, First Baptist Church, LL 874; 3834 and 3858
 Dillard Street. Approval of demolition with the following stipulations: (1) No
 trees shall be removed and disturbance is limited to house and driveways, with
 all impervious area removed except that the driveway connecting to The Garage
 fronting Marietta Street may be retained and used and the sidewalks connecting
 The Garage to the rear church parking lot may be retained and used, as depicted
 on the attached site plan and photographs; (2) All requirements of permitting be
 followed; (3) The property shall not be used by First Baptist Church until or
 unless a special use approval is granted, including any use for parking; (4) A
 landscape plan shall be submitted within 60 days of this approval screening the
 sidewalk and driveway connections to the existing church buildings. Approved
 landscaping shall be installed by March 30, 2015.

Rosalyn Neal made a motion to approve the Consent Agenda as presented. Cheryl Sarvis seconded. Motion carried 4-0.

Regular Agenda