

STAFF REPORT

PZ 25-009 Rezoning - For a 0.5-acre tract, to rezone from R-20 to CBD. The property is located at 4293 Marietta Street, within Land Lots 874 and 903, 19th district, 2nd section, Cobb County, Georgia. PINs: 19090300140. Applicant: Patience Uchenye

LOCATION: 4293 Marietta Street, within Land Lots 874 and 903, 19th district, 2nd section, Cobb County, Georgia. PINs: 19090300140.

STAFF RECOMMENDATION: Staff recommends denial as presented. Given the established residential character of this stretch of Marietta Street, as opposed to those parcels closer to the commercial core, staff could recommend CBD if the proposed use was service oriented, consistent with the other service uses on adjacent properties. Service uses generate less traffic, less parking demands and less interruption to the residential character of the surrounding properties and viewshed. A retail, commercial use does not fit the character of the surrounding properties.

Should the use as proposed be approved, staff recommends the following mitigating conditions:

- 1) No alcohol sales permitted.
- 2) The rear structure be maintained for residential use only.
- 3) Any freestanding signage be limited to 6s and post and panel design, not more than 4.5 feet in height.
- 4) No exterior modifications allowed other than those required to meet code requirements permitted to allow the use.
- 5) No internally illuminated signage and no wall signage permitted.
- 6) No paving allowed of the parking area; parking improvements be designed to minimize appearance of commercial use.
- 7) Prior to the establishment of commercial use on the property, the applicant shall complete the tenant occupancy process, including site plan approval.

BACKGROUND:

The applicant **Patience Uchenye** is requesting to rezone 0.5 acres from R-20 to CBD to allow retail use in the existing structure to sell clothing, shoes, food ingredients and similar goods and products and to allow residential use in the existing accessory structure for the owner and her family.

Figure 1. Vicinity Map

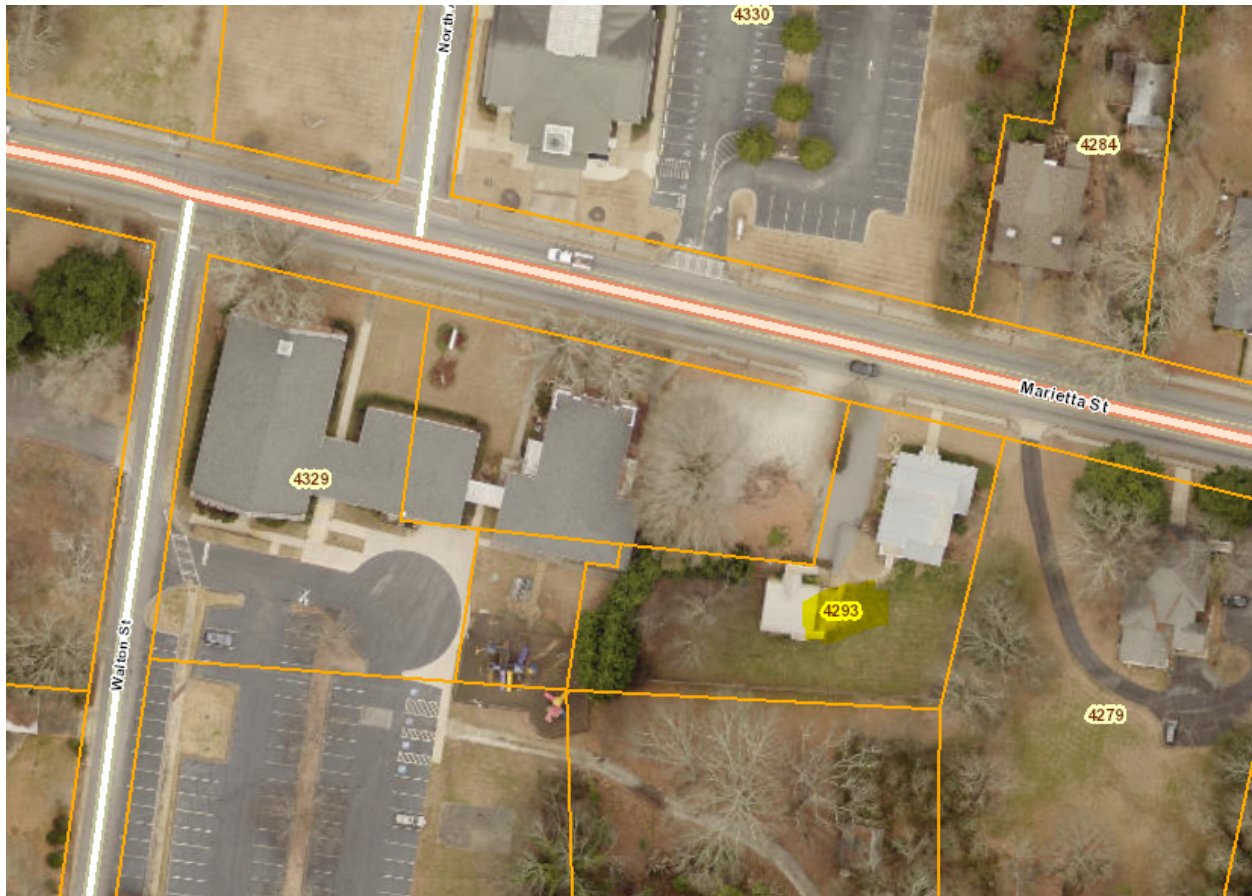
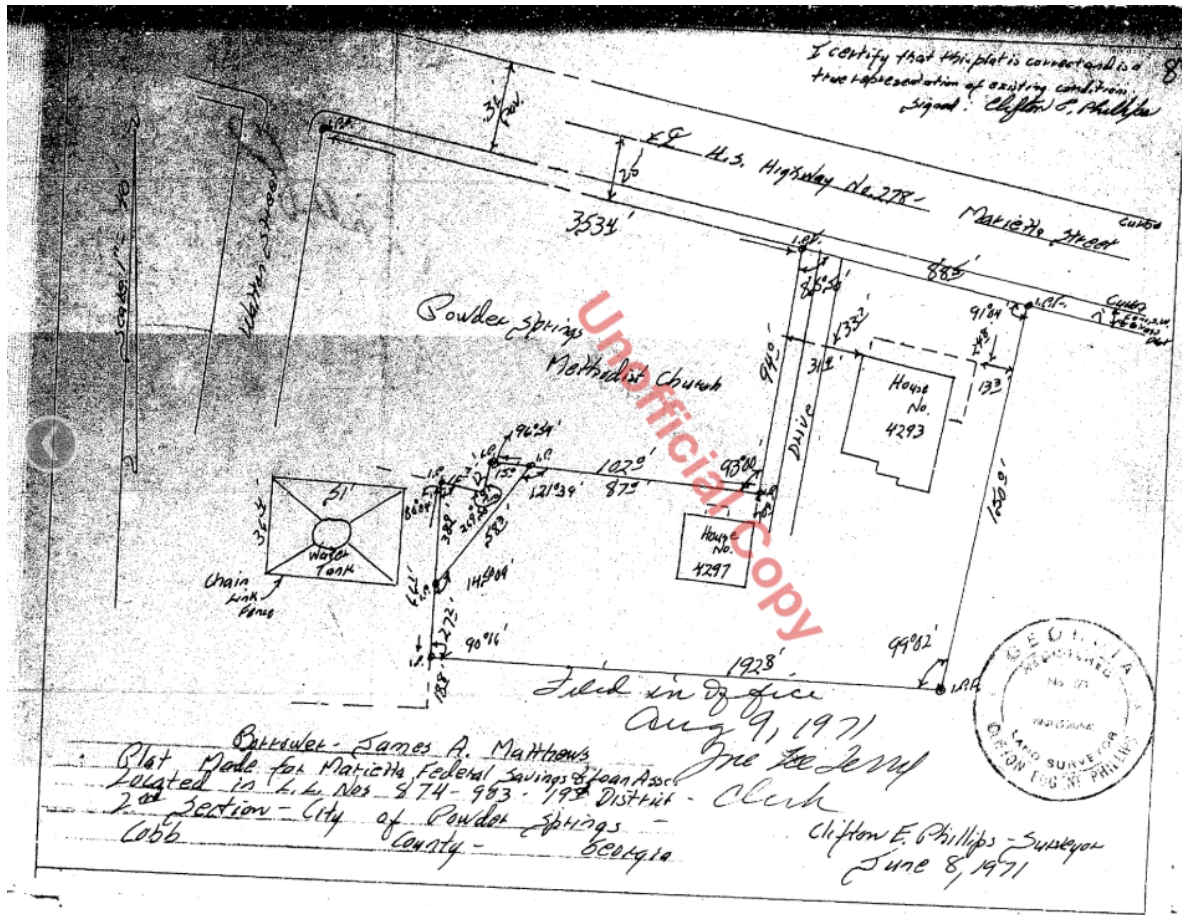


Figure 2. Ownership Map



Project Overview

The applicant is requesting to rezone a 0.5 acre tract from R-20 to CBD. The current property includes two single family residential structures. The two structures were built in the 1940s. A plat on the property recorded in 1971 shows the property as having two houses. The current tax record indicates one house and a detached garage. The applicant is proposing to convert the front house to a commercial structure to allow retail sales of "Fashion clothing, shoes and food ingredients", while residing in the second structure with her family.

ZONING ANALYSIS:

The application should be reviewed against the following criteria:

(a) Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city’s comprehensive plan shall be used in decision making relative to amendments to the official zoning map, in accordance with Table 13-1:

Applicant Response

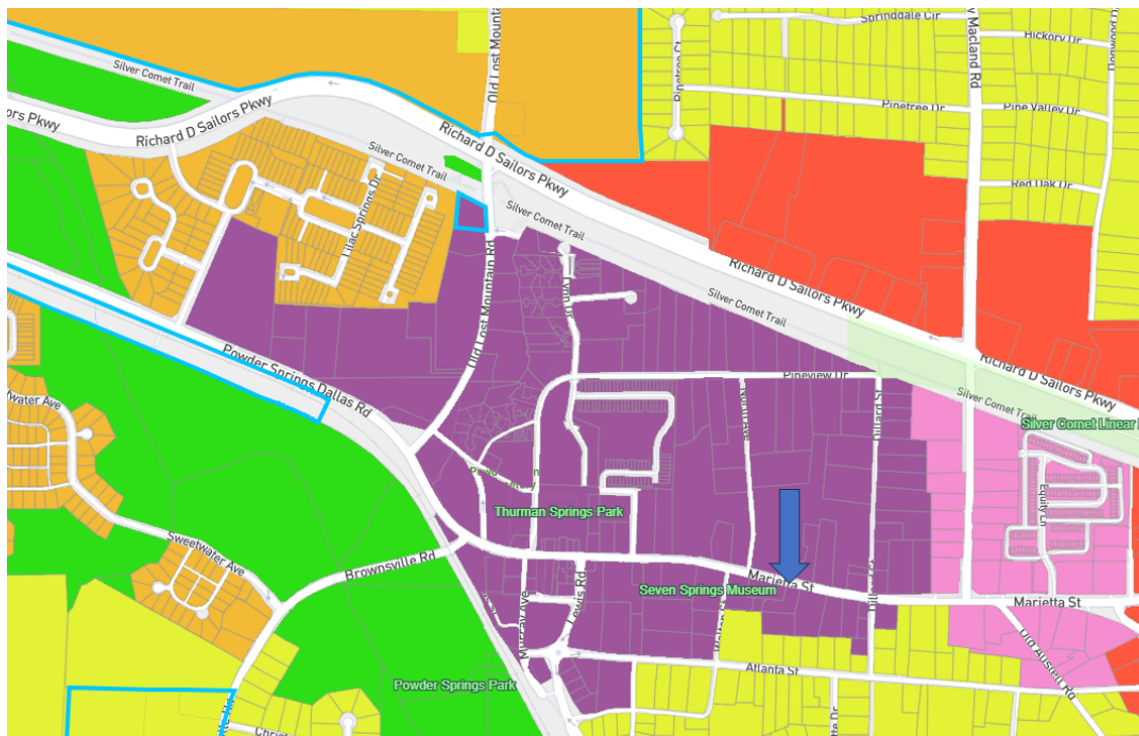
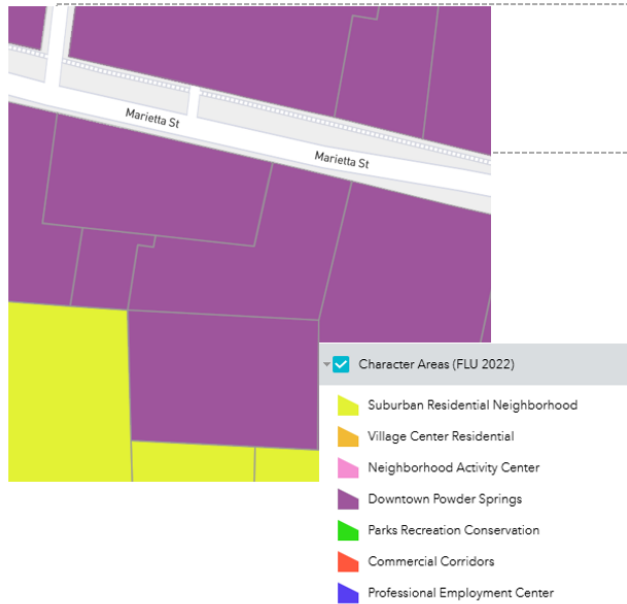
Facility will obtain all necessary and applicable permits from the city county and state of Georgia to operate same business

Staff Response

The future development map designates the subject site as Downtown Powder Springs: is intended to be a local point of activity and provide a “Main Street” setting with higher-density housing, retail, office, community facilities, and above-retail housing in a walkable setting and with buildings oriented to the street. It is imperative that historic preservation be prioritized where possible as it will add to the area’s economic development. This proposal includes mixed use, although not vertically integrated. The use is retail sales of goods and product rather than a limited office or service use. Additionally, no exterior modifications are planned, which is important in keeping with the historical character of the nearby properties and viewshed. However, if used for retail sales, improvements will be required to convert to a commercial structure including parking and ADA compliance. It is important to the character of the area to ensure that the improvements are consistent with the surrounding historic character.

The Unified Development Code lists CBD as an appropriate zoning district. The proposed rezoning to CBD is compatible with the future development designation.

Figure 3. City Future Development Map.



(b) Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.

Applicant Response

Yes. Facility will obtain all necessary and applicable permits from the city, county and state of Georgia to operate safely business

Staff Response

No, it is not suitable in view of the adjacent and nearby properties. The property is bordered by multiple different zoning designations.

North – R-15 and CBD; East – CBD; South – R-15; West – R-20

The CBD Zoning District corresponds with the established downtown area of Powder Springs, which is the historic cultural, business, and governmental center of the city. The CBD Zoning District is intended to foster a unique sense of place and identity for the city. This intent can be achieved by providing an appropriate mixture of land uses and intensity of development conducive to maintaining the downtown area as a focal point for civic activities and traditional "main street" retail commercial and service uses. The downtown does not extend to this area of the corridor; however, the CBD Zoning District is also intended to provide for a vibrant mix of land uses within easy walking distance of abutting and adjacent neighborhoods, including commercial, office, various forms of housing, civic uses, and parks and recreation areas.

Existing single-family dwellings, Live-work units, retail trade establishment (excluding used merchandise) are permitted in the CBD zoning district. The sale of alcohol is prohibited at this location due to the proximity of church and residential uses. Although the proposed uses are allowable in the CBD zoning district, these uses may not be consistent with the uses of the surrounding properties. Retail uses on Marietta Street are predominately located west of Jackson Way in the downtown core and to the east in the Neighborhood Activity Center close to New Macland Road. Staff recommends that retail uses focus in the existing areas and the area in between be for residential and potentially office uses.

Figure 5. Adjacent Zoning within the City

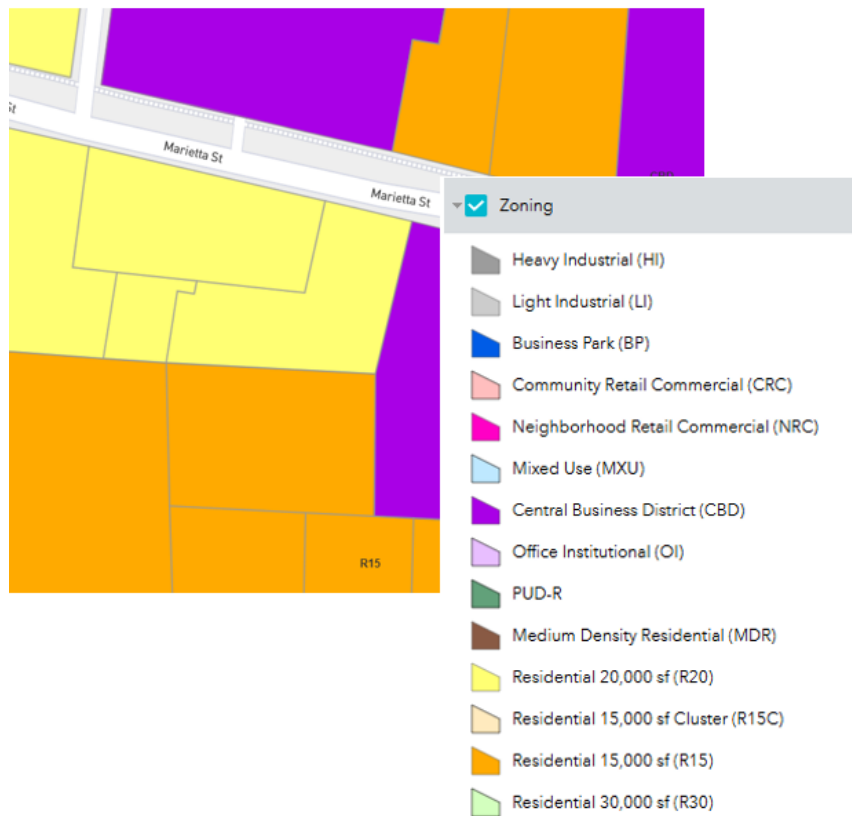


Figure 6. Surrounding uses



(c) Whether the existing use or usability of adjacent or nearby property will be adversely affected by one or more uses permitted in the requested zoning district.

Applicant Response

No. Facility will obtain all necessary and applicable permits from the city, county and state of Georgia to operate same business

Staff Response

Although the proposed uses are allowable in the CBD zoning district, these uses may not be consistent with the uses of the surrounding properties. Retail uses on Marietta Street are predominately located west of Jackson Way in the downtown core and to the east in the Neighborhood Activity Center close to New Macland Road. Staff recommends that retail uses focus in the existing areas and the area in between be for residential and potentially office uses.

(d) Whether there are substantial reasons why the property cannot or should not be used as currently zoned.

Applicant Response

There is current operating business and property operating commercial services such as salon, dentistry, churches within.

Staff Response

There are no substantial reasons that the property cannot or should not be used as currently zoned. The property is unique in having two residential structures on one lot. The use of the second residential structure is limited to the accessory uses as required by the Unified Development Code.

(e) Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.

Applicant Response

Facility will obtain all necessary and applicable permits from the city, county and state of Georgia to operate same business.

Staff Response

Cobb County Fire District, Cobb County Water System, Cobb County Schools, and city departments reviewed the application. At the time of this writing, no comments have been received by Cobb County Fire or Schools. Other Cobb County departments reviewed the application and did not have concerns regarding the development.

The proposed use will impact the travel conditions on Marietta Street, which is already overburdened by pass through traffic from adjoining counties. If approved, the property will need to demonstrate compliance with parking and stormwater regulations. The addition of an asphalt parking lot may trigger stormwater regulations and would be out of character with the surrounding properties as well as its own historic residential character. Low impact development regulations may support the maintenance of a gravel parking area.

(f) Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.

Applicant Response

Facility will obtain all necessary and applicable permits from the city, county and state of Georgia to operate said business.

Staff Response

There are no new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties. The downtown core on Marietta Street further to the west has some retail vacancies. These retail vacancies should be filled prior to adding additional retail along Marietta Street.

(g) Whether the proposed zoning district and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.

Applicant Response

Facility will obtain all necessary and applicable permits from the city, county and state of Georgia to operate said business.

Staff Response

While the rezoning of the property to CBD may reflect a reasonable balance, the addition of a retail use outside of an established retail area on Marietta Street is not recommended.

Public Input

Email from surrounding property owner-

I have a general concern regarding the vagueness of the application submitted. It's my personal opinion that the application submitted is incomplete and a decision regarding rezoning should be withheld until more information can be obtained about the plans for this potential business and parcel. Moreover, I was not notified by letter as required by your zoning ordinance.

Some examples include:

The provided site plan is simply an aerial view of the subject property. Things that should be included in a site plan that are missing would be the proposed parking lot, current easements, utilities- none of which are pictured.

Variances requested include "fire extinguisher" and "cameras" --- Can that be clarified? I've never heard of a variance for a "fire extinguisher" or a "camera". However, the necessary "special use permit" not being mentioned on this application is the one required to reside on a commercially zoned property, which is the owner's stated plan and shown on her June 3rd receipt for this application.

I don't believe special use is required if the property is zoned CBD.

The "Written Analysis" portion of the application is a seven question portion created to obtain information about the proposed business and how it might impact the surrounding community, including the adjacent property owners. The applicant provided the same general, vague, off subject answer for each of the seven questions. An example, the applicant is asked "whether the existing use or useability of adjacent property will be adversely affected by one or more uses in the proposed zoning district?" The applicant responds "No, Facility will obtain all necessary and applicable permits from the city, county, and state of Georgia to

operate state business." The proper analysis of the proposed rezoning and proposed business cannot properly be evaluated with vague, off-subject answers.

I question the success of this business seeing as the applicant is unable to appropriately answer simple questions related to the proposed business and the surrounding community. Rezoning of this residential structure into a poorly planned commercial parcel and business will only create one more vacant commercial property along Marietta Street to join the following:

Vacant Commercial sites along Marietta Street including:

4180 Marietta Street

4455 Marietta Street

4456 Marietta Street, Suite 100

4469 Marietta Street, Suite 130

A community focused process to commercial development would be focused on occupying these existing vacant commercial properties, instead of creating more room for error from inexperienced business owners.

Please take these concerns into consideration when making recommendations for rezoning this property.

Cobb County Water and Sewer Comments

06/20/25

Water comments:At development: ☒ YES ☐ NOFire flow test required: ☒ YES ☐ NO

Size and location of existing water main(s): 12" in Marietta St ROW

Additional water comments:

Sewer comments:In the drainage basin: ☒ YES ☐ NOAt development: ☒ YES ☐ NO

Approximate distance to nearest sewer: Near southern property line, potentially on-site.

Estimated waste generation (in G.P.D.): Average daily flow = 150

Peak flow = 225

Treatment plant: South Cobb WRF

Plant capacity: ☒ Yes ☐ NOProjected plant availability: ☐ 0-5 years ☒ 5-10 years ☐ over 10 yearsOff-site easement required: ☐ YES* ☒ NOLine capacity study required: ☐ YES ☒ NOLetter of allocation issued: ☐ YES ☒ NOSeptic tank recommended by this department: ☐ YES ☒ NOSubject to Health Department approval: ☐ YES ☒ NO

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

Additional sewer comments:

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process. The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining onsite and/or offsite easements, and dedication of onsite and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System.