



Community Development – Zoning Division

John Pederson – Division Manager

ZONING CASE

Z-49-2023

SITE BACKGROUND

| | |
|------------------------|---|
| Applicant | DG East Cobb Guthries, LLC |
| Phone | 256-405-3783 |
| Email | mattd@dgoc.us |
| Representative Contact | Ronnie Boyles |
| Phone | 256-405-3783 |
| Email | ronnieb@dgoc.us |
| Titleholder | DG East Cobb Guthries, LLC |
| Property Location | Located on the south side of Lower Roswell Road, west of Johnson Ferry Road |
| Address | 4774 Lower Roswell Road |
| Access to Property | Lower Roswell Road |

QUICK FACTS

| | |
|-------------------------|--------------------------|
| Commission District | 2-Richardson |
| Current Zoning | PSC |
| Current Use of Property | Commercial |
| Proposed Zoning | NRC |
| Proposed Use | Restaurant |
| Future Land Use | CAC |
| Site Acreage | 0.317 |
| District | 1 |
| Land Lot | 69 |
| Parcel # | 01006900220, 01006900510 |
| Taxes Paid | Yes |

FINAL ZONING STAFF RECOMMENDATIONS

(Zoning staff member: Cameron Jones)

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

1. Site plan received by the Zoning Division on September 7, 2023, with the District Commissioner approving minor modifications;
2. Variances as stated in the Zoning comments;
3. Restaurant use only;
4. No outdoor storage or outdoor display of merchandise;
5. Fire Department comments and recommendations;
6. Planning Division comments and recommendations;
7. Stormwater Management Division comments and recommendations;
8. Water and Sewer Division comments and recommendations; and
9. Department of Transportation comments and recommendations.

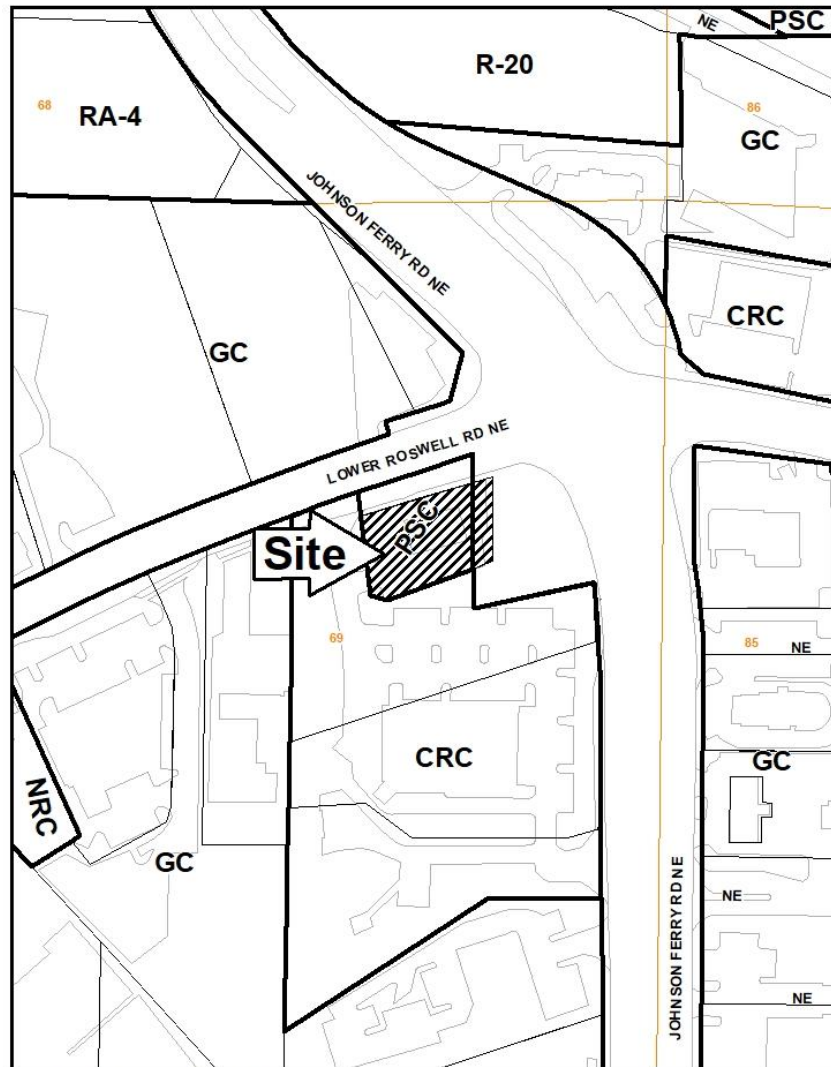
Z-49 Aerial Map



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



0 100 200 Feet

□ Zoning Boundary
■ City Boundary

North**Zoning:** GC/ Park, Baseball Field**Future Land Use:** PI**Z-49 2023 GIS**

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

0 100 200 Feet

 Zoning Boundary
 City Boundary

WEST

Zoning: CRC/
CVS Pharmacy
parking lot

**Future Land
Use:** CAC

EAST

Zoning: GC/
Restaurant

**Future Land
Use:** CAC

SOUTH**Zoning:** CRC/ CVS Pharmacy**Future Land Use:** CAC

Current zoning district for the property

The PSC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the PSC zoning district should be done as compact, unified centers. Projects developed within the PSC zoning district should occupy a quadrant of an intersection, with ingress and egress only from a major collector street or state highway, within an area delineated within a community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Any existing, developed PSC zoning/use located outside of a community activity center or regional activity center shall be deemed to be a grandfathered, nonconforming use and subject to those provisions contained in this chapter. Should any undeveloped property zoned PSC outside a community activity center or regional activity center fail to commence development by January 17, 1996, the owner of such property shall be required to bring the property back in for rezoning consistent with the comprehensive plan prior to any development. Obtaining a building or grading permit for such development shall be deemed to be commencing development.

Requested zoning district for the property

The NRC district is established to provide locations for convenience shopping facilities which are on properties delineated within a neighborhood activity center, community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. These convenience shopping facilities should have retail commercial uses that have a neighborhood-oriented market and which supply necessities that usually require frequent purchasing with a minimum of consumer travel. Areas zoned for the NRC district should be located at or near an intersection within the center of a neighborhood activity center as opposed to the edge of a neighborhood activity center. The NRC district may also be used to provide step-down nodal zoning away from more intensive commercial uses within a community activity center or a regional activity center. The scope at which properties are developed within the NRC district should reflect their relatively small neighborhood service area. Additionally, properties developed within the NRC district should be architecturally compatible with other nonresidential uses permitted within a neighborhood activity center as defined by the comprehensive plan and the neighborhood residences they serve.

Summary of the applicant's proposal

The applicant is requesting to rezone to the NRC zoning district to redevelop a restaurant building on a 0.317-acre site. The building will be 1,500 square feet and will be drive-thru only establishment. The hours of operation will be Monday-Sunday from 10am-9:30pm.

Non-residential criteria

Proposed # of buildings: 1 (existing)

Proposed # of stories: 1 (existing)

Total sq. footage of development: 1,500 sq ft

Floor area ratio: 0.11

Square footage per acre: 4,732

Required parking spaces: 15

Proposed parking spaces: 12

Acres in floodplain or wetlands: 0

Impervious surface shown: 92.9%

Are there any zoning variances?

Yes;

1. Decrease the required parking from the required 15 spaces to 12 spaces;
2. Reduce the front setback from 50 feet to 20 feet (existing); and
3. Increase the maximum impervious from 70% to 92.9%.

Are there any environmental conditions existing or proposed on the site?

No

09/19/23

The proposed zoning case must address the comments listed below by prescriptive code or equivalency, as approved by the Cobb County Fire Marshal's Office

Approval based on Professional Engineer-stamped plans that signify overall plan conformance to all Georgia State and Cobb County Codes. Design Professional and Developer maintain the sole responsibility for the design and for correcting all errors, omissions, problems, and code violations (if any) exposed during construction AFTER authorization by Cobb County.

CERTIFICATE OF OCCUPANCY:

Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

Jeff Byrd

(770) 528-8814

Jeffrey.Byrd@cobbcounty.org

Z-49-2023 DEPARTMENT COMMENTS – Cemetery Preservation

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

11/7/23

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

09/29/2023

Site Data

1. Address: 4774 Lower Roswell Rd
2. District: 2
3. Existing Zoning: PSC Existing Allowable Impervious Coverage: 70% (CAC)
4. Proposed Zoning: NRC Allowable Future Impervious Coverage: 70% (CAC)
5. Future Land Use: CAC

Existing Conditions

Floodplain Information

1. Flood Damage Prevention Designated Flood Hazard: No

Stormwater Information

1. Drainage Basin: Tributary to Sope Creek
2. State Stream Buffers: No
3. County Stream Buffer Ordinance: No
4. Impaired Stream: Yes: If the site is within a one-mile radius of an impaired stream additional Erosion Control BMP's per the State's current requirements will be required. It is the Engineer's responsibility to verify Impaired Streams per the State EPD's list.
5. Hotspot: No
6. Wetlands: No
7. Water Intake Zone: No
8. Chattahoochee River Corridor: No
9. Existing Onsite Ponds / Lake: No

Topography Information

1. General site Description: The site is currently developed with an existing building and parking lot.

Project Design Comments and Recommendations

The following comments and recommendations are typically required at the time of plan review and permitting.

Proposed Project Onsite Design Requirements

1. At the time of plan review calculate and provide the percentage of impervious coverage for the project site on the plans.
2. Any Future improvements to the site will be considered a redevelopment project. Redevelopment projects that create, adds, or replaces 5,000 square feet or greater of new impervious surface area or that involves other land disturbing activity of one acre

Z-49-2023 DEPARTMENT COMMENTS – Stormwater Management

(continued)

or more. Therefore, requiring an updated stormwater management facility that may require runoff reduction, water quality, and detention per the Georgia Stormwater Management Manual (GSMM).

Special Conditions

1. Provide a drain field for the dumpster pad drain or connect the dumpster pad drain to the sanitary sewer system.

9/29/2023

Comprehensive Plan Future Land Use Designation: Community Activity Center

The subject tract is within the Community Activity Center (CAC). Community Activity Centers provides for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low- to mid-rise office buildings and department stores.

Future Land Use Sub-Category? N/A☒ Consistent ☐ Inconsistent

House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary?

☐ Yes ☒ No

If yes, which City: N/A

Was the city notified? N/A

Specific Area Policy Guidelines:
Policy:☐ Yes ☒ No

Masterplan/ Corridor Study:☐ Yes ☒ No**Name of Masterplan/Corridor Study:** N/A

Design guidelines area?☒ Yes ☐ No**If yes, design guidelines area?** Johnson Ferry Road**Does the proposal plan comply with the design requirements?** Yes

Note: This project plan has been reviewed and approved Per design guidelines during the Site Plan Review process. If any plan change occurs during the zoning application, please submit updated plans for review and approval per guidelines.

Is the property within an Opportunity Zone?☐ Yes ☒ No**If yes, Opportunity Zone?** N/A

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

Is the property within an Enterprise Zone?☐ Yes ☒ No**If yes, Enterprise Zone?** N/A

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

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

(The Façade Improvement Program is an incentive for owners and tenants to enhance the appearance of buildings. The CDBG program provides the funding. Properties must be either on the current inventory of redevelopment sites)

(continued)

or in a corridor study area and be in a census tract with at least 51% low and moderate income. The program serves to improve the economic viability of these areas.)

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?

☐ Yes ☒ No

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

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

Special District:

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

☐ Yes ☒ No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

☐ Yes ☒ No

Is this property within the Six Flags Special Service District?

☐ Yes ☒ No

Dobbins Air Reserve Base Zones:

Is the property within the Dobbins Airfield Safety Zone?

☐ Yes ☒ No

Is the property within the Clear Zone (CZ)?

☐ Yes ☒ No

Is the property within 3000' of Dobbins ARB?

☐ Yes ☒ No

Is the property within the Accident Potential Zone (APZ I)?

☐ Yes ☒ No

Is the property within the Accident Potential Zone II (APZ II)?

☐ Yes ☒ No

Is the property within the Noise Zone?

☐ Yes ☒ No

Is the property within the Bird/Wildlife Air Strike Hazard Area (BASH)?

☐ Yes ☒ No

Historic Preservation:

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application.

9/27/23 – DATE OPTIONAL

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

Size/location of existing water main(s): 12" in Lower Roswell Rd

Additional water comments: Existing water service

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

Approx. distance to nearest sewer: Lower Roswell Road ROW

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

Peak flow = TBD

Treatment plant: RL Sutton 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

Additional sewer comments: Existing sewer service

*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.

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.

| Roadway | Roadway classification | Speed limit (MPH) | Jurisdictional control | Min. R.O.W. requirements |
|--------------------|------------------------|-------------------|------------------------|--------------------------|
| Lower Roswell Road | Arterial | 40 | Cobb County | 100' |

| Roadway | Location | Average daily trips (vpd) | Level of service |
|--------------------|-----------------------|---------------------------|------------------|
| Lower Roswell Road | West of Lindsay Road* | 19,540 | F |

*Note: Location does have different roadway cross-section than adjacent to proposed development

Based on 2018 traffic count data collected by Cobb County DOT for Lower Roswell Road

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

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

| ITE Land Use | Description | Expected Size (Drive-thru lanes) | AM | | | PM | | | Daily (vpd) |
|--------------|---------------------------|----------------------------------|----------|-----------|-------------|----------|-----------|-------------|-------------|
| | | | In (vph) | Out (vph) | Total (vph) | In (vph) | Out (vph) | Total (vph) | |
| 935 | Fast Food Drive Thru Only | 2 | 40 | 46 | 86 | 61 | 58 | 119 | N/A |

vph = vehicles per hour, vpd = vehicles per day, KSF = 1,000 square feet, N/A = not available

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition. This land use does not have available information for anticipated daily trips.

Comments and observations

Lower Roswell Road is classified as an arterial roadway and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

There is an existing SPLOST (Project E6020 – Lower Roswell Road) project to implement safety and traffic flow improvements along Lower Roswell Road.

In accordance with Cobb County Code 134-121 and based on site plan received September 7, 2023, this development does require a traffic study submittal.

This zoning application will be concurrent with plan review submittal SPR-2023-00223

Recommendations

1. Recommend a traffic study pursuant to Code Section 134-121(b)(8). Study assumptions (such as study intersections, trip distribution, future analysis years, and annual growth rate) should be submitted in a memorandum (Submittal 1) and agreed to by Cobb DOT before continuing the full traffic study (Submittal 2). Cobb DOT recommendations may be revised after the study's receipt.

(continued)

2. Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the adjacent SPLOST project.
3. Recommend applicant address all Plan Review comments for the concurrent application SPR-2023-00223.
4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF ANALYSIS

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

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

It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties which are commercial uses.

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

It is Staff's opinion that the applicant's rezoning proposal will not adversely affect the existing use or usability of adjacent or nearby properties. There are similar uses adjacent to and directly across from the proposed location.

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

It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion is supported by the departmental comments contained in this analysis.

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

It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policies and intent of the Cobb County Comprehensive Plan. The property is delineated in a Neighborhood Activity Center, NAC future land use category. The requested zoning district and proposed use are consistent with the NAC land use designation.

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

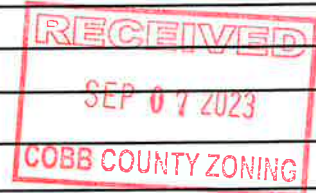
It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give grounds for approving the applicant's rezoning proposal for the use. The proposal would be consistent with the NAC future land use category and compatible to other properties in the area.

The staff analysis and recommendation made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

Summary of Intent for Rezoning

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

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



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

- a) Proposed use(s): RESTAURANT
- b) Proposed building architecture: Hendon + Huckestein PC
- 2126 Morris Ave Birmingham AL 35203 Ph: 205 322 1751
- c) Proposed hours/days of operation: Monday - Sunday
- 10:00 Am - 9:30pm
- d) List all requested variances: NONE
- _____
- _____
- _____

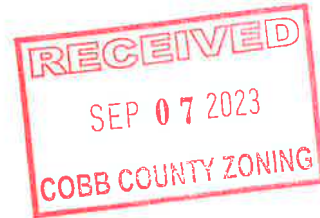
.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

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

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

September 05, 2023

Cobb County Community Development Agency
Zoning Division
1150 Powder Springs Street, Suite 400
Marietta, GA 30064



RE: Rezoning
4774 Lower Roswell Road Ne
PIN 01006900220

Dear Zoning Division:

This letter shall serve as the documented, written analysis of the impact of the proposed zoning with respect to the following matters:

The existing use is a 2,074 SF single-story commercial structure located on 0.317 acres. The current project proposed the re-use and renovation of this existing building to be used as a Guthrie's Quick Service Restaurant.

The current zoning of the property is PSC (Planned Shopping Center). Per conversations with Zoning Division Staff, the property must be rezoned as the current zoning is non-compliant for the proposed use. This application is requesting a Rezoning from PSC (Planned Shopping Center) to NRC (Neighborhood Retail Commercial) with associated variances. The variances requested are as follows: Reduction of Minimum Lot Size (existing conditions), Reduction of Front Setback (existing condition), Reduction of required parking for proposed use (predominately Drive Thru service)

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

The adjacent property, a CVS Pharmacy, is zoned CRC. The nearby properties, shopping centers and other commercial uses, are predominately zoned GC with a few zoned CRC and NRC. This zoning proposal will bring the current property in greater compliance with the County Code and will be suitable with the use of the adjacent and nearby properties.

(b) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The zoning proposal is submitted to bring the current property in greater compliance with County Code. The previous use of the facility was a commercial medical office, and the proposed use will be a commercial quick service restaurant. The proposed use remains commercial and will be appropriate considering the adjacent commercial uses and similar uses in the immediate vicinity.

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The existing property is non-compliant with the existing zoning of PSC. The proposed rezoning application is being submitted to bring the current property into greater compliance with County Codes as the property is being renovated. The current zoning of PSC is not appropriate for the existing property.

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

The existing property is non-compliant with the existing zoning of PSC. The proposed rezoning application is being submitted to bring the current property into greater compliance with County Codes as the property is being renovated. The current zoning of PSC is not appropriate for the existing property. The proposed use will not place an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The proposed use is appropriate for this intersection and corresponds with adjacent uses and adjacent zonings.

*(e) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
and*

The future land use plan for this area is Community Activity Center. Per Cobb County Code Sec. 134-213

(1) Purpose and intent. The NRC district is established to provide locations for convenience shopping facilities which are on properties delineated within a neighborhood activity center, community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan

The zoning proposal is in conformity with the policy and intent of the land use plan

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

The property currently contains an older, vacant medical office. The proposed use is to renovate the property and building to bring it into compliance with Design Overlay Requirements and to breath new life into the property. This will be an added benefit to the County and this Community Activity Center. The existing zoning is grandfathered, non-compliant and the Zoning Division staff are requiring this rezoning for the proposed redevelopment of the property. Approval of this application is the only way for this property to be renovated and redeveloped.

Thank you for your time and consideration.

Sincerely,
FORESITE GROUP, LLC

David Stoniecki
Land Development Practice Leader