

STATE OF GEORGIA
HENRY COUNTY
CITY OF STOCKBRIDGE

RESOLUTION NO. R15-620

A RESOLUTION TO APPROVE A SIX (6) MONTH CONDITIONAL USE PERMIT FOR CHURCH/RELIGIOUS FACILITY (CLARKSTON FIRST BAPTIST CHURCH). PROPERTY OWNER: MOSS PROPERTIES, LLC. LOCATION: 4518 NORTH HENRY BLVD., LAND LOT 61, DISTRICT 12, STOCKBRIDGE, GA. AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE THE PURPOSE OF THIS RESOLUTION. AUTHORIZING THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY, PROVIDING FOR AN EFFECTIVE DATE OF THIS RESOLUTION, AND FOR OTHER PURPOSES.

WHEREAS, The City of Stockbridge ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and,

WHEREAS, Moss Properties, LLC of Stockbridge, GA requests a conditional use for property located at 4518 North Henry Boulevard, in Land Lot 61 of the 12th District. The property consists of 3.539+/- acres, and the request is for a church/religious facility, City of Stockbridge.

WHEREAS, THE Zoning Advisory Board heard the request on November 13, 2014, and recommended approval of the request with the following conditions:

1. All building, fire, and accessibility codes shall be met.
2. If a church expansion beyond 1,800 sq. ft. is desired for the site, parking arrangements must be resubmitted and approved before further development.
3. Notwithstanding anything to contrary herein, no supplemental standards imposed herein shall be interpreted or applied in such a manner so as to require any violation of any existing building, development, storm water and/or other applicable codes.

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKBRIDGE GEORGIA AS FOLLOWS:

SECTION 1. Authorization – The conditional use permit is hereby authorized with the conditions set forth above which are incorporated herein by reference as if fully set forth herein. This document shall be maintained as a public record by the City Clerk and shall be accessible to the public during all normal business hours of the City of Stockbridge.

SECTION 2. Approval of Execution – The Council approves the request of a six (6) month Conditional Use Permit for Clarkston First Baptist Church and the Mayor is hereby authorized to sign all documents necessary to effectuate this Resolution.

SECTION 3. Attestation – The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate this resolution, subject to approval as to form by the City Attorney.

SECTION 4 Effective Date. This resolution shall become effective immediately upon its adoption by the Mayor and City Council of the City of Stockbridge as provided in the City Charter.

SO RESOLVED this 12th day of January, 2015.


TIMOTHY L. THOMPSON, Mayor

ATTEST:
 (SEAL)
VANESSA HOLIDAY, City Clerk

APPROVED AS TO FORM:

MICHAEL WILLIAMS, City Attorney



City of Stockbridge

EXECUTIVE SUMMARY

CITY COUNCIL MEETING

Meeting Date:

January 12, 2015

Department Requesting Agenda Item:

Planning & Zoning

Action Type:

- Action requested by City Council*
- For informational purposes only*

Attachments/Exhibits for Agenda Item:

1. Executive Summary
2. Legal Ad
3. Sign Photo
4. ZAB Minutes (November 13, 2014)
5. Staff Report
6. Application
7. Letter of Intent
8. Survey
9. Site Plan
10. Site Photos
11. Zoning Map
12. Aerial Map
13. Future Land Use Map

Presenter:

Planning and Zoning Staff

Applicant: Clarkston First Baptist Church

Case Number: CU-14-15-S

Agenda Item:

Moss Properties, LLC of Stockbridge, GA requests a conditional use for property located at 4518 North Henry Boulevard, in Land Lot 61 of the 12th District. The property consists of 3.539+/- acres, and the request is for a church/religious facility. City of Stockbridge

Background:

See attached Staff Report

Recommendation:

The Zoning Advisory Board heard the request on November 13, 2014, and recommended approval of the request with the following conditions:

1. All building, fire, and accessibility codes shall be met.
2. If a Church expansion beyond 1,800 sq. ft. is desired for the site, parking arrangements must be resubmitted and approved before further development.

3. Notwithstanding anything to contrary herein, no supplemental standards imposed herein shall be interpreted or applied in such a manner so as to require any violation of any existing building, development, storm water and/ or other applicable codes.

PUBLIC HEARING NOTICE
Stockbridge City Council

Date: Monday, January 12, 2015
Location: Stockbridge City Hall
4640 North Henry Boulevard, Stockbridge, GA 30281
Public Hearing: 6:00 P.M.

Conditional Use:
CU-14-15-S

Moss Properties, LLC of Stockbridge, GA requests a conditional use for property located at 4518 North Henry Boulevard, in Land Lot 61 of the 12th District. The property consists of 3.539+/- acres and the request is for a church/religious facility. **City of Stockbridge**

Please run a Legal ad in The Daily Herald on Friday, December 26, 2014.

Edited by: Stacey Jordan, Planner Date: 12-16-14

Checked by: Tyler McQueen Date: 12-16-14

Approved by: Dante A. Lillard Date: 12/16/14

Received at *The Daily Herald* by: _____

Date: _____ Time: _____

Please Bill: 7040—Planning and Zoning Department



CONDITIONAL USE
CITY OF STOCKBRIDGE PUBLIC HEARING
RE: Church / Religious Facility
DATE: January 12, 2015
TIME: 6:00 PM
LOCATION: Stockbridge City Hall
4540 North Henry Blvd., Stockbridge, GA
FOR MORE INFO: www.hcpz.org
770-288-7526

SUMMARY MINUTES

HENRY COUNTY ZONING ADVISORY BOARD

The Henry County Zoning Advisory Board held a Public Meeting with a Work Session at 6:00 p.m. and a Public Hearing at 7:30 p.m. on Thursday, November 13, 2014 in the Henry County Administration Building, 140 Henry Parkway, McDonough, Georgia, 30253. Notice of this meeting was posted in the entrance foyer of the County Administration Building and posted in the Henry Daily Herald Newspaper.

Those present were:

Alton Head, District I
Sandra Nesbit, District II
Jim Risher, District III
Vikki Consiglio, District IV
Delander Nelson, District V
Warren Bailey, City of Hampton
Alton Alexander, City of Stockbridge
Larry Babb, County At Large

Also attending were Daunte Gibbs, Interim Planning and Zoning Director; Jeremy Gilbert, Planner I; Stacey Jordan, Planner I; Tyler McSwain, Planner I; David Simmons, Henry County Department of Transportation.

(Note: This copy of meeting minutes are summary minutes only) The official minutes of the meeting are located on audio files that are available with the County Clerk in the Board of Commissioner's Office. The audio files will be retained for a period of no less than twelve (12) months from the date of this meeting.)

A public Work Session was held at 6:00 p.m. The Zoning Advisory Board discussed the agenda with no official action taken.

Chairman Consiglio welcomed everyone to the Henry County Zoning Advisory Board Meeting.

There are a few housekeeping items she wished to express. The meeting is being televised on Charter Channel 180 and AT&T U-verse Channel 99. It will be rebroadcast each Thursday at 7:00 p.m. A video is available on demand at the county website. She advised that everybody turn off their cell phones and their laptops. Anyone wishing to speak tonight must fill out a Public Hearing Speaker Card. A total of ten (10) minutes will be allowed for anyone in favor of a case and ten (10) minutes for anyone in opposition of a case. For example, if ten (10) people wish to speak, they must share the ten (10) minute slot. She further advised that when speaking to address the board members directly, not the audience.

INVOCATION AND PLEDGE

Ms. Nesbit led the invocation and Pledge of Allegiance.

CALL TO ORDER

Chairman Consiglio called the meeting to order at 7:32 pm.

ACCEPTANCE OF THE AGENDA

Mr. Babbs made a motion to accept the agenda. Mr. Nelson seconded the motion. Motion carried. (6-0)

APPROVAL OF MINUTES

Mr. Nelson made a motion to approve the minutes. Mr. Risher seconded the motion. Motion carried. (6-0)

PLANNING STAFF COMMENTS

Mr. Gibbs advised the Board that there were three items that been advertised for this meeting, but were removed by staff:

1. CU-14-18 Brentwood Rodgers, LLC of Stockbridge, GA
2. RZ-14-13 Brentwood Rodgers, LLC of Stockbridge, GA
3. CU-14-17 Dr. Yee Chen of McDonough, GA

CONDITIONAL USE

CU-14-15

Clarkston First Baptist Church of Clarkston, GA requests a conditional use for property located at 4518 North Henry Blvd., in Land Lot 61 of the 12th District. The property consists of 3.59+/- acres and the request is for a religious facility/church. City of Stockbridge

Mr. Gibbs called the case. Mr. McSwain presented the case.

Mr. McSwain stated that the subject property was currently zoned C-2 (General Commercial) and is within the City limits of Stockbridge. The request is for a religious facility/church. The subject property is located in an existing commercial shopping center. The church would have road access on North Henry Boulevard. The existing 9,000 square foot building holds five (5) units and the church will occupy one (1) unit. According to the applicant's request, fixed seating would not be required within the proposed 1,800 square foot space. The City of Stockbridge Code of Ordinances requires one (1) parking space for each three (3) seats in the main assembly area. The proposed site plan shows sixty-six (66) seats. Per staff calculations, the applicant will need twenty-two (22) parking spaces. Planning staff recommends approval with three (3) conditions.

Chairman Consiglio called for questions from the Board for staff.

Vice-Chairman Nelson asked about the location of the parking. **Mr. McSwain** noted that there would be room in the front and back for parking.

Chairman Consiglio called the applicant forward.

Mr. Roger Moss, Moss Properties, of Stockbridge represented the applicant.

Chairman Consiglio called for questions from the Board for the applicant.

Chairman Consiglio asked if this was a satellite church location for an existing church. **Mr. Moss** confirmed that that was the case and advised that having multiple locations is part of the church's mission. **Chairman Consiglio** asked if they would have Sunday School rooms. **Mr. Moss** advised that it would be a single assembly room.

Chairman Consiglio called for those wishing to speak in favor of the case. There were none.

Chairman Consiglio called for those wishing to speak in opposition of the case. There were none.

Chairman Consiglio called the applicant representative forward and called for additional questions from the Board. There were none.

Chairman Consiglio asked staff to call the case.

Mr. Alexander made a motion to approve the item with the recommendations made by staff. **Mr. Head** seconded the motion. Motion to approve was unanimous. (7-0)

CU-14-16

Jennifer A. Blackburn of Atlanta, GA, requests a conditional use for property located on the south side of Highway 81 East and west of the intersection of Highway 81 East and Stroud Road, in Land Lot 119 of the 8th District. The request is for a new Wireless Communication Facility in the RA (Residential-Agricultural) zoning district District 3

Mr. Gibbs called the case.

Mr. Chris Monzingo of RCC Consultants presented the case.

Mr. Monzingo advised that the applicant, Verizon was requesting a new wireless facility at 5238 Highway 81 East. The tract consists of 32 +/- acres with road access from Highway 81 East. Verizon proposes leasing a 100 by 100 foot area of the tract for the tower and associated equipment. The proposal is for a 110 foot monopole that would support up to four (4) carriers. The applicant meets the technical requirements of the ULDC. RCC Consultants recommends approval with two (2) conditions as stated in their report.

Chairman Consiglio called for questions from the Board for the consultant. There were none.

Chairman Consiglio called the applicant forward.

Ms. Jennifer Blackburn of Troutman Sanders, in Atlanta represented Verizon Wireless. **Ms. Blackburn** stated that this site is a commuter site for people who are driving in the area. She

showed on the overhead where there is a gap in cell phone coverage. As traffic drops down into a ditch the calls are dropped. **Ms. Blackburn** noted that the question about monopines had come up during the work session. Monopines only blend in when they are on a hill or level with the surrounding trees. The branches on the monopine would interfere with the signal coverage. A monopole would work better in the ditch area. It will be located away from residences.

Chairman Consiglio called for questions from the Board for the applicant. There were none.

Chairman Consiglio called for those wishing to speak in favor of the case. There were none.

Chairman Consiglio called for those wishing to speak in opposition of the case. There were none.

Chairman Consiglio called the applicant forward and called for any additional questions from the Board.

Chairman Consiglio clarified that Ms. Blackburn is not recommending the monopine for this location. **Ms. Blackburn** advised that she had recommended the monopine for other sites, but it would not blend in at this site. The proposed pole will only be high enough to fix the signal problem because this is such a small subject area. **Chairman Consiglio** asked if the pole could be painted to camouflage it. **Ms. Blackburn** stated they would do what the Board recommended, but noted that the sky is different shades of blue at times and the blue pole is noticeable. People are accustomed to seeing the galvanized poles. Painted poles seem to be more noticeable. Verizon will be adding landscaping.

Chairman Consiglio asked staff to call the case.

Mr. Risher made a motion to approve the item with the two (2) conditions recommended by staff. **Mr. Nelson** seconded the motion. Motion to approve was unanimous. (7-0)

CU-14-10

McCoy Tower, LLC of Winter Park, FL, requests a conditional use for property located at 595 Steele Drive, in Land Lot 166 of the 6th District. The request is for a new Wireless Communication Facility in the M-1 (Light Manufacturing) zoning district. District 2

Mr. Gibbs called the case.

Mr. Chris Monzingo of RCC Consultants presented the case.

Mr. Monzingo stated that this was a new 160 foot monopole. The tract is a 15 +/- acre tract that is currently zoned M-1 (Light Manufacturing). Road access would be off of North Steele Drive. Verizon will be the first carrier. The applicant will lease an 80 foot by 80 foot area of this tract for the tower and equipment. They meet all the requirements of the ULDC. Verizon has a need for service in this area. RCC Consultants recommends approval of this site with the conditions stated in their report.

Chairman Consiglio called for questions from the Board for the consultant. There were none.

Chairman Consiglio called the applicant forward.

Andy Welch of Smith, Welch, Webb and White represented the applicant, McCoy Towers. **Mr. Welch** complimented staff and the consultant on helping ensure that the applicant followed the ULDC and had what they would need for this case. This tower will hold five (5) tenants.

Chairman Consiglio called for questions for the applicant from the Board. There were none.

Chairman Consiglio called for those wishing to speak in favor of the case. There were none.

Chairman Consiglio called for those wishing to speak in opposition of the case. There were none.

Chairman Consiglio called the applicant forward and called for any additional questions from the Board.

Chairman Consiglio noted that this tower would be located in an open field and there were houses across the street. **Mr. Welch** noted that we are used to seeing cell towers and there is not really anything that can be done with this location to make it blend in. In stressing the need for cell coverage **Mr. Welch** noted how many people are now using their cell phones instead of a land line.

Chairman Consiglio called for any further questions from the Board. There were none.

Chairman Consiglio asked staff to call the case.

Ms. Nesbit made a motion to approve the case with the staff recommendations. **Mr. Babb** seconded the motion. Motion to approve was unanimous. (7-0)

REZONING

RZ-14-12

American Life Energy Holding Group, Inc. of Hampton, GA requests a rezoning from RA (Residential-Agricultural) to R-3 (Single-Family Residential) for property located at 3435 Jonesboro Road in Land Lots 105, 106, and 120 of the 6th District. The property consists of 46.64 +/- acres and the request is for a residential subdivision. District 2

Mr. Gibbs called the case. **Mr. Gilbert** presented the case.

Mr. Gilbert advised that the applicant is requesting to rezone 46.64 +/- acres from RA (Residential-Agricultural) to R-3 (Single-Family Residential). The proposed development will consist of thirty-nine (39) lots with a minimum lot size of 18,000 square feet on public sewer with a density of 0.83 dwelling units per acre. There is currently a 12,602 square foot single-family structure located on the property, which according to the applicant's letter of intent will be converted into a clubhouse for the development.

The applicant's request is not consistent with the Future Land Use Map, which designates the subject property for Low-density Residential land uses as identified in the technical definition outlined in the Henry County/Cities Joint Comprehensive Plan which states *"This category is intended for typical residential subdivision developments in the R-a and R-2 Zoning Districts."* Based on this requirement, staff recommends denial of the request to rezone from RA (Residential-Agricultural) to R-3 (Single-Family Residential).

Staff recommends approval of R-2 (Single-Family Residential) with twelve (12) conditions. The applicant has submitted a revised site plan that meets the requirements of the R-2 (Single-Family Residential) zoning district reducing the lot count from 39 to 23 and increasing the lot size from 18,000 to 30,000 square feet.

Chairman Consiglio called for questions from the Board for staff. There were none.

Chairman Consiglio called the applicant forward.

Mr. Mitchell Paulk, 76 Sloan Street, McDonough, GA 30253 represented the applicant. He had no additional comments to add to the staff report.

Chairman Consiglio called for questions from the Board for the applicant representative. There were none.

Chairman Consiglio called for those wishing to speak in favor of the case. There were none.

Chairman Consiglio called for those wishing to speak in opposition of the case.

Mr. Steven Gerardy, 3486 Hamber Circle, (Crystal Lake Village SD) (No speaker card). He had no objection but he wanted to know if these were single family residences. **Mr. Gilbert** confirmed that they were.

Chairman Consiglio asked the applicant to come forward and called for any additional questions from the Board.

Mr. Alexander asked about the site plan. **Mr. Paulk** indicated that the trails shown were existing driveways. There is an extensive set of trails that go around the lake and go to a pole barn and a metal building. The applicant will do a detailed tree survey and that may change the location of the roads. The architectural style of the homes will be similar to the existing home and have a brick face.

Vice-Chairman Nelson asked about the house size. **Mr. Paulk** noted that staff had recommended a minimum 2,500 square feet of living space. The applicant is considering building houses that are 3,000 feet or more with a price range of \$350,000 and up.

Chairman Consiglio called for additional questions from the Board. There were none.

Chairman Consiglio asked staff to call the case.

Ms. Nesbit made a motion to deny the request to rezone from RA (Residential-Agricultural) to R-3 (Single-Family Residential) and to approve the rezoning from RA (Single-Family

Residential) to R-2 (Single-Family Residential) with the twelve (12) conditions recommended by staff. **Mr. Alexander** seconded the motion. Motion carried. (7-0)

CONDITIONAL USE

CU-14-14

American Life Energy Holding Group, Inc. of Hampton, GA requests a conditional use for property located at 3435 Jonesboro Road, in Land Lots 105 and 106 of the 6th District. The property consists of 10.62+/- acres and the request is for an assisted living facility. District 2

Mr. Gibbs called the case.

Mr. Gilbert presented the case.

Mr. Gilbert stated that the request is for a conditional use to allow for an assisted living facility in a RA (Residential Agricultural) zoning district. The conditional use has established supplemental standards as shown in Table 4.03.18(B) of the ULDC (table shown in the staff report). The applicant's proposal does meet all of those requirements. **Mr. Gilbert** displayed the conceptual site plan and noted that the applicant is proposing a 26,000 square foot assisted living facility. There is additional remaining land that could be used for expansion that could include a variety of housing types as permissible in Appendix A of the ULDC "*A state-licensed use in which domiciliary care is provided to adults who are provided with food, shelter and personal services within independent living units which could include kitchen facilities in which residents have the option of preparing and serving some or all of their own meals. This use shall not include hospitals, convalescent centers, nursing homes, hospices, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.*"

Staff recommends approval with six (6) conditions as listed in the staff report. As per the discussion in the work session, the Henry County Department of Transportation had no objection to the second sentence in Condition #3: "*A deceleration lane/acceleration taper is required and must be designed and constructed to Henry County Department of Transportation standards.*" being removed. The ULDC does not require a deceleration lane/acceleration taper for a "local" road.

Chairman Consiglio called for questions from the Board for staff. There were none.

Chairman Consiglio called the applicant forward.

Mr. Mitchell Paulk, 76 Sloan Street, McDonough, GA 30253 represented the applicant. **Mr. Paulk** noted on the site plan that they had set the building and parking back with the intention of doing a landscape screening. The architectural look would mimic the existing house.

Chairman Consiglio called for questions from the Board for the applicant.

Mr. Alexander asked about connectivity between the two communities. **Mr. Paulk** said they did not have that on their current plans. The applicant is still working out the specifics.

Chairman Consiglio called for those wishing to speak in favor of the case.

Mr. Mark Headly, 3104 Alhambra Circle (no speaker card). **Mr. Headly** asked about the lake on the property and who would control the maintenance and upkeep. **Mr. Gilbert** noted that the lake is on the subdivision property not on the conditional use property.

Mr. Calvin Couch, 3344 Alhambra Circle (no speaker card). **Mr. Couch** wanted to know where the entrance would be located. **Mr. Gilbert** stated that on the conceptual site plan they would share the same access off of Dutchtown Road as the subdivision. At this point they are not showing an access on Jonesboro Road. **Mr. Couch** asked about the possibility of a traffic light at Dutchtown. **Mr. Gilbert** did not know about a traffic light, but noted that there would be some improvements to Dutchtown Road if the Board of Commissioners approved the rezoning request for this same property and agreed with the recommended conditions.

Chairman Consiglio called for those wishing to speak in opposition to the case.

Mr. Andrew Carson, 3138 Alhambra Circle, Hampton, GA 30228. **Mr. Carson** believes this is a commercial activity in a residential area. The traffic would increase along with the noise.

Mr. Robert McCory, 3112 Alhambra Circle (no speaker card). **Mr. McCory** was okay with the use but noted that it is already hard to get out of the subdivision and there is a need for a light.

Mr. Stephen Jarrard, 3146 Alhambra (no speaker card). **Mr. Jarrard** believes this is a commercial activity in a residential area. The area is single family houses.

Chairman Consiglio called the applicant forward and called for additional questions from the Board for the applicant. There were none.

Chairman Consiglio asked staff to call the case.

Ms. Nesbit made a motion to approve the case with the six conditions recommended by staff and to strike the second sentence in Condition #3. **Mr. Risher** seconded the motion. Motion to approve carried with **Mr. Head** voting in opposition. (6-1)

COMPREHENSIVE PLAN

COMP-AM-14-02

Copart of Connecticut, Inc. of Dallas, TX requests an Amendment to the Comprehensive Plan for property located at 761 Clark Drive, in Land Lots 219 & 220 of the 12th District. The request is to remove the subject property from the Fairview Road Overlay District. District 5

Mr. Gibbs called the case.

Mr. Gilbert presented the case.

Mr. Gilbert stated that the applicant is requesting to be removed from the Fairview Overlay District. The property is currently zoned M-2 (Heavy Manufacturing). The Henry County Board of Commissioners rezoned the property on March 20, 1984 from RA-200 to M-5 with no zoning conditions. M-5 has since been converted to M-2 through adoption of ordinances. The Fairview Overlay District was adopted by the Henry County Board of Commissioners on June 17, 2014. According to Section 4.02.02(M) of the Unified Land Development Code, *any property owner may apply for an amendment to the Fairview Overlay Map. Amendments may request the expansion of a character area, a change in character area designation, or removal from the overlay. Applications for an amendment shall be processed in accordance with Section 12.02.12 of the ULDC.* The applicant is requesting to be removed from the overlay district due to the use of their property conflicting with the provisions of the overlay district as it relates to the properties designation of residential character area. This designation would limit the applicant's ability to develop the site in the future. According to Section 4.02.02(D) (2) (i) of the ULDC, the only permitted uses in the residential character area are residential developments, and there are no provisions for the allowance of non-residential land uses or the expansion of existing non-residential land uses. However, Section 4.02.02(J)(I) states *"within the overlay, there may exist lots, structures, or uses of both land and structures which were lawful prior to the adoption of this ordinance, but which would be prohibited, regulated, or restricted under the terms of this ordinance as adopted or subsequently amended. Nonconforming lots, uses, and structures may continue in their nonconforming status with the limitations and/or requirements of Section 11.01.00 Nonconforming lots, structures, and uses of the ULDC"*

Based on the referenced sections of the ULDC, the applicant would only be able to continue the use of the subject property as it currently exists today with no ability to improve or expand the current use of the property that is a permitted use within the M-2 zoning district. Therefore, based on the aforementioned regulations the applicant is asking to be removed from the Fairview Overlay District to retain its ability to expand or improve its current operation as a permitted use in the M-2 zoning district.

Staff makes no recommendation.

Chairman Consiglio called for questions from the Board for staff. There were none.

Chairman Consiglio called the applicant forward.

Mr. Andy Welch, Smith, Welch, Webb & White represented the applicant, Copart. **Mr. Welch** stated that in the course of discussion during the adoption of the overlay district, staff pointed out that it is the right of the property owner to make the request for removal or amendment of the overlay district. The applicant is asking to be removed from the overlay district. The property consists of 77 +/- acres. The property was used for industrial manufacturing in the 1980's. Copart purchased the property in 2008.

Under the overlay district ordinance, the language that deals with the allowance of uses/ purpose states that *"existing structures are not subject to these regulations except to the extent required by Section 11.01.00 of the ULDC."* However, this section refers to the non-conforming use

provision of the ULDC. Under this code section in subsection B it states *"It is the intent of this section to allow these non-conforming uses to continue until they are removed or discontinued."* It is the intent of this subsection to eliminate the non-conforming use over time.

As staff had pointed out, if your property is designated as a non-conforming use and more than 50% of your property is destroyed you have no right to rebuild it or reestablish the use. Also, you cannot expand your use or expand or change the structures. At this time Copart cannot expand the size of their office building.

Mr. Welch stated that during the approval and public hearing process, several different boundary maps were considered. **Mr. Welch** showed three different versions of the boundary maps that were proposed.

Mr. Welch showed an aerial of the property. He noted the main entrance, office area, and a temporary storage area that is fenced in with a tall green fence. An insurance company will sell a vehicle that has been totaled to Copart. The vehicle is brought to this storage site and then auctioned off on-line. The buyer picks the vehicle up at Copart. There is a wooded buffer all around the property and the vehicles are behind a tall green fence. Copart does not take the cars apart and salvage pieces.

As part of the overlay district, Copart cannot expand their facility, utilize the rest of the property, or even pave the parking lot. If they are not allowed out of the overlay district, they will suffer a significant financial loss.

Mr. Welch noted that the issue of truck traffic was raised during the work session. Truck traffic existed prior to the overlay and it will continue.

The FLUM designates this property as future residential. If Copart were to sell the property in the future, it could still be developed as residential.

Chairman Consiglio called for questions for the applicant from the Board.

Mr. Nelson asked **Mr. Welch** about the capacity for vehicle storage at this point. **Mr. Welch** did not have an exact number. **Mr. Nelson** asked **Mr. Welch** about the plans to expand. **Mr. Welch** stated that the plans were for the remaining portion of the property and for the expansion of capacity.

Mr. Alexander noted that the residents chose the current overlay option and asked **Mr. Welch** how he would respond to the residents. **Mr. Welch** stated that the State of Georgia has a constitution that protects private property owners and government cannot and should not intrude on those rights. Government should not take away a use for a property that has been in use for 30 years with no compensation. During the adoption process, Copart repeatedly asked to be removed from this overlay district.

Mr. Alexander noted that the committee had worked on this for six (6) months. **Mr. Alexander** asked staff if the business could continue to operate as is. **Mr. Gilbert** stated that it could. **Mr. Gilbert** further stated that the interpretation of what is "existing" could be interpreted differently depending on who is doing the interpretation.

Chairman Consiglio asked if it could be interpreted that they could not remove cars since they would be changing the way it existed when the overlay was adopted.

Mr. Welch noted that it could be interpreted that the inventory now could not exceed the capacity on the day the overlay was adopted. Additional vehicles could be interpreted as an expansion. At this time Copart cannot get a building permit for building expansion.

Mr. Welch stated again that when the overlay district was adopted it gave the property owners the right to opt out.

Chairman Consiglio called for any further questions from the Board for the applicant. There were none.

Chairman Consiglio called for those wishing to speak in favor of the case.

Ms. Susan Carter, 5491 Flakes Mill Road. (no speaker card) **Ms. Carter** stated that she and her mother both have land that connects to the Copart property. She felt that they should have the right to expand their business and drop out of the overlay district.

Mr. Dennis Gossett, owns property at 442 Fairview Road and at 870 Clark Drive. (no speaker card) He has property is in the Fairview Overlay district. He is in favor of letting Copart opt out. The property has been in use as a salvage yard as long ago as the 1950's. In 1984 it was zoned as M-2. Copart bought the property in 2008 and had to do a lot of grading before they could open. He wants Copart to have their true M-2 zoning.

Mr. Vic Roberson, he owns 20 acres on Clark that adjoin the Copart property. (no speaker card) He stated that when Copart came in they cleaned the area up. He has no problem with the operation of Copart.

Mr. Matt Jvey, who owns NAPA in Ellenwood. (no speaker card) He stated that Copart has cleaned up the property and he did not think they should loose their M-2 zoning.

Ms. Sandra Brown, 111 Ashland Drive. (no speaker card) She wanted to know how many people who were on the overlay committee actually lived in the overlay district. She has no issue with Copart.

Ms. Catherine White, 161 Cook Drive, Ellenwood, GA 30294 spoke. She lives about a half mile from Copart. The area is clean and she has no problem with them. She said traffic is not a problem, but the truck drivers are. The police do stop the speeders.

Ms. Sharon Brooks, 202 (?) Drive. (no speaker card) She is in favor of Copart being able to use their property for what they bought it for. She was not in favor of the overlay.

Chairman Consiglio called for those wishing to speak in opposition of the case. There were none.

Chairman Consiglio called the applicant forward and called for any further questions from the Board.

Mr. Nelson asked if Copart could continue to exist. **Mr. Welch** stated that Copart could continue to exist, but is not allowed to expand or have any other use other than residential.

Mr. Alexander noted that Copart could continue to operate with no change in status. The community met and outlined what they wanted in their community. He wanted traffic concerns to be addressed. He felt that expanding the business could create more truck traffic.

Mr. Welch noted that the community does matter, but property and land use rights also matter. The overlay district takes away all the uses that were lawful under M-2.

Chairman Consiglio asked if the committee members who created the overlay had homes or business in the overlay district. **Mr. Welch** did not have that information.

Mr. Nelson asked **Mr. Welch** if he was aware of any traffic complaints. **Mr. Welch** noted that there were some concerns in past years about the lights of the vehicles exiting the property shining into homes.

Mr. Alexander again expressed his support for the committee members who created the overlay district.

Chairman Consiglio asked if the property had been posted. **Mr. Gilbert** stated that the ULDC does not require that property be posted for a Comprehensive Plan Amendment. The legal advertisement ran in the paper and it was advertised on our website.

Chairman Consiglio asked staff to call the case.

Mr. Nelson made a motion to deny the request and was seconded by **Mr. Alexander**. The motion to deny the request did not carry. (3 - 4)

Mr. Gibbs stated that the failure of the motion to deny was approval. **Mr. Welch** stated that, as this issue will be going to the Board of Commissioners, he would prefer to have a motion to approve voted on by the Zoning Advisory Board.

Mr. Risher made a motion to approve the request. **Mr. Babb** seconded the motion. The motion to approve the request carried. (4 - 3)

ADJOURNMENT

Motion to adjourn was made and seconded.



City of Stockbridge
Report Prepared by: Tyler McSwain, Planner I

Applicant: Clarkston First Baptist Church
4007 Church St.
Clarkston, GA 30021
(404) 942-5686

Agent: Moss properties, LLC
Roger J. Moss
P.O. Box 342
Stockbridge, GA 30281
(404) 787-7086

Location: 4518 North Henry Blvd.,
in Land Lot 61 of the 12th District.

Parcel ID: S26-01-016-000

Request: Conditional Use Permit

**Proposed Use/
Purpose:** Religious Facility / Church

Current Land Use: Commercial Shopping Center

Future Land Use: Commercial

Sign Posted: December 24, 2014

Postcards Mailed: December 17, 2014

ZAB Meeting: November 13, 2014
City Meeting: January 12, 2014

Lot Size: 3.539+/- acres

Road Access: North Henry Boulevard (Major Arterial)

Zoning History:

The subject property is currently zoned C-2 (General Commercial) as illustrated on the City of Stockbridge Official Zoning Map. No previous zoning request have been found at this time. The subject property is located in a commercial business lot.

Table 1.0 Current Zoning & Land Use of Surrounding Properties

	Current Zoning	Land Use
North	R-3 (Single Family Residential)	Single Residential Home
East	R-3 (Single Family Residential) C-2 (General Commercial)	Vacant Lots
South	C-3 (Heavy Commercial)	Commercial Retail Use
West	C-2 (General Commercial)	Commercial Retail Use and The First Baptist Church of Stockbridge INC.

Source: City of Stockbridge Official Zoning Map

Executive Summary:

The applicant is requesting a conditional use permit for a church/religious facility to be located on a 3.539+/- acre commercial business lot near North Henry Blvd. The proposed church will have road access on North Henry Blvd. The City of Stockbridge Code of Ordinances allows church facilities to be located within any Commercial zoning district subject to the approval of a Conditional Use. The existing 9,000 sq. ft. building holds five (5) units and the church will take up one (1) of the five (5) units available. The existing building is located near the northern end of the parcel. According to the applicant's request, fixed seating would not be required within the proposed 1,800 sq. ft. space. The City of Stockbridge Code of Ordinances requires one (1) parking space for each three (3) seats in main assembly area. The submitted site plan shows a proposed 66 seats within the proposed 1,800 sq. ft. tenant space. The applicant will need to provide twenty-two (22) parking spaces to accommodate the parking requirements of the City of Stockbridge. The Conditional Use may be granted under the requirements set forth in City of Stockbridge Ordinance No. 03-76 (Section 2).

Development Regulations Relevant to Request:

- Ordinance No. 03-76 (Section 2)
- Section 3-7-153(e) (1-6) C-2 (General Commercial) Space Limits
- Section 3-7-292. Application procedure; evaluation
- All other applicable codes

Criteria Point 1. *The proposed use shall not cause traffic congestion or conditions that will adversely affect other nearby properties in the area.*

The subject property currently has road access from North Henry Blvd, which is classified as a major arterial road on the Henry County Functional Road Plan. The conditional use may be approved with conditions placed by the Mayor and Council of the City of Stockbridge to help mitigate any effects the proposed uses may have on surrounding properties. The conditional use request meets all of the standards within Section 3-7-153(e) (1-6), which outline the development standards within the C-2 (General commercial) zoning district.

Table 2.0: C-2 (General Commercial) Development Standards

City of Stockbridge C-2: General Commercial Development standards.

Minimum lot area	10,000 square feet
Minimum lot width	100 feet with public sewer
Minimum front yard setback	50 feet from right-of-way line
Minimum side yard setback	None, except 30 feet on corner lots
Minimum rear yard setback	20 feet
Maximum height	35 feet

Source: City of Stockbridge code Section 3-7-153(e) (1-6)

Criteria Point 2. The physical conditions of the site, including topography, drainage, size, and shape are suitable for the proposed development.

The 3.539 +/- acre property seems physically suitable for the use of a church/religious facility.

Criteria Point 3. There are adequate public facilities to serve the proposed use.

There is adequate water and sewer services available to the subject property for the proposed use. The City of Stockbridge submitted a letter dated September 29, 2014, stating that there are no additional water and sewer impact fees due to the City from Clarkston First Baptist Church.

Criteria Point 4. The applicant has made a binding agreement for any specific limitations or conditions necessary to protect the public interest and assure the continued beneficial use and enjoyment of nearby properties or that no special limitations are necessary to protect the public.

Planning staff is unaware of any binding agreements for specific limitations or conditions that may or may not have been made by the applicant with the surrounding property owners. If approved, the applicant will be required to comply with any zoning conditions placed on the request by the Mayor and Council of the City of Stockbridge.

Criteria Point 5. That the conditional use or conditional exception with specific limitations and design features as may have been required will further the aims of the land use plan and will not be unduly detrimental to nearby properties

The conditional use, with specific limitations and required design features as required within The City of Stockbridge's Code of Ordinances, should not be unduly detrimental to nearby properties. The proposed use should have minimal, if any, impacts on the nearby properties. Any adverse impacts that may become apparent in the public hearing may be mitigated by conditions placed on the approval by the Mayor and Council of the City of Stockbridge.

Recommendation:

Planning Staff recommends **Approval** of the conditional use request with the following three (3) conditions:

1. All building, fire and accessibility codes shall be met.
2. If a Church expansion beyond 1,800 sq. ft. is desired for the site, parking arrangements must be resubmitted and approved before further development.
3. Notwithstanding anything to contrary herein, no supplemental standards imposed herein shall be interpreted or applied in such a manner so as to require any violation of any existing building, development, storm water and/ or other applicable codes.

Attachments:

- Application
- Letter of Intent
- Survey
- Site Plan
- Site Photos
- Zoning Map
- Aerial Map
- Future Land Use Map

**Henry County Planning & Zoning
Conditional Use Request Application**

Applicant Name Moss Properties, LLC Phone: 404 987-9080 Date: 9/21/2014
 Applicant Address: P.O. Box 342 Fax _____ Cell/Pager _____
 City: Stockbridge State: GA Zip: 30281 E-mail: MOSS@MPEAOL.COM
 Name of Agent _____ Phone: _____ Date: _____
 Address Agent: _____ Fax _____ Pager/Cell _____
 City: _____ State: _____ Zip: _____ E-mail: _____

THE APPLICANT NAMED ABOVE AFFIRMS THAT THEY ARE THE OWNER OR AGENT OF THE OWNER OF THE PROPERTY DESCRIBED BELOW AND REQUESTS

Conditional use being requested FOR CHURCH
 Address of Property: 4518 A. HENRY BLVD. (Street Address) Nearest intersection to the property: Hwy 42 / ROCK QUARRY RD
 Size of Tract: _____ acre(s), Land Lot Number(s): _____, District(s): _____
 Property Tax Parcel Number: 526 - 01 - 016 - 000 (Required)

Kimberly Avent
 Witness' Signature

[Signature]
 Signature of Applicant/s

Kimberly Avent
 Printed Name of Witness

Roger J. Moss / Moss Properties, LLC.
 Printed Name of Applicant/s

[Signature]
 Notary

Signature of Agent

**GENNIE PURGATORN
 NOTARY PUBLIC
 HENRY COUNTY, GEORGIA
 MY COMMISSION EXPIRES
 OCTOBER 12, 2017**

NOTARY STAMP:

(For Office Use Only)

Total Amount Paid: \$ 515.59 Cash _____ Check # 8996 Received by: T.M. (PLEASE PRINT NAME)
 Application checked by: T.M. Date: 10/7/14 Map Number(s): 526-01-016-000
 Pre-application meeting: T. McSwain Date: 10/7/14
 Zoning Advisory Board Decision: _____
 BOC Decision: _____
 Planning Director's Signature: _____ Date: _____

September 25, 2014

Re: **Conditional Use for Clarkston First Baptist Church**

4518 North Henry Boulevard

Suite 117

Stockbridge, Georgia 30281

Henry County Planning and Zoning Department:

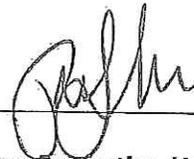
This letter of intent is to inform you of the intent for Clarkston FBC to occupy a 1800 sq ft space located at the above mentioned address. The church intends to use this space as a satellite location from their main campus. They intend to only conduct church services in this location during normal hours.

The church intends to begin the interior renovations to the space as soon as the conditional use process is completed and approve. And move into the space immediately after renovations are complete.

Thank you for your consideration of this matter.

Respectfully Submitted

Clarkston First Baptist Church



Moss Properties, LLC

Property Owner

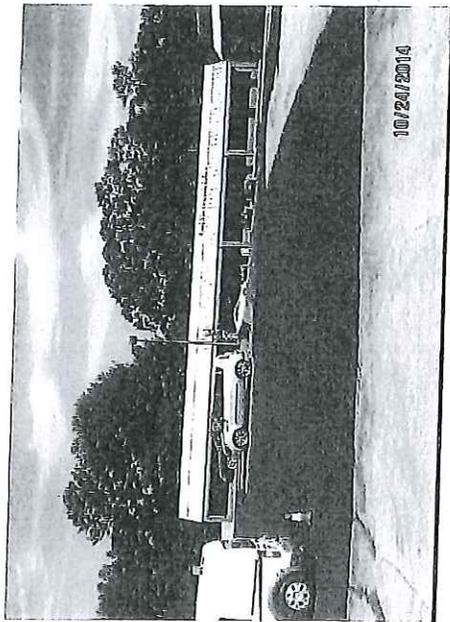
Roger J. Moss

lat: 33°32'51" lon: -84°13'45"



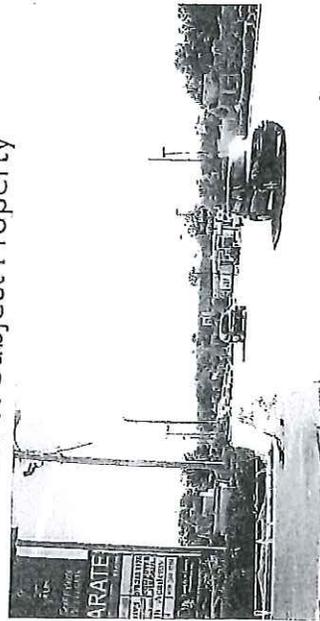
Parcel lines depicted on the maps do not reflect a true and exact representation of property boundaries and should not be re

CU-14-15, ZAB 11-13-14

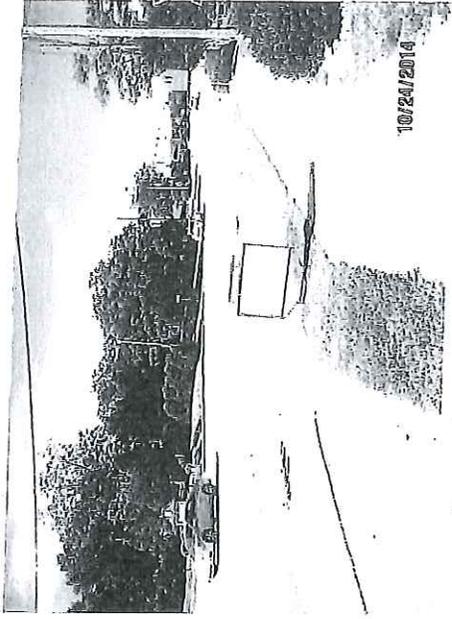


Subject Property

West of Subject Property

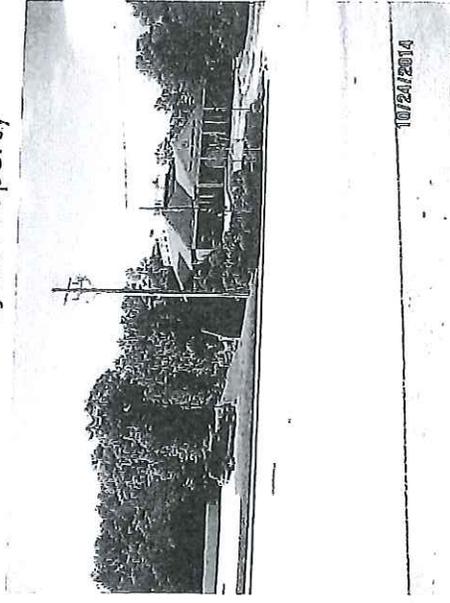


10/24/2014

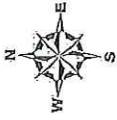


East of Subject Property

North of Subject Property



10/24/2014



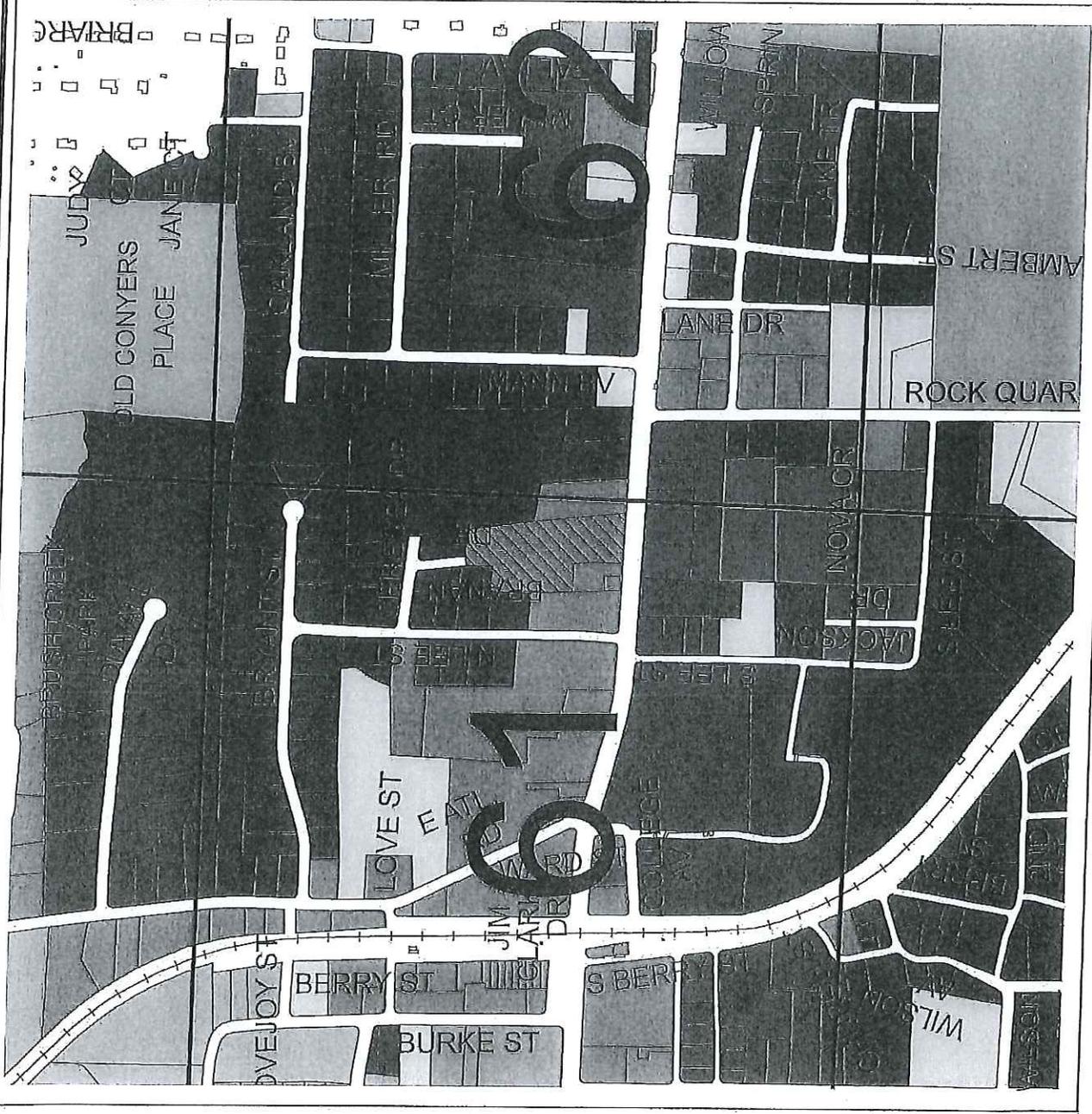
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-  C1
-  C2
-  C3
-  M1
-  M2
-  O1
-  PD
-  R2
-  R3
-  R3RM
-  RA
-  RD
-  RM
-  RM2
-  RM3
-  RMH

Scale: 1" = 800'

Current Zoning Map

This map is for graphical representation only. It is not a legal document.



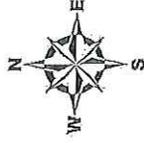
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Request

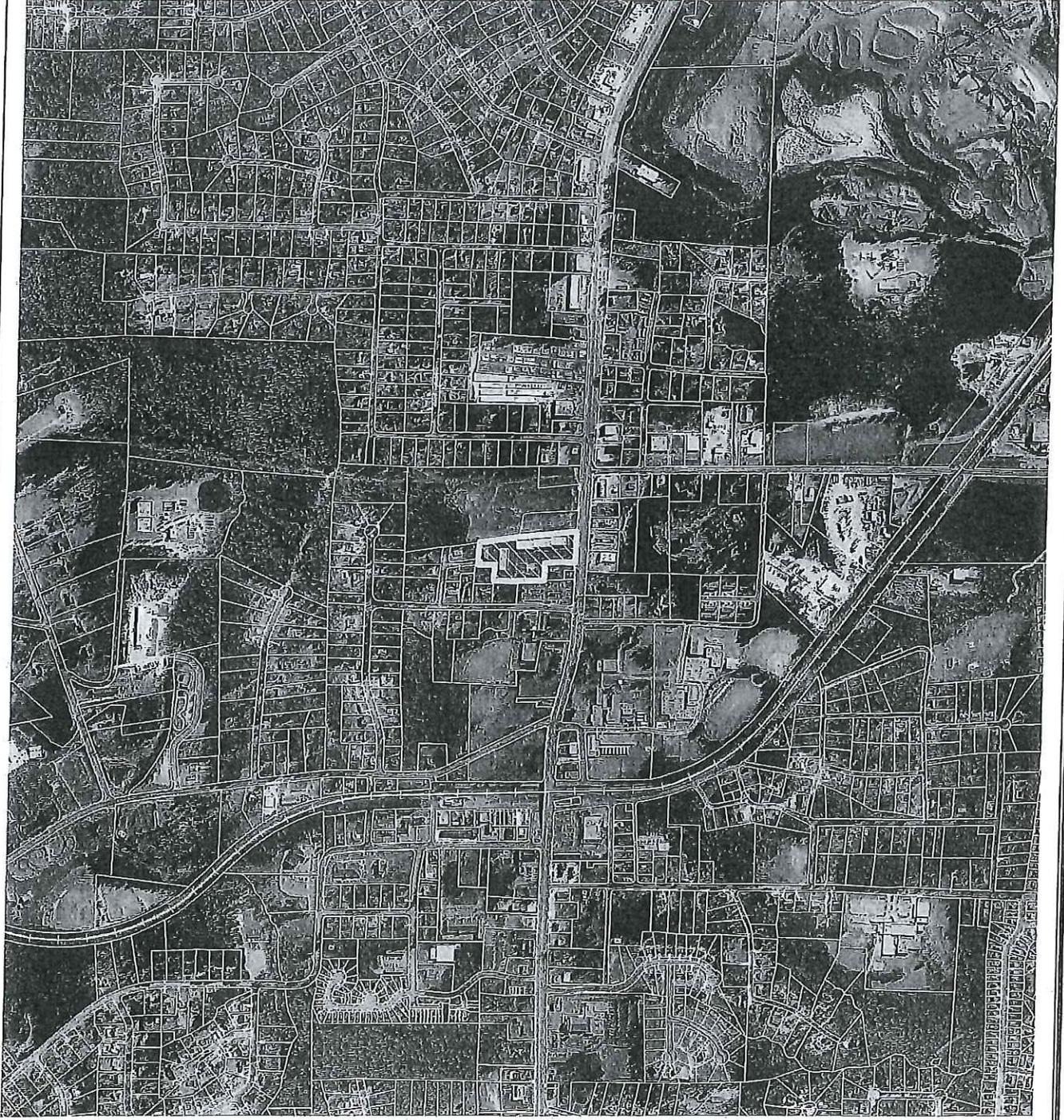
CU-14-15

AERIAL MAP

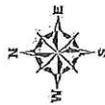
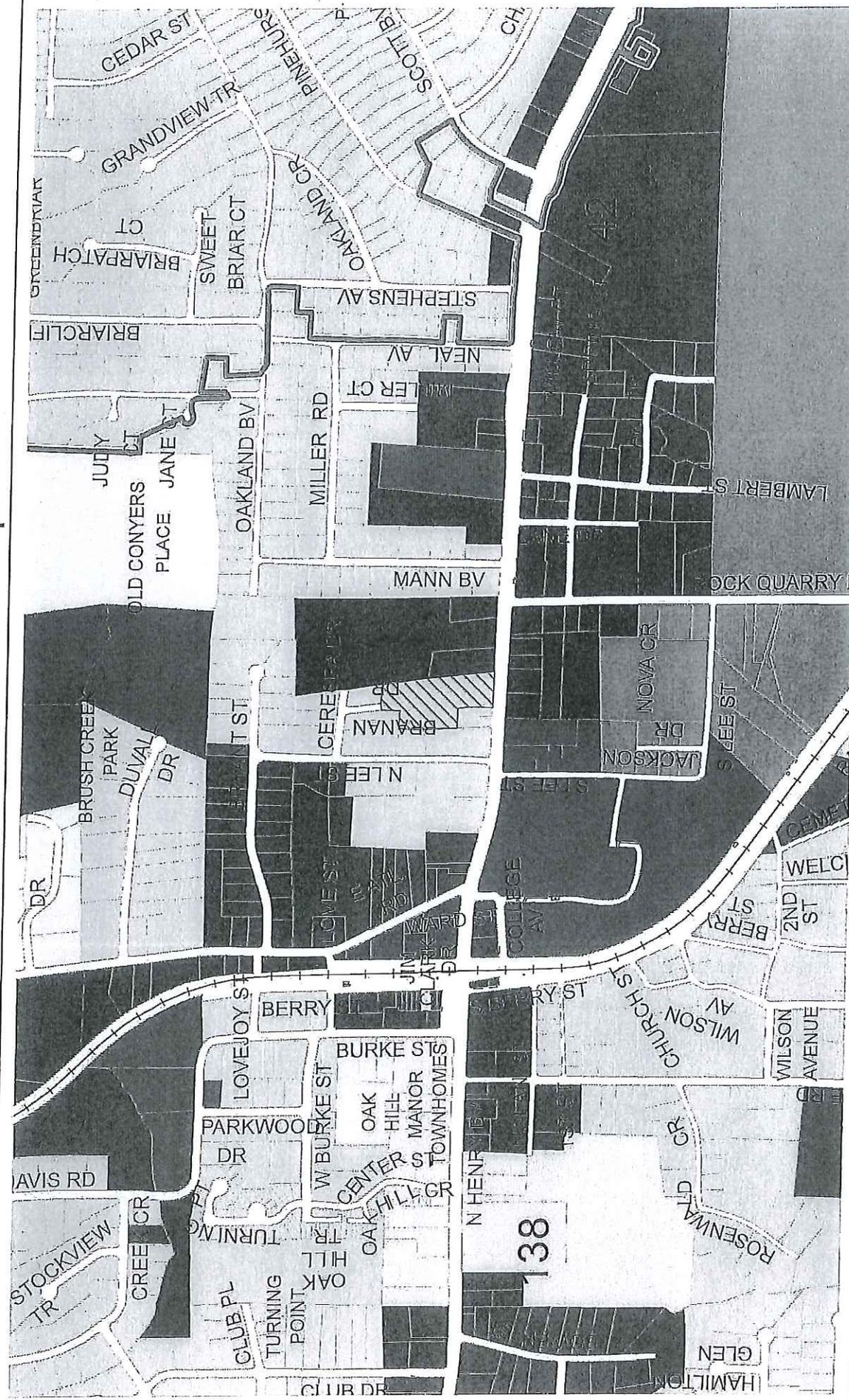
Scale: 1"=1,000'



This map is for graphical representation only. It is not a legal document.



Future Land Use Map



CU-14-15-S

Clarkston First Baptist Church



January 12, 2015

PUBLIC HEARINGS

PUBLIC HEARING NOTICE
Stockbridge City Council

Date: Monday, January 12, 2015

Location: Stockbridge City Hall

4640 North Henry Boulevard, Stockbridge, GA 30281

Public Hearing: 6:00 P.M.

Conditional Use:

CU-14-15-S

Moss Properties, LLC of Stockbridge, GA requests a conditional use for property located at 4510 North Henry Boulevard, in Land Lot 61 of the 12th District. The property consists of 3.6391 acres and the request is for a church/religious facility. City of Stockbridge, 928-229517, 12/26