



CITY OF MABLETON, GEORGIA

Cobb Works

5656 Mableton Parkway, GA 30126

May 6, 2025 at 6:00 PM

Commissioner Cheryl Davis
Commissioner Jeanette Hardee
Commissioner Robin Meyer
Commissioner Undriss Miller
Commissioner Donte Philpot
Commissioner Carl Valenzano
Commissioner Vinis Walker

PLANNING COMMISSION REGULAR MEETING AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

4. UNFINISHED BUSINESS

a. Planning Commission - Policies & Procedures

5. NEW BUSINESS

a.

- **Rezoning - Z-2025-01 550 Lions Club Drive and Lions Club Drive - Rezoning from General Commercial (GC) to R-20 (Single Family District) - TKHC Ministries**

b. SLUP-2025-001-- Swarm Football Club, LLC, Applicant - 3598 Marathon Circle

c. Ordinance Creating Chapter 13, Nuisances, Article III, Noise Ordinance

d. Amendment of Chapter 10, Article 3, Review and Decision-Making Bodies - Planning Commission and Board of Zoning Appeals

6. ADJOURNMENT

Persons with special needs relating to handicapped accessibility, disability, or foreign language may contact the City Clerk at (404) 927-9502 or susan.hiott@mableton.gov at least three days prior to the meeting. The clerk can be located at the City of Mableton Offices, Riverside EpiCenter, 135 Riverside Pkwy, Austell, Georgia 30168 during regular office hours.



*PLANNING COMMISSION
ZONING HEARING
RULES AND PROCEDURES*

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PREFACE

These Rules and Procedures, adopted pursuant to O.C.G.A. §36-66-5, are for the purpose of establishing hearing procedures in connection with the conduct of meetings before the City of Mableton Planning Commission.

These Rules and Procedures will apply to all hearings before the Planning Commission unless specifically set forth in the body of the Rules and Procedures.

Matters arising during the hearings shall be governed by these Rules and Procedures; however, it is not possible to address every possible situation that may arise. Where these Rules are silent, the latest edition of Roberts' Rules of Order shall govern.

ZONING AND LAND USE RULES AND PROCEDURES

SECTION 1. MEETINGS

- A. Regular and special zoning and land use meetings of the Planning Commission ("PC") (also individually or collectively referred herein as the body, the board or the commissioners/members) shall be as determined in accordance with the Official Code of Mableton, Georgia ("Code"). For the PC, meetings shall be convened at 6:00 P.M. on the first Tuesday of each month or as may be set in accordance with State law and may not begin before the prescribed time of which the public has been notified.
- B. An adjourned meeting is a continuation of the meeting immediately preceding, whether it is a regular or special meeting.
 - 1. If the scheduled business of the PC is not completed, due to time constraints or emergency, the meeting shall be adjourned to the following day or a specific day scheduled by the PC to allow for the completion of pending business.
 - 2. In an adjourned meeting (regular or special), only business which would have been proper to consider at the prior meeting may be considered and acted upon at the adjourned meeting.
 - 3. Adjourned meetings resume business under the same rules, limitations and rights as the original meeting which was adjourned.
- C. Executive Session Meetings shall be conducted in accordance with the O.C.G.A. §50-14-3 and §50-14-4, or as these sections may be amended from time to time.

SECTION 2. QUORUM

Any four (4) of the commissioners, or the chair and any three (3) commissioners, shall constitute a quorum for any meeting of the PC.

- A. If a quorum is not present thirty (30) minutes following the scheduled hour for convening, the chairperson, the vice-chairperson, or in their absence, the county attorney (or his/her designee) may adjourn the meeting until the next day or by unanimous consent, those commissioners present may select another hour and day.
- B. If, during the meeting there ceases to be a quorum, all business must stop except that the PC, by majority vote to be recorded in the minutes (naming those present at the time of the vote) may:
 - 1. fix another day at which to reconvene
 - 2. adjourn and return at the next regular meeting
 - 3. recess to determine if a quorum will be present within a short period of time.

SECTION 3. CHAIRPERSON

- A. At its first regular meeting of each year, the PC commissioners shall elect one of its members as chairperson, who shall serve for one year or until he/she is reelected or a successor is elected as set forth in the Code.
- B. The chairperson shall have the same rights and privileges of the other commissioners with respect to rights to make motions, debate and vote. Additionally, his/her duties during meetings shall include:
 - 1. presiding over meetings of the body;
 - 2. calling the meeting to order at the scheduled hour;
 - 3. determining that a quorum is present;
 - 4. preserving decorum and order at all meetings;
 - 5. making the commissioners aware of the substance of each motion;
 - 6. calling for the vote;
 - 7. announcing the results of each vote;
 - 8. calling for a recess at such times as deemed advisable; and
 - 9. other duties as prescribed in the Code.

SECTION 4. VICE-CHAIRPERSON

For the conduct of zoning and land use hearings, the vice-chairperson shall have all rights, privileges and duties of the chairperson in the absence of the chairperson. The PC shall elect a vice-chairperson from among the commissioners as prescribed by the Code. The election for vice-chairperson shall be on the same schedule as that for chair.

SECTION 5. ABSENCE OF CHAIRPERSON AND VICE-CHAIRPERSON

In the absence of the chairperson and vice-chairperson, the clerk or county attorney or their designee shall determine whether a quorum is present, and if a quorum is present, shall call for the election of a temporary chairperson. The temporary chairperson shall preside over that meeting or until the conclusion of the business immediately pending at the time the chairperson or vice-chairperson arrives.

SECTION 6. FILINGS, EXHIBITS AND DISCLOSURES

- A. All documentation and exhibits shall be marked and filed with the Planning and Zoning Manager prior to presentation to the commissioners.
- B. The deadline for receiving any additional information, changes or modifications for consideration by the PC shall be 12:00 Noon on Monday of the week preceding the public hearing. In the event an applicant or opposition submits new plats or revised information, changes or modifications after such cut-off, the applicant or opposition shall only be allowed to present such documentation at the public hearing. It shall be in the body's discretion as to whether or not it desires to accept the information, changes or modifications and further determine if the information merits holding the application until the next regular hearing. Should an applicant turn in such material late a second time for a regularly scheduled public hearing, then it shall be grounds to dismiss the application with prejudice or defer the application until the next regularly scheduled meeting of the PC.
- C. Public written comment shall be due to the PC by 12:00 noon on Wednesday of the week preceding the public hearing. All public comments can be emailed to zoning@mableton.gov. The PC public hearing is open to additional public comment for each application.
- D. Prior to meetings before the PC, state law requires applicants and opponents of cases to complete and file zoning disclosure forms, as applicable, pursuant to O.C.G.A. § 36-67A-3.

SECTION 7. PUBLIC HEARING AGENDA

- A. An agenda for the meetings will be established and prepared by the Planning and Zoning Staff and posted by the Clerk. The agenda will be available to the commissioners in advance of the advertised meeting.
- B. Except in cases where it is not feasible, an agenda work session will be held for the PC with as many of the commissioners as are available to attend.

- C. The order of business shall be as follows: Consent cases, Deferred cases, Regular cases, Other Business items and non-agenda items. The order of business listed in the agenda summary may be changed by majority vote of the commissioners.

SECTION 8. PUBLIC HEARING AGENDA ITEMS

Section 8.01 Consent Agenda

- A. A portion of the agenda may be designated as a consent agenda by the Planning and Zoning Manager and all items contained therein may be voted on en gross.
- B. Prior to any item being considered on any consent agenda, the Planning and Zoning Manager shall make available online all staff comments, conditions and stipulations.
- C. Prior to the vote on the consent agenda, the following may cause the case to be removed from Consent and placed on the Regular Agenda for a full public hearing:
 - 1. The request of a commissioner that an item be removed;
 - 2. The objection by the applicant to any staff comment, condition or stipulation; or
 - 3. The presence of opposition requesting that a public hearing be held is present.
- D. Prior to the vote, the commissioner for the district in which the case is located may add additional conditions, subject to agreement by the applicant. If the applicant does not agree, the commissioner may request that the case be removed from the Consent Agenda.

Section 8.02 Deferred Case Agenda

- A. Deferred cases are those wherein:
 - a Public hearings have already been held; however, the commissioners delayed action, based upon an exercise of discretion, such as when there is a desire for the applicant and opposition to meet further or where additional information or further evaluation by staff is needed. The applicant or representative shall update the respective board on any aspects of the case which have been revised.
 - b Public hearings were not conducted due to recommendation of staff, mutual consent by the applicants and opponents or due to reasons set forth within the Code.
- B. Public input shall be allowed as provided for within Section 10.
- C. These cases will be voted on following the presentation and questions.

Section 8.03 Regular Agenda

- A. Regular cases are those wherein, in the opinion of staff and/or the PC, issues exist that should be considered following a full public hearing.
- B. Each case will be considered in the order assigned it in the Zoning Agenda except when agreed upon by majority vote.
- C. Voting on cases on the Regular Agenda will take place immediately following the close of the public hearing of the same case.

Section 8.04 Other Business Items Agenda

The Other Business Items agenda may include items for consideration as requested by the commission or staff. These items may be placed on the Consent Agenda.

SECTION 9. ADDITION OF NON-AGENDA ITEMS

A non-agenda item shall be defined as that which is deemed by a commissioner to require urgent attention but has not been placed on the published agenda.

- A. Adequate information, including the specific topic, shall be given on any items requested to be added as non-agenda items.
- B. A majority vote shall be required to add a non-agenda item.

SECTION 10. PUBLIC PARTICIPATION IN MEETINGS/HEARINGS

The City of Mableton welcomes visitors to its meetings and hearings and is willing to hear any person or persons desiring to appear. However, at work sessions the public may only observe the meeting. Speakers at all other meetings/hearings are subject to these rules as follows:

- A. Time limitations.
 - 1. Zoning hearings.
 - a) Applicants/representatives and those in favor, as a group, and opponents/representatives, as a group, shall be given a maximum of ten (10) minutes for each side to present its application or opposition, unless, by general consensus, more time is allotted by the PC. Any groups which are present are encouraged to choose a spokesperson to present their views so as not to repeat the same information.

- b) As each application is called, all non-attorney witnesses for the applicant and opponents shall first be sworn prior to making their presentations.
 2. The County Attorney or designee shall be responsible for keeping time.
- B. No further public input will be allowed following the close of the public hearing except in response to questions from planning commissioners. Comment made outside the public hearing and not in response to a question from a commissioner shall be deemed “out of order”.
- C. All remarks must be related to the application. No person shall be allowed to make impertinent, derogatory, offensive or slanderous remarks while addressing the body.
1. A person may be barred from further speaking before the PC in that meeting/hearing if his/her conduct is deemed "out of order".
 2. A person, once barred for improper conduct shall not be permitted to continue or again address the body in that meeting/hearing unless a majority vote of the body allows.
 3. In the event the speaker thus barred fails to obey the ruling, the Chair may take such action as is deemed appropriate, including the removal of such person from the meeting/hearing.
 4. The body may bar a person from addressing meetings/hearings for up to sixty (60) days for improper conduct.
 5. A person barred by the body for this period may request a hearing, by written request to the chairperson stating reason(s) for a reversal of the decision.
 6. The hearing shall be placed on the next available agenda and heard by the body. A majority vote shall be required to overturn the previous decision to bar the person(s).
- D. When the chairperson asks for a count of those in opposition, whether an early head count or at the calling of the matter, a count of those in favor shall also be made.

SECTION 11. MOTIONS

- A, Following presentation of both sides, the public hearing shall be closed and the body shall discuss the application prior to the district commissioner making a motion.
- B. These motions shall take precedence in order in which they are listed below:
1. Adjourn;
 2. Recess;
 3. Motions of privilege;
 4. Call the question;
 5. Limit discussion or debate by the body;
 6. Hold/continue until a time certain;
 7. Refer back to staff; or refer to staff;
 8. Amend;

9. Main motion.

- C. When needed for clarity and prior to taking the vote, the chairperson should state the motion (or resolution) or its substance or ask the commissioner making the motion to do so.

SECTION 12. MAIN MOTION

A main motion shall be a motion whose introduction brings business before the body.

- A. Possible dispositions of such a motion include:
1. adopted/approved, with or without deletions, stipulations or conditions.
 2. defeated/denied/rejected.
 3. deferred (postpone) until _____ (a definite time) with a request to the applicant for additional information and/or referral to staff for additional information and/or recommendations.
 4. withdrawn, with or without prejudice;
- B. All main motions shall require a second ¹ and, if such motions fail to obtain a second the chairperson shall state, "Since there is no second, the motion is not before this meeting."
- C. Once a motion has been moved and seconded it belongs to the entire body and not to the maker of the motion; therefore, if a commissioner wishes to withdraw a motion that is officially before the body, action of the PC or must be taken in either of the following ways:
1. The chairperson will ask the PC if there are any objections to the motion being withdrawn. If there are no objections, the motion shall be withdrawn by unanimous consent, without the need for the seconder to withdraw his/her second or any further motion.
 2. If there is an objection to the motion being withdrawn, the person requesting permission or another commissioner may make a motion to grant permission. A second is required if the motion is made by the person requesting permission but not if by another commissioner. The chairperson shall take an official vote. A majority vote shall be required to adopt the motion to grant permission to withdraw a motion.

SECTION 13. SUBSIDIARY MOTIONS

While debate, commissioners may introduce motions that propose a particular action on the main motion. These subsidiary motions allow a body to reach a conclusion on the main motion.

¹ The commissioner/member who seconds a main motion, or any procedural motion, implies that he/she wishes that the motion be discussed and voted upon, but does not indicate support for the motion and may speak for or against the motion.

Three of these subsidiary motions – amend, limit discussion or debate and call the question – can also apply to other subsidiary motions.

Section 13.01. Amend

- A. If any commissioner feels that the main motion might be more acceptable in a way other than the way presented, the commissioner may amend through substitution, insertion or deletion of stipulations/conditions, or striking out portions. Such proposed amendments shall be approved by a majority vote.

- B. If a proposed amendment fails to obtain unanimous consent or a majority vote, or lacks a second, the main motion considered shall be the one originally presented.

- C. An amendment must be germane (relating to the substance of the main motion) and may not introduce an independent question.

- D. Improper amendments shall be:
 - 1. one which is not germane;
 - 2. one which would make the adoption of the amended motion equivalent to a rejection of the motion; or
 - 3. one which is frivolous or absurd.

Section 13.02. Defer Until a Time Certain

A motion to defer to a time certain (postpone) may be used if a majority of the PC feel that the motion before them should be considered at a later date or if the discussion shows that more information from staff or the applicant is needed or that the facts as presented are not adequate for their final vote. A second shall be required, and discussion shall be limited to the reason for holding the motion or the time to which it is to be held. A majority is needed to pass it. If this motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to hold, if one exists otherwise a new motion is required.

Section 13.03. Limit Discussion or Debate

If a commissioner feels that the period of time for discussion of a motion should be limited as to time for the motion as a whole, or as to individual time given, the commissioner may move to "limit discussion (or debate) to __ minutes." This motion shall require a second and no discussion on the motion shall be allowed.

Section 13.04. Call the Question

A commissioner may "call the question" (a motion to end discussion) when it is clear that further discussion is unnecessary or that discussion is becoming repetitive. This motion shall require a second and no discussion on the motion shall be allowed is motion and vote is separate from and before the vote on the motion to which it is applied.

SECTION 14. PRIVILEGED MOTIONS OR MATTERS

Privileged motions facilitate the running of the meeting. They do not address or relate to the main motion and can be introduced whether or not there is a main motion under consideration. Privileged motions take precedence over all subsidiary motions. Debate is not allowed on these motions.

Section 14.01. Points of Privilege

If any matters occur such as to impede a commissioner in attending to the business, e.g., too much noise, the microphone not working, matters that affect the safety, orderliness, or comfort of the commissioner, or that affects the honor of an individual commissioner, such commissioner may state to the chairperson that he/she has a point of privilege and the matter must be addressed before the pending business of the body continues. No vote is required unless a motion arises out of the privilege.

Section 14.02. Recess for breaks

A recess may be declared by the chairperson, at his/her discretion, when he/she deems it advisable or by a request of a commissioner. If the body unanimously consents, no motion is required. If there is an objection from a commissioner, then a motion and a second is required, it is not debatable and an affirmative majority vote shall be required to recess.

Section 14.03. Adjourn

The highest-ranking motion shall be the motion to adjourn, requiring a second and a majority vote with no discussion allowed, except that the motion shall contain a time to hear any non-completed items on the agenda, if such exist. If all business on the agenda has been completed, the chairperson may assume the motion, and without a second, obtain unanimous consent to adjourn.

SECTION 15. INCIDENTAL MOTIONS

Incidental motions have no rank but shall be decided immediately before business may proceed and may be used throughout the meeting. These motions allow commissioners to exert their rights as a member of the body.

Section 15.01. Point of Order. A commissioner may call for a point of order if he/she believes that the chairperson has failed to notice a breach in the rules. A second is not required. This point of order shall be decided by the presiding officer without debate, unless in doubtful cases he/she submits the question to the body for decision.

Section 15.02. Appeal From the Chairperson's Decision. Whenever a commissioner believes that the chairperson is mistaken in his/her ruling, a commissioner may appeal from the chairperson's decision. An appeal shall require a second and shall be debatable with the chairperson speaking first explaining his/her ruling, and the chairperson may close out the debate by a statement at the end defending the ruling. An appeal may be made only on a ruling and may not be made:

- A. in response to a parliamentary inquiry or point of information;
- B. in areas that challenge verifiable rulings of factual nature.

The chairperson shall state the motion as "Shall the chairperson's decision be sustained?" A tie vote shall sustain the chairperson because a majority of those voting shall be required to overturn the chairperson's ruling.

Section 15.03. Parliamentary Inquiry. A parliamentary inquiry is a question directed to the Chair to obtain information on a matter of parliamentary law or the rules of the body. The chairperson will answer such questions or may ask the staff for an opinion. The motion does not require a second, is not debatable and does not involve a vote. The chairperson's reply, whether or not he/she has requested advice from the staff, is not a ruling, but is an opinion. If a commissioner does not agree with the Chair's opinion, he/she may act in a way contrary to this opinion, and if ruled out of order, may then appeal the chairperson's ruling. The Chair is not obligated to respond to hypothetical questions.

SECTION 16. VOTING

- A. All votes shall be taken by either raised hand or electronic means, at the discretion of the Chair, except those which the chairperson handles through unanimous consent, i.e., "If there are no objections...". A single objection will require that a counted vote be taken. An affirmative vote of at least four commissioners, or the chairperson and three commissioners, shall be required to adopt a motion, except where otherwise indicated.
- B. When an entire section of the agenda is to be voted upon by en gross, a commissioner may without discussion, state that he/she is voting in the affirmative on all of the agenda items contained

within that section of the agenda except certain ones (which he/she will name by number). In such cases, the vote of the commissioner(s) will be recorded as negative for the items named.

- C. If a motion has been voted on without discussion and a commissioner feels that it is necessary to explain his/her vote, he/she may have no more than one minute to give public reasons for his/her vote. This shall not be construed as an opportunity to repeat discussion that has already taken place at the same meeting.
- D. A tie vote shall cause all procedural motions to be defeated. A tie vote on a main motion shall authorize the PC to either defer the motion or refer the motion without recommendation to the City Council. Such decision shall be decided by a further motion/vote of the body. If there is no majority vote, the case shall be referred to the City Council without a recommendation.
- E. No commissioner who is present at any meeting of the body at which an official decision, ruling or other official act is to be taken or adopted may abstain² from voting in regard to any decision, ruling, or act, and a vote shall be recorded or counted for each such commissioner present, except when, with respect to any such commissioner, there is or appears to be a possible conflict of interest³ as defined in Section 10.3.1-Planning Commission (a) Establishment, Composition and terms of City of Mableton City Zoning Ordinance. In such cases the abstaining commissioner shall give his/her reason for abstaining on the record and remove his/herself from the planning commission dais.
- F. A commissioner has the right to change his/her vote up to the time that a new matter is called, e.g. if the commissioner notices the registered vote is different than intended, the commissioner may correct his/her vote.
- G. Voting for the various sections of the agenda occurs as follows:
- Consent – Following the reading of the consent agenda, as it may be amended, the body shall vote on agenda en gross.
 - Deferred cases and regular cases – Each individual case shall be voted on following the presentation and any discussion.
 - Other Business Items – If staff has placed the other business item on the consent agenda, it shall be voted on with the consent agenda. If the item is not on the consent agenda, staff will read the item into the record. A public hearing shall occur followed by a reading of the

² "It is a general rule that a legislative body cannot only compel the attendance of its members but that it can also require them to vote unless excused by the body from voting." Mason's Manual of Legislative Procedure.

³ "It is a general rule that no members can vote on a question in which they have a direct personal or pecuniary interest. The right of members to represent their constituencies; however, is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal." Mason's Manual of Legislative Procedure.

staff recommendation. The matter will then be directed to the district commissioner to lead the discussion followed by the vote.

- Comprehensive plan amendments – Amendments are voted on en gross unless a commissioner asks that an amendment be removed to allow for discussion. If an amendment has been removed, it will be voted on following discussion and any public comment.

SECTION 17. MINUTES

- A. All actions of the body, except for actions described in the O.C.G.A. §50-14-3 and §50-14-4, or as those sections may be amended from time to time, shall be accurately recorded by the clerk (or his/her designee) in the minutes, which shall include:
- a. all main motions, substantially as worded when adopted (including amendments or stipulations);
 - b. the name of the maker of all important motions;
 - c. disposition of all main motions, whether:
 - i. adopted/approved, with or without deletions, stipulations or conditions;
 - ii. defeated/denied/rejected;
 - iii. deferred until ____ (a definite time) with a request to the applicant for additional information and/or a request to staff for further information or recommendations;
 - iv. withdrawn, with or without prejudice;
 - d. how each commissioner voted;
 - e. Clerk's Note: a commissioner's comments are printed in the minutes if, when requested by the commissioner, the majority votes (or agrees by unanimous consent) to have the remarks included. This is to emphasize a discussion item that would typically not appear on the summary minutes.
- B. The responsibility for correcting and approving the minutes shall be vested only in the members of the body for their respective minutes. The minutes of each meeting shall indicate their subsequent approval/correction. The minutes may be corrected whenever an error is noticed, regardless of the time which has elapsed.⁴ A commissioner may vote to approve the minutes even though he/she was not in attendance at that meeting.
- C. The minutes shall be attested to by the clerk or deputy clerk.

SECTION 18. PARLIAMENTARIAN

The county attorney or his/her designee shall serve as parliamentarian and shall advise and assist the chairperson and the body in matters of parliamentary law. A professional parliamentarian may be consulted as deemed necessary.

SECTION 19. PARLIAMENTARY AUTHORITY

The latest edition of **ROBERTS' RULES OF ORDER** shall govern the PC in all areas not addressed and which are not inconsistent with these rules adopted by the commissioners or higher law.

SECTION 20. AMENDMENTS TO THESE RULES AND PROCEDURES

These rules may be amended by a majority vote of the entire PC and at a regular or special meeting of the PC respectively, provided notice has been given of the amendment(s) at the meeting prior to the vote on the amendment(s) per Sec.10.3.1. -Planning Commission (b) Meetings and rules of procedure.

⁴ Mason, Paul. Mason's Manual of Legislative Procedure. The American Society of Legislative Clerks & Secretaries in cooperation with the National Conference of State Legislatures, 1989.

DEFINITIONS

The following definitions apply to these procedures

adjourn - to officially terminate the meeting.

adjourned meeting - a meeting that is a continuation at a later specified time of an earlier regular or special meeting.

adopt - to approve or pass by whatever vote is required for the motion.

affirmative vote - a vote in favor of the motion as stated.

agenda - the official list of items of business planned for consideration during the meeting.

approval of minutes - formal acceptance of the record of a meeting thus making this record the official minutes of the body.

body - Planning Commission and/or City Council.

Chairperson - the presiding commissioner.

Clerk – the duly appointed County Clerk.

City Council – the City Council of the City of Mableton, Georgia

Code - The official ordinances of the City of Mableton, Georgia

Commission – the City of Mableton Planning Commission..

commissioner - any person named or elected to that position.

common parliamentary law - the body of rules and principles that is applied by the courts in deciding litigation involving the procedure of any organization; does not include statutory law or particular rules adopted by any organization or board.

convene - to open a meeting.

debate - formal discussion of a motion under the rules of parliamentary law and more often, herein, referred to as discussion.

defer - to delay action by referring the motion to staff for more information, or by postponing a vote to a time certain.

demand - an assertion of a parliamentary right by a commissioner .

dilatory motions or tactics - misuse of procedures or motions that are out of order or would delay or prevent progress in a meeting.

floor - when a person receives formal recognition from the chairperson, he/she "has the floor" and is the only person entitled to speak.

germane amendment - an amendment relating directly to the motion to which it is applied.

germane discussion - discussion relating directly to the matter involved.

hearing - a meeting for the purpose of listening to the views of an individual or of a particular group on a particular subject.

in order - permissible and right from a parliamentary standpoint.

majority vote - an affirmative vote of at least four commissioners, or the chairperson and three commissioners.

minutes - the legal record of the action of the body.

motion - a proposal submitted to the body for its consideration and decision; it is introduced by the words "I move that..."

objection - the formal expression of opposition to a proposed action.

order of business - the adopted order in which the business is presented to the meeting of the body.

out of order - not correct, from a parliamentary standpoint, at the particular time.

parliamentary authority - the code of procedure adopted by the PC as its parliamentary guide, governing in all parliamentary situations not otherwise provided for in this document, the Code or higher governing bodies.

pending motion - sometimes referred to as pending question; any motion that has been proposed and stated by the chairperson for the commission's consideration and that is awaiting decision by vote.

precedence the rank or priority governing the motion.

precedent - a course of action that may serve as a guide or rule for future similar situations.

procedural motion - motions to assist the body in treating or disposing of a main motion; or, motions relating to the pending business or to business otherwise at hand.

proposal or proposition - a statement of a motion of any kind for consideration and action.

O.C.G.A. - Official Code of Georgia Annotated.

quorum - the number of persons that must be present at a meeting of the body to enable it to act legally on business.

recognition - acknowledgement by the chairperson, giving a person sole right to speak.

reconsider - to review again a matter previously disposed of, and to vote on it again; must be made on the same day of business.

request - a statement to the chairperson asking a question or some "right".

rescind - to nullify or cancel out a previous action; cannot be made if irreversible action has already been taken to implement the motion it wishes to rescind.

resolution - a formal motion, usually in writing, and introduced by the word "resolved" that is presented to the body for a decision.

ruling - the chairperson's decision as it relates to the procedure of the PC.

second - a commissioner's statement that he/she is willing to have the motion considered.

tie vote - vote in which the affirmative and negative votes are equal on a motion.

unanimous consent - deciding on a vote without voting on it but where no commissioner voices objection; with a single objection a vote must be taken.

unfinished business - any business that is postponed definitely to a time certain.

Application for Rezoning Mableton, Georgia

Application No. _____

PC Hearing Date: _____

M&C Hearing Date: _____

Applicant TKHC Ministries Phone# 706-540-7318
(applicant's name printed)

Address PO Box 67, Smyrna GA 30081 E-mail ladytgogginsministries@gmail.com

TKHC Ministries Address 550 Lions Club Drive Mableton, GA 30126
(representative's name, printed)

Teresa M. Goggins Phone# 7065407318 E-mail ladytgogginsministries@gmail.com
(representative's signature)

Signed, sealed and delivered in presence of:

My commission expires: _____

Notary Public

Titleholder Teresa and Thomas Goggins Phone# 7065407318 E-mail ladytgogginsministries@gmail.com
(titleholder's name, printed)

Signature _____ Address _____
(attach additional signature, if needed)

Signed, sealed and delivered in presence of:

My commission expires: _____

Notary Public

Zoning Request From General Commercial to R-20
(present zoning) (proposed zoning)

For the Purpose of Church Facility Size of Tract 4.62 Acre(s)
(subdivision, restaurant, warehouse, apt., etc.)

Location 550 Lions Club Dr, Mableton GA 30126
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 107 District(s) 17th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are/are no such assets. If any exist, provide documentation with this application.

Teresa M Goggins

(applicant's signature)

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is/is not such a cemetery. If any exist, provide documentation with this application.

Teresa M Goggins

(applicant's signature)

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

N/A

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made: _____
N/A

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: _____
N/A

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application: _____
N/A

I certify that the foregoing information is true and correct, this March day of 12, 2025.

Teresa M Goggins

Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? N/A

If so, describe the nature and extent of such interest: _____

Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? N/A

If so, describe the nature and extent of such interest: _____

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? N/A

If so, describe the relationship and the nature and extent of such interest: _____

I certify that the foregoing information is true and correct, this March day of 12, 2025.

Teresa M Goggins

Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.



Watts & Browning Engineers, Inc.

Civil Engineering · Land Planning · Land Surveying

March 13, 2025

Christopher Wheeler
Planning & Zoning Manager
6116 Mableton Pkwy.
Mableton, GA 30126

Re: Re-Zoning and Variance Letter of Intent.

Christopher:

Please accept this letter as notification of our request for a proposed change in zoning for the subject property located on Lions Club Drive in Land Lot 107 of the 17th District, in the 2nd Section, City of Mableton, Cobb County, GA. The current owner of the property is TKHC Ministries, consists of 4.62 acres, and is currently zoned GC.

- a) The property is surrounded to the west by OM Investments International, Ltd., zoned LRO; to the north by Cobb County, zoned R-20; to the east by Carlos Munoz, zoned R-20 and GC, and is bounded to the south by Lions Club Drive.
- b) We believe the R-20 zoning will best suit the proposed development of a multi-purpose/place of worship facility and associated parking. The proposed entrance to this development is from Lions Club Drive via Veterans Memorial Hwy, will not be gated, and an identification monument is anticipated.
- c) The proposed zoning will neither affect the existing property use since it is vacant nor will it adversely affect adjacent properties. The facility will provide a safe sanctuary for the community for worship, fellowship, and community involvement.
- d) Although the property is currently zoned GC the proposed facility will better serve the community by providing the needed services of worship and fellowship.

- e) The proposed zoning will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. There will be minimal use of the facility since the facility will operate on Tuesday nights from approximately 7:30 pm to 9:30 pm and on weekends only.
- f) The proposed zoning is in conformity with the policy and intent of the land use plan by meeting all the required special exceptions per the ordinance. Additionally, there are no existing or changing conditions that will affect the use and development of the property.

Along with the requested re-zoning, the owner is requesting The City of Mableton to grant one concurrent variance to this property for the reduction in the minimum required site area of 5 acres to 4.62 acres.

Thank you for your consideration.

Weissman PC E-filed Document
Date: 9/23/21 Time: 10:55 AM
Book: 15971 Page: 5224
County: Cobb

Record and Return to:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: W-S-19450-21-CM

Parcel ID: 17010700480

**LIMITED
WARRANTY DEED**

**STATE OF GEORGIA
COUNTY OF FULTON**

THIS INDENTURE, made this 21st day of September, 2021, between **Charles J. Frazee**, as party or parties of the first part, hereinunder called Grantor, and **Thy Kingdom Has Come International Ministries Inc.**, a Georgia nonprofit corporation as party or parties of the second part, hereinunder called Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of **TEN DOLLARS AND NO/100 (\$10.00)** and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

See Exhibit "A" attached hereto.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, only to the proper use, benefit and behoof of the said Grantee, forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through and the above named grantor.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

Signed, sealed and delivered
in the presence of:

Cathy E. [Signature]

Unofficial Witness

Marilyn Maldonado

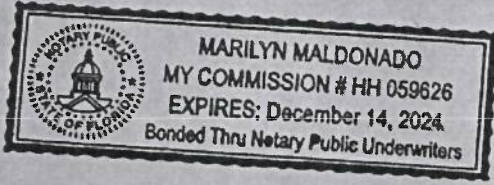
Notary Public

My Commission Expires: 12/14/2024

[Signature]

(Seal)

Charles J. Frazee



Weissman PC E-filed Document
Date: 9/23/21 Time: 10:58 AM
Book: 15971 Page: 5247
County: Cobb

Record and Return to:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: W-S-19451-21-CM

Parcel ID: 17010700100

**LIMITED
WARRANTY DEED**

**STATE OF GEORGIA
COUNTY OF FULTON**

THIS INDENTURE, made this 23rd day of September, 2021, between **Chief Solutions, Inc.**, a Texas corporation, as party or parties of the first part, hereinunder called Grantor, and **Thy Kingdom Has Come International Ministries Inc.**, a Georgia nonprofit corporation as party or parties of the second part, hereinunder called Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

See Exhibit "A" attached hereto.

This Deed is given subject to all easements and restrictions of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, only to the proper use, benefit and behoof of the said Grantee, forever in **FEE SIMPLE**.

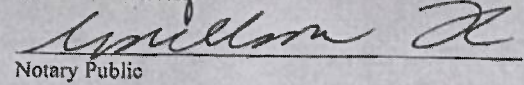
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through and the above named grantor.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written.

Signed, sealed and delivered
in the presence of:



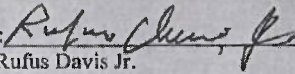
Unofficial Witness



Notary Public

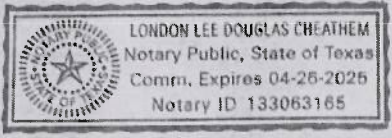
My Commission Expires: 04-26-25

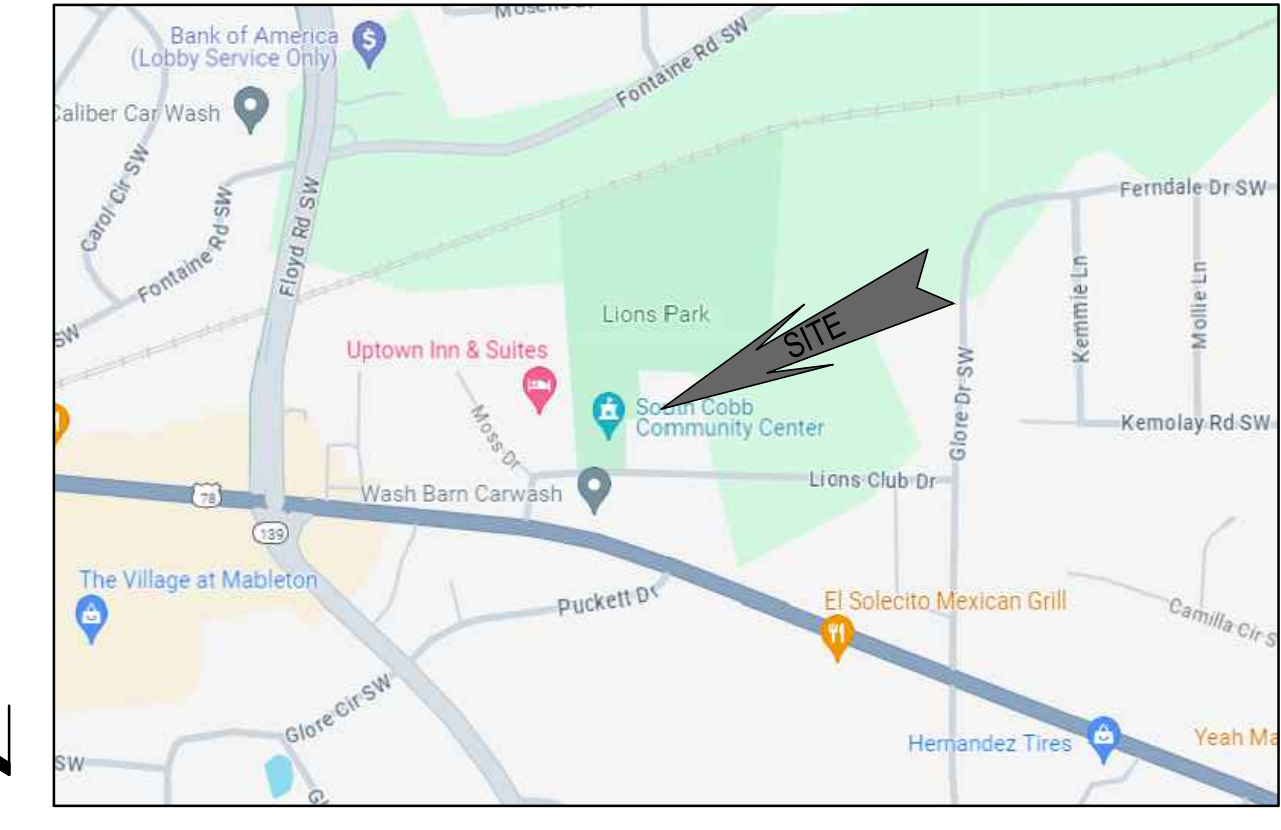
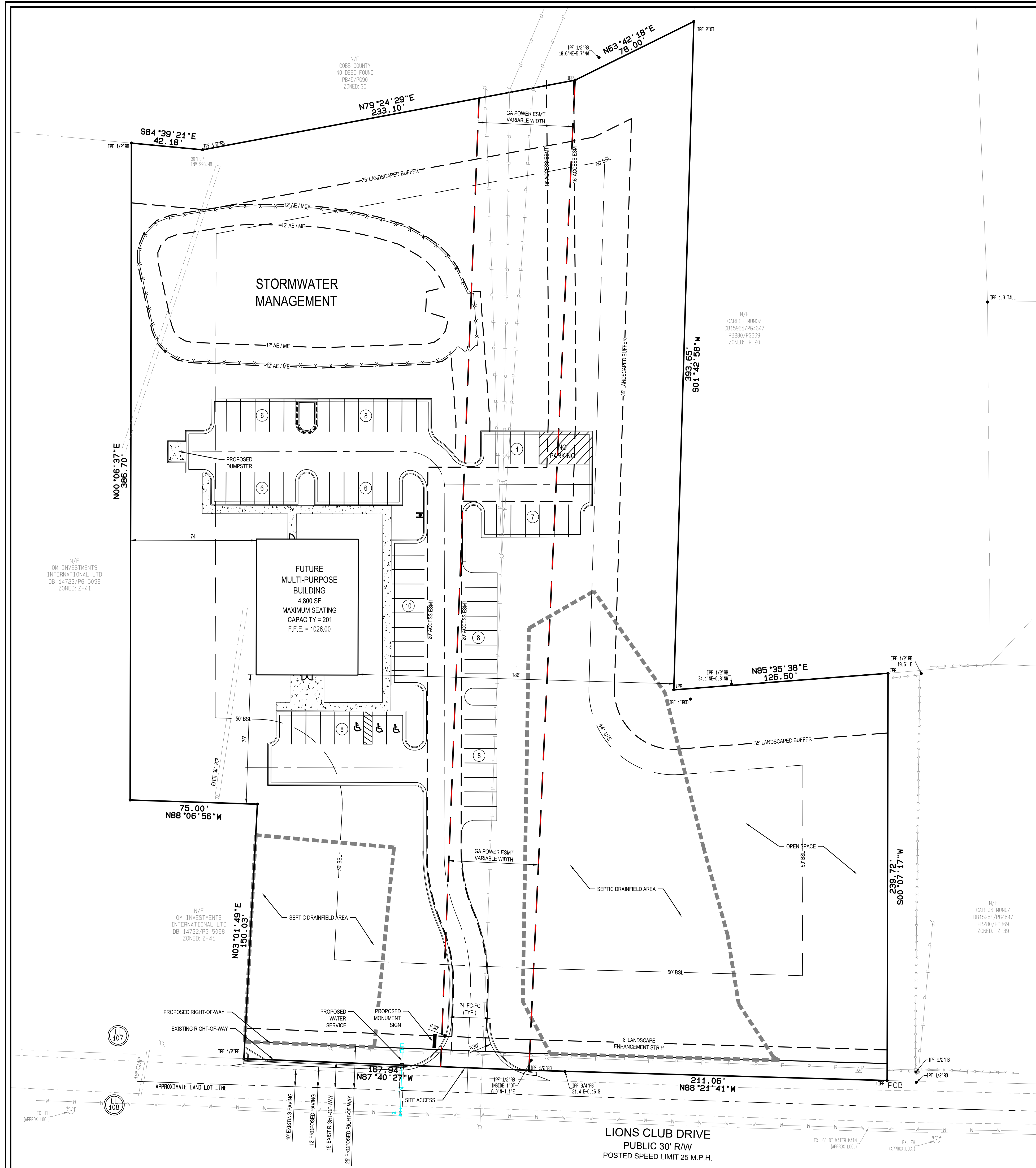
Chief Solutions, Inc., a Texas corporation

BY: 

Rufus Davis Jr.
President

CORPORATE SEAL





NOTE:
PARKING REQUIRED (1 SPACE PER 4 SEATS) = 51 SPACES
PARKING PROVIDED = 71 SPACES

NOTE:
THERE ARE NO LAKES, STREAMS, WETLANDS, CEMETERIES,
ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS ON THE SITE.

DEVELOPMENT DATA	
PARCEL #:	17010700480 & 17010700100
CURRENT ZONING:	GENERAL COMMERCIAL
PROPOSED ZONING:	R-20
TOTAL SITE AREA:	4.62 AC
% OF OPEN SPACE REQUIRED:	NONE
MINIMUM LOT SIZE:	5.0 AC
MAXIMUM LOT COVERAGE:	70%
MAXIMUM BLDG HEIGHT:	55'
MINIMUM LOT WIDTH:	75'
SETBACKS:	
FRONT -	50'
SIDE -	50'
REAR -	50'

OWNER/DEVELOPER/PRIMARY PERMITTEE:

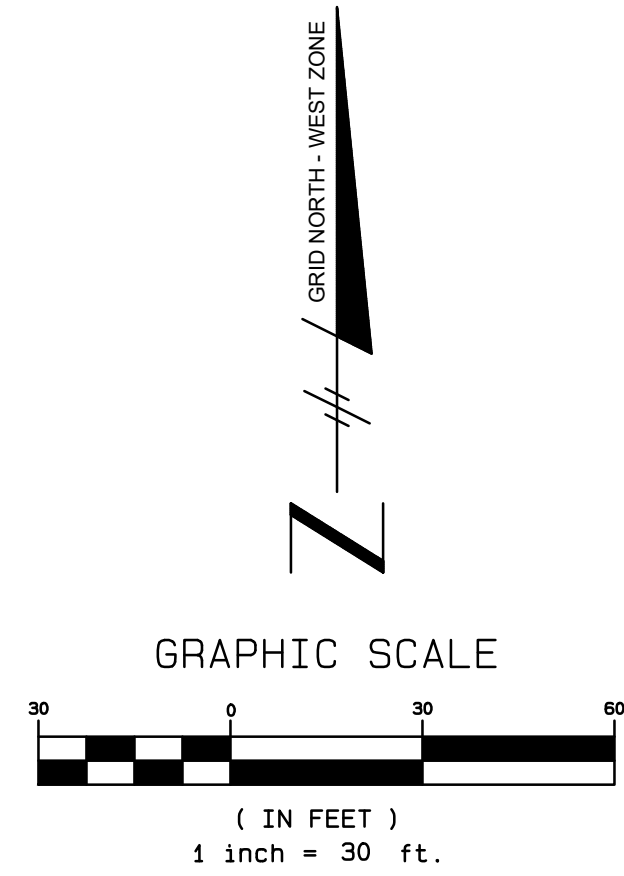
TKHC MINISTRIES
P.O. BOX 67
SMYRNA, GA 30081
PHONE : (706) 540-7318

24 HOUR CONTACT:

TERESA GOGGINS
PHONE: (706) 540-7318

ENGINEER:

WATTS & BROWNING ENGINEERS, INC.
1349 OLD 41 HWY NW, SUITE 225
MARIETTA, GA 30060
PHONE: (678) 324-6192
FAX: (770) 684-6870
CONTACT: DARYL COOK



ZONING PLAN
FOR
TKHC MINISTRIES
LAND LOT 107 ~ 17TH DISTRICT ~ 2ND SECTION
CITY OF MABLETON,
COBB COUNTY, GEORGIA



GSWCC LEVEL II CERTIFICATION NO. 31908
EXPIRES: 01/12/2028

NO.	DATE	BY	DESCRIPTION
1	03/13/2025	ZK	1st submittal



WATTS & BROWNING ENGINEERS, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1349 OLD 41 HWY NW, SUITE #225
MARIETTA, GEORGIA 30060
PHONE: (678) 324-6192
FAX: (770) 684-6870
WWW.W&BENR.COM
LSF000429 - PEF000714

SCALE:	1" = 30'
DESIGNED BY:	ZK
DRAWN BY:	ZK
CHECKED BY:	DRC
INITIAL ISSUE DATE:	03/13/2025
JOB NUMBER:	240122
SHEET NUMBER:	Z-1

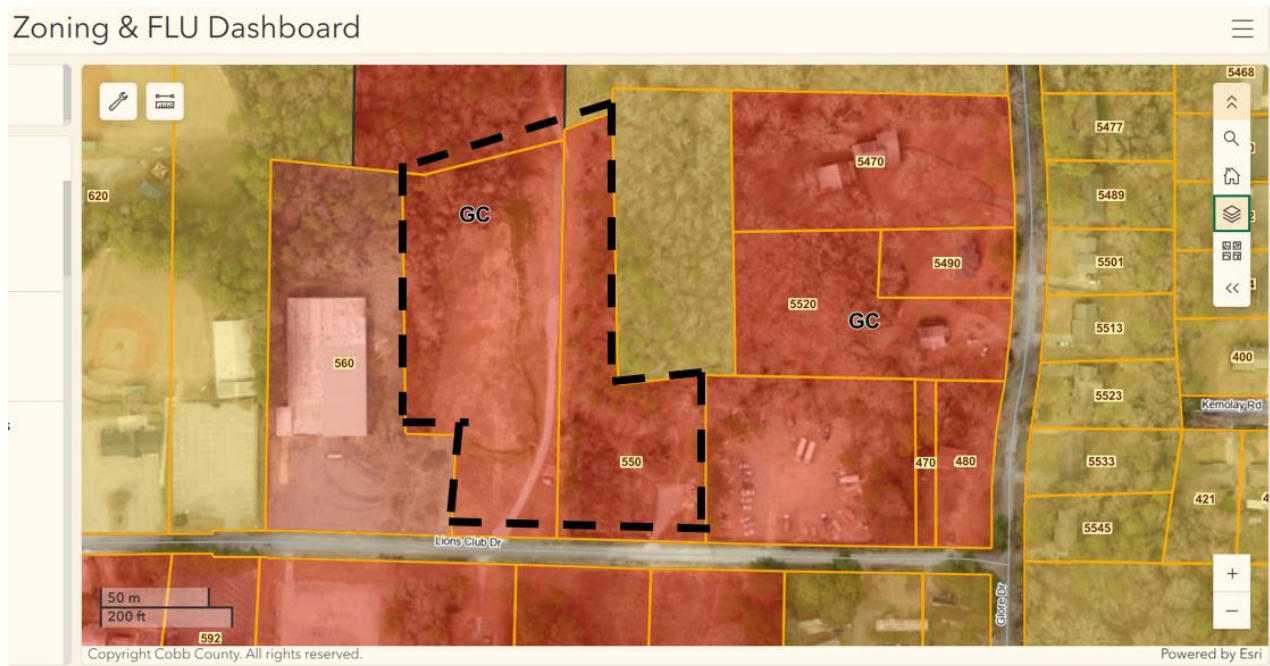


PLANNING COMMISSION STAFF REPORT

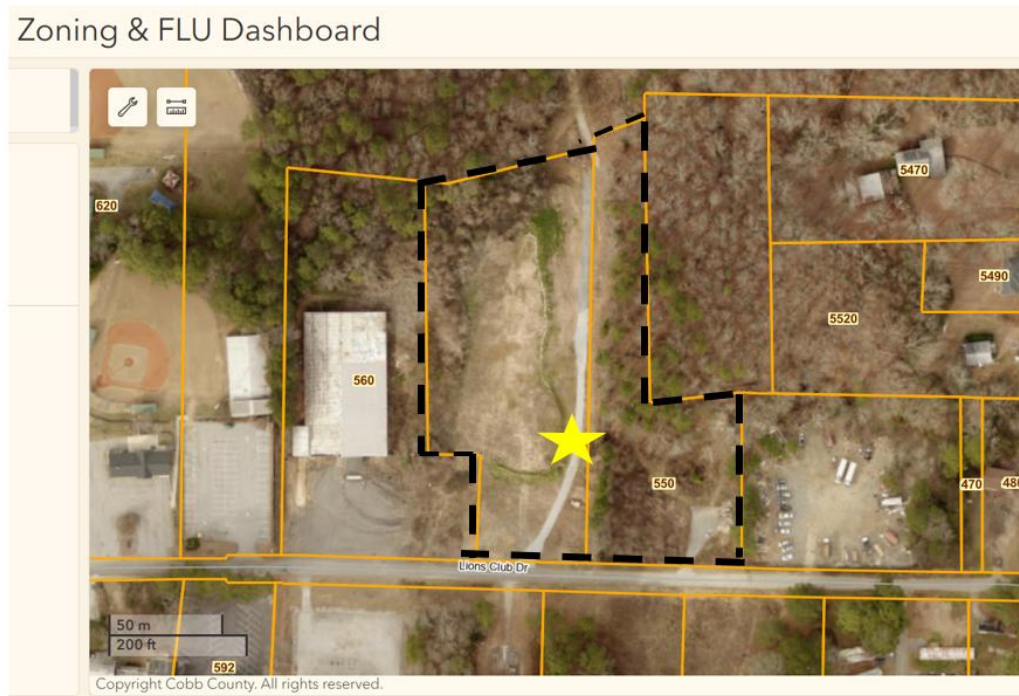
GENERAL INFORMATION

CASE NUMBER: Z-2025-01
APPLICANT: TKHC Ministries
REQUEST: Rezoning from General Commercial (GC) to R-20 (Single Family District)
PROPERTY LOCATION: 550 Lions Club Drive and Lions Club Drive, Mableton, Georgia
PARCEL ID: 17010700100 and 17010700480
ACREAGE: 4.62
P.C. HEARING DATE: May 6th 2025
DISTRICT: 4 Councilwoman Auch

ZONING MAP



AERIAL MAP



I. Purpose of Request

The applicant is requesting the rezoning of approximately 4.62 acres from **General Commercial (GC)** to **R-20 (Single Family District)** in order to establish a **church facility** on the property. According to the applicant, the church intends to serve the surrounding residential community and provide spiritual services, community events, and outreach programs.

Request Zoning District for the property

The R-20 district is established to provide locations for single-family residential uses or residential compatible institutional and recreational uses which are within or on the edge of properties delineated for any residential category as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. When residentially compatible institutional and recreational uses are developed within the R-20 district, they should be designed and built to ensure intensity and density compatibility with adjacent single-family detached dwellings and otherwise to implement the stated purpose and intent of this chapter.

II. Property Description & Surrounding Land Use

Both properties are zoned General Commercial. The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for a major road access and visibility, are generally not listed as a permitted uses within the NRC and CRC districts or may have existing stipulations and conditions that limit certain intensive uses and are located in areas delineated within a community activity center as defined and shown on the Comprehensive Plan.

The properties in question are currently undeveloped, with primary access provided via Lions Club Drive. Tax parcel 17010700480 is predominantly flat and features several clusters of hardwood trees situated along its boundaries. In contrast, tax parcel 17010700100 is primarily characterized by wooded areas and includes a paved driveway measuring 3,500 square feet, along with a concrete pad located in the southeastern corner of the property.

ADJACENT ZONING AND CURRENT LAND USE			
Direction	Address	Current Zoning	Existing Land Use
North	Lions Club Drive / Tax Parcel ID 17010700090	Residential Single- Family Zoning District (R-20)	Undeveloped
South	596 Veterans Memorial Hwy / Tax Parcel ID 17010800040	General Commercial (GC) Zoning District	Retail and Service Business (Auto Dealer)
West	560 Lions Club Drive / Tax Parcel ID 17010700080	Community Retail Commercial (CRC) Zoning District	Warehouse
East	596 Veterans Memorial Hwy / Tax Parcel ID 17010800040	General Commercial (GC) Zoning District	Retail and Service Business (Auto Dealer)

- **Existing Zoning:** General Commercial (GC)
- **Proposed Zoning:** R-20
- **Current Use:** Vacant
- **Future Land Use Map:** Medium Density / Mableton Town Center
- **Surrounding Zoning and Uses:**
 - **North:** R-20 – Single-family homes
 - **South:** GC – Retail and service businesses
 - **East:** R-20 – Residential subdivision
 - **West:** GC – Mixed commercial uses

III. Analysis

When considering an application to amend the current zoning designation of a property, the Mayor and City Council, the Planning Commission, and the Planning and Zoning Division shall consider the following standards as described in Section 2.03 (3) a-e of the Zoning ordinance:

1. Whether the zoning proposal is in conformity with the policy and intent of the land use plans.

It is the opinion of staff that the proposed zoning is keeping with the policy and intent of the land use plan. Medium Density and Mableton Town Center Character areas support civic uses located in residential areas. Religious institutions are generally considered compatible within residential zoning districts, provided they adhere to development standards.

2. 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 the opinion of staff the property is suitable for rezoning to R-20 for institutional use. The scale of the proposed church use should be evaluated to ensure it does not adversely impact surrounding properties through traffic, noise, or site lighting.

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

It is the staff's opinion that there are existing or changing conditions affecting the use and development of the property which gives grounds for approval. The property is approximately 500 feet east of the South Cobb Community Center which is an institutional use and applicants request would be a similar to that specific use.

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

It is the staff's opinion that the applicant's proposal will not results in a use which would cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools. Cobb County Departments support staff opinion.

5. Community Impact: Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby properties.

It is the staff's opinion that the applicants' zoning proposal will not have adverse effect on the usability of adjacent or nearby property. The proposed land use intensity is considerable less than the adjacent or nearby commercial properties.

IV. Department Comments

Cobb County Water/Sewer

Water comments:

At development: YES NO
Fire flow test required: YES NO Size and location of
existing water main(s): 6" in LIONS CLUB DR ROW

Additional water comments: Approval of zoning site plan does not imply approval of
shown water design. Connection to public water will be reviewed/approved at Plan
Review.

Sewer comments:

In the drainage basin: YES NO
At development: YES NO
Approximate distance to nearest sewer: 3,000' to the west in VETERANS MEMORIAL
HWY Estimated waste generation (in G.P.D.): Average daily flow = 408

Peak flow = 1,020

Treatment plant: South Cobb WRF

Plant capacity: Yes NO
Projected plant availability: 0-5 years 5-10 years over 10 years

Off-site easement required: YES* NO

Line capacity study required: YES NO

Letter of allocation issued: YES

NO Septic tank recommended by this department:

YES NO Subject to Health Department approval:

YES

NO

*If off-site easements are required, the developer/owner must submit easements to 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: CCWS has no objection to the use of septic systems
with Health Department approval. FYI, if this property will be served by a septic
system, County Code limits the size of the sanctuary (1 sanctuary seat per 1,000

square feet of property).

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.

Cobb County Stormwater

Site Data

1. Address: 550 Lions Club Drive
2. Council District: 4
3. Existing Zoning: GC Existing Allowable Impervious Coverage: 70%
4. Proposed Zoning: R-20 Allowable Future Impervious Coverage: 35%

Existing Conditions

Floodplain Information

1. Flood Damage Prevention Designated Flood Hazard: No

Stormwater Information

1. Drainage Basin: Tributary to Nickajack Creek.
2. State Stream Buffers: No
3. 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 consists of two parcels, one of which is mostly cleared, which generally slope from the front of the property at Lion's Club Drive toward the rear of the parcels.
2. Downstream Description: Stormwater discharges from the site onto an undeveloped Cobb County owned parcel north of the site.

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 provide a comprehensive Hydrology Study and Design for the Stormwater Management Design will be required. The design and study shall be in accordance with the Georgia Stormwater Management Manual and the current Cobb County Codes. The design and study shall include but not limited to stormwater detention, runoff reduction and/or water quality, channel protection, and downstream flood prevention.
2. At the time of plan review calculate and provide the percentage of impervious coverage for the project site on the plans.
3. Recommend a pre-design concept meeting with Cobb County Stormwater Management Division. At the time of the Concept Meeting a proposed concept stormwater management plan shall be presented.
4. The existing and/or proposed onsite storm drain system and stormwater management facility is considered private. All annual inspections, maintenance and repairs are the responsibility of the property owner. A stormwater facility “Maintenance Agreement and Access Easement” will be required at the time of the land disturbance permit with the City of Mableton.
5. Substantially mitigate any effects of concentrated stormwater discharges onto adjacent properties. Level spreaders or another, appropriate energy-dissipation design may be required to disburse the stormwater discharge.
6. Developer must secure drainage easement(s) to receive concentrated discharges where none naturally exist downstream.
7. Any spring activity discovered must be addressed by a qualified registered geotechnical professional engineer (PE) at the expense of the owner/developer.
8. Structural fill must be placed under the direction of a qualified registered geotechnical engineer (PE) at the expense of the owner/developer.

Special Conditions

1. The proposed dumpster pad on this site, must be connected to an infiltration system to capture and treat the dumpster pad runoff separately from the remaining stormwater.
2. An existing storm drain pipe originating near the property line at 560 Lion’s Club Drive enters this site and passes close to the location of the proposed building. Another storm drain pipe enters the site on the west side of the site, near the proposed rear parking lot (per the provided site plan) and is shown to drain under the existing stormwater facility. These pipes should be located and potentially relocated to avoid the new church building.

Cobb County Fire Department

FIRE DEPARTMENT ACCESS:

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches. (Cobb County Development Standards 402.11)

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC Chapter-5, 120-3-3 Rules and Regulations, CCDS Section-401 & 402). Refer to APPENDIX-D for dimensional criteria for turn-arounds in commercial developments.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupied floor level.

- Aerial fire apparatus access roads shall have a minimum width of 26 feet
- Aerial fire apparatus access roads shall be at least 15 feet but no more than 30 ft from the structure
- Aerial fire apparatus access roads shall be positioned parallel to one entire side of the building.
- No overhead utility and power lines shall be located within the aerial fire apparatus access. (IFC Appendix D105)

CERTIFICATE OF OCCUPANCY:

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

FIRE HYDRANT:

The maximum distance of a hydrant to the most remote portion of a structure shall be 500 feet. Distance shall be measured around the structure and from the fire apparatus access road. A 500-foot radius around the hydrant is not an acceptable measurement for distance. Hydrants on the opposite side of a main ROW is not an acceptable measurement of distance. (Cobb County Development Standards 410.5.2) (Cobb County Development Standards 410.5.2)

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet for a 40-foot length centered on the fire hydrant, exclusive of shoulders (see Figure D103.1 in Appendix D).

FIRE PROTECTION:

Automatic sprinkler protection must be provided where mandated by the applicable codes.

Cobb County DOT

Roadway	Roadway classification	Speed limit (mph)	Jurisdictional control	Recommended Min. R.O.W. requirements
Lions Club Drive	Local	25	City of Mableton	50'

ITE Land Use	Description	Expected Size (Seats)	AM			PM			Weekday Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
560	Church	201	8	6	14	9	11	20	181

ITE Land Use	Description	Expected Size (Seats)	Sunday Peak Hour of Generator			Sunday Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	
560	Church	201	50	53	103	444

vph = vehicles per hour, vpd = vehicles per day

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition.

Comments and observations

Lions Club Drive is classified as a local roadway and according to the available information the existing right-of-way does not meet the recommended requirements for this classification.

Recommendations

1. Recommend applicant consider donation of right-of-way on the North side of Lions Club Drive, a minimum of 25' from the roadway centerline.
2. Recommend no parking on the right-of-way.
3. Recommend constructing curb, gutter, and sidewalk along the Lions Club Drive frontage or paying fee in lieu to comply with recommended County standards if constraints exist

and subject to City of Mableton approval. This recommendation is to address pedestrian accessibility and safety.

4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

IV. Staff Recommendation

The planning and zoning staff recommends the approval of Z-2025-01, subject to specific conditions. It is essential to emphasize that the analysis and recommendations provided by the staff represent their professional opinions and do not constitute a conclusive decision. The ultimate determination regarding all rezoning and land use permits will be made by the Mayor and City Council during a scheduled public hearing.

Recommended Conditions of Approval.

1. The property shall be used for a church and related accessory uses only.
2. The development shall abide by all applicable standards of the City of Mableton Zoning Ordinance unless otherwise specified in these conditions or through approval of a variance by the Zoning Board of Appeals.
3. Ground signage shall be limited to monument-type sign(s), and shall be subject to review and approval by the Director of Community Development. The sign shall include a minimum two-foot high brick or stacked stone base, complementing the building's architectural treatment. The masonry base shall extend at least the full width of the sign cabinet, and the sign cabinet shall be fully recessed and surrounded by the same materials. Ground sign(s) shall not exceed six feet in height.
4. Final site plan shall be reviewed and approved by the Planning & Zoning Division prior to building permit issuance.
5. Cobb County Fire Department recommendations and conditions
6. Cobb County Water/Sewer Department recommendations and conditions
7. Cobb County Stormwater recommendations and conditions

Application for Special Land Use Permit City of Mableton, Georgia

Application No. S L U P -

PC Hearing Date: May 8, 2025

M&C Hearing Date: May 28, 2025

Applicant Swarm Football Club, LLC Phone # (404) 551-2068
(applicant's name printed)

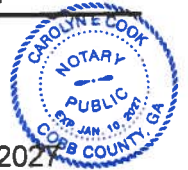
Address 3350 Riverwood Parkway, Suite 725, Atlanta GA 30339 E-mail ehill@swarmfc.com
Moore Ingram Johnson & Steele LLP Emerson Overlook, Suite 100, 326 Roswell Street
J. Kevin Moore Address Marietta, GA 30060
(representative's name, printed)

BY: [Signature] Phone # (770) 429-1499 E-mail jkm@mijs.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

My commission expires: January 10, 2027



Titleholder Cobb Futbol Holdings, LLC Phone # _____ E-mail _____
(titleholder's name, printed)

Signature See Attached Exhibit "A" Address 40 Whitlock Place, S.W., Suite 200, Marietta, GA 30064
(attach additional signature, if needed)

Signed, sealed and delivered in presence of:

Notary Public

My commission expires: _____

Present Zoning H1 Size of Tract 14.822+/- Acre(s)

For the Purpose of Soccer Facility

Location Southerly of Marathon Circle and East-West Connector
(street address, if applicable; nearest intersection, etc.) (3598 Marathon Circle)

Land Lot(s) 841, 862 District(s) 19th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there ~~is~~ are no such assets. If any exist, provide documentation with this application.
to the best of our knowledge, information, and belief.

Swarm Football Club, LLC
By: [Signature]
(applicant's signature)

Esmael Hill, Principal

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there ~~is~~ is not such a cemetery. If any exist, provide documentation with this application.
to the best of our knowledge, information, and belief.

Swarm Football Club, LLC
By: [Signature]
(applicant's signature)

Esmael Hill, Principal


EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR SPECIAL LAND USE PERMIT

Application No.: SLUP-_____ (2025)
Hearing Dates: May 8, 2025
May 28, 2025

Applicant: Swarm Football Club, LLC
Titleholder: Cobb Futbol Holdings, LLC

Tax Parcel Number: 19086200020

COBB FUTBOL HOLDINGS, LLC
a Georgia limited liability company


BY: 
Simon Davey
Executive Director

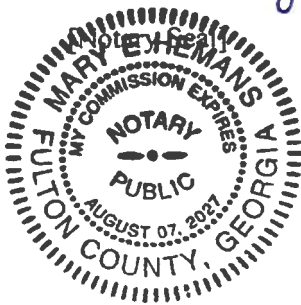
Date of Execution: March 26, 2025

Address: 40 Whitlock Place, S.W., Suite 200
Marietta, Georgia 30064

Telephone No.: (678) 876-9261
E-mail: sdavey@ssaelite.com

Signed, sealed, and delivered in the presence of:


Notary Public
Commission Expires: August 7, 2027



RESOLUTION OF COBB FUTBOL HOLDINGS, LLC

THE UNDERSIGNED, being the Executive Director of COBB FUTBOL HOLDINGS, LLC, a limited liability company organized and existing under the laws of the State of Georgia (hereinafter referred to as “Cobb Futbol”), does state as follows:

WHEREAS, Cobb Futbol is the owner of certain real property located southerly of Marathon Circle and the East-West Connector, identified as Tax Parcel No. 19086200020, Land Lots 841 and 862, 19th District, 2nd Section, Cobb County, Georgia, and being more particularly known as 3598 Marathon Circle (hereinafter the “Property” or the “Subject Property”); and

WHEREAS, Cobb Futbol consents to the filing of an Application for Special Land Use Permit of the Property in the City of Mableton, Cobb County, Georgia, and, in connection therewith, Cobb Futbol, as owner, must execute a portion of the Application for Special Land Use Permit and any other ancillary documentation (hereinafter collectively referred to as “Application”) to consummate the contemplated filing of the Application, and written documentation is required to authorize the Application and to specifically authorize the execution on behalf of Cobb Futbol of all documents necessary to consummate the filing of the Application; and

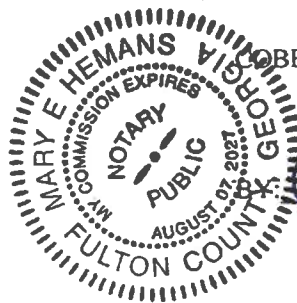
WHEREAS, the undersigned has reviewed and approved the form of the Application and related documents; and


WHEREAS, the undersigned is the Executive Director of Cobb Futbol.

NOW, THEREFORE, BE IT RESOLVED that SIMON DAVEY, as Executive Director of Cobb Futbol, is authorized to execute the aforesaid Application for Special Land Use Permit and any and all other documents necessary or appropriate to file and complete the special land use permit process for the Subject Property on such terms, conditions, and provisions as he deems necessary and appropriate; such execution of any documents being conclusive evidence that SIMON DAVEY deems the terms, conditions, and provisions thereof to be proper and in the best interest of Cobb Futbol.

RESOLVED, FURTHER, that any and all acts of SIMON DAVEY are pursuant to the authority granted to him by Cobb Futbol and are accepted as actions of Cobb Futbol.

IN WITNESS WHEREOF, the undersigned Executive Director of Cobb Futbol Holdings, LLC has hereunto set his hand and seal as of the day and year written below.



COBB FUTBOL HOLDINGS, LLC


Simon Davey
Executive Director
Date Executed: March 26, 2025

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? _____
No, to the best of our knowledge, information, and belief.

If so, describe the nature and extent of such interest: Not Applicable.

Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? No, to the best of our knowledge, information, and belief.

If so, describe the nature and extent of such interest: Not Applicable.

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? No, to the best of our knowledge, information and belief.

If so, describe the relationship and the nature and extent of such interest: Not Applicable.

I certify that the foregoing information is true and correct, this 24th day of March, 2025.

Swarm Football Club, LLC

By: _____

Applicant's Signature

Esmael Hill, Principal

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Mayor and Council of City of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

Application No.: SLUP- _____
CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

No.

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of City of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made: Not Applicable.

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: Not Applicable.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application: Not Applicable.

I certify that the foregoing information is true and correct, this 24th day of March 2025.

Swarm Football Club, LLC

BY: 

Applicant's Signature

Esmael Hill, Principal

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Mayor and Council of City of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

FOR ML SEE
LB Book 141 Page 3222

Jay C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

wait

After recording return to:
Calloway Title & Escrow, LLC
Attn: David Dudley 2-14990
4800 Ashford Dunwoody Rd. Ste. 240
Atlanta, Georgia 30338

After Recording Return to:
Chamberlain, Hrdlicka, White, Williams & Martin
191 Peachtree Street, N.E., Ninth Floor
Atlanta, Georgia 30303-1747
Attn: William D. Montgomery, Esq

**LIMITED WARRANTY DEED OF GIFT
WITH RESERVED AND APPURTENANT EASEMENTS, RESTRICTIONS AND REVERSION**

STATE OF OHIO
COUNTY OF HANCOCK

THIS INDENTURE (the "Gift Deed") is made this 12th day of December, 2003 by and between:

- (1) **MARATHON ASHLAND PETROLEUM LLC**, an Ohio limited liability company, whose address is 539 South Main Street, Findlay, Ohio 54840-3295, herein called "MAP" and "Grantor"; and
- (2) **COBB FUTBOL HOLDINGS, LLC**, a Georgia limited liability company, whose address is 4450-A Marietta Street, Powder Springs, Georgia 30127, herein called "Grantee";

and all of the above references when used in this instrument shall include their respective heirs, successors and assigns.

BACKGROUND AND STATEMENT OF PURPOSE

- A. MAP owns approximately 81 acres in Land Lots 788, 789, 840, 841, 862 and 863 of the 19th District, 2nd Section of Cobb County, Georgia ("Powder Springs Complex") upon 12.68 acres of which MAP operates a petroleum fuel terminal for storage, transportation, distribution, processing or refining of petroleum products ("Terminal Facilities").

- B. The Powder Springs Complex is bounded by:
- (a) On the northeast, the south right of way of an 120 foot wide public road known as the East-West Connector (“**Connector**”);
 - (b) On the west by the east right of way of a 50 foot wide public street known as Anderson Farm Road (“**Anderson Road**”);
 - (c) On the south by a Colonial Pipeline petroleum tank farm and distribution center (“**Colonial Tank Farm**”);
 - (d) On the north by a neighborhood shopping center developed by Barry F. O’Neill (the “**Shopping Center**”).
- C. The Powder Springs Complex is among other matters burdened and traversed by:
- (a) In an east-west direction a 100 foot wide overhead power line transmission easement (the “**Georgia Power Easement**”);
 - (b) In a north-south direction an approximately 50 foot wide underground petroleum pipeline transmission easement (the “**Colonial Pipeline Easement**”);
 - (c) In various locations, sanitary sewer, access and detention pond easement areas benefiting the Shopping Center.
- D. MAP is willing to donate the Soccer Tract, as herein defined, by this Gift Deed to the Grantee, pursuant to the bargain sale rules of Treasury Regulation § 1.170A, a portion of the Powder Springs Complex for use as a soccer field complex and the other Permitted Uses (as defined in paragraph E immediately below), it being acknowledged that Grantee may lease the Soccer Tract to Cobb Futbol Club, Inc., a Georgia non-profit corporation (the “**Soccer Club**”) for such uses.
- E. Grantee desires to acquire the property conveyed by this Gift Deed in order to develop and use the Soccer Tract (and Grantee shall include all such use restrictions in any lease of the Soccer Tract to the Soccer Club), as herein defined, solely in a manner designed to foster and promote soccer programs and activities, and is willing to restrict the Soccer Tract solely to the following purposes and uses (the “Permitted Uses”) in accordance with the terms, conditions, limitations and restrictions set forth in this Gift Deed: (i) soccer and other sports related recreational fields and facilities (outdoor and indoor), (ii) a meeting place (including without limitation office facilities) for Soccer Club’s members, directors, officers, staff, employees, volunteers; coaches, trainers and instructors; referees; soccer and other recreational participants and parents of participants; and Soccer Club’s invitees in connection with or helpful to the conduct of Soccer Club’s soccer/recreational activities or fund raising related to such activities, (iii) training facilities related to soccer and other recreational activities, including without limitation referee training, (iv) storage facilities for supplies, equipment and machinery used in connection with maintenance of the Soccer Tract or in connection with recreational activities conducted on the Soccer Tract, (v) fund raising activities, the proceeds of which are intended to further Soccer Club’s non-profit purpose, (vi) vehicle parking for Soccer Club’s members, directors, officers, staff, employees, volunteers, coaches, trainers and instructors, referees; soccer and other recreational participants,

parents of participants an other spectators, Soccer Club's invitees in connection with or helpful to the conduct of Soccer Club's soccer/recreational activities or fund raising related to such activities, and construction/maintenance personnel, and (vii) such other purposes as shall be approved by MAP in writing.

- F. MAP, by this Gift Deed, is willing to facilitate the civic, athletic, social and educational purposes of Grantee and the Soccer Club and those who participate in, direct and support its programs and purposes, but only if MAP can be assured that such usage will not conflict with, interfere with, impair or jeopardize: (1) MAP's present and future business operations at the Terminal Facilities or any of the remaining property within the Powder Spring Complex and any further growth and expansion thereof by MAP; (2) the existing rights of others under the Georgia Power Easement, Colonial Pipeline Easement or other easements now affecting the Powder Springs Complex; and (3) the ability of MAP to sell portions of the Powder Springs Complex to third parties for development and uses that are permissible under existing or future zoning applicable thereto.
- G. MAP and the Grantee are also parties to a lease under which approximately 30 acres of the Powder Springs Complex bounded by the Shopping Center, the Terminal Facilities, the Colonial Tank Farm, the Soccer Tract and Anderson Road (the "**Leased Land**") is leased to the Grantee for use and improvement by the Soccer Club in the same manner and for the same purposes as and in conjunction with the Soccer Tract. The Leased Land encompasses a body of water known as Moon Lake, a dam and creeks and drainage tributaries and is traversed by portions of the Georgia Power Easement and Colonial Pipeline Easement.

WITNESSETH:

That Grantor, for and in consideration of the premises and the conditions and restrictions set forth herein and other good and valuable consideration, the receipt whereof is hereby acknowledged, has granted, donated, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, donate, bargain, sell, alien, convey and confirm unto the said Grantee:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 840, 841 and 862 of the 19th District, 2nd Section, Cobb County, Georgia, containing approximately 14.82 acres, and being more particularly described in Exhibit "A" attached to this Gift Deed and made a part hereof (the "**Soccer Tract**").

TO HAVE AND TO HOLD the Soccer Tract, with all and singular the rights, members and appurtenances thereof, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE, subject, however, to those matters described in Exhibit "B" attached hereto and made a part hereof and those matters granted or reserved in this Gift Deed (the "**Permitted Exceptions**").

AND THE GRANTOR will warrant and forever defend the right and title to the Soccer Tract unto the Grantee against the claims of all persons claiming by, through or under Grantor,

except for claims arising under or by virtue of the Permitted Exceptions and those claims, easements, reservations, conditions, restrictions and rights set forth in the paragraphs below.

1. **Right of Reversion**

Grantor expressly retains and reserves for itself a right of reversion providing for a defeasance of the fee simple title to the Soccer Tract in favor of Grantor so that title thereto shall revert in Grantor in the event the conditions subsequent set forth in paragraph A below fail to occur or to have not been performed by Grantee, or its successors, assigns, or successors in title to the Soccer Tract.

A. Grantee by its execution and acceptance of this Gift Deed from Grantor agrees, by the date of June 30, 2004, to obtain a Special Exception Use Permit and Variance from the appropriate office of Cobb County, or other such zoning permits, variances, or approvals required, to allow for the use and improvement of the Soccer Tract as contemplated in this Paragraph 1(A). Satisfaction of this zoning condition shall be conclusively evidenced by delivery to Grantor of zoning hearing minutes, the Special Exception Use Permit, the Variance, or other item(s) from Cobb County showing that the use of the Soccer Tract as contemplated herein has been approved. Grantee by its execution and acceptance of this Gift Deed from Grantor agrees to prepare and deliver within eighteen (18) months from the date of this Gift Deed plans for the design, layout, configuration and size of multiple soccer fields, parking areas, bleachers, lighting systems, irrigation systems and related improvements and amenities which Grantee deems necessary or appropriate to the Soccer Club's uses (the "Soccer Improvements") to be constructed in phases over time on the Soccer Tract and the Leased Land. Grantee covenants with Grantor to cause construction of the initial phase of Soccer Improvements to commence upon the Soccer Tract within thirty-six (36) months from the date of this Gift Deed and to cause the final phase of the Soccer Improvements to be satisfactorily completed no later than sixty (60) months from the date of this Gift Deed.

B. If any of the four conditions subsequent set forth in A above are not timely satisfied, then fee simple title to the Soccer Tract shall revert and revert into Grantor and a defeasance of Grantee's title to the Soccer Tract shall occur.

C. Grantor agrees that construction of the initial phase of Soccer Improvements shall be conclusively presumed to have commenced so that no defeasance in favor of Grantor shall occur if any development permit for the Soccer Improvements is issued by the City of Powder Springs (or such other governmental agency as shall be authorized to issue such development permit) on or before thirty-six (36) months from the date of this Gift Deed.

D. Grantor agrees that issuance by the Grantee of a certificate confirming that not less than three (3) fields located upon the Soccer Tract are playable or issuance of a certificate of occupancy (or its equivalent) for any structures located on the Soccer Tract by the appropriate agency of the City of Powder Springs (or such other governmental agency as shall be authorized to issue such certificate of occupancy) on or before sixty (60) months from the date of the Gift Deed shall be a conclusive and irrebuttable presumption that construction of the Soccer

Improvements have been satisfactorily completed so that no defeasance in favor of Grantor shall occur.

E. Upon satisfaction or occurrence of the condition subsequent set forth in paragraph A, as evidenced by issuance of the certificates described in paragraph C and D, the Grantor's right of reversion with respect to the Soccer Tract shall terminate and be extinguished and no defeasance shall occur and fee simple absolute title to the Soccer Tract shall be vested in Grantee, and Grantee's successors, assigns and successors in title to the Soccer Tract.

F. Grantor agrees that an Affidavit of Title may be filed in the real estate records of Cobb County, Georgia with copies of any permits and certificates attached to evidence and confirm the timely performance of the conditions subsequent. Grantor covenants with Grantee that from time to time upon reasonable notice and written request made to Grantor by Grantee, Grantor shall provide Grantee, any of Grantee's successors in title to the Soccer Tract, their lenders, title insurance companies, lessees or any other parties acquiring an interest in all or part of the Soccer Tract a certificate evidencing and confirming the status of Grantee's performance of the conditions subsequent required of Grantee in this Gift Deed.

2. Reservation of Easements.

Grantor hereby establishes, retains and reserves for the benefit of the remainder of the Powder Springs Complex for so long as Grantor, or its successors or assigns, owns or operates the Terminal Facilities for its business uses and purposes the following easements applicable to the Soccer Tract:

A. A temporary access easement (the "**Reserved Easement**") to go upon the Soccer Tract for any reason or purpose or to engage in any activity required or reasonably necessary to permit Grantor to comply with any ordinance, law, regulation or judicial order regulating or relating to the business of Grantor conducted at the Terminal Facilities. Grantor agrees to provide Grantee with reasonable notice prior to accessing the Soccer Tract pursuant to the Reserved Easement, except in the case of an emergency. Grantor hereby agrees to defend, indemnify and hold Grantee harmless from and against any and all liabilities, claims, losses, damages, costs (including reasonable attorneys' fees actually incurred at billing rates that do not exceed standard hourly billing rates) or penalties that result directly from Grantor's intentional misconduct or grossly negligent acts during Grantor's use of the Reserved Easement.

B. A non-disturbance buffer easement fifty (50) feet in width parallel to and located along the west property line of the Soccer Tract within which no improvements or other amenities (other than portable bleachers) shall be located as part of any Soccer Improvements, but soccer fields within such area shall be permitted; and driveways, walkways, and sidewalks (paved or otherwise) for ingress to and egress from the Soccer Tract and Soccer Improvements shall be permitted within such area, and the cutting of trees, grading and removal of existing fencing shall be permitted within such area.

3. Affirmative Covenants and Restrictions.

Grantee, by its acceptance of this Gift Deed, covenants and agrees for the benefit of Grantor and the Terminal Facilities for so long as the Terminal Facilities are owned or operated by Grantor or any of its successors or assigns that the Soccer Tract shall be subject to the following restrictions, conditions and limitations all of which shall be covenants running with title to the Soccer Tract and shall be binding upon all successors in title to the Soccer Tract for the maximum period permitted by law:

A. The Soccer Tract shall be used solely for the installation of the Soccer Improvements and for the Permitted Uses and for no other purposes and shall be named the Marathon Soccer Complex throughout its continuing use for such purposes; provided, however, such name may be changed by Grantor, in Grantor's sole discretion, or by Grantee with the prior written consent and approval of Grantor.

B. The Grantee, the Soccer Club and its officers and directors covenant not to resist, oppose, object to or seek to enjoin the Grantor's present or future use of the Terminal Facilities or the continuation, expansion or improvement of the Terminal Facilities, and in good faith shall cooperate with and support any efforts to develop, rezone or improve any other portions of the Powder Springs Complex by MAP or any other party.

C. Grantee shall only grant and convey legal, security title to the Soccer Tract to a lender to secure a loan, the proceeds of which shall be limited to financing the cost of constructing, installing and maintaining the Soccer Improvements.

D. Grantee shall expressly prohibit and use its commercially reasonable efforts to restrict all vehicular and pedestrian traffic, ingress and egress to and from the Soccer Tract and the Leased Land via any portion of Anderson Road.

4. Grant of Appurtenant Easements

Grantor does hereby establish, give, grant and convey to Grantee as an appurtenance to the Soccer Tract a non-exclusive easement for ingress and egress (the "**Access Easement**") to and from the Soccer Tract and the East-West Connector, or to the Shopping Center as the case may be, over and across that easement area and route more particularly described in Exhibit "C" attached to this Gift Deed and made a part hereof (the "**Easement Area**") upon the following terms and conditions:

A. The Access Easement is for the purpose of grading, installing, using, maintaining and repairing access driveways, walkways, paths and parking areas, whether dirt, gravel, asphalt, concrete, composition or other similar materials located within the Easement Area needed to provide vehicular and pedestrian ingress and egress to and from the Soccer Improvements and the East-West Connector and to install within the Easement Area such improvements, traffic control signals, signs, devices, lighting, gates, fences, safety and security devices or similar measures designed to facilitate the routing and flow of pedestrian and vehicular traffic or the safe

and secure parking of vehicles to, from and upon the Soccer Tract, and as appropriate to, from and upon the Leased Land.

B. The Access Easement shall be in full force and effect so long as the Soccer Tract and the Soccer Improvements continue to be used for the Permitted Uses, as may be perpetuated and extended by such additional time periods as agreed to by and between Grantor and Grantee pursuant to applicable Georgia law, but shall otherwise terminate at the time such usage ceases.

C. The Access Easement is non-exclusive in character and shall not be used by Grantee or the Soccer Club, its members, coaches, players, guests or invitees in any manner which is prohibited by, in conflict with or violates the terms of any existing easement applicable to the Powder Springs Complex including but not limited to the Georgia Power Easement and the Colonial Pipeline easement.

D. Grantee will not permit any mechanic's or materialman's liens for any labor or material furnished in connection with improvements made within or to the Easement Area, in connection with work of any character performed on the Easement Area by or at the direction of the Grantee; provided however, the Grantee shall have the right to contest the validity of any such lien or the amount thereof, but upon final determination of such issue shall immediately pay and satisfy any judgment rendered and related costs and cause any such lien to be released.

E. Grantee agrees that the construction, reconstruction, repair, maintenance or any work done on the Easement Area in connection with work of any character performed on the Easement Area by or at the direction of the Grantee or the Soccer Club shall (i) not materially interfere with or adversely affect the operation and use of the existing driveways by other parties entitled thereto; (ii) be performed in such a manner and at such a time as will cause a minimum of disruption to the operation of business on the Shopping Center and the Terminal Facilities; and (iii) be at the sole cost and expense of the Grantee.

5. Indemnification and Hold Harmless.

Grantee, by acceptance of this Gift Deed, agrees to indemnify Grantor, its officers, directors, employees and agents and to hold them harmless from any liability arising from or resulting from the activities of Grantee, its officers, directors, members, players, coaches or guests and invitees on the Soccer Tract, the Leased Land or within the Easement Area, including any death, personal injury or property damage or loss, cost, expenses from any cause arising out of Grantee's or the Soccer Club's installation, construction, reconstruction, repair or maintenance, use or operation of the Soccer Improvement or other improvements now or in the future located within the Easement Area.

6. Grantor's Right of First Refusal.

Until Grantor's right is terminated or expires as set forth in D below, neither Grantee nor any approved successor-in-title to the Soccer Tract may sell, transfer or convey any interest in the Soccer Tract to any third party without giving Grantor a right of first refusal to purchase the Soccer Tract upon the following terms and conditions:

A. This right of first refusal is subordinate to, and shall not be triggered by any recorded deed to secure debt in favor of any lender made to secure financing extended in good faith for the Soccer Improvements.

B. If the Grantee or any authorized successor-in-title to Grantee desires to transfer title to the Soccer Tract under circumstances triggering Grantor's right of first refusal, the party proposing to transfer title shall deliver to Grantor written notice of such intent specifying the proposed transferee and all pertinent terms and conditions of the transfer (the "**Bona Fide Offer**"). Any such transfer of title without notice to Grantor as required hereunder, and, if applicable, waiver of Grantor's purchase right, shall be null and void. Grantor shall have sixty (60) business days after receipt of notice to elect whether to exercise its right to purchase the Soccer Tract on the terms and conditions set forth below. If the Grantor fails to make such election, or fails to waive its rights within the sixty (60) business day period, Grantor's right of first refusal shall be deemed waived and Grantee may proceed to transfer the Soccer Tract to the transferee on the terms and conditions specified.

C. If the Grantor elects to exercise its right of first refusal to purchase, it shall do so by delivering written notice of election to the party proposing the transfer within sixty (60) business days of receipt of written notice of the proposed transfer. The party proposing the transfer shall convey the Soccer Tract to Grantor by limited warranty deed (subject only to the Permitted Exceptions set forth in this Gift Deed) within thirty (30) days after the date of receipt of Grantor's notice (the exact date, time and location of the closing of the purchase to be selected by Grantor) in exchange for Grantor's payment to the transferor of an amount equal to the fair market value of the Soccer Tract, which shall be equal to the principal amount of the Bona Fide Offer to purchase the Soccer Tract which triggered the right of first refusal described herein (the "**Reacquisition Price**"). If the title to the Soccer Tract proposed to be conveyed is subject to any defect other than the Permitted Exceptions, MAP, in addition to all other rights and remedies which it may have at law or in equity, may remove such defect and deduct all costs and expense incurred by MAP (including, but not limited to, attorneys' fees) from the amount of the Reacquisition Price. Upon and in exchange for the Soccer Tract conveyance, the Reacquisition Price shall be paid by Grantor in immediately available funds.

D. This right of first refusal automatically shall terminate twenty (20) years after the date of this Gift Deed.

E. Grantor will consent to or approve of any transfer of the Soccer Tract by Grantee to any wholly owned subsidiary of Soccer Club or any successor organization the purposes, uses and goals of which are substantially similar to those of the Soccer Club, and incident thereto waive Grantor's right to purchase. Grantee shall cause the deed transferring title to such subsidiary or successor organization to include the terms and conditions of the right of first refusal in favor of Grantor herein described. Notwithstanding the foregoing, the waiver and subsequent transfer of the Soccer Tract pursuant to this subparagraph 6(E) shall in no way modify, limit, waive or otherwise terminate Grantor's right of first refusal as described herein to any further transfer of the Soccer Tract.

7. **Environmental Acknowledgments and Restrictions**

A. **Acknowledgments:** Grantee acknowledges the purchase of real property such as the Soccer Tract involves the risk petroleum hydrocarbons, solid wastes, hazardous wastes, or hazardous substances may be present on such real property. Grantee acknowledges that the presence of petroleum hydrocarbons, solid wastes, hazardous wastes, or hazardous substances on the Soccer Tract may interfere with the Grantee's use and enjoyment of the Soccer Tract, establish Grantee's liability for environmental remediation under federal, state, and local law, personal injury, and property damages relating to such materials if being released to the Soccer Tract, and diminish the value of the Soccer Tract. Grantee acknowledges it has had an opportunity to investigate the condition of the Soccer Tract and accepts liability for the presence, if any, of petroleum hydrocarbons, solid wastes, hazardous wastes, or hazardous substances now on the Soccer Tract.

B. **Grantee's Responsibilities:** Grantee shall be liable for any and all Environmental Contamination now at the Soccer Tract and shall defend (with counsel reasonably acceptable to Grantor), indemnify and hold Grantor harmless from any and all liabilities, claims, losses, suits, actions, judgments, damages, costs (including reasonable attorneys' fees actually incurred at billing rates that do not exceed standard hourly billing rates) or penalties incurred by or asserted against Grantor, including but not limited to claims arising under the Environmental Laws or claims for personal injury to any of Grantee's invitees, soccer participants or spectators or for the destruction of any of their property on the Soccer Tract, resulting from the occurrence, existence or presence of any Environmental Contamination on the Soccer Tract on the date of this Gift Deed. The term, "Environmental Laws", shall refer to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Clean Water Act, the state law equivalents of such acts, state and federal storage tank laws and regulations and all other environmental laws and regulations, all as amended. The term "Environmental Contamination" shall include, but is not limited to, the presence of petroleum hydrocarbons, hazardous wastes, solid wastes, hazardous substances, or other materials regulated under Environmental Laws. The term "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration of petroleum hydrocarbons, hazardous substances, hazardous wastes, or solid wastes.

C. **Grantor's Responsibilities:**

(i) If the Agency hereafter requires Grantor to perform Corrective Action in connection with a Release of petroleum hydrocarbons, hazardous substances, solid wastes, or hazardous wastes onto or under the Soccer Tract which occurred prior to or after the date of this conveyance resulting from Grantor's petroleum terminal operations at the Terminal Facilities ("**Grantor Environmental Contamination**"), Grantor will be responsible for, and bear the costs of, such activities only if, when and as required by the governmental agency with jurisdiction (the "**Agency**"). Grantor reserves its legal appeal rights with respect to any orders, directives or requests from the Agency concerning, but not limited to, any Corrective Action at the Soccer Tract. Further, Grantor's performance of Corrective Action in response to an Agency's requests, orders, or directives for Environmental Contamination at or from the Soccer Tract on the date of closing, does not revoke Grantee's Responsibilities under Paragraph B, D or E(3) or (5) of

Section 7 of this Deed. As used herein, the term "Corrective Action" shall refer to one or more of the following activities: investigation, assessment, monitoring, sampling, analysis, cleanup, removal, disposal, on-site treatment, off-site treatment, active remediation, passive remediation, remediation alternatives including but not limited to risk-based corrective action ("RBCA"), if applicable, and/or other activities approved, concurred in or required by the Agency. Grantee acknowledges Grantor's right to perform such Corrective Action and hereby grants Grantor, and its consultants, contractors and agents an irrevocable license at no cost to Grantor to enter upon the Soccer Tract at any time from and after the date of closing to conduct Corrective Action and to place and remove all necessary equipment and improvements on the Soccer Tract sufficient to satisfy the requirements of the Agency regarding any Grantor Environmental Contamination. Grantor, and/or its consultants, contractors and/or agents, shall maintain their respective ownership or control of all such equipment placed on the Soccer Tract. In the event that Grantor is required hereunder to perform Corrective Action at the Soccer Tract to address any Grantor Environmental Contamination, Grantor shall use reasonable efforts to satisfy the minimum requirements of the Agency concerning such Grantor Environmental Contamination. Grantee agrees to cooperate fully with Grantor in Grantor's performance of any Corrective Action. Grantee further agrees that Grantee shall not have any claim against Grantor for any damages to personal property, the Soccer Tract or injuries to persons which may result from the performance of any Corrective Action pursuant to this Gift Deed, except to the extent such damages to personal property or the Soccer Tract or injuries to persons result from; (1) the intentional misconduct or grossly negligent acts of Grantor or (2) the breach of any of Grantor's obligations hereunder, on or after the date of this Gift Deed. Grantor agrees that, if requested by Grantee in writing, Grantor shall provide to Grantee, at no cost or expense to Grantee, copies of the reports, data, inspections, tests and analyses of the Soccer Tract that Grantor sends to or receives from the Agency regarding any Grantor Environmental Contamination and/or Grantor's performance of Corrective Action at the Soccer Tract. After completing any Corrective Action at the Soccer Tract to address any Grantor Environmental Contamination, Grantor agrees to restore the areas of the Soccer Tract (including any improvements) that were disturbed by Grantor's Corrective Action to substantially the same physical condition as existed on the date that such areas were so disturbed.

(2) In the event that Grantor performs any Corrective Action at the Soccer Tract, Grantor agrees to defend (with counsel reasonably acceptable to Grantee), indemnify and hold Grantee harmless from any and all claims of personal injury or damage to personal property or the Soccer Tract resulting from Grantor's performance of Corrective Action at the Soccer Tract, to the extent such damages or injuries to persons result from; (1) the intentional misconduct or grossly negligent acts of Grantor or (2) the breach of any of Grantor's obligations hereunder, on or after the date of this Gift Deed. To receive the protections of this paragraph, Grantee must (a) give Grantor written notice, by notice to the Manager - Real Estate, Marathon Ashland Petroleum LLC, 539 South Main Street, Findlay, Ohio 45840, promptly, but in any event not more than thirty five (35) days, after Grantee actually obtains knowledge of the matter which is claimed to be covered by this paragraph and (b) tender defense of the matter to Grantor. The protections of this paragraph shall not apply to claims arising out of the acts or omissions of Grantee. Furthermore, Grantor's obligations under this paragraph shall not apply to any matter to the extent that Grantor is prejudiced due to an untimely notification from Grantee. Grantee agrees to cooperate in any defense provided by Grantor pursuant to this paragraph.

D. Condition of Soccer Tract: Grantee agrees that: (i) Grantor has not made and makes no representations as to the condition of said Soccer Tract, including, but not limited to, the condition of the soil, sediments, surface waters or groundwater, as they relate to Environmental Contamination or otherwise, zoning, building code violations, building lines, building construction, use and occupancy restrictions (and violations of any of the foregoing), and availability of utilities; and (ii) Grantee assumes all responsibility for any damages caused by the condition of or conditions including, but not limited to, Environmental Contamination, on the Soccer Tract upon transfer of title. As a condition to this donation, Grantee agrees it shall never institute litigation against Grantor alleging damages to Grantee or any of Grantee's invitees, soccer participants or spectators resulting from any condition that exists on the date of this Gift Deed including, but not limited to, Environmental Contamination, of the Soccer Tract that exist on the date of this Gift Deed, and Grantee expressly waives any right which it may now have or may ever acquire against Grantor for any condition of said Soccer Tract as of the date of this Gift Deed.

E. Environmental Covenants:

(1) Grantor reserves the right to enter upon the Soccer Tract, at no cost to Grantor, at reasonable times to conduct any Corrective Action only as and when required by the governmental agency with jurisdiction (the "Agency") in connection with a release of petroleum hydrocarbons, hazardous substances, solid wastes, or hazardous wastes from Grantor's operations at the Terminal Facilities. As used herein, the term, "Corrective Action", shall refer to one or more of the following activities: investigation, assessment, monitoring, sampling, analysis, cleanup, removal, disposal, on-site treatment, off-site treatment, active remediation, passive remediation, remediation alternatives including but not limited to risk-based corrective action ("RBCA"), if applicable, and/or other activities approved, concurred in or required by the Agency. In performing any Corrective Action at the Soccer Tract, Grantor will have the right to rely on and use any current, future or revised or amended state cleanup/remediation standards, guidelines or criteria or revised federal cleanup/remediation standards, if applicable, including without limitation any site-specific risk-based soil and groundwater cleanup objectives or other similar RBCA policies administered by the Agency. In performing any Corrective Action at the Soccer Tract, Grantor may also rely on and implement institutional controls as provided for in applicable laws, regulations and policies to ensure the protection of public health, safety or welfare and the environment. Grantee acknowledges that such institutional controls may require deed recordation running with the land at the Soccer Tract. Such deed recordation would contain certain restrictions based on site-specific exposure such as prohibiting the use of groundwater at the Soccer Tract, requiring that the use of the Soccer Tract remain commercial/industrial, or requiring the Soccer Tract, or a portion of the Soccer Tract, to be paved or that existing pavement remain in place and be properly maintained. Grantee agrees to permit reasonable institutional controls regarding the Soccer Tract in connection with Grantor's performance of any Corrective Action thereon. Grantee agrees to provide Grantor, at no cost to Grantor, with Grantee's written consent and signature as needed in connection with the preparation, execution and recording of any necessary documents relating to any institutional controls which are to be recorded with the deed as part of Grantor's performance of Corrective Action. Such institutional controls, if necessary, would not prohibit the use of the Soccer Tract for industrial/commercial

purposes. In the event Grantor's Corrective Action to industrial/commercial cleanup standards (the "**Remediation**") or the imposition of institutional controls or deed restrictions prevents Grantee from using the Soccer Tract or portion of the Soccer Tract (the "**Impacted Area**") for any of the Permitted Uses, then Grantor shall reimburse Grantee for its reasonable costs expended pursuant to the improvement of the Impacted Area directly related to the Permitted Uses prohibited by the Remediation, or the imposition of institutional controls or deed restrictions and the use of the Impacted Area by Grantee shall be restricted solely to uses permissible pursuant to or in conjunction with commercial/industrial cleanup standards, including any of the Permitted Uses permitted pursuant to said standards. Grantor reserves its legal appeal rights with respect to any orders, directives or requests of the Agency concerning but not limited to Corrective Action at the Soccer Tract. Grantee agrees that, without prior written approval from Grantor, Grantee will not engage in any activity which would interfere with Grantor's performance of any Corrective Action at the Soccer Tract. Such approval shall not be unreasonably withheld by Grantor. In the event that Grantee interferes with Grantor's performance of Corrective Action, Grantee agrees to pay Grantor for the reasonable costs incurred by Grantor as a result of any such interference, including, but not limited to, costs to replace monitoring wells that are damaged or destroyed by Grantee's activities.

(2) The installation and/or existence of potable wells on the Soccer Tract is prohibited. The groundwater underneath the Soccer Tract shall not be used for any purpose whatsoever. This restriction, however, does not prohibit the installation or use of any compliance wells, or any groundwater monitoring, recovery or extraction wells or similar devices, used for or related to the performance of any Corrective Action.

(3) Grantee shall not have any claim against Grantor, or Grantor's parent companies, affiliates, predecessors, successors, assigns, subsidiary companies or their respective past, present and future officers, employees, agents and/or representatives (collectively, the "Released Parties"), based upon, related to or arising out of the presence of any contamination on, under or at the Soccer Tract on the date of this Gift Deed. The Released Parties are hereby forever released from any and all such claims including, but not limited to, any and all claims and statutory causes of action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Clean Water Act, the state law equivalents of such acts, state and federal underground storage tank laws and regulations and all other environmental laws and regulations, all as amended.

(4) Grantee agrees to adhere to, and comply with, the terms of any closure or no further action/remediation letter or determination from the Agency regarding Grantor's performance of any Corrective Action at the Soccer Tract.

(5) Grantee hereby agrees to defend (with counsel reasonably acceptable to the Released Parties), indemnify and hold the Released Parties (as defined above) harmless from and against any and all liabilities, claims, losses, suits, actions, judgments, damages, costs (including reasonable attorneys' fees actually incurred at billing rates that do not exceed standard hourly billing rates) or penalties that result from, arise out of or relate in any way to any violation by Buyer its Directors, Officers, Members, or Invitees of the reservations, restrictions and/or conditions contained in this deed.

(6) In case any one or more of the reservations, restrictions or conditions (or portions thereof) contained in this deed shall, for any reason, be held to be invalid, illegal or legally unenforceable, in any respect, such invalidity, illegality or unenforceability shall not affect any other portion of that provision or any other provision hereof (whether or not clearly divisible from such provision or portion thereof), and the above reservations, restrictions and conditions shall be construed and interpreted in the manner which is valid, legal and legally enforceable, and which is most nearly consistent with the intention of Grantor and Grantee as evidenced by the above reservations, restrictions and conditions.”

[Signatures Begin on Next Page]

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed this instrument on the date first written above through their duly authorized representatives.

Signed, sealed and delivered this
9th day of December, 2003
in the presence of:

GRANTOR:

MARATHON ASHLAND PETROLEUM LLC



Cynthia H. Myder
Unofficial Witness

By: [Signature]

Deborah A. Treier
Notary Public

Attest: [Signature]

My Commission Expires: **DEBORAH A. TREIER**
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires Jan. 16, 2004

[Company Seal]

[Notarial Seal]

Signed, sealed and delivered this
12th day of December, 2003
in the presence of:

GRANTEE:

COBB FUTBOL HOLDINGS, LLC

[Signature]
Unofficial Witness

By: [Signature]

[Signature]
Notary Public

Attest: [Signature]



My Commission Expires: _____

[Company Seal]

[Notarial Seal]

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EXHIBIT "A"**MARATHON OIL**
East/West Connector
Tract Three

All that tract or parcel of land lying and being in Land Lots 840, 841 and 862 of the 19th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the southerly right-of-way of East/West Connector (a 120 foot public right-of-way) with the easterly right-of-way of Powder Springs Road (a 100 foot public right-of-way), Thence along the southerly right-of-way of East/West Connector, South 70 degrees 16 minutes 55 seconds East, a distance of 864.54 feet to a 5/8" rebar set; Thence leaving said right-of-way, South 01 degrees 03 minutes 11 seconds West, a distance of 114.25 feet to a point; Thence South 01 degrees 31 minutes 05 seconds West, a distance of 92.36 feet to a point; Thence South 01 degrees 48 minutes 57 seconds West, a distance of 88.24 feet to a point; Thence South 00 degrees 57 minutes 52 seconds East, a distance of 53.15 feet to a point; Thence South 02 degrees 59 minutes 59 seconds East, a distance of 103.84 feet to a point; Thence South 02 degrees 15 minutes 56 seconds East, a distance of 53.97 feet to a point; Thence South 03 degrees 02 minutes 03 seconds East, a distance of 58.01 feet to a point; Thence South 03 degrees 06 minutes 11 seconds East, a distance of 103.40 feet to a point; Thence South 03 degrees 55 minutes 46 seconds East, a distance of 53.01 feet to a point; Thence South 01 degrees 24 minutes 25 seconds East, a distance of 35.22 feet to a point; Thence South 00 degrees 01 minutes 39 seconds West, a distance of 62.34 feet to a point; Thence South 00 degrees 11 minutes 11 seconds West, a distance of 60.37 feet to a point; Thence South 00 degrees 14 minutes 07 seconds West, a distance of 42.47 feet to a point; Thence South 00 degrees 26 minutes 03 seconds East, a distance of 26.14 feet to a point; Thence South 00 degrees 26 minutes 03 seconds East, a distance of 19.17 feet to a point; Thence South 00 degrees 44 minutes 07 seconds East, a distance of 21.79 feet to a point; Thence South 01 degrees 02 minutes 01 seconds West, a distance of 64.23 feet to a point, said point being the **TRUE POINT OF BEGINNING**; From the true point of beginning as thus established, Thence South 71 degrees 34 minutes 29 seconds East, a distance of 39.84 feet to a point; Thence North 69 degrees 28 minutes 31 seconds East, a distance of 14.48 feet to a point; Thence South 37 degrees 07 minutes 22 seconds East, a distance of 86.23 feet to a point; Thence South 59 degrees 55 minutes 14 seconds East, a distance of 114.43 feet to a point; Thence North 74 degrees 04 minutes 04 seconds East, a distance of 75.17 feet to a point; Thence North 89 degrees 28 minutes 55 seconds East, a distance of 99.94 feet to a point; Thence South 71 degrees 16 minutes 26 seconds East, a distance of 107.84 feet to a point; Thence South 55 degrees 26 minutes 39 seconds East, a distance of 129.59 feet to a point; Thence South 69 degrees 20 minutes 20 seconds East, a distance of 219.38 feet to a point; Thence North 70 degrees 01 minutes 59 seconds East, a distance of 146.54 feet to a point; Thence South 85 degrees 26 minutes 38 seconds East, a distance of 59.59 feet to a point; Thence South 00 degrees 31 minutes 37 seconds East, a distance of 657.71 feet to a 1/2" rebar found; Thence North 88 degrees 48 minutes 23 seconds West, a distance of 210.00 feet to a 1 1/2" open top pipe found; Thence North 01 degrees 11 minutes 01 seconds East, a distance of 100.09 feet to a 1/2" rebar found; Thence North 89

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degrees 00 minutes 02 seconds West, a distance of 696.44 feet to a 1\2" rebar found; Thence North 89 degrees 00 minutes 02 seconds West, a distance of 66.92 feet to a 5/8" rebar set; Thence North 06 degrees 07 minutes 24 seconds West, a distance of 103.91 feet to a point; Thence North 07 degrees 36 minutes 52 seconds West, a distance of 49.51 feet to a point; Thence North 07 degrees 08 minutes 14 seconds West, a distance of 50.04 feet to a point; Thence North 06 degrees 30 minutes 52 seconds West, a distance of 101.32 feet to a point; Thence North 06 degrees 31 minutes 02 seconds West, a distance of 90.38 feet to a point; Thence North 02 degrees 23 minutes 27 seconds East, a distance of 45.54 feet to a point; Thence North 04 degrees 05 minutes 51 seconds East, a distance of 56.91 feet to a point; Thence North 03 degrees 58 minutes 15 seconds East, a distance of 55.70 feet to a point; Thence North 04 degrees 28 minutes 39 seconds East, a distance of 54.98 feet to a point; Thence North 03 degrees 42 minutes 57 seconds East, a distance of 156.18 feet to a point; Thence North 01 degrees 02 minutes 01 seconds East, a distance of 31.24 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract containing 14.822 acres and being more particularly shown as "Tract Three" on that certain ALTA/ACSM Land Title Survey for Marathon Ashland Petroleum, LLC, Cobb Futbol Holdings, LLC, Cobb Futbol, Inc., and Chicago Title Insurance Company, prepared by GeoSurvey, Ltd., bearing the seal and certification of Trent D. Turk, Georgia Registered Land Surveyor No. 2411, dated April 24, 2002, last revised October 23, 2003.

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EXHIBIT "B"

Permitted Exceptions

1. Real property taxes for the year 2004 and subsequent years not yet due and payable.
2. Easements in favor of Cobb Electric Membership Corporation, as recorded in Deed Book 2236, page 408, and Deed Book 2457, page 202, Cobb County, Georgia Records.
3. Right-of-Way Easement by and between Marathon Ashland Petroleum, LLC, a Delaware limited liability company, and Colonial Pipeline Company, a Delaware corporation, dated July 8, 2003 and recorded in Deed Book 13786, page 3683, aforesaid Records.
4. Easement Agreement by and between Marathon Petroleum Company, an Ohio corporation, and Barry F. O'Neill, dated August 6, 1986 and recorded in Deed Book 4069, page 269, aforesaid Records. **(Affects Appurtenant Access Easement Area Only.)**
5. Easement to Georgia Railway & Power Company from Jas. T. Anderson, dated March 25, 1926 and recorded in Deed Book 87, page 422, aforesaid Records. **(Affects Appurtenant Access Easement Area Only.)**

EXHIBIT "C"**Legal Description
30 Foot Access Easement**

All that tract or parcel of land lying and being in Land Lots 788, 789, 840 and 841 of the 19th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

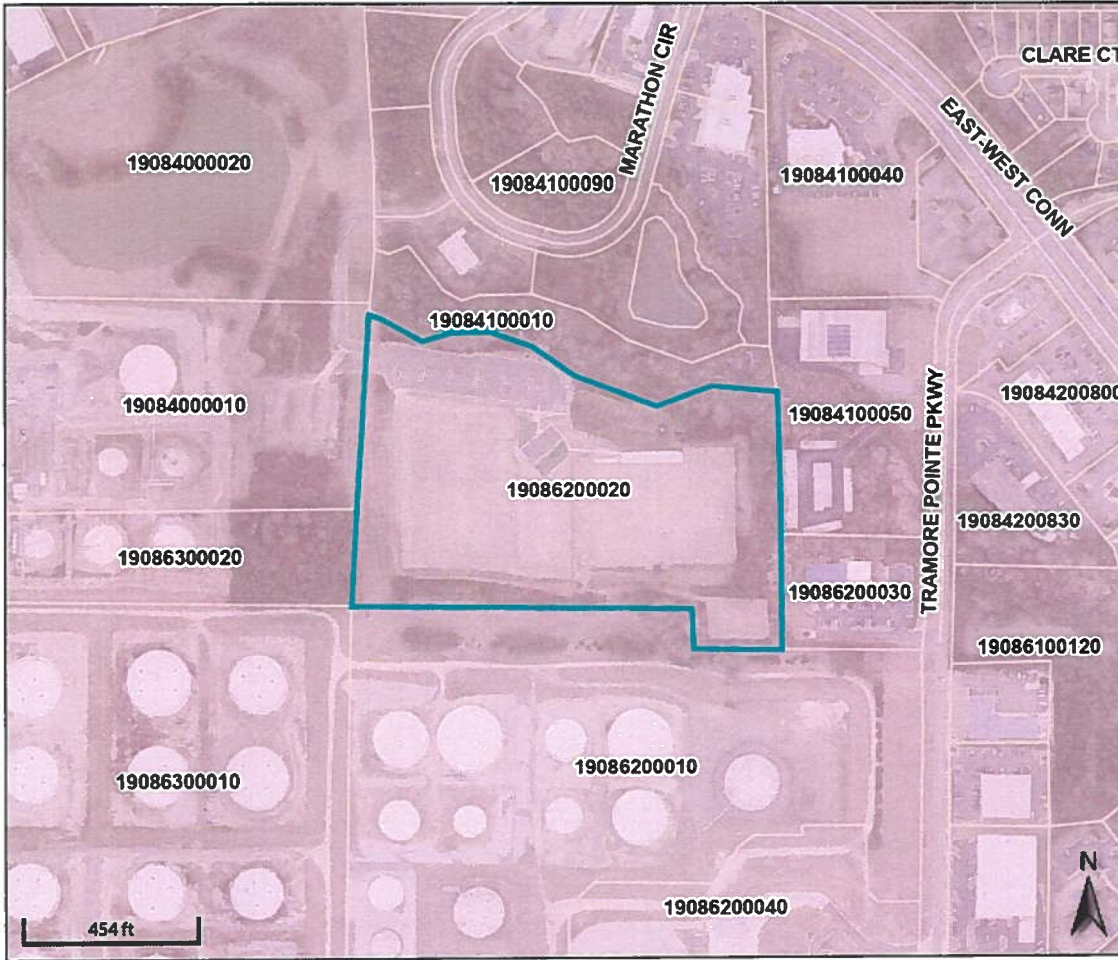
Commencing at the intersection of the southerly right-of-way of East/West Connector (a 120 foot public right-of-way) with the easterly right-of-way of Powder Springs Road (a 100 foot public right-of-way), Thence along the southerly right-of-way of East/West Connector, South 70 degrees 16 minutes 55 seconds East, a distance of 864.54 feet to a 5/8" rebar set; Thence continuing along said right-of-way, South 70 degrees 16 minutes 55 seconds East, a distance of 157.55 feet to a point, Thence continuing along the right-of-way, South 70 degrees 16 minutes 55 seconds East, a distance of 322.19 feet to a point, said point being the **TRUE POINT OF BEGINNING**; From the true point of beginning as thus established, thence continuing along the southerly right-of-way of East/West Connector, South 70 degrees 16 minutes 55 seconds East, a distance of 30.17 feet to a point; Thence departing the southerly right-of-way of East/West Connector and continuing through the property of Marathon Ashland Petroleum, LLC (Deed Book 11044 at Page 122) the following 38 courses: along a curve to the right, an arc length of 76.19 feet, said curve having a radius of 54.89 feet with a chord distance of 70.22 feet, at South 63 degrees 32 minutes 53 seconds West, to a point; Thence North 70 degrees 32 minutes 05 seconds West, a distance of 421.21 feet to a point; Thence South 28 degrees 21 minutes 49 seconds West, a distance of 156.99 feet to a point; Thence South 01 degrees 37 minutes 18 seconds West, a distance of 53.07 feet to a point; Thence South 01 degrees 48 minutes 57 seconds West, a distance of 40.24 feet to a point; Thence South 00 degrees 57 minutes 52 seconds East, a distance of 55.16 feet to a point; Thence South 02 degrees 47 minutes 47 seconds East, a distance of 51.13 feet to a point; Thence South 03 degrees 11 minutes 22 seconds East, a distance of 53.45 feet to a point; Thence South 02 degrees 15 minutes 56 seconds East, a distance of 53.92 feet to a point; Thence South 03 degrees 04 minutes 19 seconds East, a distance of 55.23 feet to a point; Thence South 02 degrees 17 minutes 30 seconds East, a distance of 54.09 feet to a point; Thence South 02 degrees 51 minutes 40 seconds East, a distance of 54.43 feet to a point; Thence South 02 degrees 53 minutes 42 seconds East, a distance of 84.98 feet to a point; Thence South 00 degrees 43 minutes 27 seconds East, a distance of 52.12 feet to a point; Thence South 00 degrees 14 minutes 44 seconds West, a distance of 272.46 feet to a point; Thence South 03 degrees 26 minutes 13 seconds West, a distance of 54.74 feet to a point; Thence South 03 degrees 37 minutes 23 seconds West, a distance of 44.43 feet to a point; Thence North 90 degrees 00 minutes 00 seconds East, a distance of 49.76 feet to a point; Thence South 03 degrees 42 minutes 57 seconds West, a distance of 30.06 feet to a point; Thence North 90 degrees 00 minutes 00 seconds West, a distance of 80.05 feet to a point; Thence North 04 degrees 20 minutes 20 seconds East, a distance of 22.48 feet to a point; Thence North 03 degrees 37 minutes 23 seconds East, a distance of 53.88 feet to a point; Thence North 03 degrees 26 minutes 13 seconds East, a distance of 53.86 feet to a point; Thence North 00 degrees 14 minutes 44 seconds East, a

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distance of 271.37 feet to a point; Thence North 00 degrees 43 minutes 27 seconds West, a distance of 51.30 feet to a point; Thence North 02 degrees 53 minutes 42 seconds West, a distance of 84.42 feet to a point; Thence North 02 degrees 51 minutes 40 seconds West, a distance of 54.59 feet to a point; Thence North 02 degrees 17 minutes 30 seconds West, a distance of 54.03 feet to a point; Thence North 03 degrees 04 minutes 19 seconds West, a distance of 55.24 feet to a point; Thence North 02 degrees 15 minutes 56 seconds West, a distance of 53.89 feet to a point; Thence North 03 degrees 11 minutes 22 seconds West, a distance of 53.31 feet to a point; Thence North 02 degrees 47 minutes 47 seconds West, a distance of 51.71 feet to a point; Thence North 00 degrees 57 minutes 52 seconds West, a distance of 56.37 feet to a point; Thence North 01 degrees 48 minutes 57 seconds East, a distance of 40.92 feet to a point; Thence North 01 degrees 37 minutes 18 seconds East, a distance of 60.15 feet to a point; Thence North 28 degrees 21 minutes 49 seconds East, a distance of 189.78 feet to a point; Thence South 70 degrees 32 minutes 05 seconds East, a distance of 444.95 feet to a point; Thence along a curve to the left, an arc length of 31.11 feet, said curve having a radius of 24.89 feet with a chord distance of 29.13 feet, at North 64 degrees 31 minutes 07 seconds East, to a point on the southerly right-of-way of East/West Connector, said point being the **TRUE POINT OF BEGINNING**.

Said tract of land contains 1.187 Acres and being more particularly shown as "Access Easement" on that certain ALTA/ACSM Land Title Survey for Marathon Ashland Petroleum, LLC, Cobb Futbol Holdings, LLC, Cobb Futbol, Inc., and Chicago Title Insurance Company, prepared by GeoSurvey, Ltd., bearing the seal and certification of Trent D. Turk, Georgia Registered Land Surveyor No. 2411, dated April 24, 2002, last revised October 23, 2003.

Deed Book ~~13902~~ Pg ~~2480~~
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.



Overview



Legend

- Cities**
 - Acworth
 - Austell
 - Kennesaw
 - Marietta
 - Powder Springs
 - Smyrna
 - Unincorporated
 - Mableton
- Administrative Facilities**
 - Libraries
 - Police Stations
 - Fire Stations
- Parks**
 - County Parks
 - Federal Parks
- House Number Labels**
- Parcels**
- Roads**
 - ARTERIAL
 - INTERSTATE
 - LOCAL
 - MAJOR
 - MINOR
 - PRIVATE
 - RAMP

Parcel ID 19086200020
 Class Code **E3 - Exempt - Charities**
 Taxing District (M) MABLETON
 Acres 14.822

Physical Address 3598 MARATHON CIR
 Owner COBB FUTBOL HOLDING LLC
 25 WHITLOCK PL
 MARIETTA GA 30064

Last 2 Sales			
Date	Price	Reason	Qual
n/a	0	n/a	n/a
n/a	0	n/a	n/a

Date created: 3/26/2025
 Last Data Uploaded: 3/26/2025 8:24:42 AM

Developed by SCHNEIDER
 GEOSPATIAL

MARATHION OIL
East/West Connector
Tract Three

All that tract or parcel of land lying and being in Land Lots 840, 841 and 862 of the 19th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the southerly right-of-way of East/West Connector (a 120 foot public right-of-way) with the easterly right-of-way of Powder Springs Road (a 100 foot public right-of-way), Thence along the southerly right-of-way of East/West Connector, South 70 degrees 16 minutes 55 seconds East, a distance of 864.54 feet to a 5/8" rebar set; Thence leaving said right-of-way, South 01 degrees 03 minutes 11 seconds West, a distance of 114.25 feet to a point; Thence South 01 degrees 31 minutes 05 seconds West, a distance of 92.36 feet to a point; Thence South 01 degrees 48 minutes 57 seconds West, a distance of 88.24 feet to a point; Thence South 00 degrees 57 minutes 52 seconds East, a distance of 53.15 feet to a point; Thence South 02 degrees 59 minutes 59 seconds East, a distance of 103.84 feet to a point; Thence South 02 degrees 15 minutes 56 seconds East, a distance of 53.97 feet to a point; Thence South 03 degrees 02 minutes 03 seconds East, a distance of 58.01 feet to a point; Thence South 03 degrees 06 minutes 11 seconds East, a distance of 103.40 feet to a point; Thence South 03 degrees 55 minutes 46 seconds East, a distance of 53.01 feet to a point; Thence South 01 degrees 24 minutes 25 seconds East, a distance of 35.22 feet to a point; Thence South 00 degrees 01 minutes 39 seconds West, a distance of 62.34 feet to a point; Thence South 00 degrees 11 minutes 11 seconds West, a distance of 60.37 feet to a point; Thence South 00 degrees 14 minutes 07 seconds West, a distance of 42.47 feet to a point; Thence South 00 degrees 26 minutes 03 seconds East, a distance of 26.14 feet to a point; Thence South 00 degrees 26 minutes 03 seconds East, a distance of 19.17 feet to a point; Thence South 00 degrees 44 minutes 07 seconds East, a distance of 21.79 feet to a point; Thence South 01 degrees 02 minutes 01 seconds West, a distance of 64.23 feet to a point, said point being the **TRUE POINT OF BEGINNING**; From the true point of beginning as thus established, Thence South 71 degrees 34 minutes 29 seconds East, a distance of 39.84 feet to a point; Thence North 69 degrees 28 minutes 31 seconds East, a distance of 14.48 feet to a point; Thence South 37 degrees 07 minutes 22 seconds East, a distance of 86.23 feet to a point; Thence South 59 degrees 55 minutes 14 seconds East, a distance of 114.43 feet to a point; Thence North 74 degrees 04 minutes 04 seconds East, a distance of 75.17 feet to a point; Thence North 89 degrees 28 minutes 55 seconds East, a distance of 99.94 feet to a point; Thence South 71 degrees 16 minutes 26 seconds East, a distance of 107.84 feet to a point; Thence South 55 degrees 26 minutes 39 seconds East, a distance of 129.59 feet to a point; Thence South 69 degrees 20 minutes 20 seconds East, a distance of 219.38 feet to a point; Thence North 70 degrees 01 minutes 59 seconds East, a distance of 146.54 feet to a point; Thence South 85 degrees 26 minutes 38 seconds East, a distance of 59.59 feet to a point; Thence South 00 degrees 31 minutes 37 seconds East, a distance of 657.71 feet to a 1 1/2" rebar found; Thence North 88 degrees 48 minutes 23 seconds West, a distance of 210.00 feet to a 1 1/2" open top pipe found; Thence North 01 degrees 11 minutes 01 seconds East, a distance of 100.09 feet to a 1 1/2" rebar found; Thence North 89

degrees 00 minutes 02 seconds West, a distance of 696.44 feet to a 1/2" rebar found; Thence North 89 degrees 00 minutes 02 seconds West, a distance of 66.92 feet to a 5/8" rebar set; Thence North 06 degrees 07 minutes 24 seconds West, a distance of 103.91 feet to a point; Thence North 07 degrees 36 minutes 52 seconds West, a distance of 49.51 feet to a point; Thence North 07 degrees 08 minutes 14 seconds West, a distance of 50.04 feet to a point; Thence North 06 degrees 30 minutes 52 seconds West, a distance of 101.32 feet to a point; Thence North 06 degrees 31 minutes 02 seconds West, a distance of 90.38 feet to a point; Thence North 02 degrees 23 minutes 27 seconds East, a distance of 45.54 feet to a point; Thence North 04 degrees 05 minutes 51 seconds East, a distance of 56.91 feet to a point; Thence North 03 degrees 58 minutes 15 seconds East, a distance of 55.70 feet to a point; Thence North 04 degrees 28 minutes 39 seconds East, a distance of 54.98 feet to a point; Thence North 03 degrees 42 minutes 57 seconds East, a distance of 156.18 feet to a point; Thence North 01 degrees 02 minutes 01 seconds East, a distance of 31.24 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract containing 14.822 acres and being more particularly shown as "Tract Three" on that certain ALTA/ACSM Land Title Survey for Marathon Ashland Petroleum, LLC, Cobb Futbol Holdings, LLC, Cobb Futbol, Inc., and Chicago Title Insurance Company, prepared by GeoSurvey, Ltd., bearing the seal and certification of Trent D. Turk, Georgia Registered Land Surveyor No. 2411, dated April 24, 2002, last revised October 23, 2003.

ATTACHMENT TO APPLICATION FOR SPECIAL LAND USE PERMIT

Application No.: Z-_____ (2025)
Hearing Dates: May 8, 2025
May 28, 2025

Applicant: Swarm Football Club, LLC
Titleholder: Cobb Futbol Holdings, LLC

Tax Parcel Identification No.: 19086200020

STATEMENT OF PROPOSED SITE IMPROVEMENTS

Applicant is seeking a Special Land Use Permit for property located at 3598 Marathon Circle, being approximately 14.822 acres located southerly of Marathon Circle and the East-West Connector, Land Lots 841 and 862, 19th District, 2nd Section, City of Mableton, Cobb County, Georgia (hereinafter the “Property” or the “Subject Property”). The Subject Property is zoned to the Heavy Industrial (“HI”) zoning classification. The Property is currently being used for soccer playing fields. The approval of the Special Land Use Permit will allow for redevelopment of the Property for a full soccer facility. Applicant proposes the removal of any existing structures, and construction of two soccer playing fields, one of which will include a 5,000 seat stadium; together with related locker room facilities and a concession building. Additional paved access drives and parking will be installed to accommodate visitors to the facility. Landscaping for the area around the playing field and stadium will be professionally designed, implemented, and maintained using a combination of hard and soft scape materials.

AGREEABLE ZONING CONDITIONS

MOORE INGRAM JOHNSON & STEELE

Mr. Christopher Wheeler
Planning and Zoning Manager
City of Mableton
Page 2 of 3
March 27, 2025

Kimley-Horn and Associates, Inc., last revised January 21, 2025, and submitted contemporaneously with Applicant's Application for Special Land Use Permit. Reduced copies of the Site Plan, consisting of two sheets, are attached collectively as Exhibit "A."

- (2) Applicant proposes the conversion of an existing outdoor soccer park into an outdoor soccer facility and stadium, as more particularly shown and reflected on the referenced Site Plan.
- (3) The event traffic and parking plan shall be subject to review and approval by the Cobb County Department of Transportation.
- (4) All refuse and designated recycling collection facilities must be contained within completely enclosed facilities.
- (5) Subject to approval by the Cobb County Department of Transportation, Applicant agrees to install way-finding signage as part of its overall development.
- (6) Applicant agrees to the following variances:
 - (a) Waiver to allow accessory structures to be located to the side and front of the stadium; and
 - (b) Waiver to allow off-site parking more than 400 feet from the main entrance (off-site parking is provided on adjacent property).
- (7) All setbacks, landscape, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management; including, but not limited to, detention/retention facilities, drainage facilities, surface parking, and any and all slopes or other required engineering features of the foregoing.
- (8) Applicant agrees to conduct a pre-development meeting with representatives of Colonial Pipeline Company to review final development and construction plans.

We believe the requested Special Land Use Permit, pursuant to the Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed use takes into consideration the location of the Subject Property; as well as the uses and development of surrounding properties. The proposed soccer facility will be of the highest caliber, shall be compatible with surrounding developments, shall be an enhancement to the Subject Property, and shall provide a useful service to residents within the surrounding vicinity.

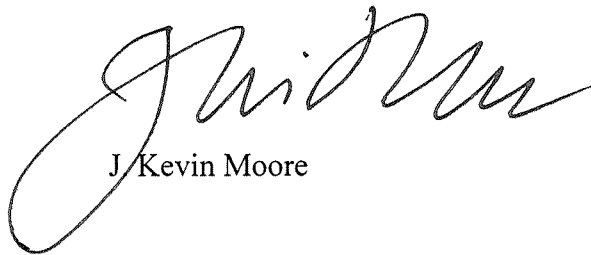
MOORE INGRAM JOHNSON & STEELE

Mr. Christopher Wheeler
Planning and Zoning Manager
City of Mableton
Page 3 of 3
March 27, 2025

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

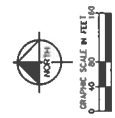
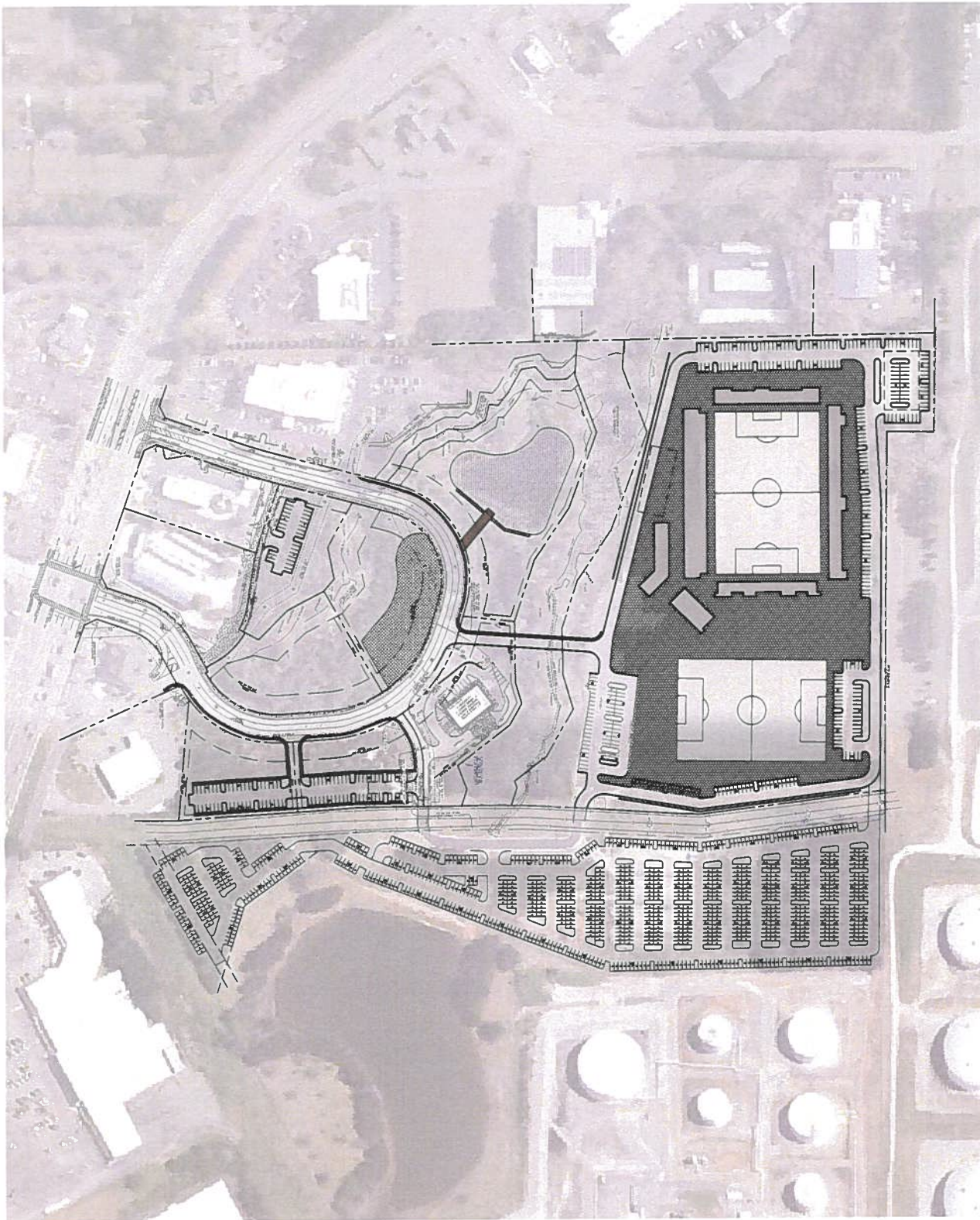
Attachment

c: Mayor and City Council Members
City of Mableton
(With Copy of Attachment)

Planning and Zoning Commission Members
City of Mableton
(With Copy of Attachment)

Swarm Football Club, LLC
(With Copy of Attachment)

818 ADDITIONAL PARKING SPACES ACHIEVED



JOB NUMBER: 014894002
SCALE: 1" = 80'
DATE: 01/17/2025
SHEET: EXHIBIT A

CLIENT:
THE NET LEASE GROUP

PROJECT:
MARATHON SOCCER PARK

TITLE:
**MARATHON SOCCER PARK
EXPANDED PARKING**

Kimley»Horn
1200 PEACHTREE STREET NE SUITE 800 ATLANTA, GEORGIA 30309
PHONE: (404) 419-8700 | www.kimley-horn.com

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? _____
No, to the best of our knowledge, information, and belief.

If so, describe the nature and extent of such interest: Not Applicable.

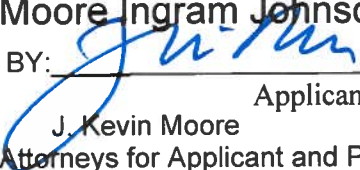
Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? No, to the best of our knowledge, information, and belief.

If so, describe the nature and extent of such interest: Not Applicable.

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? No, to the best of our knowledge, information, and belief.

If so, describe the relationship and the nature and extent of such interest: Not Applicable.

I certify that the foregoing information is true and correct, this 27th day of March, 2025.

Moore Ingram Johnson & Steele, LLP
BY: 
Applicant's Signature
J. Kevin Moore
Attorneys for Applicant and Property Owner

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

Application No.: SLUP-_____ (2025)

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

No.

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made: Not Applicable.

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: Not Applicable.

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application: Not Applicable.

I certify that the foregoing information is true and correct, this 27th day of March, 2025.

Moore Ingram Johnson & Steele, LLP

BY: 

Applicant's Signature

J. Kevin Moore

Attorneys for Applicant and Property Owner

¹If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

ATTACHMENT TO APPLICATION FOR SPECIAL LAND USE PERMIT

Application No.: SLUP-_____ (2025)
Hearing Dates: May 8, 2025
May 28, 2025

**BEFORE THE MAYOR AND CITY COUNCIL FOR THE
CITY OF MABLETON, GEORGIA, AND THE
PLANNING AND ZONING COMMISSION FOR THE
CITY OF MABLETON, GEORGIA**

**CONSTITUTIONAL CHALLENGE
ATTACHMENT TO APPLICATION FOR SPECIAL LAND USE PERMIT**

COME NOW, Applicant, SWARM FOOTBALL CLUB, LLC (hereinafter referred to as “Applicant”), and Property Owner, COBB FUTBOL HOLDINGS, LLC (hereinafter referred to as “Owner” or “Property Owner”), and assert the following:

1.

By Application for Special Land Use Permit dated and submitted on March 27, 2025, with the City of Mableton Planning and Zoning, Applicant and Property Owner applied for a special land use permit of certain real property, being 14.822 acres, more or less, lying and being in the City of Mableton, Cobb County, Georgia (“City of Mableton”), a more particular description and delineation of the subject property being set forth in said Application (hereinafter referred to as the “Property” or the “Subject Property”).

2.

The Application for Special Land Use Permit of the Property seeks a special land use permit for the purpose of a soccer facility, pursuant to and in accordance with the rules and regulations established by the governing authority of the City of Mableton, Georgia, being hereinafter referred to as the “The Mableton Zoning Code.”

3.

The Mableton Zoning Code is unconstitutional as applied to the Property to the extent said Ordinance requires a special land use permit for the use of the Property as set forth in the Application and in that said Ordinance deprives Applicant and Property Owner of their Property under and pursuant to Art. I, § I, ¶¶ I and II of the Georgia Constitution of 1983, and the Equal Protection and Due Process Clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America. This deprivation of Property without due process violates the constitutional prohibition against the taking of private property without just compensation. The Mableton Zoning Code, as it presently exists, violates the Applicant's and Property Owner's rights to unfettered use of their Property in that said Ordinance does not bear a substantial relation to the public health, safety, morality, or general welfare and is therefore confiscatory and void. Further, said Ordinance is unconstitutional in that it is arbitrary and unreasonable resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss on the Applicant and Property Owner.


4.

The Mableton Zoning Code is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with the Special Land Use Permit Application also violate Art. I, § I, ¶¶ I, II, and XII of the Georgia Constitution of 1983 in that said procedures impose unreasonable time restraints, contain the absence of rebuttal, contain the inability to confront witnesses, contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issue at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law. These procedures fail to comport with the due process requirements of the Constitution of the State

of Georgia 1983 and the due process requirements of the Constitution of the United States of America.

Respectfully submitted, this 27th day of March, 2025.

MOORE INGRAM JOHNSON & STEELE, LLP

BY: 

J. Kevin Moore
Georgia Bar No. 519728
Attorneys for Applicant and Property Owner



PLANNING COMMISSION STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: (SLUP-001 2025) – Soccer Facility

APPLICANT: Swarm Football Club, LLC

REQUEST: Special Land Use Permit for soccer facility

PROPERTY LOCATION: 3598 Marathon Circle, Mableton, GA

PARCEL ID: 19086200020

ACREAGE: 14.82

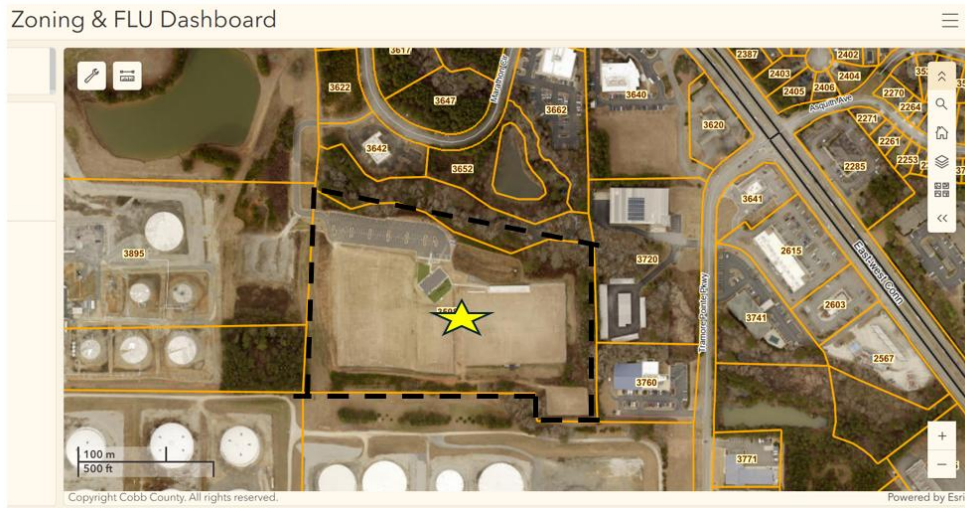
P.C. HEARING DATE: May 6th 2025

DISTRICT: 6 Councilwoman Herdon

ZONING MAP



AERIAL MAP



I. Purpose of Request

Swarm Football Club LLC is seeking a Special Land Use Permit (SLUP) to redevelop the property at 3598 Marathon Circle into a specialized soccer facility. The property is currently being use for soccer fields. The applicant proposed the removal of the existing structure and construction of two soccer playing fields, one of which will include a 5,000-seat stadium (previously was 3,500-seat stadium); together with related locker room facilities and a concession building. Additional paved access drives and parking will be installed to accommodate visitors to the facility. Landscaping for the area around the playing field and stadium will be professionally designed, implemented, and maintained using combination of hard and soft scape material.

II. Property Description & Surrounding Land Use

The site is currently designated as HI (Heavy Industrial) and is classified as a Priority Industrial Area in accordance with the Future Land Use Map. The property is characterized by a predominantly level terrain and encompasses two full-size soccer fields, along with approximately 145 parking spaces to accommodate visitors.

ADJACENT ZONING AND CURRENT LAND USE			
Direction	Address	Current Zoning	Existing Land Use
North	East-West Conn / Tax Parcel ID 19084100010	Light Industrial (LI) Zoning District	Undeveloped
South	Anderson Farm Rd SW / Tax Parcel ID 19086200010	Heavy Industrial (HI) Zoning District	Industrial (Colonial Pipeline)

West	3895 Anderson Farm Rd / Tax Parcel ID 19084000010	Heavy Industrial (HI) Zoning District	Industrial (Colonial Pipeline)
East	3720 Tramore Pointe Pkwy/ Tax Parcel ID 19084100050	Light Industrial (LI) Zoning District	Warehouse

- **Existing Zoning:** Heavy Industrial (HI)
- **Proposed Zoning:** N/A
- **Current Use:** Soccer Fields
- **Future Land Use Map:** Priority Industrial
- **Surrounding Zoning and Uses:**
 - **North:** HI – Undeveloped
 - **South:** HI – Industrial
 - **East:** LI – Warehouse
 - **West:** HI – Industrial

III. Analysis

When considering an application to amend the current zoning designation of a property, the Mayor and City Council, the Planning Commission, and the Planning and Zoning Division shall consider the following standards as described in Section 2.03 (3) a-e of the Zoning ordinance:

Whether there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.

It is the staff opinion that the applicants proposal will not have an adverse effect on the ability of adjacent or nearby properties. Since there aren't any residential zone property within the immediate area, the potential negative impact on any residential neighborhood is minimal.

Whether the use is compatible with the neighborhood.

It is the staff opinion that the applicant proposal will permit a use that is suitable in view of the use and development of the nearby properties. The use is consistent with other recreational uses located next to the industrial area within the city limits.

Whether the use proposed will result in a nuisance as defined under state law.

This use will not be a nuisance as defined by the state law.

Whether the quiet enjoyment of surrounding property will be adversely affected.

The quiet enjoyment of the surrounding property will not be adversely affected

Whether the property values of surrounding property will be adversely affected.

This use will not adversely affect the property values of the surrounding area.

Whether adequate provisions are made for parking and traffic considerations.

The applicant has been working with Cobb County DOT to address any parking and traffic issues. The applicant has revised the parking arrangement after speaking with concern residents and transportation officials. The applicant submitted a traffic impact study to Cobb County DOT and has indicated it was adopted any traffic mitigation plans recommend by staff.

Whether the site or intensity of the use is appropriate.

The applicant site and intensity of the proposed use will be appropriate for the area

Whether special or unique conditions overcome the Mayor and City Council's general presumption that residential neighborhoods should not allow noncompatible business uses.

There are no special or unique conditions which would prohibit the proposed use in this area.

Whether adequate provisions are made regarding hours of operation.

Staff is not aware of the permeant hours of operation of the soccer facility. Per Section 4.02 Special Exception, the Mayor and Council will approved hours of operation for the proposed use.

Whether adequate controls and limits are placed on commercial and business deliveries.

Staff is not aware of any limits on business deliveries on the property. All deliveries should take place on the applicant site and not in the right of way.

Whether adequate landscape plans are incorporated to ensure appropriate transition.

The applicant has indicated a landscape plan will be created an appropriate transition.

Whether the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.

The applicant will not adversely affect the health, safety, welfare or moral concerns of the surrounding neighborhood.

Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses.

The applicant does not comply with one code requirement. (1) Section 7.18 Traffic and Parking (b)(ii) allow offsite parking more than 400 feet from the main entrance.

Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.

The applicant has provide a site plan that provides information needed for full consideration of the proposed use.

IV. Department Comments

Cobb County Fire Department

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

FIRE DEPARTMENT ACCESS:

Fire apparatus access roads shall extend to within 150 feet of all portions of each building. (State Modifications IFC 503.1 2018 Edition and Cobb County Development Standards 402.11).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 35 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches. (Cobb County Development Standards 402.11)

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

CERTIFICATE OF OCCUPANCY:

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

FIRE HYDRANT:

The maximum distance of a hydrant to the most remote portion of a structure shall be 500 feet. Distance shall be measured around the structure and from the fire apparatus access road. A 500-foot radius around the hydrant is not an acceptable measurement for distance. Hydrants on the opposite side of a main ROW is not an acceptable measurement of distance. (Cobb County Development Standards 410.5.2) (Cobb County Development Standards 410.5.2)

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet for a 40-foot length centered on the fire hydrant, exclusive of shoulders (see Figure

D103.1 in Appendix D).

Cobb County Water & Sewer

No comments. Existing water and sewer customer

Cobb County Department of Transportation

An original traffic Submittal 1 (dated August 12, 2024) was received for this proposed development. However, due to modification to the development plans, a new revised Submittal 1 (dated October 31, 2024; final received November 4, 2024) was provided to Cobb DOT. After receiving updated information by email from the development team, Cobb DOT approved the revised October 31st Submittal 1 and approved the applicant to continue to the full Submittal 2 traffic study.

A full traffic study (Submittal 2) was then received for this development on December 5, 2024. Subsequently, revised Submittal 2 documents (dated January 29, 2025; March 13, 2025; and March 20, 2025) were then received that responded to comments from Cobb DOT. The most recent comments (documented below) were then discussed with the applicant team by phone on April 23, 2025.

Based on April 23rd discussion and subsequent information received by email on April 24, 2025, Cobb DOT does not anticipate difficulty in the applicant team applying the following report revisions in a timely manner. However, Cobb DOT recommends that the zoning traffic study requirement not considered satisfied prior to a submittal that addresses the comments below. The revised traffic study should be submitted to both Cobb DOT and City of Mableton staff.

Comments below are based on the information received in the March 30th Submittal 2.

Comments and observations:

1. In Section 4.1, Table 2 should show the timeline for both future roadway projects as “Long Range.”
 - a. “Long Range” reflects that neither roadway project [East-West Connector Roadway Widening or East-West Connector at Austell Road (SR 5) Grade Separation] is currently funded.
2. Add page numbers to Figures 14 and 15.

3. In Section 6.0, Table 6 Base Year 2026 No-Build has two AM Peak headers. Change the second header to PM Peak.
4. In Section 6.0, remove the Intersection 2 recommendation for a third eastbound through lane.
 - a. The recommendation does not have sufficient receiving lane distance to operate as an effective through lane without causing a “trap lane” safety concern at the downstream intersection.
 - b. The need for additional through capacity has been identified in the Planning projects in Table 2. Based on the planning improvements already identified in Table 2, Cobb DOT Traffic Engineering will accept a LOS E as a peak hour intersection LOS in 2036.
 - c. The recommendation should be removed from Figure 15, Page 31, Table 9, and Page 34 as well as the associated analysis.
5. In Section 6.0, correct Tables 8 and 9 of where the LOS is incorrectly reported as D instead of E for delay greater than 55 seconds per vehicle.
6. In Section 6.0 and Section 7.1, remove Intersection 2 and its associated improvements from the System Improvements section.
 - a. As shown in Tables 8 and 9, Intersection 2 does not have system improvement recommendations.
 - b. The third eastbound through lane recommendation at Intersection 2 should already be removed from this traffic study recommendations per Comment 4 above.
 - c. At Intersection 2, the second westbound left turn lane and its associated receiving lane on Marathon Circle are recommended project improvements. This should be documented in the text for Section 6.0 and Section 7.2.
 - i. As mentioned in Comment 6a above, this recommendation is correctly documented as a Build (project) improvement in Table 9.
 - ii. The following note can be added the existing second westbound left turn lane description in the Project Improvement sections:
 1. In future (horizon year) operations, Cobb DOT may choose to implement the second westbound left turn lane during typical roadway

operations depending on traffic demand and other future needs.

7. In Section 7.1, for Intersection 1 add the following bullet:

- a. *Note: As outlined in section 4.1 Future Roadway/Intersection Projects, the Cobb Forward Comprehensive Transportation Plan 2050 Recommendations Report outlines a grade separation improvement for the East-West Connector and Austell Road (SR 5) intersection. Because funding has not yet been identified for the project, it was not considered in the Horizon Year 2036 background conditions. The recommended system improvements for additional turn lanes may be replaced with the anticipated improvements from the planned project.*

8. In Section 7.2, remove the additional Event Plan information that reads:

- a. ~~During events, place cones on the southbound receiving lanes along Marathon Circle so that the southbound lanes consist of two (2) through lanes between East-West Connector and Driveway C.~~
- b. Cobb DOT Traffic Operations recommends that these specific traffic event planning details are not necessary within the traffic study and can be determined and agreed upon as part of the future Event Pla

Roadway	Roadway classification	Speed limit (mph)	Jurisdictional control	Min. R.O.W. requirements
East-West Connector	Arterial	45	Cobb County	100'
Marathon Circle	Local	25	City of Mableton	50'

Roadway	Location	Average daily trips (vpd)	Level of service
East-West Connector	East of Tramore Pointe Pkwy	38,100	F
Marathon Circle	NA	NA	NA

vpd = vehicles per day, NA = Not available

Based on 2023 AADT counting data taken by GDOT, as published on their website, for East-West Connector

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 roads from this data source.

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

Comments and observations

East-West Connector 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.

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

The Institute of Traffic Engineers (ITE) Trip Generation manual, 11th edition, does not have available data for this land use type. A revised Submittal 1 (dated October 31, 2024; received November 4, 2024) included specific trip generation calculations for this land use. The October 31st Submittal 1 (including trip generation) was approved by Cobb DOT on November 14, 2024. The trip generation summary from the Submittal 1 is included below.

ITE Land Use	Description	Expected Size	AM			PM			Daily (vpd)
			In (vph)	Out (vph)	Total (vph)	In (vph)	Out (vph)	Total (vph)	
822	Strip Retail Plaza	15 KSF	21	14	35	50	49	99	816
932	High-Turnover (Sit-Down) Restaurant	15 KSF	79	65	144	83	53	136	1,608
NA	Soccer Stadium	5,000 seats	0	0	0	1,375	0	1,375	4,479
Total Gross Trips			100	79	179	1,508	102	1,610	6,903

vph = vehicles per hour, KSF = 1,000 square feet

Development gross trip generation based on available development size and rates from the Institute of Transportation Engineers (ITE) Trip Generation, 11th edition and on site-specific data as provided by applicant.

This development would require a full Submittal 2 traffic study submittal based on Cobb County Code 134-121. A full traffic study (Submittal 2) was then received for this development on December 5, 2024. Subsequently, revised Submittal 2 documents (dated January 29, 2025; March 13, 2025; and March 20, 2025) were then received that responded to comments from Cobb DOT. The most recent comments (documented below) were then discussed with the applicant team by phone on April 23, 2025.

Based on April 23rd discussion and subsequent information received by email on April 24, 2025, Cobb DOT does not anticipate additional recommendations from the traffic study analysis. However, Cobb DOT recommends that the zoning traffic study requirement not considered satisfied prior to a final traffic study submittal that addresses the Cobb DOT comments dated April 25, 2025. The revised traffic study should be submitted to both Cobb DOT and City of Mableton staff.

Recommendations

1. Recommend a traffic study pursuant to Code Section 134-121(b)(8). This recommendation can be considered satisfied with a final traffic study submission that addresses the Cobb DOT comments dated April 25, 2025.

2. Recommend applicant be required to coordinate event traffic planning with Cobb DOT to minimize impact to adjacent roadways.
 - a. Recommend the applicant be required to create an Event Management Plan to be coordinated and approved by Cobb DOT before events are held at the proposed site location.
 - b. Specific operations, cone placement, and officer staffing are to be determined in the Event Management Plan
 - c. If site traffic has additional impacts on the adjacent roadways in future operations, recommend applicant be required to coordinate with Cobb DOT to modify the Event Management Plan with an additional mitigation plan. A mitigation plan can include but is not limited to the following: modified event start times, turn restrictions, shuttle use, or turn lanes.
3. Recommend at East-West Connector at Marathon Circle (West):
 - a. Create a temporary westbound left turn lane that will be utilized only during events, thus providing dual westbound left turn lanes during events.
 - b. Relocate the concrete median on the east leg of the intersection along the East-West Connector so that it shifts to the southern side of the striped hatched median.
 - c. Hatch the temporary left turn lane to deter use during typical operations.
 - d. Install a blank-out sign indicating a dual left-turn.
 - e. During event operations: Left-turn arrow on sign will be turned on to indicate that hatched area can be used.
 - f. During typical operations: Left-turn arrow to be turned off.
 - g. Restripe the southbound receiving lanes along Marathon Circle so that the southbound lanes consist of two (2) through lanes between East-West Connector and Driveway C.
 - h. In future (horizon year) operations, Cobb DOT may choose to implement the second westbound left turn lane during typical roadway operations depending on traffic demand and other future needs.
4. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Cobb County Storm Water

Site Data

1. Applicant: Swarm Football Club, LLC
2. Address: 3598 Marathon Circle
3. City Council District: 6

1. The site plan should be modified to show the approximate location of the proposed Stormwater Management Facilities (SMF). One proposed SMF is shown as a dashed-line rectangle, north of the eastern soccer field. No SMF is shown to be provided for the approximate 7.8 acre proposed parking lot west of the entry drive. The proposed parking lots on 3667, 3612 & 3622 Marathon Circle are on parcels which may have stormwater management requirements (Water Quality & Detention) provided by the existing Marathon Circle SMF, however further review will be required to verify this.
2. An existing stormwater management facility exists near the north side of the 3598 Marathon Circle parcel, however it likely does not include sufficient volume to provide for the required Runoff Reduction/WQ, Channel Protection and detention to control post-development flowrates for the site. Additional capacity will be required elsewhere on the site. The proposed site plan appears to convert this above-ground SMF to an underground facility.
3. A Stormwater Maintenance Agreement will be required for all new SMF.
4. The approximate 7.8 acre parking lot to the west of the entry drive is shown to be constructed partially on the Marathon Petroleum Lake Dam, with the edge of the parking lot directly parallel and adjacent to the top of the dam. It is unclear what internal dam seepage drains may exist and what effect filling over the back side of the dam (for the proposed parking lot) may have.
5. An existing siphon system is utilized as the Lake's primary spillway to release water from the Lake. It is unclear what effect relocating or extending the siphon will have on its performance, or where the siphon will discharge in the proposed condition.
6. The Dam has an existing overflow spillway located at the southern end of the dam. Currently, overflow runoff would flow through the spillway down to the existing pipe under the entry drive, and back into the creek. In the proposed condition, the overflow spillway would instead discharge into the parking lot and the runoff would find its own path back to the creek.
7. It is unclear how maintenance responsibilities for the dam would be apportioned to either the Soccer Facility and/or Marathon Petroleum as the parking lot would be constructed on top of the dam and its spillways.
8. For the reasons discussed in items 4 – 7 above, it is recommended that no parking lot be constructed along the back side of the Dam.

9. The existing berms around the storage tanks on the adjacent Marathon Petroleum facility capture runoff which must be drained to the stream. Where the drains are located is unknown and the applicant will need to coordinate with Marathon Petroleum on extending these drains under the proposed parking lot.
10. The fill material required for the proposed roadway connecting the Soccer Facility to Marathon Circle will cross the stream buffer and potentially wetlands along the bed and banks of this tributary to Olley Creek. It would be preferable if the existing entry roadway could be improved to provide greater capacity and avoid unnecessary impacts to the stream and wetlands. An environmental study would be necessary to identify the extent of the wetlands and coordinate any required permitting with the United States Army Corps of Engineers.
11. It is unclear from the provided plan how the site work conforms with Zoning impervious area coverage limitations since the proposed site work is dispersed over at least seven different parcels.

IV. Staff Recommendation

The planning and zoning staff recommends the approval of SLUP-2025-01, subject to specific conditions. It is essential to emphasize that the analysis and recommendations provided by the staff represent their professional opinions and do not constitute a conclusive decision. The ultimate determination regarding all rezoning and land use permits will be made by the Mayor and City Council during a scheduled public hearing.

Approval with Conditions, subject to the following:

1. Submission and approval of a detailed site plan, including parking, access, landscaping, and lighting approved by Community Development Director
2. Compliance with all applicable county codes and standards for recreational facilities in industrial zones.
3. Hours of operation to be established and approved by Mayor and Council.
4. All lighting to be shielded and directed away from adjacent properties.
5. Adequate screening and buffers to be provided per county standards.
6. Cobb County Fire Department recommendations and conditions
7. Cobb County Water/Sewer Department recommendations and conditions
8. Cobb County Stormwater recommendations and conditions

AN ORDINANCE CREATING CHAPTER 13, NUISANCES, ARTICLE 3, NOISE, OF THE CITY OF MABLETON CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, Sec. 1.13(21) of the City Charter authorizes the City to “define a nuisance and provide for its abatement whether on public or private property”;

WHEREAS, the City Council desires through this Ordinance to exercise its powers and authority under applicable laws to protect, promote and preserve the health and general welfare of the City, including City residents; and

WHEREAS, the City Council finds this Ordinance to be in the best interests of the health, safety, and general welfare of the City.

IT IS HEREBY ORDAINED by the governing authority of the City of Mableton, as follows:

Section 1: The City Code of Ordinances is hereby amended to create Chapter 13, Nuisances, Article 3, Noise, to read as follows:

CHAPTER 13 – NUISANCES

ARTICLE 3 – NOISE

Sec. 13.3.1 – Definitions.

All terminology used in this article, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and terms, when used in this article, shall have the following meanings:

A-weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Background sound level is the total sound pressure level in the area of interest excluding the noise source of interest.

Commercial or business property category is all property which is used primarily for the sale of merchandise or goods, or for the performances of service, or for office or clerical work. Any property zoned multi-use shall be deemed commercial or business property under this article.

Construction is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

Daytime hours shall mean the hours of 7:00 a.m. to 11:00 p.m., Monday through Thursday, 7:00 a.m. to 11:59 p.m. Friday, 9:00 a.m. to 11:59 p.m. Saturday, and 9:00 a.m. to 11:00 p.m. Sunday.

Decibel (dB) is the unit of measurement for sound pressure level at a specified location.

dBA is the A-weighted unit of sound pressure level.

dBC is the C-weighted unit of sound pressure level.

Emergency is any occurrence or set or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work is any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Impulsive sound is a sound having a duration of less than one second with an abrupt onset and rapid decay.

Industrial or manufacturing property category is any property which is used primarily for manufacturing or processing.

Institutional property category is any property which is used primarily for public purposes such as city hall or a city park.

Muffler is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine where such a device is part of the normal configuration of the equipment.

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one family.

Nighttime shall mean the hours of 11:00 p.m. 7:00 a.m., Monday through Friday, 12:00 a.m. to 9:00 a.m. Saturday, and 12:00 a.m. to 9:00 a.m. Sunday.

Noise is any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance is any sound that:

- (1) Endangers the safety or health of any person;
- (2) Disturbs a reasonable person of normal sensitivities; or
- (3) Endangers personal or real property.

Noise-sensitive facility means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include, but are not limited to, schools, hospitals, and places of worship.

Octave band is all the components in a sound spectrum whose frequencies are between two sine waves components separated by an octave.

Real property line is the line, including its vertical extension that separates one parcel of real property from another.

Residential property category is all property established as a residential zoning category by city ordinances, except for multi-use zoning categories where there may be residential components.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to type 1 or type 2 standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Sec. 13.3.2 – Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 below when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

Table 1 Sound Level Limits by Receiving Property

Receiving property zoning category	Day of week	Time of day	Distance from sound source	Sound limitation
Residential or noise sensitive facility	Everyday	Daytime	0—50 feet	80 dB
			51—150 feet	75 dB
			151—300 feet	65 dB
			Over 300 feet	55 dB
Residential or noise sensitive facility	Sunday through Thursday	Nighttime	0—50 feet	70 dB
			51—150 feet	65 dB
			151—300 feet	55 dB
			Over 300 feet	50 dB
Residential or noise sensitive facility	Friday and Saturday	Nighttime	0—50 feet	75 dB
			51—150 feet	65 dB
			151—300 feet	55 dB
			Over 300 feet	50 dB
Commercial	Sunday to Friday	Daytime	0—50 feet	80 dB
			51—150 feet	75 dB
			151—300 feet	65 dB
			Over 300 feet	55 dB

Commercial	Sunday to Thursday	Nighttime	0—50 feet 51—150 feet 151-300 feet Over 300 feet	70 dB 65 dB 55 dB 50 dB
Commercial	Friday and Saturday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB
Commercial	Friday and Saturday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	75 dB 70 dB 65 dB 55 dB
Industrial	Everyday	Anytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB

(b) *Prohibited conduct.*

- (1) *Mechanical sound-making devices.* It is unlawful for any person to play, use, operate, or permit to be played, used, or operated, any radio receiving device, television, stereo, musical instrument, phonograph, sound, amplifier, or other machines or devices producing, reproducing or amplifying sound and/or at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible and heard or cause vibrations to property or person at or more than the specified distances above from the building, structure or motor vehicle on private property, unless the property boundaries from which the sound originates is a greater distance than those specified in subsection (a) of this section. In that event, the sound shall not be plainly audible beyond the property boundary.
- (2) *Human-produced sound.* It is unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance at or more than the specified distances in subsection (a) of this section from the place, building, structure, or in the case of real property, beyond the property limits, in which the person is located, whichever is farthest.
- (3) *Party noise.* It is unlawful for any person in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to cause such noise to be plainly audible at or more than the specified distances in subsection (a) of this section from the building or structure from which the party noise is emanating or, in the case of real property, beyond the property limits on which the party or social event is located, whichever farthest.

- (4) *Commercial advertising.* It is unlawful for any person to use, operate, or permit to be used or operated, any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for production or reproduction of a sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract attention of the public to any building, structure or vehicle in such a manner as to create, or cause to be created, any noises or sounds which are plainly audible at or more than the specified distances in subsection (a) of this section from the building, structure, or motor vehicle on private property.
- (5) *Use or ignition of fireworks.* It is unlawful for any person to use, ignite or permit to be used or operated any fireworks as defined in O.C.G.A. 25-10-1 producing noise in such a manner so as to cause such noise to be plainly audible on any day before 10:00 a.m. or after 10:30 pm and up to including the time of 11:59 pm, except as expressly permitted by Georgia law.
- (c) In a multi-family dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime limit of 75 dBA and the nighttime limit of 55 dBA as measured from the closest neighbor's dwelling.
- (d) In places of public entertainment having a capacity of 5,000 or more persons, it shall be unlawful to create or permit to be created any noise that exceeds an average of 95 dBC in any ten-minute period from 7:00 a.m. to 12:00 a.m. Sunday through Thursday and from 7:00 a.m. to 1:00 a.m. for events commencing on Friday or Saturday. The sound level limit for all other times shall be 55 dBC. The sound shall be measured at a point which is found by traveling a straight line distance from the center of the sound board through the center rear of the facility a distance of 500 feet or to the property line of the facility, whichever is less. The measurement assumes that the sound board is not more than 100 feet from the center stage. The 500-foot measurement shall be reduced one foot for each foot that the sound board is more than 100 feet from center stage.
- (e) In interpreting and applying the times and values in Table 1 of this article, it is the intent of the city council that the times be interpreted to provide maximum protection from undesirable noise possible.

Sec. 13.3.3 - Exemptions.

- (a) Noise generated from city sponsored or approved celebrations or events shall be exempt from the provisions of this article.
- (b) The following are exempt from the sound level limits of subsections 13.3.1 (a), (b) and (c):
 - (1) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;
 - (2) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten minutes if intermittent;

- (3) Noise from any automobile alarm, provided such alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten minutes if the sound is intermittent;
- (4) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
- (5) Organized band and/or sports league activity sponsored by a school or the city that is otherwise in compliance with city ordinances;
- (6) Unamplified bells, chimes or carillons while being used in conjunction with religious services between the hours of 7:00 a.m. - 10:00 p.m.;
- (7) Emergency work;
- (8) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit;

Sec. 13.3.4 - Restricted uses and activities.

Notwithstanding the provisions of Table 1 of this article and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

- (1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 7:00 p.m. and 7:00 a.m., or on Saturday or Sunday before the hour of 9:00 a.m. At all other times, the limits set forth in subsection Table 1 of this article do not apply to non-commercial or non-industrial power tools and landscaping and year maintenance equipment, provided that all motorized equipment is operated with a functioning muffler.
- (2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within 250 feet of a residential property line, between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or before the hour of 9:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work, or
 - b. Such activities meet the limits set forth in Table 1 of this article.

At all other times, the limits set forth in Table 1 of this article do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

- (3) Construction and demolition activity shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, before the hour of 8:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work; or
 - b. Such activities meet the limits set forth in Table 1 of this article.

This provision shall not apply if the chief of police determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant

special consideration. In such cases, the chief of police may grant a renewable permit for a period not to exceed ten days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

- (4) Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten minutes without interruption or more than 30 minutes if intermittent.
- (5) The collection of trash or refuse in residential districts is prohibited between the hours of 9:00 p.m. and 7:00 a.m.
- (6) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device in such a manner as to create a continuing noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space.

Sec. 13.3.5 - Procedures for the determination of sound levels.

- (a) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this article, noise measurements are measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.
- (b) Measurements shall be taken by police officers appropriately trained in the use of a sound level meter.

Sec. 13.3.6 - Special variances.

- (a) The city manager and/or his designee shall have the authority, consistent with this article, to grant special variances.
- (b) Any person seeking a special variance pursuant to this article shall file an application with the city manager. The application shall contain information which demonstrates that bringing the source of sound into compliance with this article would constitute an unreasonable hardship on the applicant, on the community, or on the other persons.
- (c) In determining whether to grant or deny the application, the city manager or the city manager's designee shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact of granting the special variance. Applicants for special variances may be required to submit any information the city manager or the city manager's designee may reasonably require. In granting or denying an application, the city manager or the city manager's designee shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

- (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the special variance was granted.
- (e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances.
- (f) The city manager or the city manager's designee may issue guidelines approved by city council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether or not to grant a special variance.

Sec. 13.3.7 - Enforcement procedures; miscellaneous.

- (a) The city may prosecute noise related violations by issuance of a city ordinance citation, with punishment and fines as allowed by law. The municipal court judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this article.
 - (1) Notwithstanding the general punishments established above, the fine for a first conviction of this article shall be not less than \$200.00, in addition to any other penalty imposed by the court, however, the total fine shall not exceed \$1,000.00.
 - (2) Upon a second conviction within 12 months, measured from the date of the conviction, the court shall impose a fine of not less than \$500.00, in addition to any other penalty imposed by the Court, however, the total fine shall not exceed \$1,000.00.
 - (3) Upon a third conviction within 24 months, measured from the date of the earliest conviction, the court shall impose a fine of \$1,000.00, in addition to any other penalty imposed by the court.
 - (4) Upon a third conviction within 24 months, measured from the date of the earliest conviction, if the offender has been granted or has applied for an alcohol license as a restaurant or as a late-night establishment, such license shall automatically be suspended as of the date of the conviction, and proceedings initiated to revoke such alcohol license in accordance with city alcohol licensing regulations. The clerk of municipal court shall refer such third convictions to the attention of the city manager and/or her or his designee for action consistent with this paragraph.

Section 2. It is hereby declared to be the intention of the City Council that:

- a) All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
- b) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

- c) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- d) In the event any portion of this Ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the Ordinance.

Section 3. The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 4. The effective date of this Ordinance shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

AN ORDINANCE CREATING CHAPTER 13, NUISANCES, ARTICLE 3, NOISE, OF THE CITY OF MABLETON CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES

WHEREAS, the City of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, Sec. 1.13(21) of the City Charter authorizes the City to “define a nuisance and provide for its abatement whether on public or private property”;

WHEREAS, the City Council desires through this Ordinance to exercise its powers and authority under applicable laws to protect, promote and preserve the health and general welfare of the City, including City residents; and

WHEREAS, the City Council finds this Ordinance to be in the best interests of the health, safety, and general welfare of the City.

IT IS HEREBY ORDAINED by the governing authority of the City of Mableton, as follows:

Section 1: The City Code of Ordinances is hereby amended to create Chapter 13, Nuisances, Article 3, Noise, to read as follows:

CHAPTER 13 – NUISANCES

ARTICLE 3 – NOISE

Sec. 13.3.1 – Definitions.

All terminology used in this article, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and terms, when used in this article, shall have the following meanings:

A-weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

Background sound level is the total sound pressure level in the area of interest excluding the noise source of interest.

Commercial or business property category is all property which is used primarily for the sale of merchandise or goods, or for the performances of service, or for office or clerical work. Any property zoned multi-use shall be deemed commercial or business property under this article.

Construction is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

Daytime hours shall mean the hours of 7:00 a.m. to 11:00 p.m., Monday through Thursday, 7:00 a.m. to 11:59 p.m. Friday, 9:00 a.m. to 11:59 p.m. Saturday, and 9:00 a.m. to 11:00 p.m. Sunday.

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dBA is the A-weighted unit of sound pressure level.

dBC is the C-weighted unit of sound pressure level.

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Emergency work is any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

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Muffler is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine where such a device is part of the normal configuration of the equipment.

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one family.

Nighttime shall mean the hours of 11:00 p.m. 7:00 a.m., Monday through Friday, 12:00 a.m. to 9:00 a.m. Saturday, and 12:00 a.m. to 9:00 a.m. Sunday.

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Noise disturbance is any sound that:

- (1) Endangers the safety or health of any person;
- (2) Disturbs a reasonable person of normal sensitivities; or
- (3) Endangers personal or real property.

Noise-sensitive facility means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include, but are not limited to, schools, hospitals, and places of worship.

Octave band is all the components in a sound spectrum whose frequencies are between two sine waves components separated by an octave.

Real property line is the line, including its vertical extension that separates one parcel of real property from another.

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Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Sec. 13.3.2 – Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 below when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

Table 1 Sound Level Limits by Receiving Property

Receiving property zoning category	Day of week	Time of day	Distance from sound source	Sound limitation
Residential or noise sensitive facility	Everyday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	80 dB 75 dB 65 dB 55 dB
Residential or noise sensitive facility	Sunday through Thursday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	70 dB 65 dB 55 dB 50 dB
Residential or noise sensitive facility	Friday and Saturday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	75 dB 65 dB 55 dB 50 dB
Commercial	Sunday to Friday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	80 dB 75 dB 65 dB 55 dB

Commercial	Sunday to Thursday	Nighttime	0—50 feet 51—150 feet 151-300 feet Over 300 feet	70 dB 65 dB 55 dB 50 dB
Commercial	Friday and Saturday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB
Commercial	Friday and Saturday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	75 dB 70 dB 65 dB 55 dB
Industrial	Everyday	Anytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB

(b) *Prohibited conduct.*

- (1) *Mechanical sound-making devices.* It is unlawful for any person to play, use, operate, or permit to be played, used, or operated, any radio receiving device, television, stereo, musical instrument, phonograph, sound, amplifier, or other machines or devices producing, reproducing or amplifying sound and/or at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible and heard or cause vibrations to property or person at or more than the specified distances above from the building, structure or motor vehicle on private property, unless the property boundaries from which the sound originates is a greater distance than those specified in subsection (a) of this section. In that event, the sound shall not be plainly audible beyond the property boundary.
- (2) *Human-produced sound.* It is unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance at or more than the specified distances in subsection (a) of this section from the place, building, structure, or in the case of real property, beyond the property limits, in which the person is located, whichever is farthest.
- (3) *Party noise.* It is unlawful for any person in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to cause such noise to be plainly audible at or more than the specified distances in subsection (a) of this section from the building or structure from which the party noise is emanating or, in the case of real property, beyond the property limits on which the party or social event is located, whichever farthest.

- (4) *Commercial advertising.* It is unlawful for any person to use, operate, or permit to be used or operated, any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for production or reproduction of a sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract attention of the public to any building, structure or vehicle in such a manner as to create, or cause to be created, any noises or sounds which are plainly audible at or more than the specified distances in subsection (a) of this section from the building, structure, or motor vehicle on private property.
- (5) *Use or ignition of fireworks.* It is unlawful for any person to use, ignite or permit to be used or operated any fireworks as defined in O.C.G.A. 25-10-1 producing noise in such a manner so as to cause such noise to be plainly audible on any day before 10:00 a.m. or after 10:30 pm and up to including the time of 11:59 pm, except as expressly permitted by Georgia law.
- (c) In a multi-family dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime limit of 75 dBA and the nighttime limit of 55 dBA as measured from the closest neighbor's dwelling.
- (d) In places of public entertainment having a capacity of 5,000 or more persons, it shall be unlawful to create or permit to be created any noise that exceeds an average of 95 dBC in any ten-minute period from 7:00 a.m. to 12:00 a.m. Sunday through Thursday and from 7:00 a.m. to 1:00 a.m. for events commencing on Friday or Saturday. The sound level limit for all other times shall be 55 dBC. The sound shall be measured at a point which is found by traveling a straight line distance from the center of the sound board through the center rear of the facility a distance of 500 feet or to the property line of the facility, whichever is less. The measurement assumes that the sound board is not more than 100 feet from the center stage. The 500-foot measurement shall be reduced one foot for each foot that the sound board is more than 100 feet from center stage.
- (e) In interpreting and applying the times and values in Table 1 of this article, it is the intent of the city council that the times be interpreted to provide maximum protection from undesirable noise possible.

Sec. 13.3.3 - Exemptions.

- (a) Noise generated from city sponsored or approved celebrations or events shall be exempt from the provisions of this article.
- (b) The following are exempt from the sound level limits of subsections 13.3.1 (a), (b) and (c):
 - (1) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;
 - (2) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten minutes if intermittent;

- (3) Noise from any automobile alarm, provided such alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten minutes if the sound is intermittent;
- (4) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
- (5) Organized band and/or sports league activity sponsored by a school or the city that is otherwise in compliance with city ordinances;
- (6) Unamplified bells, chimes or carillons while being used in conjunction with religious services between the hours of 7:00 a.m. - 10:00 p.m.;
- (7) Emergency work;
- (8) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit;

Sec. 13.3.4 - Restricted uses and activities.

Notwithstanding the provisions of Table 1 of this article and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

- (1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 7:00 p.m. and 7:00 a.m., or on Saturday or Sunday before the hour of 9:00 a.m. At all other times, the limits set forth in subsection Table 1 of this article do not apply to non-commercial or non-industrial power tools and landscaping and year maintenance equipment, provided that all motorized equipment is operated with a functioning muffler.
- (2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within 250 feet of a residential property line, between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or before the hour of 9:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work, or
 - b. Such activities meet the limits set forth in Table 1 of this article.

At all other times, the limits set forth in Table 1 of this article do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

- (3) Construction and demolition activity shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, before the hour of 8:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work; or
 - b. Such activities meet the limits set forth in Table 1 of this article.

This provision shall not apply if the chief of police determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant

special consideration. In such cases, the chief of police may grant a renewable permit for a period not to exceed ten days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

- (4) Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten minutes without interruption or more than 30 minutes if intermittent.
- (5) The collection of trash or refuse in residential districts is prohibited between the hours of 9:00 p.m. and 7:00 a.m.
- (6) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device in such a manner as to create a continuing noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space.

Sec. 13.3.5 - Procedures for the determination of sound levels.

- (a) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this article, noise measurements are measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.
- (b) Measurements shall be taken by police officers appropriately trained in the use of a sound level meter.

Sec. 13.3.6 - Special variances.

- (a) The city manager and/or his designee shall have the authority, consistent with this article, to grant special variances.
- (b) Any person seeking a special variance pursuant to this article shall file an application with the city manager. The application shall contain information which demonstrates that bringing the source of sound into compliance with this article would constitute an unreasonable hardship on the applicant, on the community, or on the other persons.
- (c) In determining whether to grant or deny the application, the city manager or the city manager's designee shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact of granting the special variance. Applicants for special variances may be required to submit any information the city manager or the city manager's designee may reasonably require. In granting or denying an application, the city manager or the city manager's designee shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

- (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this article regulating the source of sound or activity for which the special variance was granted.
- (e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances.
- (f) The city manager or the city manager's designee may issue guidelines approved by city council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether or not to grant a special variance.

Sec. 13.3.7 - Enforcement procedures; miscellaneous.

- (a) The city may prosecute noise related violations by issuance of a city ordinance citation, with punishment and fines as allowed by law. The municipal court judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this article.
 - (1) Notwithstanding the general punishments established above, the fine for a first conviction of this article shall be not less than \$200.00, in addition to any other penalty imposed by the court, however, the total fine shall not exceed \$1,000.00.
 - (2) Upon a second conviction within 12 months, measured from the date of the conviction, the court shall impose a fine of not less than \$500.00, in addition to any other penalty imposed by the Court, however, the total fine shall not exceed \$1,000.00.
 - (3) Upon a third conviction within 24 months, measured from the date of the earliest conviction, the court shall impose a fine of \$1,000.00, in addition to any other penalty imposed by the court.
 - (4) Upon a third conviction within 24 months, measured from the date of the earliest conviction, if the offender has been granted or has applied for an alcohol license as a restaurant or as a late-night establishment, such license shall automatically be suspended as of the date of the conviction, and proceedings initiated to revoke such alcohol license in accordance with city alcohol licensing regulations. The clerk of municipal court shall refer such third convictions to the attention of the city manager and/or her or his designee for action consistent with this paragraph.

Section 2. It is hereby declared to be the intention of the City Council that:

- a) All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
- b) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

- c) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- d) In the event any portion of this Ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the Ordinance.

Section 3. The City Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 4. The effective date of this Ordinance shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____, 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

AN ORDINANCE AN ORDINANCE UPDATING CHAPTER 10, ARTICLE 3, REVIEW AND DECISION-MAKING BODIES, OF THE CITY OF MABLETON CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES

WHEREAS, the city of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, the City Council is authorized by the City Charter Sec. 1.13 and O.C.G.A. § 36-35-3 to adopt ordinances relating to its operations, affairs and local government;

WHEREAS, the City Council desires through this Ordinance to update law relating to its operations, affairs and local government; and

WHEREAS, the City Council finds this Ordinance to be in the bests interest of the health, safety and welfare of the City.

IT IS HEREBY ORDAINED by the governing authority of the City of Mableton as follows:

Section 1. Chapter 10, Planning and Zoning, Article 3, Review and Decision-Making Bodies, of the City Code of Ordinances is hereby amended to read as follows:

CHAPTER 10 - PLANNING AND ZONING

ARTICLE 3 - REVIEW AND DECISION-MAKING BODIES

Sec. 10.3.1 - Planning commission.

(a) *Establishment, composition and terms.*

- (1) The city’s planning commission shall consist of seven members, with one member being appointed by each member of the city council. Members appointed by the mayor may reside anywhere within the corporate limits of the city, but a member appointed by a councilmember shall reside within the district of the councilmember who appointed such member. All individual council appointees shall be subject to confirmation by the city council, prior to such member formally serving as a planning commission member.
- (2) If a planning commission member moves outside the city and/or the district of their appointing council member, such move shall constitute such member’s automatic

resignation from the board of appeals, with exception that the mayor's appointee may relocate their residency anywhere city-wide.

- (3) Planning commission members shall serve concurrently with their appointing council member's term of office, and until a successor is appointed.
 - (4) Any vacancy in the membership of the planning commission shall be filled for the remainder of the unexpired term, in the manner prescribed herein for original appointment.
 - (5) Planning commission members may be reappointed to successive terms without limitation.
 - (6) Members of the planning commission may not hold any other city office or city-compensated position.
 - (7) The city council is authorized to determine the amount of compensation, if any, to be paid to the members of the planning commission.
 - (8) The planning commission shall be subject to conflict-of-interest rules pursuant to O.C.G.A. § 36-67A-2, as amended from time to time.
 - (9) All planning commission members serve at-will and may be removed at any time by a majority vote of the city council.
- (b) *Meetings and rules of procedure.*
- (1) The planning commission shall conduct its meetings in accordance with the procedures contained in the city's zoning code. The planning commission is further authorized to adopt rules of procedure governing the conduct of its meetings, so long as not inconsistent with city policies, city ordinances or applicable law. If the city's zoning ordinance or the rules of procedure do not address a procedural issue that arise, *Robert's Rules of Order* shall be followed. The planning commission is authorized to amend its rules by majority vote. A copy of the adopted rules of procedure and any subsequent amendment shall be filed by with the city clerk and copies of the rules shall be made available to the public.
 - (2) The planning commission shall meet monthly in accordance with an established schedule of meetings. The chairperson, planning commission or community development director may call for a special meeting. Its meetings, whether regular or special, shall be noticed and conducted in accordance with the Georgia Open Meetings Act, and its records shall be maintained in accordance with the Georgia Open Records Act.
 - (3) A meeting may be canceled by the chairperson, planning commission or community development director if there are no matters to be acted upon by the planning commission.
 - (4) A quorum of the planning commission consists of a minimum of four members. A quorum is necessary for the planning commission to take official action. All official actions of the planning commission shall be taken by majority vote of the members present. A roll call vote shall be taken upon the request of any planning commission member.

- (5) At its first regular meeting annually, the planning commission shall, by majority vote of its membership, excluding vacant seats, elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice chairperson, who both shall serve one year or until reelected or a successor is elected. Chair and vice chairperson vacancies may be filled for the unexpired terms only by majority vote of the planning commission membership, excluding vacant seats. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may be elected to successive terms without limitation.
- (6) The planning commission shall appoint a secretary who may be an officer or employee of the city or a member of the planning commission. The community development department director, may serve as secretary of the city planning commission, as directed by the mayor. The secretary shall provide such support to the planning commission as is reasonable and necessary to accomplish said commissions' duties. The secretary of the planning commission shall provide the members of the planning commission all information submitted to, or generated by, city staff on each matter to be considered by the planning commission. The secretary is also responsible for maintaining the records of the planning commission.

(c) *Function.*

It shall be the function and duty of the planning commission to review and make recommendations for action by the city council on the following: all applications for annexation where there is an associated change in zoning, rezoning, concurrent variances, applications for use permits, amendments to the text of the city zoning ordinance, the city comprehensive plan, the future land use/development map, and the zoning map. Nothing contained herein shall prevent the city council from hereafter assigning other duties or remanding a case back to the planning commission.

(d) *Recommendations.*

- (1) Prior to the planning commission making a recommendation on a zoning decision, representatives/applicants, as a group, and representatives/opponents, as a group, shall be given a maximum of ten minutes for each side to publicly present its case, unless more time is allotted by the planning commission. At the close of each public hearing, the chair of the planning commission shall call the members to order for consideration and discussion. Such discussion may include calling the applicant, members of the public and/or staff back to the podium for questions or further explanation of the information presented. The chair of the planning commission shall then call for a vote on the zoning item currently before them. The vote of the planning commission on zoning matters shall take staff recommendations into consideration, be nonbinding and be made in the form of a recommendation to the city council from the following list:
 - (a) Approval, with or without conditions;
 - (b) Deferral, with reason(s) specified; or
 - (c) Denial.
- (2) The planning commission must render a recommendation pursuant to this subsection (d)(1), except that the planning commission may postpone making a recommendation to the city council for no more than 40 days if requested by staff/the owner, if a new site

plan is received less than seven days prior to the meeting, or in order to receive additional information deemed necessary to make a recommendation to the city council. The planning commission may postpone making a recommendation to the city council for up to 90 days total, if requested by the applicant, in writing, prior to the meeting, and/or during the meeting.

Sec. 10.3.2 - Board of Zoning Appeals.

(a) Establishment, composition and terms.

- (1) The city's board of zoning appeals shall consist of seven members, with one member being appointed by each city council member. Members appointed by the mayor may reside anywhere within the corporate limits of the city, but a member appointed by a councilmember shall reside within the district of the councilmember who appointed such member. All individual council appointees shall be subject to confirmation by the city council, prior to such member formally serving as a board of zoning appeals member.
- (2) If a board of zoning appeals member moves outside the city and/or the district of their appointing council member, such move shall constitute such member's automatic resignation from the board of appeals, with exception that the mayor's appointee may relocate their residency anywhere city-wide.
- (3) Board of zoning appeals members shall serve concurrently with their appointing council member's term of office, and until such board of zoning appeals member's successor is appointed.
- (4) Any vacancy in the membership of the board of zoning appeals shall be filled for the remainder of the unexpired term, in the manner prescribed herein for original appointment.
- (5) Board of zoning appeals may be reappointed to successive terms without limitation.
- (6) Members of the board of zoning appeals may not hold any other city office or city-compensated position.
- (7) The city council is authorized to determine the amount of compensation, if any, to be paid to the members of the board of appeals.
- (8) The board of zoning appeals shall be subject to conflict-of-interest rules pursuant to O.C.G.A. § 36-67A-2, as amended from time to time
- (9) All board of zoning appeals members serve at-will and may be removed at any time by a majority vote of the city council.

(b) Meetings and rules of procedure.

- (1) The board of zoning appeals shall conduct its meetings in accordance with the procedures contained in the city's zoning code. The board of zoning appeals is further authorized to adopt rules of procedure governing the conduct of its meetings, so long as not inconsistent with city policies, city ordinances or applicable law. If the city's zoning ordinance or the rules of procedure do not address a procedural issue that arise, *Robert's Rules of Order* shall be followed. The board of zoning appeals is authorized to amend its rules by majority vote, so long as not inconsistent with City policies, ordinances or

applicable law. A copy of the adopted rules of procedure and any subsequent amendment shall be filed by with the city clerk and copies of the rules shall be made available to the public.

- (2) The board of zoning appeals shall meet monthly in accordance with an established schedule of meetings. The chairperson, board or community development director may call for a special meeting. Its meetings, whether regular or special, shall be noticed and conducted in accordance with the Georgia Open Meetings Act, and its records shall be maintained in accordance with the Georgia Open Records Act.
 - (3) A meeting may be canceled by the chairperson, board or community development director if there are no matters to be acted upon by the board of appeals.
 - (4) A quorum of the board of zoning appeals consists of a minimum of four members. A quorum is necessary for the board of zoning appeals to take official action.
 - (5) All official actions of the board of zoning appeals shall be taken by majority vote of the members present. A roll call vote shall be taken upon the request of any board of zoning appeals member.
 - (6) At its first regular meeting in January, the board of zoning appeals shall, by majority vote of its membership, excluding vacant seats, elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice chairperson, who both shall serve one year or until reelected or a successor is elected. Chair and vice chairperson vacancies may be filled for the unexpired terms only by majority vote of the board of zoning appeals membership, excluding vacant seats. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may be elected to successive terms without limitation.
- (c) *Testimony.* All testimony before the board of zoning appeals shall be taken as if under oath regardless of whether or not a formal oath or affirmation is administered. The chairperson may administer oaths and compel the attendance of witnesses by subpoena.
- (d) *Power.* The board of zoning appeals shall have the power to:
- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
 - (2) Hear and decide special exceptions to the terms of this chapter under circumstances where the board is expressly authorized to hear such matters under the city code.
 - (3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of zoning appeals that:

- i) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
 - ii) The application of this chapter to this particular piece of property would create an unnecessary hardship;
 - iii) Such conditions are peculiar to the particular piece of property involved; and
 - iv) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter.
 - v) No variance may be granted for a use of land or building or structure that is prohibited by this chapter. No variance may be granted that would conflict with or alter a stipulation or condition imposed by the city council, except for setback variances which are less than twenty-five (25) percent than the underlying requirement and do not alter the basic tenets of any site plan included and approved as a stipulation.
- (4) Make recommendations to the city council regarding variance applications requesting a reduction in road frontage or a reduction in lot size. Variance applications which are approved by the board of zoning appeals take the form of a recommendation to the city council, who makes a final determination whether to grant the requested variance via a Special Exception. The community development department staff shall place the item on the city council's next available hearing agenda as an agenda item, if a regular hearing, or other business item, if a zoning meeting, if the request is recommended for approval by the board of zoning appeals. The property shall be posted with other business zoning notices by the applicant thirty (30) days prior to the city council's hearing. There will not be a fee associated with other business item, and the applicant does not have to mail out other business notification, if the notification/petition requirement was completed for the board of zoning appeals hearing.
- (5) In exercising the powers described in this section, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

(e) *Appeal procedure, effect of an appeal.*

- (1) Appeals to the board of zoning appeals may be filed by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be filed within thirty (30) days from the date of the final decision of the administrative officer, by filing with the city clerk a written notice of appeal specifying the jurisdictional grounds for appeal; the decision being appealed; the relief desired; the reason(s) why such relief should be granted and the documents relative to the issues raised in the appeal. The city clerk shall forthwith transmit to the administrative officer whose decision is being appealed and the members of the board of zoning appeals the notice of appeal with all supporting documents received. The person

filing the appeal shall pay a non-refundable One Hundred Dollar (\$100) filing fee to the city, by certified check or money order, at the time the appeal is filed.

- (2) *Stay*. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of zoning appeals, after the notice of appeal is received by him/her, that by reason of facts of the case a stay would, in his/her opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of zoning appeals or by a court of record on application, on notice to the administrative officer from whom the appeal is taken, and on due cause shown.
- (3) *Hearing*. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the appellant, and decide the matter within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney, as well as present evidence and testimony to the board. In addition to the notice requirements under the Georgia Open Meetings Act, at least thirty (30) days prior to the required public hearing for appeals of administrative decisions by officers or decisions on variances, a notice of the public hearing shall be mailed to the applicant and to the owner's mailing address in tax record of the property subject of such hearing, as applicable.
- (4) *Appeals from decision of Board*. Any person or persons severally or jointly aggrieved by any decision of the board of zoning appeals may take an appeal as allowed by state law.
- (5) *Appeal certificates*. The chairperson of the board of zoning appeals is authorized upon approval by the city attorney, and without additional board approval, to approve or issue any form or certificate necessary to perfect the petition in O.C.G.A. 5-3-1 et. seq.

Section 2. It is hereby declared to be the intention of the city council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the city council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 3. The city Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 4. The City has not yet determined the date that it will transition zoning services from Cobb County, Georgia, to the City. As such, planning commission and board of zoning appeals members shall not officially act on any actual zoning application and/or case under this Ordinance, until such date that the City formally transitions zoning services from Cobb County, Georgia, to the City, in accordance with section 7.15 of the City Charter and/or other applicable laws. Planning commission and board of zoning appeals members may meet to participate in training and education related activities prior to the city's transition of zoning services from Cobb County, Georgia.

Section 5. The effective date of this Ordinance shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____ 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney

**AN ORDINANCE AN ORDINANCE UPDATING CHAPTER 10, ARTICLE 3,
REVIEW AND DECISION-MAKING BODIES, OF THE CITY OF MABLETON
CODE OF ORDINANCES AND FOR OTHER LAWFUL PURPOSES**

WHEREAS, the city of Mableton (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the duly elected governing authority of the City is the Mayor and Council (“City Council”) thereof;

WHEREAS, the City Council is authorized by the City Charter Sec. 1.13 and O.C.G.A. § 36-35-3 to adopt ordinances relating to its operations, affairs and local government;

WHEREAS, the City Council desires through this Ordinance to update law relating to its operations, affairs and local government; and

WHEREAS, the City Council finds this Ordinance to be in the bests interest of the health, safety and welfare of the City.

IT IS HEREBY ORDAINED by the governing authority of the City of Mableton as follows:

Section 1. Chapter 10, Planning and Zoning, Article 3, Review and Decision-Making Bodies, of the City Code of Ordinances is hereby amended to read as follows:

CHAPTER 10 - PLANNING AND ZONING

ARTICLE 3 - REVIEW AND DECISION-MAKING BODIES

Sec. 10.3.1 - Planning commission.

(a) *Establishment, composition and terms.*

- (1) The city’s planning commission shall consist of seven members, with one member being appointed by each member of the city council. Members appointed by the mayor may reside anywhere within the corporate limits of the city, but a member appointed by a councilmember shall reside within the district of the councilmember who appointed such member. All individual council appointees shall be subject to confirmation by the city council, prior to such member formally serving as a planning commission member.
- (2) If a planning commission member moves outside the city and/or the district of their appointing council member, such move shall constitute such member’s automatic

resignation from the board of appeals, with exception that the mayor's appointee may relocate their residency anywhere city-wide.

- (3) Planning commission members shall serve concurrently with their appointing council member's term of office, and until a successor is appointed.
- (4) Any vacancy in the membership of the planning commission shall be filled for the remainder of the unexpired term, in the manner prescribed herein for original appointment.
- (5) Planning commission members may be reappointed to successive terms without limitation.
- (6) Members of the planning commission may not hold any other city office or city-compensated position.
- (7) The city council is authorized to determine the amount of compensation, if any, to be paid to the members of the planning commission.
- (8) The planning commission shall be subject to conflict-of-interest rules pursuant to O.C.G.A. § 36-67A-2, as amended from time to time.
- (9) All planning commission members serve at-will and may be removed at any time by a majority vote of the city council.

(b) *Meetings and rules of procedure.*

- (1) The planning commission shall conduct its meetings in accordance with the procedures contained in the city's zoning code. The planning commission is further authorized to adopt rules of procedure governing the conduct of its meetings, so long as not inconsistent with city policies, city ordinances or applicable law. If the city's zoning ordinance or the rules of procedure do not address a procedural issue that arise, *Robert's Rules of Order* shall be followed. The planning commission is authorized to amend its rules by majority vote. A copy of the adopted rules of procedure and any subsequent amendment shall be filed by with the city clerk and copies of the rules shall be made available to the public.
- (2) The planning commission shall meet monthly in accordance with an established schedule of meetings. The chairperson, planning commission or community development director may call for a special meeting. Its meetings, whether regular or special, shall be noticed and conducted in accordance with the Georgia Open Meetings Act, and its records shall be maintained in accordance with the Georgia Open Records Act.
- (3) A meeting may be canceled by the chairperson, planning commission or community development director if there are no matters to be acted upon by the planning commission.
- (4) A quorum of the planning commission consists of a minimum of four members. A quorum is necessary for the planning commission to take official action. All official actions of the planning commission shall be taken by majority vote of the members present. A roll call vote shall be taken upon the request of any planning commission member.

- (5) At its first regular meeting annually, the planning commission shall, by majority vote of its membership, excluding vacant seats, elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice chairperson, who both shall serve one year or until reelected or a successor is elected. Chair and vice chairperson vacancies may be filled for the unexpired terms only by majority vote of the planning commission membership, excluding vacant seats. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may be elected to successive terms without limitation.
- (6) The planning commission shall appoint a secretary who may be an officer or employee of the city or a member of the planning commission. The community development department director, may serve as secretary of the city planning commission, as directed by the mayor. The secretary shall provide such support to the planning commission as is reasonable and necessary to accomplish said commissions' duties. The secretary of the planning commission shall provide the members of the planning commission all information submitted to, or generated by, city staff on each matter to be considered by the planning commission. The secretary is also responsible for maintaining the records of the planning commission.

(c) *Function.*

It shall be the function and duty of the planning commission to review and make recommendations for action by the city council on the following: all applications for annexation where there is an associated change in zoning, rezoning, concurrent variances, applications for use permits, amendments to the text of the city zoning ordinance, the city comprehensive plan, the future land use/development map, and the zoning map. Nothing contained herein shall prevent the city council from hereafter assigning other duties or remanding a case back to the planning commission.

(d) *Recommendations.*

- (1) Prior to the planning commission making a recommendation on a zoning decision, representatives/applicants, as a group, and representatives/opponents, as a group, shall be given a maximum of ten minutes for each side to publicly present its case, unless more time is allotted by the planning commission. At the close of each public hearing, the chair of the planning commission shall call the members to order for consideration and discussion. Such discussion may include calling the applicant, members of the public and/or staff back to the podium for questions or further explanation of the information presented. The chair of the planning commission shall then call for a vote on the zoning item currently before them. The vote of the planning commission on zoning matters shall take staff recommendations into consideration, be nonbinding and be made in the form of a recommendation to the city council from the following list:
 - (a) Approval, with or without conditions;
 - (b) Deferral, with reason(s) specified; or
 - (c) Denial.
- (2) The planning commission must render a recommendation pursuant to this subsection (d)(1), except that the planning commission may postpone making a recommendation to the city council for no more than 40 days if requested by staff/the owner, if a new site

plan is received less than seven days prior to the meeting, or in order to receive additional information deemed necessary to make a recommendation to the city council. The planning commission may postpone making a recommendation to the city council for up to 90 days total, if requested by the applicant, in writing, prior to the meeting, and/or during the meeting.

Sec. 10.3.2 - Board of Zoning Appeals.

(a) Establishment, composition and terms.

- (1) The city's board of zoning appeals shall consist of seven members, with one member being appointed by each city council member. Members appointed by the mayor may reside anywhere within the corporate limits of the city, but a member appointed by a councilmember shall reside within the district of the councilmember who appointed such member. All individual council appointees shall be subject to confirmation by the city council, prior to such member formally serving as a board of zoning appeals member.
- (2) If a board of zoning appeals member moves outside the city and/or the district of their appointing council member, such move shall constitute such member's automatic resignation from the board of appeals, with exception that the mayor's appointee may relocate their residency anywhere city-wide.
- (3) Board of zoning appeals members shall serve concurrently with their appointing council member's term of office, and until such board of zoning appeals member's successor is appointed.
- (4) Any vacancy in the membership of the board of zoning appeals shall be filled for the remainder of the unexpired term, in the manner prescribed herein for original appointment.
- (5) Board of zoning appeals may be reappointed to successive terms without limitation.
- (6) Members of the board of zoning appeals may not hold any other city office or city-compensated position.
- (7) The city council is authorized to determine the amount of compensation, if any, to be paid to the members of the board of appeals.
- (8) The board of zoning appeals shall be subject to conflict-of-interest rules pursuant to O.C.G.A. § 36-67A-2, as amended from time to time
- (9) All board of zoning appeals members serve at-will and may be removed at any time by a majority vote of the city council.

(b) Meetings and rules of procedure.

- (1) The board of zoning appeals shall conduct its meetings in accordance with the procedures contained in the city's zoning code. The board of zoning appeals is further authorized to adopt rules of procedure governing the conduct of its meetings, so long as not inconsistent with city policies, city ordinances or applicable law. If the city's zoning ordinance or the rules of procedure do not address a procedural issue that arise, *Robert's Rules of Order* shall be followed. The board of zoning appeals is authorized to amend its rules by majority vote, so long as not inconsistent with City policies, ordinances or

applicable law. A copy of the adopted rules of procedure and any subsequent amendment shall be filed by with the city clerk and copies of the rules shall be made available to the public.

- (2) The board of zoning appeals shall meet monthly in accordance with an established schedule of meetings. The chairperson, board or community development director may call for a special meeting. Its meetings, whether regular or special, shall be noticed and conducted in accordance with the Georgia Open Meetings Act, and its records shall be maintained in accordance with the Georgia Open Records Act.
 - (3) A meeting may be canceled by the chairperson, board or community development director if there are no matters to be acted upon by the board of appeals.
 - (4) A quorum of the board of zoning appeals consists of a minimum of four members. A quorum is necessary for the board of zoning appeals to take official action.
 - (5) All official actions of the board of zoning appeals shall be taken by majority vote of the members present. A roll call vote shall be taken upon the request of any board of zoning appeals member.
 - (6) At its first regular meeting in January, the board of zoning appeals shall, by majority vote of its membership, excluding vacant seats, elect one of its members to serve as chairperson and preside over the board's meetings and one member to serve as vice chairperson, who both shall serve one year or until reelected or a successor is elected. Chair and vice chairperson vacancies may be filled for the unexpired terms only by majority vote of the board of zoning appeals membership, excluding vacant seats. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may be elected to successive terms without limitation.
- (c) *Testimony.* All testimony before the board of zoning appeals shall be taken as if under oath regardless of whether or not a formal oath or affirmation is administered. The chairperson may administer oaths and compel the attendance of witnesses by subpoena.
- (d) *Power.* The board of zoning appeals shall have the power to:
- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
 - (2) Hear and decide special exceptions to the terms of this chapter under circumstances where the board is expressly authorized to hear such matters under the city code.
 - (3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of zoning appeals that:

- i) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
 - ii) The application of this chapter to this particular piece of property would create an unnecessary hardship;
 - iii) Such conditions are peculiar to the particular piece of property involved; and
 - iv) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter.
 - v) No variance may be granted for a use of land or building or structure that is prohibited by this chapter. No variance may be granted that would conflict with or alter a stipulation or condition imposed by the city council, except for setback variances which are less than twenty-five (25) percent than the underlying requirement and do not alter the basic tenets of any site plan included and approved as a stipulation.
- (4) Make recommendations to the city council regarding variance applications requesting a reduction in road frontage or a reduction in lot size. Variance applications which are approved by the board of zoning appeals take the form of a recommendation to the city council, who makes a final determination whether to grant the requested variance via a Special Exception. The community development department staff shall place the item on the city council's next available hearing agenda as an agenda item, if a regular hearing, or other business item, if a zoning meeting, if the request is recommended for approval by the board of zoning appeals. The property shall be posted with other business zoning notices by the applicant thirty (30) days prior to the city council's hearing. There will not be a fee associated with other business item, and the applicant does not have to mail out other business notification, if the notification/petition requirement was completed for the board of zoning appeals hearing.
- (5) In exercising the powers described in this section, the board of zoning appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

(e) Appeal procedure, effect of an appeal.

- (1) Appeals to the board of zoning appeals may be filed by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be filed within thirty (30) days from the date of the final decision of the administrative officer, by filing with the city clerk a written notice of appeal specifying the jurisdictional grounds for appeal; the decision being appealed; the relief desired; the reason(s) why such relief should be granted and the documents relative to the issues raised in the appeal. The city clerk shall forthwith transmit to the administrative officer whose decision is being appealed and the members of the board of zoning appeals the notice of appeal with all supporting documents received. The person

filing the appeal shall pay a non-refundable One Hundred Dollar (\$100) filing fee to the city, by certified check or money order, at the time the appeal is filed.

- (2) *Stay*. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of zoning appeals, after the notice of appeal is received by him/her, that by reason of facts of the case a stay would, in his/her opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of zoning appeals or by a court of record on application, on notice to the administrative officer from whom the appeal is taken, and on due cause shown.
- (3) *Hearing*. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof, as well as due notice to the appellant, and decide the matter within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney, as well as present evidence and testimony to the board. In addition to the notice requirements under the Georgia Open Meetings Act, at least thirty (30) days prior to the required public hearing for appeals of administrative decisions by officers or decisions on variances, a notice of the public hearing shall be mailed to the applicant and to the owner's mailing address in tax record of the property subject of such hearing, as applicable.
- (4) *Appeals from decision of Board*. Any person or persons severally or jointly aggrieved by any decision of the board of zoning appeals may take an appeal as allowed by state law.
- (5) *Appeal certificates*. The chairperson of the board of zoning appeals is authorized upon approval by the city attorney, and without additional board approval, to approve or issue any form or certificate necessary to perfect the petition in O.C.G.A. 5-3-1 et. seq.

Section 2. It is hereby declared to be the intention of the city council that:

- (a) All sections, paragraphs, sentences and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.
- (b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.
- (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the city council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 3. The city Attorney and City Clerk are authorized to make non-substantive editing and renumbering revisions to this Ordinance for proofing and renumbering purposes.

Section 4. The City has not yet determined the date that it will transition zoning services from Cobb County, Georgia, to the City. As such, planning commission and board of zoning appeals members shall not officially act on any actual zoning application and/or case under this Ordinance, until such date that the City formally transitions zoning services from Cobb County, Georgia, to the City, in accordance with section 7.15 of the City Charter and/or other applicable laws. Planning commission and board of zoning appeals members may meet to participate in training and education related activities prior to the city's transition of zoning services from Cobb County, Georgia.

Section 5. The effective date of this Ordinance shall be the date of adoption, unless required otherwise by the City Charter, state and/or federal law. In the event that any effective date herein is determined by a Court of law to be invalid, said effective date shall instead be the earliest date allowed by law.

SO ORDAINED this _____ day of _____ 2025.

ATTEST:

CITY OF MABLETON, GEORGIA:

Susan D. Hiott, Interim City Clerk

Michael Owens, Mayor

APPROVAL AS TO FORM:

Emilia Walker-Ashby, Interim City Attorney