



Carroll County Department of Community Development

423 College Street
P.O. Box 338

Carrollton, GA 30117
(770) 830-5861

APPLICATION FOR REZONING

Application must be filed by noon on the 3rd Tuesday of the month to go on the next month's agenda. A pre-application conference with staff is required before the application can be submitted. Please complete the blanks with the requested information. If any of the information or required materials is missing or incomplete, the application will not be processed.

APPLICANT

Applicant Name: Stripling Chapel Corner, LLC
Address: P.O. Box 2128 **City:** Carrollton **State:** GA **Zip:** 30112
Phone: (678) 463 - 4274 **Fax:** () - - **Email:** _____

Agent Name: Charles S. Conerly Smith Conerly LLP
Address: 402 Newnan Street **City:** Carrollton **State:** GA **Zip:** 30117
Phone: (770) 834 - 1160 **Fax:** (770) 834 - 1190 **Email:** cconerly@smithconerly.com

Owner Name (if different from applicant): _____
Address: _____
Phone: () - - **Fax:** () - -

(Note: A notarized statement signed by the property owner(s) authorizing the applicant to make this request shall be attached to the application.)

REZONING

Project Name: S.R. 16 & OAK MOUNTAIN ROAD
Rezoning Location (attach location map): S.E. CORNER OF S.R. 16 & OAK MOUNTAIN ROAD (TAX PARCEL: 134 0336)
Current Zoning: R-3 SINGLE FAMILY RESIDENTIAL (1/2 ACRE MINIMUM)
Proposed Zoning: COMMERCIAL
Proposed Use: GAS STATION AND CONVENIENCE STORE
(If residential, the residence must be at least 1,230 square feet, or as expressly approved by the Board of Commissioners)
Total acreage: 4.49 ACRES
Describe Proposed Rezoning: (attach additional sheets if necessary) PROPERTY IS PROPOSED TO BE RE-ZONED FOR A GAS STATION AND CONVENIENCE STORE WITH ACCESS ONTO S.R. 16 & OAK MOUNTAIN ROAD. THE STORE IS PROPOSED TO BE 4,000-4,500 S.F.

STAFF USE ONLY

Land Lot 188 of the 5th District, Carroll County Tax Map 134 Parcel 0336
 Date Application Filed: 7-20-21 County Recipient: JLL
 Advertisement Date: 8-6-21 Sign Posting to before this date: 8-4-21
 Planning Commission First Reading Date: 7-27-21
 Planning Commission Hearing Date Scheduled: 8-24-21 at 6:30 p.m.
 County Commissioners Hearing Date Scheduled: 9-7-21 at 6:30 p.m.
 Rescheduled Hearing Date, if required: _____ Application No: 2-21-08-03
 Application Withdrawn with/without Prejudice: *(please circle)*
 Zoning Personnel: _____ Letter Sent to Applicant: / /



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COMPREHENSIVE PLAN

Describe how the proposed Rezoning will affect:

Traffic: A MINOR INCREASE IN TRAFFIC IS EXPECTED. HOWEVER, THE EXISTING ROADWAYS ARE SUFFICIENT TO CARRY ADDITIONAL VOLUME EXPECTED.

Parking: ONSITE PARKING MEETING OR EXCEEDING THE COUNTY'S MINIMUM REQUIREMENTS WILL BE PROVIDED.

Availability of Public Facilities/Utilities: UTILITIES EXIST ON S.R. 16 AND OAK MOUNTAIN ROAD, WHICH WILL BE UTILIZED BY THE DEVELOPMENT. THE STORE IS PROPOSED TO BE SERVED BY AN ONSITE SEPTIC SYSTEM.

Other relevant Impacts of the Proposal: DRIVEWAY ENTRANCE PROPOSED ON S.R. 16 WILL REQUIRE COORDINATION/APPROVAL WITH GDOT.

Describe how the proposed Rezoning will be a benefit to the public. THE DEVELOPMENT WILL PROVIDE GAS & RETAIL SERVICES TO THIS AREA THAT ARE CURRENTLY LACKING. THERE ARE NUMEROUS RESIDENTIAL NEIGHBORHOODS IN THE AREA THAT WOULD BENEFIT FROM A STORE NEARBY. ADDITIONALLY STRIPLING CHAPEL ROAD & OAK MOUNTAIN ROAD PROVIDE A TRAFFIC CORRIDOR FROM U.S. HIGHWAY 27 TO S.R. 61/166. THIS DEVELOPMENT WOULD SERVE THE TRAFFIC ALONG THIS CORRIDOR.

Please answer the following questions as completely and accurately as possible. This zoning application will be submitted for review to various departments; therefore, any incomplete answers may delay the review process.
– Attach additional sheets as necessary. –

REZONING QUESTIONS

1. Has the landowner or any person undertaken or initiated any efforts to develop the property in its existing zoning classification? Please provide a complete statement of the efforts for such development?
NONE KNOWN

2. Is development under the present zoning classification infeasible? If yes, please provide a complete statement describing why development is infeasible?
YES. THE SUBJECT PROPERTY IS CURRENTLY ZONED R-3, WHICH REQUIRES A MINIMUM LOT SIZE OF 1/2 ACRE. GIVEN THE SIZE AND CONFIGURATION OF THE PROPERTY AND ITS LOCATION AT THE INTERSECTION OF AN ARTERIAL HIGHWAY AND A COLLECTOR ROAD, DEVELOPMENT OF THE PROPERTY UNDER ITS CURRENT ZONING IS INFEASIBLE. THE PROPERTY'S HIGHEST AND BEST USE IS FOR COMMERCIAL USES.

3. Does the applicant know of similarly situated properties, within 1/2 to 1 mile, that have been developed in a manner as proposed? If so, please list the location of the similar property with respect to the subject property.
NONE KNOWN, BUT THERE ARE COMMERCIAL PROPERTIES THROUGHOUT THE S.R. 16 CORRIDOR.

4. Is the subject property a portion of a larger tract? Yes No If yes, please describe the original tract size, and what portion you are requesting to rezone:



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REZONING QUESTIONS CONTINUED

5. Are there any houses, barns, mobile homes, commercial buildings, or structures presently located on the subject property? If so, please identify the number of structures and their type:

NONE KNOWN

6. List the type of structures you propose to construct if the subject property is re-zoned. If proposing the development of a subdivision, please describe the style, minimum square footage, proposed number of homes, number of phases, and price range of the homes:

COMMERCIAL CONVENIENCE STORE BUILDING RANGING IN SIZE FROM 4,000-4,500 S.F.

7. Please state any pertinent facts, circumstances, events, and or documents that should be considered to support a decision to rezone the property to the proposed zoning classification and use.

OAK MOUNTAIN ROAD/STRIPLING CHAPEL ROAD IS A COUNTY COLLECTOR ROAD CONNECTING U.S. HIGHWAY 27 TO S.R. 166/61. S.R. 16 IS AN ARTERIAL STATE HIGHWAY. GIVEN THE LOCATION OF THE SUBJECT PROPERTY AT THE INTERSECTION OF THESE TWO ROADS, A COMMERCIAL USE IS THE MOST APPROPRIATE USE.

8. Will your proposed use add additional residents to the property? If so, how many new residents do you anticipate will eventually move onto the property? N/A How many households during the first year? N/A

9. Has the applicant conducted any studies in connection with the proposed rezoning? If yes, please provide.
NONE AT THIS TIME

10. Please identify any public utility (including water, sewer, gas, electricity, and other public utilities) which would be required for the proposed development of the property and are not available at the time of this application.

NONE KNOWN AT THIS TIME

11. Disclosure Requirements per O.C.G.A. Section 36-67A . Has the owner and/or the applicant (or any person or attorney representing such in the re-zoning process) made campaign contributions totaling more than \$250 to any local government official who will consider this application? Yes No If yes, please state the name of the official(s) and the position held by each official, and the dollar amount and description of each campaign contribution made to each official within two years preceding the filing of this application.



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PARCEL INFORMATION SHEET
APPLICATION FOR ZONING COMPLIANCE CERTIFICATE
To be filled out by Map Room Personnel in Room #414

DEPARTMENT STAFF/MAP ROOM OFFICIAL:			
MAP:	134	LAND LOT:	188
PARCEL:	0336	DISTRICT:	5th
CURRENT PROPERTY OWNER:		Angling Chapel Corner LLC	
PROPERTY OWNER AS OF JANUARY 1 ST :		" " "	
APPLICANT (IF DIFFERENT FROM OWNER):		" " "	
PROJECT ADDRESS:		5216 Oakman Rd	
CITY:		Carrollton	
TELEPHONE NUMBER:		678-963-4274	
SUBDIVISION:		LOT #:	
ACREAGE:		PARCEL SPLIT FROM:	
CURRENT ZONING CLASSIFICATION		R3	
REQUIRED SETBACKS		FRONT	75'
		SIDE	15'
		REAR	20'
> from County Rd			
CERTIFICATE OF ZONING COMPLIANCE – CHECKLIST			
<input type="checkbox"/> Owner(s) & Agent (if applicable) <input type="checkbox"/> Legal Description or Adequate Description of Property <input type="checkbox"/> Complete Inventory of Existing Structures (noting uses & non-conforming structures) <input type="checkbox"/> Complete Inventory of Proposed Structures <input type="checkbox"/> Complete Inventory of Existing Uses and/or Activities <input type="checkbox"/> Applicant's Certification			
Signature of County Planner or Designee:		 Date: 8-2-21	
Comments: _____			
CDP COMPLIANCE	<input type="checkbox"/> YES	Signature of CDP Administrator or Designee: _____	
	<input type="checkbox"/> NO	Date: _____	
Comments: _____		Signature of County Engineer or Designee: _____	
PLAT APPROVED	<input type="checkbox"/> YES	Date: _____	
	<input type="checkbox"/> NO	Comments: _____	
<u>APPROVED FOR NEW ADDRESS</u>	<input type="checkbox"/> YES	Signature of County Planner or Designee: _____	
	<input type="checkbox"/> NO	Date: _____	
Comments: _____		Comments: _____	



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SKETCH OF PROPERTY

Please check: COMMERCIAL OTHER: _____

- Provide a sketch of the proposed building location, driveway, septic tank location, and all other structures.
- Show the **dimensions** of the lot and all setbacks from the house and other structures to all property lines.
- The front setback shall always be measured from the centerline of the frontage road(s).
- Show location of any wells, trash pits, and all easements (drainage or utility) located on the property.
- Show distance to nearest stream or lake on property. If not within 200 feet of a stream or lake, please note.

Provide a complete listing of all existing structures that are now on the property: NONE KNOWN

Describe the type of structure that you plan to build: *(A residence must be at least 1,230 square feet unless expressly approved by the Board of Commissioners)* COMMERCIAL CONVENIENCE STORE BUILDING RANGING IN SIZE FROM 4000 TO 4500 S.F.

Is this a multiple road frontage lot? YES

SEE ATTACHED DRAWING



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STATE OF GEORGIA
COUNTY OF CARROLL



AFFIDAVIT FOR A REZONING APPLICATION

JERRY W. WOOD, personally appeared before me, the undersigned officer, duly authorized to administer oaths in the State of Georgia and, having been duly sworn, sets forth the following statements for the purpose of being granted approval for a **REZONING APPLICATION** under the Ordinances of Carroll County:


The information contained within the application attached hereto and filed in the Department of Community Development consists of facts within my personal knowledge that I know are true and correct, and will be relied upon by officials of Carroll County in making a decision whether to issue this Application, License, Permit, or other Department approval.

On behalf of the Applicant, I declare that the Applicant, regardless if a partnership, corporation, or other organization or entity that is receiving a benefit under this Application, License, Permit, or other Department approval (whichever is applicable) is not delinquent in the payment of any taxes or fees due Carroll County.

FURTHER AFFIANT SAYETH NOT.

I declare under penalty of false swearing that the above is true and correct.


This 19 day of JULY, 2021.


AFFIANT (signature)

Address: _____
P.O. BOX 2128
CARROLLTON, GEORGIA 30112

Sworn to and subscribed
before me this 19 day
of July, 2021.


Notary Public

My Commission Expires _____


If Affiant is authorized to sign on behalf of a partnership, corporation, or other organization or entity, please set forth the entity and address

Entity: _____
Address: _____
STRIPLING CHAPEL CORNER, LLC
P.O. BOX 2128, CARROLLTON, GEORGIA 30112

263912

BK PG
4930 059

PT 61-021-2011 - 262313
CARROLL COUNTY, GEORGIA
REAL ESTATE
TRANSFER TAX PAID \$ 0
INTANGIBLE TAX PAID \$ 0
DATE 5-24-11

Alan J. Lee
CLERK OF SUPERIOR COURT

Jerry Wood

FILED
GA. CARROLL COUNTY
CLERK OF SUPERIOR COURT
11 MAY 24 AM 8:51
Alan J. Lee
CLERK OF SUPERIOR COURT
CARROLL COUNTY, GEORGIA

RECORD AND RETURN TO:
Carter
201 Winchester Dr.
Carrollton, GA 30117

THIS DEED PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION
QUIT CLAIM DEED

STATE OF GEORGIA, COUNTY OF CARROLL

THIS INDENTURE, Made this 23rd day of May in the year of our Lord, Two Thousand Eleven (2011) between

JERRY W. WOOD

as party or parties of the first part, hereinafter called Grantor, and

STRIPLING CHAPEL CORNER, LLC

as party or parties of the second part, hereinafter called Grantee (the words, "Grantor" or "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH, that: Grantor, for and in consideration of Ten and 00/100 dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, has granted, bargained, sold and does by these presents bargain, sell, remise, release and forever Quit Claim to said Grantee, all the right, title, interest, claims or demand which the said Grantor has or may have had in and to

All that tract or parcel of land lying and being in the southwest fourth of Land Lot 188 of the 5th District, Carroll County, Georgia, containing 3-1/2 acres, more or less, and bounded on the south by Georgia Highway 16, on the north by the Stripling Chapel - Oak Mountain Blacktop Road (sometimes referred to as the Cross Plains Road); on the east by a line running north and south dividing said Land Lot 188 into the east and west halves. Said line also marking the boundary between subject property and property now or formerly owned by Mrs. Ora S. Johnson and Emery Flinn, Jr., and on the south by other property of Jerry W. Wood conveyed to him by North Avenue Presbyterian Church by deed dated December 13, 1977, recorded in Deed Book 368, page 448, Carroll County Public Real Estate Records, which deed and the record thereof are by reference incorporated herein. Said property being a portion of Parcel 19 of Tax Map 172 of the tax map made by Southeastern Appraisal and Mapping Service dated April 1962.

TO HAVE AND TO HOLD the said described premises unto the said Grantee so that neither the said Grantor nor its heirs, nor any other person or persons claiming under Grantor shall at any time have, claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

In Witness Whereof, The said Grantor has signed and sealed this deed, the day and year written below.

Signed, Sealed and Delivered In
the presence of:

Tracy Hill
Unofficial Witness

Jerry W. Wood
JERRY W. WOOD

Mertene H. Dean
Notary Public



RECORDED
MAY 25 2011
Alan J. Lee, Clerk

CONSTITUTIONAL OBJECTIONS

STRIPLING CHAPEL CORNER, LLC APPLICATION FOR REZONING

The Zoning Regulations of Carroll County, Georgia (i.e., Code of Ordinances, Carroll County, Georgia, § 102-1 et seq.)(hereinafter the “Zoning Ordinance”) lack adequate standards for the Carroll County Board of Commissioners (hereinafter “BOC”) and its appointees to exercise the power of zoning conferred upon it by Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. There is a complete absence of any articulated standards or the standards are so vague and ambiguous as to be insufficient to contain the discretion of the BOC and thereby provide the courts with a reasonable basis for judicial review. Because the stated standards (individually or collectively) are too vague and uncertain to provide reasonable guidance to the BOC, the First, Fifth and Fourteenth Amendments of the Constitution of the United States, as well as Article I, Section III, Paragraph 1 and Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983, are violated.

Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983, gives the BOC the power to zone property in Carroll County for certain allowable uses, which power must be fairly exercised. The Zoning Ordinance violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983, due to the improper delegation of the zoning power and related powers to the BOC’s appointees and employees.

The failure to grant the rezoning application being submitted by Stripling Chapel Corner, LLC or the granting of a rezoning other than that which is requested would constitute the taking of property without due process of law and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The failure to grant the rezoning application being submitted by Stripling Chapel Corner, LLC or the granting of a rezoning other than that which is requested would be contrary to the best interest of the health and welfare of the citizens of the Carroll County, Georgia, and would further constitute an arbitrary and capricious act in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia, 1983; Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983; and the due process clause and equal protection clause of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Finally, the Zoning Ordinance limits the use and development of the subject property, renders the subject property unusable, and destroys its marketability. As a result, the Zoning Ordinance takes the applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section I, Paragraph 1, and Article I, Section III, Paragraph 1(a) of the Constitution of the Georgia, 1983.