



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-17

Public Hearing Dates:

PC: 3-5-19

BOC: 3-19-19

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**SITE BACKGROUND**

Applicant: H & I Real Estate, Inc.

Phone: 404-932-7493

Email: henryobh@att.net

Representative Contact: J. Kevin Moore

Phone: 770-429-1499

Email: jkm@mijs.com

Titleholder: H & I Real Estate, Inc.

Property location and address: Located on the northeastern intersection of Canton Road and Kingston Drive Extension (3920 Canton Road)

Access to Property: Kingston Drive Extension

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**QUICK FACTS**

Commission District: 3- Birrell

Current Zoning: NS

Current use of property: Retail center

Proposed zoning: NRC

Proposed use: Retail center with a special events facility

Future Land Use Designation: Neighborhood Activity Center

Site Acreage: 1.78 acres

District: 16; Land Lots: 277, 278, 299, 300

Parcel #'s: 16030000100

Taxes Paid: Yes

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**FINAL ZONING STAFF RECOMMENDATION:**  
(Zoning staff member: Jason Campbell)

Based on the analysis of this case, Staff recommends **APPROVAL** of the Neighborhood Retail Commercial (NRC) zoning district subject to:

1. Site plan received December 6, 2018.
2. No assembly hall or special events use permitted.
3. Water and Sewer comments.
4. Transportation comments.

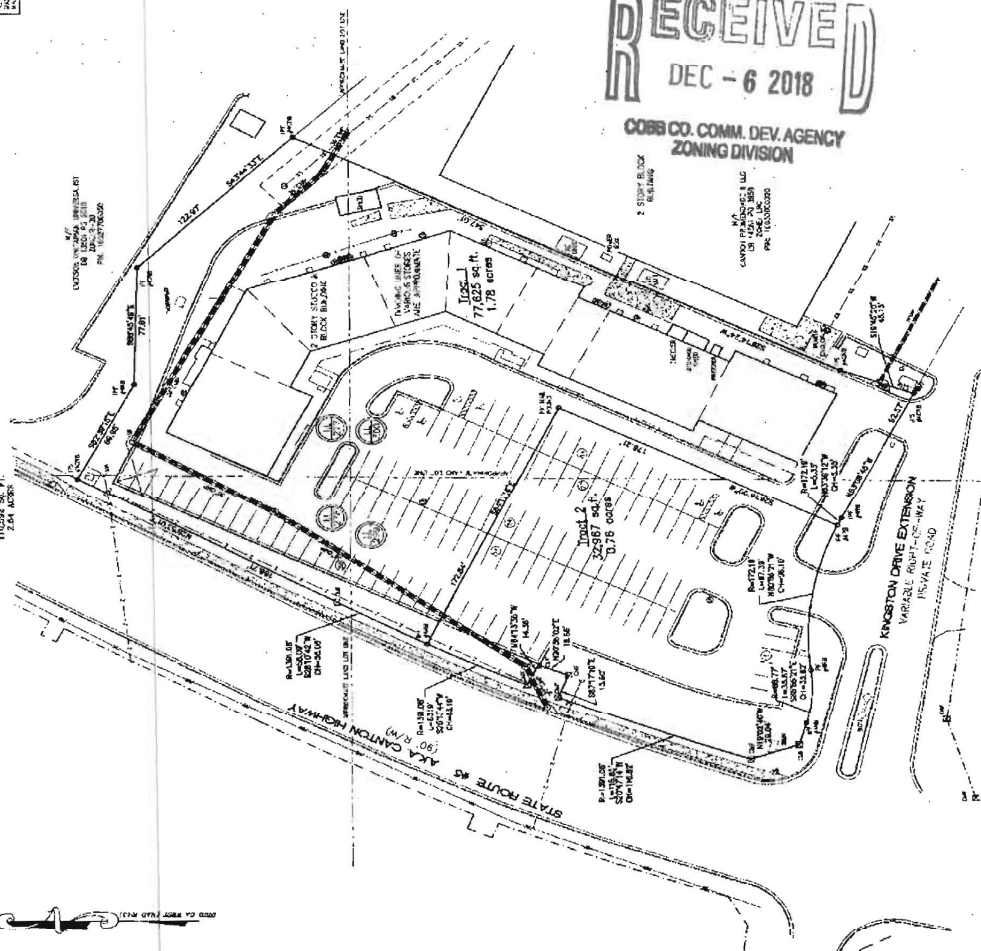
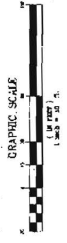
Z-17  
(2019)

H & I REAL ESTATE  
 277, 278, 299, 300  
 15th Street, Block  
 0098  
 1st Floor  
 08/20/2018  
 www.frontlinerealty.com  
 3990 Canton Road  
 Suite 116, PMB 272  
 Norfolk, VA 23505  
 Fax: (757) 355-8905  
 Phone: (757) 355-8905

**ZONING DISTRICTS**  
 1. COMMERCIAL  
 2. INDUSTRIAL  
 3. RESIDENTIAL  
 4. OFFICE  
 5. MIXED USE  
 6. SPECIAL USE  
 7. AGRICULTURAL  
 8. HISTORIC DISTRICT  
 9. ENVIRONMENTAL  
 10. MARINE  
 11. AIRPORT  
 12. PORT  
 13. TRANSPORTATION  
 14. UTILITIES  
 15. OTHER

**H & I REAL ESTATE**  
 1800 10th Street, Suite 200  
 Norfolk, VA 23505  
 Phone: (757) 355-8905  
 Fax: (757) 355-8905  
 Website: www.hirealestate.com

**RECEIVED**  
 DEC - 6 2018  
 COBB CO. COMM. DEV. AGENCY  
 ZONING DIVISION



ROAD TO BEYOND THIS POINT TO COBB COUNTY

ALL DIMENSIONS TO CENTERLINE UNLESS OTHERWISE NOTED.  
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- SAVING NOTES**
1. THE ZONING DISTRICT IS AS SHOWN ON THE ZONING MAP.
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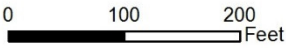
**LEGEND**



1	EXISTING LOT LINES
2	PROPOSED LOT LINES
3	PROPOSED DRIVEWAY
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22	PROPOSED DRIVEWAY

# Z-17 2019-Aerial Map



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

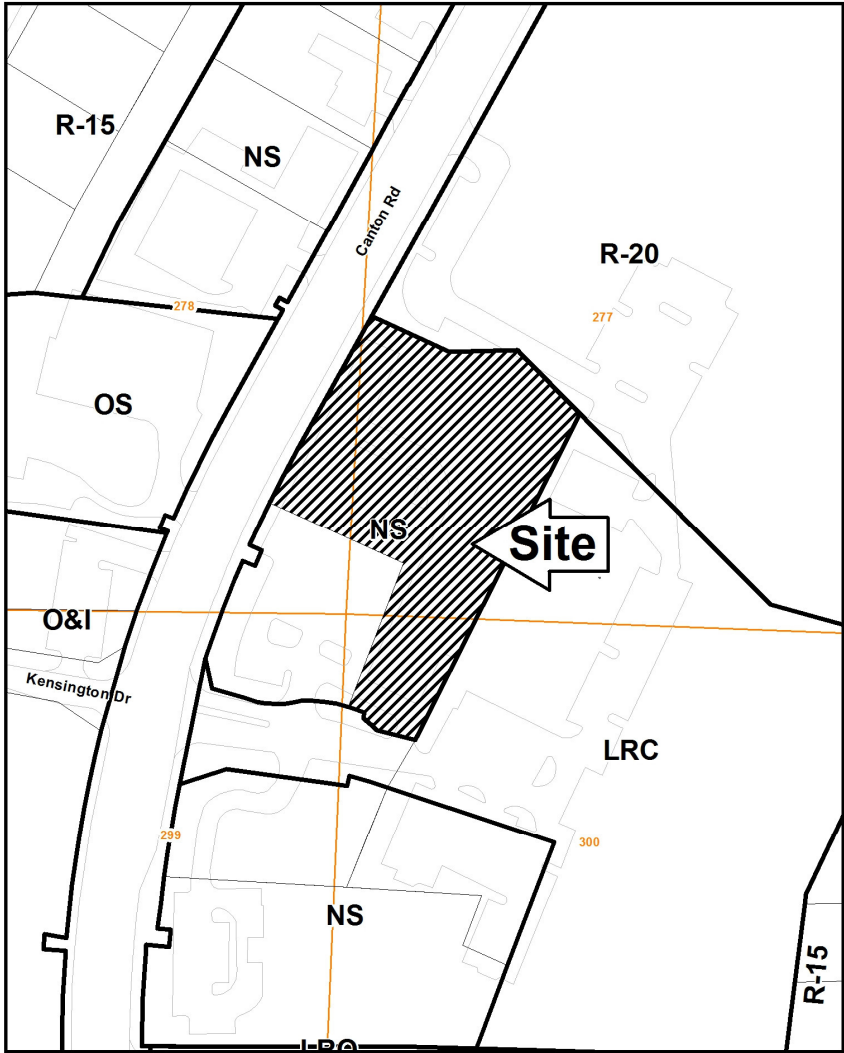


-  Zoning Boundary
-  City Boundary



North  
**Zoning:** R-20 (Single-family Residential)  
**Future Land Use:** PI (Public Institutional)

**Z-17 2019-GIS**



WEST  
**Zoning:** OS  
 (Office Services)  
  
**Future Land Use:** NAC  
 (Neighborhood Activity Center)

EAST  
**Zoning:** LRC  
 (Limited Retail Commercial)  
  
**Future Land Use:** NAC  
 (Neighborhood Activity Center)

SOUTH  
**Zoning:** NS (Neighborhood Shopping) & LRC (Limited Retail Commercial)  
**Future Land Use:** NAC (Neighborhood Activity Center)

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## **DEPARTMENT COMMENTS- Zoning Division**

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### **Current zoning district for the property**

The NS district is established to provide locations for retail commercial and services uses which are designed and oriented to serve two to four neighborhoods and are located in areas delineated within a community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Commencing January 1, 1991, no new applications for rezoning to the NS district will be accepted by the board of commissioners. Any existing, developed NS zoning/use located outside of a community activity center or regional activity center shall be deemed to be a grandfathered, nonconforming use and subject to those provisions contained in this chapter. Should any undeveloped property zoned as NS outside a community activity center or regional activity center fail to commence development by January 17, 1996, the owner of such property shall be required to bring the property back in for rezoning consistent with the comprehensive plan prior to any development. Obtaining a building or grading permit for such development shall be deemed to be commencing development.

### **Requested zoning district for the property**

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

### **Summary of the applicant's proposal**

The applicant is requesting the Neighborhood Retail Commercial (NRC) zoning district for the purpose of a retail center and the additional use of an assembly hall. The applicant seeks the additional use of a special events facility that has operated for five years in a portion of the existing retail center. The hours of operation vary based on the type of businesses in the center. The existing center is stucco and cementitious type materials, with brick accents, metal roof, and parapet. This application is the result of a complaint from the Code Enforcement Division.

## **DEPARTMENT COMMENTS- Zoning Division (Continued)**

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### **Non-residential criteria**

Proposed # of buildings: 1 (Existing)

Proposed # of stories: 2

Total sq. footage of development: 22,362 square feet

Floor area ratio: 0.288

Square footage per acre: 12,562 square feet

Required parking spaces: Retail 1 per 200 sq ft of net floor space/Assembly 1 per 3 seats

Proposed parking spaces: 125

Acres in floodplain or wetlands: 0 ac

Impervious surface shown: 70% (estimated)

## **DEPARTMENT COMMENTS- Zoning Division (continued)**

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### **Are there any zoning variances?**

Yes, the application will require a contemporaneous variance to allow an assembly hall as a permitted use.

## **DEPARTMENT COMMENTS- Fire Department**

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Fire would not have any comments on the proposed use provided the building is provided with a fire sprinkler system.

## **DEPARTMENT COMMENTS- Site Plan Review (County Arborist)**

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The property owner will be required to obtain a Land Disturbance Permit if there are any staff comments or approval stipulations which require any type of site modifications (fencing, landscaping, curb/gutter & sidewalk installation, etc.). Contact Site Plan Review, 770-528-2147.

## **DEPARTMENT COMMENTS- Cemetery Preservation**

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No comments.

## **DEPARTMENT COMMENTS- School System**

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

## **DEPARTMENT COMMENTS- Stormwater Management**

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No comments.

## DEPARTMENT COMMENTS- Planning Division

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**Cobb 2040 Comprehensive Plan:** The parcel is within the Neighborhood Activity Center (NAC) future land use category. The purpose of the NAC category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail, and grocery stores.

**Comprehensive Plan Designation:**  Consistent  Inconsistent

### House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary?  Yes  No

Was the city notified?  Yes  No  N/A

**Specific Area Policy Guidelines:**  Yes  No

**Masterplan/ Corridor Study**  Yes  No

**Design guidelines area?**  Yes  No

If yes, design guidelines area: Canton Road Design Guidelines

Does the proposal plan comply with the design requirements?  Yes  No  N/A

**Is the property within an Opportunity Zone?**  Yes  No

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

**Is the property within an Enterprise Zone?**  Yes  No

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

**Is the property eligible for the Façade Improvement Program?**  Yes  No

*(The Façade Improvement Program is an incentive for owners and tenants to enhance the appearance of buildings. The CDBG program provides the funding. Properties must be either on the current inventory of redevelopment sites or in a corridor study area, and be in a census tract with at least 51% low and moderate income. The program serves to improve the economic viability of these areas.)*

(Planning comments continued on the next page)

**DEPARTMENT COMMENTS- Planning Division** (continued)

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

Yes  No

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

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

**Special District**

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

Yes  No

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

Yes  No

Is this property within the Six Flags Special Service District?

Yes  No

**Dobbins Air Reserve Base Zones**

Is the property within the Dobbins Airfield Safety Zone?

Yes  No

Is the property within the Clear Zone (CZ)?

Yes  No

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

Yes  No

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

Yes  No

Is the property within the Noise Zone?

Yes  No

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

Yes  No

**Historic Preservation**

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



## DEPARTMENT COMMENTS- Water and Sewer

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### Water comments:

Available at development:  YES  NO

Fire flow test required:  YES  NO

Size and location of existing water main(s): 8" in Canton Road

Additional water comments: Existing water customer

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.

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### Sewer comments:

In the drainage basin:  YES  NO

At development:  YES  NO

Approximate distance to nearest sewer: On northern edge of site

Estimated waste generation (in G.P.D.): Average daily flow = +/- nominal

Peak flow = +/- nominal

Treatment plant: Noonday WRF

Plant capacity:  Yes  NO

Line capacity:  YES  NO

Projected plant availability:  0-5 years  5-10 years  over 10 years

Dry sewers required:  YES  NO

Off-site easement required:  YES\*  NO

Flow test required:  YES  NO

Letter of allocation issued:  YES  NO

Septic tank recommended by this department:  YES  NO

Subject to Health Department approval:  YES  NO

Additional sewer comments: Existing sewer customer

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

Note: 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.

## DEPARTMENT COMMENTS- Transportation

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Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Canton Road	Arterial	45	Cobb County	100'

Roadway	Location	Average daily trips	Level of service
Canton Road	South of Kensington Drive	32,300	D

*Based on 2016 AADT counting data taken by GDOT, as published on their website, for Canton Road.*

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

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

### Comments and observations

Canton Road is classified as an arterial roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

### Recommendations

1. Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Canton Road, a minimum of 50' from the roadway centerline.
2. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF ANALYSIS

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

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

It is Staff's opinion that the zoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby property. The retail center has been in existence for a number of years and the assembly/event hall use was added about five years ago. This use is not permitted under the requested neighborhood Retail Commercial (NRC) zoning district.

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

It is Staff's opinion that the addition of the assembly/event hall will, and has, adversely affected the existing use or usability of adjacent or nearby properties. This application is the result of a Code Enforcement investigation from a complaint of a resident in a nearby residential area. There have been many complaints regarding this events center by nearby residents.

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

It is Staff's opinion that the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities and utilities. The assembly/event hall use has a concentration of visitors which may cause noise that will disturb nearby residences. The Code Enforcement action began with a complaint from a resident in the area about noise at the facility.

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

The requested zoning category of NRC is compatible with the policies and intent of the *Cobb County Comprehensive Plan* designation of Neighborhood Activity Center (NAC). The assembly/event hall is not a permitted use under the NRC zoning district.

STAFF ANALYSIS (Continued)

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

It is Staff's opinion that there are existing or changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's request to add an assembly/event hall as a permitted use under NRC. Staff also believes the request to rezone the property to NRC should be approved to bring the property out of its grandfathered state in the current Neighborhood Shopping (NS) zoning district located in the NAC future land use category. NRC is compatible with the NAC designation. Due to the complaints regarding the assembly/event hall, it is Staff's opinion that the additional assembly/event hall use be denied.

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

**Planning Commission Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

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 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_

**Board of Commissioners Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

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