



**SAMS, LARKIN & HUFF**

A LIMITED LIABILITY PARTNERSHIP  
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April 27, 2022

**(REVISED STIPULATION LETTER)**

**VIA EMAIL**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
1150 Powder Springs Road, Suite 400  
Marietta, GA 30064

Re: Application of Healey Weatherholtz Properties to Rezone a 6.83 Acre Tract from R-80, R-40 and CF to NRC (Application No. Z-25)

Dear John:

You will recall that this firm represents Healey Weatherholtz Properties (“HWP”) concerning the above-captioned Application for Rezoning. In that regard, on April 7, 2022, we submitted the initial stipulation letter concerning HWP’s and my discussions with the groups and/or individuals hereinafter named. This Application is scheduled to be heard and considered by the Cobb County Planning Commission next week on May 3, 2022 and, thereafter, by the Cobb County Board of Commissioners (“BOC”) on May 17, 2022.

The property at issue (“Subject Property”) consists of a 6.83 acre tract of land which is located on the west side of Johnson Ferry Road, east side of Village Trace and Village Parkway and at the northwestern intersection of Johnson Ferry Road and Paper Mill Road. The totality of the Subject Property is located within the confines of a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map (“FLUM”) which contemplates the same type of existing uses and developments owned by HWP which consist of neighborhood retail commercial uses.

Over the years, scores of developers, builders, lenders, property owners and others have sought clarity with respect to the governance of Paper Mill Village (“PMV”). The mixed-use development for the Subject Property was approved in 1982 after litigation and by way of a Superior Court of Cobb County Order (“Order”). A preponderance of the Subject Property and PMV is partially split-zoned in the Future Commercial (“CF”), R-80 and R-40 zoning districts, respectively.

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Many of the tracts which make up PMV are considered as non-conforming, “grandfathered” properties. In other words, the continued utilization of many of those tracts within PMV is predicated upon the same use continuing without interruption for a period of time as dictated by the Cobb County Zoning Ordinance or are required to be rezoned in accordance with current Zoning Ordinance requirements and applicable zoning classifications. Also, interestingly, the CF classification does not, independent of these particular circumstances, provide any present right to utilize property zoned as such and has always been considered a “holding district” for future commercial development.

The May 6, 1982 Cobb Superior Court Order, for the most part, was based upon a 1973 Agreement which was recorded on the Deed Records and which served as a guide until the litigation was commenced and completed almost a decade later, specifically allowing a mixed use development to be constructed at this intersection of Johnson Ferry Road and Paper Mill Road. However, even though the Order allowed the development, it was and is subject to development conforming to a conceptual site plan; architectural renderings/elevations; and, Covenants Conditions and Restrictions (“CCRs”) between Cobb County, area residents and the developer at that time, all of which was incorporated into the Order.

In the interim decades, the BOC has approved amendments to certain uses by amending the Court Order through the submission of Applications for Rezoning, Other Business Applications, Special Land Use Permits and/or Variances, dependent upon the individual circumstances concerning each property thus revised or amended.

Most of the area residents and neighbors who negotiated that Settlement four (4) decades ago are no longer with us. However, PMV came to fruition as a mixed-use development and which, to this day, is an aesthetically pleasing, successful and strategically positioned assemblage of tracts which have served the area’s neighborhoods well for the past forty plus (40+) years.

While this Application has been pending, we have met and established a dialogue with Cobb County’s professional staff; sent out notification letters to every property owner within one-thousand feet of the Subject Property; have met and/or conferred with representatives from Chattahoochee Plantation Estates and Hampton Farms Subdivisions as well as the Principals of Retail Planning Corporation which has offices in and which manages certain properties which make up PMV; and, with representatives of the East Cobb Civic Association (“ECCA”). HWP has provided me with the authority to submit this Revised letter of agreeable stipulations/conditions even as the discussions remain ongoing.

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HWP is amenable to the following Revised stipulations becoming conditions and a part of the grant of the requested Rezoning and binding upon the Subject Property thereafter:

1. The Revised stipulations and conditions set forth herein, except as otherwise governed by the Order, shall replace and supersede certain stipulations and conditions which are currently in place concerning the Subject Property. However, the Order shall remain in full force and effect except as amended hereby and any such amendment which is solely related to HWP's properties in PMV.
2. The development of the Subject Property shall be substantial conformity to that certain Site Plan prepared by CC Land Surveyors which was filed concurrently with the Application for Rezoning and which currently represents "As-built" nature of the Subject Property. The total site area of the Subject Property, consisting of 6.83 acres shall continue to be used and continue to be maintained as a mixed-use development including multiple commercial buildings.

At present, HWP has represented that it has no current plans for demolition or for new construction; and, that it submitted its Application for Rezoning in order to address future utilization of all of the tracts which HWP owns and which constitute the Subject Property and to do so with relative ease rather than the cumbersome process of proceeding through a Rezoning or other types of Entitlement applications and the attendant process every time a prospective tenant presents itself.

3. Compliance with Cobb County Development Standards and Ordinances related to project improvements except as otherwise approved by the Board of Commissioners, the Cobb County Department of Transportation, the Cobb County Fire Marshal's Office or the Cobb County Community Development Agency, as their respective authority may allow.
4. Compliance with recommendations from the Stormwater Management Division with respect to the existing As-built pond on the site and subject to the Wetlands Delineation Report which was submitted concurrently with the Application for Rezoning. The pond consists of percentages of ownership, as follows:

- |                                      |       |
|--------------------------------------|-------|
| 1. Healey Weatherholtz Village, LLLP | 50.0% |
| 2. 200 Village Parkway L.P.          | 30.3% |
| 3. East Cobb Pre, LLC                | 19.7% |

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5. Compliance with the recommendations from the Cobb County Fire Marshal's Office. Presently, the Fire Marshal's Office has found HWP's proposal to be "acceptable as presented" and that a full review will be conducted whenever plans are submitted during a Plan Review Process. In the interim, the Fire Marshal's Office has no comments on the As-built nature of PMV.
6. Compliance with the recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer which presently service the Subject Property.
7. Compliance with the recommendations from the Cobb County Department of Transportation ("DOT"). However, since no additional ground-up construction or redevelopment of PMV is planned, DOT's comments defer to the existing As-built circumstances and any improvements to the property which constitute "redevelopment" as defined by the Cobb County Zoning Ordinance will trigger the imposition of DOT Comments as contained within the Zoning Analysis.
8. The following uses shall be conditionally prohibited:
  - a. Billiards and Pool Halls; however, certain types of restaurants such as Sports Bars and Grills shall be allowed a maximum of two (2) pool/billiard tables.
  - b. Carwashes.
  - c. Store-Front type Churches, except where the prohibition of same may be constitutionally impermissible.
  - d. Community Fairs, except to continue the allowance of Art Exhibits and PMV-sponsored events as mentioned below.
  - e. Cultural Facilities, except to continue Art Exhibits and PMV-sponsored events which have historically taken place from time to time during the existence of PMV.
  - f. Designated Recycling Collection locations.
  - g. Emissions Stations.

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- h. Outdoor Golf Courses.
- i. Freestanding Climate Control Self-Service Storage Facility; however, storage within existing buildings within PMV shall be permitted.
- j. Freestanding Ice Vending Machines.
- k. Full-Service Gasoline Stations.
- l. Funeral Homes.
- m. Group Homes.
- n. In-Home Day Care.
- o. Self-Service Laundries.
- p. Light Automotive Repair.
- q. Non-profit fishing lakes.
- r. Parking for Vehicles, except for the temporary parking for tenants and their customers or clients.
- s. Radio, Television and other Communication Towers.
- t. Rest Homes and Personal Care Homes.
- u. Self-Service Fuel Sales.
- v. Automotive Parts Stores exceeding 3,000 square feet.
- w. Sex and/or Adult Themed Novelty Shops.
- x. Supermarkets, exceeding 10,000 square feet.
- y. Video Stores for rental or sale as a principal use; however, video-related merchandise may be sold as components of other businesses within PMV.

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- z. Stores which principally feature and sell CBD and CBD related products, remedies or novelties and stores which constitute “Vape Shops” or feature smoking and related paraphernalia.
  - aa. Large truck, van, or other such vehicles “for rent or lease”, such as U-Haul.
  - bb. Package stores; however, excepting any specialty boutique-type wine or spirits shops or any grocery or other stores which may currently be allowed to serve or sell alcohol.
9. HWP agrees to follow the existing “Williamsburg” architectural style and to formulate an Architectural Oversight Committee (“AOC”) consisting of HWP, a representative of Chattahoochee Plantation Estates, a representative from Hampton Farms, the Community Development Agency Director and the District Commissioner who shall be an Ex-Officio member of the AOC but who shall also be the final arbiter with respect to any circumstances wherein agreements can not be reached or an impasse exists.

“The Williamsburg style” was fueled by the complete restoration of Colonial Williamsburg in the late 1920’s by the John Rockefeller Foundation. Home to eighty-eight (88) Colonial-period structures, these buildings became the inspiration and prototypes for hundreds of reproductions and quickly became popular with many residential and commercial developers.

Some common characteristics of both Williamsburg Styles mentioned above may include steeply pitched, side-gabled roofs and double-hung windows highlighted by decorative shutters and/or flower boxes. Most Williamsburg Style buildings lack a front porch and, instead, are accessed by a short flight of stairs.

10. The District Commissioner shall have the authority to approve minor modifications to this rezoning proposal as the development proceeds through the Plan Review Process and thereafter except for those that:
- a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district
  - b. Relocate a structure closer to the property line of an adjacent property which is zoned in the same or in a more restrictive zoning district

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- c. Increase the height of a building which is adjacent to a property that is zoned is the same or a more restrictive zoning district
- d. Change access to a different right-of-way
- e. Violate the Cobb County Zoning Ordinance.

HWP is a fully-integrated company which invests in, holds, develops and manages high-quality retail commercial properties throughout the metropolitan Atlanta area. HWP is also specifically experienced in the various components of this mixed-use development which it has owned since 2008.

I understand that Staff has recommended be approval of the Rezoning Application subject to certain stipulations/conditions, I am authorized to tell you that we are amenable to those additional stipulations/conditions imposed by Staff and those contained within this Revised stipulation letter. However, please do not hesitate to contact me should you need any additional information or documentation prior to this application being heard and considered by the Planning Commission and Board of Commissioners next month. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.  
[gsams@samslarkinhuff.com](mailto:gsams@samslarkinhuff.com)

GLS, Jr./dls

cc: Members, Cobb County Board of Commissioners (via email)  
Members, Cobb County Planning Commission (via email)  
BOC Commission Assistants (via email)  
Dr. Jackie McMorris, County Manager (via email)  
Ms. Jessica Guinn, AICP, Director, Community Development (via email)  
Mr. Phil Westbrook, Planner III (via email)  
Ms. Jeannie Peyton, Senior Planner (via email)

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Mr. Terry Martin, Planner III (via email)  
Mr. Donald Wells, Planner II (via email)  
Ms. Margie Vazquez, Planner II (via email)  
Mr. LeDarius Scott, Planner I (via email)  
Ms. Pamela Mabry, County Clerk (via email)  
Ms. Robin Stone, Deputy County Clerk (via email)  
Ms. Leila Washington, Deputy County Clerk (via email)  
Captain Josh Davis, Fire Marshal's Office (via email)  
Mr. Carl Carver, P.E., Stormwater Management Division (via email)  
Ms. Amy Diaz, P.E., Cobb DOT (via email)  
Ms. Abby Rettig, Cobb DOT (via email)  
Mr. Tim Davidson, Water System (via email)  
Mr. Joe Gavalis, Chattahoochee Plantation Estates (via email)  
Ms. Kim Swanson, Hampton Farms Subdivision (via email)  
Ms. Jill Flamm, ECCA (via email)  
Ms. Chris Lindstrom, ECCA (via email)  
Mr. Owen Brown, Retail Planning Corporation (via email)  
Mr. Quill O. Healey, II, Healey Weatherholtz Properties (via email)  
Mr. Eric Weatherholtz, Healey Weatherholtz Properties (via email)  
Ms. Cathy Costarides, PLS, CC Land Surveyors (via email)