

Application for "Other Business"

OB-65

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested:

12/20/2022

Applicant: Mid-Atlantic Commercial Properties, LLC Phone #: 704-909-4508
(applicant's name printed)

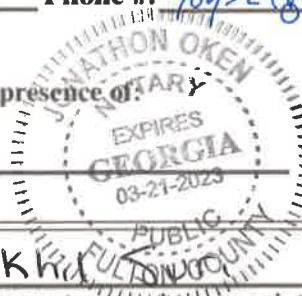
Address: 1327 Balkentyre Corporate Place Suite 500 Charlotte, NC 28247 E-Mail: TWylie@msrcancompanies.com

David E. Weinstein, Esq. Address: 3211 Windsor Lake Dr NE
(representative's name, printed) Brookhaven, GA 30319

 Phone #: 404-218-1677 E-Mail: Dweinstein@Dweinsteinpc.com
(representative's signature)

Signed, sealed and delivered in presence of:

Notary Public



My commission expires: 3-21-23

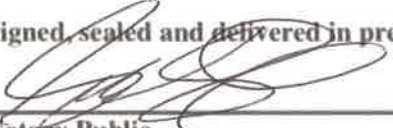
Titleholder(s): Nikhil Suri Phone #: 330-219-5280
(property owner's name printed)

Address: 4870 S ASPEN CT, CANFIELD OH 44486 E-Mail: Nik.Suri1@GMail.com


(Property owner's signature)



SARA LYN BENDER
Notary Public
State of Ohio
My Comm. Expires
April 23, 2027

Signed, sealed and delivered in presence of:

Notary Public

NPS Ventures, LLC

My commission expires: 4-23-27

Commission District: 2 **Zoning Case:** 2-157 (2000)

Size of property in acres: 1.283 acres **Original Date of Hearing:** 12-19-2000

Location: 3033 Johnson Ferry Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 470 **District(s):** 16

State specifically the need or reason(s) for Other Business: Stipulation amendment to use restrictions in NRC. Removal of drugstore/pharmacy use only. Proposed future uses include but not limited to drugstore/pharmacy, banking, restaurant, medical uses.

(List or attach additional information if needed)

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~~Z-154 SAM BASKIN, JR. for Rezoning from R-20 to CRC for the purpose of an Office in Land Lot 85 of the 17th District. Located on the north side of Atstell Road, east of Chamberland Circle. **WITHDRAWN WITHOUT PREJUDICE**~~

Z-157 MAUDE DEVELOPMENT, LLC (Sybil S. Brumby and Billy A. Coley, owners) for Rezoning from **OI and R-20** to **NRC** for the purpose of a Drugstore in Land Lot 470 of the 16th District. Located at the northwest intersection of Johnson Ferry Road and Waterfront Drive.

The public hearing was opened and the following persons addressed the Board: Mr. Garvis L. Sams, Jr., Mr. David Hong, Mr. Dennis Delehanty, and Ms. Perkins. Following presentations and discussion, the following motion was made:

MOTION: Motion by Olens, second by Byrne, to approve Rezoning to the NRC zoning district subject to:

- approval of rezoning to the NRC zoning district for lots seventeen (17) and eighteen (18) *excluding* lot nineteen (19)
- no parking allowed on lot nineteen (19) and said lot is to retain its R-20 zoning classification, in perpetuity, as a buffer, *however* a driveway for purposes of a drive through window is allowed
- minimum 50' foot buffer with a berm (During the plan review process, Mr. Les Brewer, County Arborist, to make final determination regarding the size of the buffer. The buffer can be increased if necessary to accommodate the berm, however, issues relative to site distance are to be considered in determining the actual size.)
- creation of an Architectural Control Committee (ACC) comprised of Mr. David Hong, a designee from the Community Development Agency, and the applicant regarding building exterior and landscaping
- deletion of "glass-eye" or other neon signage
- 13,900 maximum square foot proto-type building to be used
- letter from Mr. Sams to Mr. Kirby dated December 13, 2000 *except* there shall be no more than four (4) tenants in a home owned by Mr. Coley unless it is a single family (copy of letter attached and made a part of these minutes)

See Restated
Motion on
Page 13

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Z-157 MAUDE DEVELOPMENT, LLC (CONTINUED):

- lots 3, 7, 19, 20, and 21, owned by Mr. Coley, are to be deed restricted as R-20 residential lots until such time as an assemblage application is approved by the Board of Commissioners (Copies of deed restrictions are to be on file in the Zoning Office *prior* to the issuance of any permits.)
- no construction traffic on Waterfront Drive
- NRC zoning is "use specific" (drugstore/pharmacy use only)
- letter of agreeable stipulations from Mr. Sams dated December 6, 2000, not otherwise in conflict (copy attached and made a part of these minutes)
- Cobb DOT is to evaluate the necessity for a left turn signal at Waterfront Drive and the issue regarding the installation of speed humps on Waterfront Drive
- project subject to Stormwater Management Division comments and recommendations
- project subject to Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

Following the vote on Z-157, a brief recess was taken from 10:25 a.m. until 10:36 a.m.

Z-157 MAUDE DEVELOPMENT, LLC (CONTINUED):

Following the recess, Chairman Byrne addressed concerns regarding Z-157 (Maude Development, LLC) relative to the reduction of parking spaces. Commissioner Olens was asked to reconsider the issue of parking. Commissioner Olens informed the Board that during the break, there had been subsequent discussions regarding this petition and therefore the following motion was offered:

See re-stated
Motion on
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Z-157 MAUDE DEVELOPMENT, LLC (CONTINUED):

MOTION: Motion by Olens, second by Byrne, to amend something previously adopted thereby amending the previous motion on Z-157 (Maude Development, LLC) to include revisions relative to the parking area on lot nineteen (19) and the deletion of any reference to lot twenty-one (21), therefore, the motion, as restated, shall read as follows:

- approval of rezoning to the NRC zoning district for lot seventeen (17), lot eighteen (18), and a portion of lot nineteen (19) *to the extent shown on the attached site plan regarding the driveway and parking areas*, with the balance of lot nineteen (19) to remain R-20, deed restricted, in perpetuity, as a buffer, until such time as an assemblage application is approved by the Board of Commissioners for development with the remaining lots in the Johnson Ferry Estates Subdivision which front on Waterfront Drive (excluding those lots fronting on Johnson Ferry Road). A copy of referenced site plan is attached and made a part of these minutes.
- lots three (3), seven (7), and twenty (20), owned by Mr. Coley, shall include the same deed restriction as the R-20 portion of lot nineteen (19) and copies of said deed restrictions relative to all four lots are to be on file in the Zoning Office *prior* to the issuance of any permits
- creation of an Architectural Control Committee (ACC) comprised of Mr. David Hong, a designee from the Community Development Agency, and the applicant regarding building exterior and landscaping
- deletion of "glass-eye" or other neon signage
- 13,900 maximum square foot proto-type building to be used
- letter from Mr. Sams to Mr. Kirby dated December 13, 2000 *except* there shall be no more than four (4) tenants in a home owned by Mr. Coley unless it is a single family (copy of letter attached and made a part of these minutes)
- no construction traffic on Waterfront Drive
- NRC zoning is "use specific" (drugstore/pharmacy use only)
- letter of agreeable stipulations from Mr. Sams dated December 6, 2000, not otherwise in conflict (copy attached and made a part of these minutes)

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Z-157 MAUDE DEVELOPMENT, LLC (CONTINUED):

- **Cobb DOT is to evaluate the necessity for a left turn signal at Waterfront Drive and the issue regarding the installation of speed humps on Waterfront Drive**
- **project subject to Stormwater Management Division comments and recommendations**
- **project subject to Cobb DOT comments and recommendations**

VOTE: ADOPTED unanimously

~~Z-160 SAN HAR, INC. (Trivest Associates, LTD, owner) for Rezoning from **OF** to **OMR** for the purpose of a Hotel in Land Lots 919 and 920 of the 17th District. Located at the northwest intersection of Windy Hill Road and Spectrum Circle.~~

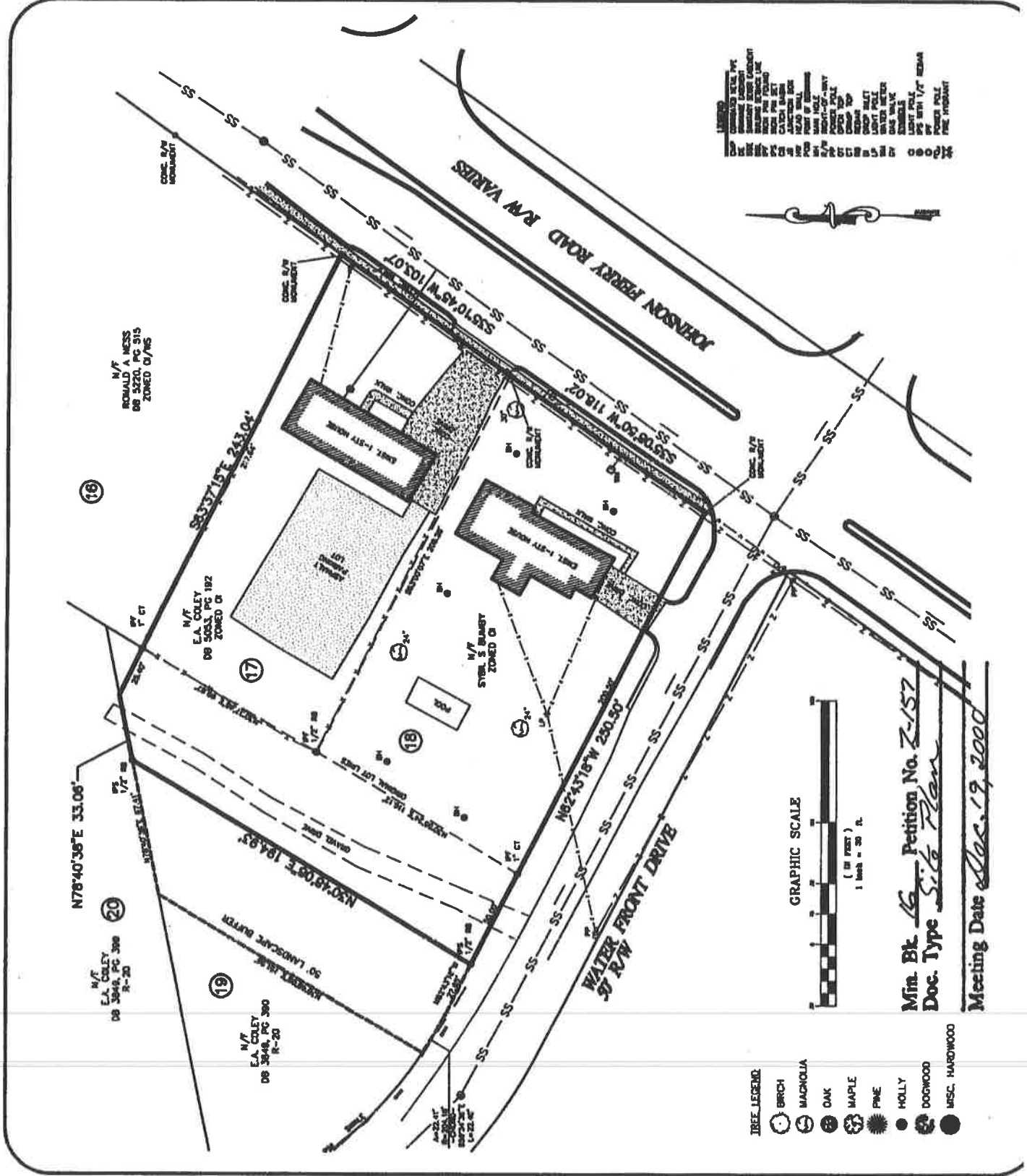
~~The public hearing was opened and Mr. Garvis L. Sams, Jr. addressed the Board. Following presentation and discussion the following motion was made:~~

~~MOTION: Motion by J. Thompson, second by Byrne, to approve Rezoning to the **OMR** zoning district sul ject to:~~

- ~~letter of agreeable stipulations from Mr. Sarns dated November 17, 2000 (copy attached and made : part of these minutes)~~
- ~~project subject to Stormwater Management Division comments and recommendations~~
- ~~project subject to Cobb DOT comments and recommendations~~
- ~~minimum of 81 parking spaces as shown on revised site plan filed December 13, 2000 (copy attached and made a part of these minutes)~~

~~VOTE: ADOPTED unanimously~~

~~Z-161 LEONARDO J. CAGLIANI AND TERRY D. SMITH for Rezoning from **GC** to **LI** for the purpose of Rebuilding Auto Parts in Land Lots 498 and 504 of the 18th District. Located on the southwest side of Mableton Parkway, east of Queen Ferry Drive. (Continued by the Planning Commission from their December 5, 2000 hearing, therefore was not considered by the Board of Commissioners)~~

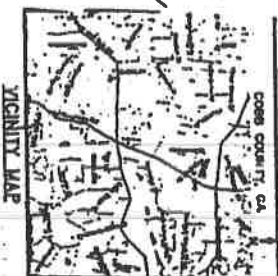
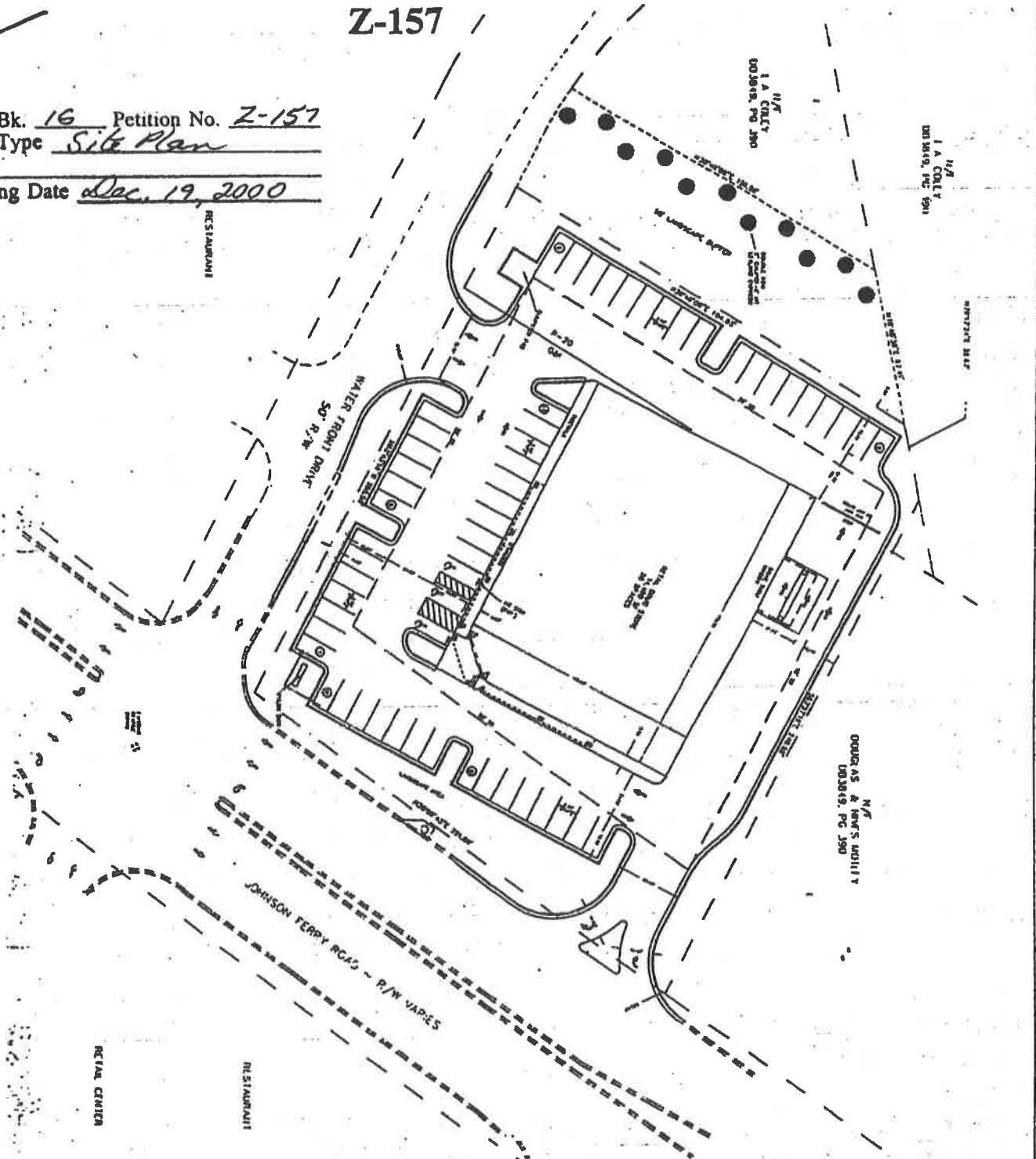


- TREE LEGEND:
 BIRCH
 MAGNOLIA
 OAK
 MAPLE
 PINE
 HOLLY
 DOGWOOD
 MSC. HARDWOOD

Min. Bk. 66 Petition No. Z-157
 Doc. Type Site Plan
 Meeting Date Dec. 19, 2000

Min. Bk. 16 Petition No. Z-157
 Doc. Type Site Plan

Meeting Date Dec. 19, 2000



- NOTES:**
1. THIS SET OF PLANS IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.
 2. THE DESIGNER HAS CONDUCTED VISUAL ANALYSIS AND HAS DETERMINED THAT THE PROJECT IS VISUALLY COMPATIBLE WITH THE SURROUNDING AREA.
 3. THE DESIGNER HAS CONDUCTED VISUAL ANALYSIS AND HAS DETERMINED THAT THE PROJECT IS VISUALLY COMPATIBLE WITH THE SURROUNDING AREA.
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 10. THE DESIGNER HAS CONDUCTED VISUAL ANALYSIS AND HAS DETERMINED THAT THE PROJECT IS VISUALLY COMPATIBLE WITH THE SURROUNDING AREA.
- DATE:** 12/15/00
BY: [Signature]
PROJECT: MAJOR DEVELOPMENT, LLC
ADDRESS: 22292 NORTH PEPPER RD., UNIT D
CITY: BARRINGTON, ILLINOIS 60010
PHONE: 847-382-1639



<p>RETAIL DRUG STORE LAND LOT 470 HIGH DIST. 2ND SECTION COBB COUNTY, GEORGIA</p>	<p>MAJOR DEVELOPMENT, LLC 22292 NORTH PEPPER RD., UNIT D BARRINGTON, ILLINOIS 60010 847-382-1639</p>	<p>SOC ENGINEERING P.O. BOX 874746 MARIETTA, GEORGIA 30006 (770) 935-7548</p>	<p>DATE: _____ BY: _____</p>	<p>REVISIONS</p> <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>										

SAMS & LARKIN
A LIMITED LIABILITY PARTNERSHIP

Meeting Date Dec. 19, 2000

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
M. KYLE GREENE
RICHARD A. HARBAH

December 13, 2000

(770) 422-7016
TELEPHONE
(770) 426-6583
FACSIMILE
SAMSLARKIN@AOL.COM
E-MAIL

OF COUNSEL
DAVID P. HARTIN

Mr. Ben Kirby
3070 Waterfront Drive
Marietta, GA 30062

Re: Application of Maude Development, LLC to Rezone a 1.28 Acre Tract from
O&I & R-20 to NRC (No. Z-157)

Dear Mr. Kirby:

It was a pleasure meeting you last week at the Planning Commission hearing concerning the above-captioned application for rezoning. In that regard, enclosed please find a copy of my revised letter of agreeable stipulations/conditions dated December 6, 2000. Please note that paragraph 4(f) provides for the agreed upon fence. Also, please be aware that I am cognizant of the typographical error in that paragraph which should read that the fence will be erected between Lots 20 (Coley) and 21 (Kirby).

I am in receipt of your recent letter to Commissioner Same Olens and your hand-written understanding of the agreement between you and Bob Terrell concerning the fence and other issues. The balance of this letter will memorialize that agreement, as follows:

- RAM Truncated Wood*
1. The 8' fence shall be constructed on the common property line between 3058 Waterfront Drive (Coley - Lot 20) and 3070 Waterfront Drive (Kirby - Lot 21).
 2. The fence construction shall begin on the property line at the stake which is located approximately 10 feet in front of the existing fence toward Waterfront Drive.
 3. The fence, with the smooth side facing the Kirby property, shall be constructed along the Kirby side of an existing chain link fence, down the property line, past the barn to the back Kirby property line.
 4. The older, existing wooden fence shall be removed to accommodate the foregoing.
 5. All fence posts shall be cemented in the ground and shall be constructed with screws being utilized in lieu of nails.

Mr. Ben Kirby
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6. The fence construction shall be completed prior to the commencement of grading on the Maude Development/Walgreen site.


In addition to the foregoing, you have asked for certain additional commitments from Mr. Terrell. In that regard, the following memorializes the agreement in that respect, as follows:

1. The house on the property located at 3058 Waterfront Drive shall have no more than six (6) people in residence at any one time.
2. The properties located at 3058 and 3045 Waterfront Drive shall be suitably and well maintained at all times, which shall include landscaping and maintenance of the yard areas concerning both properties.

Please do not hesitate to call should you have any questions whatsoever regarding these matters. With regards and best wishes for the holiday season, I am

Very truly yours,

SAMS & LARKIN, LLP



Garvis L. Sams, Jr.

GLSjr/jbmc
Enclosure

cc: Mr. David Hong - VIA E-Mail
Samuel S. Olens, Esquire - VIA E-Mail
Mr. Brian J. Maude - VIA Facsimile
Mr. Bobby L. Terrell - VIA Facsimile

SAMS & LARKIN
A LIMITED LIABILITY PARTNERSHIP

Meeting Date Dec. 19, 2000

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064

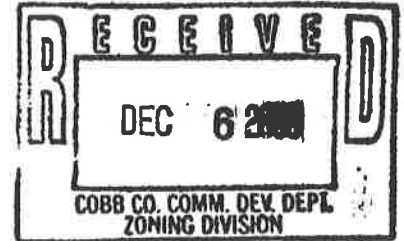
GARVIS L. SAMS, JR.
JOEL L. LARKIN
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M. KYLE GREENE
RICHARD A. HARRAH
OF COUNSEL
DAVID P. HARTIN

December 6, 2000

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FACSIMILE
SAMSLARKIN@AOL.COM
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VIA HAND DELIVERY

Mr. Edwin L. Thomas, Jr., Principal Planner
Cobb County Zoning Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



Re: Application of Maude Development, LLC to Rezone a 1.28 Acre Tract from
O&I & R-20 to NRC (No. Z-157)

Dear Ed:

As you know, I represent Maude Development, LLC and the property owners concerning the above-captioned Application for Rezoning. The application was heard by the Cobb County Planning on December 5, 2000 wherein the Planning Commission unanimously recommended that the application be approved. The application is now scheduled to be heard by the Cobb County Board of Commissioners on December 19, 2000.

This letter will supercede my original letter of agreeable stipulations/conditions, dated November 14, 2000. In that regard, my clients are amenable to the following stipulations becoming conditions and a part of the grant of the rezoning, as amended as revised, and binding upon the subject property thereafter:

1. Rezoning of the subject property shall be from O&I & R-20 to NRC specifically for the purposes of a Walgreens Pharmacy.
2. Architectural style of the Walgreens Pharmacy shall be consistent with the architectural renderings provided to staff and the ECCA during the pendency of the application.
3. An agreement to purchase and to place Lot 24, Johnson Ferry Estates (3045 Waterfront Drive) under a deed covenant which restricts said property solely to residential utilization until such time as it is assembled for development with the remaining lots in Johnson Ferry Estates Subdivision which front on Waterfront Drive (excluding those lots fronting on Johnson Ferry Road).

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Jr., Principal Planner
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Also, an agreement to purchase and to place Lot 16, Johnson Ferry Estates (Coley property), which includes the 50' buffer, under a deed covenant which restricts said property solely to residential utilization until such time as it is assembled for development with the remaining lots in Johnson Ferry Estates which front on Waterfront Drive (excluding those lots fronting on Johnson Ferry Road).

4. Landscaping for the proposed development shall be pursuant to a specific landscape plan which shall be submitted during the Plan Review process and which shall be subject to staff and the Arborist's review and approval¹, including the following:
 - a. Landscaped areas shall be well kept with trees, foliage and other vegetation and regularly maintained by the applicant and/or its successors in title.
 - b. Grass planted within the landscaped areas or otherwise shall be sod.
 - c. Dumpsters shall be incorporated into the landscape plan and shall be screened on at least three (3) sides consistent with the architectural theme and composition as aforementioned. All dumpsters shall have rubber lids and bumpers to minimize noise or, in lieu of dumpsters, the applicant or its successors in title may utilize at-grade trash compaction facilities which also shall be screened. Refuse pick-up shall be limited to the hours of 7:00 A.M. until 7:00 P.M.
 - d. HVAC and mechanical systems shall be incorporated into the landscape plan and screened from view or, in the alternative, situated on the roof of the building and screened from view.
 - e. The area between those sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape plan and shall be landscaped in a manner consistent with the landscape plan provided to staff and the Arborist during Plan Review.
 - f. The construction and erection of an 8' wooden opaque fence along the common property line between Lot 16 (Coley property) and Lot 18 (Kirby property).

¹David Hong or his designee within the ECCA shall also participate in this process. However, the County's Arborist shall be the final arbiter with respect to such landscaping issues.

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Jr., Principal Planner
Cobb County Zoning Department
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- g. An agreement that the landscaping proposed within the 50' buffer shall consist of a double row of Leyland Cypress trees and shrubs.
5. Subject to recommendations from the Stormwater Management Division with respect to the ultimate location and configuration of detention facilities on the site.
 - a. Exercising sensitivity with respect to all Erosion and Sediment Control Ordinance requirements and Clean Water Quality Act provisions, including an agreement that stormwater stored on the site shall not be released at a rate exceeding pre-development stormwater flows.
 - b. Undertaking appropriate measures recommended by the Stormwater Management Division in order to preserve and protect downstream properties and any lakes and streams located thereon.
 - c. Controlling site stormwater discharge so as not to exceed the capacity of downstream stormwater systems and in order to minimize stormwater run off.
 6. Compliance with all Cobb County Development Standards and Ordinances related to project improvements, except as otherwise approved by the Board of Commissioners.
 7. Subject to Cobb County Department of Transportation's recommendations, including the following:
 - a. Installation of curb, gutter and sidewalk along the subject property's frontages on Waterfront Drive and Johnson Ferry Road.
 - b. Insuring minimum sight distance of 200 feet on Waterfront Drive and 350 feet on Johnson Ferry Road.
 - c. The installation of all points of ingress/egress so that same shall be located a minimum of 20 feet from adjoining property lines.
 - d. The voluntary donation and conveyance of additional right-of-way along Waterfront Drive in order to establish a left turning/stacking lane if same is recommended by DOT and contingent upon sufficient property being available to do so.

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Jr., Principal Planner
Cobb County Zoning Department
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- e. Entering into a Development Agreement, pursuant to O.C.G.A. §36-71-13, for the dedication of the foregoing system improvements to mitigate traffic concerns.²
9. The hours of operation of the Walgreens Pharmacy shall be from 8:00 A.M. until 10:00 P.M.
10. All exterior lighting employed within the proposed development shall consist of low intensity recessed shoe-box type lighting with any lighting on the building being shielded to prevent outward illumination. Any and all pole lights within the premises shall be no higher than 25 feet.
11. Utilization of ground-based, monument style signage consistent with the architectural theme and composition as aforementioned. There shall be no reader boards, flashing sign components or the exterior illumination of any signs by remote floodlighting.

As you know, the subject property is located within the confines of a Neighborhood Activity Center (NAC). In that regard and with respect to the inordinate lengths which my clients have gone to provide stipulations/conditions which preserve and protect the residential integrity of homes within Johnson Ferry Estates and Waterfront Subdivision, we submit to you that the rezoning proposal is appropriate from a land use planning perspective. Nevertheless, please do not hesitate to call should you or the staff require any further information or documentation.

Very truly yours,

SAMS & LARKIN, LLP



Garvis L. Sams, Jr.

GLS,Jr./jbmc

²DOT is not requiring the voluntary donation and conveyance of additional right-of-way on Johnson Ferry Road nor is the Department requiring a deceleration lane therein. Additionally, DOT is satisfied with the subject property's point of ingress/egress on Waterfront Drive even though same is off-set from the entrance to McDonald's across Waterfront Drive.

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Jr., Principal Planner
Cobb County Zoning Department
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December 6, 2000

cc: Members, Cobb County Board of Commissioners
Ms. Malinda Bradley, Assistant Clerk
Mr. Dennis Delehanty, ECCA
Mr. David Hong - VIA E-mail and First Class Mail
Mr. Brian J. Maude - VIA Facsimile