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August 11, 2009

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Suite 300  
191 Lawrence Street  
Marietta, Georgia 30060-1661

Re: Application of William E. Gillan to Rezone a 4.228 Acre Tract  
from GC, NRC & R-20 to Neighborhood Retail Commercial  
(NRC) (No. Z-24)

Dear John:

As you know, this firm represents the Applicant and property owners (hereinafter collectively the "Applicant") concerning the above-captioned Application for Rezoning. The application was heard, considered and unanimously recommended for approval by the Cobb County Planning Commission last week. Presently, the application is scheduled to be heard and considered on the Consent Agenda for final action by the Cobb County Board of Commissioners on August 18, 2009.

As a result of our representations to the Planning Commission and our most recent discussions with the Mableton Improvement Coalition ("MIC"), the Applicant has agreed to final revisions/modifications to the latest stipulations. In that regard, the Applicant is agreeable to the following revised stipulations becoming conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced revised stipulations are as follows, to-wit:

1. The revised stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
2. Rezoning of the subject property shall be from GC, NRC & R-20 to NRC in substantial conformity to the Zoning Site Plan prepared by Highland Engineering, Inc. which was filed contemporaneously with the Application for Rezoning.

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 2  
August 11, 2009

3. The total site area of the subject property (4.228 acres) shall be developed as a neighborhood retail center anchored by offices, retail shops, restaurant(s) and a potential child development center.
4. The formation of an Architectural Oversight Committee consisting of a representative of MIC, the Applicant or its designee and a representative of the Community Development Agency, who shall be the final arbiter with respect to the resolution of any issues which can not be otherwise resolved.
5. The architectural style, composition and treatment of all of the buildings shall consist of four-sided architecture and shall be uniform in nature except as hereinafter provided. The architecture of all of the buildings shall be subject to final review and approval by the District Commissioner after review by the Architectural Oversight Committee.  

The composition of said buildings shall consist of a mixture of brick, stone, EFIS and other masonry components. Additionally, the building(s) located on Out Parcel #1 shall be located close to the street with parking in the rear and will be built in a residential style with differing facades, peaked roofs, residential style construction details, windows which are residential in size and an agreement that there will be no floor-to-ceiling plate glass utilized within said building(s).
6. Specific uses for the out parcels shall be subject to review and approval by the District Commissioner after notification to representatives of MIC.
7. Entrance signage for the proposed development shall be ground-based, monument style, with finished materials and colors being in substantial conformity to the architectural style and composition as aforementioned. There shall be no roof signs, exterior temporary signs or banners nor shall there be any flashing sign components. Temporary signage announcing the grand opening, signage indicating the coming development and signage relating to leasing opportunities shall be allowed.<sup>1</sup>
8. Parking area lighting shall be environmentally sensitive, low level, shoe box luminaries fitted with non-glare lenses and cut-off shields to minimize illumination from penetrating outside the boundaries of the subject property. Security lighting on the rear of the

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<sup>1</sup> Banners shall be allowed to announce grand openings or special sales. In total, no store may display any banner for more than sixty (60) days in any calendar year.

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 3  
August 11, 2009

buildings shall be designed to minimize illumination from penetrating outside the boundaries of the subject property.

9. All dumpsters servicing the proposed retail center which are visible from adjacent properties or public rights-of-way shall be enclosed with a minimum 6' high enclosure consistent with the architectural style as aforementioned on three (3) sides with an opaque wooden door on the access side which shall remain in a closed position except when the dumpsters are being emptied. All dumpsters shall have rubber lids to minimize noise and pick up times shall be limited to the hours of 7:00 a.m. until 7:00 p.m., Monday through Friday. Additionally, all trash cans within the retail center shall be themed to the architectural style and composition as aforementioned.
10. The following otherwise permitted uses under the NRC classification shall be prohibited:<sup>2</sup>
  - a. Video arcades as a primary business.
  - b. Tattoo parlors and body piercing shops.
  - c. Billiard parlors.
  - d. Pawn shops or checking cashing establishments.
  - e. Shooting ranges.
  - f. Houses of worship.
  - g. Wholesale establishments which sell only to businesses and not to retail customers.
  - h. Package sale of alcoholic beverages as a primary use; excepting a store specializing in the sale of wine.
  - i. Any business which principally features sexually explicit products or drug-related paraphernalia.

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<sup>2</sup> Said uses shall be construed as conditional prohibitions and the Applicant or future developer(s) shall have the right to appear before the Board of Commissioners in the context of the filing of an "Other Business" Agenda Application which requires the posting of the subject property for a period of thirty (30) days and a public hearing before the Board.

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 4  
August 11, 2009

- j. Any stores which sell guns or knives as a primary business.
  - k. Second hand stores, thrift stores and flea markets.
  - l. Art frame sales (retail and/or wholesale).
  - m. Gas stations.
  - n. Fire wood sales.
  - o. Convenience stores.
  - p. Automotive parts, sales and service.
  - q. Carwash facilities.
  - r. There shall be no outside paging systems, phone bells, or loud speakers; excepting only low-decibel outdoor music systems.
  - s. All outside displays of merchandise except for sidewalk sales or special events lasting seven (7) days or less.
  - t. Signs in windows covering more than ten percent (10%) of the total window space shall not be allowed.
11. The submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Agency, including the following:
- a. The formation of a Landscape Oversight Committee consisting of a representative of MIC, the Applicant and a representative of the Community Development Agency who shall be the final arbiter with respect to the resolution of any issues which can not otherwise be resolved.
  - b. The installation of a 35' rear building setback/landscaped buffer along the northern property lines of the subject property.
  - c. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 5  
August 11, 2009

plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.

- d. All landscaping shall be professionally designed, maintained and irrigated. Additionally, said landscaped areas shall be perpetually maintained and any dead or irrevocably diseased vegetation shall be replaced as necessary.
  - e. All landscaped and buffer areas may be penetrated for purpose of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features.
  - f. All HVAC and/or mechanical systems shall be screened from view.
  - g. Fencing shall also be reviewed by the Landscape Oversight Committee.
12. Compliance with the recommendations from the Cobb County Department of Transportation with respect to traffic/transportation issues, including the following:
- a. An agreement to participate in the costs for the installation of signalization at the intersection of Buckner Road and Veterans Memorial Highway.
  - b. The voluntary donation and conveyance of right-of-way on Buckner Road so that the County can achieve 30' from the centerline of same.
  - c. Securing Georgia Department of Transportation's permission with respect to any encroachments or points of ingress/egress on Veterans Memorial Highway which is under state control.
  - d. The construction of sidewalk, curb and gutter along all of the subject property's frontage on both Veterans Memorial Highway and Buckner Road.
  - e. Eliminating the northernmost point of ingress/egress from Out Parcel #1 onto Buckner Road and otherwise providing for inter-parcel access between the out parcels and core retail area.
  - f. Eliminating left-in turning movements on the southernmost point of ingress/egress on Buckner Road.

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 6  
August 11, 2009

- g. In order to ensure walkability and accessibility, the Applicant will ensure that clear pedestrian pathways shall be provided from both Buckner Road and Veterans Memorial Highway to all of the buildings with pavement striping and/or sidewalks.
  - h. An agreement to install a rack for the storage of bicycles on the subject property.
13. Within 240 days of a successful rezoning of the subject property, or within 90 days of the closing of the subject property by a developmental entity, whichever event occurs first, the structure located at 821 Buckner Road shall be demolished.
  14. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds, including, the following:
    - a. Exercising heighten sensitivity with respect to downstream hydrological conditions.
    - b. An agreement to design and adhere to Best Management Practices and the construction of detention and water quality areas on site with such design and installation based upon a 100-year Stormwater Management design.
    - c. An agreement to utilize a master detention facility for the site as opposed to individual detention/water quality facilities for the out parcels and in-line retail center.
  15. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
  16. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
  17. Minor modifications to the site plan, landscape plan, architectural elevations/renderings and these stipulations/conditions may be approved by the District Commissioner.

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Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Page 7  
August 11, 2009

A preponderance of the subject property is located within the confines of either a Community Activity Center (“CAC”) or a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map. For those reasons, because of the above stipulations/conditions, and in view of the subject property’s positioning within the context of existing and planned commercial developments along this section of the Veterans Memorial Highway Corridor, the proposed rezoning is appropriate from a land use planning perspective.

Through the dialogue established with MIC, area residents and business owners, all of the issues and concerns articulated during the pendency of the zoning application have been resolved. Nevertheless, please do not hesitate to call me should you or the staff require any further information or documentation prior to the application being heard and considered by the Board of Commissioners on August 18, 2009. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/brl

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery  
Mr. Robert L. Hosack, Jr., AICP, Director – VIA E-Mail  
Ms. Karen King, Assistant County Clerk – VIA Hand Delivery  
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery  
Mr. David Breaden, P.E. – VIA E-Mail  
Ms. Jane Stricklin, P.E. – VIA E-Mail  
Mr. Ben Clopper, President, Mableton Improvement Coalition – VIA E-Mail  
Ms. Robin Meyer, Mableton Improvement Coalition – VIA E-Mail  
Ms. Clarice Barber-Page, President, SWAN – VIA E-Mail  
Mr. and Mrs. Scott Field (Buckner Road Residents) – VIA E-Mail  
Mr. William Gillan  
Mr. Arthur Andrew Schulte  
Mr. Ronnie Edwards