

**DECEMBER 18, 2018 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM OB-80

PURPOSE

To consider a site plan and stipulation amendment for Alan Baran regarding case Z-38 of 2012. The property is located on the south side of Six Flags Parkway, east of Bishop Road, in Land Lot 505 of the 18th District (320, 350 & 370 Six Flags Parkway).

BACKGROUND

The property was rezoned to Light Industrial in 2012 for a truck terminal and truck repair facility. The applicant purchased the property from the original applicant in 2017 is in the process of developing their plan for the property. The applicants plan call for some modifications which include:

1. Relocate the detention pond from the rear of the property to the front of the property;
2. Amending the landscape plan to place more landscaping along the road and throughout the site;
3. Amending the surface parking standards to allow the parking on a non-hardened surface (gravel); and
4. Amend the DOT recommendation from the 2012 rezoning case to delete the deceleration lane, sidewalk, curb & gutter.

If approved, all previous stipulations not in conflict with this amendment would remain in effect.

STAFF COMMENTS

Stormwater Management: Subject to Plan Review comments all previous Stormwater Management Zoning comments to remain in effect.

(Continued on the next page)

DECEMBER 18, 2018 ZONING HEARING
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PAGE 2

ITEM OB-80 (Continued)

Cobb DOT: 1) Recommend applicant consider entering into a development agreement pursuant of 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 south side of Six Flags Parkway, a minimum of 40’ from the roadway centerline; 2) Recommend one access to Six Flags Parkway; 3) Recommend applicant verify that minimum intersection sight distance is available and if it is not, implement remedial measures, subject to the Department’s approval, to achieve the minimum requirement; 4) Recommend curb, gutter, and sidewalk along Six Flags Parkway frontage; 5) Recommend a deceleration lane on Six Flags Parkway for the entrance. 6) Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendment.

ATTACHMENTS

Other Business Application and zoning stipulations.

Application for "Other Business"

OB-80

Cobb County, Georgia

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

BOC Hearing Date Requested: 12-18-18

Applicant: Alan Baran
(applicant's name printed) **Phone #:** (404) 797-9191

Address: 330 Six Flags Parkway, Mableton, GA 30126
SAMS, LARKIN, HUFF & BALLI, LLP **E-Mail:** alamb@mbfinc.net

by: Adam J. Rozen **Address:** 376 Powder Springs Street, Suite 100, Marietta, GA 30064
(representative's name, printed)

[Signature] **Phone #:** (770) 422-7016 **E-Mail:** arozen@slhb-law.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public



My commission expires: 11/13/19

Titleholder(s): See attached **Phone #:** _____
(property owner's name printed)

Address: _____ **E-Mail:** _____

(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public **My commission expires:** _____

Commission District: 4 (Cupid) **Zoning Case:** Z-38 of 2012

Size of property in acres: 2.514 **Original Date of Hearing:** December 18, 2012

Location: 320, 350, and 370 Six Flags Parkway, Mableton, GA 30126
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 508 **District(s):** 18th

State specifically the need or reason(s) for Other Business: To Amend Stipulations and Site Plan for Z-38 approved in 2012 in order to move the location of the proposed detention; to provide additional landscaping along the public road frontage and throughout site; and to amend surface parking standards and DOT recommendations.

(List or attach additional information if needed)

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770-623-4344
(METRO ATLANTA ONLY)
UTILITY PROTECTION CENTER
IT'S THE LAW



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NOV 13 2018
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

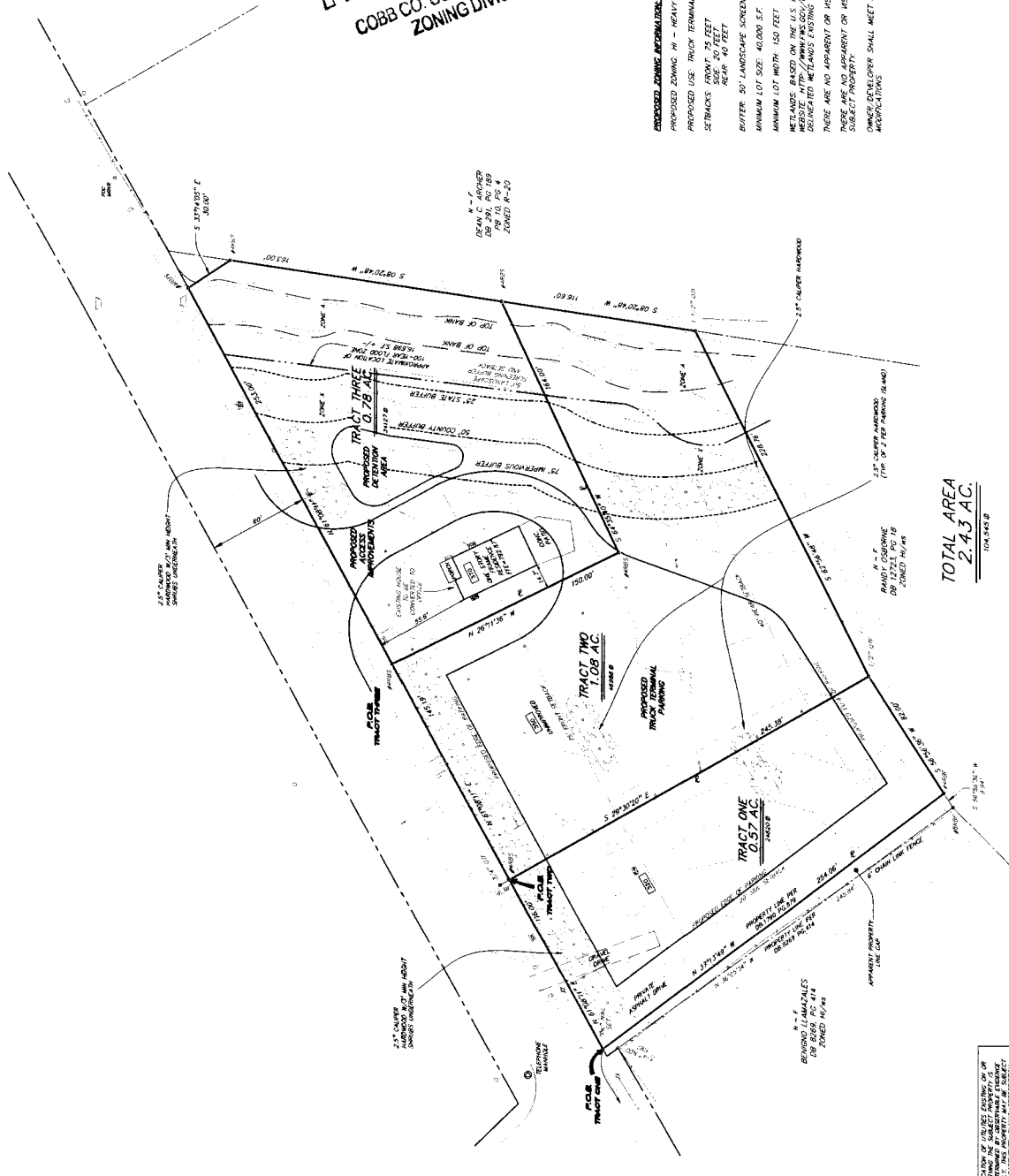
PROPOSED ZONING INFORMATION
PROPOSED ZONING: M - HEAVY INDUSTRIAL
PROPOSED USE: TRUCK TERMINAL AND TRUCK REPAIR
SETBACKS: FRONT: 75 FEET
SIDE: 20 FEET
REAR: 44 FEET
BUFFER: 50' LANDSCAPE SCREENING BUFFER ADJACENT TO RESIDENTIAL PROPERTY
MINIMUM LOT SIZE: 40,000 SF
MINIMUM LOT WIDTH: 150 FEET
METLANDS: BASED ON THE U.S. FISH AND WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY
WEBSITE: <http://www.fws.gov/wetlands>, LAST UPDATED ON APRIL 30, 2012. THERE ARE NO
DETECTED WETLANDS EXISTING ON THE SUBJECT PROPERTY.
THERE ARE NO APPARENT OR VISIBLE CHARACTERISTICS OF BURIAL PLOTS ON THE SUBJECT PROPERTY.
OWNER/DEVELOPER SHALL MEET ALL STATE AND COUNTY REQUIREMENTS PRIOR TO ANY SITE
ADJUSTMENTS.

ZONING SITE PLAN FOR:
URIZAR TRUCKING

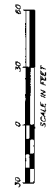
Gaskins
INCORPORATED • 1000 W. BENTLEY AVENUE • SUITE 100
ALPHARETTA, GA 30201 • PHONE: 770.242.1100

LOCATED IN L.L. 505
18th DISTRICT, 2nd SECTION
COBB COUNTY, GA

OB-80
Proposed
Site
Plan



TOTAL AREA
2.43 AC.
104,948.8



EXISTING ZONING INFORMATION
FOR THE COBB COUNTY ZONING MAPS, THIS
PROPERTY IS CURRENTLY ZONED M-20
FRONT: 40 FEET
SIDE: 20 FEET
REAR: 35 FEET
MINIMUM LOT SIZE: 20,000 SF
MINIMUM LOT WIDTH: 75 FEET
MINIMUM BUILDING COVERAGE: 15%
MINIMUM BUILDING HEIGHT: TWO STORIES OR 35 FEET

SURVEY REFERENCES
1. SURVEY FOR BOY F AND LOUISE HARRISON
RECORDED IN PLAT BOOK 10, PAGE 4, PUBLIC
RECORDS OF COBB COUNTY, GEORGIA
2. OB 798 PG. 879
OB 801 PG. 114
OB 801 PG. 189

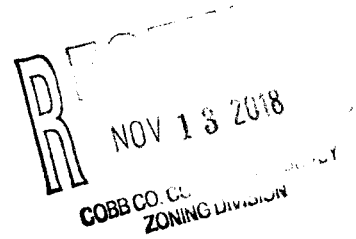
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ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.: OB-80
BOC Hearing Date: 12-18-18

Applicant: ALAN BARAN
Titleholder(s): MILLENNIUM TRUCKING, INC.
PIN#: 18050500320
18050500440
18050500310



PROPERTY OWNER'S CERTIFICATION

The undersigned(s) below, or as attached, is the owner of the property considered in this application.

Alan Baran 11-13-18
Signature of Owner Date

Title: President

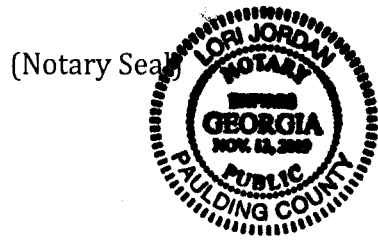
Printed Name: Alan Baran

Address: 370 Six Flaps Run
Hableton, GA 30126

Telephone No.: (770) 817 1790

Lori Jordan
Signature of Notary Public

Date 11-13-18



**CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE
OTHER BUSINESS APPLICATION**

RECEIVED
NOV 13 2018
COBB COUNTY DEV. AGENCY
ZONING DIVISION

1.
My name is Alan Baran. I am the officer who is delegated the responsibility for authenticating records of *Millennium Trucking, Inc*, a Domestic Profit Corporation (the Titleholder) and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicants' Other Business Application regarding certain real property owned by the Titleholder Company located in Cobb County, Georgia.

2.
In accordance with the Requirements for completing a Cobb County Other Business Application, I hereby attest on behalf of the Titleholder Company that I have reviewed the Other Business Application and related documents which are being filed simultaneously therewith on behalf of the Applicants and Titleholder (collectively, the "Other Business Application") to which this Certificate is attached and hereby certify:

- (a) That corporate seal or facsimile affixed to the Other Business Application is in fact the seal of the Titleholder Company or a true facsimile thereof; and
- (b) That the officer or other representative of the Titleholder Company who executed the Other Business Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Other Business Application on behalf of the Titleholder Company, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Other Business Application and the filing of the Other Business Application on behalf of the Titleholder Company by the officer or other representative of the Applicants has been duly authorized by the Titleholder Company.

MILLENNIUM TRUCKING, INC.

By: Alan Baran (CORPORATE SEAL)

Print Name: Alan Baran

Its: President
Title

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Board of Commissioners or Planning Commission who will consider the application?

no.

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Board of Commissioners of Cobb County within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Board of Commissioners or Planning Commission to whom the campaign contribution or gift was made: _____

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Board of Commissioners or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: _____

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Board of Commissioners or Planning Commission during the two (2) years immediately preceding the filing of this application: _____

I certify that the foregoing information is true and correct, this 13 day of Nov., 2018.


Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Board of Commissioners or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Board of Commissioners of Cobb County, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

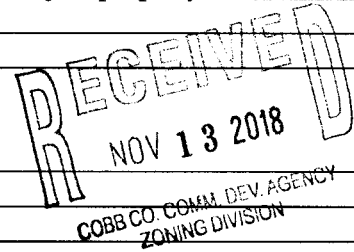
²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Board of Commissioners or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? no.

If so, describe the nature and extent of such interest: _____



Does any member of the Board of Commissioners or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? no.

If so, describe the nature and extent of such interest: _____

Does any member of the Board of Commissioners or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? no.

If so, describe the relationship and the nature and extent of such interest: _____

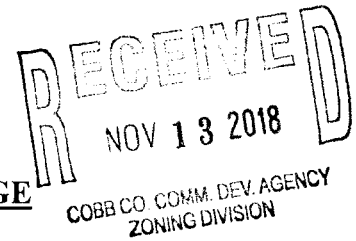
I certify that the foregoing information is true and correct, this _____ day of _____, 20_____.


Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Board of Commissioners or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Board of Commissioners of Cobb County, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

TO THE COBB COUNTY BOARD OF COMMISSIONERS
COBB COUNTY, GEORGIA



CONSTITUTIONAL CHALLENGE

COMES NOW, ALAN BARAN, hereinafter referred to as the "Applicant",
and for himself and/or acting on behalf of the Owners, asserts the following, to wit:

1.

By application to which this exhibit relates, Applicant has applied for an
Other Business Item regarding certain real property lying and being in Cobb County,
Georgia, a more particular description and delineation of the subject property, hereinafter
referred to as the "Property", being set forth in said Application.

2.

The Application seeks approval of an Other Business Application by the
governing authority of Cobb County, Georgia to amend the stipulations pertaining to a
Rezoning; Application No. Z-38 of 2012 (Luiz Urizar).

3.

The current zoning stipulations/conditions are unconstitutional in that they
deprive the Applicant under and pursuant to Article 1, Section I, Paragraphs I and II of the
Georgia Constitution of 1983 and the Equal Protection and Due Process clauses of the Fifth
and Fourteenth Amendments to the Constitution of the United States. This deprivation of
property rights without due process violates constitutional prohibitions against the taking of
private property without just compensation.

4.

The zoning conditions/stipulations as they presently exist violate the Applicant's right to the unfettered use of the property in that the existing conditions and stipulations do not bear a substantial relation to the public health, safety, morality or general welfare and is, therefore, confiscatory and void. Further, said requirements are unconstitutional in that they are arbitrary and unreasonable, resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss upon the Applicant.


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ZONING DIVISION

5.

The Cobb County Zoning Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with Other Business Applications also violates the aforementioned constitutional provisions in that said procedures contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issues at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law.

Respectfully submitted, this the 13th day of NOVEMBER, 2018.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
ADAM J. ROZEN
Attorney for Applicant
Ga. Bar No. 161610

SAMS, LARKIN, HUFF & BALLI, LLP
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS ST.
MARIETTA, GA 30064
770.422.7016

ORIGINAL DATE OF APPLICATION: 09-18-12APPLICANTS NAME: LUIS URIZARTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 12-18-12 ZONING HEARING:**

LUIS URIZAR (Estate of Elzie Elton Goodwin a/k/a E. E. Goodwin, owner) requesting Rezoning from **R-20** to **HI** for the purpose of a Truck Terminal and Truck Repair Facility in Land Lot 505 of the 18th District. Located on the south side of Six Flags Parkway, east of Bishop Road (320, 350 and 370 Six Flags Parkway). (*Previously continued by the Planning Commission from their September 6, 2012, October 2, 2012 and November 6, 2012 hearings*)

The public hearing was opened and Mr. John Moore, Mr. Kevin Ross, Ms. Lisa Cupid, Ms. Robin Meyer, and Ms. Courtney Edwards addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Birrell, to **delete** Rezoning to the **LI** zoning district **subject to:**

- Site plan received by the Zoning Division August 22, 2012, with District Commissioner approving minor modifications (attached and made a part of these minutes)
- Letter of agreeable conditions dated October 30, from Mr. John Moore *not otherwise in conflict* (attached and made a part of these minutes)
- Letter of agreeable conditions from Mr. John Moore dated November 28, 2012 (attached and made a part of these minutes) with the following changes:
 - Item No. 6 – add to end: “, using brick or masonry materials.”
 - Item No. 9 – add to end: “Maintenance period for White Pines to be for five years with oversight by the County Arborist.”
 - Item No. 12 – add to end: “Remodel to be completed within 120 days from final approval by the Board of Commissioners.”
 - Item No. 19 – delete in its entirety
- For this use *only*
- Wooden fence, eight feet in height, to be installed along the eastern property line
- Maximum of 20 vehicles on the property
- All truck repair to be inside building
- No outside storage
- Truck terminal/repair facility *only* and any changes in use must be approved by the Board of Commissioners
- District Commissioner may approve minor modifications
- Oil/water separation device to be installed
- Building and bay doors of new building to face rear of property adjacent to Heavy Industrial zoned property, facing Lee Industrial Drive

ORIGINAL DATE OF APPLICATION: 09-18-12

APPLICANTS NAME: LUIS URIZAR

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 12-18-12 ZONING HEARING: (Continued)

- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. § 36-71-13 for dedication of system improvements to mitigate traffic concerns**

VOTE: **ADOPTED 4-1, Commissioner Ott opposed**

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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STEPHEN C. STEELE
WILLIAM R. JOHNSON
ROBERT D. INGRAM
J. BRIAN O'NEIL
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COLLEEN K. HORN

OF COUNSEL:
JOHN L. SKELTON, JR.

† ALSO ADMITTED IN TN
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◊ ALSO ADMITTED IN SC
⊠ ALSO ADMITTED IN NC
◌ ADMITTED ONLY IN TN
◍ ADMITTED ONLY IN FL

Min. Bk. 107 Petition No. Z-38
Doc. Type letter of agreeable
conditions
Meeting Date 12/11/12

November 28, 2012

Hand Delivered

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

COBB COUNTY GEORGIA
FILED IN OFFICE
2012 NOV 28 PM 12:32
COBB COUNTY ZONING DIVISION

RE: Application for Rezoning - Application No. Z-38 (2012)
Applicant: Luis Urizar
Property Owner: The Estate of Elzie Elton Goodwin
(a/k/a E. E. Goodwin)
Property: 2.514± acres located at 320, 350, and 370 Six
Flags Parkway, Land Lot 505, 18th District,
2nd Section, Cobb County, Georgia

Dear Jason:

The undersigned and this firm represent Mr. Luis Urizar, the Applicant (hereinafter referred to as "Applicant"), and the Property Owner, the Estate of Elzie Elton Goodwin (hereinafter referred to as "Owner"), in his Application for Rezoning with respect to property located at 320, 350, and 370 Six Flags Parkway, Land Lot 505, 18th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meetings and discussions with planning and zoning staff and various Cobb County departmental representatives, discussions and meetings with area residents and representatives of the Mableton Improvement Coalition, reviewing the

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 2 of 6
November 28, 2012

Case No. 2-38
Filing Date 12/18/12
Title

staff comments and recommendations and the uses of surrounding properties, and following presentations to and continuances by the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the letters of agreeable stipulations and conditions dated and filed August 29, 2012, and October 30, 2012. The revised stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Rezoning of the Subject Property shall be from the existing zoning category of R-20 to the proposed zoning category of Light Industrial ("LI") zoning category, with reference to the Zoning Site Plan prepared for Applicant by Gaskins Surveying Company, Inc.. dated July 18, 2012, and filed with the Zoning Office on August 22, 2012. A reduced copy of the revised Zoning Site Plan is attached hereto for ease of reference as Exhibit "A" and incorporated herein by reference.
- (3) The total site area consists of 2.514 acres. Applicant proposes to use the Subject Property for a truck terminal and truck repair facility.
- (4) Applicant agrees to demolish the existing masonry garage, frame shed, and masonry shed located on the easterly portion of the Subject Property, and within the stream buffer area, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (5) Additionally, the frame residence located on the westerly side of the Subject Property shall be demolished.
- (6) Entrance signage for the proposed development shall be ground based, monument style signage.

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 3 of 6
November 28, 2012

Petition No. 2-38
Meeting Date 12.8.12
Continued

- (7) Applicant agrees to the installation of a solid wooden fence, eight (8) feet in height, along the easterly property line of the Subject Property, said fence to be installed inside an existing chain link fence which is six (6) feet in height.
- (8) Applicant agrees to erect a black, vinyl-clad chain link fence, a minimum of six (6) feet in height, along the frontage of the Subject Property on Six Flags Parkway. Said fence shall begin at a point at the intersection of the southerly side of Six Flags Parkway with the seventy-five (75) foot impervious buffer line, and thence running westerly to the westerly boundary of the Subject Property.
- (9) Applicant agrees to the installation of landscaping, to include a staggered row of White Pines a minimum of six (6) feet in height, along, and in front of, the black, vinyl-clad chain link fence referenced in subparagraph (8), as approved by the Cobb County Arborist.
- (10) The foregoing paragraphs relating to demolition of structures, erection of fencing, and landscaping shall be accomplished on or before the expiration of one hundred eight (180) days from the final zoning approval of the rezoning by the Cobb County Board of Commissioners.
- (11) Applicant agrees that it shall not store on-site, or be involved in the transport of municipal solid waste materials or hazardous waste.
- (12) Applicant intends to utilize the remaining structure as its office. Applicant agrees to remodel and renovate the structure; including, but not limited to, a new roof, new windows, painting, and the like.
- (13) Any structure erected for repairs shall have no bay doors facing Six Flags Parkway, and shall be located on the westerly portion of the Subject Property, closer to the container yard facility located adjacent to the Subject Property. The hours of operation of any truck repairs shall be 8:00 a.m. to 6:00 p.m., Monday through Friday; 9:00 a.m. to 3:00 p.m. on Saturday; and no repair work shall be done on Sunday.
- (14) Minor modifications to the referenced Zoning Site Plan, including, but not limited to, stormwater control measures, may be approved by the District Commissioner, as needed or necessary.

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 4 of 6
November 28, 2012

Petition No. 2-38
Meeting Date 12.18.12
Continued

- (15) If the proposed detention area is required to be fenced, then such fencing shall be vinyl-clad chain link fencing.
- (16) All landscape and buffer areas may be penetrated for purposes 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 of the foregoing.
- (17) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (18) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (19) There shall be no sidewalk, curb, or gutter installed along the frontage of the Subject Property on Six Flags Parkway.

We believe the requested zoning, pursuant to the Zoning Site Plan and the revised stipulations set forth herein, is appropriate for the Subject Property. The Subject Property is located within an industrial area of Cobb County and is bordered by industrial compatible businesses located to the west and south, as well as across Six Flags Parkway, from the Subject Property. We very much appreciate your assistance, and the consideration of the Planning Commission and Board of Commissioners in this rezoning request.

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 5 of 6
November 28, 2012

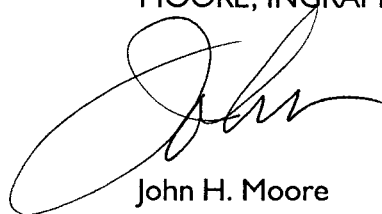
PAGE 18 OF

Petition No. 2-38
Filing Date 12/18/12
Commissioner

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Attachment

c: Cobb County Board of Commissioners:

Timothy D. Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Joann Birrell
(With Copy of Attachment)

Cobb County Planning Commission:

Murray Homan, Chairman
Judy Williams
Robert Hovey
Christi S. Trombetti
Mike Terry
(With Copy of Attachment)

Lisa Cupid
District Commissioner-Elect
and Area Resident
(With Copy of Attachment)

Robin Meyer
Mableton Improvement Coalition
(With Copy of Attachment)

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 6 of 6
November 28, 2012

PAGE 19 OF

2-38
12/18/12

c: Ms. Dean C. Archer
(With Copy of Attachment)

Luis Urizar
(With Copy of Attachment)

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A LIMITED LIABILITY PARTNERSHIP
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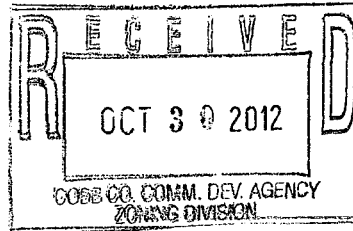
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October 30, 2012

PAGE 8 OF

Hand Delivered

Mr. Jason A. Campbell
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Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064



Min. Bk. 67 Petition No. 2-38
Doc. Type letter of agreeable conditions
Meeting Date 12/8/12

RE: Application for Rezoning - Application No. Z-38 (2012)
Applicant: Luis Urizar
Property Owner: The Estate of Elzie Elton Goodwin
(a/k/a E. E. Goodwin)
Property: 2.514± acres located at 320, 350, and 370 Six
Flags Parkway, Land Lot 505, 18th District,
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MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 2 of 5
October 30, 2012

Petition No. 2-38
Meeting Date 12/18/12
Continued

PAGE 9 OF

staff comments and recommendations and the uses of surrounding properties, and following presentations to and continuances by the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full that certain letter of agreeable stipulations and conditions dated and filed August 29, 2012. The revised stipulations are as follows:

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- (3) The total site area consists of 2.514 acres. Applicant proposes to use the Subject Property for a truck terminal and truck repair facility.
- (4) Applicant agrees to demolish the existing masonry garage, frame shed, and masonry shed located on the easterly portion of the Subject Property, and within the stream buffer area, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (5) Additionally, the frame residence located on the westerly side of the Subject Property shall be demolished.
- (6) Entrance signage for the proposed development shall be ground based, monument style signage.

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
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Approved _____

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- (7) Applicant agrees to the installation of a solid wooden fence, eight (8) feet in height, along the easterly property line of the Subject Property, said fence to be installed inside an existing chain link fence which is six (6) feet in height.
- (8) Applicant agrees to erect a black, vinyl-clad chain link fence, a minimum of six (6) feet in height, along the frontage of the Subject Property on Six Flags Parkway. Said fence shall begin at a point at the intersection of the southerly side of Six Flags Parkway with the seventy-five (75) foot impervious buffer line, and thence running westerly to the westerly boundary of the Subject Property.
- (9) Applicant agrees to the installation of landscaping, to include a staggered row of White Pines a minimum of six (6) feet in height, along, and in front of, the black, vinyl-clad chain link fence referenced in subparagraph (8), as approved by the Cobb County Arborist.
- (10) The foregoing paragraphs relating to demolition of structures, erection of fencing, and landscaping shall be accomplished on or before the expiration of one hundred eight (180) days from the final zoning approval of the rezoning by the Cobb County Board of Commissioners.
- (11) Applicant agrees that it shall not store on-site, or be involved in the transport of municipal solid waste materials.
- (12) Applicant intends to utilize the remaining structure as its office. Applicant agrees to remodel and renovate the structure; including, but not limited to, a new roof, new windows, painting, and the like.
- (13) Minor modifications to the referenced Zoning Site Plan, including, but not limited to, stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (14) If the proposed detention area is required to be fenced, then such fencing shall be vinyl-clad chain link fencing.
- (15) All landscape and buffer areas may be penetrated for purposes 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 of the foregoing.

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
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- (16) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (17) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (18) There shall be no sidewalk, curb, or gutter installed along the frontage of the Subject Property on Six Flags Parkway.

We believe the requested zoning, pursuant to the Zoning Site Plan and the revised stipulations set forth herein, is appropriate for the Subject Property. The Subject Property is located within an industrial area of Cobb County and is bordered by industrial compatible businesses located to the west and south, as well as across Six Flags Parkway, from the Subject Property. We very much appreciate your assistance, and the consideration of the Planning Commission and Board of Commissioners in this rezoning request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc
Attachment

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
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c: Cobb County Board of Commissioners:
Timothy D. Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Joann Birrell
(With Copy of Attachment)

Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Robert Hovey
Christi S. Trombetti
Mike Terry
(With Copy of Attachment)

Lisa Cupid
District Commissioner-Elect
and Area Resident
(With Copy of Attachment)

Robin Meyer
Mableton Improvement Coalition
(With Copy of Attachment)

Ms. Dean C. Archer
(With Copy of Attachment)

Luis Urizar
(With Copy of Attachment)

APPLICANT: Luis Urizar

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: HI

FIRE COMMENTS:

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2006 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

Dead-end access roads in excess of 150 feet shall be provided with a turn-around (IFC 503.2.5 2006 Edition). Cul-de-sac with or without an island: minimum 60-foot radius to outside curb, measured to inside of curb and a minimum lane width = 24 feet (Cobb County Development Standard 401.09). Single-Family cul-de-sac without island: 38-foot outside radius with island reverts to commercial dimensions. Hammerhead turn-around: total of 110 feet needed (45 feet + 20 feet wide roadway + 45 feet).

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupied floor level. Aerial fire apparatus access roads shall be a minimum width of 24 feet maximum of 40 feet from the structure and be positioned parallel to one entire side of the building. No overhead utility and power lines shall be located within the aerial fire apparatus access. (Cobb County Development Standards 401.08.02.1)

HYDRANT: Show fire hydrants arranged to have a hydrant available for the distribution of hose to any portion of any building on premises at distances not exceeding 500 feet (driving distance). Hydrants shall be at least 40 feet from the building (steamer connection facing street) (NFPA 24-7.2.3). Fire hydrants shall be spaced not more than 500 feet apart. Hydrants shall not be connected to water lines on the positive side (discharge side) of a fire pump. Minimum 8” supply lines to all hydrants.

APPLICANT Luis Urizar
PRESENT ZONING R-20

PETITION NO. Z-038
PETITION FOR HI

WATER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

- Available at Development: Yes No
- Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): **6" DI / S side of Six Flags Parkway**

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

- In Drainage Basin: Yes No
- At Development: Yes No

Approximate Distance to Nearest Sewer: **Approx 1,300' S with easements**

Estimated Waste Generation (in G.P.D.): **A D F** TBD **Peak=** TBD

Treatment Plant: **S Cobb**

- Plant Capacity: Available Not Available
- Line Capacity: Available Not Available
- Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years
- Drv Sewers Required: Yes No
- Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/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
- 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
Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Luis Urizar

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: HI

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Unnamed Trib to Chattahoochee River FLOOD HAZARD INFO: Zone A

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: Within or adjacent to on-site stream.

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - **County Review**/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: **50'**, 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on receiving stream.

APPLICANT: Luis Urizar

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: HI

STORMWATER MANAGEMENT COMMENTS – Continued

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. A commercial truck repair facility is considered a stormwater quality “hot-spot” due to the potential for discharge of contaminated runoff. The installation of an oil/water separation device will be required to treat runoff from this site. The development of a written stormwater pollution prevention plan (SWPPP) will also be required for the site.

APPLICANT: Luiz Urizar

PETITION NO.: Z-38

PRESENT ZONING: R-20

PETITION FOR: HI

COBB COUNTY DEPARTMENT OF TRANSPORTATION RECOMMENDATIONS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Six Flags Parkway	3,300	Major Collector	40 mph	Cobb County	80'

Based on 2011 traffic counting data taken by Cobb County DOT (Six Flags Parkway)

COMMENTS AND OBSERVATIONS

Six Flags Parkway is classified as a major collector and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of 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 south side of Six Flags Parkway, a minimum of 40' from the roadway centerline.

Recommend one access to Six Flags Parkway.

Recommend applicant verify that minimum intersection sight distance is available and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement.

Recommend curb, gutter, and sidewalk along Six Flags Parkway frontage.

Recommend a deceleration lane on Six Flags Parkway for the entrance.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

ORIGINAL DATE OF APPLICATION: 09-18-12

APPLICANTS NAME: LUIS URIZAR

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 07-16-13 ZONING HEARING:

**OTHER BUSINESS ITEM #1 - TO CONSIDER AMENDING THE ZONING
STIPULATIONS RELATING TO Z-38 OF 2012 (LUIS URIZAR)**

To consider amending the zoning stipulations relating to Z-38 of 2012 (Luis Urizar), for property located on the south side of Six Flags Parkway, east of Bishop Road in Land Lot 505 of the 18th District.

Mr. Pederson provided information regarding the stipulation amendment to remove stipulated time frames for development. The public hearing was opened and Mr. John Moore addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Cupid, second by Ott, to **approve** Other Business Item No. 1 for stipulation amendments regarding Z-38 of 2012 (Luis Urizar), for property located on the south side of Six Flags Parkway, east of Bishop Road in Land Lot 505 of the 18th District **subject to:**

- **Extend stipulated deadlines for 30 days, and if deadline is not met, property will be brought in for rezoning by the Applicant and fees for rezoning application will be waived**
- **All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect**

VOTE: **ADOPTED** unanimously