

# Application for "Other Business" Amended Cobb County, Georgia

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

BOC Hearing Date Requested: February 16, 2021

Applicant: Civil Consulting Engineers, Inc. Phone#: 678.461.4011  
(applicant's name printed)

Address: 211 E. Main St. Canton, GA 30114 E-Mail: tboomer@civilconsultingengineersinc.com  
SAMS, LARKIN & HUFF, LLP

Parks F. Huff Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30064  
(representative's name, printed)

[Signature] Phone #: (770) 422-7016 E-Mail: phuff@samslarkinluff.com  
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] My commission expires: \_\_\_\_\_  
Notary Public



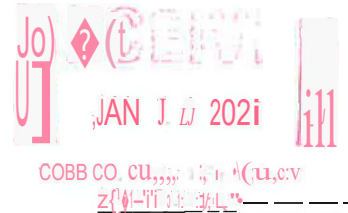
Titleholder(s) : Food Lion, LLC Phone#: (704) 310-4328  
(property owner's name printed)

Address: 210 Executive Dr. Salisbury, NC 28147 E-Mail: \_\_\_\_\_

See attached signature page  
(Property owner's signature)

Signed, sealed and delivered in presence of:

See attached signature page My commission expires: \_\_\_\_\_  
Notary Public



Commission District: 4/Sheffield Zoning Case: Z-18219

Size of property in acres: ± 6.5 Original Date of Hearing: 07/07/09 (PC), 07/21/09 (BoC)

Location: 768 S. Gordon Rd. and 6712 Factory Shoals Rd.  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 384, 385, 413, 414 District(s): 18

State specifically the need or reason(s) for Other Business: \_\_\_\_\_

The original zoning anticipated a Food Lion Grocery store. The conditions need to be amended to change the site plan and to amend the conditions that are inconsistent with the proposed commercial development. 1) Amend the site plan. 2) Allow beer and wine package sales at the proposed convenience store. 3) Replace the stipulation letter with a revised stipulation letter reflecting the current site plan and architectural style and materials.

(List or attach additional information if needed)



ORIGINAL DATE OF APPLICATION: 07-21-09APPLICANTSNAME: J=D=H=C=P=L=T=A=L=L=L

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

BOC DECISION OF 07-21-09 ZONING HEARING:

JDH CAPITAL, LLC (Juanita Bryant Green a/k/a Sybil Juanita Bryant Green, deceased and Kenneth P. Lewis, owners) requesting Rezoning from R-20 to NRC for the purpose of a Grocery Store and Retail in Land Lots 384, 385, 413, and 414 of the 18<sup>th</sup> District. Located at the northwest intersection of Factory Shoals Road and South Gordon Road.

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 Thompson, second by Olens, to approve Rezoning to the NRC zoning district subject to:

- site plan received by the Zoning Division May 6, 2009, with the District Commissioner approving minor modifications (attached and made part of these minutes)
- if the subject property is determined to be undevelopable for the purposes sought by the Applicant or for any reason the closing of the property does not take place within twelve (12) months of the date of the successful zoning of same, then in such event the zoning classification of the subject property shall revert to its original classification of R-20 without any further action being necessary by Cobb County or the owners of the subject property
- letter of agreeable conditions from Mr. Garvis L. Sams, Jr., dated June 25, 2009 (including prototype photographs), *with the following changes/additions* (attached and made part of these minutes):
  - ◆ Item No. 8, Add an "o" to read: *"o. No parking of vehicles for the purpose of advertising."*
  - ◆ Item No. 9, Delete second sentence and amend first sentence to read: *"JDH is agreeable to prohibiting the sale of packaged alcoholic beverages at all of the retail stores except for the Food Lion grocery store and possibly in the case of a store which may specialize in the sale of wine, both requiring that they go through and be approved by the licensing process."*
  - ◆ Add new Item No. 17: *"If the business ceases to be a Food Lion or changes in any way, it is to be brought back to the District Commissioner for any changes that may occur."*
- Cobb County-Marietta Water Authority comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations, *with emphasis that street-side sidewalks are to be connected to all interior sidewalks*
- 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 unanimously



**SAMS, LARKIN & HUFF**  
A LIMITED LIABILITY PARTNERSHIP

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376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

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GARVIS L. SAMS, JR.,  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

MELISSA P. HAISTEN  
JUSTIN H. MEEKS

June 25, 2009

PAG  OF 

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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 JDH Capital, LLC to Rezone a 6.62 Acre Tract  
from R-20 to Neighborhood Retail Commercial (NRC) (No. Z-20)

Dear John:

As you know, this firm represents JDH Capital, LLC ("JDH") concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered next month by the Cobb County Planning Commission on July 7, 2009 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on July 21, 2009. You will recall that JDH has under contract a 6.62 acre tract of land located at the northwest quadrant of the intersection of Factory Shoals Road and South Gordon Road and proposes the rezoning of the property from R-20 to Neighborhood Retail Commercial ("NRC") for purposes of a grocery store, offices and retail.

We previously provided you with a letter of agreeable stipulations/conditions, dated June 4, 2009. However, since that submission, JDH and/or its representatives have continued to meet with representatives of the Mableton Improvement Coalition ("MIC"), Southwest Austell Neighbors ("SWAN") and area business and property owners. In that regard, this letter will constitute JDH's agreement with the following revised stipulations which shall become 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 with respect to the subject property.
2. Rezoning of the subject property shall be from R-20 to NRC in substantial conformity to the site plan submitted with the Application for Rezoning on May 6, 2009. However, it shall be understood that there may be circumstances which require the site plan to be

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modified slightly during the Plan Review process, subject to review and approval by the District Commissioner.

3. The architectural style, composition and treatment of all of the buildings shall be consistent with the elevation and photograph being resubmitted contemporaneously herewith. The composition of the buildings shall be consistent throughout the development and shall consist of a mixture of brick or brick-like materials, EFIS, stacked stone and related materials with stucco-type accents. There shall be consistency and uniformity through the development with respect to all architectural elements. However, to the extent a national or regional tenant's prototype is at variance, the District Commissioner shall retain the authority to review and approve such changes.
4. Entrance signage for the proposed development shall be ground-based, monument style, with finished materials and colors matching 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>
5. 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.
6. Security lighting on the rear of the buildings shall be designed to minimize illumination from penetrating outside the boundaries of the subject property.
7. 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. Additionally, all trash cans within the retail center shall be themed to the architectural style and composition as aforementioned.

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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.

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8. The following otherwise permitted uses under the NRC classification shall be prohibited:
- 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 customer.
  - 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.
  - j. All gun, knife and weapon sales; however, the Food Lion grocery store and other stores within the retail component shall be allowed to stock knives and other kitchen utensils relating to cooking and food preparation.
  - k. There shall be no outside paging systems, phone bells, or loud speakers; excepting only low-decibel outdoor music systems.
  - l. Second-hand stores, thrift stores and flea markets.
  - m. All outside displays of merchandise besides sidewalk sales or special events lasting seven (7) days or less.
  - n. Signs in windows covering more than ten percent (10%) of the total window space shall not be allowed.

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9. JDH is agreeable to prohibiting the sale of package alcoholic beverages at all of the retail stores except for the Food Lion grocery store. However, in the event of a restaurant which may serve alcoholic beverages or in the case of a store which may specialize in the sale of wine, those circumstances shall be considered on a case by case basis by the District Commissioner.
10. The submission of a landscape plan during Plan Review subject to review and approval by the Community Development Agency, including the following:
  - a. The formation of a Landscape Oversight Committee consisting of representatives of MIC, SWAN, the developer 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 20' landscaped buffer along the northern and western property lines adjacent to Bryant Primary and Intermediate School which is located within a residentially zoned area.
  - c. The installation of an 8' landscaped strip along the subject property's frontage on South Gordon Road and Factory Shoals Road.
  - d. 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 plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.
  - e. All landscaping for the proposed retail center 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.
  - f. 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.
  - g. All HVAC and/or mechanical systems shall be screened by raising the parapet to the same height of said systems.



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In addition to the foregoing and in order to ensure walkability and accessibility, JOH will ensure that clear pedestrian pathways shall be provided from both South Gordon Road and Factory Shoals Road to Phase One buildings with pavement striping and/or sidewalks. Additionally, a rack for the storage of bicycles on the subject property shall be included in the development plans.

11. Compliance with the recommendations from the Cobb County Department of Transportation with respect to traffic/transportation issues. Additionally, compliance with the conclusions and recommendations embodied in that certain Traffic Impact Study prepared by Southeastern Engineering, Inc. (SEI Project #487-09-054) submitted under separate cover on May 27, 2009.<sup>2</sup>
12. 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 heightened 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.<sup>3</sup>
13. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
14. 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.

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<sup>2</sup> The Traffic Impact Study Capacity Analysis reflects that all of the intersections within the study area will continue to operate at or better than current Levels of Service. In fact, the intersection of South Gordon Road and Factory Shoals Road is projected to improve in terms of its Level of Service because of the proposed improvements at that intersection as shown on the referenced site plan.

<sup>3</sup> Due to the fact that detention will be constructed and installed underground, the Stormwater Management Division will be requesting elevated water quality for the site.

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15. JDH is agreeable to exploring all that is involved in being a "Partner in Education" with Bryant Elementary School and will ensure that the Food Lion grocery store and all of the retail components of the proposed development are good neighbors to the school.
16. Minor modifications to the site plan, landscape plan and architectural elevations/renderings may be approved by the District Commissioner.

The County is provided with a unique opportunity to approve a zoning proposal which is entirely appropriate considered in the context of existing and proposed development in which the subject property is located and in view of the stipulations/conditions to which JDH has agreed. Moreover, with the subject property being located within an area under Cobb County's Future Land Use Map which is denominated as a Neighborhood Activity Center, the property is properly positioned to be entitled for commercial purposes.

Please do not hesitate to call should you or the staff require any further information or documentation prior to the formulation of your Zoning Analysis and staff recommendations.  
With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/jbmc

Enclosures

cc: Shown on next page.

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- cc: Members, Cobb County Board of Commissioners - VIA Hand Delivery - w/enclosures  
Members, Cobb County Planning Commission - VIA E-Mail w/attachments  
Mr. Robert L. Hosack, Jr., AICP, Director - VIA Hand Delivery - w/enclosures  
Mr. Mark A. Danneman, Manager - VIA Hand Delivery - w/enclosures  
Ms. Karen King, Deputy County Clerk - VIA Hand Delivery - w/enclosures  
Ms. Lori Presnell, Deputy County Clerk - VIA Hand Delivery - w/enclosures  
Mr. David Breaden, P.E. - VIA E-Mail - w/attachments  
Ms. Jane Stricklin, P.E. - VIA E-Mail - w/attachments  
Mr. Ben Clopper, President, Mableton Improvement Coalition - VIA E-Mail -  
w/attachments  
Ms. Robin Meyer, Mableton Improvement Coalition - VIA E-Mail - w/attachments  
Ms. Clarice Barber-Page, President, SWAN - VIA E-Mail - w/attachments  
Mr. Collin Ricks, Director of Development - VIA E-Mail - w/attachments  
Mr. Jason Chipps, Director of Entitlement Services - VIA E-Mail - w/attachments



**FOOD LION 35K PROTOTYPE**  
12/02/08

**Chisari & Peterson**  
Architects Engineers Planners  
Orlando, FL | 407-661-9100 | [www.C&P.com](http://www.C&P.com)

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*Food Lion Prototype*

