

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF

**SAMS, LARKIN & HUFF**  
A LIMITED LIABILITY PARTNERSHIP  
SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

770•422•7016  
TELEPHONE  
770•426•6583  
FACSIMILE

August 30, 2021

**(SECOND REVISED STIPULATION LETTER)**

**VIA EMAIL:**

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

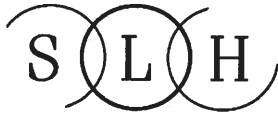
Re: Fifty-Nine Twelve Mableton Parkway & Old Powder Springs Road Rezoning  
(No. Z-23 [2021])

Dear John:

You will recall that this firm represents the Applicant concerning the above-captioned Application for Rezoning. In that regard, the Application was heard and held by the Planning Commission during the August cycle and is now scheduled to be heard again by the Cobb County Planning Commission on September 7, 2021 and, thereafter, scheduled heard and considered for final action by the Cobb County Board of Commissioners (“BOC”) on September 21, 2021.

The property at issue (“Subject Property”) consists of an approximate 2.331-acre tract of land which is located on the north side of Old Powder Springs Road and on the west side of Mableton Parkway. The Subject Property was rezoned from O&I and PSC to Community Retail Commercial (“CRC”) for the purposes of an Assembly Hall and ancillary uses by the Board of Commissioners on July 16, 2019 (No. Z-82 [2018]). The Rezoning was subject to numerous stipulations/conditions; the Revised site plan for the Assembly Hall use; and, architecture specific to that proposed project. However, as a result of a number of issues, the Assembly Hall proposal never came to fruition leaving the Subject Property with a preponderance of stipulations/conditions which preclude its utilization.

While this Application has been pending, we have established an ongoing and meaningful dialogue with representatives of the Mableton Improvement Coalition (“MIC”), the District Planning Commissioner, the County’s professional staff and area residents and business owners. In that regard, the Applicant has provided this firm with the authority to submit this Revised letter of agreeable stipulations/conditions. The Applicant and property owners are



**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 2

---

agreeable to the following second revised stipulations becoming conditions and a part of the grant of the requested Rezoning and binding upon the Subject Property thereafter:

1. The revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place regarding the Subject Property.
2. Rezoning of the Subject Property shall be from its existing category of Conditional CRC to NRC in substantial conformity to the revised site plan submitted on July 26, 2021 which is being updated further to reflect the change in stipulations and which will be submitted under separate cover.<sup>1</sup>
3. In accordance with Staff's recommendation for approval to the Neighborhood Retail Commercial ("NRC") zoning district, the Applicant proposes utilization of the Subject Property for retail commercial purposes and is in discussions with several potential users for uses consistent with permitted uses under the NRC zoning classification, except as hereinafter set out.
4. The Applicant and property owners agree that the following uses shall be expressly disallowed as "conditional prohibited uses", to wit:
  - a. Tattoo parlors and body piercing shops.
  - b. All auto parts stores, auto paint shops, auto repair facilities and all other automotive/vehicular related uses.
  - c. Billiard parlors.
  - d. Pawn shops, check cashing establishments and title pawn businesses.
  - e. Shooting ranges or the sale of guns and knives as a primary business.
  - f. Any business which principally features sexually explicit products or drug related paraphernalia.
  - g. Flea markets, thrift shops, consignment shops and discount "Dollar type" stores. The Applicant reserves the right to utilize a portion or all of the property for the purposes of a "Goodwill-type" of store coupled with appropriate

---

<sup>1</sup> The Subject Property was originally rezoned to CRC on July 16, 2019 (No. Z-82 [2018]) specific to the use and site plan at that time.



**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 3

---

stipulations/conditions regarding additional prohibitions and assurances regarding outside storage of any kind.

- h. Firewood sales.
  - i. Vape and/or smoke shops or hookah-type restaurants.
  - j. Video arcades as a primary business.
  - k. Liquor stores.
  - l. Adult entertainment.
  - m. Night clubs.
  - n. Taxi dispatch facility.
  - o. Truck sales and/or service.
5. There is an approximate 15,000 square-foot, one-story building which is located on the Subject Property oriented to Mableton Parkway. The Applicant's revised plans are to rehab, retrofit and repurpose that building for retail commercial purposes.

This Rezoning shall comply with all applicable building codes, rules and regulations and shall be consistent with parking ratio requirements by the utilization of existing parking onsite and additional parking by way of the Declaration of Easements and Restrictions, a copy of which is attached hereto and made a part hereof by reference.<sup>2</sup>

6. Portions of the Subject Property consist of three (3) tracts with frontage on Old Powder Springs Road which will be subject to the stipulations and conditions contained herein only to the extent that said property will be rezoned to NRC with the

---

<sup>2</sup> The Cobb County Zoning Ordinance parking ratio requirements reflect that forty (40) parking spaces are required; whereas, this revised proposal reflects forty-eight (48) existing parking spaces plus two (2) handicap parking spaces for a total of fifty (50) parking spaces. The church next door holds its services on Saturday nights so no parking conflicts will present themselves, particularly in view of the fact that the Declaration of Easements and Restrictions provides the Applicant with the unilateral right to utilize parking on the contiguous parcels regardless of the existing user thereof with no level of reciprocity. In other words, the Church or any other record title holder does not have the reciprocal right to use parking spaces on the Subject Property.



**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 4

---

requirement that specific development plans concerning same shall be required to proceed through the “Other Business” Application process.<sup>3</sup>

7. The architectural style and composition of the building on the Subject Property shall remain in its as-built circumstances except for interior and exterior modifications and/or retrofitting. Any new construction shall be subject to and in compliance with the Mableton Parkway & Veterans Memorial Highway Design Guidelines which were adopted on January 23, 2018.<sup>4</sup>
8. The hours of operation for the retail commercial component of the Subject Property shall be from 7:00 a.m. through 9:00 p.m., Monday through Sunday. There shall be no loitering allowed within parking areas or at any time which would precipitate excessive noise or interfere with the peaceful enjoyment of area residents or business owners either during or after business hours.
9. As a carryover from the 2019 Rezoning and in accordance with discussions with MIC, the Applicant shall be responsible for setting up a Landscape Oversight Committee (“LOC”) comprised of the Applicant, MIC and a designee from the Community Development Agency. This Committee shall review and its purview shall be applicable to any new landscaping and/or fencing plans. The District Commissioner shall be the final arbiter concerning any issues which cannot otherwise be resolved by the LOC.

Additionally, and to the extent that future buildings are constructed on the Subject Property and/or the site is redeveloped, said construction and architecture shall comply with the design guidelines as mentioned above and which shall also be subject to review and approval by the District Commissioner.

The NRC District requires a twenty-five foot (25’) buffer between the Subject Property and adjacent residential property. The revised site plan which will be submitted under separate cover will depict a ten foot (10’) maintained landscape buffer with a fence component along the property line which will be constructed, planted and implemented upon a purchase of the Subject Property closing and the resultant issuance of a Certificate of Occupancy.

---

<sup>3</sup> The former record title holder, IGBO Union Atlanta, USA, Inc. (“IGBO”) has recently conveyed said property to the Church for future use and/or expansion of the Church’s ministries.

<sup>4</sup> The Applicant recently pressure washed the building on the Subject Property; however, the will Applicant will agree to hold in abeyance any painting, additional pressure washing or anything which may substantively change the appearance of the building prior to securing the entitlements sought.



**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 5

---

10. The dumpster utilized by the Facility shall be situated on the interior of the Subject Property in order to shield the dumpster from public vantage points, including streets and sidewalks; and will comply in all respects with Cobb County Regulations regarding dumpsters and/or at-grade trash compaction areas. The enclosed dumpster is not needed until the Applicant secures a tenant; however, the Applicant agrees to the construction and installation of the enclosed dumpster component within one-hundred twenty (120) days of approval of this Rezoning by the BOC.
11. New signage, if any, shall be ground-based monument style signage. The finish, materials and colors for such signage shall be of the same style and composition as the Facility. The signage shall contain no digital or flashing sign components; no roof signs; and, no exterior temporary signage.

In addition to the foregoing, there may be interior directional signage, as needed, regarding interior maneuverability and accessibility and regarding points of ingress to and egress from the Subject Property.

Presently, the Applicant intends on modifying existing signage onsite to retrofit the structure of that signage and in order to bring it into compliance with the Cobb County Sign Ordinance. However, if the metal signage and its support system are not incorporated into a ground-based, monument-style sign within one-hundred twenty (120) days from approval of the Rezoning by the BOC, the existing sign structure shall be removed/demolished.

12. Any additional lighting for the parking areas shall be environmentally sensitive and shall be fitted with non-glare lenses and cut-off shields to prevent illumination from extending beyond the perimeter of the Subject Property. Security lighting shall be wall packs, hooded, environmentally sensitive and also fitted with non-glare lenses and cut-off shields.
13. Compliance with recommendations from the Cobb County Stormwater Management Division with respect to stormwater management, detention, hydrology, water quality and downstream considerations.
14. Compliance with the following recommendations from the Cobb County Department of Transportation (“DOT”), to wit:
  - a. To the extent that it is physically possible to do so (in view of limited road frontage), the installation of a deceleration lane and taper of the Subject Property’s point of ingress/egress on Mableton Parkway upon a redevelopment of the Subject Property.



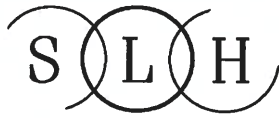


**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 6

---

- b. The voluntary donation and conveyance of right-of-way of Old Powder Springs Road a minimum of 30 feet from the roadway centerline upon a redevelopment of the Subject Property.
  - c. The installation of sidewalk, curb and gutter along the frontage of Old Powder Springs Road upon the redevelopment of the property.
  - d. Any driveway on Old Powder Springs Road must be a minimum of 50 feet in length for uninterrupted ingress/egress to and from the Subject Property upon a redevelopment.
15. Compliance with the recommendations from the Cobb County Water System with respect to the availability of water and sewer. According to Staff, water is available at the site in the form of a six-inch watermain on Mableton Parkway. The Water System will require a fire flow test.
  16. Compliance with the recommendations from the Cobb County Fire Marshal's Office with respect to life safety and fire prevention issues.
  17. All setbacks, landscaping and buffer areas may be penetrated for purposes of access, utilities and Stormwater Management including, not limited to, detention or water quality and any all slopes or engineered features. Also, any such encroachments shall be allowed for Fire Marshal Office-driven protocols or mandates.
  18. The District Commissioner shall have the authority to approve certain minor modifications as the development proposal proceeds through the Plan Review Process and thereafter, including this Revised stipulation letter, architecture, the Revised Site Plan, and engineering/acoustical components, except for those that:
    - a. Reduce the size of an approved buffer adjacent to property which is zoned in a more restrictive zoning district.
    - b. Relocates a structure closer to the property line of an adjacent property which is zoned in a more restrictive zoning district.
    - c. Increase the height of a building which is adjacent to property which is zoned in a more restrictive zoning district.
    - d. Are violative of the Cobb County Zoning Ordinance.
    - e. Change access locations to different roadways.



**VIA EMAIL:**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
August 30, 2021  
Page 7

---

f. Are in direct conflict with or in direct contradiction to Cobb County regulations.

Please do not hesitate to contact me should you or your staff require any additional information or documentation prior to this Application being heard and considered next month. With kind regards I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read 'G. Sams, Jr.', enclosed within a hand-drawn oval.

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

GLS, Jr./dls

cc: Cobb County Board of Commissioners (via email)  
Cobb County Planning Commissioners (via email)  
Dr. Jackie McMorris, County Manager (via email)  
BOC Commission Assistants (via email)  
Ms. Jessica Guinn, AICP, Community Development Agency Director (via email)  
Ms. Jeannie Peyton, Senior Planner, Zoning Division (via email)  
Mr. Jason S. Gaines, AICP, Planning Manager (via email)  
Mr. Phillip Westbrook, Senior Planner, Comprehensive Planning (via email)  
Mr. Terry Martin, Planner III, Zoning Division (via email)  
Mr. Donald Wells, Planner II, Zoning Division (via email)  
Ms. Margie Vazquez, Planner II, Zoning Division (via email)  
Ms. Pamela Mabry, County Clerk (via email)  
Ms. Robin Stone, Deputy County Clerk (via email)  
Ms. Leila Washington, Deputy County Clerk (via email)  
Capt. Josh Davis, Fire Marshal's Office (via email)  
Mr. L. Carl Carver, P.E., Stormwater Management Division (via email)  
Ms. Amy Diaz, P.E., Cobb DOT (via email)  
Ms. Abby Rettig, Cobb DOT (via email)  
Mr. Tim Davidson, Water System (via email)  
Ms. Robin Meyer, MIC (via email)  
Mr. Larry Norwood (via email)  
Mr. Donald Perryman, RLS (via email)  
Mr. Joseph T. Baker, RLS (via email)