

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

January 20, 2022

(LETTER OF AGREEABLE STIPULATIONS/CONDITIONS)

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: Application of Streamline Development Partners to Rezone a 3.804 Acre Tract from Conditional NRC (School Use Only) to NRC (No. Z-8 [2022])

Dear John:

This firm represents Streamline Development Partners (“SDP”) concerning the above-captioned Application for Rezoning. Currently, the application is scheduled to be heard and considered by the Cobb County Planning Commission on February 1, 2022 and, thereafter, heard and considered for final action by the Cobb County Board of Commissioners on February 15, 2022.

The property at issue (“Subject Property”) consists of an approximate 3.804 acre tract of land which is located on the south side of Veterans Memorial Highway (“VMH”) and the east side of Hickory Trail. The Subject Property is within an area denominated as a Neighborhood Activity Center (“NAC”) under Cobb County’s Future Land Use Map (“FLUM”) which contemplates any and/or all of the uses proposed by SDP.

The Subject Property was originally rezoned as a part of a 16.05 acre assemblage which formed the underlying subject matter of an Application for Rezoning (No. Z-71 [2016]) and a Special Land Use Permit (SLUP No. 10 [2016]) which were collectively approved by the Board of Commissioners on August 16, 2016. However, the granting of the Rezoning and SLUP were exclusively and specifically for the purposes of the construction and development of a private school and attendant campus, including a building 96,495 square feet in size with associated parking, outside classroom areas, sports fields, et al. The private school never closed on the assembled properties and the Rezoning did not include any type of “reversionary” language.

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Since the action taken by the Board of Commissioners in 2016, the Subject Property has lain idle and undeveloped. Although, in July of 2021, a Rezoning Application seeking to develop 1.1 acres of the Subject Property for a retail auto parts and supply company was “Withdrawn Without Prejudice” (No. Z-47 [2021]).

A preponderance of the properties located along the north and south sides of this section of VMH are commercially zoned and utilized. SDP’s proposed commercial uses have a neighborhood-oriented market and will provide an availability of uses to serve this sub-area. The proposed NRC uses are located at an intersection within the Neighborhood Activity Center, and, in effect, will provide a step-down nodal zoning which transitions from more intensive commercial uses at the intersection of VMH and Hickory Trail towards less intense uses to the south of the Subject Property.

There are R-20 zoned properties located to the south, the southeast and across Hickory Trail from the Subject Property. The 3.3 acre R-20 zoned property which is located to the south and southeast of the Subject Property is undeveloped and owned by Bankhead C & D Recycling Transfer Station, LLC. The R-20 zoned property located across Hickory Trail is a 4.5 acre undeveloped tract which is owned by Zoe Christian Fellowship, Inc. The nearest residentially zoned and utilized property (a residence which does not abut the Subject Property but which instead lies next to the Bankhead C & D tract) is located approximately 200’ from the boundary line of the Subject Property (6080 Azalea Drive).

At this time, SDP is requesting a Rezoning for the purposes of the construction, build-out and development of a Restaurant and/or Retail use analogous to those uses/users as reflected on the list attached hereto as an Exhibit and an AutoZone store with co-utilization of a single point of ingress/egress and with restricted turning movements and with the positioning of stormwater management/water quality components on portions of the property which will be left as open space and which will remain undeveloped in perpetuity.

During the pendency of this application, we have established a dialogue with the County’s professional staff and area business and property owners. Also, we have interfaced with representatives of the Zoning Committee of the Mableton Improvement Coalition (“MIC”). In that regard, this letter will serve as SDP’s agreement to the following stipulations which shall become conditions and a part of the grant of the requested Rezoning and which shall be binding upon the Subject Property thereafter. The referenced stipulations are as follows, to wit:

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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 concerning the Subject Property which constitutes the subject matter of the above-captioned Application.¹
2. The approval of this Application shall be specifically for the purposes of the construction and development of an approximate 6,170 square foot Restaurant with a possible Retail Component on the pin-corner tract and an approximate 7,430 square foot AutoZone store with related interior offices/inventory.
3. This Rezoning shall be in substantial conformity to that certain Site Plan prepared by MASS Engineering and Consultants, LLC which was submitted with the Application for Rezoning and which is being re-submitted concurrently herewith.
4. The architectural style and composition of the buildings, as mentioned above, shall be substantially similar to the renderings which will be submitted under separate cover and which shall be consistent with the Mableton Parkway and VMH Design Guidelines, adopted by Cobb County in 2017.

With respect to architectural considerations and construction, SDP agrees that such shall be subject to review by an Architectural Oversight Committee (“AOC”) consisting of a representative of SDP, a representative of MIC, a representative of the Community Development Agency and the District Commissioner who shall be the final arbiter in the event that an impasse is reached on issues regarding the architectural style and composition of the buildings.

5. The proposed operating hours for the Restaurant and potential Retail Component will be daily from 7:00 a.m. until Midnight. The proposed hours of operation for the AutoZone store shall be Monday through Saturday from 7:30 a.m. until 9:00 p.m. and on Sundays from 9:00 a.m. until 9:00 p.m.

¹ Presently, in view of the fact that the Subject Property is specifically zoned and entitled for a private school, neither the Applicant, the Property Owner nor anyone other than the private school (built and located elsewhere) has a present entitlement to utilize or develop the property in any manner with the result being that the Subject Property is “frozen” in terms of the acceptable and permissible land uses for which SDP has applied.

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6. Construction hours concerning the development of the buildings and related infrastructure on the Subject Property shall be from 8:00 a.m. until 6:00 p.m., Monday – Friday; from 9:00 a.m. until 4:00 p.m. on Saturdays; and, there shall be no construction on the Subject Property on Sundays.
7. There shall be no outside storage of vehicles nor other outside storage of any kind as defined by the Cobb County Zoning Ordinance. This includes but is not limited to vehicular parts, accessories or components thereof.

This shall also extend to include a condition of the zoning prohibiting any work on vehicles whatsoever being done on site outside of the AutoZone building, including a prohibition precluding activities such as battery replacement, light bulb changes, wiper blade replacement, "check engine light" diagnostics, and other minor items which are typically accomplished with non-powered hand tools and on a complimentary basis.

For purposes of emphasis and in keeping with the stipulations above, there shall be no "vehicles" stored outside; no loitering or gathering within the surface parked areas or otherwise; and, with no outside vehicular work of any kind.

8. Signage for both tracts shall be ground-based, monument-style and consistent with provisions of the Cobb County Sign Ordinance and Design Guidelines adopted by the County in 2017. Additionally, there shall be identification signage on the buildings as allowed by Code. The entrance signage shall be incorporated into the Landscape Plan for the Subject Property with the entrance area being landscaped, lighted and irrigated.
9. The submission of a Landscape Plan during the Plan Review Process which shall be subject to review and approval by the County Arborist. Additionally, an agreement to form a Landscape Oversight Committee ("LOC") consisting of a representative of SDP, a representative of MIC, a representative of the Community Development Agency and the District Commissioner who shall be the final arbiter in the event that an impasse is reached on issues regarding landscaping.

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10. Compliance with recommendations from the Cobb County Department of Transportation, as follows:

- a. Deceleration lane location will be determined during the Plan Review process, with the final location of the point of ingress/egress being approved by GDOT.
- b. The installation of a striped “bulb-out” island to separate the proposed development drive with the existing deceleration lane for the adjacent development to the east.
- c. Replacing any curb, gutter and/or sidewalk along VMH frontage which may be disturbed during construction and build-out and the installation of curb, gutter and sidewalk on Hickory Trail to the extent that such extends parallel to the stormwater pond as shown on the site plan.
- d. All work permitted in the right-of-way of VMH to be approved by GDOT.

11. Compliance with directives from the Cobb County Fire Marshal’s Office regarding Life, Safety and Fire Prevention issues, including the following:

- a. Compliance with International Fire Code (“IFC No. 510”).
- b. Ensuring internal maneuverability and accessibility within the site for purposes of Fire and Public Safety vehicles and related firefighting apparatus.
- c. All construction and employee vehicles and equipment shall work from and remain on the site during the construction and build-out of the project infrastructure and there shall be no parking of such vehicles allowed on any of the adjacent public rights-of-way during the construction and build-out of the Subject Property.
- d. The buildings shall be protected with Fire Sprinkler Systems if determined to be necessary during the Plan Review Process.

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12. The submission of a photometric plan which shall include details regarding the utilization and lighting of the site and the inclusion of low-intensity, environmental type lighting, the illumination of which shall be contained within the Subject Property. Security lighting in the form of wall-packs with full cutoff shields shall be allowed for security purposes around and/or on the buildings.
13. Subject to recommendations from the Stormwater Management Division with respect to detention, hydrology, stormwater management, water quality and downstream considerations. This stipulation includes recommendations regarding the ultimate location and configuration of on-site detention and water quality.
14. The District Commissioner shall have the authority to approve minor modifications as this development proposal proceeds through the Plan Review process and thereafter, 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. Relocate a structure closer to the property line to an adjacent property which is zoned in a more restrictive zoning district.
 - c. Increase the height of a building adjacent to property which is zoned in a more restrictive zoning district.
 - d. Change access location to different roadways.
 - e. Seek Variances to provisions of the Cobb County Zoning Ordinance.

The Subject Property has no present applicable entitlements and there are no rights to utilize the property for any purposes other than as a private school subject to stipulations/conditions imposed on the Subject Property in 2016. In that regard, SDP's proposal is consistent with the Future Land Use Map, the Comprehensive Land Use Plan, the Architectural Design Guidelines adopted in 2017 and the policy considerations set forth by the Cobb County Board of Commissioners specifically applicable to this sub-area of the County.

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Please do not hesitate to contact me should you have any questions or need any additional documentation or information prior to the formulation of your Staff Analysis and/or prior to this application being heard and considered by the Planning Commission and the Board of Commissioners next month.

With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLS, Jr./klk
Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
Dr. Jackie McMorris, County Manager (via email w/attachments)
Board of Commissioners Assistants (via email w/attachments)
Ms. Jessica Guinn, AICP, Director Cobb County Community Development Agency
(via email w/attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/attachments)
Mr. Terry Martin, Planner III (via email w/attachments)
Mr. Donald Wells, Planner II (via email w/attachments)
Ms. Margie Vazquez, Planner II (via email w/attachments)
Mr. LeDarius Scott, Planner I (via email w/attachments)
Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Robin Stone, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)
Capt. Josh Davis, Cobb County Fire Marshal's Office (via email w/attachments)
Ms. Amy Diaz, P.E., Cobb DOT (via email w/attachments)
Ms. Abby Rettig, Cobb DOT (via email w/attachments)
Mr. Carl Carver, P.E., Stormwater Management Division (via email w/attachments)
Mr. Tim Davidson, Cobb Water System (via email w/attachments)
Ms. Robin Meyer, Zoning Committee, MIC (via email w/attachments)

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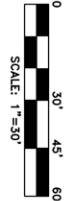
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Ms. Domonique Boulrick (via email w/attachments)

Mr. Joe Pegram, Streamline Development Partners (via email w/attachments)

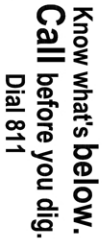
Mr. Joe Schneider, Streamline Development Partners (via email w/attachments)

Mr. Jeffrey P. Masisak, P.E., MASS Engineering and Consultants, LLC (via email w/attachments)



- SITE LIGHTING FIXTURES**

GALAXY PROPERTIES & INVESTMENT INC
C/O: MUZZAMIL GHAFFAR, A
522 CHAPMAN LANE
MARIETTA GA 30066



DESCR

Retailer/Restaurant

4 Rivers Smokehouse

Acadia Healthcare

Adapt Health

Advanced Home Care

Aerie

Amélie's French Bakery & Café

Andy's Custard

Del Frisco's Double Eagle Steakhouse

Firebirds Wood Fired Grill

Hattie B's Hot Chicken

Huey Magoo's Chicken Tenders

J. Alexander's

Scooter's Coffee and Yogurt

Barberitos

Burger 21

BurgerFi

Chuy's

Culver's

Fleming's Prime Steakhouse and Wine Bar

Fox's Pizza Den

Freddy's Frozen Custard

Logan's Roadhouse

Miller's Ale House

Outback Steakhouse

Taziki's

Texas Roadhouse

Wild Wing Cafe

CitiFinancial

Renasant Bank

Wells Fargo Advisors

Dutch Brothers Coffee

WhataBurger

Chipotle

Chicken Salad Chick

Mellow Mushroom

Walk On's Bar and Grill