

OB-70



Application for "Other Business"

Cobb County, Georgia

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

BOC Hearing Date Requested:

12-20-2022

Applicant: Mableton CGB GA LLC **Phone #:** NA
(applicant's name printed)

Address: 361 Summit Boulevard Suite 110, Bham, AL 35243 **E-Mail:** NA

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

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

Signed, sealed and delivered in presence of:

[Signature] **My commission expires:** _____
Notary Public



Titleholder(s) : Mableton CGB GA, LLC **Phone #:** NA
(property owner's name printed)

Address: Same as above **E-Mail:** NA

SEE ATTACHED SIGNATURE PAGES
(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public **My commission expires:** _____

Commission District: 4th **Zoning Case:** Z-163 - 2005

Size of property in acres: 1 acre **Original Date of Hearing:** October 18, 2005

Location: 4835 Floyd Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 31 and 42 **District(s):** 17th District

State specifically the need or reason(s) for Other Business:
The vacant parcel has remained undeveloped since it was zoned for a 9,000 sq. ft. specialty
shop retail building in 2005. The applicant proposes to amend the site plan and stipulations from
the 2005 zoning to allow for a proposed 2400 sq. ft. Chipotle restaurant.

(List or attach additional information if needed)

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(representative's name, printed)

Phone #: 770-422-7016 **E-Mail:** phuff@samslarkinhuff.com
(representative's signature)


Signed, sealed and delivered in presence of:

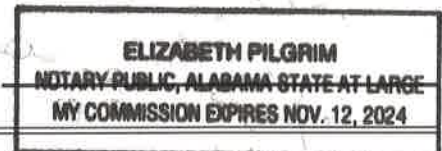
Notary Public My commission expires: _____

Titleholder(s) : Mableton CGB GA, LLC **Phone #:** NA
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Address: Same as above **E-Mail:** NA

SEE ATTACHED SIGNATURE PAGES
(Property owner's signature)

Signed, sealed and delivered in presence of:

 My commission expires: _____
Notary Public



Commission District: 4th **Zoning Case:** Z-163 - 2005

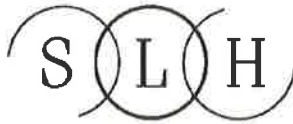
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(List or attach additional information if needed)



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



November 15, 2022

VIA HAND DELIVERY & EMAIL

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

Re: Other Business Application of Mableton CGB GA, LLC to request a Site Plan
Amendment regarding No. Z-163 of 2005

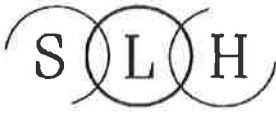
Dear John:

I represent the Applicant (Mableton CGB GA, LLC) concerning the above-captioned Other Business Application regarding this tract located on the east side of Floyd Road, north of its intersection with White Boulevard.

The Subject Property was Rezoned on October 18, 2005 to the NRC zoning district. The Rezoning was subject to a site plan. The Applicant is proposing a Site Plan Amendment for the development of a Chipotle restaurant.

Enclosed are the following:

1. A copy of the previously approved Board of Commissioners' Minutes from Z-163 of 2005.
2. A Site Plan depicting the proposed layout.
3. A copy of the receipt for payment of 2022 taxes from the Cobb County Tax Commissioner's Office.
4. A Constitutional Challenge.
5. A check made payable to Cobb County in the sum of \$300.00 representing the application fee.



VIA HAND DELIVERY & EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
November 15, 2022
Page 2

6. A check made payable to Cobb County to cover the \$15 per sign fee for the signs to be posted on the property as determined by your staff.

We are asking that the Other Business Application be heard on the Board of Commissioners' Other Business Agenda which will immediately follow the regularly scheduled Zoning Hearing on December 20, 2022. We will provide notification in writing to all property owners within a thousand feet of the subject property. My staff will handle that notification process and provide your office with a Certificate of Mailing consistent with the Other Business notification protocols. Please do not hesitate to contact me should you have any questions whatsoever regarding these matters. With kind regards, I am

Very truly yours,

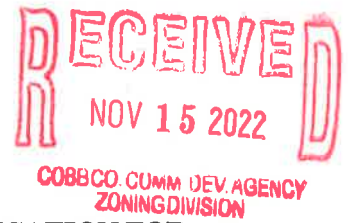
SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read 'Parks F. Huff', written over the printed name.

Parks F. Huff
phuff@samslarkinhuff.com

PFH/jac
Enclosures/Attachments

cc: Mr. Greg Craft, Capital Growth Buchalter Georgia, LLC (via email w/attachments)



CERTIFICATE REGARDING CORPORATE AUTHORITY- APPLICATION FOR
“OTHER BUSINESS”

1.

My name is Chad J. Post. I am the officer who is delegated the responsibility for authenticating records of *MABLETON CGB GA, LLC*, a Domestic Limited Liability Company (the “Titleholder Company”). I am of legal age 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 Applicant’s Application for “Other Business” 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 Application for “Other Business”, I hereby attest on behalf of the Titleholder Company that an authorized representative of Titleholder Company has reviewed the Application for “Other Business” and related documents which are being filed simultaneously therewith on behalf of the Applicant Company (collectively, the “Application for Other Business”) to which this Certificate is attached and hereby certify:

- (a) That corporate seal or facsimile affixed hereto 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 Application for “Other Business” does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Application for “Other Business” 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 Application for “Other Business” and the filing of the Application for “Other Business” on behalf of the Titleholder Company by the officer or other representative of the Applicant Company has been duly authorized by the Titleholder Company.

MABLETON CGB GA, LLC

By: 

Print Name Chad J. Post

Its: Authorized Agent

(SEAL)



ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"

Application No.: OB- 70

BOC Hearing Date: 12-20-2022

Applicant: MABLETON CGB GA, LLC

Titleholder: MABLETON CGB GA, LLC

Parcel #: 17003100090

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

MABLETON CGB GA, LLC

By: [Signature]

Signature

Title: Authorized Agent

Date: November 11, 2022

Address: 361 Summit Blvd., Suite 110

Birmingham, AL 35243

Telephone No.: 205-263-4591

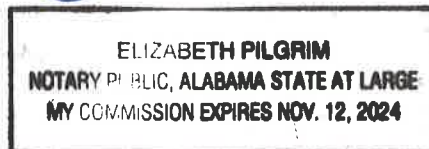
[Signature]

Signature of Notary Public
Elizabeth Pilgrim

(Notary Seal)

November 11, 2022

Date



Application for Rezoning Cobb County, Georgia

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

RECEIVED
NOV 15 2005

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

Application No. z-163

PC Hearing Date: Oct. 4, 2005

BOC Hearing Date: Oct. 18, 2005

Applicant Daniel F. Wall

(applicant's name printed)

Business Phone 678-429-5119

Address 2563 Haddenham Lane, Smyrna, Georgia 30082

Home Phone N/A

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams

Address 376 Powder Springs St., ste. 100, Marietta, GA

(representative's name, printed)

30064

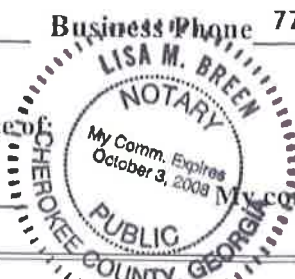
(representative's signature)

Business Phone 770-422-7016

~~XXXXXXXX~~ Fax # 770-426-6583

Signed, sealed and delivered in presence of:

Lisa M. Breen
Notary Public



My commission expires: Oct. 3, 2008

Titleholder Daniel F. Wall

(titleholder's name, printed)

Business Phone 678-429-5119

Home Phone N/A

Signature [Signature]

(attach additional signature, if needed)

Signed, sealed and delivered in presence of:

Lisa M. Breen
Notary Public



My commission expires: Oct. 3, 2008

Zoning Request From Low Rise Office (LRO)

(present zoning)

to Neighborhood Retail Commercial (NRC)

(proposed zoning)

For the Purpose of Specialty Retail Shops

(subdivision, restaurant, warehouse, apt., etc.)

Size of Tract 1.12

Acre(s)

Location *** Floyd Road (within Neighborhood Activity Center).

(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 31 & 42

District(s) 17th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are no such assets. If any exist, provide documentation with this application.

(applicant's signature)

Garvis L. Sams, Attorney for Applicant

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is not such a cemetery. If any exist, provide documentation with this application.

(applicant's signature)

Garvis L. Sams, Attorney for Applicant

PAGE 2 OF 10

APPLICATION NO. Z-163

ORIGINAL DATE OF APPLICATION: 10-18-05

APPLICANTS NAME: DANIEL F. WALL



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

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

BOC DECISION OF 10-18-05 ZONING HEARING:

DANIEL F. WALL (owner) requesting Rezoning from **LRO** to **NRC** for the purpose of Retail in Land Lots 31 and 42 of the 17th District. Located on the east side of Floyd Road, north of Nickajack Road.

MOTION: Motion by Lee, second by Thompson, as part of the Consent Agenda, to **approve** rezoning to the **NRC** zoning district **subject to:**

- letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated September 22, 2005 (copy attached and made a part of these minutes)
- list of two additional stipulations filed with the County Clerk (copy attached and made a part of these minutes)
- Fire Department comments
- 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** unanimously

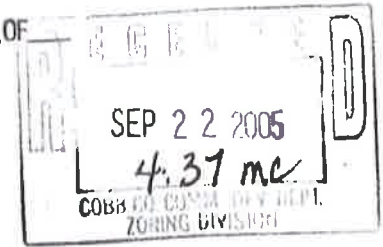
SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

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

OF COUNSEL
DAVID P. HARTIN

September 22, 2005



770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARKINHUFF.COM

VIA HAND DELIVERY

Mr. Jason Campbell, Zoning Analyst
Community Development Agency
Zoning Division
191 Lawrence Street, 3rd Floor
Marietta, GA 30060-1661

Min. Bk. 38 Petition No. Z-163
Doc. Type Letter of Agreeable
Stipulations
Meeting Date 10/18/05

Re: Application of Dan Wall to Rezone a 1.12 Acre Tract
from LRO to NRC (No. Z-163)



Dear Jason:

You will recall that I represent the applicant who is also the property owner concerning the above-captioned application for rezoning. In that regard, the application is scheduled to be heard and considered by the Cobb County Planning Commission on October 4, 2005 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on October 18, 2005.

With respect to the foregoing, enclosed please find a color rendering depicting the architectural style and composition of a 9,000 square foot building which will be constructed on the subject property. The balance of this letter will serve to reflect the agreements reached with the Mableton Improvement Coalition (MIC), area business owners and area residents which take the form of stipulations which, upon the zoning application being approved, as revised and modified hereby, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to-wit:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
2. Rezoning of the subject property shall be from Low Rise Office (LRO) to Neighborhood Retail Commercial (NRC) specifically and exclusively for specialty retail shops within a

Petition No. 2-163
Meeting Date 10/18/05
Continued

VIA HAND DELIVERY

Mr. Jason Campbell, Zoning Analyst
Community Development Agency
Page 2
September 22, 2005

building 9,000 square feet in size, a maximum of one (1) story in height and housing approximately 3 – 4 tenants.

3. The architectural style, composition and treatment shall be consistent with the elevation/rendering being submitted contemporaneously herewith. The composition of the building shall consist of a mixture of brick, stacked stone, EFIS and stucco with recessed entry-ways. Said architectural composition shall include at least three (3) sides of the building with the rear of the building being constructed of split-faced block painted to match the architectural components as aforementioned.
4. Entrance signage shall be ground-based, monument style, with finished materials and color being in substantial conformity to the architectural style as aforementioned. There shall be no roof signs and no exterior temporary signs, excepting only grand opening signage and signage indicating the coming development itself.
5. Environmentally sensitive, shoe-box lighting themed to the architectural style and composition of the building shall be constructed and utilized. Hooded security lighting shall be utilized on the building itself with every effort being made to ensure that all lighting is as unobtrusive as possible.
6. The dumpster(s) shall be positioned in a location screened by landscaping or walls and shall have rubber lids and bumpers to minimize noise during emptying. Any gates with respect to dumpster areas shall be operable and shall be closed when not in use. Said dumpster(s) shall be emptied Monday through Saturday from 8:00 a.m. until 9:00 p.m. and on Sunday from 11:00 a.m. until 9:00 p.m.
7. Delivery service with respect to the retail center shall take place Monday through Saturday from 7:00 a.m. until 7:00 p.m. and on Sunday from 11:00 a.m. until 7:00 p.m.
8. No tractor trailer trucks or other delivery trucks of any nature shall be allowed to park or stand at any time on the Floyd Road frontage.
9. Parking lot cleaning mechanical equipment shall be restricted to Monday through Saturday from 8:00 a.m. until 9:00 p.m. and on Sunday from 11:00 a.m. until 9:00 p.m.
10. There shall be no outside paging system, telephone bells or loud speakers, excepting only low decibel outdoor music systems.

VIA HAND DELIVERY

Petition No. Z-163
Meeting Date 10/18/05
Continued

Mr. Jason Campbell, Zoning Analyst
Community Development Agency
Page 3
September 22, 2005

11. Vehicles bearing the name and/or advertising of any retail tenant or any suppliers or any successor business shall be permitted to park in front of the building for more than two (2) hours (strictly for loading and unloading).
12. The following otherwise permitted uses under the NRC classification shall be prohibited:
 - a. Wholesale sales of any nature.
 - b. Liquor stores, adult entertainment, pawn shops and tattoo parlors.
 - c. Houses of worship.
 - d. Check cashing businesses.
 - e. Body piercing businesses and adult bookstores.
 - f. Thrift stores, second hand stores or flea markets.
 - g. Any business which "constructs" or otherwise performs any type of on-site "assembly".
 - h. Outside storage or display of merchandise except for "sidewalk sales" or special events lasting seven (7) days or less.
13. Creation of a business owners association which shall be responsible for the upkeep and maintenance of all common areas, lighting, landscaped areas and signage.
14. Compliance with all Cobb County Department of Transportation comments and recommendations regarding traffic/transportational issues, including the following:
 - a. Coordination with the Cobb County Board of Education's new addition to Floyd Middle School.¹
 - b. Providing an auxiliary lane across the subject property's frontage in order to provide Floyd Middle School's southernmost newly approved driveway with an appropriate deceleration lane and taper and to accommodate DOT's recommendations with respect to continuous acceleration and deceleration lanes concerning the subject property's point of ingress/egress on Floyd Road.

¹ Plans were approved by Cobb County DOT on February 23, 2004 which provide for the construction of two (2) driveways from Floyd Middle School on to Floyd Road. The southernmost driveway will be utilized by teachers and the parents of the students; whereas, the northernmost driveway will be used specifically for purposes of school bus traffic in and out of the site. The plans further provide for school bus parking to be situated exclusively to the north of the school site.

VIA HAND DELIVERY

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Petition No. 2-163
Meeting Date 10/18/05
Continued

Mr. Jason Campbell, Zoning Analyst
Community Development Agency
Page 4
September 22, 2005

- c. Following recommendations regarding the ultimate location and configuration concerning the subject property's ingress to and egress from Floyd Road.
 - d. Coordination with DOT Engineering Division prior to development in order to ensure compatibility with DOT's Floyd Road Project.
 - e. The voluntary donation and conveyance of additional right-of-way on Floyd Road in order to ensure that the County can achieve 50' from the centerline of same.
 - f. The installation of curb, sidewalk and gutter along the subject property's frontage on Floyd Road.
 - g. Upgrading the driveway to comply with commercial standards and meeting all Cobb County Development Standards and Ordinances related to project improvements.
 - h. Entering into a Development Agreement pursuant to O.C.G.A. §36-71-13 for the dedication of the foregoing system improvements to mitigate traffic concerns.
- 15. Compliance with all recommendations from the Cobb County Fire Department as contained in the Zoning Analysis.
 - 16. Compliance with all recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer.
 - 17. Compliance with recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality.
 - 18. The submission of a landscape plan during Plan Review subject to review and approval by the Community Development Agency which shall include the following:
 - a. The installation of a landscape buffer along Floyd Road which shall be irrigated.
 - b. That appropriate landscaping and vegetation be installed at the front and rear setbacks and within the confines of the parking lot subject to review and approval by staff.

VIA HAND DELIVERY

Mr. Jason Campbell, Zoning Analyst
Community Development Agency
Page 5
September 22, 2005

Petition No. Z-163 PAGE 7 OF
Meeting Date 10/18/05
Continued

- c. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape plan and shall be landscaped in a manner consistent with and complementary to the architectural style and composition as aforementioned.
19. An agreement to notify representatives of the Mableton Improvement Coalition of all requests to modify, revise or vary the foregoing stipulations/conditions prior to be heard as an "Other Business" agenda item by the Cobb County Board of Commissioners at any meeting at which they may entertain such business.
20. Both the final site plan and architectural style and composition shall be reviewed and approved by the District Commissioner or the District Commissioner's designee.

The subject property is located within the confines of a Neighborhood Activity Center (NAC) with the use proposed by the property owner being entirely consistent with not only the Future Land Use Map but the Comprehensive Land Use Plan as well. The foregoing stipulations/conditions, whether recommended by the Mableton Improvement Coalition, staff or self-imposed, will ensure a successful development which will coexist in harmony with the re-development plans for Floyd Middle School.

In all respects, from a land use planning perspective, the rezoning proposal is entirely appropriate. Please do not hesitate to call should you or your staff require any further information or documentation prior to the formulation of your recommendation to the Planning Commission and Board of Commissioners.

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr.

gsams@samslarkinhuff.com

GLSjr/jbmc
Enclosures

cc: Shown on next page.

VIA HAND DELIVERY

Mr. Jason Campbell, Zoning Analyst
Community Development Agency

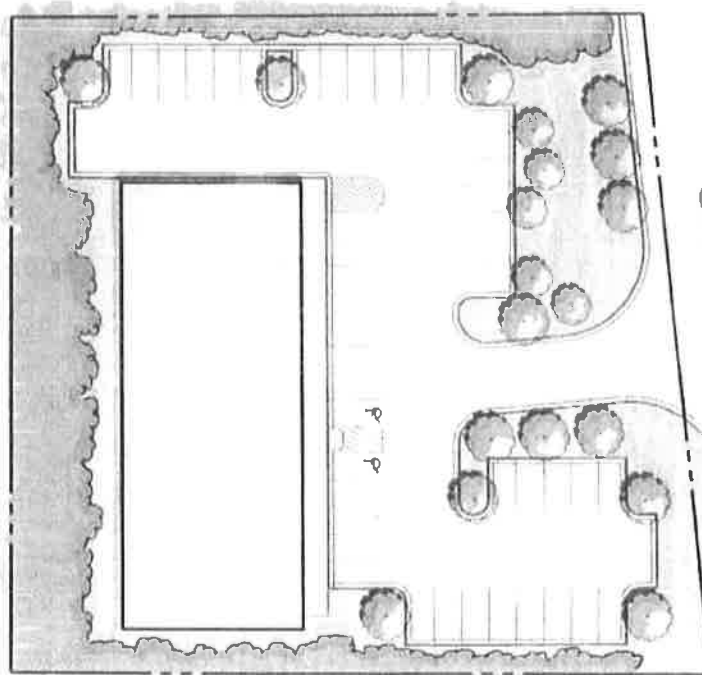
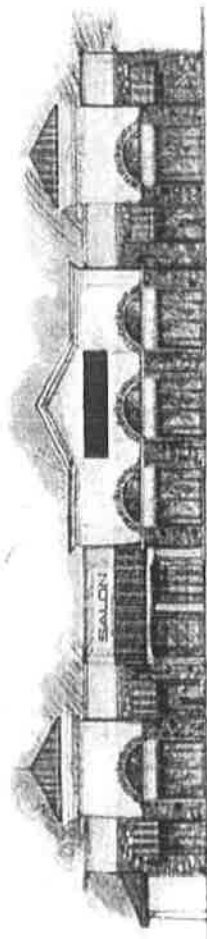
Page 6

September 22, 2005

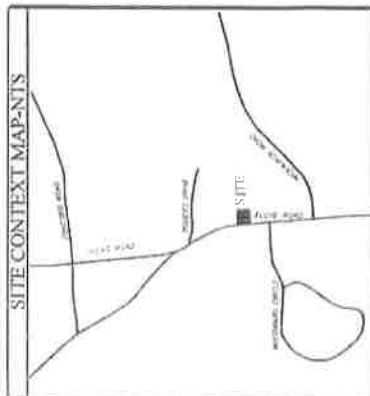
Petition No 2-163 PAGE 8 OF
Meeting Date 10/18/05
Continued

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/enclosure
Members, Cobb County Planning Commission – w/enclosure
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosure
Ms. Gail K. Huff, Assistant County Clerk – VIA Hand Delivery – w/enclosure
Ms. Sandra Richardson, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Mr. Jim Cavedo, Mableton Improvement Coalition – w/enclosure
Mr. Gary Bordelon, Mableton Improvement Coalition – w/enclosure
Mr. Daniel Wall – w/enclosure

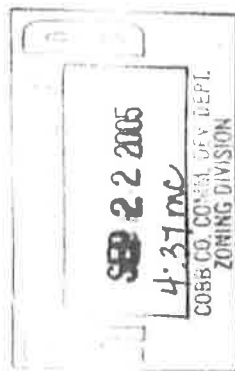
Floyd Road



FLOYD ROAD



SITE DATA:	
TOTAL SITE AREA	2.14 ACRES
RETAIL/COMMERCIAL FOOTPRINT	20,000 SQ. FT.
EXISTING ZONING	2.00
PROPOSED ZONING	2.00
EXISTING DEVELOPMENT	1.00 ACRES FOR EXIST. BLDG. DEVELOPMENT
PROPOSED DEVELOPMENT	1.00 ACRES FOR EXIST. BLDG. DEVELOPMENT
PARKING PROVISION	40 SPACES
RETAIL/COMMERCIAL TRACKS	
PROJECT NAME	401111
OWNER NAME	101111
DATE PREPARED	10/18/05



Petition No.
Meeting Date
Continued

2-163

10/18/05

PAGE 9 OF

Daniel Wall
97365 Haddonfield Lane
Smyrna, GA 30080
678-477-5872

Planners and Engineers Collaborative
550 Research Court
Norcross, GA 30092
678-634-6995

FILED WITH COUNTY CLERK THIS 4th DAY
OF Oct. 2005 BY Barvis Sams, Jr
RE Z-163
Mail K. Nye
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

PAGE 10 OF 10

1. Setting up an architectural review committee consisting of a representative of the Mableton Improvement Coalition, Mr. Wall and a Community Development Agency representative. We are agreeable to that with the County representative being the final arbitrator with respect to architectural review and approval.
2. Agreeing to a stipulation that, within 90 days of the zoning approval, the house on the subject property will be demolished or, in the alternative, that the property revert to the Low Rise Office (LRO) classification: Weather permitting and attendant upon Cobb County agreeing to issue to demolition permit, we are agreeable to this new stipulation.

Min. Bk. 38 Petition No. Z-163
Doc. Type list of two (2)
Additional Stipulations
Meeting Date 10/18/05

Z-163

PLANNERS AND ENGINEERS COLLABORATIVE
1000 BROADWAY, SUITE 1000, ATLANTA, GEORGIA 30309
PHONE: 404.525.1111 FAX: 404.525.1112
WWW.PECCOLLABORATIVE.COM

FLOYD ROAD
COMMERCIAL DEVELOPMENT
DANIEL WALL
304 HAZENBACH LANE
SUITE 100, ATLANTA, GA 30309
PHONE: 404.525.1111

REVISIONS

NO.	DATE	DESCRIPTION
1	05/12/05	ISSUED FOR PERMIT
2	05/12/05	ISSUED FOR PERMIT
3	05/12/05	ISSUED FOR PERMIT
4	05/12/05	ISSUED FOR PERMIT
5	05/12/05	ISSUED FOR PERMIT
6	05/12/05	ISSUED FOR PERMIT
7	05/12/05	ISSUED FOR PERMIT
8	05/12/05	ISSUED FOR PERMIT
9	05/12/05	ISSUED FOR PERMIT
10	05/12/05	ISSUED FOR PERMIT

REZONING
SITE PLAN

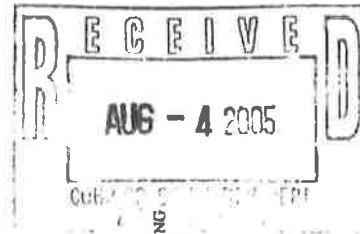
SCALE: 1" = 20'
DATE: MAY 12, 2005
PROJECT: 0500.00



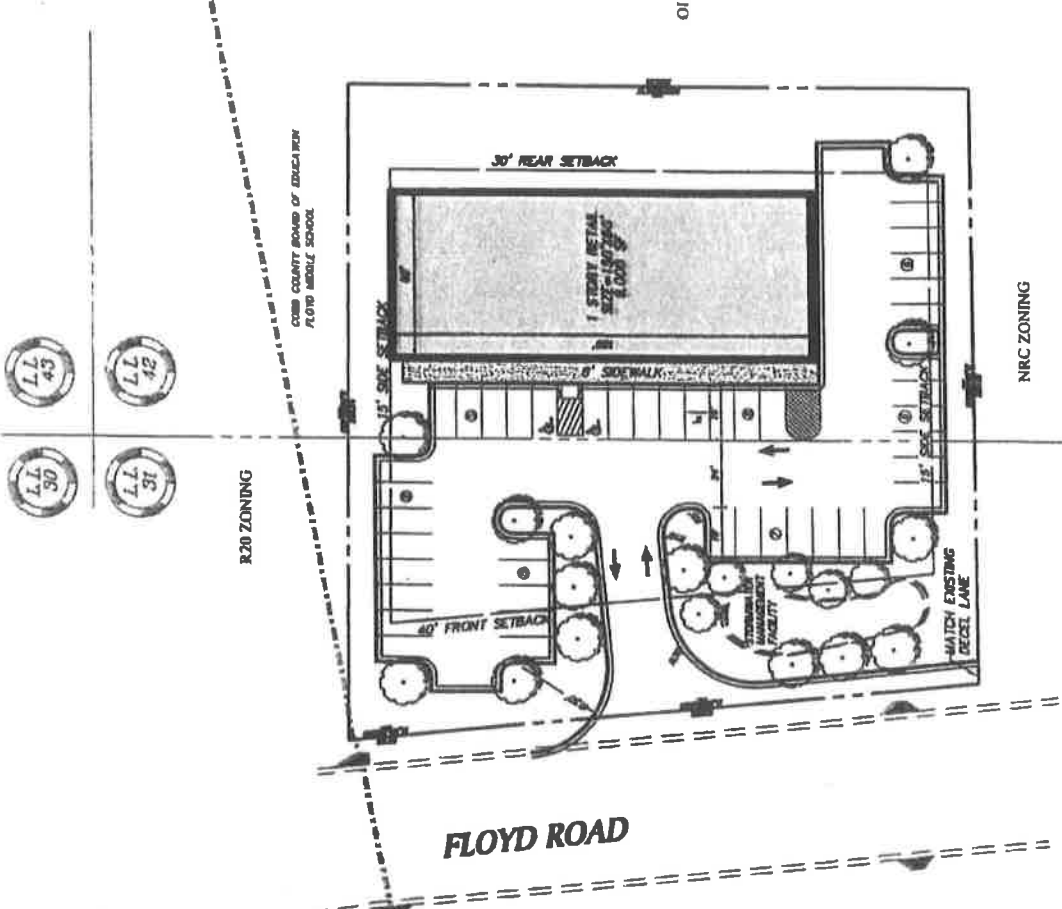
1

SITE DATA:

TOTAL SITE AREA	1.11 ACRES
EXISTING ZONING	LL 43
PROPOSED ZONING	LL 42
EXISTING USE	RESIDENTIAL
PROPOSED USE	COMMERCIAL
EXISTING IMPROVEMENTS	PAVEMENT, UTILITY
PROPOSED IMPROVEMENTS	PAVEMENT, UTILITY
PREPARED BY	DANIEL WALL
CHECKED BY	DANIEL WALL
DATE	05/12/05



OZ ZONING



APPLICANT: Daniel F. Wall
678-429-5119

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Garvis L. Sams, Jr. 770-422-7016

TITLEHOLDER: Daniel F. Wall

PROPERTY LOCATION: Located on the east side of Floyd Road,
north of Nickajack Road.

ACCESS TO PROPERTY: Floyd Road

PHYSICAL CHARACTERISTICS TO SITE: Existing House

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-20/Floyd Middle School

SOUTH: NRC/Blockbuster

EAST: O&I/Undeveloped

WEST: R-20/Single-family House

PETITION NO: Z-163

HEARING DATE (PC): 10-04-05

HEARING DATE (BOC): 10-18-05

PRESENT ZONING: LRO

PROPOSED ZONING: NRC

PROPOSED USE: Retail

SIZE OF TRACT: 1.12 acres

DISTRICT: 17

LAND LOT(S): 31, 42

PARCEL(S): 9

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

OPPOSITION: NO. OPPOSED _____ **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

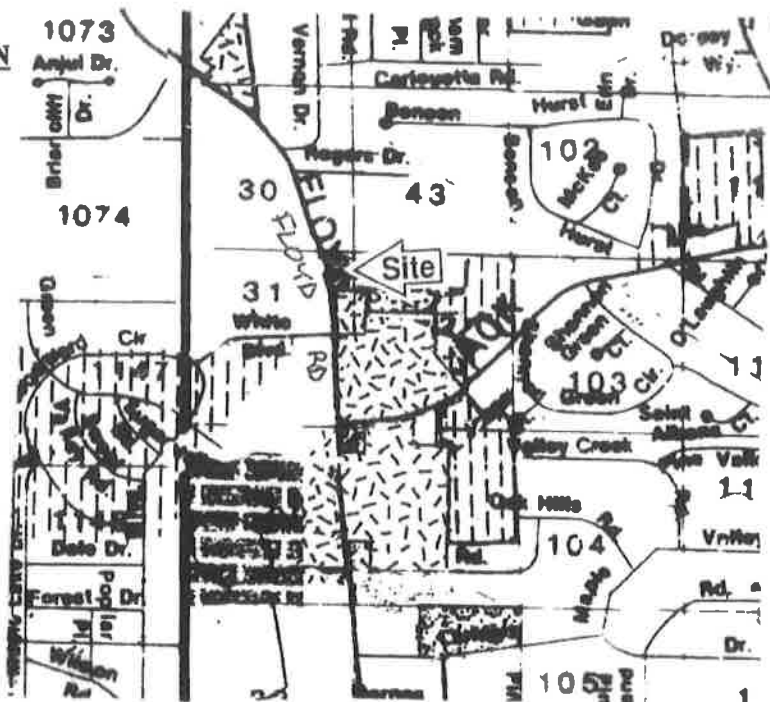
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

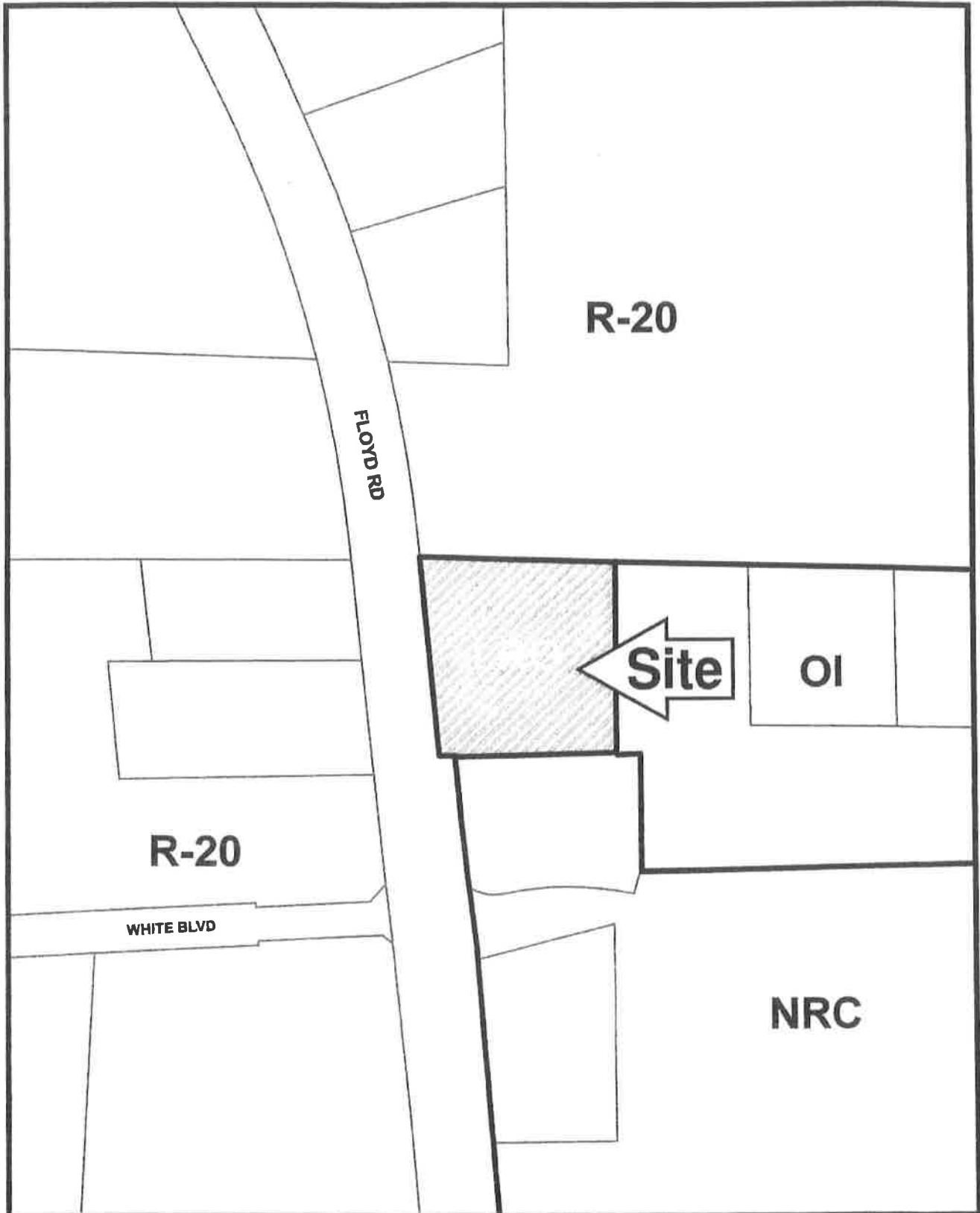
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-163



This map is provided for display and planning purposes only. It is not meant to be a legal description.

100 0 100 Feet



 Draft Parcel Boundary
 Approximate Zoning Boundary

APPLICANT: Daniel F. Wall
PRESENT ZONING: LRO

PETITION NO.: Z-163
PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 80,357

F.A.R. 71,747 Square Footage/Acre

Parking Spaces Required: 45 Parking Spaces Provided: 45

Applicant is requesting the NRC zoning category for the purpose of developing a center for specialty retail shops. The proposal is for a one-story building with stacked stone, stucco and a standing seam metal roof. The uses will be a mixture of office, retail and restaurant spaces.

Historic Preservation: After reviewing various county resources including historic and archeological resource surveys, documented Civil War trench maps, and historic aerial maps, staff finds no known historic properties affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE COMMENTS:

The applicant is responsible to ensure all Cobb County Fire and Emergency Services Code requirements are met related to this project. Plans will need to be submitted to the Cobb County Fire Marshall's Office, prior to any permits being issued.

Standard comments:

1. Provide 24-hour emergency phone number (offset in bold print on all sheets).
2. Provide access for Fire and Police Department through Cobb County. If access is outside the boundaries of Cobb County, then an intergovernmental agreement would be required prior to any permitting.
3. Fire apparatus access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor IFC 503.1 2003 Edition. **All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20-feet, 25-foot inside turning radius, 50-foot outside turning radius and unobstructed vertical clearance of not less than 13-feet 6 inches.** Dead-end access roads in excess of 150-feet shall be provided with a turn-around IFC 503.2.5 2003 Edition. Cul-de-sac with an island: minimum 60-foot radius to outside curb, measured to inside of curb. Minimum lane width = 24-feet. Residential cul-de-sac without island: 38-foot outside radius. Commercial cul-de-sac to have a 60-foot paved radius. Hammerhead turn-around: total of 110-feet needed (45-feet + 20-feet wide roadway + 45-feet).

Additional Comments:

APPLICANT Daniel F Wall

PETITION NO. Z-163

PRESENT ZONING LRO

PETITION FOR NRC

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

WATER COMMENTS:

Available at Development? ☒ Yes ☐ No

Fire Flow Test Required? ☒ Yes ☐ No

Size / Location of Existing Water Main(s): 12" DI / W side Floyd Rd

Additional Comments: Meter to be at entrance

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:

In Drainage Basin? ☒ Yes ☐ No

At Development? ☐ Yes ☒ No

Approximate Distance to Nearest Sewer: 1200' S, S of Nickajack Rd

Estimated Waste Generation (in G.P.D.): **A D F** 900 **Peak** 2250

Treatment Plant: S Cobb

Plant Capacity Available? ☒ Yes ☐ No

Line Capacity Available? ☒ Yes ☐ No

Projected Plant Availability: ☒ 0 - 5 year ☐ 5 - 10 years ☐ over 10 years

Dry Sewers Required? ☐ Yes ☒ No

Off-site Easements Required? ☒ Yes* ☐ No

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:

Connection to sewer required by code. Sewer also 1300' SW, White Blvd, no easements. Connection south in adjacent property by private recorded agreement could be acceptable

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 off site easements, dedication of on and/or off site 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: Daniel F. Wall

PETITION NO.: Z-163

PRESENT ZONING: LRO

PETITION FOR: NRC

DRAINAGE COMMENTS

FLOOD HAZARD: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

Clay Branch/Buttermilk Creek

DRAINAGE BASIN: Sweetwater Creek FLOOD HAZARD INFO: None

- ☐ 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: _____

- ☐ 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 stream bank 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. (No new runoff water)
- ☒ 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 downstream stormdrainage system.

APPLICANT: Daniel F. Wall

PETITION NO.: Z-163

PRESENT ZONING: LRO

PETITION FOR: NRC

DRAINAGE 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/SUGGESTIONS

- 1) Tract terrain is a broad top ridge running North-South at mid point. West half flows to street. East half flows to East and then turns to South on adjacent property. Tract is 50% wooded and 50% lawn (excepting small house).
- 2) Proposed layout is very pavement oriented. Parking count is calculated on gross building area rather than net per Regulations. Result is at least nine extra spaces (18 ± square feet extra pavement, runoff, pollution). At Plan Review, parking must be reduced to Regulatory Requirements, or, verification of need for higher numbers provided. Also, stipulation islands in parking lot must be converted to landscape.
- 3) Dumpster location is not shown. Presume it will be southeast of building and end of drive.
- 4) With the location of detention as shown the only stormwater conveyance system available to receive runoff is the street system. Detention output must be tailored to the reserve / excess capacity of that system.
- 5) Any stormwater controls / detention required for this project must be calculated based on the maximum impervious cover allowed in County Code / Regulations. For any commercial designation Cobb County supports the State Mandate for minimum 30% of tract as landscaping.
- 6) The site trees and undergrowth are now providing benefits to the community at large by improving air and water quality, stabilizing soil, and mitigating storm flows. Construction will eliminate this vegetation, and its benefits, and at same time increase the pollution generation. At Plan Review, to compensate, the First Flush Water Quality-Best Management Practice Requirements must be raised to the 1.5-inch rainfall. Controls of larger storms will be based on the reserve capacity of the street system which is anticipated to significantly enlarge the detention pond.

APPLICANT: Daniel F. Wall

PETITION NO.: Z-163

PRESENT ZONING: LRO

PETITION FOR: NRC

TRANSPORTATION COMMENTS

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

ROADWAY	AVERAGE DAILY TRIPS	CLASSIFICATION	MIN. R.O.W. REQUIREMENTS
Floyd Road	35677	Arterial	100'

Based on 12-11-02 traffic counting data taken by Cobb DOT.

Floyd Road is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

This section of Floyd Road is identified as future Cobb DOT road improvement project.

As necessitated by this development for ingress/egress to/from Floyd Road, a minimum 150' acceleration lane and deceleration lane will be required.

Install sidewalk, curb and gutter along the road frontage.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant to 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 east side of Floyd Road a minimum of 50' from the roadway centerline.

Recommend developer coordinate with the Cobb DOT engineering division prior to development plan approval in order to ensure compatibility with the roadway project.

Recommend an auxiliary lane along the entire road frontage.

Recommend installing sidewalk along the road frontage.

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

STAFF RECOMMENDATIONS

Z-163 DANIEL F. WALL

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The property to the south is commercially zoned for retail uses and the property to the north is a public school.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The proposal is consistent with other commercial uses along this part of Floyd Road.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The subject property is located within a Neighborhood Activity Center. The proposed development is located between a shopping center and a public school.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- Site plan received by the Zoning Division on August 4, 2005;
- Fire Department comments;
- Water and Sewer comments and recommendation;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations; and
- 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.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.



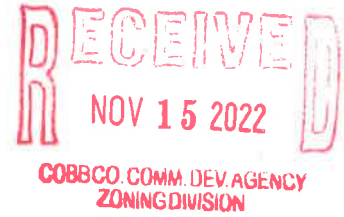
Printed: 11/4/2022

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
David Westmoreland



MABLETON CGB GA LLC

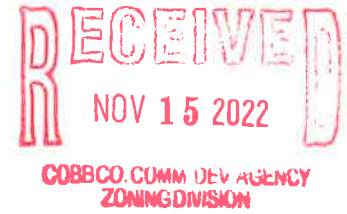
Payment Date: 10/13/2022

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2022	17003100090	10/15/2022	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$0.00	\$0.00	\$0.00	\$0.00	\$1,273.48	\$0.00	



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TO THE COBB COUNTY BOARD OF COMMISSIONERS
COBB COUNTY, GEORGIA



CONSTITUTIONAL CHALLENGE

COMES NOW, MABLETON CGB GA, LLC hereinafter referred to as the
"Applicant", for itself and asserts the following, to wit:

1.

By Application to which this exhibit relates, the 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 "Subject Property", being set forth in said Other Business Application.

2.

The Application seeks approval of an Other Business Application and for grant of special exception by the governing authority of Cobb County, Georgia to waive certain zoning condition(s) imposed by the current zoning conditions.

3.

Applicant states that a literal interpretation and enforcement of Ordinance provisions creates an unnecessary and unreasonable hardship with no resulting substantial benefit to the public good.

4.

The exception sought by the Applicant concerning the Subject Property will not impair the purpose, spirit and intent of the Ordinance and stands to alleviate any and all non-compliance of the foregoing requirements while causing no substantial detriment to the public good.

5.

The current zoning classification and any 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.

6.

The zoning conditions and 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.

7.

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 15th day of November, 2022.

SAMS, LARKIN & HUFF, LLP

By: 

PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010

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WHITE BOULEVARD
 1000 WHITE BOULEVARD
 NEW YORK, N.Y. 10018

ACCESS ROAD
AVAILABLE FOR TRUCKS ONLY
0400 74 4200



PAULSON MITCHELL
INCORPORATED

508

[illegible]

PRELIMINARY SITE PLAN

PS-3

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WHITE BOULEVARD
NABUCCO BLVD., AIRPORT CENTER, PLAZA, SUITE 1000, WOOD BRIDGE, NJ 07095
(908) 273-1100 • FAX (908) 273-1101

PRELIMINARY SITE PLAN



ACCESS ROAD



PAULSON MITCHELL
INCORPORATED

PROJECT:
CHIPOTLE
4835 FLOYD ROAD
DANFORTH 31 W 42
DISTRICT 9
UNINCORPORATED
COBB COUNTY

**CAPITAL GROWTH
BUCHALTER**
361 SUMMIT BLVD., SUITE 110
BIRMINGHAM, AL 35243
205-966-9220

508



BUILDING SETBACKS	
FRONT	25'
SIDE	15'
REAR	40'
BUFFERS:	
NOISE/ODOR	20'
SOE	10'
02748	

```

PARKING SUMMARY
REARLAND REQ: 59' 00" S+ NCT 111 SPACED
RESTRICTION REQUIRED: 24 SPACED
WIDE 1.315 S+ 1.185 S+ = 500 S+ * 1.185 S+
CONTRACT STALLS: 24 SPACED
COMPACT STALLS ALLOWED: 24 SPACED
MIN 39' 00" REQ WIDTH: 24 SPACED
LANDSCAPE REGULATIONS
TREE SPECIES:
TREE HEIGHT:
ISLAND REQ: 59' 00" S+ NCT 111 SPACED
MIN ISLAND SIZE/WIDTH: 24 SPACED
CIRCUMFERENCE: 24 SPACED
CELEMA MAP
FISH POND: 111 SPACED
DRAWING RECORD
DRAWN BY: 1115 2022
20222260_P53.dwg

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PRELIMINARY SITE PLAN

PS-3
SHEET

PER SIGN CODE:

- Wall signs: Allowable sign area is 2 sq. ft. per linear feet of wall (total cumulative sign area of 150 sq. ft. allowed)
- Total cumulative sq. ft. of (2) wall signs = 76 sq. ft. with 74 sq. ft. cumulative signage remaining for optional third wall sign

NOV 15 2022

CHIPOTLE
KUMON DIVISION

PREFINISHED
METAL COPING TO
MATCH EIFS
BELOW, BY LL

EIFS CONTROL
JOINT, BY LL

BRAKE METAL SEAM
LOCATION, TYP., BY

LL

CHARCOAL
ALUMINUM
STOREFRONT
SYSTEM, BY LL

20' - 9 1/2"

CHIPOTLE

BH-3 SIGN BY TSV, 38 SF, 70
SF ALLOWABLE BY CODE

EIFS SYSTEM, COLOR MATCH
TO PPG 'FOG', BY LL

PREFINISHED BRAKE
METAL FINISH TO MATCH
STOREFRONT, BY LL

CHARCOAL METAL
CANOPY, BY LL

CHARCOAL ALUMINUM
STOREFRONT ENTRY DOORS
AND WOOD HANDLE BY
TENANT MILLWORK SUPPLIER,
BY LL

WEST

EIFS CONTROL JOINT,
BY LL, TYP.

BH-3 SIGN BY TSV,
38 SF, 80 SF
ALLOWABLE BY
CODE

ALLOWABLE BY
CODE

CHIPOTLE

PREFINISHED BRAKE
METAL, FINISH TO
MATCH STOREFRONT,
BY CC, TYP.

CHARCOAL METAL
CANOPY, BY LL

19' - 5 1/2"

PREFINISHED METAL
COPING TO MATCH
EIFS BELOW, BY LL

EIFS SYSTEM,
COLOR MATCH
TO PPG 'FOG', BY
LL

BRAKE METAL
SEAM LOCATION,
BY LL, TYP.

EIFS SYSTEM,
COLOR MATCH
TO PPG 'KNIGHTS
ARMOR', BY LL

CHARCOAL ALUMINUM
STOREFRONT SYSTEM
WITH DOOR, BY LL

SOUTH



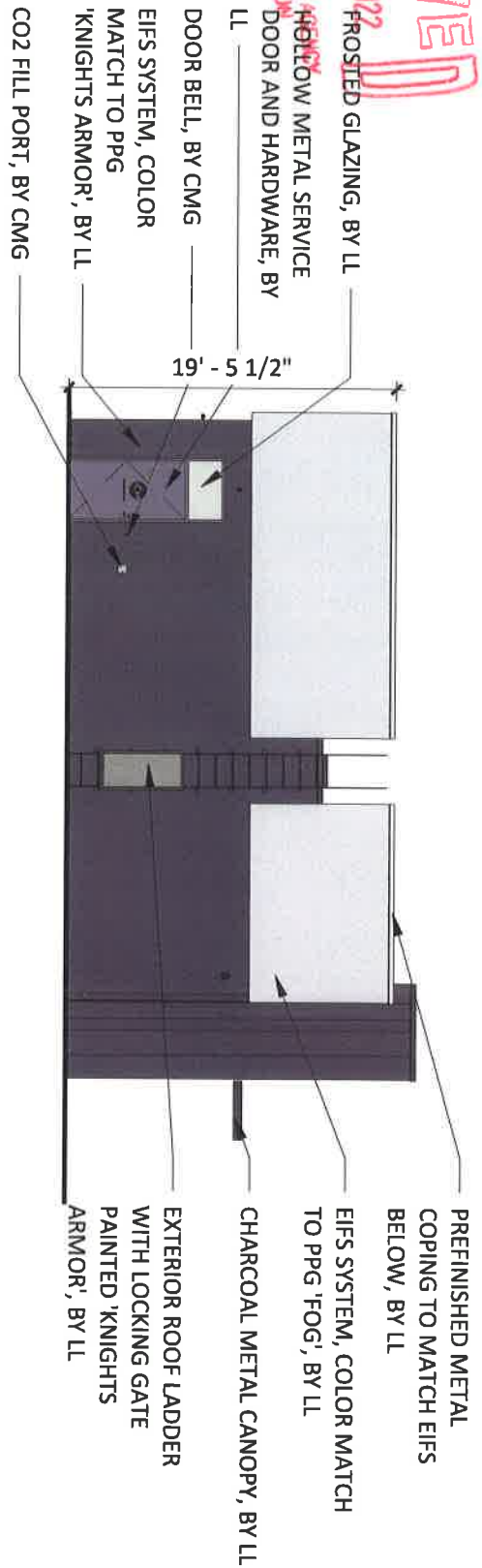
GPd GROUP
Professional Corporation

520 South Main Street
Suite 2531
Akron, Ohio 44311
tel: 330.572.2100
fax: 330.572.2101
www.gpdgroup.com

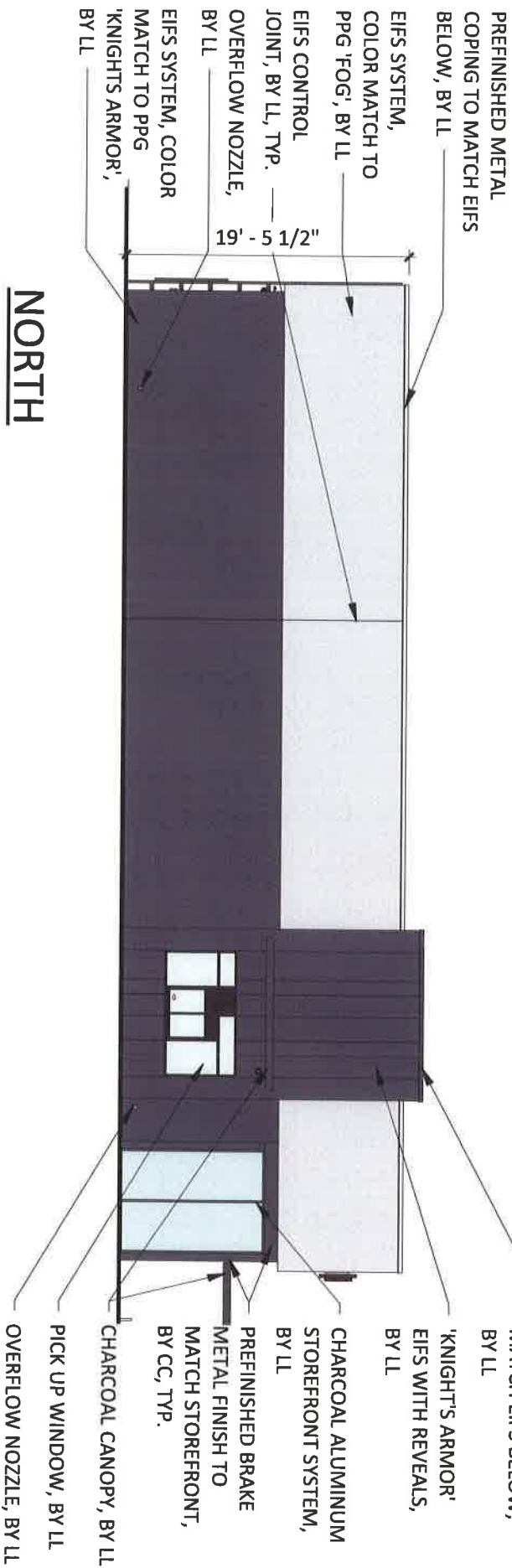
MABLETON, GA
KO SKETCH - EXTERIOR ELEVATIONS
08/31/22
3/32" = 1'-0"



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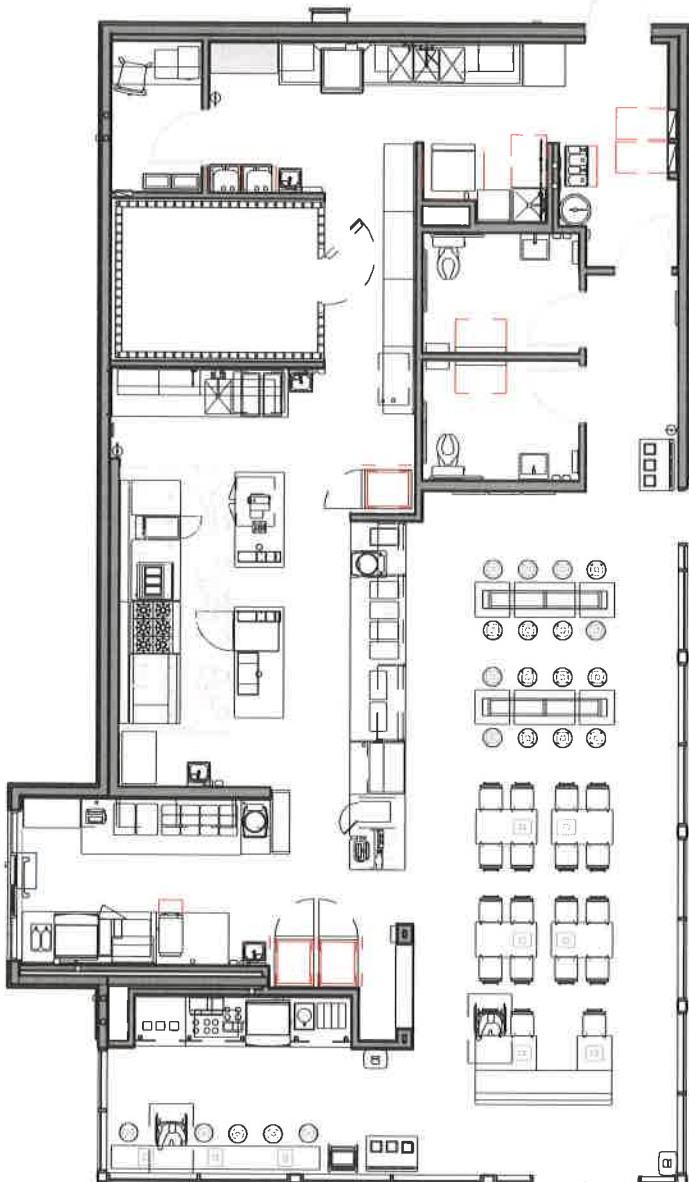


EAST



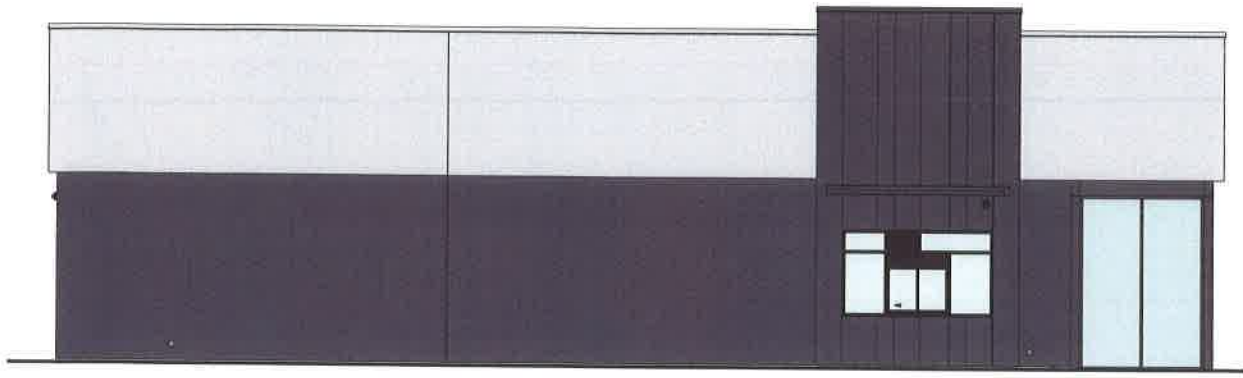
NORTH





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COURT REPORT DIVISION

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COBB CO. COMM DEV AGENCY
ZONING DIVISION



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