MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 18, 2023
9:00 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, April 18, 2023, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Lisa Cupid, Chairwoman
Commissioner JoAnn Birrell
Commissioner Keli Gambrill
Commissioner Jerica Richardson
Commissioner Monique Sheffield

CALL TO ORDER – CHAIRWOMAN CUPID

Chairwoman Cupid called the hearing to order at 9:11 a.m. Prior to the start of the hearing, the Chairwoman announced a delayed start time for the hearing due to some severe traffic issues that morning.

The following statement that Commissioner Gambrill read in at the February 21, 2023, BOC Zoning Hearing was attached to each vote taken at today's hearing (attached and made a part of these minutes):

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Boards Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

As stated and recorded in previous minutes, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Federal Court in Georgia have ruled that the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties.

The county has received letters from the Georgia State Attorney General, Chris Carr, stated that the Cobb County Commissions move to amend its electoral redistricting map is "inappropriate and not legally binding."

C. Ryan Germany, General Counsel for the Office of the Secretary of State, "You should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to be a comment on whether the Amendment is allowable under state law or a proper exercise of authority by the Cobb County Commission, nor should you rely on it to attempt to establish the validity of the Amendment." "In fact," he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply with Georgia Law or the state Constitution.

Commissioner Gambrill's statement (cont.)

Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

The following statement that Commissioner Birrell read in at the February 21, 2023, BOC Zoning Hearing was attached to each vote taken at today's hearing (attached and made a part of these minutes):

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map 3 times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022, under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Cobb Board of Elections on November 15, 2022. Thank you.

Mr. John Pederson, Zoning Division Manager, reviewed the hearing procedures and announced the following cases which were *held or continued.*

HELD AND CONTINUED CASES

Z-55'22 **KENNETH B. CLARY** (Kenneth B. Clary, owner) requesting rezoning from **R-30** to **R-15** for a single-family subdivision in land lots 25, 54, and 55 of the 1st district. Property is located on the north side of Post Oak Tritt Road, west of McPherson Road (4701 Post Oak Tritt Road). ***(Previously continued by Staff from the September 6, 2022, through the March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC hearing; held by the PC from the April 4, 2023, PC hearing until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

HELD AND CONTINUED CASES (CONT.)

Z-60'22 **BRANCH ACQUISITION COMPANY, LLC** (Branch Atlanta Road Associates II, L.P.; SJ Georgia Investor, LLC; Michael Howarth and Christine Howarth, owners) requesting rezoning from **HI** to **RRC** for a mixed-use development in land lots 894 and 900 of the 17th district. Property is located on the south side of Atlanta Road, north of Plant Atkinson Road (4874 and 4888 Atlanta Road, 2840 Plant Atkinson Road). ***(Previously continued by Staff from the September 6, 2022, through the April 4, 2023, Planning Commission (PC) hearings until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

Z-65'22 **DRAPAC INVESTMENTS, LLC** (DRAPAC Group 3, LLC, owner) requesting rezoning from **RA-5** to **RA-5** for a single-family attached and detached subdivision in land lots 87 and 88 of the 18th district. Property is located on the west side of Michael Road, south of Vanesa Circle, at the terminus of Linda Drive, and at the terminus of Oak Hill Drive (Maxham Road). ***(Previously continued by the Planning Commission (PC) from the October 4, 2022, PC hearing until the November 1, 2022, PC hearing; held by the PC from the November 1, 2022, PC hearing until the February 7, 2023, PC hearing; continued by Staff from the February 7, 2023, through the April 4, 2023, PC hearings until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

Z-67'22 **S&B INVESTMENTS, INC.** (S&B Investments, Inc., owner) requesting rezoning from **CF** and **R-80** to **NRC** for a retail coffee shop in land lots 73 and 81 of the 1st district. Property is located on the west side of Johnson Ferry Road, and on the north side of Paper Mill Road (31 Johnson Ferry Road). ***(Previously continued by Staff from the October 4, 2022, through the April 4, 2023, Planning Commission (PC) hearings until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

Z-8 **TOMMY'S EXPRESS BY NORTHGATE** (The Medford Family Limited Partnership, owners) requesting rezoning from **PSC** to **NRC** for a car wash in land lot 583 of the 16th district. Property is located on the northwest corner of the intersection of Bells Ferry Road and Ernest Barrett Parkway (2595 Bells Ferry Road). ***(Continued by Staff from the April 4, 2023, Planning Commission (PC) hearing until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

Z-9 **AGUAS VIVAS CENTRO FAMILIAR DE ADORACION INC.** (Can Van Nguyen, owner) requesting rezoning from **R-20** to **R-20** for a church in land lots 386 and 412 of the 18th district. Property is located on the north side of South Gordon Road, east of Starling Drive (540 South Gordon Road). ***(Held by the Planning Commission (PC) from the April 4, 2023, PC hearing until the May 2, 2023, PC hearing; therefore, was not considered at this hearing).***

HELD AND CONTINUED CASES (CONT.)

O.B. 17 To consider a variance to the Mableton Form Based Code to allow a three-story building in lieu of a two-story building, and to amend stipulations for Other Business #44 of 2019 to allow 16-foot and 20-foot townhouse widths for Create Homes, LLC regarding property located at the northwest intersection of Fontaine Road and Carol Circle in land lot 35 of the 17th district. ***(Continued by Staff from the April 18, 2023, Board of Commissioners' (BOC) Zoning hearing until the May 16, 2023, BOC Zoning hearing; therefore, was not considered at this hearing.)***

O.B. 18 To consider a stipulation amendment for Johnson Ferry Rd, LLC in land lots 470 and 471 of the 16th district. Property is located on the south side of Shallowford Road, the west side of Johnson Ferry Road, the north and south sides of Waterfront Drive, and the east side of Waterfront Circle (multiple addresses).

Mr. Pederson presented the Applicant's request for a continuance of O.B. 18; thereafter, the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to **continue** O.B. 18 until the May 16, 2023, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

O.B. 19 To consider a stipulation amendment for Terwilliger Pappas Multi-Family Partners, LLC regarding rezoning application Z-26 of 2007 for property located at the southeast corner of Big Shanty Road and Hidden Forest Court, in land lots 501 and 502 of the 16th district (3064 Hidden Forest Court).

Mr. Pederson presented the Applicant's request for a continuance of O.B. 19; thereafter, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **continue** O.B. 19 until the May 16, 2023, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

Mr. Pederson made the following announcements and then read in the cases for the Consent Agenda.

CAMPAIGN DISCLOSURE

All speakers who have made a campaign contribution totaling $250.00 or more, within the last two years, to a local government official considering a zoning case are required to complete the "Campaign Disclosure Form" prior to speaking.

INFORMATION REGARDING ZONING CASES

All information regarding zoning cases must be turned in to the Zoning Office on the Wednesday prior to the zoning hearing for consideration. If said information is turned in past the deadline, then it is at the Board's discretion as to whether the information will be considered.

CONSENT AGENDA

MOTION: Motion by Cupid, second by Richardson, to **approve** the following cases on the Consent Agenda, *as revised*:

Z-7 **PATRICIA CUNNINGHAM** (Pat Cunningham, owner) requesting rezoning from **GC** to **R-15** for a single-family residence in land lots 1208 and 1241 of the 16th district. Property is located on the east side of Lott Avenue, at the terminus of Rosewood Circle (17 Lott Avenue).

To **approve** Z-7 to the **R-15** zoning district, subject to:

1. **Single-family use *only***
2. **Stormwater Management Division comments and recommendations**
3. **Department of Transportation comments and recommendations**

OTHER BUSINESS

O.B. 14 To consider a stipulation amendment for Chance Beam regarding rezoning application Z-32 of 2009 and OB-77 of 2016, for property located on the northwest intersection of Canton Road and Hawkins Store Road, in land lots 228 and 277 of the 16th district (775 Hawkins Store Road).

To **approve** O.B. 14, subject to:

1. **Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
2. **Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
3. **Site Plan Review comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 14 **(CONT.)**

4. **Sign rendering contained in the Other Business packet, with the District Commissioner approving minor modifications (attached and made a part of these minutes)**
5. **Sign is to be in compliance with the Sign Ordinance**

O.B 15 To consider a reduction of public road frontage from 75-feet to 12-feet for Shmuel Wolf. The property located on the north side of Lower Roswell Road in land lot 1115 of the 16th district (4253 Lower Roswell Road).

To **approve** O.B. 15, subject to:

1. **Lot road frontage reduction approved to 12-feet**
2. **Stormwater Management Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
3. **Water and Sewer Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
4. **Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

O.B. 16 To consider a reduction of minimum lot size from 20,000 square-feet to 9,440 square-feet for Lot A, and to 8,974 square-feet for Lot B for Built Development Group, LLC. The property is located on the northwest side of Concord Drive in land lots 351 and 352 of the 17th district (1666 Concord Drive).

To **approve** O.B. 16, subject to:

1. **Lot A reduced to 9,440 square feet**
2. **Lot B reduced to 8,974 square feet**
3. **Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
4. **Stormwater Management Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
5. **Site Plan Review comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**

CONSENT AGENDA (CONT.)

CONSENT VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

REGULAR AGENDA

By general consensus, Z-59'22 and SLUP-11'22 (Glenside Mableton, LLC) were heard concurrently but voted on separately.

Z-59'22 **GLENSIDE MABLETON, LLC** (Glenside Mableton, LLC, owner) requesting rezoning from **GC** to **O&I** for a climate-controlled self-storage facility in land lot 297 of the 18th district. Property is located on the southwest side of Mableton Parkway, north of South Gordon Road (Mableton Parkway). ***(Previously continued by Staff from the September 20, 2022, and October 18, 2022, Board of Commissioners (BOC) Zoning hearings until the November 15, 2022, BOC Zoning hearing; continued by the BOC until the December 20, 2022, BOC Zoning hearing; continued by Staff from the December 20, 2022, BOC Zoning hearing through the March 21, 2023, BOC Zoning hearings until the April 18, 2023, BOC Zoning hearing).***

SLUP-11'22 **GLENSIDE MABLETON, LLC** (Glenside Mableton, LLC, owner) requesting a **Special Land Use Permit** for a climate-controlled self-storage facility in land lot 297 of the 18th district. Property is located on the southwest side of Mableton Parkway, north of South Gordon Road (Mableton Parkway). ***(Previously continued by Staff from the September 20, 2022, and October 18, 2022, Board of Commissioners (BOC) Zoning hearings until the November 15, 2022, BOC Zoning hearing; continued by the BOC from the November 15, 2022, BOC Zoning hearing until the December 20, 2022, BOC Zoning hearing; continued by Staff from the December 20, 2022 BOC Zoning hearing until the February 21, 2023 BOC Zoning hearing; continued from the February 21, 2023, and March 21, 2023, BOC Zoning hearings until the April 18, 2023, BOC Zoning hearing).***

The public hearing was opened; Kevin Moore and Robin Meyer addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **delete** Z-59'22 to the **NRC** zoning district, subject to:

1. ***Prohibited uses*** **to include but not limited to the following: liquor stores or any alcohol sales; adult entertainment; sales of sexually explicit or drug-related paraphernalia; smoke or vape shops; pawn shops and title pawn shops; gold or precious metal dealers; check cashing establishments; discount sales; wholesale-only sales establishments; gun, knife, or weapons sales; shooting ranges; thrift stores, secondhand stores, or flea markets; storage facilities; auto sales and auto-related businesses**

REGULAR AGENDA (CONT.)

Z-59'22 & SLUP-11'22 **GLENSIDE MABLETON, LLC (CONT.)**

2. ***Final use* to be approved by the District Commissioner**
3. **Final Landscape Plans to be approved by the District Commissioner**
4. **Fire Department comments and recommendations**
5. **Stormwater Management Division comments and recommendations**
6. **Water and Sewer Division comments and recommendations**
7. **Department of Transportation comments and recommendations**

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

Following the vote for Z-59'22, the motion for companion case, SLUP-11'22, was made.

MOTION: Motion by Sheffield, second by Birrell, to **deny** SLUP-11'22.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

*At the call for Z-2 (SWI Investments, LLC), the Applicant was not present, and there was no opposition present. The decision was made to put this case on hold to see if the Applicant could be contacted. LUP-6 (*Antonio Rodriguez*) and O.B. 56'22 (Stein Investment Group) were moved up on the agenda and heard next.*

LUP-6 **ANTONIO RODRIGUEZ** (Antonio Rodriguez, owner) requesting a **Temporary Land Use Permit** to allow more vehicles than the code allows in land lot 155 of the 17th district. Property is located on the east side of Austell Circle, southeast of Austell Road (1837 Austell Circle). ***(Previously continued by the Board of Commissioners from the March 21, 2023, Board of Commissioners' (BOC) Zoning hearing until the April 18, 2023, BOC Zoning hearing).***

The public hearing was opened, and Antonio Rodriguez addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **approve** LUP-6 for **24 months**, subject to:

1. **Any extension of the 24 months, the Applicant to come back to the Board of Commissioners for consideration and approval**
2. **No more than four vehicles and four adults at the property**
3. **All vehicles shall be parked in the driveway, including the vehicle that is currently parked on the south or east side of the property**

REGULAR AGENDA (CONT.)

LUP-6 ANTONIO RODRIGUEZ (CONT.)

4. **In the event the Applicant no longer has a work vehicle, the maximum number of vehicles at the property shall be three**

Clerk's Note: *The Chairwoman commented on the importance for Staff to revisit the Dwelling Unit code which restricts the maximum number of vehicles on-site to the total square footage of the dwelling.*

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

OTHER BUSINESS

O.B. 56'22 To consider amending the site plan for Stein Investment Group regarding rezoning application Z-223 (Evelyn J. Gordy-Rankin) of 1988 and rezoning application Z-95 (Evelyn J. Gordy-Rankin) of 1990, for property located at the northwest intersection of Shallowford Road and Gordy Parkway in land lots 335 and 386 of the 16th district (Gordy Parkway). ***(Previously continued by Staff from the September 20, 2022, through the November 15, 2022, Board of Commissioner (BOC) Zoning hearings until the December 20, 2022, BOC Zoning hearing; continued by the BOC from the December 20, 2022, BOC Zoning hearing until the February 21, 2023, BOC Zoning hearing; continued by Staff from the February 21, 2023, BOC Zoning hearing until the March 21, 2023, BOC Zoning hearing; held by the BOC from the March 21, 2023, BOC Zoning hearing until the April 18, 2023, BOC Zoning hearing).***

The public hearing was opened; Garvis L. Sams, Jr., Jason Linscott, Denise Fissel, and Chris Lindstrom addressed the Board. The Board allowed an extra minute of presentation time to both the Applicant and the opposition. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **approve** O.B. 56'22, subject to:

1. **Letter of agreeable conditions from Garvis Sams, Jr. dated April 14, 2023 (attached and made a part of these minutes),** ***not otherwise in conflict***
2. **East Cobb Civic Association (ECCA) recommendations dated April 11, 2023, and April 18, 2023 (attached and made a part of these minutes),** ***not otherwise in conflict***
3. **Email correspondence from Laura Hickman dated April 11, 2023 (attached and made a part of these minutes),** ***not otherwise in conflict***

OTHER BUSINESS (CONT.)

O.B. 56'22 (CONT.)

4. **Email correspondence from Chris Rink dated April 7, 2023 (attached and made a part of these minutes), *not otherwise in conflict***
5. **Handouts from Garvis L. Sams, Jr. dated April 18, 2023 (attached and made a part of these minutes), *not otherwise in conflict***
6. **Maintain a 40-foot buffer adjacent to the R-20 zoning, Harrison Park**
7. **Compliance with all Architectural Control Committee (ACC) recommendations and approvals**
8. **The tree line on Gordy Parkway to remain in perpetuity; if a tree dies or is damaged, it will be replaced**
9. **Right-in/right-out *only* on Gordy Parkway and Shallowford Road access, in addition to other Department of Transportation (DOT) comments and recommendations *revised* April 5, 2023 (attached and made a part of these minutes)**
10. **For this use *only***
11. **Construction hours of operation: Monday through Friday, 7:00 a.m. until 7:00 p.m.; Saturday, 9:00 a.m. until 5:00 p.m.; and no Sunday work hours**
12. **Store (restaurant) hours of operation: 7:30 a.m. until 10:00 p.m.**
13. **All construction vehicles to park on-site; no parking on the street, and no parking in the entrance to the subdivisions**
14. **Landscape Committee comprised of one representative each from Highland Park, Highland Terrace Homeowners' Association (HOA), North Hampton, and East Cobb Civic Association to review the Landscape Plan**
15. **Architectural Plan shall be subject to all recommendations and approvals from the Architectural Control Committee headed by Henry Hays**
16. **District Commissioner to approve final Site Plan, Landscape Plan, and Architectural Plan**
17. **All previous stipulations and conditions, *not otherwise in conflict,* to remain in effect**
18. **All Staff comments and recommendations, *not otherwise in conflict***
19. **If the County owned park land is purchased, in order to maintain the required 40-foot buffer, the application is to come back as Other Business for final review**

VOTE: **ADOPTED** 4-1, Sheffield opposed *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

Chairwoman Cupid called for a brief recess from 11:02 a.m. until 11:09 a.m.

REGULAR AGENDA (CONT.)

Mr. Pederson announced that the Applicant for Z-2 (SWI Investments, LLC) had arrived at the hearing, so Z-2 was heard next.

Z-2 **SWI INVESTMENTS, LLC** (SWI Investments, LLC, owner) requesting rezoning from **GC** to **PVC** for a mixed-use; retail and multifamily development in land lot 207 of the 17th district. Property is located on the southeast side of Austell Road, northeast side of Sandtown Road, and on the north side of Parker Drive (1715 Austell Road, 141 and 143 Parker Drive). ***(Previously continued by Staff from the February 7, 2023, and March 7, 2023, Planning Commission (PC) hearings until the April 4, 2023, PC hearing).***

The public hearing was opened, and Sobhi Boktor addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to deny Z-2.

Prior to the vote, discussion ensued between the Board and the Applicant where the Applicant requested to the Board to have his case withdrawn without prejudice. Commissioner Sheffield withdrew her previous motion and made the motion to allow Z-2 to be withdrawn without prejudice.

MOTION: Motion by Sheffield, second by Birrell, to **withdraw** the previous motion for Z-2 to allow the Applicant to withdraw without prejudice Z-2.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

MOTION: Motion by Sheffield, second by Birrell, to **allow** the Applicant to *withdraw without prejudice Z-2.*

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

OTHER BUSINESS (CONT.)

O.B. 3 To consider amending the site plan for Mills Veterinary Property and Rehabilitation Center regarding rezoning application Z-9 of 2020, for property located on the west side of North Cobb Parkway, south of Third Army Road in land lot 2 of the 20th district (4825 North Cobb Parkway). ***(Continued by Staff from the February 21, 2023, and March 21, 2023, Board of Commissioners' (BOC) Zoning hearings until the April 18, 2023, BOC Zoning hearing).***

OTHER BUSINESS (CONT.)

O.B. 3 **(CONT.)**

The public hearing was opened; Michelle Mills and Teresa Stendahl addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Gambrill, second by Richardson, to **hold** O.B. 3 until the May 16, 2023, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

O.B. 13 To consider a reduction of public road frontage from 50-feet to 20-feet, and a rear setback variance from 35-feet to 24-feet for Edward M. Glancy, Jr. The property is located on the east end of Lakeside Court, east of Lake Drive in land lot 35 of the 20th district (5447 Lakeside Court).

The public hearing was opened, and Edward Glancy addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Gambrill, second by Richardson, to **hold** O.B. 13 until the May 16, 2023, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

MOTION TO CONDUCT EXECUTIVE SESSION

MOTION: Motion by Cupid, second by Richardson, to **approve** the call of an Executive Session to begin at 1:30 p.m. to discuss matters which may be discussed in Executive Session.

VOTE: **ADOPTED** 5-0 *(Statements read in by Commissioner Gambrill and Commissioner Birrell are attached and made a part of these minutes.)*

ADJOURNMENT

The hearing adjourned at 12:37 p.m.

Robin L. Stone, Deputy County Clerk
Cobb County Board of Commissioners

Min. Bk. 97 Petition No. All
Doc. Type Comm. Gambrill's statement added to each vote
Meeting Date 4-18-2023

From: Commissioner Keli Gambrill
To: Cobb County Clerk
Statement February 21, 2023 to be attached to all agenda items considered.

When the Board first entered Executive Session in March 2022 to discuss the "Home Rule" challenge, I challenged the County Attorney's Office on the premise and requested outside counsel to be sought.

While the County Attorney's Office claims the Association of County Commissioners of Georgia (ACCG) provided legal advice, I too am in receipt of the documents from the ACCG regarding Home Rule, to which it clearly defines the limit of this Boards Constitutional powers as to redistricting. I also contend that the Board of Commissioners did not follow the Home Rule challenge in its entirety.

As stated and recorded in previous minutes, the Georgia Supreme Court has ruled that the GA Constitution limits legislative action by the Board of Commissioners to matters for which no provision has been made by general law. Federal Court in Georgia have ruled that the General Assembly is the only legislative body with the power to enact redistricting legislation for the counties.

The county has received letters from the Georgia State Attorney General, Chris Carr stated that the Cobb County Commissions move to amend its electoral redistricting map is "inappropriate and not legally binding."

C. Ryan Germany, General Counsel for the Office of the Secretary of State, "You should not consider the ministerial function of filing the Amendment with our office or the publishing of the Amendment to be a comment on whether the Amendment is allowable under state law or a proper exercise of authority by the Cobb County Commission, nor should you rely on it to attempt to establish the validity of the Amendment." "In fact," he continues "it appears that the Amendment is very likely an unauthorized exercise of authority by the Cobb County Commissioner that does not comply with Georgia Law or the state Constitution.

Deputy Legislative Counsel D. Stuart Morelli, "It is practically indisputable that a county home rule resolution or ordinance changing the boundaries of the districts from which county commissioners are elected would be an action affecting the procedure for the election of the county's governing authority. O.C.G.A. 36-35-4.1, no such statutory authority exists for Georgia counties.

On January 10, 2023, I was unjustifiably removed from this dais and prevented from representing my constituents and carrying out the duties I was elected to perform, based on an opinion that is not supported by law or policies of this Board.

While I am here representing my constituents and fulfilling my duties as an elected official, I hereby request the clerk to attach this statement to each vote that is recorded herein.

Min. Bk. 97 Petition No. ALL
Doc. Type Comm Birrell's
statement added to each vote
Meeting Date 4-18-2023

For the record, please add to each vote taken:

I do not support the Home Rule Challenge of the majority of this board. It is unconstitutional and illegal. I voted against the amended map 3 times in 2022 (1/25/22, 10/11/22 and 10/25/22).

I have a duty to represent my constituents and will not have my vote suppressed as I was duly elected on November 8, 2022 under the state map (HB 1154) voted on by the Georgia General Assembly in February 2022 and signed into law by Governor Kemp on March 2, 2022 and certified by the Cobb Board of Elections on November 15, 2022.

JoAnn K. Birrell

District 3 Commissioner

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type letter
Meeting Date 4-18-2023

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

April 14, 2023

(COMPREHENSIVE STIPULATION LETTER & ARCHITECTURAL IMAGERY)

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: Other Business Application of Stein Investment Group to request a Site Plan Amendment regarding No. Z-223 [1988] and No. Z-95 [1990] – OB#-56 [2022]

Dear John:

This firm represents Stein Investment Group (Stein") concerning the above-captioned Other Business Application. The application is scheduled to be heard and considered by the Cobb County Board of Commissioners ("BOC") on October 18, 2022 for final consideration of the Other Business Application ("OB") which was formally submitted on September 13, 2022.

As mentioned in our previous Stipulation letter dated October 5, 2022, the property at issue ("Subject Property") consists of a 1.147 acre tract of land located at the northwest intersection of Shallowford Road and Gordy Parkway and in an area which is denominated as a Community Activity Center ("CAC") on Cobb County's Future Land Use Map ("FLUM") and Comprehensive Land Use Plan ("Comp Plan"). The use sought by Stein is a restaurant and constitutes a use contemplated under sections of both the FLUM and Comp Plan and is a use which is allowed under and pursuant to the underlying zoning classification of General Commercial ("GC").

The chronological history of the Subject Property began with the approval of a large assemblage of properties located in and around the intersection of Shallowford Road, Gordy Parkway and Sandy Plains Road which was approved by the BOC (No. Z-223 [1988]) and a subsequent/follow-up rezoning in 1990 (No. Z-95 [1990]).

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Continued

VIA EMAIL

There have been numerous applications for rezonings which have emanated after those seminal zoning approvals including the latest which included the granting of a Special Land Use Permit ("SLUP") on July 20, 2021 (SLUP-5) in order to accommodate the construction and development of a Climate Controlled Self-Service Storage Facility ("CCSSSF"). That application, among other components, included the repurposing and retrofitting of an existing Movie Theatre on the site and the construction and development of an additional CCSSSF building. That site is contiguous and to the north of the Subject Property.

Stein is proposing and requesting the approval of this OB Application specifically and exclusively for the purposes of the development of a fast-casual restaurant which will be owned, managed and operated by King's Hawaiian, a family business which has been in existence and prospered since it was founded in 1950. Other than two (2) such restaurants in the State of California, this Application constitutes one of the first King's Hawaiian proposals to be constructed in any other state, even though King's Hawaiian does have a large distribution center in Hall County, Georgia.

During the pendency of the CCSSSF OB Application, individuals and HOA representatives, as well as the Review Committee Members on the *Gordy Parkway Architectural Control Committee* ("ACC") were a part of the discussions and, during the pendency of that OB Application, made it clear that, collectively, they did not want, among other potential uses, any vehicular-centric uses on this Subject Property. However, notwithstanding the number of offers to purchase the property based upon those type uses, we are pleased to present King's Hawaiian's proposal for a restaurant. Thus far, my clients have spoken with representatives of Highland Park Subdivision and have interfaced with the North Hampton HOA; the East Cobb Civic Association ("ECCA"); applicable members of the Gordy Parkway Architectural Control Committee ("ACC"); and, others who have expressed an interest regarding King's Hawaiian's OB proposal and the Subject Property.

While many of the discussions and the inquires have devolved upon the type of restaurant proposed by King's Hawaiian, this letter will ensure that it is a family-owned, fast-casual restaurant (not a fast-food chain). In other words, the division between customers dining in and those picking up food via the drive-thru component in a restaurant will be operationally sound. Because of the ambience of the restaurant and the long-standing traditions which the King's

Petition No. OB-56 '22
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Continued

VIA EMAIL

Hawaiian family have exhibited over the past seven (7) decades, they want their customers/ diners to enjoy the overall experience of not only a Hawaiian infused food cuisine and the experience but who also prefer to dine either inside or outside on the Lanai with other like-minded individuals.

Since the Pandemic has come and (hopefully gone) there are very few restaurants which will be established in the future where there is not a pick-up window or a queue or an ability to order from a reader board or a call-in pick up going forward to ensure the viability of the restaurant in this market which, according to information provided by King's Hawaiian, caters to the per-capita income model demographic and customers which King's Hawaiian seeks and cultivates.

From our previous letter of October 5, 2022, and after meetings with County staff members, area residents, HOA representatives and representatives of the Gordy ACC, we submitted the following stipulations requesting them to serve as Stein's expression of agreement which shall become conditions and apart of the grant of the requested OB Application and binding upon the Subject Property thereafter as stipulations/conditions running with the requested entitlements once approved:

1. The stipulations/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 property which constitutes the subject matter of this Other Business Application. However, the underlying stipulations/conditions of other parts of the "Gordy Tract" regarding other tracts shall remain in full force and effect.

2. The Subject Property shall be developed in substantial conformity to that certain site plan prepared by Axis Infrastructure, entitled *Proposed Restaurant*, which was submitted concurrently with the OB Application on September 13, 2022.

3. Stein's proposal consists of one (1) building, 3,200 square feet in size, with an additional covered Lanai for seating by those who prefer a garden-type outdoor area, but which is nonetheless covered against the elements.

Petition No. 08-56 '22
Meeting Date 4-18-2023
Continued

VIA EMAIL

4. The architectural style and composition of the building to be constructed on the Subject Property shall be consistent with the architectural renderings/elevations ("imagery") submitted with the Other Business Application and either resubmitted or submitted herewith as additional imagery. Of course, the Gordy ACC then, finally the District Commissioner shall have the right of final architectural approval.

5. The Subject Property shall be secured and served by strategically positioned 24-hour video surveillance and its anticipated hours of operation will be from 7:00 a.m. until 10:00 p.m.; however, King's Hawaiian would appreciate the latitude to extend to 11:00 p.m. at some point but that is, of course, a decision that may be submitted to the District Commissioner as a minor amendment at a later date should market data prove that such is indicated.

6. King's Hawaiian worked on a Landscape Plan which is attached to this letter. The Landscape Plan will be subject to final review and approval subject to direction from the District Commissioner.

7. The dumpster shall be constructed consistent with the attached rendering and with Cobb County Ordinances and Regulations with dumpster lids containing rubber cushions to reduce/eliminate noise. The dumpster enclosure shall be designed to be complementarily to the building's architectural style and composition. The door of the dumpster enclosure shall remain closed at all times when not in use. In addition, the dumpster enclosure has been approved by the ACC.

8. Parking area lighting will be maximally illuminated for security purposes to the extent allowed under the Cobb County Zoning Ordinance. Security lighting on the building shall also be maximally illuminated with no lighting being allowed to penetrate outside the perimeter of the Subject Property.

9. Compliance with recommendations from the Stormwater Management Division with respect to water quality, detention and in consideration of known downstream issues. Detention which serves the site (owned by others) was developed, configured and calculated with the original and subsequent Rezonings (1988-1990).

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Continued

VIA EMAIL

10. Compliance with Fire Prevention and Life Safety issues from the Cobb County Fire Marshal's Office in accordance with applicable Ordinances, Codes and Standards.

11. Compliance with the comments and recommendations from the Cobb County Department of Transportation ("DOT").

12. Compliance with the comments and recommendations from the Cobb County Water System concerning the availability and capacity of sewer and water for the site which is readily available and accessible by way of previous approvals.

13. King's Hawaiian requests a waiver from Cobb County Ordinance provisions waiving the forty-foot (40') buffer and thus allowing a reduced buffer on the western side of the Subject Property contiguous to the existing public park area shown on the site plan.

14. The District Commissioner shall have the authority to approve minor modifications to these stipulations, the site plan, architectural renderings/elevations and all other components of this development as it proceeds through the Plan Review Process and thereafter. However, the District Commissioner shall not have the authority to approve modifications or revisions which:

    a. Increase the size of the building.

    b. Reduce the size or composition of an approved buffer or landscape strip adjacent to contiguous properties.

    c. Relocate a structure closer to a perimeter property line.

    d. Increase the height of a building so that it exceeds the at-grade level of buildings located on contiguous and/or adjacent properties.

    e. Which seek additional waivers from the Cobb County Zoning Ordinance other than those referenced herein and/or depicted upon the current site plan.

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Continued

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency

Additionally, and in connection with these stipulations, my client and I, along with the District Commissioner, representatives of the East Cobb Civic Association ("ECCA") and the County's Professional Staff have continued discussions, as well as site visits, with respect to specific issues raised by those concerned. As a result of these ongoing communications, Stein is proposing the following additional items, which shall also become conditions and a part of the grant of the requested OB Application and binding upon the Subject Property thereafter as stipulations/conditions running with the requested entitlements once approved:

40' Buffer

1. While this buffer is required abutting residentially zoned property, the abutting property to the west is a public recreation park owned by Cobb County and happens to be zoned R-20. To that point, there is a notable absence of a buffer behind The Home Depot adjacent to single-family housing, as well as the 2018 zoning of Sandy Plains Marketplace that has no buffer adjacent to the residentially zoned Mountain View Community Center owned by Cobb County.

2. Other Cobb parks exist in various zoning categories including GC, O&I, and PSC. Those zoning categories have no buffer requirement to commercial.

3. This 40' on our property is a very steep incline from bottom to top of hill as seen by the staking — it has no flat area. The area also has no specimen trees; any trees in the buffer are thin, high canopy trees.

4. Beyond our property line, is a wooded ravine owned by Cobb County and used as a storm drainage area. Our 40' buffer is only buffering our property from this ravine — in fact, the developed park area is between 100' to 200' from our project.

5. We feel that the buffer requirement on our property is not accomplishing anything and only limiting the type of uses that can be provided.

6. The King Hawaiian landscape plan includes 13 new trees in this buffer area of our property — including evergreen magnolias, oak, and elm trees. It creates an actual screening buffer as opposed to what exists today.

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Continued

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
April 14, 2023
Page 7

Traffic

1. Our combined uses (self-storage + King Hawaiian) generate 40% LESS traffic than the movie theatre use that had operated for 30 years on the property.

2. Gordy & Shallowford is a major intersection where commercial uses are intended to operate.

3. The KH customers have access via 3 curb cuts on 2 roads, which reduces the burden on each curb cut, dispersing the traffic (and decreasing potential congestion).

4. The KH restaurant serves the existing neighborhood traffic, they do not "generate" traffic as would destination uses (such as the previous movie theater) that bring traffic into the area.

5. The KH drive thru is a single drive thru lane — there's a single pickup window but with a bypass lane so that KH employees can manage flow.

ACC – Henry Hays

1. There are only 3 outstanding items with the ACC:

    a. KH agreed to remove the pineapple completely, so that should be a settled issue.

    b. KH agreed to remove the mural from the view of the ROW, so it is only internal facing to be seen in the drive thru area only. KH is hopeful that this will satisfy concerns.

    c. KH agreed to keep one of three Gordy Parkway trees. The other two trees will be replaced with seven new trees including elm and golden rain trees. We feel this is an improvement to the streetscape.

2. The ACC has approved all other aspects of the project.

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Continued

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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April 14, 2023
Page 8

Unfortunately, due to the wedge/narrow shape of the property, we cannot fit a restaurant use without removing this 40' buffer. We have tried very hard over the past 18 months to find a quality use that would be a wonderful amenity for the community. We believe that King's Hawaiian will be a fantastic member of the community and provide something new and of very high quality.

Stein has had significant interest from other types of businesses that would fit without needing to change the buffer, but they are all vehicle centric uses such as car washes and oil change because their footprints work.

In all respects, this proposal continues to be appropriate and a particularly needed restaurant use within this sub-area of East Cobb County which is proposed by King's Hawaiian. Please do not hesitate to contact me should you or your staff require additional information. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

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

GLS, Jr./jac
Attachments

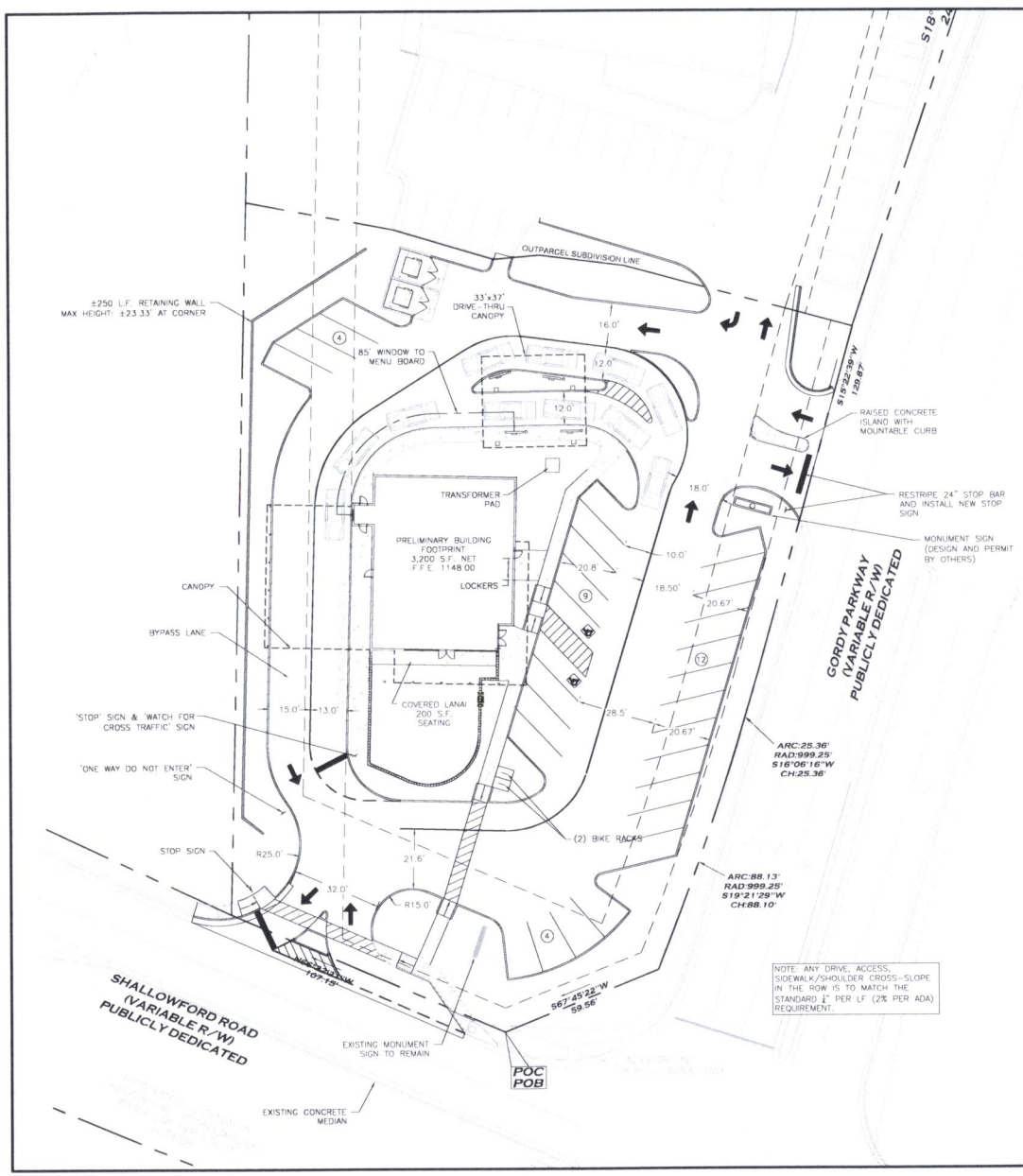
cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Dr. Jackie McMorris, County Manager (via email w/attachments)
Board of Commissioners Assistants (via email w/attachments)
Ms. Jessica Guinn, AICP, Director (via email w/attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/attachments)

Petition No. 08-56 '22
Meeting Date 4-18-2023
Continued

VIA EMAIL

Mr. Terry Martin, AICP, CNU-4, Planner III (via email w/attachments)
Ms. Margie Vazquez, Planner II (via email w/attachments)
Mr. LeDarius Scott, Planner II (via email w/attachments)
Mr. Cameron Jones, Planner II (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)
Mr. Jeffrey Byrd, Fire Marshal's Office (via email w/attachments)
Ms. Amy Diaz, P.E., Cobb DOT (via email w/attachments)
Ms. Ligia Florim, Cobb DOT (via email w/attachments)
Mr. Carl Carver, P.E., Stormwater Management Division (via email w/attachments)
Mr. Tim Davidson, P.E., Development Review Engineer, (via email w/attachments)
Mr. Richard Grome, President, ECCA (via email w/attachments)
Ms. Chris Lindstrom, ECCA (via email w/attachments)
Ms. Laura Hickman, North Hampton HOA (via email w/attachments)
Mr. Chris Rink, North Hampton HOA (via email w/attachments)
Mr. Henry Hays, Gordy Parkway ACC (via email w/attachments)
Mr. David Fisher, Highland Park HOA (via email w/attachments)
Ms. Teresa M. Curry, P.E., Axis Infrastructure (via email w/attachments)
Mr. Daniel Ginburg, Stein Investment Group (via email w/attachments)
Mr. Jason Linscott, Stein Investment Group (via email w/attachments)

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued



SITE DATA		
STREET LOCATION: GORDY PKWY & SHALLOWFORD ROAD, MARIETTA, GA 30066		
CURRENT SITE AREA: ±1.15 A.C. (±49,946 S.F.)		
CURRENT ZONING: TBD		
BUILDING TYPE: PROPOSED ONE-STORY RESTAURANT (3,200 S.F. NET)		
ZONING REQUIREMENTS	REQUIRED	PROPOSED
BUILDING SETBACKS		
FRONT	25'	>25'
LEFT SIDE	0'	>0'
RIGHT SIDE	50'	>50'
REAR	25'	>25'
LANDSCAPE SETBACK		
FRONT	8'	8'
RIGHT	8'	8'
PARKING REQUIREMENT		
1/100 S.F. NET FLOORSPACE	34	29 ON-SITE
INCLUDING PATIO SPACE		5 OFF-SITE

ALL CONTRACTORS WORKING ON DOT R/W

WITHIN 350' OF ANY TRAFFIC SIGNAL. COBB DOT SIGNALS ARE NOT ON THE LOCATE PROGRAM, YOU ARE REQUIRED TO CALL US AT LEAST 24HRS IN ADVANCE FOR TRAFFIC SIGNAL U/G UTILITY LOCATES @ **(770) 528-3666**

Please provide the following information when calling:

Company and caller Name & number
Contact person name & number at job site
Location of work to be performed
Type of work being performed

IF SIGNAL DAMAGE IS EXPECTED, BEFORE BEGINNING ANY WORK YOU ARE REQUIRED TO HAVE CONTACTED AN APPROVED SIGNAL SUB TO IMMEDIATELY REPAIR ANY DAMAGE THAT MAY OCCUR.

CDOT Contacts	770-528-1680
1890 County Services Parkway	Lenny Price, X1689
Marietta, Ga. 30008	Tony Lewis, X1692

GEORGIA REGISTERED No. PE30008 PROFESSIONAL ENGINEER TERESA M CURRY
9.13.2022
DATE

NO.	DATE:	DESCRIPTION
		REVISIONS

AIS INFRASTRUCTURE
1111 CAMBRIDGE SQUARE, SUITE C
ALPHARETTA, GEORGIA 30009
PHONE: (678) 393-4935

DRAWING TITLE: SITE PLAN
PROJECT NAME: PROPOSED RESTAURANT
GORDY PKWY & SHALLOWFORD ROAD, MARIETTA, GA 30066
CLIENT: AVISON YOUNG
30 IVAN ALLEN JR. BOULEVARD, SUITE 900, ATLANTA, GEORGIA 30308

PROJECT NO.:	PROJ. MGR.: LW
DATE: 01.10.22	DRWN. BY: NL
SCALE: AS NOTED	CHKD. BY: LW
DRAWING SERIES: SITE	
SHEET NO.: C-2.0	

NOT FOR CONSTRUCTION

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

1 PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTHEAST

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

2 PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTH-SOUTHEAST

NTS

03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

3 PROJECT OHANA MARIETTA - GROUND LEVEL VIEW FROM THE SOUTHEAST

NTS

03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

4 PROJECT OHANA MARIETTA - GROUND LEVEL VIEW FROM GORDY PARKWAY

NTS

03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

5 PROJECT OHANA MARIETTA - GROUND VIEW FROM THE NORTHWEST

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

6 PROJECT OHANA MARIETTA - GROUND VIEW FROM THE SOUTHWEST

NTS

03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

7 PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTHWEST

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

8 PROJECT OHANA MARIETTA - ENTRY CLOSEUP

NTS

03.29.23

DAG
ARCHITECTS

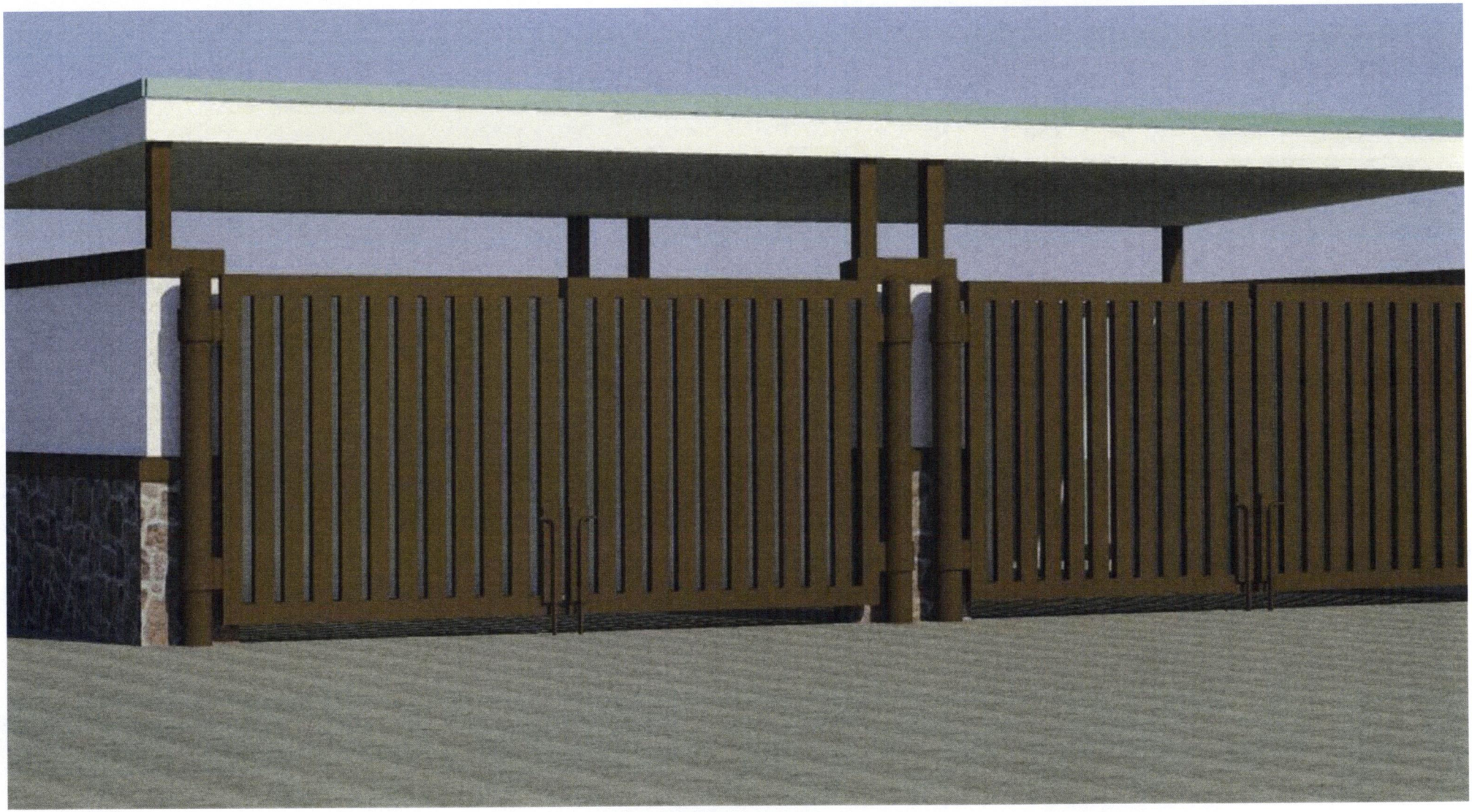
Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

9 PROJECT OHANA MARIETTA - OVERHEAD AERIAL

NTS 03.29.23

DAG ARCHITECTS

Petition No. 08-56'22
Meeting Date 4-18-2023
Continued



Petition No. DB-56 '22
Meeting Date 4-18-2023
Continued

PLANT SCHEDULE LANDSCAPE

TREES	CODE	BOTANICAL / COMMON NAME	CONT	CAL	SIZE	REMARKS
	AR	Albizia julibrissin 'Rosea' / Roses Silk Tree	3" cal.			
	KP	Koelreuteria paniculata / Golden Rain Tree	B&B	4" Cal.		
	MG	Magnolia grandiflora'Alta' / Alta Southern Magnolia	B&B	3" Cal.		
	OA	Osmanthus americanus / Devilwood	B&B	3" Cal.		
	QS	Quercus shumardii / Shumard Oak	B&B	4" Cal.		
	TF	Trachycarpus fortunei / Windmill Palm	B&B		6' hgt.	
	TI	Thuja x 'Green Giant' / Green Giant Arborvitae	9' to 10' ht.	2" cal.		
	UP	Ulmus parvifolia / Lacebark Elm	B&B	4" Cal.		

SHRUBS	CODE	BOTANICAL / COMMON NAME	CONTAINER	MIN. SIZE	SPACING	REMARKS
	CH	Colocasia esculenta 'Hawaiian Punch' / Hawaiian Punch Taro	3 gal		2' o.c.	
	CH2	Cephalotaxus harringtonia / Plum Yew	3 gal			
	CM	Canna indica 'Mastro' TM / Tropicanna Gold Canna	3 gal			
	CS	Camellia sasanqua 'Setsugekka' / Setsugekka Camellia	5 gal	3' hgt. x 3' width		
	CT	Camellia x 'Taylor's Perfection' / Taylor's Perfection Camellia	5 gal	3' hgt. x 3' width		
	CT2	Canna indica 'Lor01' TM / Tropicanna Black Canna	3 gal			
	DE	Dryopteris erythrosora / Autumn Fern	1 gal			
	FJ	Fatsia japonica / Japanese Fatsia	5 gal	3' hgt. x 3' width		
	FS	Fargesia scabrida / Coarse-Flowered Clumping Bamboo	5 gal			
	HS	Hibiscus syriacus / Rose of Sharon	5 gal			
	I	Ilex crenata / Japanese Holly	5 gal			
	LG	Loropetalum chinense / Chinese Fringe Flower	3 gal			
	MC	Muhlenbergia capillaris / Pink Muhly Grass	3 gal			
	MS	Mahonia eurybracteata 'Soft Caress' / Soft Caress Mahonia	3 gal	3' o.c.	3' o.c.	
	MW	Muhlenbergia capillaris 'White Cloud' / White Cloud Muhly Grass	3 gal			
	PA	Perovskia atriplicifolia / Russian Sage	3 gal		2.5' o.c.	
	PM	Polystichum munitum / Western Sword Fern	3 gal	1' hgt x 2' spr.		
	RO	Rosmarinus officinalis / Rosemary	3 gal			
	YR	Yucca recurvifolia / Soft Leaf Yucca	3 gal			

GROUND COVERS	CODE	BOTANICAL / COMMON NAME	CONTAINER	MIN. SIZE	SPACING	REMARKS
	CE	Cynodon dactylon x transvaalensis 'OT-1' TM / TifTuf Bermudagrass	SOD		as shown	
	EE	Eragrostis elliottii / Love Grass	SF SEED			
	LS2	Liriope muscari / Liriope	1 gal		12" o.c.	
	ON	Ophiopogon japonicus / Dwarf Mondo Grass	6" pot		6" o.c.	
	SE	Seasonal color / Seasonal Color	6" pot		6" o.c.	Mound Area 6"

10 0 10 20 30
Scale 1" = 10'

SITE solutions

LANDSCAPE ARCHITECTURE + PLANNING

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PROFESSIONAL STAMP

PROJECT OHANA
MARIETTA
PREPARED FOR
AVISION YOUNG

SHEET STATUS

MARK	DATE	BY	RELEASE
1			

SHEET TITLE
SCHEMATIC LANDSCAPE PLAN

PROJECT NUMBER
22035.00

L1.00

DATE: 10.13.2022

NOT FOR CONSTRUCTION

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type 4-11-2023 ECCA recommendations
Meeting Date 4-18-2023

EAST COBB CIVIC ASSOCIATION, INC.
RECOMMENDATION
DISTRICT 3

Petition OB-56 (October 2022) Held to April

Applicant, Stein Investment Group, 678-904-9611, represented by Garvis Sams of Sams, Larkin and Huff, LLP, 770-422-7016, requests the redevelopment of an existing parking lot for a fast-casual restaurant. The current title owner is Sig Gordy Commercial, LLC, Managed by Jeffrey I. Stein of Atlanta, Georgia.

Additional Information:
Property is located at the northwest intersection of Shallowford and Gordy Parkway. Land lots: 335 and 386.

Contiguous Zonings:
North: (GC) – Storage Facility
South: (O&I)) – Bank
East: (GC) – Home Depot/Shopping Center
West: (R20) – Harrison Park
Present Zoning: GC; Future Land Use: CAC; Site acreage: 1.147 acres

ECCA Case Manager: Chris Lindstrom

Reason: Applicant would like to build a casual-food restaurant with two drive-thru lanes on the outparcel associated with the previous SLUP-5 (2021) Self-Serve Storage Facility.

Discussion:

- ECCA has spoken with the Architectural Control Committee (ACC) several times and, as a member of the ACC, ECCA has participated in a neighborhood meeting held concerning OB-56.
- ECCA also met with the Hawaiian King representatives, neighborhood HOAs, and county officials.
- Three letters are referred to for our recommendation:
    - July 14, 2021, letter from Mr. Garvis L. Sams to Mr. John P. Pederson under SLUP-5 2021.
    - October 5, 2022, Stipulation Letter from Mr. Garvis L. Sams concerning OB-56 to Mr. John P. Pederson
    - March 1, 2023, letter from Mr. Garvis L. Sams concerning OB-56 to Mr. Henry Hays, President of the Architectural Control Committee for that area with updated landscape and site plans.

The following are the issues ECCA has with the proposed project:

40-Foot Western Buffer:

- According to the March 1, 2023, site and landscape plans, the applicant asks to reduce the 40-ft buffer to 1 to 2 ft in order to add two drive-thru lanes and parking for the project.
- To the east of any remaining buffer, a 15 ft retaining wall is proposed due to the existing steep slope of the property.

The need to eliminate the existing buffer and replace it with mostly impervious surface is one indication that this project is too big for this parcel of land.

The existing 40-ft buffer was intentionally designed to delineate the commercial areas from the park land both **visually and soundwise**. Allowing removal of the buffer to expand commercial development defeats its purpose.

ECCA cannot support the removal of this buffer to allow for the building of a commercial project too large to comply with the restrictions of this site.

Traffic: ECCA, HOAs, homeowners, and the ACC recognize there will be an increase of traffic and higher probability for more accidents along Gordy Parkway and at the entrance to the property from Shallowford Road.

Additionally, ECCA anticipates traffic issues as cars stack up to enter and exit the property, find parking spaces and/or move to an ordering line on peak hours. Backup will happen as there are two ordering windows and only one pay/pickup window. If the food is not quite ready when the car comes up to pay, there is no room to pull up and wait. At peak times, the lineup to place an order could easily block parking spaces including the handicap spots.

Other issues

1. Landscaping along Gordy Parkway and Shallowford Road

As part of the agreement to the SLUP-5 Stipulation Letter of July 14, 2021, Item 4, Page 3, states, "Trees along Gordy Parkway and Shallowford Road shall remain." Now, both the OB-56 site and landscape plans of March 1, 2023, shows two established trees will be removed to make room for parking spaces (one on Gordy Parkway and one on the corner of Gordy Parkway and Shallowford Road).

While ECCA recognizes replacement trees may be offered, ECCA cannot support the removal of this stipulation already negotiated by all parties in 2021. These trees, once saved, should <u>not</u> now be cut down in order to accommodate two parking places. Similar to the buffer and traffic concerns, this is another example that the business is too large for this property.

2. **Additional proposed stipulations from Garvis Sams' letter of October 5, 2022:**
    a. ECCA is opposed to Item 1, Page 3, of the October 5, 2022, letter asking that "stipulations set forth herein replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place…". Existing stipulations were negotiated with the community and stated within SLUP-5 2021 from July 14, 2021. **ECCA recommends any stipulation where not in conflict remain in effect.**
    b. Item 2, Page 3, of the October 5, 2022, letter. ECCA recommends that the sentence read, "The Subject Property shall be developed in ~~**substantial**~~ conformity to the surrounding area." Please cross out the word "substantial".

Recommendation: ECCA recommends **DENIAL of OB-56.**

1. ECCA cannot support eliminating the 40' buffer separating the commercial development from the park to make this proposed project fit on this parcel of land.
2. ECCA is not convinced that offered solutions to the traffic congestion both within and outside the site boundaries are enough to address pedestrian, bicycle rider, and vehicle traffic that neighbors expect.
3. ECCA cannot support eliminating the trees along Gordy Parkway and Shallowford to make this project fit on this parcel of land.
4. ECCA believes that the proposed project is too large for this site.
5. ECCA recommends that all existing stipulations for SLUP-5 should remain in place.

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type 4-18-2023 ECCA recommendations
Meeting Date 4-18-2023

April 18, 2023

To: Cobb County Board of Commissioners

Reference: OB-56 Gordy Parkway and Shallowford Road

Attached are the ECCA speaking notes with items addressing the latest Stipulation Letter for OB-56 submitted late Friday, April 14, 2023. While the applicant's request has not substantially changed and our recommendation has not changed, our speaking notes address items in the letter and to be commented on at the BOC meeting.

Due to time constraints, items in *Italics* are for the official records but will not be stated. These were stated at the March BOC meeting.

Thank you.

Chris Lindstrom
ECCA VP, Zoning, Variances and OBIs

FILED WITH COUNTY CLERK THIS 18th DAY
OF April 2023 BY JoAnn Burrell
RE OB-56 (2022)
Rob L Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

SPEAKING NOTES TO BOC
DISTRICT 3 – April 18, 2023

PETITION OB-56 (October 2022) (Held to April 18, 2023)

Good afternoon, Madam Chairwoman and Commissioners.
My name is Chris Lindstrom representing the East Cobb Civic Association and case manager for OB-56.

The applicant's latest Stipulation letter, received late Friday, April 14th, has not substantially changed since March's hearing and neither has ECCA's recommendation.

<u>This OB is about trying to fit too large a project on too small a lot.</u>

- ECCA cannot support the removal of the 40-Foot Western Buffer between Harrison Park and this commercial property.
- As shown on the Site Plan, this project encroaches 36 feet into the existing buffer to add parking next to the dumpster and 30 feet into the existing buffer to support a canopy, and 2 lanes of traffic for the restaurant.
- This Site Plan also requires a retention wall approximately 15 feet high to be constructed to level the ground to accommodate the parking spots, and 2 traffic lanes.

The existing 40-ft buffer was put in place in the late 1980s to delineate the commercial areas from the park land both visually and sound-wise. This was an intentional and well-thought-out plan discussed and agreed to by the ACC and Cobb County Commissioners.

The need to eliminate the existing buffer and cover it with mostly impervious material for 2 lanes of traffic and additional parking is a strong indication that the project is too big for the existing site.

Mr. Sams' April 14, 2023, Stipulation Letter also refers to the shopping center where Home Depot is now located. This shopping center was backed up against O&I zoning when built. A few years later, the owner of the O&I property requested to change the O&I to residential. Anyone purchasing a new home there knew up front that the shopping center existed. Likewise, the owner of this property also knew there was a 40 ft buffer.

Allowing the removal of this buffer in order to expand commercial development defeats its purpose.

- **Traffic**:

ECCA continues to be concerned that the proposed entrances to the property from Shallowford Road and Gordy Parkway and a subsequent increase in traffic from both roads will increase the probability for more accidents. Placing right turn only signs may not be enough.

ECCA is also concerned that internal traffic congestion, particularly at peak hours, will be an issue. With limited room to maneuver, cars could stack up to enter/exit the property and struggle to find unblocked parking spaces.

- **Additional Issues:**

Mr. Sams has several additional issues where we disagreed earlier and still disagree now. I have included a few of these in my notes which I shared last month and again this month in writing but will not have time to speak on. These are *italicized*.

1. *Landscaping along Gordy Parkway and Shallowford Road*
   As part of the agreement made to the SLUP-5 Stipulation Letter of July 14, 2021, Item 4, Page 3, states, "Trees along Gordy Parkway and Shallowford Road shall remain." Now, the site and landscape plans, show 2 of these established trees will be cut down.

   ECCA cannot support the removal of this stipulation already negotiated by all parties in 2021. These trees should not now be cut down in order to accommodate two parking places. This is another example of a project being too large for the site.

2. *Proposed stipulations from Garvis Sams' April 14, 2023, letter is troublesome.*
   - *ECCA is opposed to Item 1, Page 3. Existing stipulations were negotiated with the community and stated within SLUP-5 dated July 14, 2021. ECCA recommends stipulations where not in conflict remain in effect.*
   - *Item 2, Page 3: ECCA believes the sentence should be amended to simply read, "The Subject Property shall be developed in* ~~***substantial***~~ *conformity to the surrounding area." Please cross out the word "substantial" and everything else within that item.*
   - *Item 13, Page 5, requests a waiver from the 40 ft buffer. As stated earlier, we oppose this.*

The **MAJOR DISAGREEMENT** is not whether King's Hawaiian has high standards and is a good restaurant. The disagreement is whether the project fits on the property while meeting the aforementioned restrictions, and it Does Not.

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

Recommendation:

ECCA respectfully recommends DENIAL of OB-56

Thank you for your time and consideration.

Jorgensen, Kimberly

From: Chris Lindstrom <calindstrom@yahoo.com>
Sent: Wednesday, April 12, 2023 9:16 AM
To: Laura Hickman
Cc: Birrell, JoAnn; Denise Fissel; Ric S Grome
Subject: Re: Stipulations for Hawaiian Restaurant/OB-56
Attachments: Stipulations if Lidl is approved.docx

Min. Bk. 97 Petition No. OB-56-'22
Doc. Type Email correspondence from Laura Hickman dated 4-11-2023
Meeting Date 4-18-2023

Hi Laura,
Thank you for all you do. These ideas are excellent. In this case, ECCA is going for a full denial and will not be adding stipulations. I am sending this note with the attachment to Commissioner Birrell so she can have it for the meeting. My presentation will focus on the project being too large for the site, which takes in the buffer and internal traffic and miscellaneous items. I believe Denise will again focus on the external traffic. I'm sure we'll have some overlap.

It was good seeing you in person the other day!

Chris Lindstrom
h: 770-971-6741
c: 404-402-8442

On Tuesday, April 11, 2023 at 09:41:18 PM EDT, Laura Hickman <lahickman88@comcast.net> wrote:

Hi Chris,

Please see our request for stipulations below. Construction workers worked very early and very late hours when the Storage Facility was being built. They even worked on some holidays. The noise was disturbing neighbors at these early and late hours. We want to be sure to include our request for certain hours and days for construction if OB-56 is approved, along with other requests.

I've attached the Lidl stipulations for reference. Please call me with any questions or concerns.

Thanks,

Laura

FILED WITH COUNTY CLERK THIS 18th DAY
OF April 2023 BY JoAnn Birrell
RE OB-56(2022)
Rachel Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

We are requesting that OB-56 be denied. If it is not denied, we are requesting for these stipulations to be approved:

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

- All construction vehicles and trucks have to enter and exit from Shallowford Road. Or, enter/exit Gordy Parkway only from Shallowford Road to access the center driveway in front of the main Storage Facility building. No construction crew vehicles or trucks can park on Gordy Parkway during the construction period.

- Construction hours can be from 7 a.m. to 7 p.m. ~~or 8 a.m. to 8 p.m.~~, Monday through Friday. Saturday hours from 9 a.m. to 5 p.m. No Sunday or holiday construction hours.

- All equipment must be stored on the property at all times.

- No construction workers or employees or construction vehicles may enter Highland Park, Highland Terrace or Northampton subdivisions at any time.

- Future delivery trucks must enter/exit the property from the Shallowford Road driveway, or enter/exit Gordy Parkway only from Shallowford Road to access the center driveway in front of the main Storage Facility building.

- You must have a washing station to clean the trucks on site. We do not want dirt and debris on Gordy Parkway.

- No deliveries at night. Delivery hours must be from 9 am to 6 pm, Monday through Friday.

- Rubber dumpsters only. Dumpsters can only be emptied between 9 am and 6 pm and garbage must be removed more than once a week. in strip letter

From: Laura Hickman <lahickman88@comcast.net>
Sent: Thursday, March 30, 2023 3:46 PM
To: 'Chris Lindstrom' <calindstrom@yahoo.com>
Cc: 'Denise Fissel' <fisseldr@yahoo.com>
Subject: Stipulations for Hawaiian Restaurant

Petition No. 08-56 '22
Meeting Date 4-18-2023
Continued

Hi Chris,

Can you make sure to include the following along with your other stipulation requests for the Hawaiian restaurant if approved? Please see attached Lidl stipulations for a reference.

-Construction hours and days

-Future delivery hours and days (once business is opened)

-All construction trucks/delivery trucks in-out access only from Shallowford Rd.

-Landscape Committee

-No parking on Gordy, etc.

Thanks for your help,

Laura

From: Laura Hickman <lahickman88@comcast.net>
Sent: Monday, September 18, 2017 4:35 PM
To: 'Trish Steiner' <tsteiner@mindspring.com>
Subject: Lidl Stipulations - Revised/Disregard previous email

Trish,

Here is the revision of the stipulations – I have taken off our opening sentence. This one is good to go.

Thanks!
Laura

CAUTION: This email originated outside Cobb County Government. Please exercise caution when opening links/attachments in this email .

Petition No. 08-56 '22
Meeting Date 4-18-2023
Continued

Lidl Stipulations

We strongly request that you deny Lidl from building on the theatre lot. If this is not denied we would like these stipulations to be approved:

- All construction vehicles and trucks have to enter and exit from Shallowford Road only. No construction crew vehicles or trucks can park on Gordy Parkway during the construction period. Gordy will be re-paved at the end of construction by Lidl.

- Construction hours can be from 8 a.m. to 8 p.m., Monday through Friday. Saturday hours from 9 a.m. to 5 p.m. No Sunday construction hours.

- All equipment must be stored on the property at all times.

- No construction workers or employees or construction vehicles may enter Highland Park, Highland Terrace or Northampton subdivisions at any time.

- No future delivery trucks can enter the property from Gordy Parkway. They must enter and exit only from Shallowford Road.

- You must have a washing station to clean the trucks on site. We do not want dirt and debris on Gordy Parkway. Gordy was recently paved after being in a horrible condition for years. Lidl must repave the road if Gordy Parkway is left in bad condition.

- A landscape committee for the property that is adjacent to the loading dock must include Highland Park and Highland Terrace residents.

- No deliveries at night. Delivery hours must be from 9 am to 6 pm, Monday through Friday.

- Rubber dumpsters only. Dumpsters can only be emptied between 9 am and 6 pm and garbage must be removed more than once a week.

- No pallets, no banners, and no bins of product being sold can be outside of the store.

- Carts cannot be stored near the end of the lot closer to the neighborhoods. The carts should be stored inside of the store.

Jorgensen, Kimberly

From: Birrell, JoAnn
Sent: Sunday, April 9, 2023 9:30 PM
To: Jorgensen, Kimberly
Subject: FW: Ob-56

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type Email correspondence from Chris Rink dated 4-7-2023
Meeting Date 4-18-2023

Please print

JoAnn K. Birrell
District 3 Commissioner
770-528-3318
joann.birrell@cobbcounty.org
Please sign up for my weekly newsletter at www.cobbcounty.org/birrell

-----Original Message-----
From: Chris Rink <chris@clrink.com>
Sent: Friday, April 7, 2023 2:44 PM
To: Birrell, JoAnn <JoAnn.Birrell@cobbcounty.org>
Subject: Ob-56

JoAnn,

After the meeting and discussing this with the board, here are NH's comments on what we see as the main issues.

1. The buffer.
Our view is that the main attribute of a buffer is intended to minimize sound and perhaps the view of the neighboring properties. With that assumption, it seems what they are proposing will actually accomplish that far better than the current "buffer" of trees. And if the county is concerned about setting a precedent may we suggest that you hold "buffers" to those standards and not hope that an arbitrary number of feet will accomplish that.

2. Traffic concerns.
- the traffic study is projecting a significant reduction in traffic compared to the movie theatre,
- the county is planning to realign the intersection
- the 1st entrance on Gordy from Shallowford is to be right in and right out
- Also, I believe I heard that the county would be open to other modification once the restaurant was in.

All of these items seem like they should help manage the volume of traffic that is anticipated. We do realize it will be more traffic than existed when the theatre was closed but the reality is that something would go there eventually and would add traffic. This seems like a good solution of addressing expected traffic while adding a restaurant versus more industrial oil change place.
I know the Highland Park and Terrace people are most concerned about this and want more things done now but with all of the proposed changes you can't really know how things will play out until everything in and then you can tackle whatever actual problems show up.

Overall, NH is not opposed to this development.

Thanks for arranging the meeting, it proved to be most illuminating.

Chris
678.522.6144

FILED WITH COUNTY CLERK THIS 18th DAY
OF April 2023 BY JoAnn Birrell
RE OB-56 (2022)
Rob R. Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Sent from my iPad. Excuse any typos.

CAUTION: This email originated outside Cobb County Government. Please exercise caution when opening links/attachments in this email .

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type Handout from Garvis Sams, Jr.
Meeting Date 4-18-2023

Other Business Application of Stein Investment Group

(OB Item No. 56-2022)

Meeting before the Cobb County Board of Commissioners

April 18, 2023 at 9:00 a.m.

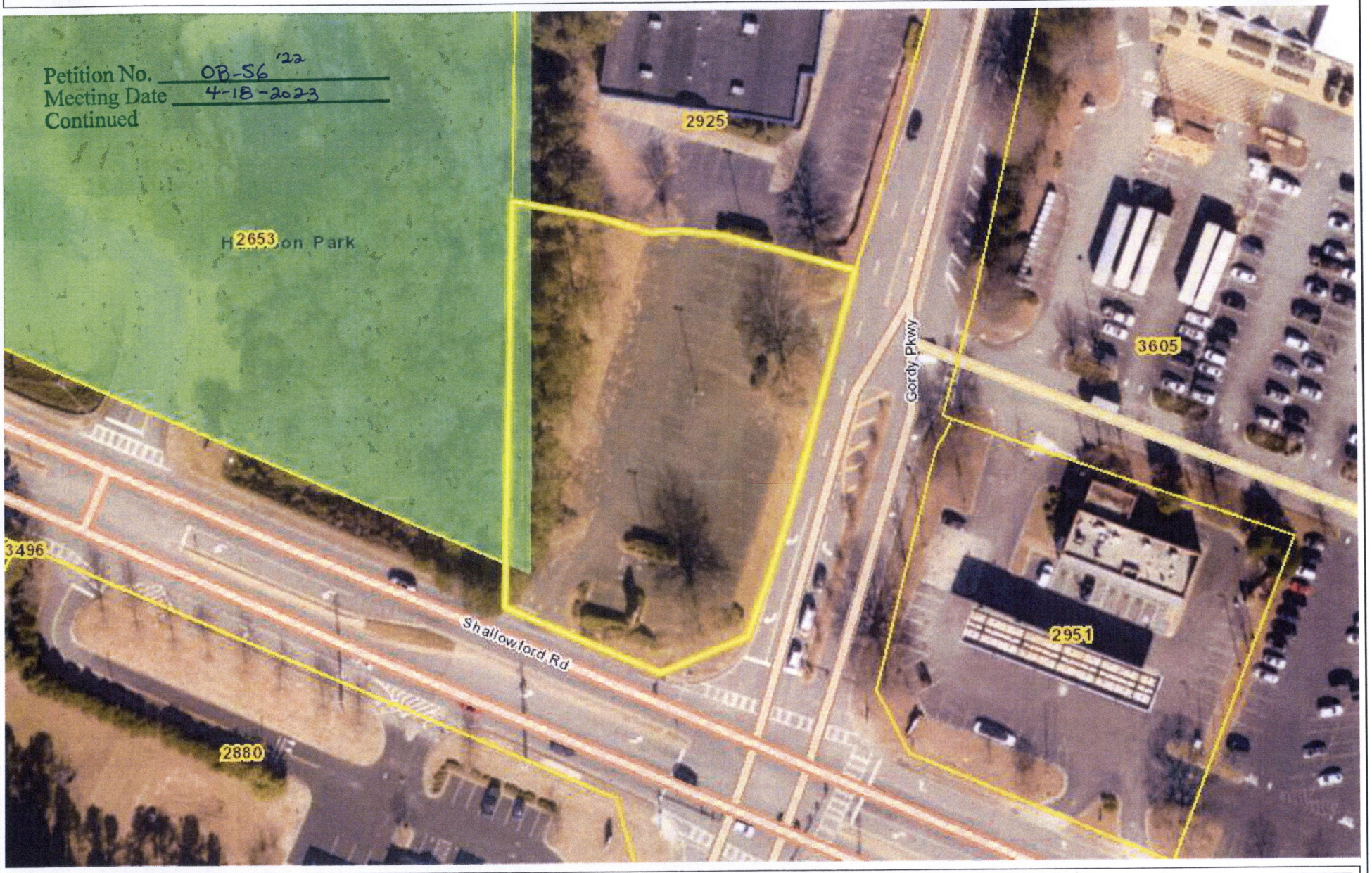
S L H

Submitted by Applicant's Representative:
Garvis L. Sams, Jr.
SAMS, LARKIN & HUFF, LLP
Suite 100, 376 Powder Springs Street
Marietta, GA 30064
(770) 422-7016
gsams@samslarkinhuff.com

FILED WITH COUNTY CLERK THIS 18th DAY
OF April 2023 BY JoAnn Birrell
RE OB-56 (2022)
Rob R Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Stein Investment Group - King's Hawaiian

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued



200.0 0 100.00 200.0 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 1,200

Map Notes:

ZONING - Stein Investment Group - King's Hawaiian - PIN 16038600070

752.3 0 376.17 752.3 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

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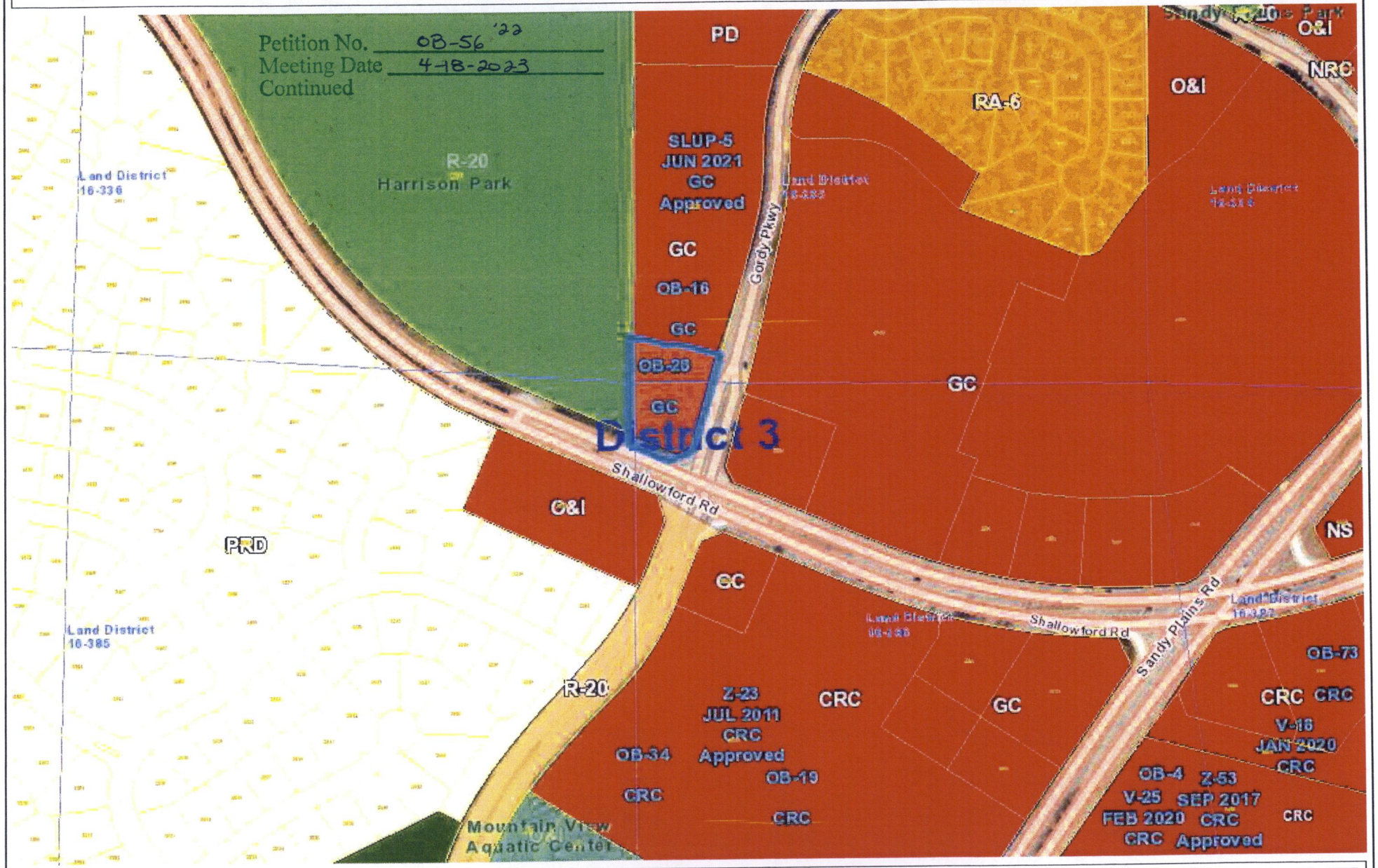
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 4,514

Map Notes: GC in CAC

FLUM - Stein Investment Group - King's Hawaiian - PIN 16038600070



752.3 0 376.17 752.3 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

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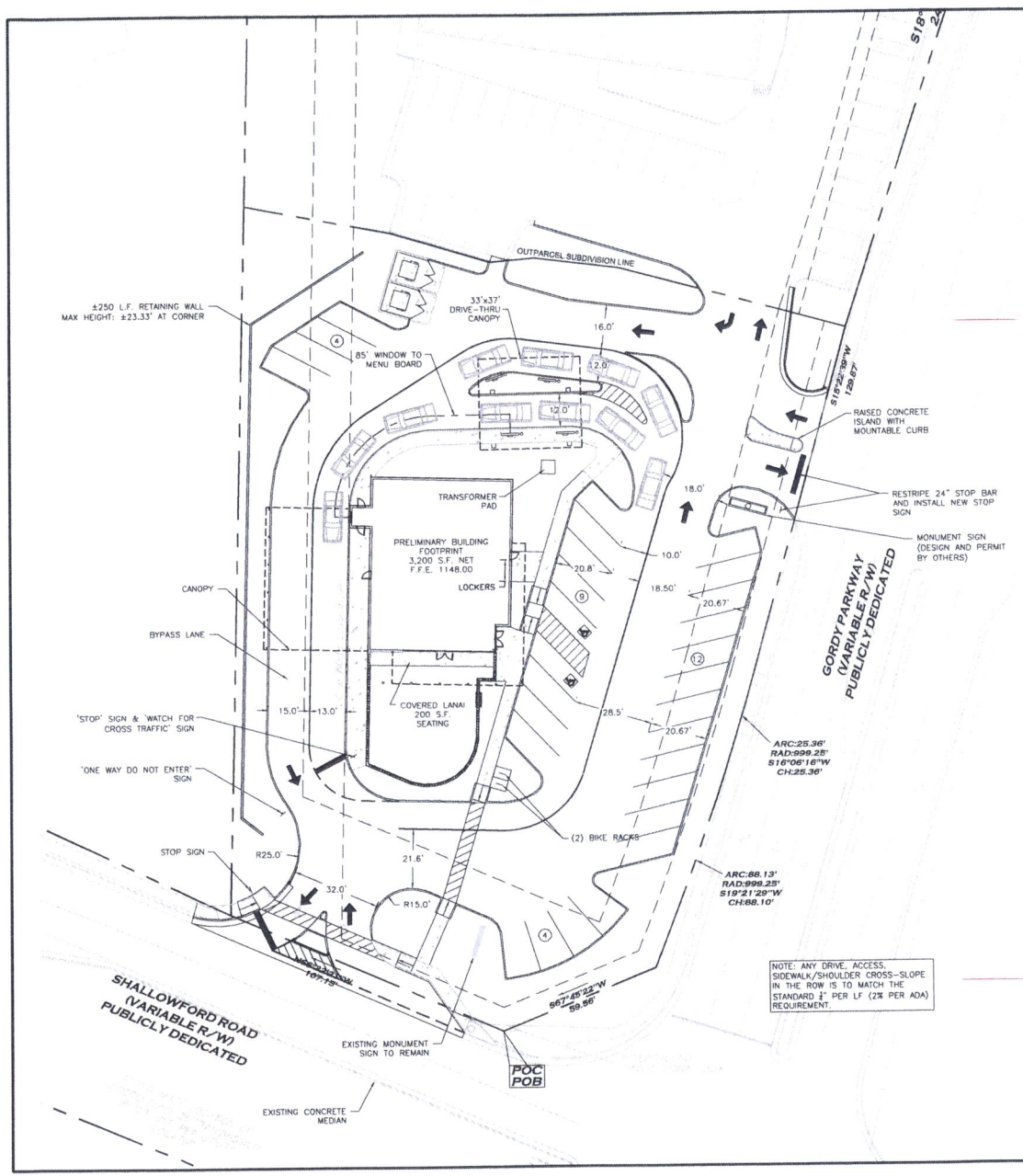
1:4,514

Map Notes: GC in CAC

Petition No. 0B-56 '22
Meeting Date 4-18-2023
Continued



SITE DATA		
STREET LOCATION: GORDY PKWY & SHALLOWFORD ROAD, MARIETTA, GA 30066		
CURRENT SITE AREA: ±1.15 A.C. (±49,946 S.F.)		
CURRENT ZONING: TBD		
BUILDING TYPE: PROPOSED ONE-STORY RESTAURANT (3,200 S.F. NET)		
ZONING REQUIREMENTS	REQUIRED	PROPOSED
BUILDING SETBACKS		
FRONT	25'	>25'
LEFT SIDE	0'	>0'
RIGHT SIDE	50'	>50'
REAR	25'	>25'
LANDSCAPE SETBACK		
FRONT	8'	8'
RIGHT	8'	8'
PARKING REQUIREMENT		
1/100 S.F. NET FLOORSPACE INCLUDING PATIO SPACE	34	29 ON-SITE 5 OFF-SITE

ALL CONTRACTORS WORKING ON DOT R/W

WITHIN 350' OF ANY TRAFFIC SIGNAL. COBB DOT SIGNALS ARE NOT ON THE LOCATE PROGRAM, YOU ARE REQUIRED TO CALL US AT LEAST 24HRS IN ADVANCE FOR TRAFFIC SIGNAL U/G UTILITY LOCATES @ **(770) 528-3666**

Please provide the following information when calling:
Company and caller Name & number
Contact person name & number at job site
Location of work to be performed
Type of work being performed

IF SIGNAL DAMAGE IS EXPECTED, BEFORE BEGINNING ANY WORK YOU ARE REQUIRED TO HAVE CONTACTED AN APPROVED SIGNAL SUB TO IMMEDIATELY REPAIR ANY DAMAGE THAT MAY OCCUR.

CDOT Contacts — 770-528-1680
1890 County Services Parkway — Lenny Price, X1689
Marietta, Ga. 30008 — Tony Lewis, X1692

20 10 0 20 40 60
SCALE IN FEET

GEORGIA REGISTERED PROFESSIONAL ENGINEER TERESA M. CURRY
9.13.2022
DATE

NO.	DATE	DESCRIPTION
		REVISIONS

AIS INFRASTRUCTURE
111 CAMBRIDGE SQUARE, SUITE C
ALPHARETTA, GEORGIA 30009
PHONE: (678) 935-4259

DRAWING TITLE: SITE PLAN
PROJECT NAME: PROPOSED RESTAURANT
GORDY PKWY & SHALLOWFORD ROAD, MARIETTA, GA 30066
CLIENT: AVISON YOUNG
30 IVAN ALLEN JR. BOULEVARD, SUITE 900, ATLANTA, GEORGIA 30308

PROJECT NO.:	PROJ. MGR.: LW
DATE: 01.10.22	DRWN. BY: NL
SCALE: AS NOTED	CHKD. BY: LW
DRAWING SERIES: SITE	
SHEET NO.: C-2.0	

NOT FOR CONSTRUCTION

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

1 **PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTHEAST**

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

2 **PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTH-SOUTHEAST**

NTS

03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

3 **PROJECT OHANA MARIETTA - GROUND LEVEL VIEW FROM THE SOUTHEAST**

NTS

03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

4 **PROJECT OHANA MARIETTA - GROUND LEVEL VIEW FROM GORDY PARKWAY**

NTS 03.29.23

DAG
ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

5 PROJECT OHANA MARIETTA - GROUND VIEW FROM THE NORTHWEST

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

6 PROJECT OHANA MARIETTA - GROUND VIEW FROM THE SOUTHWEST

NTS

03.29.23

DAG

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

7 **PROJECT OHANA MARIETTA - AERIAL OBLIQUE FROM THE SOUTHWEST**

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

NOTE: MAXIMUM BUILDING HEIGHT 24'

8 PROJECT OHANA MARIETTA - ENTRY CLOSEUP

NTS 03.29.23

DAG

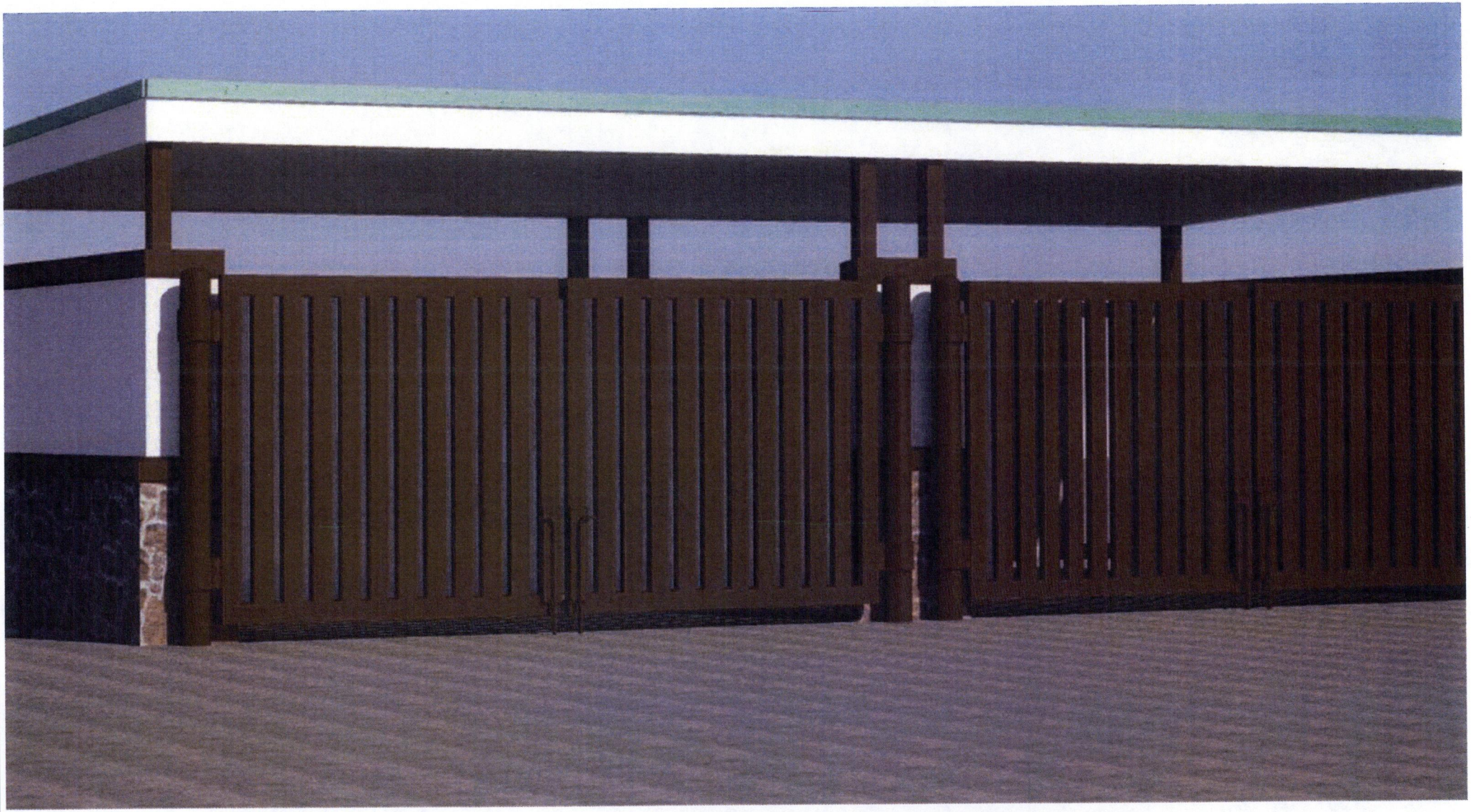
Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

9 PROJECT OHANA MARIETTA - OVERHEAD AERIAL

NTS 03.29.23

DAG ARCHITECTS

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued



Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

PLANT SCHEDULE LANDSCAPE

TREES	CODE	BOTANICAL / COMMON NAME	CONT	CAL	SIZE	REMARKS
	AR	Albizia julibrissin 'Rosea' / Rosea Silk Tree	3" cal			
	KP	Koelreuteria paniculata / Golden Rain Tree	B&B	4" Cal		
	MG	Magnolia grandiflora Alta / Alta Southern Magnolia	B&B	3" Cal		
	OA	Oxydendrum arboreum / Sourwood	B&B	3" Cal		
	QS	Quercus shumardii / Shumard Oak	B&B	4" Cal		
	TF	Trachycarpus fortunei / Windmill Palm	B&B		6' ht#	
	TI	Thuja x 'Green Giant' / Green Giant Arborvitae	9' to 10' ht.	2" cal		
	VP	Ulmus parvifolia / Lacebark Elm	B&B	4" Cal		

SHRUBS	CODE	BOTANICAL / COMMON NAME	CONTAINER	MIN. SIZE	SPACING	REMARKS
	CH	Clerodendrum trichotomum 'Hawaiian Punch' / Hawaiian Punch Tree	3 gal		3' o.c.	
	CHJ	Chaenomeles hallregiana / Plum Yew	3 gal			
	CM	Cassia indica 'Macho' TM / Tropicanna Gold Cassia	3 gal			
	CS	Camellia sasanqua 'Setsugekka' / Setsugekka Camellia	5 gal	3' ht# x 3' width		
	CT	Camellia x 'Taylor's Perfection' / Taylor's Perfection Camellia	5 gal	3' ht# x 3' width		
	DT2	Cassia (Senna) hybrid 'Lindl' TM / Tropicanna Black Cassia	7 gal			
	DR	Dryopteris erythrosora / Autumn Fern	1 gal			
	FJ	Fatsia japonica / Japanese Fatsia	5 gal	3' ht# x 3' width		
	FX	Fargesia scabrida / Coarse Fineleaved Clumping Bamboo	5 gal			
	HS	Hibiscus syriacus / Rose of Sharon	5 gal			
	IJ	Ilex crenata / Japanese Holly	3 gal			
	LG	Loropetalum chinense / Chinese Fringe Flower	3 gal			
	MC	Muhlenbergia capillaris / Pink Muhly Grass	3 gal			
	MS	Mahonia nurvitaeata 'Soft Caress' / Soft Caress Mahonia	3 gal	3' o.c.	3' o.c.	
	MW	Muhlenbergia capillaris 'White Cloud' / White Cloud Muhly Grass	3 gal			
	PA	Perovskia atriplicifolia / Russian Sage	5 gal		2.5' o.c.	
	PM	Polystichum munitum / Western Sword Fern	5 gal	1' ht# x 2' wd		
	RO	Rosmarinus officinalis / Rosemary	3 gal			
	YR	Yucca rekveldtii / Soft Leaf Yucca	3 gal			

GROUND COVERS	CODE	BOTANICAL / COMMON NAME	CONTAINER	MIN. SIZE	SPACING	REMARKS
	CD	Cynodon dactylon x transvaalensis 'DT 4' TM / 'DT4' Bermudagrass	SOD		as shown	
	EE	Eragrostis elliottii / Lovo Grass	SF SEED			
	LS2	Liriope muscari / Liriope	1 gal		12" o.c.	
	ON	Ophiopogon japonicus / Dwarf Mondo Grass	1 gal		6" o.c.	
	SE	Sedum spp. / Sedum sp. Color	1 gal		6" o.c.	Mound Area 6"

SITE solutions

PROJECT OHANA
MARIETTA
PREPARED FOR
AVISION YOUNG

SHEET TITLE
SCHEMATIC LANDSCAPE PLAN

PROJECT NUMBER
22035.00

L1.00

DATE 10.13.2022

NOT FOR CONSTRUCTION

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type Handout from Garvis Sams, Jr.
Meeting Date 4-18-2023

Other Business Application of Stein Investment Group

(OB Item No. 56-2022)

Meeting before the Cobb County Board of Commissioners

April 18, 2023 at 9:00 a.m.

PHOTOS REGARDING BUFFER

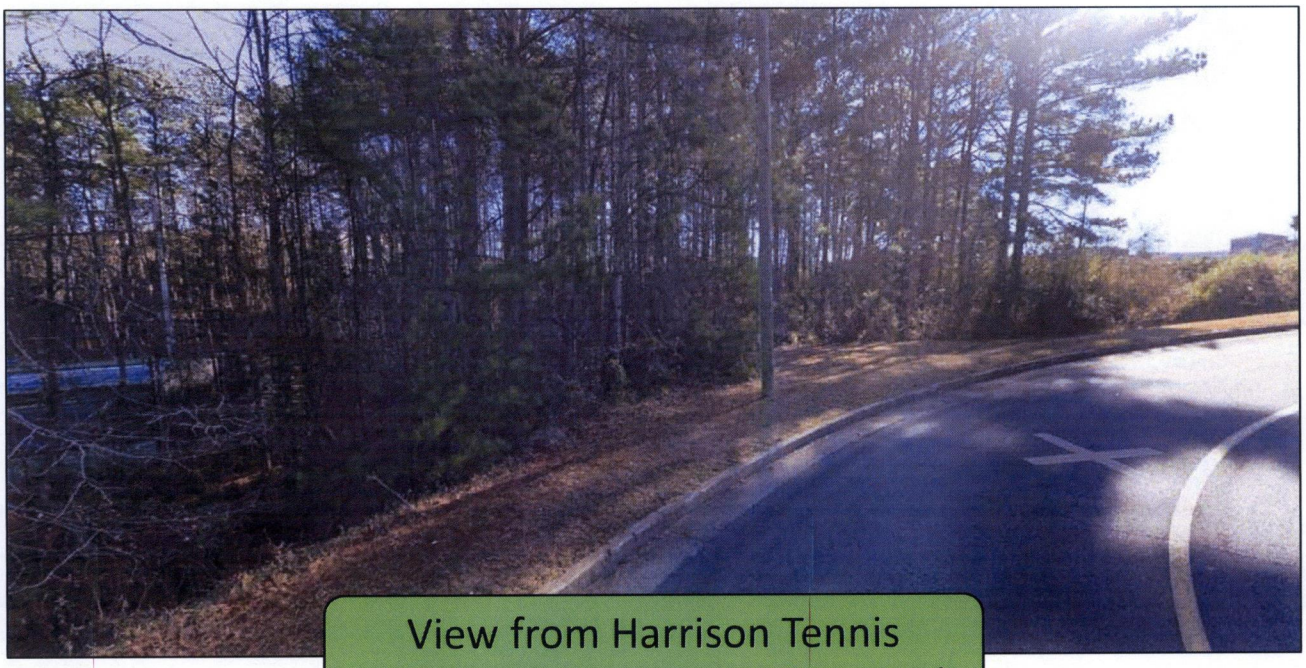
Submitted by Applicant's Representative:
Garvis L. Sams, Jr.
SAMS, LARKIN & HUFF, LLP
Suite 100, 376 Powder Springs Street
Marietta, GA 30064
(770) 422-7016
gsams@samslarkinhuff.com

FILED WITH COUNTY CLERK THIS 18th DAY
OF April 2023 BY JoAnn Birrell
RE OB-56 (2022)
Rob E Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued

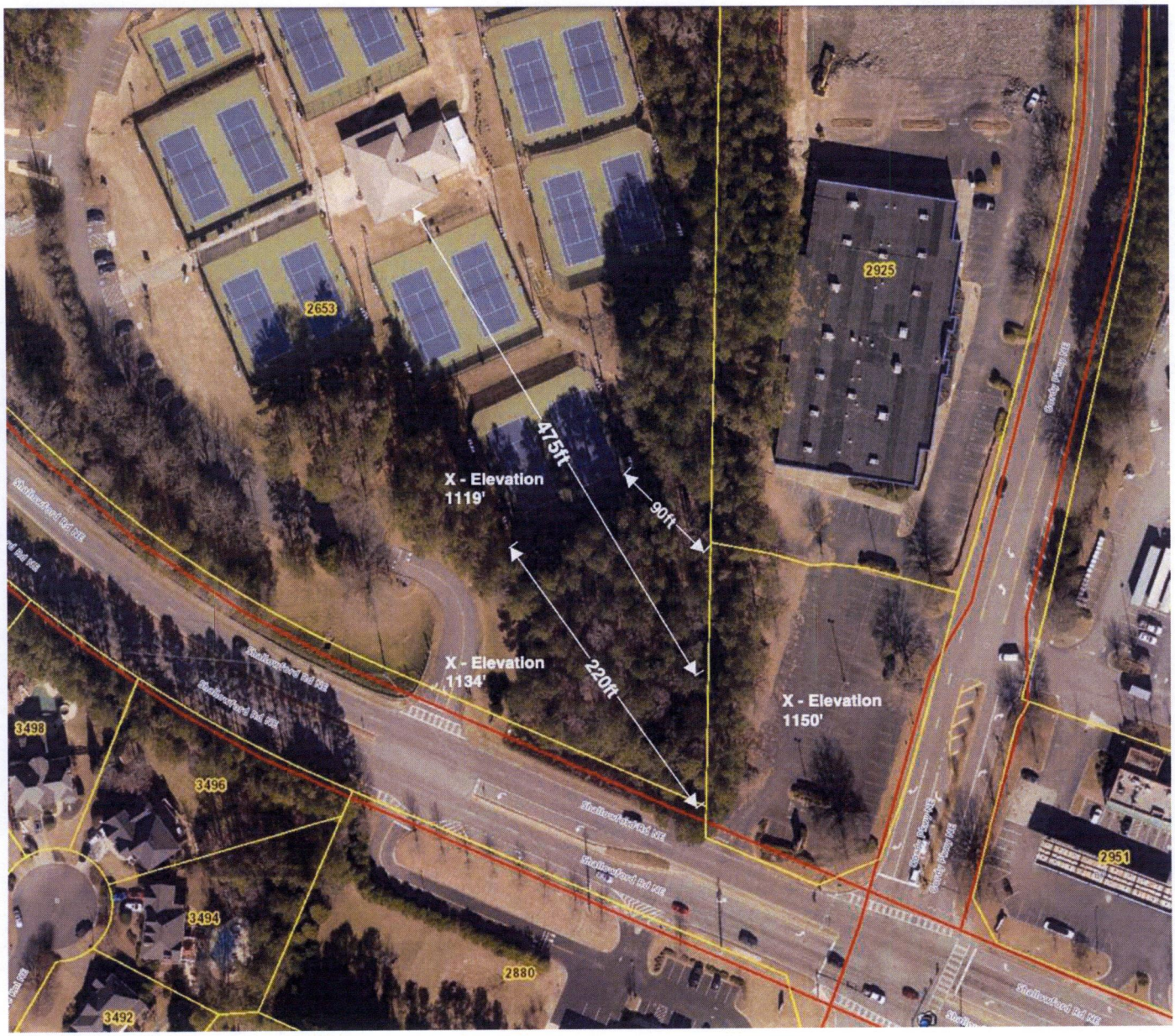
Petition No. 08-56 '22
Meeting Date 4-18-2023
Continued

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued



View from Harrison Tennis
(Visible tree coverage on Cobb property)

Petition No. OB-56 '22
Meeting Date 4-18-2023
Continued



OB-56-2022 DEPARTMENT COMMENTS – DOT - Revised 4/5/2023

Recommendations

1. 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 west side of Gordy Parkway, a minimum of 40' from the roadway centerline.

2. Recommend the access on Gordy Parkway be restricted to right-in/right-out access. This recommendation is due to the proximity of the signalized intersection of Shallowford Road and Gordy Parkway.

3. Recommend replacing disturbed curb, gutter, and sidewalk along the Gordy Parkway and Shallowford Road frontages.

4. As necessitated by this development, recommend Shallowford Road and Gordy Parkway access points include taper and/or improved curve radius. Recommend location and design be determined during plan review, subject to Cobb County DOT approval.

5. Recommend extending driveway uninterrupted access to a minimum of 50' from the edge of right-of-way per Development Standard 402.08.

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

Min. Bk. 97 Petition No. OB-56 '22
Doc. Type DOT comments revised 4-5-23
Meeting Date 4-18-2023

Min. Bk. 97 Petition No. OB-14.
Doc. Type Cobb DOT, Fire Dept, and Site Plan Review comments and recommendations
Meeting Date 4-18-2023

APRIL 18, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3

ITEM OB-14-2023

To consider a stipulation amendment for Chance Beam regarding rezoning application Z-32 of 2009 and OB-77 of 2016, for property located on the northwest intersection of Canton Road and Hawkins Store Road, in Land Lots 228 and 277 of the 16th District (775 Hawkins Store Road).

BACKGROUND

The subject property was zoned CRC with stipulations for a gymnastics training facility in 2009 subject to many stipulations. In 2016 the Board of Commissioners approved the applicants use and site plan for a softball and baseball training facility subject to many stipulations. As part of the 2016 approval, the prior stipulations not in conflict were made part of the minutes. One of the prior stipulations from the November 17, 2009 letter prohibited digital sign components (stipulation #9, page 3). The applicant currently has a manual reader board on their ground-based monument sign. The applicant would like to convert the manual reader board to a digital sign in order to give the public up to date information regarding their business (see attached rendering). The proposed sign would meet the sign code and would be 24 square-feet (32 square-feet is the maximum). If approved, all other zoning stipulations would remain in effect. The Board of Commissioners' decision is attached.

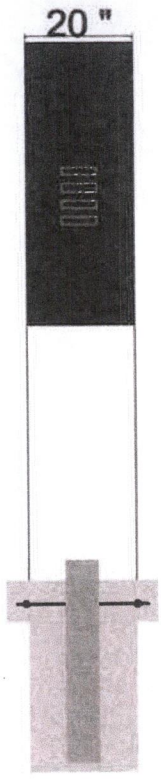
STAFF COMMENTS AND RECOMENDATIONS

Water and Sewer: No additional comments.
Stormwater Management: Stormwater Management has no objection to this other business item as requested.
Cobb DOT: Recommend the sign be installed outside county right-of-way and where it will not impede the line of sight for the driveways or roadways to address safety.
Fire Department: 1) The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County. 2) ACCESS: Where monument signs are used address numbers shall be installed on both side of the monument sign. Suite and building numbers shall comply with Section 106-2(b)(3) Cobb County Code. Landscaping materials shall not obstruct the street numbers.
Site Plan review (Arborist): The proposed sign location must be reviewed and approved by the Cobb County Arborist prior to the issuance of a permit. The proposed sign must not conflict with existing street trees on the subject property. Call 770-528-2147.

Min. Bk. 97 Petition No. OB-14
Doc. Type Sign rendering
Meeting Date 4-18-2023

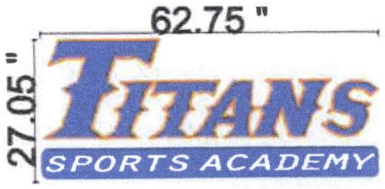
775 Hawkins Store Rd NE, Kennesaw, GA 30144

Side View



Current View

24 Sq Ft



11.8 Sq Ft

Remove & Dispose of Existing Sign
Install New Double Sided Sign
Aluminum Base Painted to Match Trim on Building
Logo/Address #: .25" Acrylic Painted Blue with Vinyl Detail
Watchfire EMC with Viewing Area of 4'H x 6'W & Black Side Cladding with venting
Nessary 3000 psi Concrete Footing with #4 Rebar and Steel Support

*Electrical to site by others

SOUTHERN SIGN SYSTEMS
1691 Powder Springs Road
Marietta, GA 30064
Phone 678.290.1613
Fax 678.290.1650
artwork@southernsigns.us

JOB NAME: Titans Sports Academy
CLIENT: Chance Beam
PHONE: (404) 441-1400
EMAIL: Chance@titansnation.net
ADDRESS:
PROOF DATE: 3.23.23
FILE NAME: TSP_monument
DESIGNER: Kimberly
CUSTOMER APPROVAL:
DATE:

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APRIL 18, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2

Min. Bk. 97 Petition No. OB-15
Doc. Type Stormwater Mngmt, Water & Sewer, and Fire Dept comments and recommendations
Meeting Date 4-18-2023

ITEM OB-15-2023

To consider a reduction of public road frontage from 75-feet to 12-feet for Shmuel Wolf. The property located on the north side of Lower Roswell Road in Land Lot 1115 of the 16th District (4253 Lower Roswell Road).

BACKGROUND

The Board of Commissioners considers all reductions to minimum public road frontage pursuant to Zoning Code Sec. 134-271(7)(a) adopted on February 27, 2018. This request concerns a lot that is required to have 75-feet of public road frontage. The lot has 12-feet of public road frontage along Lower Roswell Road. Staff researched the deeds and plats for this area and this condition appears to have been like this for many decades. The existing house was built in 1956, and the applicant would like to demolish that house and build a new house on the property. If approved, all other zoning criteria will be met.

STAFF COMMENTS

Cobb DOT: No comments.
Stormwater Management: Stormwater Management has no objection to this other business item as requested. Any re-development of the property that includes new and/or removed and replaced imperious surface area equal to 5,000 square feet or greater will require stormwater mitigation.
Water & Sewer Comments: Proposed walls must be at least 2' from sewer easement, per County Code 122-123
Site Plan Review: No comments.
Fire Department: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum frontage.

APPLICANT: Shmuel Wolf **PETITION NO.:** OB-15

PRESENT ZONING: **PETITION FOR:**

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Min. Bk. 97 Petition No. OB-16
Doc. Type Cobb DOT, Stormwater Mngmt, and Site Plan Review Comments and recommendations
Meeting Date 4-18-2023

APRIL 18, 2023 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3

ITEM OB-16-2023

To consider a reduction of minimum lot size from 20,000 square-feet to 9,440 square-feet for Lot A, and to 8,974 square-feet for Lot B for Built Development Group, LLC. The property located on the northwest side of Concord Drive in Land Lots 351 and 352 of the 17th District (1666 Concord Drive).

BACKGROUND

The Board of Commissioners considers all reductions to minimum lot size pursuant to Zoning Code Sec. 134-271(7)(a) adopted on February 27, 2018. This request concerns property that is required to have 20,000 square-feet per lot. Lot A has 9,440 square-feet, and Lot B has 8,974 square-feet. The property was two lots when platted in the 1940's with similar sizes, but the property was purchased by one person and was combined into one lot over time. The applicant would like to divide the lots back into two lots so they can build two new houses. The proposed lot sizes are like others on this street and in the area. If approved, all other zoning criteria will be met.

STAFF COMMENTS

Cobb DOT: See attached.
Stormwater Management: Stormwater Management has no objection to this other business item as requested. Any re-development of the property that includes new and/or removed and replaced imperious surface area equal to 5,000 square feet or greater will require stormwater mitigation.
Water & Sewer Comments: Water and Sewer are available.
Site Plan Review: If this OB request is approved, a lot-split plat must be recorded in order to legally establish the proposed lots. The surveyor must submit the plat to the Site Plan Review Section, Community Development Agency for review and approval prior to recording.
Fire Department: The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County. CCFMO does not have any objections to OB-16-2023 as presented.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum lot size.

Petition No. OB-16
Meeting Date 4-18-2023
Continued

ITEM OB-16-2023

Cobb DOT Recommendations

1. Recommend applicant submit driveway designs to Cobb DOT for permit approval before driveway construction. This recommendation is pursuant to Cobb County Development Standard 103.14, Driveway Permits, and Cobb County Development Standard Detail 116R, Residential Driveway Standard.
2. Recommend a minimum of 50 feet straight-line distance (from end of driveway curb return to start of driveway curb return) between driveways on Concord Road. This recommendation applies to both the spacing of new driveways in relation to each other, as well as spacing from adjacent driveways. This recommendation is pursuant to Cobb County Development Standard 402.7.1, Residential Driveways and Cobb County Development Standard Detail 116R, Residential Driveway Standard.
3. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.