

APPLICANT: Mittrix, Inc. for T-Mobile South, LLC
770-717-9120

REPRESENTATIVE: Sarran Marshall
404-441-3602

TITLEHOLDER: David and Victoria Milam

PROPERTY LOCATION: Located on the south side of Chastain
Road, east of Interstate 575.

ACCESS TO PROPERTY: Chastain Road

PHYSICAL CHARACTERISTICS TO SITE: Existing business
on wooded lot

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH: GC, LRO, NS/ wooded, Resurgens office park, Church
- SOUTH: R-20/ wooded
- EAST: NS/ wooded
- WEST: R-20/ wooded

OPPOSITION: NO. OPPOSED PETITION NO: SPOKESMAN

PLANNING COMMISSION RECOMMENDATION

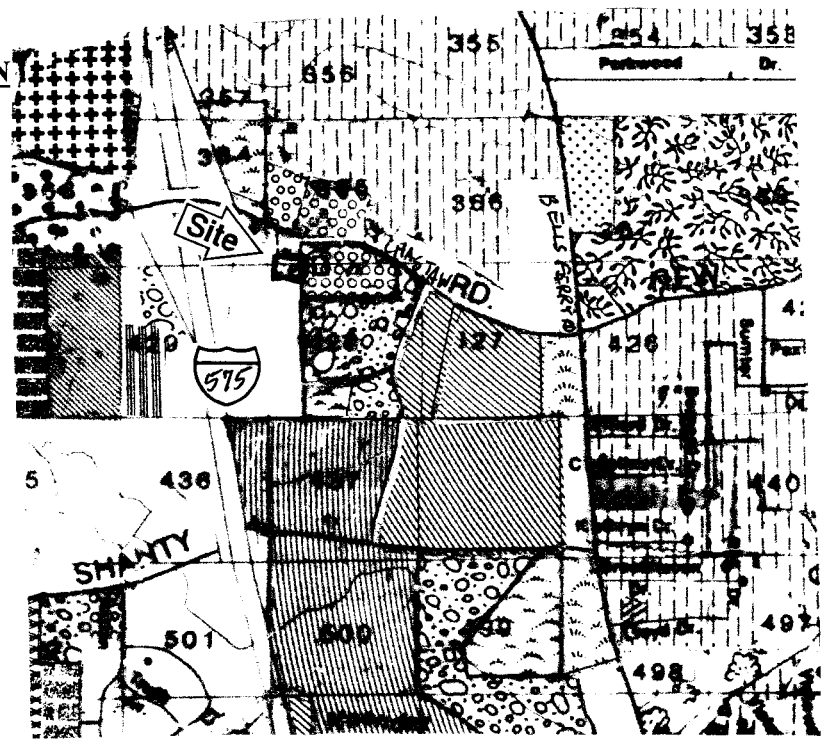
APPROVED MOTION BY
 REJECTED SECONDED
 HELD CARRIED

BOARD OF COMMISSIONERS DECISION

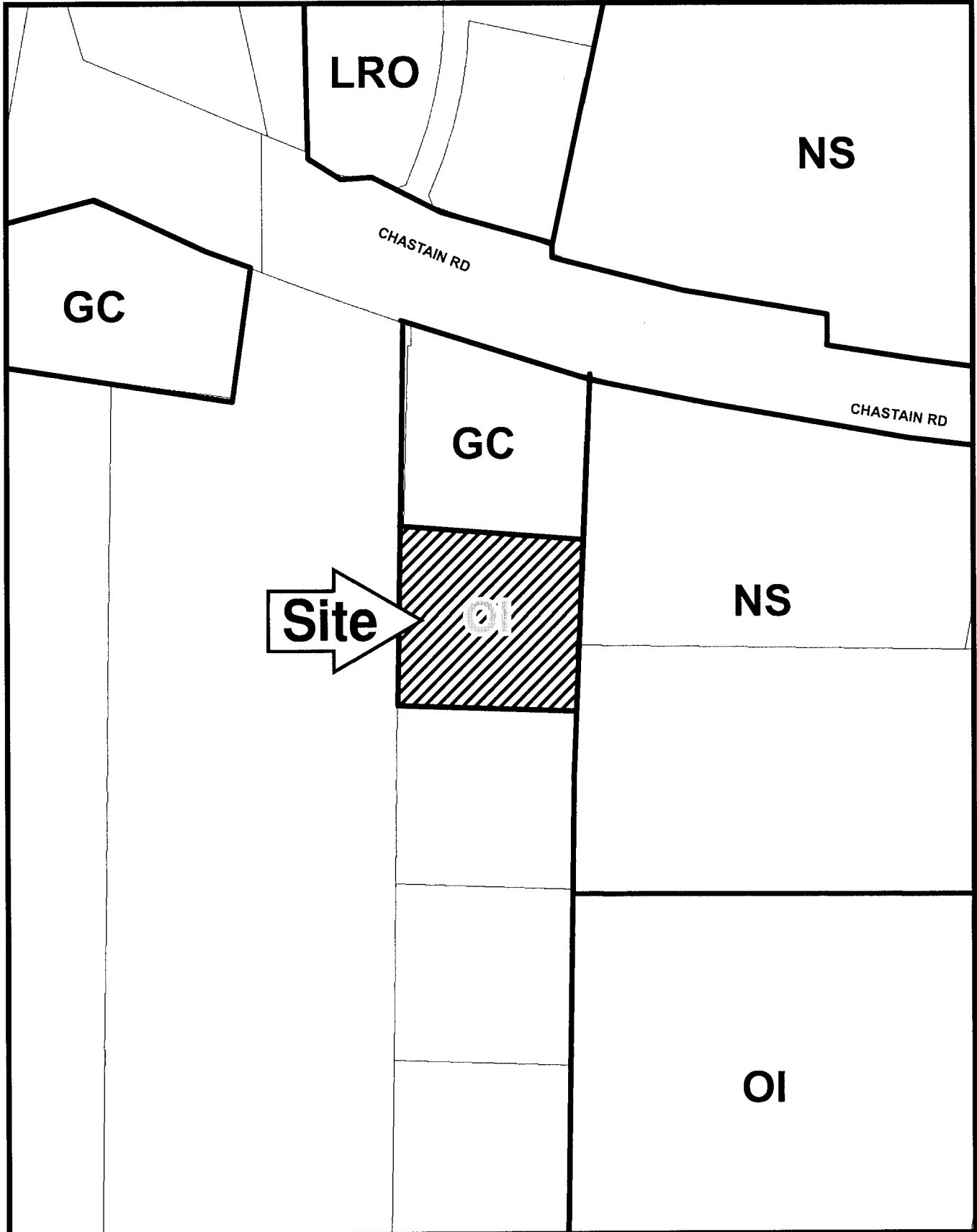
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STIPULATIONS:

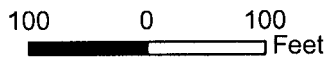
PETITION NO: Z-9
 HEARING DATE (PC): 03-04-08
 HEARING DATE (BOC): 03-18-08
 PRESENT ZONING: OI with
Stipulations
 PROPOSED ZONING: OI with
Stipulations
 PROPOSED USE: Amending Previous
Zoning Stipulations To Allow Other Uses
 SIZE OF TRACT: .955 acre
 DISTRICT: 16
 LAND LOT(S): 365, 428
 PARCEL(S): 05A
 TAXES: PAID X DUE
 COMMISSION DISTRICT: 3





Z-9



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



-  Draft Parcel Boundary
-  Approximate Zoning Boundary

APPLICANT: Mittrix, Inc. for T-Mobile South, LLC

PETITION NO.: Z-9

PRESENT ZONING: OI with Stipulations

PETITION FOR: OI with stips

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: None Total Square Footage of Development: None

F.A.R. None Square Footage/Acre

Parking Spaces Required: None Parking Spaces Provided: None

The applicant is requesting rezoning to amend the previous zoning stipulations on the property that specifically limit the use of the property for professional office use only (see Exhibit "A"). Many of the other stipulations control the look of the property. The applicant would like to place a cell tower in the rear of the property, which would need a SLUP if this application is approved. The proposed tower would be 125-feet in height, and would be disguised as a pine tree. The tower would be designed for a minimum of three users.

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

No comments.

APPLICANT Mittrix, Inc for T-Mobile South, LLC

PETITION NO. Z-009

PRESENT ZONING OI w/ stips

PETITION FOR OI w/ stips

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? Yes No
Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s)

Additional Comments: No water necessary

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No
At Development? Yes No

Approximate Distance to Nearest Sewer:

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

Treatment Plant:

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

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

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

No sewer necessary

Notes FYI:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Mitrix, Inc. for T-Mobile South, LLC

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PRESENT ZONING: OI w/ stips

PETITION FOR: OI w/ stips

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Noonday Creek FLOOD HAZARD INFO: Zone X

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area - County review (____ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50' , 75' , 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream ____.
Additional BMP' s for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream ____.

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PRESENT ZONING: OI w/ stips

PETITION FOR: OI w/ stips

*

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill ____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown ____
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. The proposed compound area to be covered with gravel is significantly less than 5000 sf. Therefore no stormwater management will be required.

APPLICANT: T Mobile South, LLC

PETITION NO.: Z-9

PRESENT ZONING: OI w/stipulations

PETITION FOR: OI w/stipulations

TRANSPORTATION COMMENTS

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

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Chastain Road	20690	Arterial	45 mph	Cobb County	110'

Based on 2006 traffic counting data taken by GADOT.

COMMENTS AND OBSERVATIONS

Chastain Road is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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

STAFF RECOMMENDATIONS

Z-9 MITTRIX, INC. FOR T MOBILE SOUTH, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. The previous stipulations (see Exhibit "A") resulted from an agreement with Chastain Lakes Homeowners Association and the former applicant. The agreement restricts the use and aesthetics of the property.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse affect on the usability of adjacent or nearby property. The previous zoning stipulations set the intensity limits for the use of the subject property, which have been kept low to protect Chastain Lakes subdivision.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Community Activity Center.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The current zoning stipulations are a result of an agreement between Chastain lakes Homeowners Association and the former applicant. The agreement keeps the use of the property very low intensity to help protect the adjacent residential uses. Staff does not support amending this agreement, unless all parties involved are agreeable.

Based on the above analysis, Staff recommends DENIAL.

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

Application for Rezoning COBB COUNTY

5 tip Exhibit "A"
Z-9/2008 5
Page 1 of 6

(type or print clearly)

Application No. 2-34
Hearing Date 4-17-90

Applicant AIKEN & WARD Business Phone 395-1100 Home Phone _____
Address 1040 Crown Pointe Pkwy., Suite 1000, Atlanta, Ga. 30338

(representative's name, printed)

Guy G. Gebhardt Business Phone 926-4706 Home Phone 971-7482

(representative's signature)

Estate of

Titleholder Annie Lou Johnson Business Phone 494-2943 Home Phone 424-9037

Signature Reuben Johnson, Jr. Address 3692 Shiloh Road, Kennesaw, Georgia 30144

By: Reuben Johnson, Jr.
(attach additional signatures, if needed)

Zoning Request From R-20 To Office Institutional (OI)
(present zoning) (proposed zoning)

For the Purpose of Office Size of Tract One (1) acre(s)

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

Location 287 Chastain Rd., N.W., Kennesaw, Ga. 30144-3011; East of I-575 and Chastain Rd.

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

Land Lot(s) 365, 428 (N) District 16th

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are no there are such assets. If any, they are as follows:

AIKEN & WARD

Applicant's Signature

By: H. Dennis Panter, Partner

FOR OFFICIAL USE ONLY

Recommendation of Planning Commission _____

Please see attached....

Chairman

Board of Commissioners' Decision _____

Please see attached....

Chairman

COBB COUNTY BOARD OF COMMISSIONERS
COBB COUNTY PLANNING COMMISSION

Date of Application: 4-17-90

Date of Hearing: 4-17-90

Applicant's Name: Aiken & Ward

Recommendation of Planning Commission (Continued from Page 1)

Planning Commission recommended approval of application subject to: 1) professional office use only; 2) location of existing single family type structure subject to site plan as submitted; 3) existing single family type structure to be utilized; 4) proposed parking lot to be non-lighted; 5) landscape plan for proposed project to be approved by Staff; 6) revised Water and Sewer Department comments, (including letter to Mr. Guy G. Gebhardt from Mr. Thomas J. Campbell of the Cobb County Health Department, dated 4-11-90 and marked as Exhibit "A" on file in the Zoning Offices); 7) revised Department of Transportation recommendation (as worded in memorandum to Mr. Robert Hosack from William Peratta, dated 4-17-90 and marked as Exhibit "A" on file in the Zoning Offices); 8) further subject to letters submitted at April 17, 1990 Zoning Hearing, (marked as Exhibit "B", and on file in the Zoning Offices) which contains: letter to Guy Gebhardt from Jack Oudin, dated 4-6-90; and letter to Mr. Jack Oudin from Guy Gebhardt, dated 4-12-90. Motion by Jones, second by Wise, carried 5-0.

Chairman.

Final Decision of Board of Commissioners (Continued from Page 1)

Board of Commissioners approved application as recommended by the Planning Commission. VOTE: 3-2, Burton and Powell opposed.

Chairman

COBB COUNTY HEALTH DEPARTMENT

277 FAIRGROUND ST., S. E.
MARIETTA, GEORGIA 30060
TELEPHONE 422-9440

April 11, 1990

Mr. Guy G. Gebhardt
3655 Canton Highway, Suite 101-F
Marietta, Georgia 30066

Re: Rezoning Petition No. Z-34
Chastain Road
Land Lots 369 & 428
16th District, Cobb County

Dear Mr. Gebhardt:

In March of 1990, representatives of this office evaluated the existing residential property of 1.012 acres referenced above for septic tank system suitability.

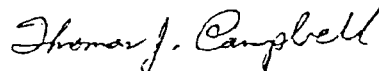
It was found that there were no signs of failure of the existing system and adequate space was available to repair the system if necessary in the future.

In your letter dated March 23, 1990, you indicated that the existing structure, if zoning is approved, would be used as a law office with three employees using the property. You stated that approximately six parking spaces would be added near the existing driveway but that there were no plans to add any other structures on the property.

Taking this information into account, it would be acceptable to utilize the existing septic tank system for sewage disposal for your proposed law office. Please be advised that this approval should not be construed as a guarantee that the existing system will function satisfactorily for a given period of time.

Please feel free to contact this office at 423-4803, should you have any further questions.

Sincerely,



Thomas J. Campbell
Env. Health Specialist IV

TJC/ss

cc: Muri McCall

MEMORANDUM



TO: Mr. Robert Hosack
Senior Planner

FROM: William Peratta *WP*
Traffic Engineer II

DATE: April 17, 1990

SUBJECT: Zoning Case Number Z-34
Aiken & Ward
Addendum to Zoning Recommendations

EXHIBIT "A"
(Handwritten initials)

Applicant has informed Cobb Department of Transportation that three (3) employees will utilize this site, and that the proposed use will be very low intensity. Due to these facts, Department of Transportation is revising the recommendations as follows:

Recommend applicant provides a paved driveway, 24' wide, from existing edge of pavement to existing right-of-way of Chastain Road. Also, consideration should be given to future development of adjacent properties and the need for a paved driveway. Applicant should be required to a pro rata.

WP/lp

cc: Douglas E. Hefty, Traffic Engineer

**AIKEN & WARD
ATTORNEYS AT LAW**

Exhibit "A"
Z-9/2008
Page 5 of 6

PLEASE REPLY TO:

NORTH COBB OFFICE

3653 CANTON HIGHWAY
SUITE 102
MARIETTA, GEORGIA 30066
(404) 926-4708
TELECOPIER: (404) 928-8664

April 12, 1990

Mr. Jack Oudin, Zoning Chairman
Chastain Lakes Homeowners' Association
P. O. Box 440038
Kennesaw, Georgia 30144

Re: Rezoning Petition of Aiken & Ward (the "Petition");
Scheduled for Tuesday, April 17, 1990

Dear Mr. Oudin:

Thank you for your letter of April 6, 1990, with which you forwarded certain proposed zoning stipulations to be incorporated into our Petition.

We wish to preface our discussion of these suggestions by emphasizing that it is our current intention to use the existing structure as a law office, and we have no current plans to alter the external appearance of the structure, other than by painting, paving and landscaping.

The numerical order of our following comments corresponds to the suggestions set forth in the attachment to your letter:

1. We will have no objections to locating our trash receptacles in a screened area.
2. We have not completed the plans for our signage, but our signage will conform to all requirements of Cobb County. The signage that we select will be consistent with the professional nature of our law practice.
3. We have no objection to your proposed zoning stipulation regarding lighting for outside signs.
4. We have not completed the plans for our signage, but our signage will conform to all requirements of Cobb County. The signage that we select will be consistent with the professional nature of our law practice.
5. Our normal business hours would conform to the time periods set forth in this suggested stipulation; however, there are times when our work at this office may not conform to these hours.

EXHIBIT

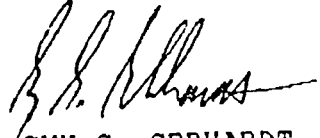
6/6/90 will not

6. We have no present plans to locate a public telephone on the property.
7. We have not formulated our plans for the driveway and parking areas as of this date.
8. We have not formulated our plans for landscaping as of this date. Our landscaping plan is to be approved by Cobb County.
9. We would not agree to placing signs of this nature on the property, since we believe that they would detract from the appearance of our office.
10. We have no present plans to change the exterior appearance of the existing structure on the property.
11. We have no present plans to change the exterior appearance of the existing structure on the property.
12. We have no present plans to change the exterior appearance of the existing structure on the property.
13. We have no present plans to change the exterior appearance of the existing structure on the property.
14. We have no present plans to change the exterior appearance of the existing structure on the property. We have not decided on the type of external lighting which will be used. The Planning and Zoning Staff has recommended approval of our application with the condition that the proposed parking lot be non-lighted, and we have agreed to this condition.

If, after your review of this letter, you believe that a meeting would be desirable, please contact the undersigned at your earliest convenience. Kind regards.

Very truly yours,

AIKEN & WARD

By: 
GUY G. GEBHARDT

ggg/sr