

APPLICANT: J & J Construction Group, Inc.
770-231-0227

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

TITLEHOLDER: Marilyn C. Berggrun, Carl James Clarkson, and
Virginia Lee Clarkson

PROPERTY LOCATION: Located on the west side of Bells Ferry
Road between Shiloh Road and Mosby Drive.

ACCESS TO PROPERTY: Bells Ferry Road and Mosby Drive

PHYSICAL CHARACTERISTICS TO SITE: Existing houses

PETITION NO: Z-11

HEARING DATE (PC): 03-04-08

HEARING DATE (BOC): 03-18-08

PRESENT ZONING: R-20

PROPOSED ZONING: NRC

PROPOSED USE: Retail and Office

SIZE OF TRACT: 2.82 acres

DISTRICT: 16

LAND LOT(S): 141

PARCEL(S): 21, 22

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 3

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH: R-20/ Single-family houses
- SOUTH: R-20/ Single-family houses
- EAST: R-20/ Single-family houses
- WEST: R-20/ Single-family houses

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____

REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

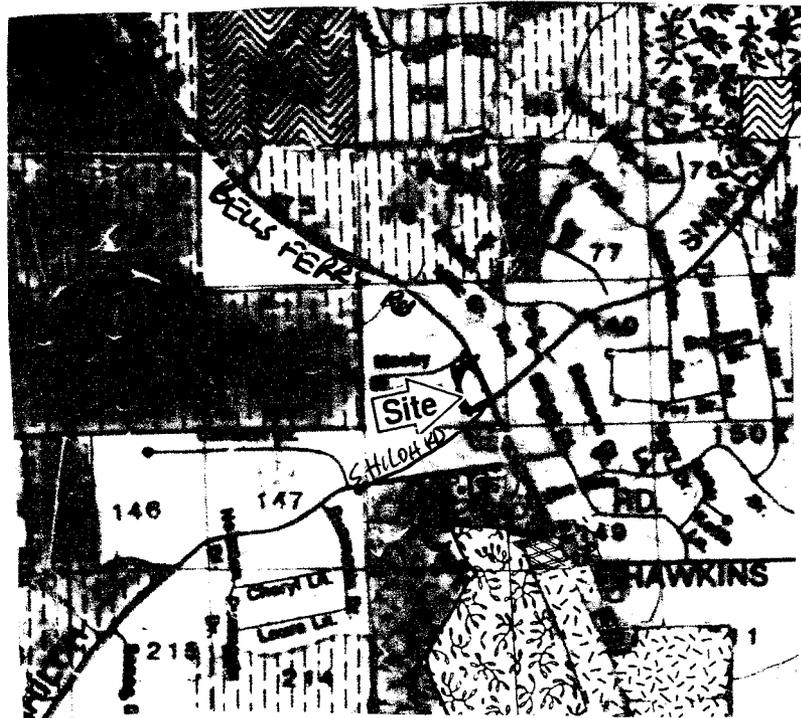
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____

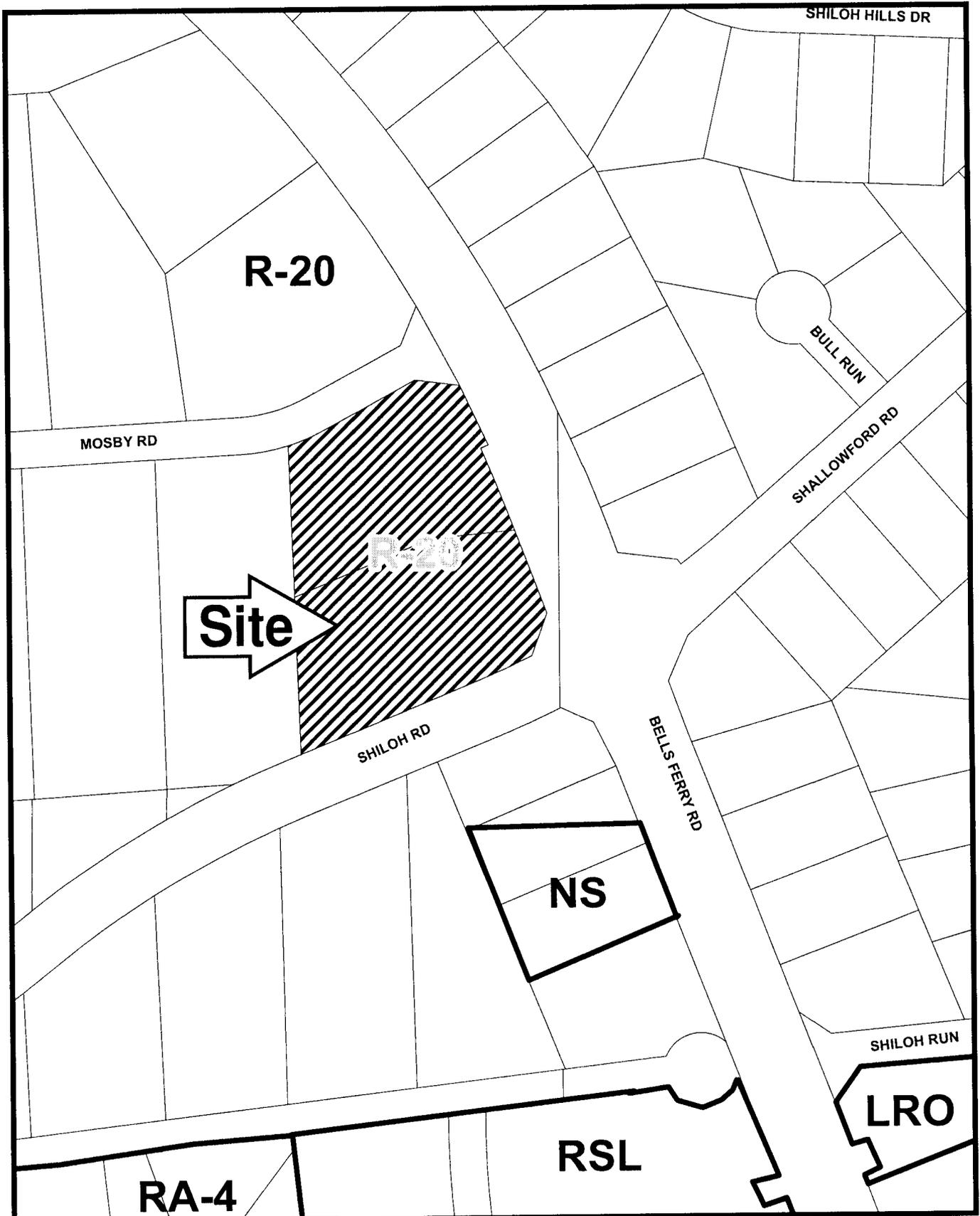
REJECTED _____ SECONDED _____

HELD _____ CARRIED _____

STIPULATIONS:



Z-11



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: J & J Construction Group, Inc.

PETITION NO.: Z-11

PRESENT ZONING: R-20

PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 31,546

F.A.R.: 0.25 Square Footage/Acre: 11,186

Parking Spaces Required: 158 Parking Spaces Provided: 108

The applicant is requesting the NRC zoning district to develop a shopping center. The building will be mostly one story in height with a small second story on the north end of the building. The exterior of the building will contain traditional architecture composed of brick, stacked stone and EFIS. The applicant anticipates leasing the units to a mixture of small offices, retail, and possible restaurants. The hours and days of operation will vary depending on the final users. The applicant has submitted a letter of agreeable stipulations (see Exhibit "A").

The applicant is showing a contemporaneous variance which is to:

1. Reduce the number of required parking spaces from 158 parking spaces to 108 parking spaces.

Historic Preservation: After consulting various county historic resource 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: No comment.

FIRE COMMENTS:

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT J & J Construction Group, Inc

PETITION NO. Z-011

PRESENT ZONING R-20

PETITION FOR NRC

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) 12" DI / W side Bells Fy Rd

Additional Comments: Meter to be at entrance

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

SEWER COMMENTS:

In Drainage Basin? Yes No
At Development? Yes No

Approximate Distance to Nearest Sewer: 900' N / crossing Bells Fy Rd

Estimated Waste Generation (in G.P.D.): **A D F** 2930 **Peak** 7325

Treatment Plant: Noonday

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:

Pre-installed grease traps required for each restaurant.

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: J & J Construction Group, Inc.

PETITION NO.: Z-11

PRESENT ZONING: R-20

PETITION FOR: NRC

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: associated with existing stream channel

- 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 existing system and 36-inch RCP culvert under Mosby Drive.

APPLICANT: J & J Construction Group, Inc.

PETITION NO.: Z-11

PRESENT ZONING: R-20

PETITION FOR: NRC

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

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

INSUFFICIENT INFORMATION

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

ADDITIONAL COMMENTS

APPLICANT: J & J Construction Group, Inc.

PETITION NO.: Z-11

PRESENT ZONING: R-20

PETITION FOR: NRC

TRANSPORTATION COMMENTS

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

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Bells Ferry Road	29480	Arterial	45 mph	Cobb County	100'
Shiloh Road	18900	Arterial	35 mph	Cobb County	100'
Mosby Drive	NA	Local	25 mph	Cobb County	50'

*Based on 2006 traffic counting data taken by GDOT. (Bells Ferry Road)
Based on 2007 traffic counting data taken by Cobb County DOT. (Shiloh Road)*

COMMENTS AND OBSERVATIONS

Bells Ferry Road is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.
Shiloh Road is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.
Quail Run is classified as a Local and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

The intersection of Bells Ferry Road and Shiloh Road is identified as a proposed SPLOST improvement project.

The proposed driveway on Shiloh Road should restrict left turns out of the development.

The proposed driveway on Bells Ferry Road should be right-in/right-out.

As necessitated by this development for egress from Bells Ferry Road and Shiloh Road, a deceleration lane will be required at each access point.

Sidewalk, curb and gutter will be required along the road frontages. Based upon project schedule the developer will either pay fee in lieu of or install the improvements.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of 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 Bells Ferry Road, a minimum of 50' from the roadway centerline and b) donation of right-of-way on the north side of Shiloh Road, a minimum of 50' from the roadway centerline.

Recommend applicant coordinate with Cobb County DOT prior to the development plan approval to ensure compatibility the proposed intersection project.

Recommend restricting left turns out onto Shiloh Road.

Recommend a right-in/right-out driveway along Bells Ferry Road.

Recommend installing sidewalk, curb and gutter along the road frontages .

APPLICANT: J & J Construction Group, Inc.

PETITION NO.: Z-11

PRESENT ZONING: R-20

PETITION FOR: NRC

TRANSPORTATION COMMENTS cont.

Recommend a deceleration lane along Bells Ferry Road and Shiloh Road.

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

STAFF RECOMMENDATIONS

Z-11 J & J CONSTRUCTION GROUP, INC.

- 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. This property is located at the end of the commercial node with residential property on four sides. The proposal may not provide a suitable transition in building scale and land use type for the adjacent residential uses.
- 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 applicant's proposal is too intense to place at the end of the commercial node. The applicant's proposal does not meet the minimum number of parking spaces and is at the maximum Floor Area Ratio (0.25).
- 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 not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center that contains a text amendment that limits the use of the property to LRO zoning only.
- 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 deleting the applicant's rezoning proposal to LRO. The *Cobb County Comprehensive Plan* calls for this property to be developed LRO, since it is at the end of the commercial node. The LRO zoning district would provide a much better transition in zoning intensity for the adjacent single-family houses. The LRO zoning district developed at similar square-footage would allow the applicant to meet the minimum number of parking spaces.

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

- Site plan approval by the Board of Commissioners;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations;
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns.

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.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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

770-422-7016
TELEPHONE

770-426-6583
FACSIMILE

SAMSLARKINHUFF.COM

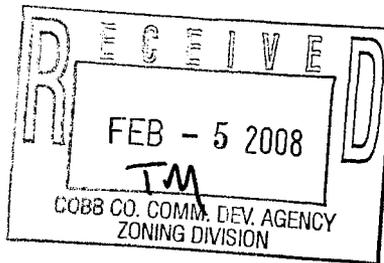
GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*
MELISSA P. HAISTEN
JUSTIN H. MEEKS

February 5, 2008

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



Re: Application of J&J Construction Group, Inc., to Rezone a 2.82
Acre Tract from R-20 to Neighborhood Retail Commercial (NRC)
(No. Z-11)

Dear John:

As you know, this firm represents J&J Construction Group, Inc. concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission on March 4, 2008 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on March 18, 2008.

In accordance with the dialogue which has been established with the County's professional staff and representatives of various homeowners groups thus far, we have been authorized by the applicant to submit this letter of agreeable stipulations which, if the Application for Rezoning is approved, shall become conditions and a part of grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to-wit:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
2. Rezoning of the subject property shall be from R-20 to Neighborhood Retail Commercial (NRC) in substantial conformity to that certain revised site plan prepared for J&J

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Page 2
February 5, 2008

Construction Group, Inc. by Frontline Surveying & Mapping, Inc. which was submitted under separate cover on January 16, 2008.

3. The total site area of the subject property (2.82 acres) shall be developed as a neighborhood retail center anchored by offices, restaurant(s) and retail shops.
4. The architectural style and composition of the neighborhood retail development shall be in substantial conformity to the architectural style and composition depicted in the renderings/elevations being submitted contemporaneously herewith.
5. Entrance signage for the proposed retail center shall be ground-based, monument style, with finished materials and color being in substantial conformity to the architectural style as aforementioned. There shall be no roof signs, exterior temporary signs or banners nor shall there be any flashing sign components. Temporary signage announcing the grand opening, signage indicating the coming development and signage relating to leasing opportunities shall be allowed.
6. Parking area lighting shall be environmentally sensitive, low level, shoe box luminaries fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
7. Security lighting on the rear of the buildings shall be wall packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
8. All dumpsters servicing the proposed retail center shall be enclosed with a minimum 6' high enclosure consistent with the architectural style as aforementioned on three (3) sides with an opaque wooden door on the access side which shall remain in a closed position except when the dumpsters are being emptied. All dumpsters shall have rubber lids to minimize noise.
9. The following otherwise permitted uses under the NRC classification shall be prohibited:
 - a. Video arcades as a primary business.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Page 3
February 5, 2008

- d. Pawn shops or checking cashing establishments.
 - e. Shooting ranges.
 - f. Houses of worship.
 - g. Wholesale establishments which sell only to businesses and not to retail customers.
 - h. Any business which principally features sexually explicit products or drug-related paraphernalia.
 - i. No merchandise shall be allowed to be displayed outside on the sidewalks or in the parking lots except for special events (sidewalk sales, grand openings, etc.). During these special events, merchandise shall be moved inside the retail store to which it belongs each night. All long term outside storage shall be prohibited.
 - j. There shall be no outside paging systems, phone bells, or loud speakers.
10. Deliveries to the neighborhood retail center shall be limited to the period of time between 8:00 a.m. until 9:00 p.m. on weekdays and between 10:00 a.m. and 8:00 p.m. on weekends. During the hours that deliveries are prohibited, trucks shall not be allowed to stand or park in the delivery area with running motors.
11. The submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Agency, including the following:
- a. The installation of a 20' planted landscaped screening buffer along the western and northern property lines adjacent to residentially zoned properties.
 - b. The installation of a 10' planted landscaped screening buffer adjacent to the southern property line along Shiloh Road and the western property line along Bells Ferry Road.
 - c. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Page 4
February 5, 2008

- plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.
- d. All landscaping for the proposed neighborhood retail center shall be professionally designed, maintained and irrigated. Additionally, said landscaped areas shall be perpetually maintained and any dead or irrevocably diseased vegetation shall be replaced as necessary.
 - e. All landscaped and buffer areas may be penetrated for purpose of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features.
 - f. All HVAC and/or mechanical systems shall be screened from view from area residences and public rights-of-way.
 - g. The detention and water quality ponds, to the extent same are not located underground, shall be screened from view with attendant landscaping and/or fencing.
12. Compliance with the following recommendations from the Cobb County Department of Transportation with respect to traffic/transportation issues, as follows:
- a. The voluntary donation and conveyance of right-of-way on Shiloh Road in order to accommodate dual left turning lanes at the intersection of Shiloh Road and Bells Ferry Road.
 - b. The voluntary donation and conveyance of at least 50' from the centerline of Shiloh Road (an arterial).
 - c. Restricting the point of ingress/egress on Shiloh Road to full right turning movements but left-in only.
 - d. Compliance with SPLOST requirements regarding the most recent proposed intersection improvements.
 - e. The installation of sidewalk, curb and gutter on the Shiloh Road and Bells Ferry Road frontages or, in the alternative, payment of a fee in lieu thereof (particularly

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Page 5
February 5, 2008

in view of the fact that the improvements planned for the intersection will not be completed until December, 2009).

- f. Construction of a deceleration lane with an appropriate taper at all points of ingress/egress.
 - g. Right-in/right-out turning movements on Bells Ferry Road.
13. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention (whether above or below ground) and water quality ponds, including, the following:
- a. Exercising heightened sensitivity with respect to downstream hydrological conditions.
 - b. An agreement to design and adhere to Best Management Practices and the construction of detention and water quality areas on site with such design and installation based upon a 100-year Stormwater Management design.
14. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
15. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
16. Minor modifications to the site plan, landscape plan, architectural elevations/renderings and this letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

The subject property is located within the confines of a Neighborhood Activity Center (NAC) as shown on Cobb County's Future Land Use Map and as defined under Cobb County's Comprehensive Land Use Plan. Being located within the NAC contemplates office and retail utilization for the subject property. Please let me know if you need additional information or documentation prior to the formulation of your Zoning Analysis and staff recommendations.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
Page 6
February 5, 2008

With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

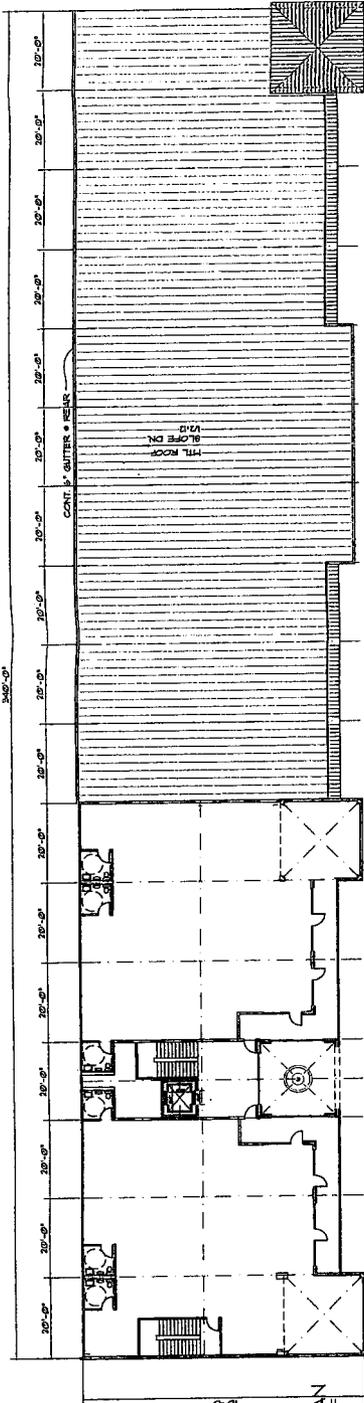


Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

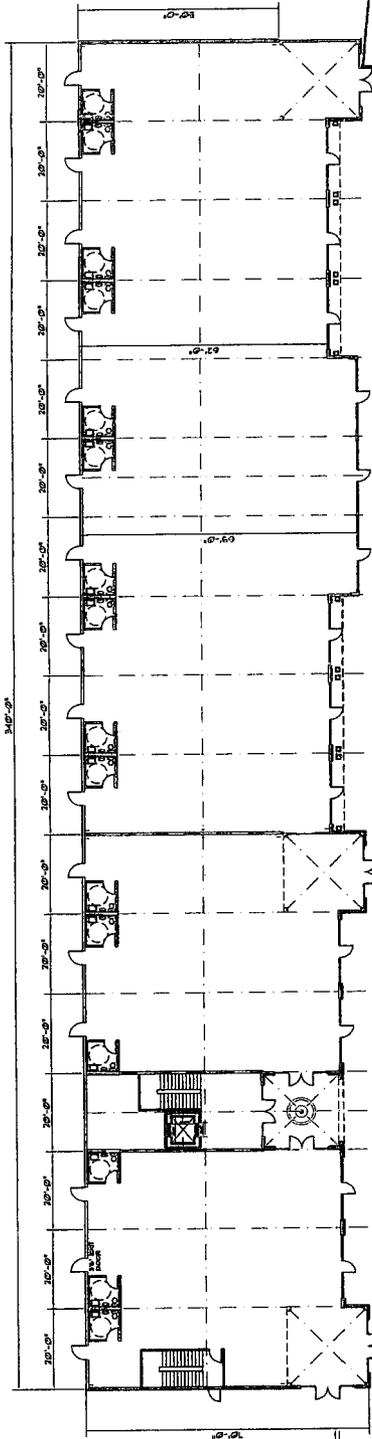
GLSjr/jbmc
Enclosures

- cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/enclosures
Members, Cobb County Planning Commission – VIA E-Mail and First Class Mail –
w/enclosures
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosures
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosures
Mr. John M. Morey, P.E. – VIA E-Mail – w/attachments
Mr. David Breaden, P.E. – VIA E-Mail – w/attachments
Ms. Karen King, Deputy County Clerk – VIA Hand Delivery – w/enclosures
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/enclosures
Ms. Hilda Towery, President, Bells Ferry Civic Association - VIA E-Mail –
w/attachments
Mr. Michael Stine, Bells Ferry Civic Association - VIA E-Mail – w/attachments
Mr. Rich Nyberg, Arden Trace Homeowners Association– VIA E-Mail – w/attachments
Ms. Laura F. Lambert, Vice President, Chestnut Hill Homeowners Association –
VIA E-Mail - w/attachments
Mr. Everett Harper, Chestnut Hill Homeowners Association – VIA E-Mail –
w/attachments

FIC
 .CO
 LA
 E

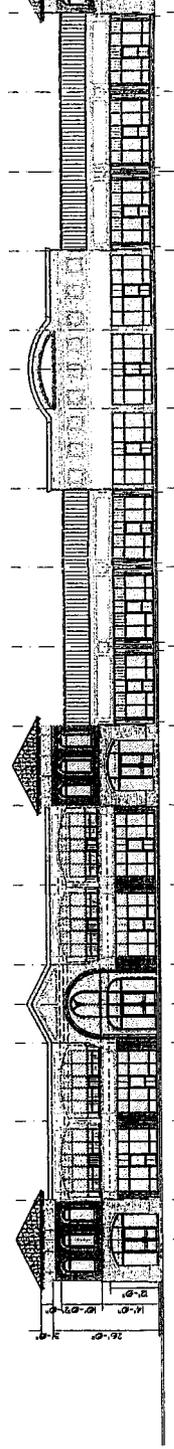


UPPER FLOOR PLAN
 SCALE 1/32" = 1'-0"
 APPROX. SQ. FTG. = 9286



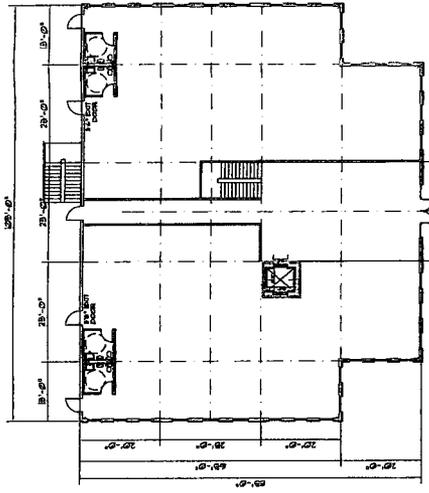
MAIN FLOOR PLAN
 SCALE 1/32" = 1'-0"
 APPROX. SQ. FTG. = 7656 (COURTYARD NOT INCLUDED)
 APPROX. SQ. FTG. = 2285 (INCLUDING COURTYARD)

RECEIVED
 FEB - 5 2008
 COBB CO. COMMUNITY AGENCY
 ZONING DEPT.

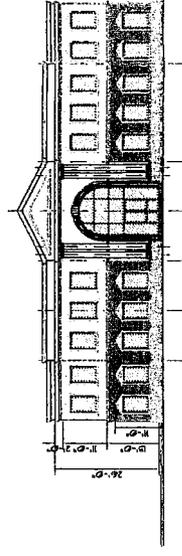


FRONT ELEVATION
 SCALE 1/32" = 1'-0"

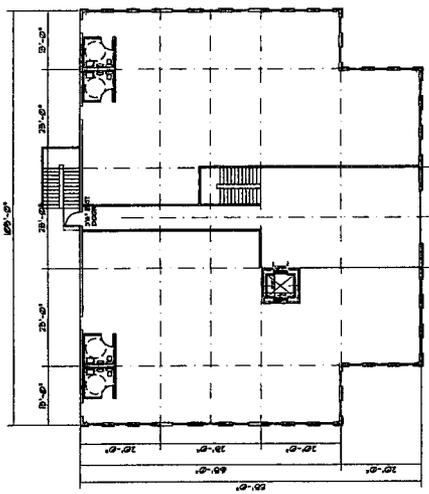
RECEIVED
FEB - 5 2008
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



MAIN FLOOR PLAN
SCALE 1/32" = 1'-0"



FRONT ELEVATION
SCALE 1/32" = 1'-0"



UPPER FLOOR PLAN
SCALE 1/32" = 1'-0"