

APPLICANT: The Arbor Companies
678-574-4994

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

TITLEHOLDER: AGWC Holdings, Inc.

PROPERTY LOCATION: Located on the west side of Canton Road,
south of Westerly Way.

ACCESS TO PROPERTY: Canton Road

PHYSICAL CHARACTERISTICS TO SITE: Vacant lot

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/ Vacant lot
- SOUTH:** LI/ Canton Road Distribution Center
- EAST:** GC/ Undeveloped
- WEST:** LI/ Canton Road Distribution Center

PETITION NO: Z-26

HEARING DATE (PC): 06-03-08

HEARING DATE (BOC): 06-17-08

PRESENT ZONING: GC

PROPOSED ZONING: OS

PROPOSED USE: Office/Warehouse

SIZE OF TRACT: 3.39 acres

DISTRICT: 16

LAND LOT(S): 709

PARCEL(S): 45

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

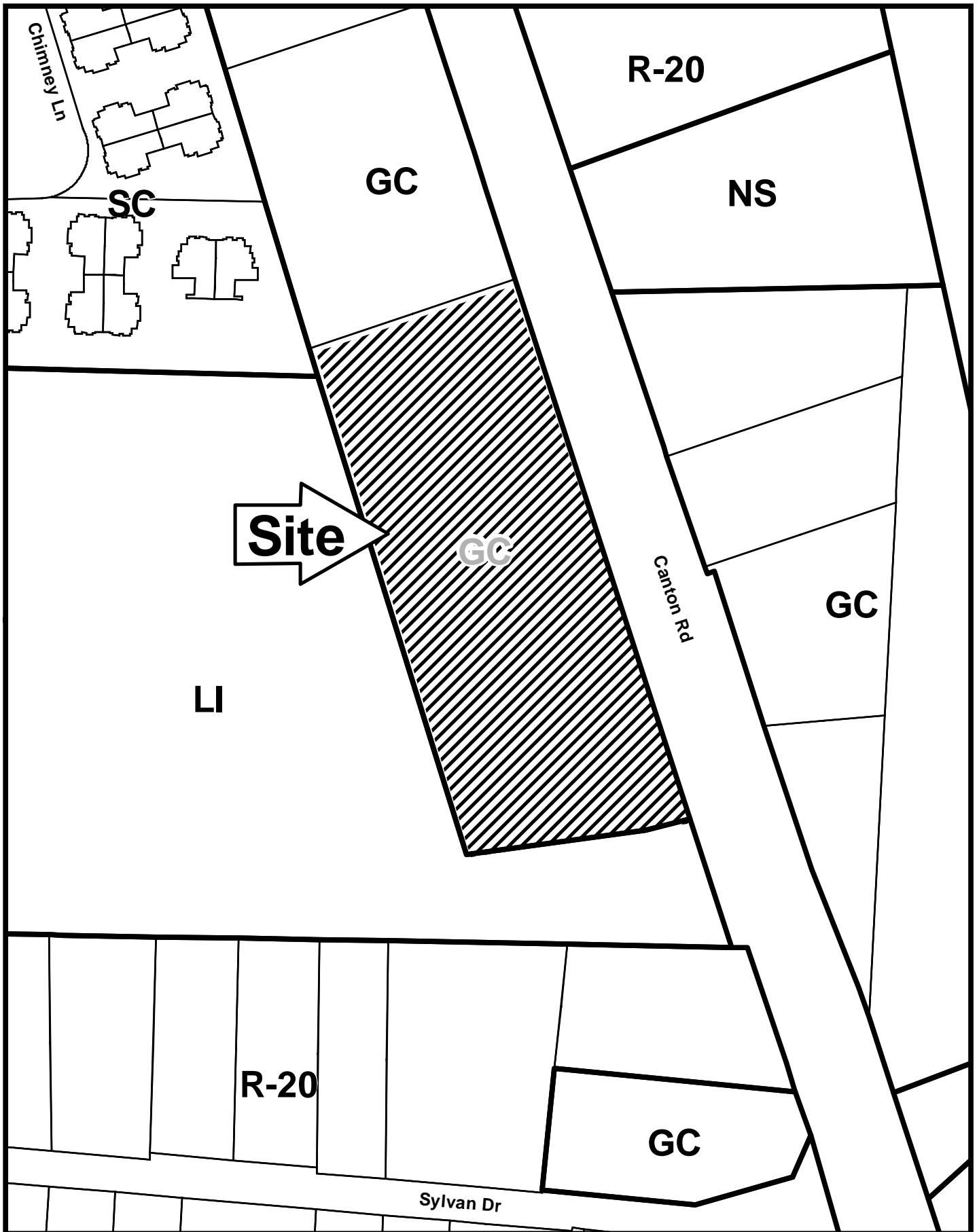
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

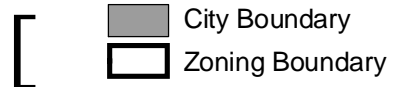
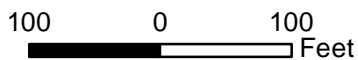
STIPULATIONS:



Z-26



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



APPLICANT: The Arbor Companies

PETITION NO.: Z-26

PRESENT ZONING: GC

PETITION FOR: OS

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 2 **Total Square Footage of Development:** 31,000

F.A.R.: 0.21 **Square Footage/Acre:** 9,144

Parking Spaces Required: 109 **Parking Spaces Provided:** 116

The applicant is requesting the OS zoning district to develop two buildings for offices and office-warehouses. The buildings will be two-stories in height with three sides' brick and stucco construction. The businesses are anticipated to be open Monday through Saturday, from 7:00 a.m. to 7:00 p.m. The applicant has submitted a Zoning Impact Analysis, which is attached as Exhibit "A". The applicant has submitted a letter of agreeable stipulations (see Exhibit "B").

The applicant is showing a contemporaneous variance which is to allow a Limited Office Service establishment in a Neighborhood Activity Center to exceed 5,000 square per structure (or use).

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: No comment.

FIRE COMMENTS:

Fire Hydrant

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

APPLICANT The Arbor Companies

PETITION NO. Z-026

PRESENT ZONING GC

PETITION FOR OS

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 Canton Rd

Additional Comments: Master 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: 150' N

Estimated Waste Generation (in G.P.D.): **A D F** 1860 **Peak** 4650

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:

Extension necessary from the adjacent property north [Z-25]

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: The Arbor Companies

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PETITION FOR: OS

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 existing 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 stormdrainage system.

APPLICANT: The Arbor Companies

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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. This site is served by the existing master stormwater detention facility located within the Chimney Cottages at Westerly Way development located immediately to the west. The design engineer must verify that adequate detention and water quality has been provided for this site as well as runoff conveyance capacity to the facility. The approved design is based on an assumed weighted curve number (CN) of 86 for this site.
2. Any current maintenance issues associated with the existing pond should be evaluated and addressed at Plan Review.

APPLICANT: The Arbors Companies

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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
Canton Road	31600	Arterial	45 mph	Cobb County	100'

Based on 2006 traffic counting data taken by GDOT.

COMMENTS AND OBSERVATIONS

Canton Road is classified 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.

Canton Road is identified as a proposed road improvement project.

Install sidewalk, curb and gutter along the frontage.

As necessitated by this development for egress from Canton Road, a deceleration lane will be required.

Provide inter-parcel access connections to adjacent property on the north side.

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 Canton Road, a minimum of 50' from the roadway centerline.

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

Recommend a deceleration lane.

Recommend installing sidewalk, curb and gutter along Canton Road.

Recommend inter-parcel connectivity with adjacent property on the north side.

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

STAFF RECOMMENDATIONS

Z-26 THE ARBOR COMPANIES

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in an area of Canton Road that contains a mixture of uses, including a large distribution center, convenience store with fuel sales, retail, a daycare, and Suburban Condominiums.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal would be compatible with other non-residential development in the area. The applicant has proposed an aesthetically pleasing building architecture that would set a benchmark for new construction along Canton Road.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center (NAC). Small Office Services projects are allowable in NAC's as long as they are small in intensity (per Zoning Code amendment 02-27-07). Staff is concerned with the one variance for building size, and would suggest the applicant revise the plan to meet the Code.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The applicant's proposal is located on a part of Canton Road that contains a mixture of zoning districts and land uses. The applicant's proposal would be compatible with adjacent properties. The applicant's proposed building architecture would help the area by setting a new precedent for building aesthetics along Canton Road. The only aspect of the project that Staff would suggest needs to be revisited is the building sizes, which exceeds the limits County Code.

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

- Maximum building size of 5,000 per building be met;
- Site plan be approved by the District Commissioner;
- Final Building architecture be approved by the District Commissioner;
- Letter from Mr. Garvis L. Sams, Jr. dated May 2, 2008 (not in conflict with Staff Recommendations);
- 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.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF THE ARBOR COMPANIES**

COMES NOW, THE ARBOR COMPANIES, and, pursuant to §134-121(a)(7) the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Canton Road Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties, the majority of which are commercial.
- C. The subject property to be affected by the zoning proposal has limited economic use as currently zoned.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being within an existing Neighborhood Activity Center (NAC).
- F. There is no substantial relationship between the existing zoning classification of GC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Canton Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 2nd day of April, 2008.

SAMS, LARKIN & HUFF, LLP

By: 

GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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FACSIMILE

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May 2, 2008

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA E-MAIL and
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 The Arbor Companies to Rezone a 3.39 Acre Tract
from General Commercial (GC) to Office Services (OS) (No. Z-26)

Dear John:

As you know, I represent The Arbor Companies concerning the above-captioned application for rezoning. In that regard, the application is scheduled to be heard and considered by the Cobb County Planning Commission on June 3, 2008 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on June 17, 2008.

With respect to the foregoing and consistent with the discussions which we have initiated with the County's professional staff and in accordance with the ongoing dialogue which we have established with Canton Road Neighbors and the Northeast Cobb Homeowners Group, please allow this letter to serve as my client's expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter:

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.

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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2. The rezoning of the subject property shall be in substantial conformity to that certain site plan prepared for The Arbor Companies by EMC Engineering Services, Inc. filed contemporaneously with the application for rezoning.
3. The total site area of the subject property (3.39 acres) shall be developed exclusively as an office/warehouse facility.
4. The architectural style and composition of the buildings shall be in substantial conformity to the architectural style and composition depicted in the photographs submitted contemporaneously with the application and which are re-submitted herewith.
5. Entrance signage for the proposed office/warehouse development shall be ground-based, monument style, with finished materials and color being in substantial conformity to the architectural style as aforementioned. Signage in conformity with the Sign Ordinance shall be allowed on the buildings. 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.

The utilization of historically themed goose-neck lamps on the buildings and historically themed street lamps along the landscaped buffer adjacent to the sidewalk on Canton Road.

8. All dumpsters servicing the proposed office/warehouse buildings 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.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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9. The following otherwise permitted uses under the OS classification shall be prohibited:
 - a. Automotive parking lots or garages.
 - b. Bus stations.
 - c. Churches, chapels, temples, synagogues, and other such places of worship.
 - d. Community fairs.
 - e. Designated recycling collection locations.
 - f. Group homes.
 - g. Hotels.
 - h. In-home day care.
 - i. Motels.
 - j. Outdoor golf driving ranges.
 - k. Pro shops, if accessory to driving ranges or golf courses.
 - l. Rest homes, personal care homes and convalescent homes.
 - m. Roominghouses and boardinghouses.
10. Deliveries to the office/warehouse development 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 final review and approval by the Community Development Agency, including the following:

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VIA E-MAIL and
HAND DELIVERY

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Cobb County Zoning Department
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- a. The formation of a Landscape Oversight Committee consisting of a representative from the Northeast Cobb Homeowners Group, a representative from Canton Road Neighbors, Inc., a representative from the Chimney Cottages condominium community and the developer. A representative from the Community Development Department shall be an ex officio member of the Landscape Oversight Committee and shall be the final arbiter with respect to the resolution of any issues which can not otherwise be resolved.
- b. The installation of a 10' landscaped screening buffer adjacent to Canton Road.
- c. Species of vegetation which will be utilized shall be ecologically compatible to the site and appropriate for the design circumstances.
- d. Minimum height of plant materials at installation shall be 5' for trees and 2' for shrubs.
- e. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.
- f. Subject to water restrictions which may be imposed by the State and/or County, all landscaping for the proposed office/warehouse development shall be professionally designed, perpetually maintained and irrigated. Any dead or irrevocably diseased vegetation shall be replaced as necessary.
- g. 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.
- h. The detention pond area shall be visually screened from view with attendant landscaping and fencing.

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III
Cobb County Zoning Department
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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 Canton Road so that the County can achieve 50' from the centerline.
 - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Canton Road.
 - c. The construction of a deceleration lane with an appropriate taper at the point of ingress/egress.
 - d. Providing inter-parcel access (as presently shown on the site plan) to the parcel located north of the subject property.
 - e. Coordinating with DOT with respect to the Canton Road Improvement Project to ensure compatibility with project design criteria.
13. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds, including, the following:
 - a. Exercising height and 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.

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A LIMITED LIABILITY PARTNERSHIP

**VIA E-MAIL and
HAND DELIVERY**

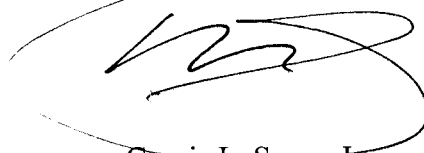
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Cobb County Zoning Department
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16. Minor modifications to the site plan, landscape plan, architectural elevations/renderings and this letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

Please do not hesitate to call should you require further information or documentation prior to the formulation of your staff analysis and recommendations. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



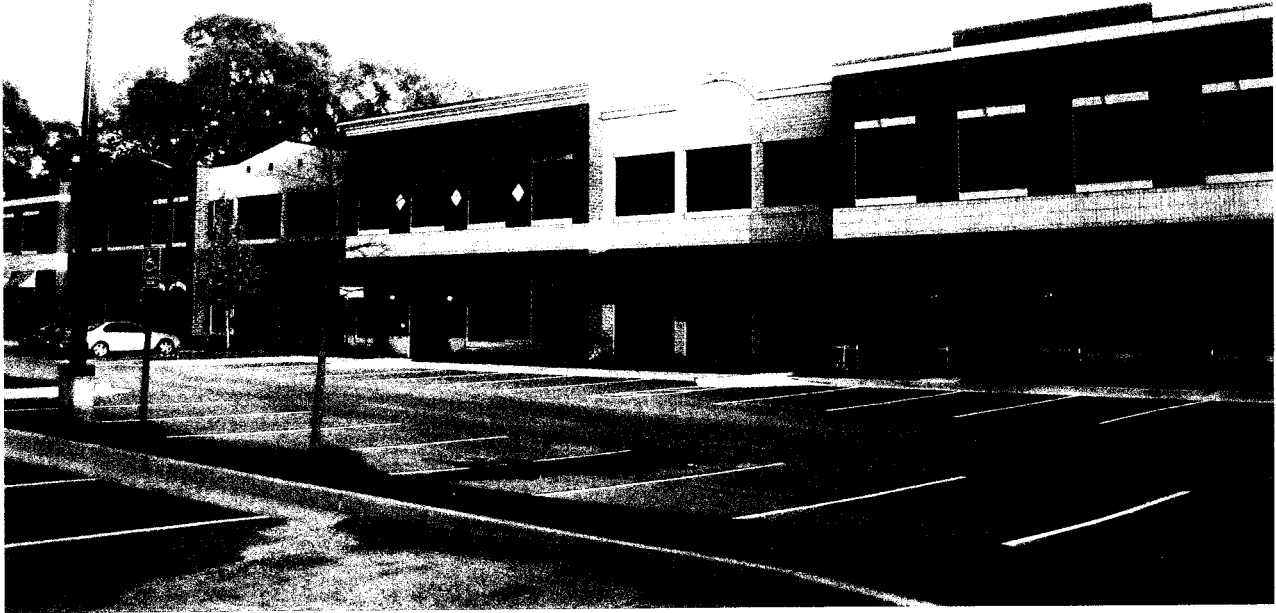
Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/jbmc

Attachment/Enclosure

- cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/enclosure
Members, Cobb County Planning Commission – VIA E-Mail and First Class Mail –
w/enclosure
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosure
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosure
Mr. John M. Morey – VIA E-Mail - w/attachment
Mr. David Breaden – VIA E-Mail – w/attachment
Ms. Karen King, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Ms. Carol Brown, President, Canton Road Neighbors – VIA E-Mail – w/attachment
Ms. Tricia Clements, President, Northeast Cobb Homeowners Group, Inc. –
VIA E-Mail – w/attachment
Mr. David Poteet – VIA E-Mail and First Class Mail – w/enclosure
Mr. Mark McClellan, President, East Cobb Civic Association – VIA E-Mail –
w/attachment
Mr. Craig M. Condra, President & CEO, The Arbor Companies – VIA E-Mail –
w/attachment

Exhibit "B"
Z-26/2008



Seller: _____

Purchaser: _____