

APPLICANT: Learning Ladder, LLC
770-331-5541

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

TITLEHOLDER: GTI, LLC

PROPERTY LOCATION: Located at the southeast intersection of
Veterans Memorial Highway and Club Drive.

ACCESS TO PROPERTY: Veterans Memorial Highway and
Club Drive

PHYSICAL CHARACTERISTICS TO SITE: Wooded

PETITION NO: Z-57

HEARING DATE (PC): 12-02-08

HEARING DATE (BOC): 12-16-08

PRESENT ZONING: LI

PROPOSED ZONING: CRC

PROPOSED USE: Child Development
Center

SIZE OF TRACT: 1.69 acres

DISTRICT: 18

LAND LOT(S): 43

PARCEL(S): 19

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/ Leland Elementary School
- SOUTH:** R-20/ Kitchens subdivision
- EAST:** LI/ Clines Welding
- WEST:** R-20/ commercial building

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

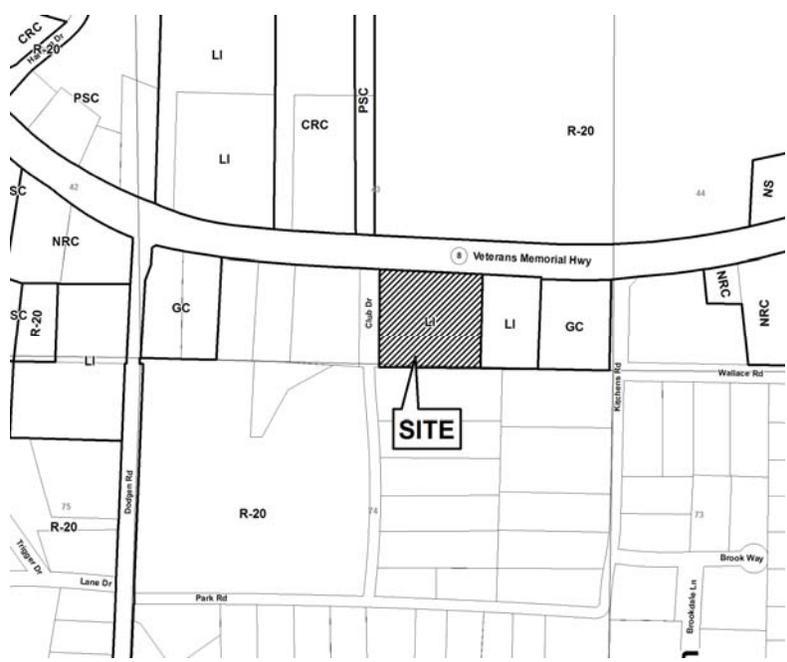
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

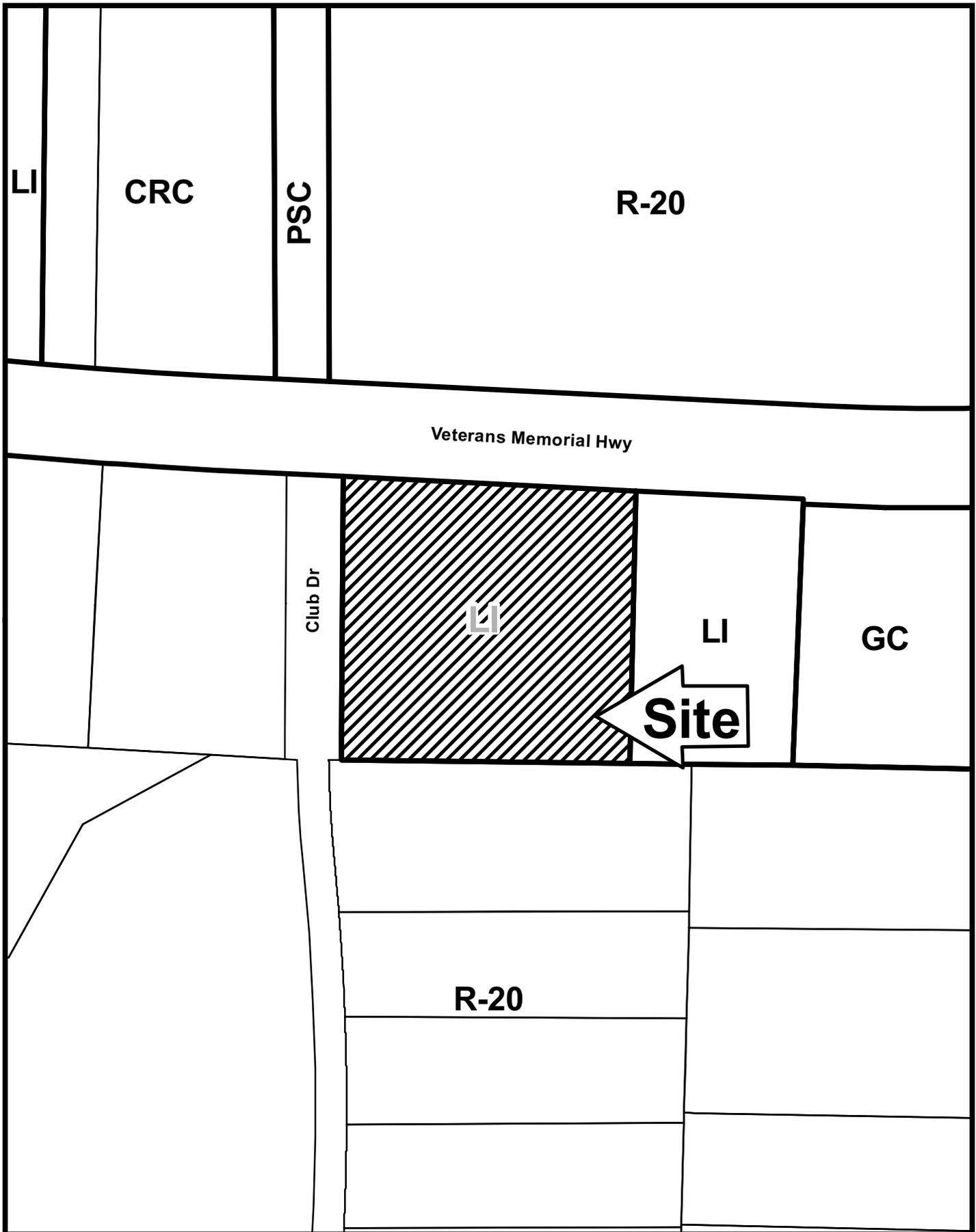
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-57



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



 City Boundary
 Zoning Boundary

APPLICANT: Learning Ladder, LLC

PETITION NO.: Z-57

PRESENT ZONING: LI

PETITION FOR: CRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Community Activity Center

Proposed Number of Buildings: 1 Total Square Footage of Development: 12,500

F.A.R.: 0.17 Square Footage/Acre: 7,396

Parking Spaces Required: 20 Parking Spaces Provided: 34

The applicant is requesting the CRC zoning district to develop a child daycare center. The building would be one-story and traditional in styling. The building would have a brick exterior with a pitched roof containing architectural asphalt shingles. The business would operate Monday through Friday, from 6:30 am to 6:30 pm. There would be a maximum of 195 children and 23 staff personnel. The children would range in age, from 6 weeks to 4 years old. 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").

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:

Porte Cochere must be a minimum of 13' 6".

APPLICANT Learning Ladder, LLC

PETITION NO. Z-057

PRESENT ZONING LI

PETITION FOR CRC

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) 8" DI / S side Veterans Memorial Hwy

Additional Comments:

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: At site

Estimated Waste Generation (in G.P.D.): **ADF** 2340 **Peak** 5850

Treatment Plant: S Cobb

- Plant Capacity Available? Yes No
- Line Capacity Available? Yes No
- Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years
- Dry Sewers Required? Yes No
- Off-site Easements Required? Yes* No
- Flow Test Required? Yes No
- 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:

Notes FYI: *Estimated ADF based on 195 students*

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: Learning Ladder, LLC

PETITION NO.: Z-57

PRESENT ZONING: LI

PETITION FOR: CRC

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Milam Branch FLOOD HAZARD INFO:

- 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 easements 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. **(L. D. Kitchens S/D)**
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

APPLICANT: Learning Ladder, LLC

PETITION NO.: Z-57

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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/SUGGESTIONS

1. Runoff from the current site discharges via overland sheetflow to the south through an adjacent residential lot and to the west to the Club Road R/W. The proposed detention facility will create a concentrated point discharge which must be accommodated by the downstream system which does not have a well-defined conveyance. The discharge will likely need to be piped to a suitable receiving point. This issue must be addressed at Plan Review.
2. Runoff across the southern property line must be intercepted and conveyed to the proposed detention pond to protect the existing adjacent residential lot from increased runoff.
3. If a concrete wall is utilized for the detention pond it should be faced with a decorative masonry surface where visible from the R/W or adjacent residential parcel.

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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
Veterans Memorial	25400	Arterial	45 mph	GADOT	100'
Club Road	NA	Local	25 mph	Cobb County	60'

Based on 2008 traffic counting data taken by Cobb County DOT.

COMMENTS AND OBSERVATIONS

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

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

This section of Veterans Memorial Highway is within the Harmony Leland Elementary School speed zone.

Access to Veterans Memorial Highway should be shared with the metal fabrication business through inter-parcel access.

Install sidewalk, curb and gutter along Club Road.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Club Road, a minimum of 30' from the roadway centerline.

Recommend inter-parcel access with the metal fabrication business.

Recommend installing sidewalk, curb and gutter along the Club Drive.

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

STAFF RECOMMENDATIONS

Z-57 LEARNING LADDER, LLC

- 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. Veterans Memorial Highway contains a wide variety of uses, including institutional uses, commercial uses, offices uses, and residential uses.

- 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 consistent with other uses in the area.

- 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 Land Use Category.

- 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 would be consistent with other land uses in the area. The applicant's proposal would become a very good complimentary use with the public school directly across the road. Veterans Memorial Highway has been transitioning to lower intensity uses, away from industrial-type uses. The applicant's proposal is in accordance with the *Cobb County Comprehensive Plan*.

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

- Site plan received by the Zoning Division November 10, 2008, with the District Commissioner approving minor modifications;
- Letter from Mr. Garvis L. Sams, Jr., dated November 12, 2008 (not in conflict with these stipulations);
- 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 LEARNING LADDER, LLC**

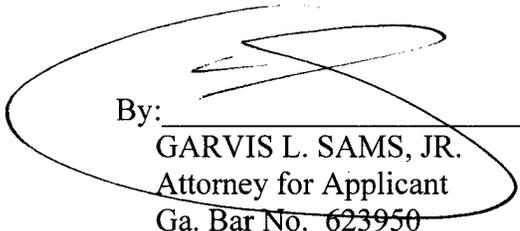
COMES NOW, LEARNING LADDLER, LLC, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a continued use of the property which is suitable in the context of development and existing zonings along this section of the Veterans Memorial Highway Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties, the preponderance of which are commercial and institutional developments located within the confines of an Community Activity Center.
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owner of the subject property is suffering a significant economic detriment by virtue of the continuation of the present zoning classification.
- 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 located within a Community Activity Center and is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.
- F. There is no substantial relationship between the existing zoning classification of LI, with stipulations, 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 Veterans Memorial Highway Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 30th day of September, 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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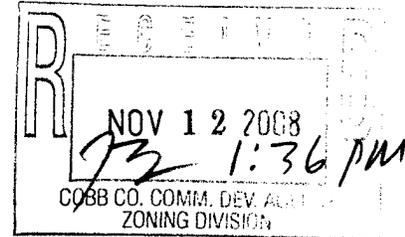
MELISSA P. HAISTEN
JUSTIN H. MEEKS

SAMSLARKINHUFF.COM

November 12, 2008

VIA E-MAIL and
HAND DELIVERY

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



Re: Application of Learning Ladder, LLC to Rezone
a 1.69 Acre Tract from LI to CRC (No. Z-57)

Dear John:

You will recall that this firm represents Learning Ladder, LLC concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Planning Commission and Board of Commissioners during the December zoning cycle. Previously, on October 29, 2008, we submitted a letter of agreeable stipulations/conditions and, thereafter, on November 10, 2008, submitted a revised site plan.

The purpose of this letter is to provide you with a revised letter of agreeable stipulations/conditions based upon our discussions with the County's professional staff, representatives of Mableton Improvement Coalition ("MIC") and as a result of the dialogue established with area residents and the adjacent church. Learning Ladder is amenable to the following stipulations becoming conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to-wit:

1. The revised 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 with respect to the subject property.
2. Rezoning ("down zoning") of the subject property shall be from Light Industrial (LI) to Community Retail Commercial (CRC) use specific for a child development center to be known as The Growing Room.¹

¹ Please visit The Growing Room website at www.growingroomusa.com.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
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November 12, 2008

3. Development of the subject property shall be in substantial conformity to that certain revised Rezoning Plat for The Growing Room Child Development Center prepared by Paul Lee Consulting Engineering Associates which was filed under separate cover on November 10, 2008.
4. The architectural style, composition and treatment of the building shall match the photograph being resubmitted with this letter. The composition of the building shall be a mixture on all four sides of brick, stacked stone and related materials with stucco type accents and architectural shingles.
5. Entrance signage for The Growing Room shall be ground-based, monument-style with finished materials and color matching the architectural style and composition as aforementioned.
6. The Growing Room Child Development Center will have an approximate number of 195 children (ranging in age from 6 weeks to pre-K); twenty-three (23) teachers and assistants; and, six (6) administrative personnel.
7. The hours of operation shall be from 6:30 a.m. until 6:30 p.m. with staggered drop-off and pick-up times.
8. In addition to The Growing Room's year-round programs and exceptional curriculum, there will be an after-school program for children ranging up to twelve (12) years of age.
9. Parking area lighting shall be environmentally sensitive and fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
10. Security lighting on the building 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.
11. The dumpster servicing The Growing Room shall be enclosed with a minimum of a six foot (6') high enclosure which matches the architectural style and composition as aforementioned on three (3) sides with a complementary painted, opaque wooden door on the access side which shall remain in a closed position except when the dumpster is being emptied. The dumpster shall have a rubber lid to minimize noise and the hours of pick up shall be limited between 7:00 a.m. to 7:00 p.m.

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Mr. John P. Pederson, Planner III
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12. 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:
 - a. The formation of a Landscape Oversight Committee consisting of a representative from the The Growing Room and a representative from the Mableton Improvement Coalition. 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 construction of a 6' wooden opaque fence along the entire length of the southern property line adjacent to residentially zoned property presently owned by H. G. Holbrook and the installation of a 35' landscaped buffer along said property line consisting of plantings and landscape profiles which shall be subject to review and approval by the Landscape Oversight Committee and the Community Development Department.
 - c. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.
 - d. All landscaping for The Growing Room shall be professionally designed, maintained and irrigated (where not disallowed by State or County water restrictions) by a third-party contractor. 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 purposes of access, utilities and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or required engineering features. However, the proposed detention and water quality pond as shown on the revised site plan shall not encroach into the 35' landscape buffer.
 - f. The detention pond shall either be underground or visually screened from view with attendant landscaping and fencing (if required by Cobb County). Any chain-link fence shall be green or black vinyl coated and screened by landscaping.

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HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
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15. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
16. Compliance with the recommendations from the Cobb County Water System with respect to availability and acquisition of water and sewer to service the subject property.
17. If the subject property is determined to be undevelopable for the purposes sought by the applicant or, if for any reason, the closing on the subject property does not take place within six (6) months from the date of a successful rezoning of same, then, and in such an event(s), the zoning classification of the subject property shall revert to the original classification of LI without further action being necessary on the part of Cobb County or the owner of the subject property.
18. Final site plan, final landscape plan and final architectural renderings/elevations shall be reviewed and approved by the District Commissioner who shall have the latitude to make minor modifications to the stipulations and the plans as they proceed through the Plan Review process.

As you know, the subject property was previously rezoned for a child daycare center in March of 2006 (No. Z-41). However, because that applicant did not close on the subject property, the subject property reverted to its present Light Industrial (LI) classification. At that time, the County's professional staff recommended approval because of the agreements reached with MIC and because of the fact that the subject property is situated within the confines of a Community Activity Center as defined under Cobb County's Future Land Use Map and Comprehensive Land Use Plan.

Please do not hesitate to call should you or the staff require any further information or documentation prior to the formulation of your recommendation to the Cobb County Planning Commission and Cobb County Board of Commissioners. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/jbmc
Enclosure

cc: Shown on next page.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA E-MAIL and
HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
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November 12, 2008

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, P.E. – w/enclosure
Ms. Jane Stricklin – VIA E-Mail – w/enclosure
Mr. David Breaden, P.E. – VIA E-Mail – w/enclosure
Ms. Karen L. King, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Mr. Ben Clopper, Mableton Improvement Coalition – VIA E-Mail – w/enclosure
Ms. Robin Meyer, Mableton Improvement Coalition – VIA E-Mail – w/enclosure
Ms. Morgan Lawley, Learning Ladder, LLC – VIA E-Mail – w/enclosure
Mr. Mike Killimett, Learning Ladder, LLC – VIA E-Mail – w/enclosure

RECEIVED
OCT. 29 2008
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

