

**DECEMBER 15, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM #2

PURPOSE

To consider amending the site plan and stipulations for Mayes Ward-Dobbins Funeral Home regarding Z-52 (LOST MOUNTAIN ENTERPRISES, INC.) of April 20, 2004, for property located in Land Lot 428 of the 19th District on the north side of Macland Road, west of Villa Rica Road.

BACKGROUND

The subject property is zoned LRO subject to numerous conditions/stipulations which are attached. This request seeks to amend the previously approved site plan and stipulations to allow the site to be developed for a one-story 18,900 square foot funeral home. The proposed site plan is attached. This proposal is a reduction in the number of buildings and the total square footage from the approved site plan which allowed 24 office buildings which encompassed 54,000 square feet. There are two existing frame structures on the property. It is the desire to refurbish the structure located toward the rear of the property for a maintenance building depending on the final determination of its condition. The farmhouse structure located closer to the front of the property will be demolished due to its poor condition. The applicants have agreed to comply with the recommendations of the consultant (R. S. Webb & Associates) and the County's Historic Preservation Planner who were asked as part of the original rezoning to evaluate the farmhouse structure due to its age and significance. The evaluation has been completed and documented as indicated in the report filed with this request. The applicants have submitted a letter of stipulations in addition to the Other Business application which are both attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the request and if approved, should be subject to Plan Review comments and all other previously approved conditions/stipulations not in conflict should remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Proposed Site Plan
Stipulation Letter
Other Business Application

ORIGINAL DATE OF APPLICATION: 04-20-04APPLICANTS NAME: LOST MOUNTAIN ENTERPRISES, INC.THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 05-18-04 ZONING HEARING:**

LOST MOUNTAIN ENTERPRISES, INC. (Elizabeth Williams, owner) for Rezoning from **R-80** to **LRO** for the purpose of Offices in Land Lot 428 of the 19th District. Located on the north side of Macland Road, west of Villa Rica Road.

The public hearing was opened and Mr. Carl Wynne addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Olens, to **approve** rezoning to the **LRO** zoning district **subject to:**

- site plan received in the Zoning Division on May 14, 2004, with the District Commissioner approving minor modifications to the site layout (copy attached and made a part of these minutes)
- letter of agreeable stipulations from Mr. Carl Wynne dated May 17, 2004, *which shall control in the event of conflict with the other stipulations, with the following changes:* (copy attached and made a part of these minutes)
 - Paragraph 25: “Prior to obtaining a *land disturbance permit*, the Developer shall post a Letter of Credit in the amount of \$100,000 bound unto Cobb County. A copy of the Letter of Credit is attached and will be subject to the review and approval of the County Attorney.”
 - Paragraph 32: “The Developer wishes to make known their use of a general contingency fund provided for in the duration of the primary development loan. Said funds shall be used to correct any deficiencies within the project or damages as result of the project until the *project receives a Final Certificate of Occupancy from Cobb County*. Any damages that occur during the construction process through to the *Final Certificate of Occupancy* should be the sole financial responsibility of the developer, and should be paid for out of the developer’s contingency funds.”
 - Letter of Credit, Paragraph 5: “A further condition of this Agreement is that the irrevocable Letter of Credit shall remain in effect a period not to exceed 12 months from the Final Inspection of the site *and receipt of Final Certificate of Occupancy* by a representative of the Community Development Agency Director, provided that the Property Owners Association to be formed by the Developer can demonstrate cash reserves of no less than \$100,000.00.”

Z-52 continued on next page

ORIGINAL DATE OF APPLICATION: 04-20-04APPLICANTS NAME: LOST MOUNTAIN ENTERPRISES, INC.

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 05-18-04 ZONING HEARING (Continued):

- signage to have backlighting, if any, with no electronic reader board or flashing lights
- maintained natural buffer areas to be enhanced and fully planted in sparsely vegetated areas with living trees, bushes and other plantings ecologically compatible to the area, not to be clear cut or mowed, to be maintained by the Property Owner Association; landscape buffer to be approved by the County Arborist who will have final approval as to plantings; only dead, dying, diseased or invasive vines or plants such as kudzu and poison ivy may be removed from the buffer; no storage or structures, including swing sets, signs, (with the exception of signs recommended by the Cemetery comments) tree houses, trailers, storage buildings and/or other non-growing items to be placed in the buffer; invisible electronic underground fencing, for containment of animals is acceptable
- issue of oil runoff from driveways, etc., to be resolved in Plan Review
- all future structures along the north or east property lines to be one story and have gabled roofs
- fencing between the Applicant's property and neighboring residences to be resolved between the applicant and the neighbors, District Commissioner to decide if necessary
- Applicant to make initial application for historical register with help of Staff
- installation of a scavenge box system
- Historic Preservation comments and recommendations
- Cemetery Preservation comments and recommendations, *to include a fifty (50) foot maintained natural buffer between the cemetery and the project, and a 10-foot building line setback from the buffer, for a total buffer and setback of sixty feet on the west side*
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb 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

VOTE: **ADOPTED** unanimously

MCMEACHERN FARM OFFICE CONDOS

RV ARCHITECTURE & LAND SERVICES
 ARCHITECTS & LAND SURVEYORS
 1000 N. W. 10TH AVENUE
 SUITE 1000
 MIAMI, FL 33136
 PHONE: 305-575-1000

Min. Bk. 2.7 Petition No. Z-52
 Doc. Type Revised Site Plan

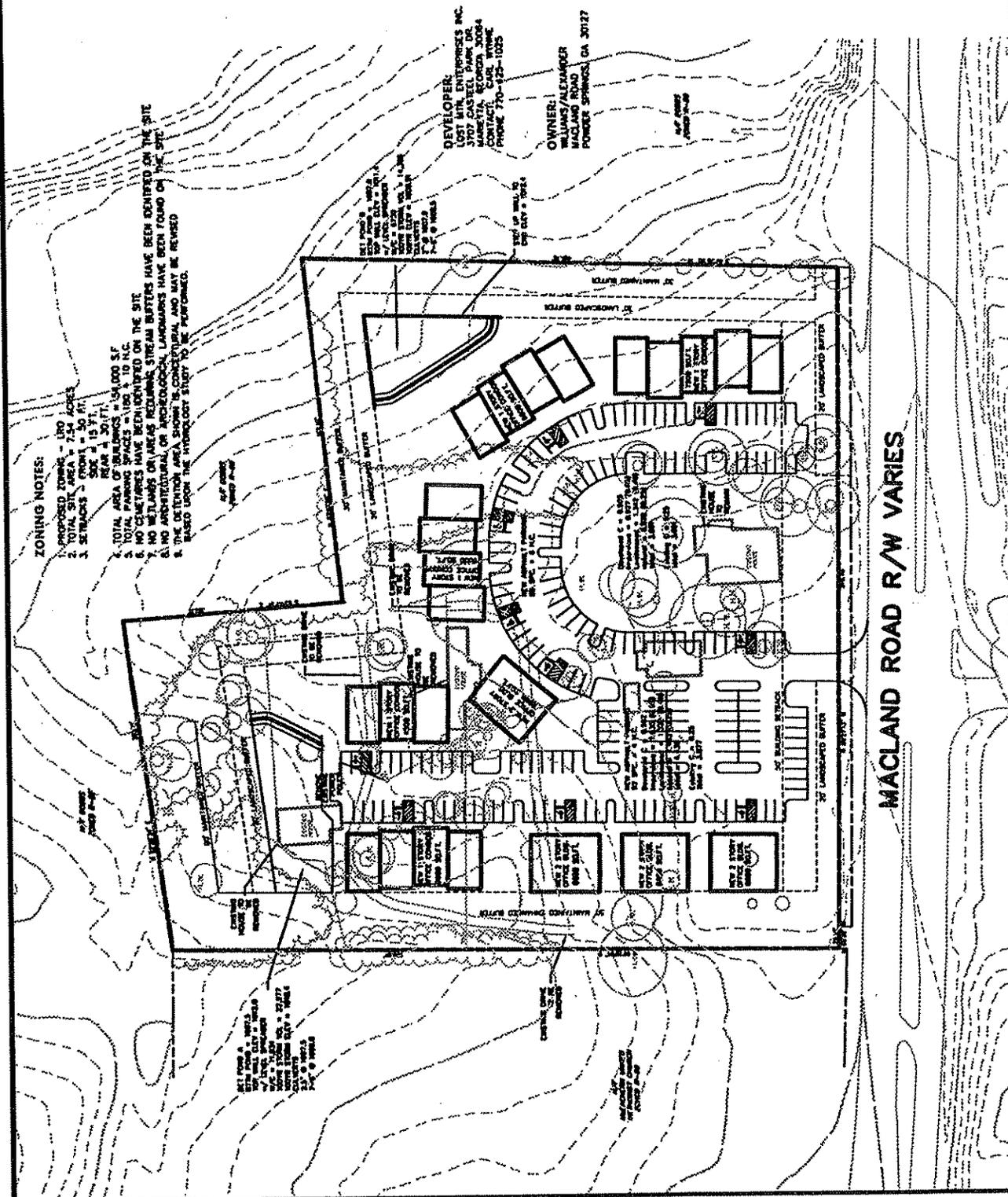
Meeting Date 6/18/04



- ZONING NOTES:**
1. PROPOSED ZONING - LRO
 2. TOTAL SITE AREA - 7.54 ACRES
 3. SETBACKS - FRONT - 50 FT.
SIDE - 15 FT.
REAR - 10 FT.
 4. TOTAL AREA OF IMPROVEMENTS - 1,54,000 SF
 5. TOTAL PARKING SPACES - 100 + 10 N.C.
 6. NO CHANGES HAVE BEEN IDENTIFIED ON THE SITE
 7. NO WETLANDS OR AREAS REQUIRING STREAM BUFFERS HAVE BEEN IDENTIFIED ON THE SITE
 8. NO ARCHITECTURAL OR ARCHAEOLOGICAL LANDMARKS HAVE BEEN FOUND ON THE SITE
 9. THE DETENTION AREA SHOWN IS CONCEPTUAL AND MAY BE REVISED BASED UPON THE HYDROLOGY STUDY TO BE PERFORMED.

DEVELOPER:
 LOST HILL ENTERPRISES INC.
 3707 CASTLE PARK DR.
 ATLANTA, GA 30327
 CONTACT: CARL THOMAS
 PHONE: 770-425-1025

OWNER:
 WILLIAMS/ALEXANDER
 MACLAND ROAD
 POWDER SPRINGS, GA 30127



MACLAND ROAD R/W VARIES

Lost Mountain Enterprises, Inc. PAGE 7 OF

Land Acquisition and Development

May 17, 2004

FILED WITH COUNTY CLERK THIS 18th DAY
OF May 2004 BY Paul W. Wilson
RE Z-52
Chail K. Duff
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Min. Bk. 27 Petition No. Z-52
Doc. Type Letter of
Agreeable Stipulations
Meeting Date 6/18/04

Mr. John Pederson
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, GA 30060-1661

Via: Hand Delivered

RE: Application for Rezoning

Application #: Z-52
Applicant: Lost Mountain Enterprises, Inc.
Property: 7.54 Acres in Land Lot 428
19th District, 2nd Section
Cobb County, Georgia

ORIGINAL

Dear John,

After meeting with members of the surrounding communities, planning and zoning staff, various departmental representatives, and reviewing the staff comments and recommendations, we the Applicant having been authorized by the owners submit this letter of agreeable stipulations and conditions which, if the Application for rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the property. This letter shall supercede and replace the Letter of Agreeable Stipulations submitted to Cobb County dated April 16, 2004. The referenced stipulations are as follows:

- (1) Rezoning of the subject property shall be from the R-80 zoning category to the LRO zoning category as referenced by that certain site plan dated May 14, 2004, by Krewson and Vickrey Engineers & Surveyors. (Site Plan attached). Any minor modifications of said site plan shall be subject to the review and approval of the District Commissioner.
- (2) By this letter of agreeable stipulations, the Applicant amends its application for rezoning to include the site plan herein set forth, which shall supercede all previously submitted plans and stipulations.
- (3) The Buildings to be constructed within the proposed development shall be Traditional in styling and complimentary to the existing McEachern

Continued

Houses' architecture. Roofs shall be steep pitched with architectural style shingles. The front facades of the Buildings shall be comprised of lap board siding with brick and stone accents. All exterior elevations shall be subject to the approval of an Architectural Review Committee (ARC) to be established by the Developer. The initial committee shall consist of three voting members for a period of 2 years from the zoning approval. One member shall be appointed by the Developer, one member shall be Janice Dobbs or her appointed designee, and one member shall be the area District Commissioner of Cobb County or their designee. A exoficio member to the board shall be appointed by the Board of Trustees of McEachern Memorial United Methodist Church. After the initial 2 year period, the members of the (ARC) shall be appointed in accordance with the covenants of the development. The covenants shall provide that one member of the (ARC) shall be a Dobbs Family Designee.

- (4) The Entrance to the proposed community shall be professionally landscaped with permanent signage being on a ground-based monument. The entrance landscaping plan shall be subject to the review and approval of the Architectural Review Committee (ARC).
- (5) Exterior lighting within the project shall be determined by the development of a photometric plan coordinated with Cobb County staff as designated by the Area District Commissioner. The Developer shall work with Staff and a representative of adjacent properties to develop a lighting plan to minimize the spillage of excess light onto adjacent residential properties. The lighting plan shall include the use of the following devices as necessary: Timers on nonessential security lights to turn off at 10:00 P.M. and baffles on security lights. No flood lights shall be installed on the rear of the buildings and all exterior lights on the side and rear of the buildings shall be on timers.
- (6) Applicant agrees to provide a 50 foot Maintained Enhanced Buffer along the property line adjacent to the cemetery. The Maintained Enhanced Buffer shall have the existing drive and cross fencing removed, existing shrubs and trees tended, and additional plantings in sparsely vegetated areas. The Developer shall install along the most northern property line an 80 foot Maintained Buffer and a 30 foot Maintained Buffer along the northeastern and eastern property lines. In addition to the Maintained Buffer, the Developer agrees to install for additional screening, a 20 foot Landscaped Buffer along the northern, northeastern, and eastern property lines, for a total Buffer area of 50 feet along the northeastern and eastern lines, and 100 feet along the most northern line. The Landscaped buffer shall contain a solid line of Leyland cypress not to exclude additional plantings nor removal of existing bamboo. The Maintained Buffer shall have the existing trees and shrubs tended and allow for the maintenance of the current vegetation. The Bamboo located within this Buffer area shall not be removed as well. No buildings will be allowed in the Buffer Area's.

Continued

- (7) All Buffers within the project shall be controlled, maintained and protected by recorded covenants enforced by a mandatory Property Owners Association (POA) to be established by the Developer.
- (8) A vinyl coated chain link fence consistent with the fencing on the Cemetery property and Dobbs property shall enclose the Project sides and rear with access restricted to the entrance located on Macland Road. The property frontage along Macland Road (excluding the area directly in front of the McEachern House) shall include a fence consistent with the existing pickett fence with additional landscaping. The Developer may incorporate Brick or Stone columns in the pickett fence. The fence bordering the Dobbs property shall be 8' in height and located at either the property's edge or separating the Landscaped and Maintained buffers with the exception of a tie-in at the cemetery fence (Location of fence to be determined by Janice Dobbs or designee within 30 days). The existing cemetery fence shall remain in place.
- (9) Applicant agrees to a mandatory Property Owners Association with recorded covenants prepared by the law firm Sams, Larkin and Huff LLP to provide for the maintenance of the building exteriors, landscaping, private sewage lift station, detention and common areas, consistent with upscale professional offices within the county. The articles of organization for said Property Owners Association shall require that the POA keep no less than \$100,000.00 in cash reserves for a period of 60 months from the final Inspection of the site by Cobb County.
- (10) All grassed areas within the proposed development shall be sodded.
- (11) The detention facilities shall be designed and placed to obtain the lowest impact to the buffers areas. Further, the developer agrees to exceed county minimum standards for water quality and detention by 50%. Developer may grade a pooling area if necessary to reduce the size and impact of the pond on surrounding buffers. The developer agrees to work with the Storm Water Management Division of Cobb County to include a scavenge box system to separate pollutants from the storm water entering the detention area.
- (12) In order to dissipate the storm water flow from the ponds, the Developer shall use level spreaders in the control of storm water discharge.
- (13) The Applicant agrees to provide a 50 foot Maintained Enhanced Buffer along the property line adjacent to the cemetery. The Maintained Enhanced Buffer shall have the existing drive and cross fencing removed, existing shrubs and trees tended, and additional plantings in sparsely vegetated areas. No disruption of the Cemetery Buffer beyond the above stated activities shall be allowed. Orange protective fencing shall be installed on the outer perimeter of the Buffer area and maintained until final landscaping. No development, building or construction activity shall

be allowed within the Cemetery Buffer. The ~~Cemetery~~ ^{Building} Setbacks shall be 50' adjacent to the cemetery. The existing cemetery boundary fence shall not be disturbed and no other fencing installed. Any changes to the Cemetery Buffer shall be approved by the Cemetery Association. The Cemetery Buffer shall be controlled, maintained and protected by recorded covenants enforced by a mandatory POA to be established by the Developer. Covenants shall clearly dictate that the Buffer area shall not be used for any activities by the tenants and owners of the offices. Signs shall be posted in 100 foot intervals not less than 20 feet from the property line adjacent to the cemetery stating Cemetery Preservation Buffer -Do Not Disturb. Additionally, the recorded covenants shall grant a third party right of enforcement to the Cobb County Cemetery Preservation Commission and the Macland Cemetery Association. The provisions of this section shall control if in conflict with Cemetery Preservation comments.

- (14) The applicant agrees to incorporate the existing McEachern Farmhouse into the development. The historical integrity of the house and surrounding area shall be maintained. The exterior of the existing structure shall be renovated. All work shall be coordinated with the Planning Division to include new roofing, paint and deferred maintenance. The interior renovation shall include the development of an adaptive reuse design for an art studio or office and meeting use. Applicant agrees to the installation of a historical marker referencing the history of the farm. The Applicant agrees to make application for the house to be included in the Historical Registry.
- (15) The Applicant agrees the site shall be designed to minimize grading as much as possible.
- (16) The Parking area shall not exceed the minimum required by Cobb County.
- (17) The site shall be developed using a phased construction plan. Prior to beginning construction on buildings within any phase, the pavement areas shall be in place with no less than 6" of stone over geotex fabric, and landscaping finalized or temporary landscaping control measures in place.
- (18) Developer agrees to a predevelopment and post-development lake study on the lake located down stream from the project. Evaluation shall be performed by a licensed Professional Engineer, including a bottom and powder level analysis, and a water quality test to check for pollutants. The applicant agrees to submit all engineering, including but not limited to, Construction Plans, Lake Study, Hydrology, Dam and Spillway analysis, NPDES Erosion Control Plans and Notice of Intent, to Mr. Craig Zeller or another Professional Engineer designated by lake owners, no less than 30 days prior to Applicant's initial submission of plans for plan review by Cobb County. Any comments by the lake owner's engineers will be submitted to Cobb County at applicant's initial submission of plans for review. Said studies shall be coordinated with the Storm Water

Management Division of Cobb County and paid for by the Developer. The lake owners shall be responsible for all cost associated with the review by their independent engineer. Developer will submit all weekly and monthly inspections under developers NPDES permit, monthly to said engineer until such time as Developer notifies the Issuing Authority for Erosion and Sedimentation Control permits that construction activities have been completed.

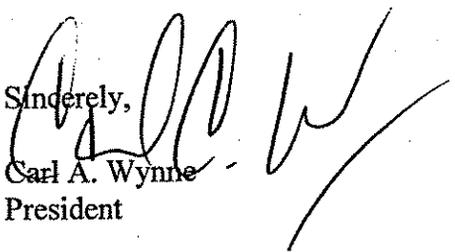
- (19) Applicant agrees to the use of flocculates in the erosion control plan to reduce the discharge of sediment from the site.
- (20) The Applicant agrees to the development of a temporary sediment control plan to be developed in conjunction with the Storm Water Management Division utilizing additional sediment control devices to retain all sedimentation on site during the construction process.
- (21) The Applicant agrees to the oversight and monitoring of all Stormwater by a licensed Geotechnical Engineer during the construction process.
- (22) The Applicant agrees to do a spillway study on the downstream lake. Said study shall be coordinated with The Storm Water Management Division of Cobb County and paid for by the Developer. Copies of the spillway study shall be provided to the County and Lake Owners. The Developer shall provide a letter of indemnification to the Lake Owners prior to the start of construction. Said letter shall indemnify the owners from cost of making any changes to the dam or dam structures, necessitated, as a direct result of the upstream development by the Applicant. A copy of the Indemnification Letter is attached and will be subject to the review and approval of the County Attorney.
- (23) Developer shall if requested, by the owners of the Dobb's property downstream, clean out the 18" storm drain running under the driveway.
- (24) Prior to beginning construction the Developer shall post an Erosion and Sedimentation Control Performance Bond in the amount of \$10,000 bound unto Cobb County.
- (25) Prior to beginning construction the Developer shall post a Letter of Credit in the amount of \$100,000 bound unto Cobb County. A copy of the Letter of Credit is attached and will be subject to the review and approval of the County Attorney
- (26) The Applicant agrees that all trash shall be kept in storage facilities within each individual building or unit and a residential type garbage service used, with pickups between the hours of 8:00 A.M. and 7:00 P.M. Monday through Friday.
- (27) The Applicant agrees to the following Staff Comments: Historic Preservation, Water and Sewer, and DOT. In addition the Applicant agrees

to Stormwater Management comments in keeping with the Developer's
overall effort to increase water quality and detention on the site.

- (28) The Owner/ Developer shall enter into a Development Agreement pursuant to O.C.G.A. Section 36-71-13 for the dedication of system improvements and the mitigation of traffic concerns.
- (29) The Applicant agrees to exclude, the following uses from the property: Recycling Collections; Golf Courses; Group Homes; In-Home Day Care; Fishing lakes; Child Care; Nursery Schools; and Communication Towers and Antennas.
- (30) The Applicant agrees that No commercial deliveries will take place between the hours of 9P.M. and 7A.M.
- (31) The Applicant agrees to amend the POA covenants to include maintaining a long-term Larvacide program for the purpose of lowering the mosquito populations contained within the detention areas.
- (32) The Developer wishes to make known their use of a general contingency fund provided for in the duration of the primary development loan. Said funds shall be used to correct any deficiencies within the project or damages as a result of the project until the final inspection of the site by Cobb County. Any damages that occur during the construction process through to the final inspection should be the sole financial responsibility of the developer, and should be paid for out of the developer's contingency funds

We believe the requested zoning pursuant to the referenced site plan, the stipulations contained herein and staff comments and recommendations is an appropriate use when considering the owners and properties surrounding the proposed development. This development shall be of high caliber and will be an enhancement to the community.

Sincerely,


Carl A. Wynne
President

LETTER OF CREDIT
PERFORMANCE AGREEMENT

Petition No. Z-52
Meeting Date 5-18-04
Continued

For _____
Account # _____

THIS AGREEMENT, entered into this _____ day of _____, 20____,
Between _____ (hereinafter
called as "Developer"), with its principal place of business at _____ and the
County of Cobb, a political subdivision of the State of Georgia, (hereinafter called
"County"), and _____ (hereinafter called "Issuer"), with its principal
place of business at _____.

Whereas, the Developer intends to cause the development of the tract of land consisting of 7.54 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject of rezoning application No. Z-52 (2004).

Whereas, approximately Four Hundred feet downstream an approximately 12 acre lake, known as Dobbs Lake, is located on Land Lots 387 and 428 , Cobb County, Georgia; and

Whereas, the Developer intends to provide and make sufficient funds available for repairs, in the event repairs to the dam or dam structures situated on said lake are necessitated by increased sediment deposits or increased water runoff directly caused by the development of the subject property after such time as the developer has received a final inspection from the Director of the Community Development Agency of Cobb County.

Whereas, as a condition precedent to the rezoning of the above described property the Developer has agreed to the submittal of a letter of indemnification to Vita and Nikola Galinac, Patrick and Sue Hilton, and Janice B. Dobbs and an accompanying Letter of Credit in favor of Cobb County; and

Whereas, the Developer has received approval of the construction plans in accordance with the plans and specifications on file with the Community Development Agency for the improvement of said property; and

Whereas, the Developer certifies that any and all persons, firms, or corporations providing labor and/or materials required for the repair of said dam or structures situated on said lake will be paid in full; and

Whereas, the parties have agreed that the Issuer is acceptable to all parties to act in such capacity;

Petition No. 2:52
Meeting Date 5-18-14
Continued

NOW, THEREFORE, in consideration of the foregoing promises, it is hereby agreed:

1. The Developer has attached the unconditional irrevocable Letter of Credit in The sum of One Hundred Thousand Dollars (\$100,000.00) with the issuer, to guarantee that repairs if necessitated will be constructed as required by the Community Development Agency and in accordance with the construction plans and specifications for the development.
2. The Issuer agrees to disburse funds to the full amount of the Letter of Credit only upon receipt of "Proper Authorization" as hereinafter defined. "Proper Authorization" shall mean the authority in written form from Cobb County Community Development Agency Director stating that a disbursement is authorized:
 - (a) To the Developer, or to any party designated to the Developer, upon delivery of "Proper Authorization" from the Community Development Agency Director; the County through the Community Agency Director, shall issue such "Proper Authorization" when the repairs have progressed satisfactory to the state of development for which payment is made and upon receipt of the County of a certificate to that effect signed by the Developer and the registered Engineer for the Development and upon proof satisfactory to the County that all bills therefore have been paid to date, including but not limited to bills for surveying, engineering, land clearing, construction of improvements, and materials which are included in the repairs.
 - (b) To the County upon delivery of "Proper Authorization" from the Community Development Agency Director, upon his determination that any portion or all of the said improvements have not been constructed by the Developer in accordance with the approved construction plans or agreed to plan for repairs to said lake.
3. The Issuer hereby acknowledges that it has extended an unconditional irrevocable Letter of Credit, referred to in Item 1 above, and represents that it has no obligation whatsoever to any of the parties hereto except to release said funds within 10 days upon delivery of "Proper Authorization" from the Community Development Agency Director. The Developer does hereby release and hold the Issuer harmless from any and all claims whatsoever by it against the Issuer for releasing such funds to the County in accordance with the terms thereof. This Agreement shall not be terminated or otherwise allowed to expire without at least written notice to that effect from the Issuer to both the County and Developer.
4. If the funds are inadequate to pay for any cost covered by this Agreement, the Developer shall pay any and all cost beyond coverage.

5. A further condition of this Agreement is that the irrevocable letter of credit shall remain in effect a period not to exceed 12 months from the Final Inspection of the site by a representative of the Community Development Agency Director, provided that the Property Owners Association to be formed by the Developer can demonstrate cash reserves of no less than \$100,000.00.

WITNESS The hands and official seals of the parties hereto on the day and year first above written.

COBB COUNTY, GEORGIA

By: _____
Community Development Agency Director

(Corporate Seal)

Developer: _____

By: _____

Title: _____

(Corporate Seal)

ISSUER: _____

By: _____

Title: _____

Approved as to form:

By: _____
Office of the County Attorney

INDEMNIFICATION AGREEMENT continued

This Agreement of Indemnification is made this _____ day of _____
2004 by

(Indemnitor) and is made in to induce Cobb County to issue a Land Disturbance Permit for the development of 7.54 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject of rezoning application No. Z-52 (2004) by Lost Mountain Enterprises, Inc. This Indemnity Agreement relates to and concerns an approximately 12 acre lake, known as Dobbs Lake, located on Land Lots 387 and 428, Cobb County, Georgia, including the dam and dam structures located on said Lake.

Indemnitor hereby undertakes to indemnify Vita and Nikola Galinac, Patrick and Sue Hilton and Jance B. Dobbs, owners of said Lake, and their successors in interest (Indemnitees) from any and all damages, losses or injury to said Dobbs Lake, the dam and dam structures situated on said lake, which damages, losses or injury are directly caused by the development of the tract of land consisting of 7.54 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject of rezoning application No. Z-52. This Agreement shall include the indemnification of the indemnities for all cost and expenses of making any necessary repairs to the dam or dam structures situated on said lake necessitated by increased sediment deposits or increased water runoff directly caused by the development of the subject property including excavation, site development and the construction of the buildings and common areas to be situated on the subject property.

Indemnitor agrees to this indemnification agreement until such time as Indemnitor no longer owns any portion of the subject property. At such time, the Property Owners

Continued

Association to be formed by the Indemnitor as part of the rezoning of the subject property shall be bound by this Indemnity Agreement and this shall so be provided for in the documents of organization for said Property Owners Association.

Indemnitor shall be given written notice by certified or registered mail at _____, or any other address requested by Indemnitor in writing, of any act or occurrence involving a claim or demand under this agreement within 5 days after such act or occurrence comes to the knowledge of the Indemnitees.

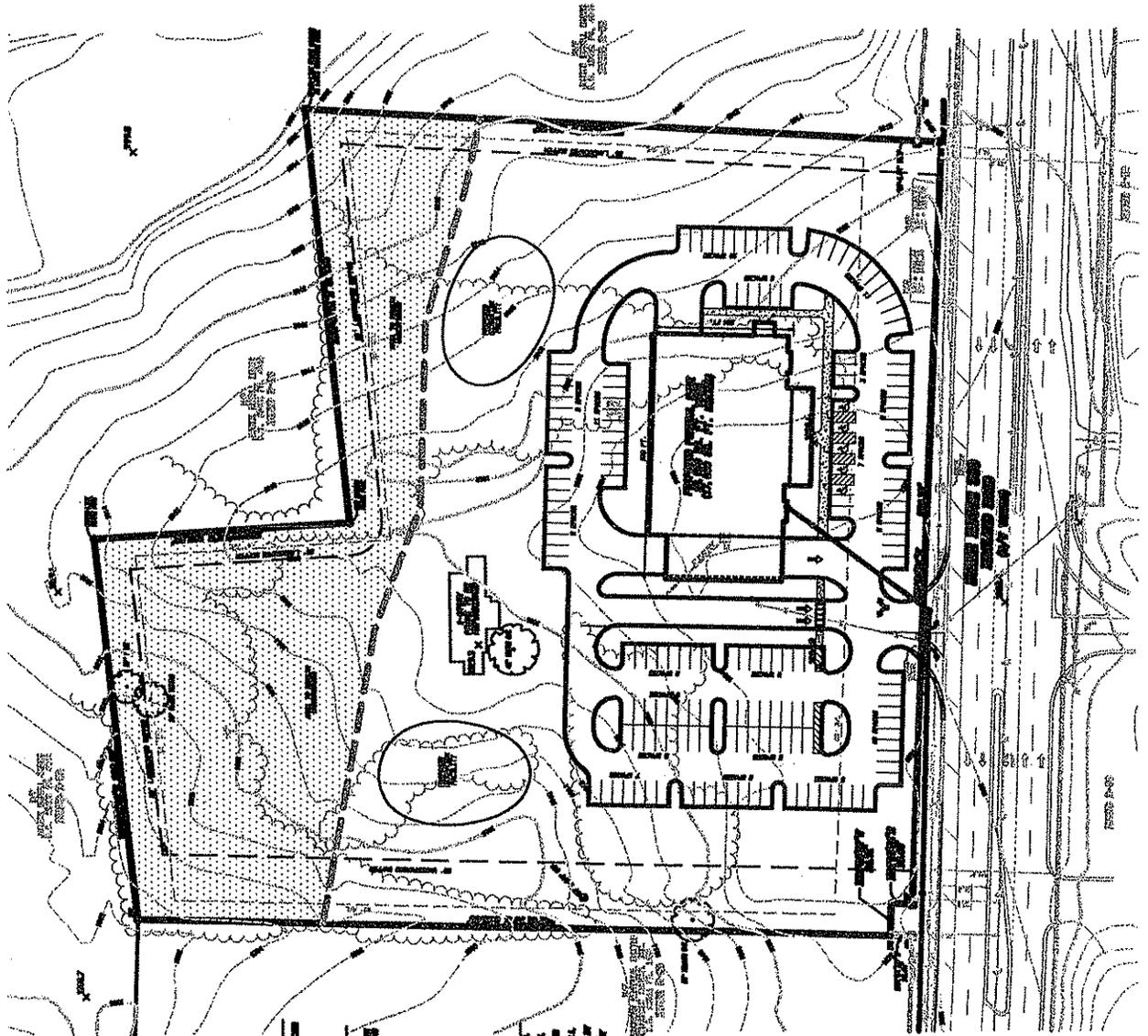
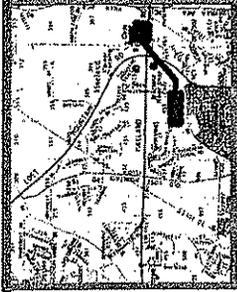
(Indemnitor)

By Its:

**THE STATE OF
NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BIRMINGHAM**



ANTENNA AREA



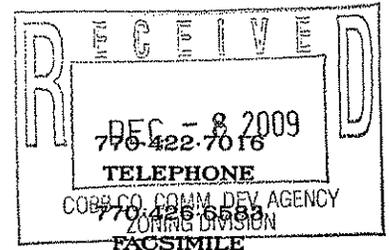
PROPOSED SITE
 THE PROPOSED SITE IS LOCATED ON THE EAST SIDE OF ROUTE 1, APPROXIMATELY 1/4 MILE SOUTH OF THE INTERSECTION OF ROUTE 1 AND ROUTE 100. THE SITE IS SURROUNDED BY A MIXTURE OF RESIDENTIAL AND COMMERCIAL DEVELOPMENT. THE PROPOSED DEVELOPMENT WILL CONSIST OF A 100,000 SQUARE FOOT BUILDING AND A 200 CAR PARKING LOT. THE SITE IS ZONED R-100 (RESIDENTIAL SINGLE-FAMILY) AND THE PROPOSED DEVELOPMENT IS IN CONFORMANCE WITH THE ZONING REGULATIONS. THE PROPOSED DEVELOPMENT WILL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE LOCAL ZONING BOARD AND THE STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PROPOSED DEVELOPMENT
 THE PROPOSED DEVELOPMENT WILL CONSIST OF A 100,000 SQUARE FOOT BUILDING AND A 200 CAR PARKING LOT. THE BUILDING WILL BE A SINGLE-STORY STRUCTURE WITH A FLAT ROOF AND A PERFORATED METAL FACADE. THE BUILDING WILL BE USED AS A COMMERCIAL OFFICE SPACE. THE PARKING LOT WILL BE PAVED WITH ASPHALT AND WILL BE SURROUNDED BY A CONCRETE CURB. THE PROPOSED DEVELOPMENT WILL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE LOCAL ZONING BOARD AND THE STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PROPOSED DEVELOPMENT GROUP, LLC
 1000 BROADWAY, SUITE 2000
 NEW YORK, NY 10018
 TEL: 212-512-1000
 FAX: 212-512-1001
 WWW: WWW.PROPOSEDDEVELOPMENTGROUP.COM

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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



GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

MELISSA P. HAISTEN
JUSTIN H. MEEKS

SAMSLARKINHUFF.COM

December 8, 2009

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
191 Lawrence Street
Suite 300
Marietta, Georgia 30060-1661

Re: Other Business Agenda Application to Amend Previously Approved Site Plan and Stipulations regarding Application of Lost Mountain Enterprises, Inc. (No. Z-52 [2004])

Dear Mark:

As you know, this firm represents Mayes Ward-Dobbins Funeral Home ("Mayes Ward-Dobbins") concerning the above-captioned application. The application was continued by the Board of Commissioners at the behest of the applicant and neighboring property owners and is now scheduled to be heard and considered by the Cobb County Board of Commissioners, immediately following its regularly scheduled zoning hearings, on December 15, 2009.

The application seeks approval from the Cobb County Board of Commissioners regarding Mayes Ward-Dobbins' proposal to build and develop and funeral home on property which was the subject matter of a previous rezoning application (No. Z-52 [2004]) wherein the subject property was rezoned to the Low Rise Office ("LRO") district.

Previously, on behalf of Mayes Ward-Dobbins, I submitted a letter of agreeable stipulations/conditions, dated October 28, 2009. However, in accordance with the dialogue which we have continued with the County's professional staff, the District Commissioner and adjacent property and business owners, I am submitting this revised letter of agreeable stipulations, which includes the stipulations/conditions negotiated between the 2004 applicant and adjacent property owners. If the application is approved, these stipulations/ conditions shall become conditions and a part of the approval and binding upon the subject property thereafter. The referenced stipulations are as follows, to-wit:

1. The subject property shall be utilized exclusively for Mayes Ward-Dobbins Funeral Home to the exclusion of all other permitted uses under the LRO district.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 2
December 8, 2009

2. Development of the subject property shall be in substantial conformity to the site plan prepared by Betterton Surveying & Design, Inc. which was filed contemporaneously with the application and the building footprint shall be limited to the square footage reflected thereon.
3. The architectural style, composition and treatment of the building shall be residential in appearance, with a pitched roof and architectural shingles, and constructed of brick on all four (4) sides. All exterior elevations shall be subject to approval of an Architectural Review Committee (ARC) which shall be established by Mayes Ward-Dobbins and which shall consist of three (3) voting members for a period of two (2) years from the zoning approval. One member shall be appointed by Mayes Ward-Dobbins, one member shall be Janice Dobbs or her appointed designee and one member shall be the District Commissioner of Cobb County or that Commissioner's designee. An ex officio member to the ARC shall be appointed by the Board of Trustees of McEachern Memorial United Methodist Church. After the initial two (2) year period, the members of the ARC shall be appointed in accordance with the covenants of the development. The covenants shall provide that one member of the ARC shall be a Dobbs family designee.
4. The entrance to the Mayes Ward-Dobbins Funeral Home shall be professionally landscaped with ground-based, monument style signage. The entrance landscaping plan shall be subject to review and approval of the ARC.
5. Exterior lighting within the project shall be determined by the development of a photometric plan coordinated with Cobb County staff as designated by the District Commissioner. Mayes Ward-Dobbins shall work with staff and a representative of adjacent properties to develop a lighting plan to minimize the spillage of excess light onto adjacent residential properties. The lighting plan shall include the use of the following devices, as necessary: Timers on non-essential security lights to turn off at 10:00 p.m. and baffles on security lights. No flood lights shall be installed on the rear of the building and all exterior lights on the side and rear of the building shall be on timers.
6. 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 installation of an 80' maintained buffer along the most northern property line and the installation of a 30' maintained buffer along the northeastern and eastern properties lines. In addition to the maintained buffer, an agreement to install for

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 3
December 8, 2009

additional screening, a 20' landscaped buffer along the northern, northeastern and eastern property lines, for a total buffer area of 50' along the northeastern and eastern lines and 100' along the most northern line. The landscape buffer shall contain a solid line of Leyland Cypress trees, not to exclude additional plantings nor the removal of existing bamboo. The maintained buffer shall have the existing trees and shrubs tended and allow for the maintenance of the current vegetation. The bamboo located within the buffer area shall not be removed as well. No buildings shall be allowed within the buffer area.

- b. All buffers within the project shall be controlled, maintained and protected by recorded covenants and enforced by the ARC as established above.
- 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.
- d. All landscaping shall be professionally designed, maintained and irrigated (where not disallowed by State or County water restrictions). Additionally, said landscaped areas shall be perpetually maintained and any dead or irrevocably diseased vegetation shall be replaced as necessary.
- e. All grassed areas within the proposed development shall be sodded and irrigated as appropriate.
- f. All landscaped and buffered areas may be penetrated for purposes of access, utilities and stormwater management.
- g. Detention/water quality ponds shall be visually screened with attendant landscaping and/or fencing. Any chain-link fence utilized shall be green or black vinyl coated.
- h. All HVAC and/or mechanical systems shall be screened from area residences and public rights-of-way.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 4
December 8, 2009

7. Compliance with recommendations from the Cobb County Department of Transportation and compliance with the following recommendations from the Georgia Department of Transportation (“GDOT”):¹
 - a. Ensuring that the subject property’s drainage does not adversely impact the existing and proposed drainage along Macland Road (S.R. 360) and the submission of those drainage plans to GDOT for review and approval.
 - b. The proposed driveway shall utilize channelization for driveway traffic to avoid through traffic conflicts.
 - c. The taper for the west-bound right turn lane is close to the proposed driveway; however, same has been approved by GDOT.
 - d. Ensuring that the existing shoulder on Macland Road (S.R. 360) is adequate for a deceleration lane with an appropriate taper.
 - e. Mayes Ward-Dobbins shall enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for the dedication of system improvements and the mitigation of traffic concerns.
8. Compliance with the recommendations from Cobb County’s Historic Preservation Planner and the recommendations and conclusions of Cultural Resource Management Consultants R. S. Webb & Associates with respect to the existing farmhouse on the subject property.²
9. Compliance with the following recommendations from the Cobb County Cemetery Preservation Commission (“CCCPC”):
 - a. Maintaining a 50’ undisturbed, natural buffer along the common boundary between the subject property and the Macland Cemetery (McEachern Memorial United Methodist Church).

¹ The development proposal has been reviewed by GDOT Project Manager Chandria L. Brown, P.E. (GDOT No. P.I. 0006049).

² Archival documentation of Gladstone Farm Property and the Turner-McEachern-Garner house, prepared by R. S. Webb & Associates was submitted under separate cover on November 17, 2009.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 5
December 8, 2009

- b. Any development adjacent to the 50' undisturbed, natural buffer shall have required setbacks in addition to the buffer.
 - c. The 50' undisturbed, natural buffer shall be recorded as a Conservation Easement with the CCCPC having a third-party right of enforcement.
 - d. The erection of a 6' high chain link, vinyl coated or wrought iron fence to be installed on the outer perimeter of the 50' undisturbed, natural buffer. Said chain link fence shall be 9 gauge with top and bottom rails with fence posts set in concrete.
 - e. The installation of an orange protective fence on the outer perimeter of the 50' undisturbed, natural buffer prior to the commencement of construction, with said fence being maintained until a Certificate of Occupancy is issued with respect to the subject property. Additionally, the installation of an orange protective fence along the outer perimeter of the other buffers outlined hereinabove (paragraph 6.a.).
 - f. Permanent signs stating "Cemetery Preservation Buffer – Do Not Disturb" shall be erected at 50' intervals along the outer perimeter of the 50' undisturbed, natural buffer.
 - g. Compliance with all state and local laws and ordinances related to cemeteries in addition to those in the existing Covenant.
 - h. All cemetery preservation requirements shall be site plan specific.
10. Compliance with the recommendations from Cobb County Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality.
- a. Detention and water quality facilities shall be designed and placed to obtain the lowest impact to buffer areas and areas that are designated to remain undisturbed.
 - b. Compliance with Cobb County parking ratio requirements.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 6
December 8, 2009

- c. The site shall be developed using a phased construction plan. Prior to beginning construction on the building, the pavement area shall be in place with no less than six (6) inches of stone over geotex fabric and landscaping finalized or temporary landscaping control measures in place.
- d. Utilization of a scavenge box system to separate pollutants from the stormwater entering detention and water quality areas.
- e. In order to dissipate the stormwater flow from the ponds, the utilization of level spreaders in the control of stormwater discharge.
- f. An agreement that the site shall be designed to minimize grading as much as possible.³
- g. Mayes Ward-Dobbins agrees to a pre-development and a post-development lake study on the lake located downstream from the project. Evaluation shall be performed by a licensed professional engineer, including a bottom and powder level analysis, and a water quality test to check for pollutants. Mayes Ward-Dobbins agrees to submit all engineering, including but not limited to, construction plans, lake study, hydrology, dam and spillway analyses, NPDES Erosion Control Plans and Notice of Intent to the engineering firm of Walden & Ashworth or any other professional engineer designated by the lake owners no less than thirty (30) days prior to Mayes Ward-Dobbins' initial submission of plans for Plan Review to Cobb County. Mayes Ward-Dobbins agrees to pay for all costs associated with the lake owners' engineers' services to review the pre-development and post-development lake studies. Any comments by the lake owners' engineers will be submitted to Cobb County at Mayes Ward-Dobbins' initial submission of plans for review. Said studies shall be coordinated with the Stormwater Management Division of Cobb County and paid for by Mayes Ward-Dobbins. Mayes Ward-Dobbins will submit all weekly and monthly inspections under Mayes Ward-Dobbins' NPDES permit, monthly to said engineer, until such

³ The original rezoning in 2004 (Z-52) allowed for a development consisting of a total of 57,000 square feet; whereas, the Mayes Ward-Dobbins proposal contemplates the development of a building footprint comprising approximately 17,000 square feet.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 7
December 8, 2009

time as Mayes Ward-Dobbins notifies the issuing authority for Erosion and Sedimentation Control Permits that construction activities have been completed.

- h. An agreement to the use of flocculates in the erosion control plan to reduce the discharge of sediment from the subject property.
- i. An agreement to develop a temporary sediment control plan to be developed in conjunction with the Stormwater Management Division utilizing additional sediment control devices to retain all sedimentation on site during the construction process.
- j. All stormwater issues shall be monitored by the applicant's licensed geotechnical engineer during the construction process.
- k. Mayes Ward-Dobbins agrees to do a spillway study on the downstream lake. Said study shall be coordinated with the Stormwater Management Division of Cobb County and paid for by Mayes Ward-Dobbins. Copies of the spillway study shall be provided to the County and the lake owners.
- l. Mayes Ward-Dobbins shall provide a letter of indemnification to the lake owners prior to the start of construction. Said letter shall indemnify the owners from the costs of making any changes to the dam or dam structures necessitated as a direct result of the up-stream development by Mayes Ward-Dobbins. A copy of the indemnification letter is attached hereto and will be subject to review and approval by the County Attorney.
- m. The applicant shall, if requested, clean out the 18" storm drain running under the Dobbs property driveway.
- n. Prior to beginning construction, Mayes Ward-Dobbins shall post an erosion and sediment control performance bond in the amount of \$10,000.00 bound unto Cobb County.
- o. Prior to beginning construction, Mayes Ward-Dobbins shall post a letter of credit in the amount of \$100,000.00 bound unto Cobb County. A copy of the letter of credit is attached hereto and will be subject to review and approval of the County Attorney.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 8
December 8, 2009

- p. Any damages which may occur during the construction process which directly and adversely affect property belonging to the lake owners shall be the sole financial responsibility of Mayes Ward-Dobbins.
11. An agreement that all trash shall be kept in storage facilities which shall be enclosed and screened from view. A residential-type garbage service will be utilized with pick ups occurring between the hours of 8:00 a.m. and 7:00 p.m., Monday through Friday.
12. An agreement to staff comments and recommendations from Historic Preservation, the Water System, Cobb DOT and Georgia DOT. In addition, an agreement to all Stormwater Management comments in keeping with the overall effort to increase water quality and detention on the site.
13. An agreement that there be no commercial deliveries taking place between the hours of 9:00 p.m. and 7:00 a.m.
14. An agreement to include a long term larvicide program for the purposes of lowering the mosquito populations contained within the detention areas.
15. If the subject property is determined to be undevelopable for the purposes sought by Mayes Ward-Dobbins or, if for any reason, the development of the subject property does not commence within eighteen (18) months from the date of approval, then, and in such an event(s), the zoning classification of the subject property shall revert to the original rezoning with stipulations/conditions approved in 2004 (No. Z-52).
16. Minor modifications to the site plan, landscape plan and the stipulations/conditions contained within this letter may be reviewed and approved by the District Commissioner.

The subject property is zoned LRO and is located within the confines of a Neighborhood Activity Center ("NAC") as shown on Cobb County's Future Land Use Map and as designated under Cobb County's Comprehensive Land Use Plan. Mayes Ward-Dobbins' proposal to develop the subject property for the sole and exclusive purpose of a funeral home is a lessening of intensity in terms of development and is appropriate in the context of existing development and uses adjacent to the subject property.

VIA HAND DELIVERY

Mr. Mark A. Danneman, Manager
Cobb County Zoning Department
Page 9
December 8, 2009

Please let me know if you need additional information or documentation prior to the formulation of your analysis and staff recommendations. 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
Mr. Robert L. Hosack, Jr., AICP, Director – VIA E-Mail - w/attachments
Mr. Dana Johnson, AICP, Manager of Planning Division – VIA E-Mail – w/attachments
Mr. John P. Pederson, AICP, Planner III – VIA E-Mail – w/attachments
Mr. David Breaden, P.E., Cobb County Stormwater Management – VIA E-Mail
– w/attachments
Ms. Jane Stricklin, P.E., Cobb County Department of Transportation – VIA E-Mail
- w/attachments
Ms. Karen King, Assistant County Clerk – VIA Hand Delivery – w/enclosures
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/enclosures
Ms. Mandy Elliott, Cobb Historic Preservation Planner – VIA E-Mail – w/attachments
Ms. Helga Hong, Cobb County Cemetery Preservation Commission – VIA E-Mail
- w/attachments
Ms. Janice B. Dobbs – w/enclosures
Mr. & Mrs. Nikola Galinac – w/enclosures
Mr. & Mrs. Patrick L. Hilton – w/enclosures
Mr. Robert S. (Steve) Webb, R. S. Webb & Associates – VIA E-Mail – w/attachments
Mr. Robert B. Betterton – VIA E-Mail – w/attachments
Mr. Terry Pendley, Mayes Ward-Dobbins Funeral Home – VIA E-Mail – w/attachments

INDEMNIFICATION AGREEMENT

This Agreement of Indemnification is made this _____ day of _____, 2009, by _____ (Indemnitor) and is made to induce Cobb County to issue a Land Disturbance Permit for the development of 7.671 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject of an Other Business Agenda application by Mayes Ward-Dobbins Funeral Home. This Indemnity Agreement relates to and concerns an approximately 12 acre lake, known as Dobbs Lake, located on Land Lot 387 and 428, Cobb County, Georgia, including the dam and dam structures located on said lake.

Indemnitor hereby undertakes to indemnify Vita and Nikola Galinac, Patrick and Sue Hilton and Janice B. Dobbs, owners of said lake, and their successors in interest (Indemnitees) from any and all damages, losses or injury to said Dobbs Lake, the dam and dam structures situated on said lake, which damages, losses or injury are directly caused by the development of the tract of land consisting of 7.671 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject of an Other Business Agenda application. This Agreement shall include the indemnification of the indemnities for all cost and expenses of making any necessary repairs to the dam or dam structures situated on said lake necessitated by increased sediment deposits or increased water runoff directly caused by the development of the subject property including excavation, site development and the construction of the building and common areas to be situated on the subject property.

Indemnitor agrees to this indemnification agreement until such time as Indemnitor no longer owns any portion of the subject property. At such time, the Indemnitor's successor in title

shall be bound by this Indemnity Agreement and this shall so be provided for in the documents conveying title to Indemnitor's successor in title.

Indemnitor shall be given written notice by certified or registered mail at _____
_____, or any other address requested by Indemnitor in writing, or
any act or occurrence involving a claim or demand under this agreement within five (5) days
after such act or occurrence comes to the knowledge of the Indemnitees.

(Indemnitor)

By its: _____

**LETTER OF CREDIT
PERFORMANCE AGREEMENT**

For: _____
Account #: _____

THIS AGREEMENT entered into this ____ day of _____, 2009, between Mayes Ward-Dobbins Funeral Home (hereinafter called "Developer"), with its principal place of business at 180 Church Street, Marietta, Georgia 30060, and the County of Cobb, a political subdivision of the State of Georgia (hereinafter called "County"), and _____ (hereinafter called "Issuer"), with its principal place of business at _____.

WHEREAS, the Developer intends to cause the development of the tract of land consisting of 7.671 acres, located in Land Lot 428, 19th District, 2nd Section, Cobb County, Georgia and which is the subject matter of an Other Business Agenda application; and

WHEREAS, approximately four hundred feet downstream an approximately 12 acre lake, known as Dobbs Lake, is located on Land Lots 387 and 428, Cobb County, Georgia; and

WHEREAS, the Developer intends to provide and make sufficient funds available for repairs, in the event repairs to the dam or dam structures situated on said lake are necessitated by increased sediment deposits or increased water runoff directly caused by the development of the subject property after such time as the Developer has received a final inspection from the Director of the Community Development Agency of Cobb County; and

WHEREAS, as a condition precedent to the rezoning of the above described property, the Developer has agreed to the submittal of a letter of indemnification to Vita and Nikola Galinac, Patrick and Sue Hilton, and Janice B. Dobbs and an accompanying Letter of Credit in favor of Cobb County; and

WHEREAS, the Developer has received approval of the construction plans in accordance with the plans and specifications on file with the Community Development Agency for the improvement of said property; and

WHEREAS, the Developer certifies that any and all persons, firms, or corporations providing labor and/or materials required for the repair of said dam or structures situated on said land will be paid in full; and

WHEREAS, the parties have agreed that the Issuer is acceptable to all parties to act in such capacity.

NOW, THEREFORE, in consideration of the foregoing promises, it is hereby agreed:

1. The Developer has attached the unconditional irrevocable Letter of Credit in the sum of One Hundred Thousand Dollars (\$100,000.00) with the issuer, to guarantee that repairs if necessitated will be constructed as required by the Community Development Agency and in accordance with the construction plans and specifications for the development.
2. The Issuer agrees to disburse funds to the full amount of the Letter of Credit only upon receipt of "Proper Authorization" as hereinafter defined. "Proper Authorization" shall mean the authority in written form from Cobb County Community Development Agency Director stating that a disbursement is authorized:
 - (a) To the Developer, or to any party designated by the Developer, upon delivery of "Proper Authorization" from the Community Development Agency Director; the County through the Community Agency Director, shall issue such "Proper Authorization" when the repairs have progressed satisfactory to the state of development for which payment is made and upon receipt of the County of a certificate to that effect signed by the Developer and the registered Engineer for the Development and upon proof satisfactory to the County that all bills therefore have been paid to date, including but not limited to bills for surveying, engineering, land clearing, construction of improvements, and materials which are included in the repairs.
 - (b) To the County upon delivery of "Proper Authorization" from the Community Development Agency Director, upon his determination that any portion or all of the said improvements have not been constructed by the Developer in accordance with the approved construction plans or agreed to plan for repairs to said lake.
3. The Issuer hereby acknowledges that it has extended an unconditional irrevocable Letter of Credit, referred to in Item 1 above, and represents that it has no obligation whatsoever to any of the parties hereto except to release said funds within 10 days upon delivery of "Proper Authorization" from the Community Development Agency Director. The Developer does hereby release and hold the Issuer harmless from any and all claims whatsoever by it against the Issuer for releasing such funds to the County in accordance with the terms thereof. This Agreement shall not be terminated or otherwise allowed to expire without at least written notice to that effect from the Issuer to by the County and Developer.
4. If the funds are inadequate to pay for any cost covered by this Agreement, the Developer shall pay any and all cost beyond coverage.
5. A further condition of this Agreement is that the irrevocable Letter of Credit shall remain in effect a period not to exceed 12 months from the Final Inspection of the site by a representative of the Community Development Agency Director, provided that the Developer can demonstrate cash reserves of no less than \$100,000.00.

WITNESS the hands and official seals of the parties hereto on the day and year first above written.

COBB COUNTY, GEORGIA

By: _____
Community Development Agency Director

(Corporate Seal)

Developer: Mayes Ward-Dobbins Funeral Home

By: _____

Title: _____

(Corporate Seal)

Issuer: _____

By: _____

Title: _____

Approved as to form:

By: _____
Office of the County Attorney

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 12-15-09
~~11/17/09~~ *WJR*

Applicant: Mayes Ward-Dobbins Funeral Home Phone #: (770) 428-1511
(applicant's name printed)

Address: 180 Church Street, NE, Marietta, GA 30060 E-Mail: terry@mayeswarddobbins.com

SAMS, LARKIN & HUFF, LLP 376 Powder Springs Street, Suite 100

Garvis L. Sams, Jr. Address: Marietta, GA 30064

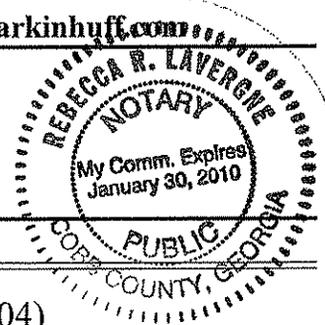
(representative's name, printed)

[Signature] Phone #: (770) 422-7016 E-Mail: gsams@samslarkinbuff.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] My commission expires: _____

Notary Public



Commission District: Goreham (1) **Zoning Case:** No. Z-52 (2004)

Date of Zoning Decision: 5/18/04 **Original Date of Hearing:** 5/18/04

Location: North side of Macland Road west of Villa Rica Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 428 **District(s):** 19th

State specifically the need or reason(s) for Other Business: To amend a previously approved site plan and stipulations reducing the total number of buildings from ten (10) to one (1) and reducing the total square footage of the proposed development from 57,000 square feet to 17,000 square feet.

(List or attach additional information if needed)