

**FEBRUARY 15, 2011 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM # 2

PURPOSE

To consider a site plan and stipulation amendment for Dr. Viralkumar Patel regarding application Z-39 (Traton Corp. and W & H Properties, LLC) of 2004, for property located on the north side of the East-West Connector, between Hicks Road and Felton Hill Road in Land Lots 25 and 48 of the 17th District.

BACKGROUND

The subject property was zoned PVC with stipulations for a 181-acre mixed use development consisting of a variety of residential and commercial uses. This particular request concerns only a 1.2-acre piece of commercial property at the northeasterly intersection of Hicks Road and the East-West Connector. The site was approved for an 8,400 square-foot retail building. The applicant would like to amend the site plan and stipulations for a 10,000 square-foot medical office building. The applicant has also submitted proposed architectural renderings of the buildings. If approved, all other zoning stipulations would remain in effect. The Board of Commissioners' decision is attached. The request has been submitted to Staff, which has no comments.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the proposed site plan and stipulation amendment.

ATTACHMENTS

Zoning Stipulations (Exhibit A)
Other Business Application (Exhibit B)
Approved Site Plan (Exhibit C)
Proposed Site Plan (Exhibit D)
Proposed Building Elevations (Exhibit E)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 21, 2010
PAGE 8

OTHER BUSINESS Continued)

ITEM #2 (Continued)

MOTION: Motion by Thompson, second by Ott, to approve Other Business Item No. 2 for Metro Development Group II, LLC regarding application Z-39 (Traton Corp. and W & H Properties, LLC) of 2004, for property located on the north side of the East-West Connector, between Hicks Road and Felton Hill Road in Land Lots 25 and 48 of the 17th District, subject to:

- site plan received by the Zoning Division September 8, 2010, which includes replacement of landscaped park with 18 foot landscape strip along the northern property line (attached and made a part of these minutes)
- architectural renderings for the Daycare Facility and the Medical Facility submitted at the public hearing *except that stipulation letter provides for muted, earth tone brick* (attached and made a part of these minutes)
- letter of agreeable conditions dated September 20, 2010 *with the following additions/changes* (attached and made a part of these minutes):
 - Item No. 1 Daycare Facility (c) – Remove reference to *“white picket fence”*
 - Item No. 1 Daycare Facility – Add (c) *“There will be no vinyl shutters.”*
 - Item No. 2 Medical Facility (c) – Remove reference to *“cedar shake type siding”*
 - Add Item No. 3 – *“Creation of a three (3) member architectural review committee (for the undeveloped portion of the 4.7 acre commercial tract) consisting of the Applicant or representative, one (1) member of the Barnes Mill Subdivision HOA, and either the Zoning Division Manager or the Community Development Director.”*
- all other previous stipulations and conditions, not otherwise in conflict, to remain in effect

VOTE: ADOPTED unanimously

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
 WWW.MIJS.COM

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 ROBERT D. INGRAM†
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 AMY L. JETT*

OF COUNSEL:
 JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
 * ALSO ADMITTED IN FL
 ** ALSO ADMITTED IN NM
 **** ALSO ADMITTED IN CA
 = ALSO ADMITTED IN PA
 † ADMITTED ONLY IN TN
 † ADMITTED ONLY IN FL

September 20, 2010

Hand Delivered FILED WITH COUNTY CLERK THIS 21st DAY
 OF Sept 2010 BY John Moore
 RE OB 2
John Moore
 COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
 COBB COUNTY, GEORGIA

Mr. John P. Pederson, AICP
 Zoning Administrator
 Zoning Division
 Cobb County Community Development Agency
 Suite 400
 1150 Powder Springs Road
 Marietta, Georgia 30064

Min. Bk. 61 Petition No. OB 2
 Doc. Type Letter of agree-
able conditions
 Meeting Date 9/2/10

RE: Application for "Other Business" - Application No. Z-39(2004)
 Applicant: Metro Development Group II, LLC
 Owner: Barnes Mill Retail, LLC
 Property: Retail Development located on the northerly
 side of East-West Connector and the easterly
 side of Hicks Road, Land Lots 25 and 48,
 17th District, 2nd Section, Cobb County, Georgia

Dear John:

The undersigned and this firm represent Metro Development Group II, LLC, the Applicant (hereinafter referred to as "Applicant"), and Barnes Mill Retail, LLC, the Property Owner (hereinafter referred to as "Property Owner"), in their Application for "Other Business" with respect to the retail development located on the northerly side of the East-West Connector and the easterly side of Hicks Road, Land Lots 25 and 48, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). After meeting and discussions with the Barnes Mill Subdivision homeowners, Applicant has agreed to certain additional stipulations to the existing zoning, which will become a part of the zoning of the Subject Property if the zoning amendment currently pending is approved, as submitted. These additional stipulations shall become effective only in the event the proposed users of the

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Page 2 of 3
September 20, 2010

Petition No. 0132
Meeting Date 9/21/10
Continued

February 15, 2011
Exhibit "A"
Other Business Item 02

specified tracts close and construct the proposed facilities as set forth in the proposed zoning amendment.

The additional stipulations are as follows:

(1) Daycare Facility:

- (a) The proposed daycare facility shall be constructed substantially in conformance with those certain photographs presented to the Board of Commissioners at its Zoning Hearing on September 21, 2010.
- (b) The brick used on the proposed facility shall be muted, earth tone brick.
- (c) The fence around the playground area shall be either a white picket fence or a black wrought-iron type fence.
- (d) No neon signage shall be permitted.

(2) Medical Facility:

- (a) The proposed medical facility shall be constructed substantially in conformance with that certain photograph presented to the Board of Commissioners at its Zoning Hearing on September 21, 2010.
- (b) The brick used on the proposed facility shall be muted, earth tone brick.
- (c) The accent feature around the tower and upper area, as shown and reflected on the referenced photograph, shall be smooth, hard-coat stucco, or cedar shake type siding.
- (d) No neon signage shall be permitted.

We believe the requested amendment, together with the previously approved stipulations applicable to this portion of the overall project and the stipulations set forth above, are appropriate for the proposed development of the Subject Property. Thank you for your consideration in this request.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Page 3 of 3
September 20, 2010

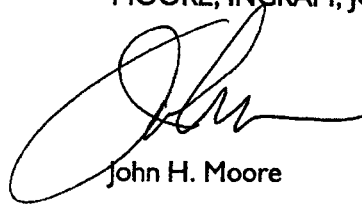
Petition No. 0B2
Meeting Date 9/21/10
Continued

February 15, 2011
Exhibit "A"
Other Business Item 02

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

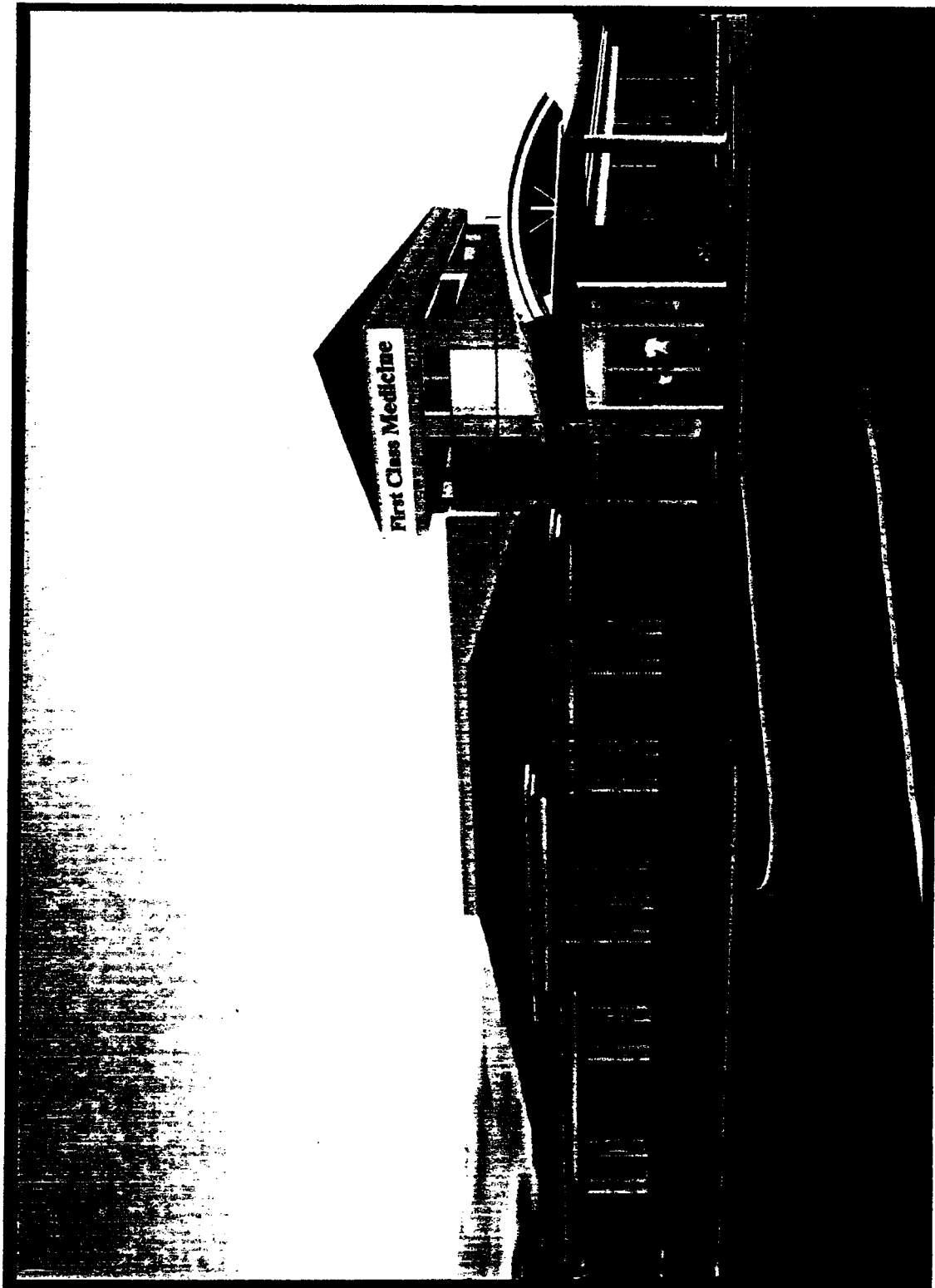
c: Cobb County Board of Commissioners:

- Tim Lee, Chairman
- George W. "Woody" Thompson
- Helen C. Goreham
- Robert Ott
- Thea Powell

Ben Clopper
Mableton Improvement Coalition

Ned Crystal
Jane Beasley
Barnes Mill Residents

Metro Development Group II, LLC



Min. Bk. 61 Petition No. DB2
Doc. Type Architectural
Rendering-Media Facility
Meeting Date 9/2/10

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: February 15, 2011

Applicant: Dr. Viralkumar Patel Phone #: (770) 333-7888

(applicant's name printed)

Address: 3903 South Cobb Drive, Suite 200, Smyrna, GA 30080 E-Mail: vpatel@atlantahandspecialist.com

Hill Foley Rossi & Associates, LLC

Michael A. Rossi, AIA Address: 3680 Pleasant Hill Road, Duluth, GA 30096 Suite 200

(representative's name, printed) Ga. Architect Registration RA9442

Michael Rossi Phone #: (770) 622-9858 E-Mail: mrossi@hfraa.com

(representative's signature)

Signed, sealed and delivered in presence of:

Notary Public, Gwinnett County, Georgia
My Commission Expires July 23, 2013

Donna L. Karr My commission expires: *July 23, 2013*
Notary Public

Titleholder(s) : VIREEN, LLC Phone #: (770) 333-7888

(property owner's name printed)

Address: 3903 South Cobb Drive, Suite 200, Smyrna, GA 30080 E-Mail: vpatel@atlantahandspecialist.com

V. Patel
(Property owner's signature) Dr. Viralkumar Patel

Owner

Signed, sealed and delivered in presence of:

Notary Public, Gwinnett County, Georgia
My Commission Expires July 23, 2013

Donna L. Karr My commission expires: *July 23, 2013*
Notary Public

Commission District: 4 (Thompson) Zoning Case: Z-39 (2004)

Date of Zoning Decision: 8/17/2004 Original Date of Hearing: 3/16/2004

Location: Northerly side of East-West Connector; Easterly side of Hicks Road

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

Land Lot(s): 25 District(s): 17th

State specifically the need or reason(s) for Other Business: _____

See Exhibit "A" attached hereto and incorporated herein by reference.

EXHIBIT "A" – ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(SITE PLAN AMENDMENT)

Application No.:	Z-39 (2004)
Original Hearing Date:	March 16, 2004
Date of Zoning Decision:	August 17, 2004
Site Plan and Stipulation Amendment:	September 21, 2010
Current Hearing Date:	February 15, 2011

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant:	Dr. Viral Patel
Property Owner:	VIREEN, LLC

The property which is the subject of the Application for "Other Business" was the commercial portion of a mixed-use development rezoned to the Planned Village Community ("PVC") zoning category approved by the Cobb County Board of Commissioners on August 17, 2004. As part of the rezoning approval, the Board of Commissioners certain stipulations and conditions were imposed by the Board; as well as stipulations and conditions which were agreed to by the Applicants seeking rezoning (Traton Corp. and W & H Properties, LLC).

As part of a subsequent Site Plan and Stipulation Amendment approved by the Cobb County Board of Commissioners on September 21, 2010, the Board of Commissioners certain stipulations and conditions were imposed by the Board; as well as stipulations and conditions which were agreed to by the Applicants seeking amendment (Metro Development Group II, LLC).

The Applicant for the within "Other Business" Application, Dr. Viral Patel (hereinafter "Applicant"), seeks amendments only to the commercial section of the previously approved development, as follows:

- (1) Applicant requests an amendment of the Master Plan (Tract 2B) for the commercial/retail development which was previously approved by George "Woody" Thompson on September 21, 2010 (a reduced copy of said previously approved "Master Plan" is attached hereto as Exhibit "I"). Applicant submits a revised Master Plan with this Application; and, in conjunction with the approval of the revised Master Plan seeks approval of revised uses for the remaining commercial tract shown thereon for a medical ambulatory surgical center & clinic office facility.

- (2) Applicant seeks the approval of the exterior elevation of the medical office facility, which shall be composed of four-sided brick with accents, pursuant to paragraph 55 (page 10 of the letter of agreeable stipulations and conditions dated July 28, 2004). Copies of said elevations are submitted with this Application.

The proposed amendment does not adversely impact or affect the remaining development or surrounding properties or property owners. If the requested revisions are approved, as submitted, they shall become an additional part of the final rezoning and shall be binding upon the Subject Property.

Unless otherwise stated herein, the balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearing held on August 17, 2004, as to Z-39 (2004), are unaltered by the requests for Master Plan approval and Stipulation Amendments set forth above.



February 15, 2011
Exhibit "B"
Other Business Item 02

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

RE: Application for "Other Business" – Application No. Z-39 (2004)

Applicant: Dr. Viral Patel
Property Owner: VIREEN, LLC
Property: Retail Development located on the northerly side of East-West Connector and the easterly side of Hicks Road, Land Lot 25 and 48, 17th District, 2nd Section, Cobb County, Georgia

Dear Mr. Pederson:

The undersigned and this firm represent Dr. Viral Patel, the Applicant (hereinafter referred to as the "Applicant"), and VIREEN, LLC, the Property Owner, (hereinafter referred to as the "Property Owner"), in their Application for "Other Business" with respect to the retail development located on the northerly side of East-West Connector and the easterly side of Hicks Road, Land Lot 25 and 48, 17th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Subject Property" or the "Property").

The Applicant has agreed to certain additional stipulations to the existing zoning, which will become part of the zoning of the Subject Property if the zoning amendment currently pending is approved, as submitted. These additional stipulations shall become effective only in the event the proposed users of the specified tracts close and construct the proposed facilities as set forth in the proposed zoning amendment.

The additional stipulations are as follows:

Medical Surgery Facility (Tract 2B)

- (a) The proposed medical surgery facility shall be constructed substantially in conformance with that certain elevation presented to the Cobb County Community Development Agency and attached hereto.

As a representative of the Applicant, and as a requirement of this amendment, the undersigned has met with and submitted to the Barnes Mill Homeowners Association for approval of the building elevations and site work. A letter of approval from the BMHOA is pending and shall be forwarded to your attention before the committee meeting.

- (b) The brick used on the proposed facility shall be muted, earth tone brick.
(c) No neon signage shall be permitted.

We believe the requested amendment, together with the previous approved stipulations applicable to this portion of the overall project and the stipulations set forth above, are appropriate for the proposed development of the Subject Property.

Sincerely,


Michael A. Rossi, AIA

<p>EAST WEST MASTER PLAN</p> <p>EAST WEST CONNECTOR AND JACOBS ROAD CORP. CORP., GEORGIA</p>	<p>MetroGroup LAND DEVELOPMENT 100 WEST CHERRYVILLE ROAD SUITE 100 ATLANTA, GA 30338 TEL: 404.524.1000</p>	<p>foresite group Planning Group, Inc. 3100 JACOBS ROAD SUITE 100 ATLANTA, GA 30338 TEL: 404.524.1000 www.foresitegroup.com</p>	<p>DATE: _____ PREPARED BY: _____ CHECKED BY: _____ APPROVED BY: _____</p>
<p>RECEIVED SEP 8 2010 COBB CO. COMM. DEV. AGENCY ZONING DIVISION</p>			
<p>PROJECT DATA</p> <p>PROJECT NAME: _____ LOCATION: _____ OWNER: _____ DESIGNER: _____ DATE: _____</p>	<p>Min. Bk. <u>61</u> Petition No. <u>082</u> Doc. Type <u>site plan</u> Meeting Date _____</p>		

