

**JUNE 21, 2011 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM #6

PURPOSE

To consider a zoning stipulation amendment for Noorul A. Siddiqui regarding rezoning application Z-4 of 2010 (Loretta E. Brown and Noorul A. Siddiqui), for property located on the east side of Powder Springs Road, north of Hurt Road in Land Lot 714 of the 19th District.

BACKGROUND

The subject property was rezoned to LRO for an assisted living facility in 2010 for a maximum of eight residents. At the time of rezoning, the Board of Commissioners placed a reversion clause on the property, if not in operation within eighteen months. The reversion date takes effect on August 16, 2011. Mr. Siddiqui has been working on the project and has made substantial improvements to the property. However, Mr. Siddiqui has been involved in a legal dispute with a business partner and contractor regarding this project, and may not finish within the reversion time frame. The applicant is requesting to extend the reversion clause another twelve months, so he can finish this project. All other zoning stipulations would remain intact. The Board of Commissioners' decision is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the stipulation amendment.

ATTACHMENTS

Current zoning stipulations (Exhibit A)
Site plan (Exhibit B)
Other Business application (Exhibit C)

ORIGINAL DATE OF APPLICATION: 02-16-10

APPLICANTS NAME: LORETTA E. BROWN AND NOORUL A SIDDIQUI

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

BOC DECISION OF 02-16-10 ZONING HEARING:

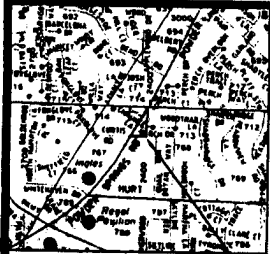
LORETTA E. BROWN AND NOORUL A. SIDDIQUI (Noorul A. Siddiqui and Shahnez A. Siddiqui, owners) requesting Rezoning from **R-20** to **NRC** for the purpose of an Assisted Living Facility in Land Lot 714 of the 19th District. Located on the east side of Powder Springs Road, north of Hurt Road.

At call of petition, the Applicants stated agreement with the Planning Commission recommendation and waived public hearing. There was no opposition. Thereafter, the following motion was made:

MOTION: Motion by Thompson, second by Olens, to delete Rezoning to the **LRO** zoning district **subject to:**

- **site plan received by the Zoning Division on December 2, 2009, with District Commissioner approving minor modifications (attached and made a part of these minutes)**
- **assisted living facility use only, with maximum of eight (8) residents**
- **if facility is not in operation within eighteen (18) months of this date, property reverts to original R-20 zoning**
- **no signs**
- **access and parking/turnaround area to be approved by Cobb DOT in Plan Review**
- **Fire Department comments and recommendations**
- **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



VICINITY MAP

EXHIBIT "A"

SURVEYOR'S WRITTEN DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying in Land Lot 714 of the 18th District, 2nd Section of Cobb County, Georgia, shown as having a total acreage of 2.25 acres, according to a certain plat of survey for Noorul A. Siddiqui and Shaheen A. Siddiqui dated Oct 21, 2009 prepared by Vedder Surveys & Assoc. (bearing the Seal of George Vedder, GRLS No. 2582), and being more particularly described as follows:

BEGINNING at an iron pin found at the point common to Land Lots 713, 714, 767 and 768, of said district and section; running thence S89°47'17"W along the lot line common to Land Lots 714 and 767 a distance of 306.57 feet to an iron pin found on the southeastern margin of the right of way of said Powder Springs Road; thence N24°43'29"E along the margin of Powder Springs Road to a point on the margin of the line common to Land Lots 714 and 713 a distance of 706.32 feet to an iron pin placed; thence continuing S00°59'50"E along the line common to Land Lots 714 and 713 a distance of 190.48 feet to an iron pin found; thence continuing S00°59'50"E along the line common to Land Lots 714 and 713 a distance of 173.48 feet to an iron pin found; thence continuing S00°59'50"E along the line common to Land Lots 714 and 713 a distance of 276.57 feet to an iron pin found at the POINT OF BEGINNING.

Said conveyance is subject to all legal easements, covenants and right of way, public or private.

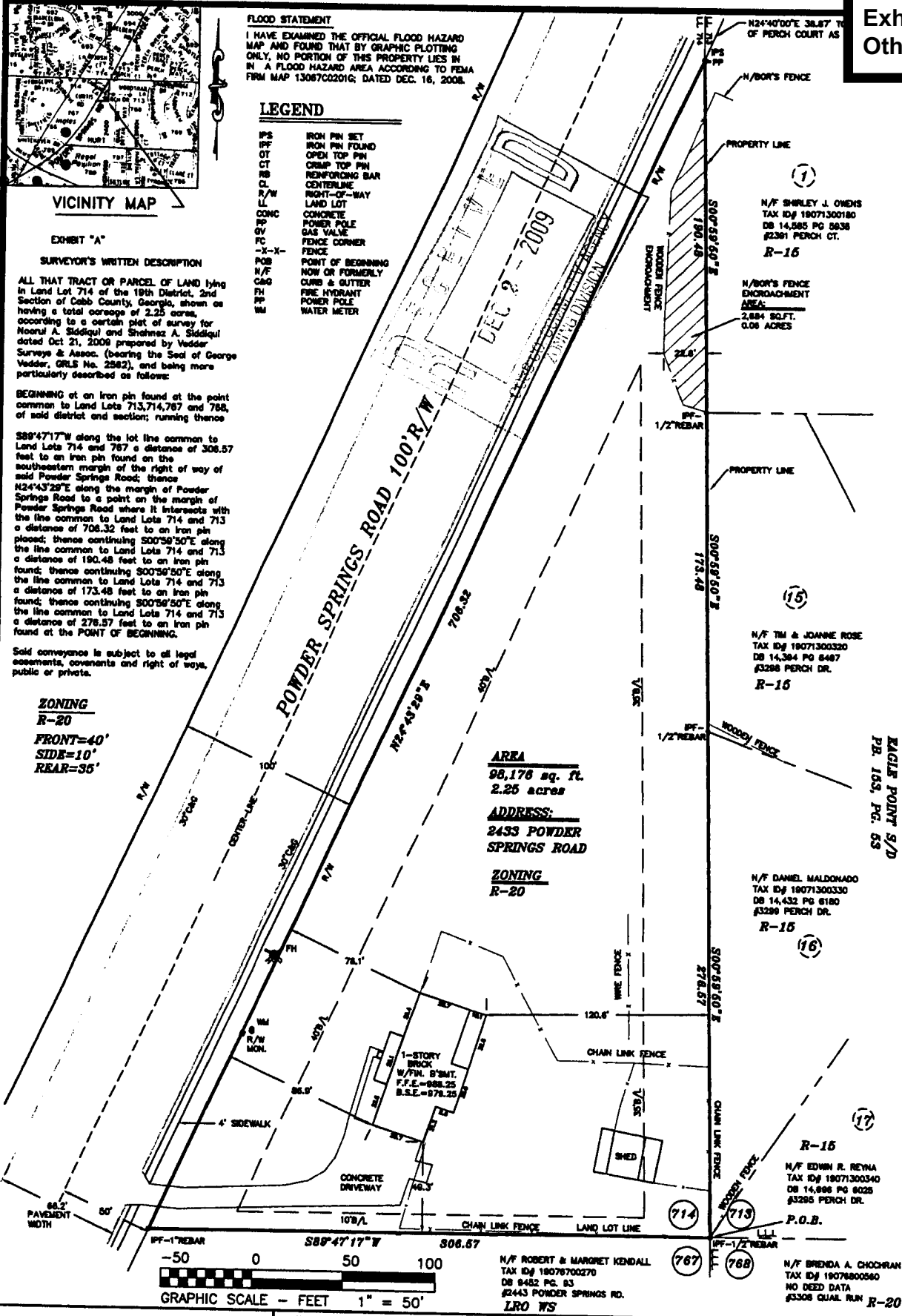
ZONING
 R-20
 FRONT=40'
 SIDE=10'
 REAR=35'

FLOOD STATEMENT

I HAVE EXAMINED THE OFFICIAL FLOOD HAZARD MAP AND FOUND THAT BY GRAPHIC PLOTTING ONLY, NO PORTION OF THIS PROPERTY LIES IN A FLOOD HAZARD AREA ACCORDING TO FEMA FIRM MAP 13067C0201G; DATED DEC. 16, 2008.

LEGEND

- IPS IRON PIN SET
- IPF IRON PIN FOUND
- OT OPEN TOP PIN
- CT CRAMP TOP PIN
- RB REINFORCING BAR
- CL CENTERLINE
- R/W RIGHT-OF-WAY
- LL LAND LOT
- CONC CONCRETE
- PP POWER POLE
- GV GAS VALVE
- FC FENCE CORNER
- PC FENCE
- X-X-X FENCE
- POB POINT OF BEGINNING
- N/F NOW OR FORMERLY
- C&G CURB & GUTTER
- PH FIRE HYDRANT
- PM POWER POLE
- WM WATER METER



AREA
 98,176 sq. ft.
 2.25 acres

ADDRESS:
 2433 POWDER SPRINGS ROAD

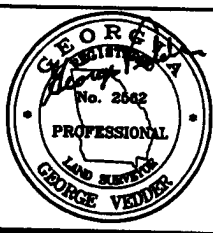
ZONING
 R-20



VEDDER SURVEYS & ASSOCIATES
 1648 Juliette Road, Forsyth, Ga. 31029
 TELEPHONE (678) 544-2585

BOUNDARY SURVEY FOR:
 NOORUL A. SIDDIQUI AND
 SHAHEEN A. SIDDIQUI
 ADDRESS: 2433 POWDER SPRINGS RD.
 DEED BOOK 13,270 PAGE 1801
 TAX ID# 19071400010

LAND LOT 714
 18TH DISTRICT, 2ND SECTION
 COBB COUNTY, GEORGIA
 DATE 10/21/2009
 SCALE 1" = 50'



Doc. No. 59 Petition No. Z-4
 Doc. Type Side Plan
 Meeting Date February 14, 2010

The field data upon which this plat is based has a closure of 1 foot in 10,000 feet, an angular error of .05 seconds per angle point and was adjusted using the Least Squares Method. This plat has been calculated for closure and found to be accurate to 1 foot in 100,000 feet. An electronic total station and a 100' chain were used to gather the information used in the preparation of this plat. No State Plane Coordinate Monument found within 500' of this property. All matters pertaining to title are excepted.

June 21, 2011
Exhibit "C"
Other Business Item 06

Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 6-21-11

Applicant: Noorul A. Siddiqui Phone #: 678-770-8752
(applicant's name printed)

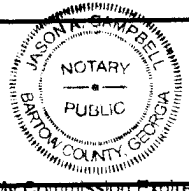
Address: 2478 SAUDA DR ACWORTH GA E-Mail: _____
30101

Noorul Siddiqui Address: same
(representative's name, printed)

[Signature] Phone #: 678-770-8752 E-Mail: _____
(representative's signature)

Signed, sealed and delivered in presence of:

Jason A. Campbell My commission expires: _____
Notary Public My Commission Expires
October 31, 2011



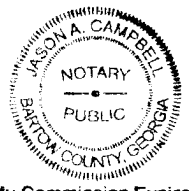
Titleholder(s): Noorul A. Siddiqui Phone #: 678-770-8752
(property owner's name printed)

Address: 2478 SAUDA DR ACWORTH GA E-Mail: _____
30101

[Signature]
(Property owner's signature)

Signed, sealed and delivered in presence of:

Jason A. Campbell My commission expires: _____
Notary Public My Commission Expires
October 31, 2011



Commission District: 4 Zoning Case: Z-4 of 2010

Date of Zoning Decision: 2-16-10 Original Date of Hearing: 2-16-10

Location: 2433 Powder Springs Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 714 District(s): 19

State specifically the need or reason(s) for Other Business: Extend the reversion
clause another 12 months due to an ongoing legal
dispute with the former business partner.

see Exhibit "A"

(List or attach additional information if needed)

pd # 359-10
Rec-01673
[Signature]
5-20-11

June 21, 2011
Exhibit "C"
Other Business Item 06

Exhibit "A"
Z4 of 2010
Other Business for 6-2-11.

May 2, 2011

To Whom It May Concern:

I am writing in regards of the Wellcare Assisted Living, located on 2433 Powder Springs Rd. Marietta, GA. 30064. On February 16, 2010, my property, Land Lot 714 of the 19th district, was approved for rezoning from R-20 to NRC for me to start a great assisted living facility. The reconstruction for my facility started in the early months of 2010 but was halted because of a civil suit I was involved with the construction company I had contracted for the reconstruction. I am writing to request an extension for the zoning approval for an additional six (6) months, up to one (1) year.

In August of 2010, I was in a civil lawsuit with Ballard Development, Inc. regarding breach of a binding contract to oversee and finish reconstruction of Wellcare Assisted Living facility. We have enclosed the copy of the lawsuit with this letter, Civil Action File # 10-CV-14294-38 under State Court of Fulton County, State of Georgia. During the early months of 2010, Curtis Ballard of Ballard Development, Inc. aka "Defendant" was contracted to reconstruct Wellcare Assisted Living facility satisfactory to State of Georgia guidelines. The "defendant" repeatedly requesting additional funds in the amounts of Ten thousand dollars (\$10,000.00) and Twenty thousand dollars (\$20,000.00), at the time which the construction was grossly over budget and behind schedule. The "defendant" was court ordered to present a detailed account of all monetary transactions. The "defendant" was unable to provide a detailed account and the ruling was in favor of Noorul Siddiqui aka the "plaintiff." However the ruling was of such, a Lien against the "defendant's" residence of Seventy nine thousand dollars (\$79,000.00). We are unable to specify the timing of payment due to the pending sale of the "defendant's" property. We are continuing our reconstruction of our facility, Wellcare Assisted Living. We are 60% complete with our project and request an additional six (6) months, up to one (1) year, for the completion of our great facility, Wellcare Assisted Living.

In conclusion, I ask you to accept my letter for an extension in our zoning permit for Wellcare Assisted Living. These additional six (6) months, up to one (1) year, will give me a chance to be in complete compliance with the State of Georgia regulations and help the members of my community with great patient care. We beseech you to read our letter with great compassion, in hopes for a new start for our patients and friends.

Thank you for your consideration,


Noorul Siddiqui
Owner, Wellcare Assisted Living