

**DECEMBER 18, 2012 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM # 1

PURPOSE

To consider a stipulation and site plan clarification for Madison Hills Apartments, LLC regarding rezoning application Z-22 of 2010 (Madison Hills, LLC), for property located on the south side of Delk Road, west of Bentley Road in Land Lots 799, 800, 856 and 857 of the 17th District.

BACKGROUND

The subject property is zoned PVC for a mixed used development and was approved subject to a conceptual site plan in 2010. Approval of the request allowed the existing apartment to be used in their “as is” condition until such time the property was redeveloped. The applicant is in the process of selling the property and this zoning condition concerns the potential buyer. The potential buyer would like to have the ability to renovate and improve the apartments instead of keeping the apartment in the “as is” state. Additionally, the buyer would like to clarify if a building destroyed, then it can be rebuilt subject to the submitted “as built” site plan. If approved, all previous zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation and site plan clarification.

ATTACHMENTS

Other Business application and zoning stipulations.

Application for "Other Business"

Cobb County, Georgia

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

COBB COUNTY GEORGIA
FILED IN OFFICE

2012 NOV 13 PM 4:33

BOC Hearing Date Requested: 12-18-12

COBB COUNTY ZONING DIVISION

Madison Hills Apartments, LLCApplicant: Mesa Capital Partners, LLC
(applicant's name printed)Phone #: (404) 307-6353Address: 3399 Peachtree Rd, NE, Suite 1010, Atlanta GA 30326 E-Mail: Zschaumburg@mesacp.com

Scott W. Peters

Address: 1100 Peachtree St., Suite 800 Atlanta, GA 30309

(representative's name, printed)

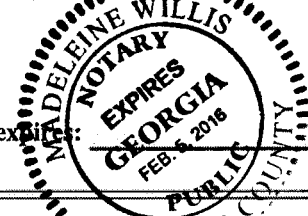
Phone #: (404) 681-3450 E-Mail: speters@scwflp.com

(representative's signature)

Signed, sealed and delivered in presence of:

Notary Public

My commission expires:

Titleholder(s): Madison Hills, LLCPhone #: (404) 949-0180

(property owner's name printed)

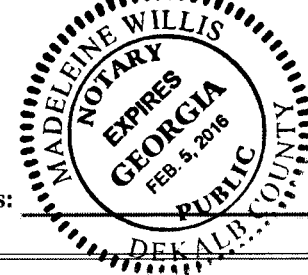
Address: 550 Pharr Road, Suite 550, Atlanta, GA 30305 E-Mail: mas@tiamatl.comBy: The Transinvest Group, LLC

(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public

My commission expires:

Commission District: TwoZoning Case: 2010-Z-22Date of Zoning Decision: 10-19-10

Original Date of Hearing: _____

Location: _____

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

Land Lot(s): 799, 800, 856, 857District(s): 17thState specifically the need or reason(s) for Other Business: Approval of Interim Site Plan and clarification of zoning conditions in conjunction with sale of the property.

(List or attach additional information if needed)

LAW OFFICES
SCHREEDER, WHEELER & FLINT, LLP
1100 PEACHTREE STREET, NE
SUITE 800
ATLANTA, GEORGIA 30309-4516

(404) 681-3450
FACSIMILE: (404) 681-1046

Scott W. Peters

E-Mail: speters@swflp.com

Direct Dial: (404) 954-9836

November 13, 2012

John Pederson
Zoning Division Manger, Cobb County
Cobb County
P.O. Box 649
Marietta, Georgia 30061

Re: Madison Hills Apartment Complex
Zoning Case 2010-Z-22

Dear John:

Please accept this letter as a request for the above referenced matter to be placed on the Board of Commissioners' agenda as an "Other Business Item" at its December 18, 2012 meeting. Specifically, pursuant to the zoning approval for this Property, any site plan for the Property is to come before the Board of Commissioners as an Other Business Item.

This request is due to a change in ownership of the Property and a need to clarify certain zoning conditions in association with such transfer. Specifically, request is made to clarify the conditions upon which the existing apartments may remain in use prior to the ultimate redevelopment of the Property consistent with the current PVC Zoning Plan.

Specifically, we request that the Board of Commissioners approve the following clarifications regarding the zoning for this Property:

1. The site plan attached hereto as Exhibit "A" is approved as an Interim Site Plan during the time period that the Property continues to be utilized for residential apartments. This Site Plan shall remain valid until such time as the Property is substantially redeveloped.
2. During the time period that the existing apartments continue to be utilized, such apartments may be renovated and improved as conforming uses of the Property.

COBB COUNTY GEORGIA
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COBB COUNTY ZONING DIVISION

AW OFFICES
SCHREEDER, WHEELER & FLINT, LLP

John Pederson

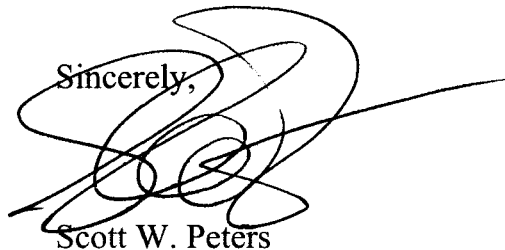
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November 13, 2012

3. If, during the continued use of the existing apartments, any of the existing buildings should burn down, be damaged, or otherwise be required to be reconstructed due to safety or other similar issues, reconstruction consistent with the Site Plan attached hereto is Exhibit "A" shall be permitted.

It is our understanding that these clarifications are consistent with the intent of the zoning as approved on October 19, 2010. Thank you for your consideration in regard to this request.

Sincerely,

A handwritten signature in black ink, appearing to be "Scott W. Peters", written over the word "Sincerely,".

Scott W. Peters

SWP/maw

cc. Commissioner Bob Ott

COBB COUNTY GEORGIA
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ZONING DIVISION

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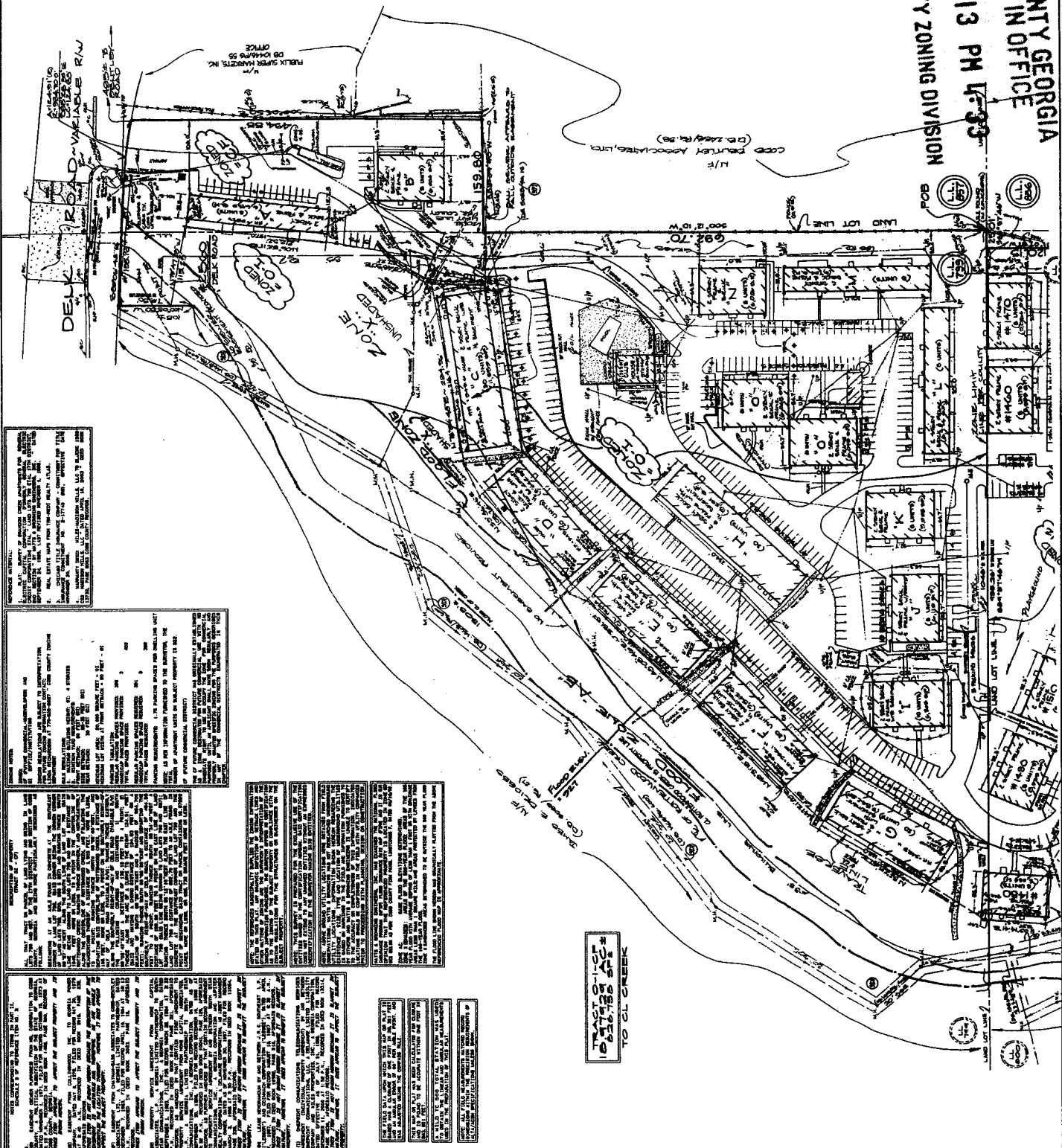


MADISON HILLS, LLC AND
CHICAGO TITLE INSURANCE COMPANY

LOCATED IN
LAND LOTS 799, 800, 856 & 857
17TH DISTRICT ~ 2ND SECTION
COBB COUNTY, GEORGIA



NOTICE
TO THE PUBLIC
MADISON HILLS, LLC
CHICAGO TITLE INSURANCE COMPANY



NOTICE TO THE PUBLIC
MADISON HILLS, LLC
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NOTICE TO THE PUBLIC
MADISON HILLS, LLC
CHICAGO TITLE INSURANCE COMPANY

TO CL CREEK
101-010101

7
MINUTE ADJUST

GRAPHIC SCALE
1" = 50' FT.
1" = 100' FT.

COBB COUNTY GEORGIA
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2012 NOV 13 PM 4:33
COBB COUNTY ZONING DIVISION

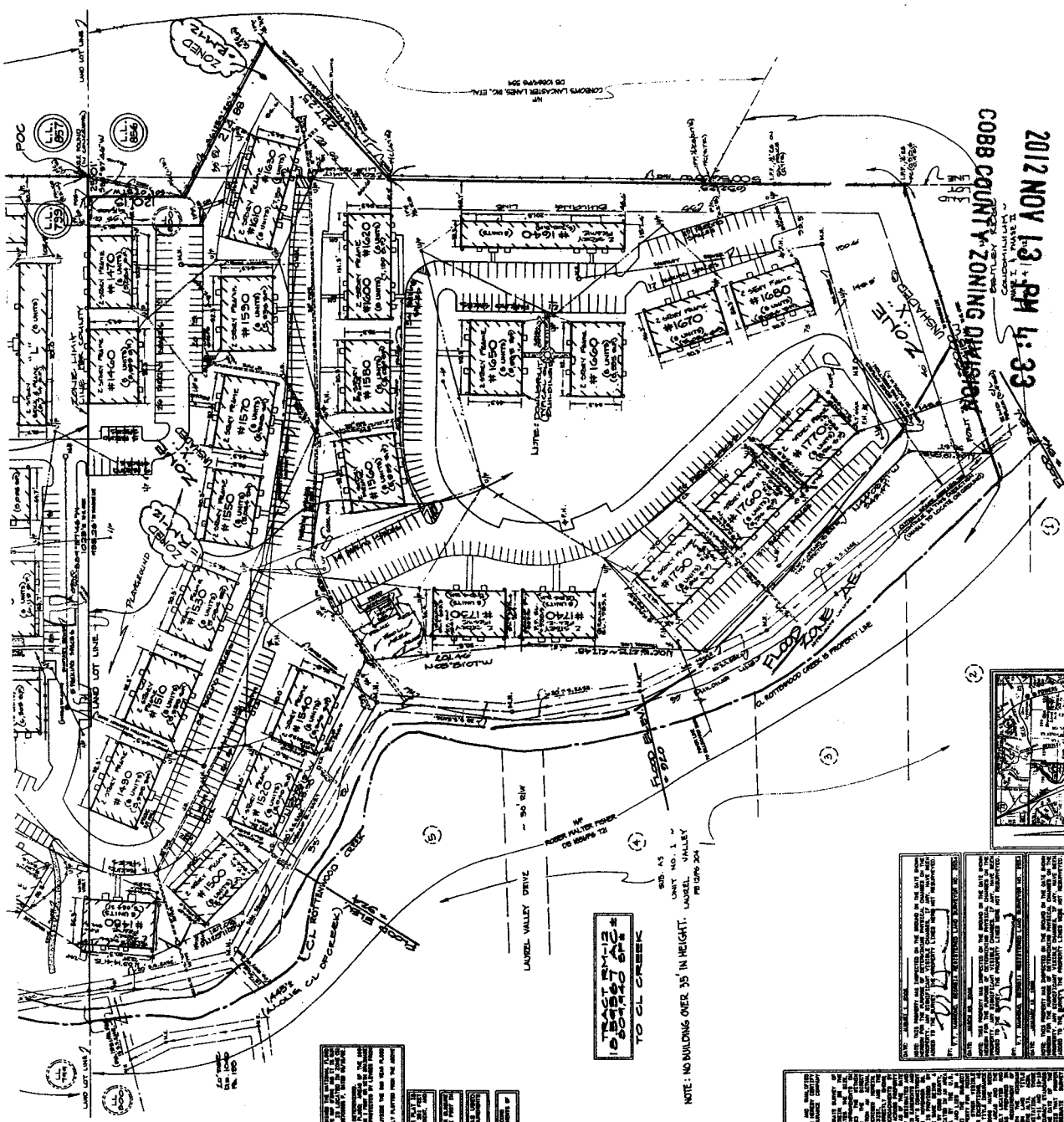


1. THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA.	2. THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA.	3. THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA.	4. THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA.	5. THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA.
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PROPERTY DESCRIPTION
THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA. THE PROPERTY IS A LARGE, MULTI-UNIT RESIDENTIAL DEVELOPMENT, CONSISTING OF APPROXIMATELY 100 UNITS. THE PROPERTY IS CURRENTLY OCCUPIED BY SEVERAL TENANTS. THE PROPERTY IS SURROUNDED BY OTHER COMMERCIAL AND RESIDENTIAL DEVELOPMENTS. THE PROPERTY IS ACCESSIBLE BY LAUREL VALLEY DRIVE AND OLD CREEK ROAD. THE PROPERTY IS A VALUABLE ASSET AND IS WELL-MAINTAINED.

NOTE: NO BUILDING OVER 35' IN HEIGHT. LAUREL VALLEY DRIVE 30' SETBACK.

TO OLD CREEK
LAUREL VALLEY DRIVE



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THE PROPERTY IS LOCATED IN THE CITY OF ATLANTA, GEORGIA, IN THE DISTRICT OF DECATUR, IN THE SECTION 10, TOWNSHIP 36 NORTH, RANGE 1 WEST, COBB COUNTY, GEORGIA. THE PROPERTY IS A LARGE, MULTI-UNIT RESIDENTIAL DEVELOPMENT, CONSISTING OF APPROXIMATELY 100 UNITS. THE PROPERTY IS CURRENTLY OCCUPIED BY SEVERAL TENANTS. THE PROPERTY IS SURROUNDED BY OTHER COMMERCIAL AND RESIDENTIAL DEVELOPMENTS. THE PROPERTY IS ACCESSIBLE BY LAUREL VALLEY DRIVE AND OLD CREEK ROAD. THE PROPERTY IS A VALUABLE ASSET AND IS WELL-MAINTAINED.

MADISON HILLS, LLC AND CHICAGO TITLE INSURANCE COMPANY
LOCATED IN 17TH DISTRICT, 800, 856 & 857 COBB COUNTY, GEORGIA
ALTA/ACSM LAND TITLE SURVEY FOR

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
OCTOBER 19, 2010
PAGE 4

CONSENT AGENDA (Continued):

LUP-28 **MELISSA POWELL** (Melissa A. Powell and Alexander C. Powell, owners) requesting a **Land Use Permit** for the purpose of a Hair Salon in Land Lots 269 of the 17th District. Located on the east side of Woodview Drive, south of Church Road (3235 Woodview Drive, S.E.).

MOTION: Motion by Thompson, second by Powell, as part of the Consent Agenda, to approve Land Use Permit for **24 months subject to:**

- **no employees**
- **no on-street parking**
- **no signage**

VOTE: **ADOPTED** unanimously

CONTINUED CASE:

Z-22 **MADISON HILLS, LLC** (owner) requesting Rezoning from **CF, OI** and **RM-12** to **RM-12** for the purpose of Apartments in Land Lots 799, 800, 856 and 857 of the 17th District. Located on the south side of Delk Road, west of Bentley Road.

The public hearing was opened and Ms. Margaret Stagmeier addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Ott, second by Goreham, to delete Rezoning to the PVC zoning district **subject to:**

- **conceptual site plan Scheme C1 submitted to the Clerk on October 19, 2010 (attached and made a part of these minutes)**
- **final site plan to come before the Board of Commissioners as an Other Business Item**
- **final elevations to come before the Board of Commissioners as an Other Business Item**
- **use of existing apartments to continue in their "as is" condition**
- **idled apartments that lost grandfathered status to be brought into compliance and then continue their use "as is"**

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
OCTOBER 19, 2010
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CONTINUED CASE (Continued):

Z-22 MADISON HILLS, LLC (Continued)

- outstanding lawsuits (Cobb Superior Court Civil Action File No. 07-1-2071-35) against the Board of Zoning Appeals and Cobb County to be dismissed within thirty (30) days of the date of this hearing (with prejudice)
- Stormwater Management comments and recommendations *not otherwise in conflict*
- Cobb DOT comments and recommendations *not otherwise in conflict*

VOTE: ADOPTED unanimously

REGULAR CASES -- NEW BUSINESS.

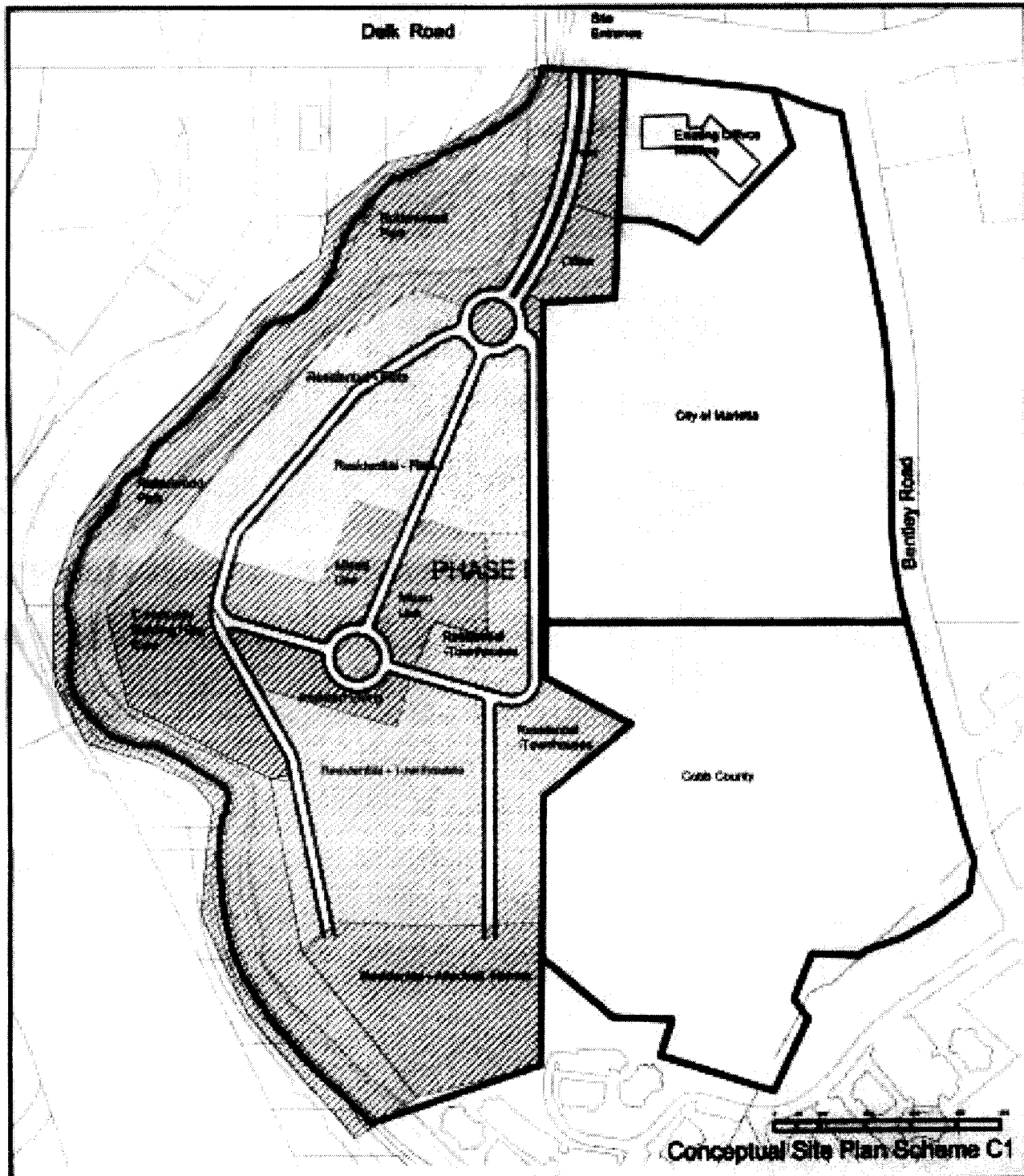
Z-24 EAST COBB UNITED METHODIST CHURCH, INC. (Trustees of Camp Ground United Methodist Church f/k/a Trustees of Marietta Camp Ground Methodist Church, owner) requesting Rezoning from **R-20** to **NRC** for the purpose of Religious Facility With An Electronic Reader Board Sign in Land Lot 987 of the 16th District. Located on the north side of Roswell Road, easterly of Sewell Mill Road. *(Continued by the Planning Commission from their September 9, 2010 and October 5, 2010 hearings; therefore was not considered at this hearing)*

Z-27 JOHN CARLISLE (Trust Under the Will of Margaret E. Roberts, James L. Roberts, Sr., Trustee, owner) requesting Rezoning from **GC** to **LI** for the purpose of a Diesel Repair Shop in Land Lot 60 of the 16th District. Located on the west side of Canton Road, north of Jamerson Road and on the north side of Cobb Cherokee Industrial Drive (private road).

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

MOTION: Motion by Powell, second by Ott, to delete Rezoning to the NRC zoning district subject to:

Min. Bk. 61 Petition No. 2-22
 Doc. Type Conceptual Site Plan
 Meeting Date 10/19/10



Ronald C. Wootton
 architect
 770.821.0620 woottonarch@aol.com

Madison Hills
Site Redevelopment
 Cobb County, Georgia

5 September 2010