## FEBRUARY 18, 2014 ZONING HEARING "OTHER BUSINESS" COMMISSION DISTRICT 3

## <u>ITEM # 5</u>

## **PURPOSE**

To consider approving the site plan for Seven Star Ventures, LLC regarding rezoning application Z-32 of 2001 (James O'Neill), for property located at the southwest intersection of Busbee Parkway and Frey Road, and on the east side of Interstate 75 in Land Lot 94 of the 20<sup>th</sup> District.

## BACKGROUND

The subject property was rezoned to General Commercial in 2001 for convenience store and gas station. In 2008 the site plan was revised to a retail center via Other Business. The current applicant would like to amend the site plan to place their particular shopping center on the property, which will have a mixture of retail and restaurants. The building would be brick and stucco, and would be two stories over a parking deck (see rendering in Other Business Packet). The applicant is requesting setback variances adjacent to the three right-of-ways down to twenty-feet, since the property has such an odd shape (Frey Road is 50', Busbee Parkway is 25', Interstate 75 is 30'). The applicant's plan meets other zoning criteria such as floor area ratio, impervious surface, required parking and building height. 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 site plan.

## **DEPARTMENT COMMENTS**

**Stormwater Management:** This site plan will require a sizable underground detention facility and water quality device(s) due to the impervious coverage proposed.

**Cobb DOT**: Recommend the access on Frey Road be restricted to right-in/ right-out/ leftin. Recommend applicant coordinate with Georgia DOT regarding the I-75 managed lanes project.

## **ATTACHMENTS**

Other Business application and stipulations.

<b>Application for "Other Business"</b>
Cobb County, Georgia
(Cobb County Zoning Division – 770-328+2035) 4 PM BOC Hearing Date Requested: 02/18/2014
Applicant: Seven Star Ventures, LLC Phone #: 770 329-1944
Address: Apt. 3308, 3345 Stratford Rd., Atlanta, GA 30236 E-Mail: equarles49@yahoo.com
Garvis L. Sams, Jr.       Address:       376 Powder Springs Street, Suite 100, Marietta, GA 30064
(representative's name, printed)
Phone #: (770) 422-7016 E-Mail: gsams@samslarkinhuff.com
(representative's signature)
Signed, sealed and delivered in presence of:
Deblie A Johnston My commission expires: 04/10/2016
Notary Public
Titleholder(s): Seven Star Ventures, LLC Phone #: (770) 329-1944
(property owner's name printed) Address: Apt. 3308, 3345 Stratford Rd., Atlanta, GA 30236 E-Mail: equarles49@yahog.com
Unit LS
(Property owner's signature) Eddie Quarles
Signed, sealed and delivered in presence of:
Crica & Dala
Notary Public My commission expires: <u>N 52474 915-2016</u>
Commission District: 3 Zoning Case: Z-32 (2001)
Date of Zoning Decision:       03/20/2001       Original Date of Hearing:       03/20/2001
Location: The southwest quadrant of the intersection of Busbee Parkway Extension & Frey Rd., east of I-75
(street address, if applicable; nearest intersection, etc.)
Land Lot(s): 94 District(s): 20th
State specifically the need or reason(s) for Other Business: Site plan approval by the Cobb County
Board of Commissioners is required prior to the issuance of Developmental Permits pursuant to a specific
stipulation/condition of the original Rezoning. A site plan was approved by the Board of Commissioners as an
Other Business Agenda Item on 02/19/2008. However, that particular development did not go forward and the
subject property was ultimately sold to the current Applicant, Seven Star Ventures, LLC.

(List or attach additional information if needed)

## SAMS, LARKIN & HUFF A LIMITED LIABILITY PARTNERSHIP

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

JUSTIN H. MEEKS

Suite 100 376 Powder Springs Street Marietta, Georgia 30064-3448 770•422•7016 Telephone 770•426•6583 Facsimile

#### SAMSLARKINHUFF.COM

COMPOSITION STREET

January 14, 2014

#### VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064 64:1 Wd AI AYC 402 Earth A Charles A MAAD BRAND

Re: Other Business Application of Seven Star Ventures, LLC for Site Plan Approval regarding Zoning Case No. Z-32 (2001)

Dear John:

As you know, this firm has been engaged by and represents Seven Star Ventures, LLC ("Seven Star") concerning the above-captioned Other Business Application which we are filing pursuant to discussions which you and I have had recently with respect to the subject property. In that regard, we are requesting that the hearing concerning the matter be scheduled on the Board of Commissioners' "Other Business" Agenda for February 18, 2014 immediately following the regularly scheduled zoning hearings that day.

With respect to the foregoing, enclosed is the Other Business Application; Minutes reflecting the original Rezoning in 2001 (No. Z-32); Minutes reflecting a previous Other Business Site Plan Approval (#2 [2008]); five (5) full-sized and one (1) 8½"x11" copy of the applicable site plan. By way of our discussion via email on January 10, 2014, the Community Development Agency has waived the filing fee for this Other Business Application.

As you know, we had originally filed a Variance Application concerning the subject property in view of the fact that utilization of the subject property (which is zoned GC) in a meaningful fashion requires setback variances. As you can see, the subject property has triple road frontage and the site plan reflects a request for contemporaneous variances waiving the front setback on Frey Road from fifty feet (50') to twenty feet (20'); on Busbee Parkway Extension from thirty feet (30') to twenty feet (20'); and, on I-75 from thirty feet (30') to twenty feet (20').

# SAMS, LARKIN & HUFF A LIMITED LIABILITY PARTNERSHIP

## VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division January 14, 2014 Page 2

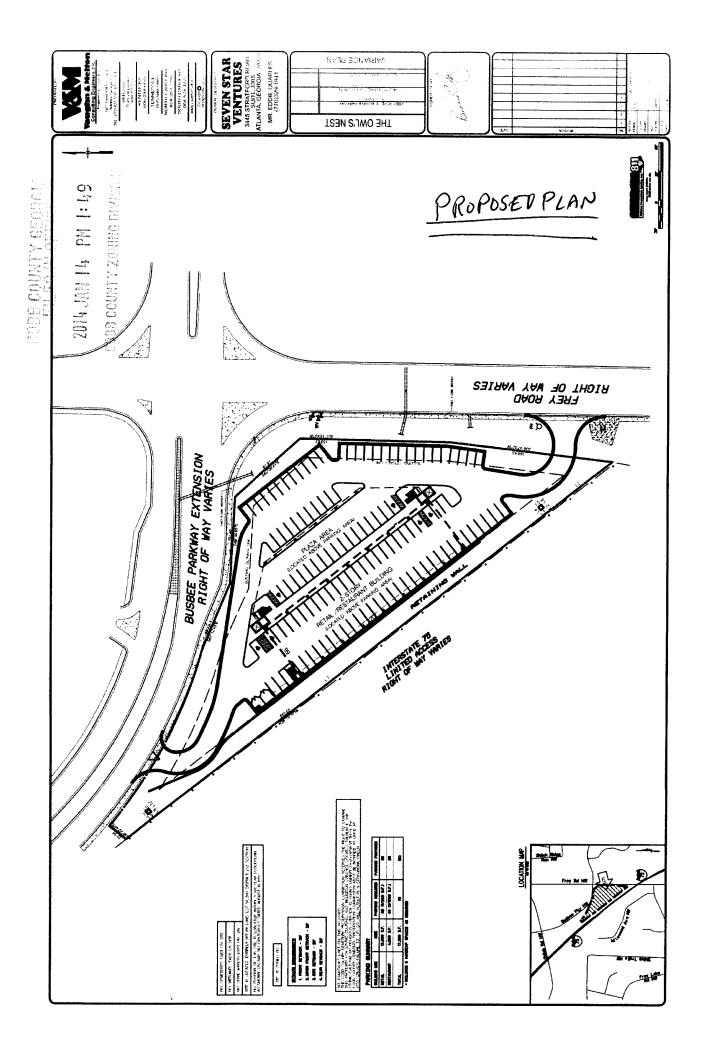
Please do not hesitate to contact me should you need any additional information or documentation prior to processing this Other Business Application. Additionally, please let me know when the signs are ready so that I can ensure that the subject property is properly posted. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP Garvis L. Sams, Jr. gsams@samslarkinhuff.com

GLS/dsj Enclosures

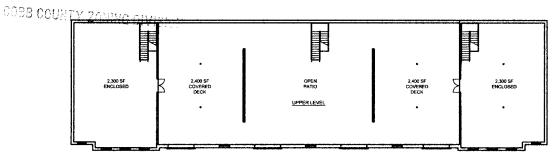
cc: Commissioner JoAnn Birrell (via email w/attachments) Mr. Eddie Quarles, Seven Star (via email w/attachments)



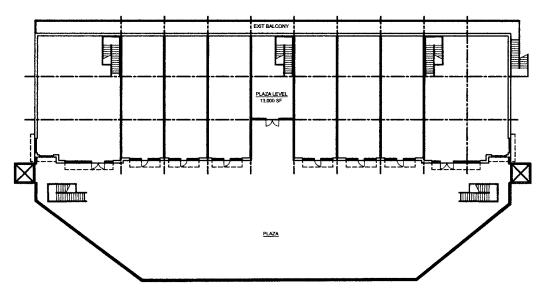
PROPOSED PLAN

# COBB COUNTY GEORGY

2014 JAN 14 PM 1:50



#### PRELIMINARY UPPER LEVEL PLAN



PRELIMINARY PLAZA LEVEL PLAN



PRELIMINARY ELEVATION

## MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS MARCH 20, 2001 PAGE 11

7

- Z-30 CAMELOT/SIGNATURE DEVELOPMENT, LLC (The Estate of James E. Anderson, owner) for Rezoning from NS and R-20 to SC for the purpose of Suburban Condominiums in Land Lot 849 of the 19<sup>th</sup> District. Located on the south side of Hurt Road, west of Winesap Drive. (Continued by the Planning Commission from their March 6, 2001 hearing, therefore was not considered by the Board of Commissioners)
- **Z-32** JAMES O'NEILL for Rezoning from LI and GC to GC for the purpose of a Convenience/Gas Store in Land Lot 94 of the 20<sup>th</sup> District. Located at the southwest intersection of Busbee Parkway and Frey Road, east of Interstate 75.

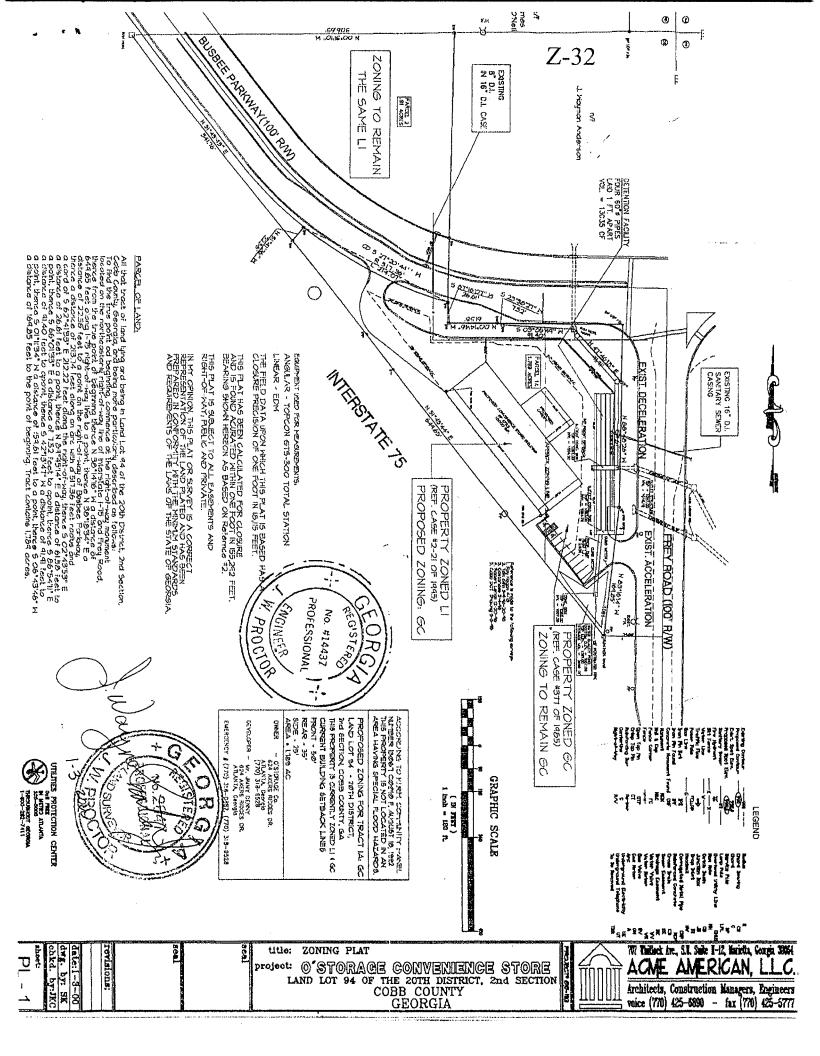
Mr. Richard Calhoun and Ms. Hilda Towery responded to inquires from the Board. Following discussion, the following motion was made:

MOTION: Motion by Askea, second by Olens, to <u>approve</u> Rezoning request to the GC zoning district subject to:

- site plan, architecture, signage, and landscaping to be approved by the Board of Commissioners prior to issuance of any permits
- Bells Ferry Homeowners Association representative(s) review of architectural design and site plan on this development
- Stormwater Management Division comments and recommendations
- Water and Sewer 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

**Z-33 TDE, LLC** for Rezoning from **HI** to **CRC** for the purpose of a Convenience/Gas Store in Land Lot 50 of the 20<sup>th</sup> District. Located at the southeast intersection of Hickory Grove Road and New McEver Road. (Continued by the Planning Commission from their March 6, 2001 hearing, therefore was not considered by the Board of Commissioners)



APPLICANT James O'Neill			PETITION NO. Z-32	
PRESENT ZONING <u>LI</u>			PETITION FOR GC	
* * * * * * * * * * * * * * * * * * * *				* * *
NOTE: Comments reflect only	what facilities we	re in exister	nce at the time of this review.	
WATER COMMENTS:				
Available at Development?		Yes	🗆 No	
Fire Flow Test Required?	$\mathbf{V}$	Yes	🗆 No	
Size / Location of Existing Water Main(	(s): <u>12" DI on</u>	<u>Frey Rd.</u>		
Additional Comments:				

> □ No ☑ No

Peak 3750

SEWER COMMENTS:			
In Drainage Basin?		☑ Y	es
At Development?		□ Y	es
Approximate Distance to Nearest Sewe	er: <u>100' ea</u>	st side d	of Frey Rd.
Estimated Waste Generation (in G.P.D	.): <b>A D F</b>	<u>1500</u>	
Treatment Plant:			<u>Noonday</u>
Plant Capacity Available?		☑ Y	es
Line Capacity Available?		☑ Y	es

,

Treatment Plant.		roonday			
Plant Capacity Available?	V	Yes		No	
Line Capacity Available?		Yes		No	
Projected Plant Availability:	$\checkmark$	0 - 5 year		5 - 10	) years 🖾 over 10 years
Dry Sewers Required?		Yes	$\checkmark$	No	
Off-site Easements Required?		Yes*		No	* If off-site easements are required, Developer must submit easements to
Flow Test Required?		Yes		No	CCWS for review / approval as to form and stipulations prior to the
Letter of Allocation issued?		Yes		No	execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of
Septic Tank Recommended by this Department?		Yes	V	No	the Developer.
Subject to Health Department Approval?	$\Box$	Yes		No	

.

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System.

Additional Comments:

PETITION NO.: Z32 APPLICANT: James O'Neill PETITION FOR: GC PRESENT ZONING: LI \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* DRAINAGE COMMENTS FLOOD HAZARD: X YES NO POSSIBLY, NOT VERIFIED FLOOD HAZARD INFO: undefined at headwater pool of DRAINAGE BASIN: Noonday Creek culvert under Frey Road. FEMA Designated 100 year Floodplain Flood. Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD. Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements. Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard. POSSIBLY, NOT VERIFIED  $\square$  NO WETLANDS: YES Location: within Flood Hazard The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer. STREAMBANK BUFFER ZONE: 
YES X NO POSSIBLY, NOT VERIFIED Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway). Chattahoochee River Corridor Tributary Area - County review (\_\_\_\_\_ undisturbed buffer each side). Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review. Georgia DNR Variance may be required to work in 25 foot streambank buffers. County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel. DOWNSTREAM CONDITION I Potential or Known drainage problems exist for developments downstream from this site. Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system. Minimize runoff into public roads. Minimize the effect of concentrated stormwater discharges onto adjacent properties. Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally Existing Lake Downstream Additional BMP's for erosion sediment controls will be required. Lake Study needed to document sediment levels. Stormwater discharges through an established residential neighborhood downstream. Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

#### APPLICANT: James O'Neill

#### PETITION NO.: Z32

#### PRESENT ZONING: LI

## PETITION FOR: GC

\*\*\*\*\*\*\*\*\*

#### DRAINAGE COMMENTS CONTINUED

#### SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any spring activity uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill in flood hazard must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design, reduce pavement area to reduce runoff and pollution.

#### INSUFFICIENT INFORMATION

No Stormwater controls shown

- Copy of survey is not current Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

#### ADDITIONAL COMMENTS/SUGGESTIONS

Site is characterized by a hole 20' deep in which runoff from approximately 34 acres of office/commercial style development collects before entering culvert under Frey Road. The proposed development would fill this hole and create a plateau for the gasoline/convenience store. Such mass grading is not supported due to high potential for sediment pollution downstream.

The gasoline/convenience store owner/operator must submit a copy of the United States-Clean Water Act required Pollution Prevention Plan to Stormwater Management at Plan Review.

Project layout is very pavement intensive. Documentation supporting need or major reduction will be required at Plan Review.

Stormwater Management cannot approve the underground detention unless project is designed to direct all developed runoff to water quality pond.

#### APPLICANT: James O. Neil

PRESENT ZONING: LI

PETITION FOR: GC

## TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	CLASSIFICATION	MIN. R.O.W. REQUIREMENTS
Busbee Parkway	N/A	Arterial	100'
Frey Road	10611	Arterial	100

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

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

Frey Road is a current Cobb County road project as part of the Transportation Improvements Program. The owner/developer must coordinate with the Cobb DOT Engineering Division and if under construction, the Design or Construction Section prior to development plan approval in order to ensure compatibility with the roadway project.

As necessitated by this development for egress from Busbee Parkway and Frey Road, a minimum 150' deceleration lane will be required on each.

GDOT permit will be required for any work that encroaches I-75 right-of-way.

No median break on Busbee.

Right-in/Right-out on Busbee Parkway.

Install sidewalk along road frontage.

Driveway on Frey Road does not have minimum tangent separation from the intersection.

#### RECOMMENDATIONS

Recommend owner/developer coordinate with the Cobb DOT Engineering Division and if under construction, the Design or Construction Section, prior to development plan approval in order to ensure compatibility with the roadway project.

Recommend a minimum 150' deceleration lane.

GDOT permits will be required for all work that encroaches upon state right-of-way.

Recommend no median break on Busbee Parkway.

## APPLICANT: James O. Neil

PETITION NO.: <u>Z-32</u>

PRESENT ZONING: LI

PETITION FOR: GC

## TRANSPORTATION COMMENTS

Recommend a right-in/right-out driveway on Busbee Parkway.

Recommend the installation of sidewalk.

Recommend a minimum of 250' tangent separation between the driveway on Frey Road and Busbee Parkway.

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

PAGE 4 OF 6

APPLICATION NO. Z-32

03-20-01

ORIGINAL DATE OF APPLICATION: \_\_\_\_\_

APPLICANTS NAME: JAMES ONEILL

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

## BOC DECISION OF 02-19-08 ZONING HEARING:

## OTHER BUSINESS ITEM #2 – TO CONSIDER A SITE PLAN APPROVAL FOR MR. JIMMY R. DENNEY REGARDING Z-32 (JAMES ONEILL) OF MARCH 20, 2001

To consider a site plan approval for Mr. Jimmy R. Denney regarding Z-32 (JAMES ONEILL) of March 20, 2001 for property located in Land Lot 94 of the 20th District at the southwest intersection of Busbee Parkway and Frey Road, east of Interstate 75.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding request for site plan approval. The public hearing was opened and Mr. Jimmy Denney addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Lee, second by Olens, to <u>approve</u> Other Business Item #2 for site plan approval for Mr. Jimmy R. Denney regarding Z-32 (JAMES ONEILL) of March 20, 2001 for property located in Land Lot 94 of the 20th District at the southwest intersection of Busbee Parkway and Frey Road, east of Interstate 75, subject to:

- site plan received by the Zoning Division January 15, 2008, with the District Commissioner approving minor modifications (attached and made a part of these minutes)
- elevation drawing received by the Zoning Division January 15, 2008 (attached and made a part of these minutes)
- final architecture design and materials, landscape plan and signage to be approved by the District Commissioner
- development is subject to requirements in Plan Review

VOTE: **ADOPTED** unanimously

