

**MAY 20, 2014 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM OB-29

PURPOSE

To consider a stipulation amendment for Village Center, Inc. regarding rezoning application Z-176 of 2004 (Village Center, Inc) for property located on the west side of Johnson Ferry Road, north of Paper Mill Road, in Land Lots 73 and 81 of the 1st District.

BACKGROUND

The subject property was zoned Neighborhood Retail Commercial (NRC) in 2004 for a convenience with fuel sales and retail. The zoning stipulations state “no changes in uses”. The rear of the building is currently used for retail uses, however the applicant has had interest in some of the space from office uses. It is important to note that the back of this building does face existing office uses. This proposed amendment is to also allow offices uses within in the existing building. If approved all other stipulations and conditions would remain in effect.

FUNDING

N/A

RECOMMENDATION

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

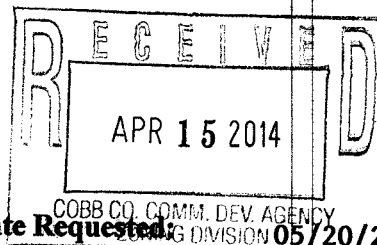
ATTACHMENTS

Other Business Application, request letter and stipulations.

(Stipulation Amendment)

Application for "Other Business" Cobb County, Georgia

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



OB-29

BOC Hearing Date Requested: 05/20/2014

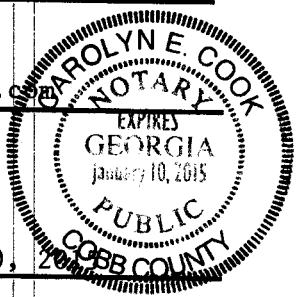
Applicant: Village Center, Inc. **Phone #:** (678) 642-8024
(applicant's name printed)

Address: 133 Johnson Ferry Road, Marietta, GA 30068 **E-Mail:** ederickson@bellsouth.net

Moore Ingram Johnson & Steele, LLP Emerson Overlook, 326 Roswell Street
John H. Moore **Address:** Marietta, GA 30060

(representative's name, printed)

BY: [Signature] **Phone #:** (770) 429-1499 **E-Mail:** jmoore@mij.s.com
(representative's signature) Georgia Bar No. 519800 w7@mij.s.com



Signed, sealed and delivered in presence of:

Carolyn E. Cook My commission expires: January 10, 2015
Notary Public

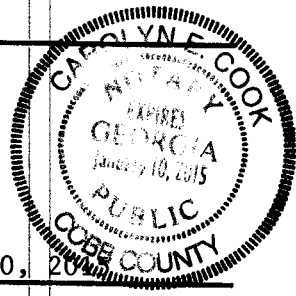
Titleholder(s): AYAAN Enterprises, Inc. **Phone #:** (770) 757-5796
(property owner's name printed)

Address: 133 Johnson Ferry Road, Marietta, GA 30068 **E-Mail:** _____

BY: [Signature]
(Property owner's signature) Akber A. Gadhia
President

Signed, sealed and delivered in presence of:

Carolyn E. Cook My commission expires: January 10, 2015
Notary Public



Commission District: 2 (Ott) **Zoning Case:** Z-176 (2004)

Date of Zoning Decision: 12/21/2004 **Original Date of Hearing:** 12/21/2004

Location: West side of Johnson Ferry Road, north of Paper Mill Road
(street address, if applicable; nearest intersection, etc.) (n/k/a 133 Johnson Ferry Road)

Land Lot(s): 73, 81 **District(s):** 1st

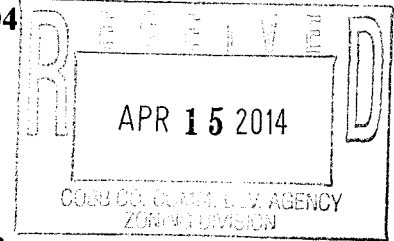
State specifically the need or reason(s) for Other Business: _____

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

(List or attach additional information if needed)

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(Stipulation Amendment)

Application No.: Z-176 (2004)
Original Hearing Date: December 21, 2004
Date of Zoning Decision: December 21, 2004
Current Hearing Date: May 20, 2014



Applicant: Village Center, Inc.
Titleholder: AYAAN Enterprises, Inc.

On December 21, 2004, the Cobb County Board of Commissioners approved the rezoning of the approximately 0.997 acre tract located on the westerly side of Johnson Ferry Road, north of Paper Mill Road (now known as 133 Johnson Ferry Road) (hereinafter "Property" or "Subject Property") to the Neighborhood Retail Commercial ("NRC") zoning category. The rezoning was made pursuant to a site plan submitted and incorporated into the final approval by the Board of Commissioners; as well as restricted for retail and convenience store uses.

Offices were a part of the project, beginning approximately thirty (30) years ago, and have continued to be a part of the project from that time to the present. There occurred an inadvertent error in the 2004 rezoning wherein the "office" use was omitted in the final minutes approved by the Cobb County Board of Commissioners. Thus, the purpose of this Application for "Other Business" is to seek an amendment to the stipulation concerning use restriction of the Subject Property, as set forth in the preamble paragraph of the final, official minutes of the December 21, 2004, Zoning Hearing which reads as follows:

". . . for the purpose of Retail and Convenience Store with Fuel Sales . . ."

In addition to the already permitted uses stated above, Applicant seeks to correct the error and allow for office use within the Village Center development. Therefore, the amended uses of the Subject Property shall be as follows:

The Subject Property shall be used for the purposes of retail, convenience store with fuel pumps, and offices.

The amendment requested and presented above in no way adversely impacts or affects the quality and integrity of the existing, operational center and will require no new exterior construction to the center. If approved, the amendment will allow for all available square footage of space within the existing structure to be fully utilized; as well as to provide a needed service to the East Cobb Community. If the requested amendment is approved, as submitted, it shall become an additional part of the final rezoning and shall be binding upon the Subject Property.

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 December 21, 2004, are unaltered by this request for Stipulation Amendment and shall remain in full force and effect.

**SITE PLAN APPROVED BY BOARD OF
COMMISSIONERS PURSUANT TO
APPLICATION FOR REZONING
NO. Z-176 (2004) – DECEMBER 21, 2004**

LEGEND

- 01 SQUARES UNMARKED PER
- 02 SQUARES DAMP WET
- 03 SQUARES DRY WET
- 04 SQUARES DRY WET WITH BUSH
- 05 SQUARES DRY WET WITH GRASS
- 06 SQUARES DRY WET WITH MUD
- 07 SQUARES DRY WET WITH SAND
- 08 SQUARES DRY WET WITH SILT
- 09 SQUARES DRY WET WITH CLAY
- 10 SQUARES DRY WET WITH ROCK
- 11 SQUARES DRY WET WITH GRAVEL
- 12 SQUARES DRY WET WITH COBBLES
- 13 SQUARES DRY WET WITH Boulders
- 14 SQUARES DRY WET WITH DEBRIS
- 15 SQUARES DRY WET WITH OTHER
- 16 SQUARES DRY WET WITH UNKNOWN
- 17 SQUARES DRY WET WITH VOID
- 18 SQUARES DRY WET WITH CRACK
- 19 SQUARES DRY WET WITH POLE
- 20 SQUARES DRY WET WITH SIGN
- 21 SQUARES DRY WET WITH MARKER
- 22 SQUARES DRY WET WITH BOUNDARY
- 23 SQUARES DRY WET WITH FENCE
- 24 SQUARES DRY WET WITH WALL
- 25 SQUARES DRY WET WITH CURB
- 26 SQUARES DRY WET WITH DRIVE
- 27 SQUARES DRY WET WITH WALKWAY
- 28 SQUARES DRY WET WITH STAIR
- 29 SQUARES DRY WET WITH RAMP
- 30 SQUARES DRY WET WITH PLATFORM
- 31 SQUARES DRY WET WITH DECK
- 32 SQUARES DRY WET WITH PORCH
- 33 SQUARES DRY WET WITH PATIO
- 34 SQUARES DRY WET WITH TERRACE
- 35 SQUARES DRY WET WITH BALCONY
- 36 SQUARES DRY WET WITH ROOF
- 37 SQUARES DRY WET WITH GROUND
- 38 SQUARES DRY WET WITH SURFACE
- 39 SQUARES DRY WET WITH VEGETATION
- 40 SQUARES DRY WET WITH TREE

TREE LEGEND

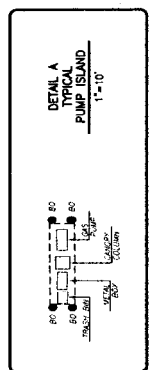
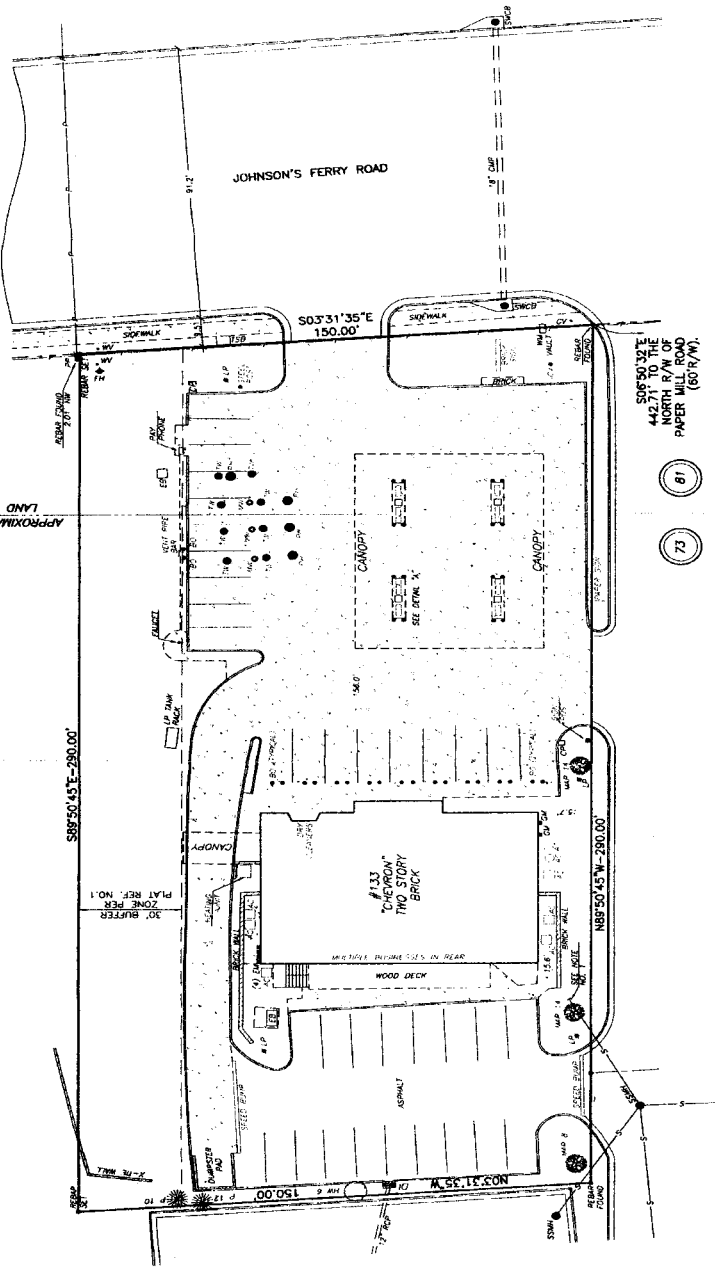
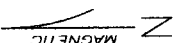
- 01 BIRCH
- 02 BIRCH
- 03 BIRCH
- 04 BIRCH
- 05 BIRCH
- 06 BIRCH
- 07 BIRCH
- 08 BIRCH
- 09 BIRCH
- 10 BIRCH
- 11 BIRCH
- 12 BIRCH
- 13 BIRCH
- 14 BIRCH
- 15 BIRCH
- 16 BIRCH
- 17 BIRCH
- 18 BIRCH
- 19 BIRCH
- 20 BIRCH
- 21 BIRCH
- 22 BIRCH
- 23 BIRCH
- 24 BIRCH
- 25 BIRCH
- 26 BIRCH
- 27 BIRCH
- 28 BIRCH
- 29 BIRCH
- 30 BIRCH
- 31 BIRCH
- 32 BIRCH
- 33 BIRCH
- 34 BIRCH
- 35 BIRCH
- 36 BIRCH
- 37 BIRCH
- 38 BIRCH
- 39 BIRCH
- 40 BIRCH

SURVEY NOTES

1. THE FIELD DATA UPON WHICH THIS PLAN IS BASED WAS A CLASHE PERSON OF ONE FOOT IN LENGTH AND WIDTH. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY.
2. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY.
3. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY.
4. THE FIELD DATA UPON WHICH THIS PLAN IS BASED WAS A CLASHE PERSON OF ONE FOOT IN LENGTH AND WIDTH. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY. THE SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW OF THE PERSONS OR ENTITY NAMED HEREON. THIS PLAN DOES NOT EXTEND TO ANY UNLIMITED PERSON, PERSONS, OR ENTITY.
5. THIS PLAN WAS NOT INTENDED FOR RECORDING.

REFERENCE MATERIAL

1. "SUBMIT SURVEY FOR GROSSON RETRACTION, INC.", PREPARED BY CONNORS, GOODMAN & ASSOCIATES, DATED 12/20/02, JOB NO. E1114.



RECEIVED
APR 15 2014
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

TOTAL AREA = 0.987 ACRES
 OR 43,410 SQ. FT.

133 JOHNSONS FERRY ROAD
 ROSWELL, GEORGIA

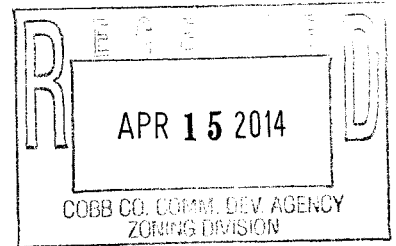


M. LUNG SURVEYING SERVICES, INC.
 2235 Cooper Lake Road, S.E.
 Smyrna, Georgia 30082 (770) 424-3333
 Area as Indicated by P.L.S. & Horizontal & Vertical Control
 In Any Block, Plot, Map, or Record
 correct representation of the
 actual conditions on the ground
 M. Lung
 Surveyor
 License No. 50000



**OFFICIAL MINUTES OF COBB COUNTY
BOARD OF COMMISSIONERS
ZONING HEARING FOR
Z-176 (2004) – DECEMBER 21, 2004**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2004
9:00 A.M.**



The Board of Commissioners' Zoning Hearing was held on Tuesday, December 21, 2004, at 9:00 a.m. in the second floor public meeting room of the Cobb County building. Present and comprising a quorum of the Commission were:

Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Tim Lee
Commissioner Joe L. Thompson
Commissioner G. Woody Thompson, Jr.

Z-176

VILLAGE CENTER, INC. for Rezoning from **CF** and **R-80** to **NRC** for the purpose of Retail and Convenience Store with Fuel Sales in Land Lots 73 and 81 of the 1st District. Located on the west side of Johnson Ferry Road, north of Paper Mill Road.

MOTION: Motion by Lee, second by Goreham, to approve rezoning to the NRC zoning district subject to:

- **site plan received by the Zoning Division November 19, 2004 (copy attached and made a part of these minutes)**
- **no changes in uses, site plan or building architecture**
- **letter of agreeable stipulations from Mr. Edward L. Ericsson, dated November 15, 2004 (copy attached and made a part of these minutes)**
- **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

MAGNETIC

Min. Bk. 32 Petition No. Z-176
Doc. Type Site Plan
Meeting Date 12/21/04

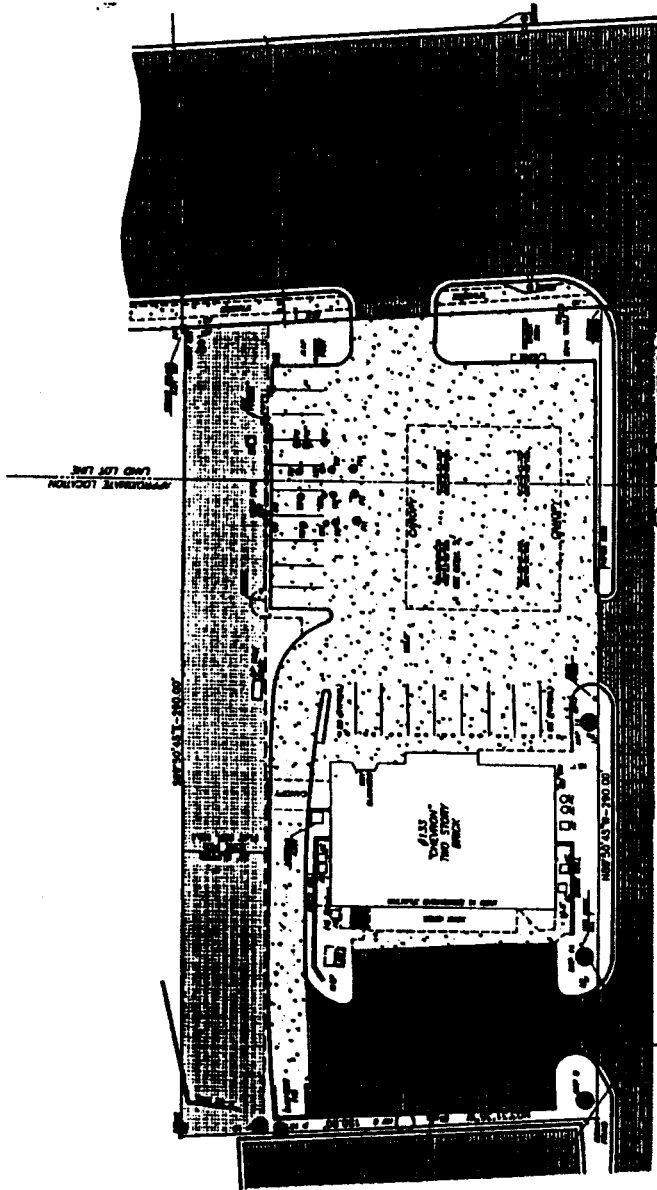
TOTAL AREA- 0.897 ACRES
OR 43,410 SQ. FT.
133 JOHNSONS FERRY ROAD
ROSWELL, GEORGIA

MEUNG SURVEYING



NOV 19 2004

REVISED



LEGEND
Symbol descriptions for various site features.

TREE LEGEND
Symbol descriptions for different types of trees.

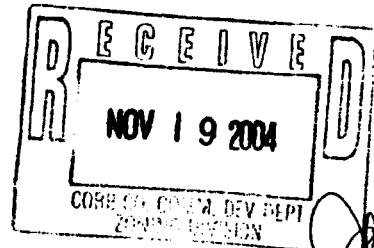
SURVEY NOTES
Detailed text notes regarding the survey process, measurements, and site conditions.

REFERENCE MATERIAL

Village Center, Inc.

133 Johnson Ferry Road
Marietta, Georgia 30068
(770) 984 - 2404

November 15, 2004



As a condition of the approval process for the rezoning application Z-176, the applicant is willing to stipulate that the parcel under consideration of approximately .995 acres will be maintained with a 20 foot landscape buffer. This 20 foot buffer includes the side setback (see section 134-213) and is on the northern most end of the commercial area currently zoned NRC and fronts onto Johnson Ferry Road (see a site plan attached). It is adjacent to a dry cleaner drive-in and a self-service gasoline station.

While NRC zoning may allow for certain uses, the applicant is also willing to stipulate that this .995 acre parcel will not be used for such purposes as a car wash, car repair, vehicle oil change, and liquor store. The applicant is familiar with the current tree County ordinance and further agrees to comply with that.

These stipulations shall be recorded at the courthouse as binding on future owners of the property.

Linda C. Brown
Witness

[Signature]
Notary

Notary Public, Cherokee County, Georgia
My Commission Expires December 02, 2005

[Signature]
Edward L. Ericsson, owner and applicant
Village Center, Inc. - President

Min. Bk. 32 Petition No. Z-176
Doc. Type Letter of Agreeable
 Stipulations
Meeting Date 12/21/04

FRONT ELEVATION OF DEVELOPMENT

RECEIVED
APR 15 2014
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



**PHOTOGRAPH OF REAR OF
DEVELOPMENT**



10000 BOSTONIAN BLDG. AGENCY
ZONING DIVISION