

**SEPTEMBER 20, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM # 055

PURPOSE

To consider a site plan and stipulation amendment for Isoken Joy Onaiwu regarding rezoning application Z-55 of 2015 (Green Park PCH, Incorporated), for property located on the west side of Canton Road, south of Shallowford Road in Land Lot 132 of the 16th District (4561 Canton Road).

BACKGROUND

The subject property was rezoned to Neighborhood Retail Commercial (NRC) in 2015 for a 22 bed personal care home (with a future addition for four additional beds). The applicant has finished and occupied the front phase-one building. The applicant would like to construct phase-two of the project which includes a second building with 24 beds. Phase-three is also shown on the proposed plan which will add another 16 beds to the personal care home. The new building will be one-story in height and its exterior appearance will complement the building in phase one. If approved, all previous zoning conditions would remain in effect.

STAFF COMMENTS

Stormwater Management: All previous Stormwater Management comments to remain in effect.

RECOMMENDATION

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

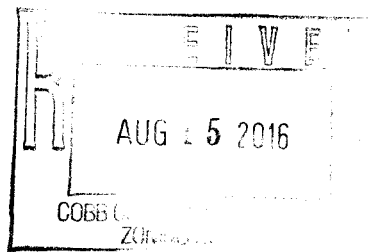
ATTACHMENTS

Other Business application and stipulations.

Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 09-20-2016




08-055-2016

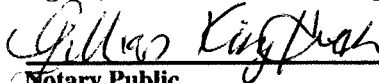
Applicant: Isoken Joy Onaiwu Phone #: 770-853-8695
(applicant's name printed)

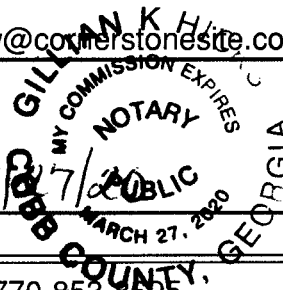
Address: 4561 Canton Road, Marietta, GA 30066 E-Mail: woghis@aol.com

Andrew M. Halloran Address: 2985 Gordy Parkway, Suite 119, Marietta, GA 30066
(representative's name, printed)

 Phone #: 770.490.9182 E-Mail: andrew@cornerstonesite.com
(representative's signature)

Signed, sealed and delivered in presence of:

 My commission expires: 3/27/2020
Notary Public

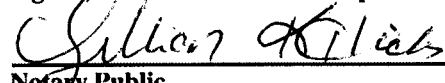


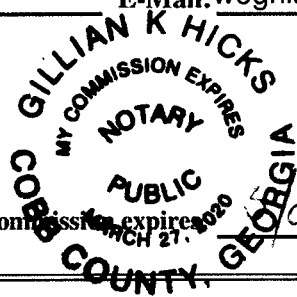
Titleholder(s) : Isoken Joy Onaiwu Phone #: 770-853-8695
(property owner's name printed)

Address: 4561 Canton Road, Marietta, GA 30066 E-Mail: woghis@aol.com


(Property owner's signature)

Signed, sealed and delivered in presence of:

 My commission expires: 3/27/2020
Notary Public



Commission District: District 3 **Zoning Case:** Z-55

Size of property in acres: 2.0 acres **Original Date of Hearing:** June 16, 2015

Location: 4561 Canton Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 132 **District(s):** 16th

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

The recently rezoned property made reference to future expansion, but such expansion was not shown on the site plan approved with the rezoning. The applicant would like to propose a new 1 story 24 bed personal care home with supporting parking and utility services. A future expansion is master planned for a future expansion of 16 beds. The existing building has a future expansion of 4 beds. All zoning conditions previously agreed upon remain in effect.

(List or attach additional information if needed)

August 15, 2016

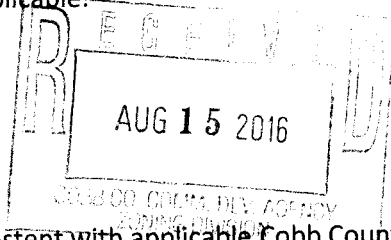
Mr. John P. Pederson, AICP
Cobb County Zoning Division Manager
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

RE: "Other Business" application for 4561 Canton Road for a site plan amendment to Z-55

Mr. Pederson,

The recently rezoned property has successfully converted the office building to a personal care home. The owner would like to request a site plan amendment in order to construct a second personal care home building on the property and plan for future additions. During the rezoning process for Z-55, it was communicated through footnote 3 of Zoning condition 6 that future expansions are anticipated to the property if market conditions support the need for additional beds. The applicant has therefore submitted a site plan amendment for consideration with the following comments to address the conditions of the previously approved rezoning application were applicable:

- Condition 1: No comment
- Condition 2: See attached site plan for the proposed expansion.
- Condition 3: No comment
- Condition 4: The architectural style of the buildings shall be consistent with applicable Cobb County Canton Road Corridor Design Principles Plan & Recommendations document guidelines.
- Condition 5: Property was sold and so the zoning converted to NRC as approved by Cobb County.
- Condition 6: See site plan changes to the existing building as part of this "other business" request.
- Condition 7: Compliance with conditional already met through the Certificate of Occupancy process of the existing building.
- Conditions 8 through 13: Compliance to be verified through the Land Disturbance Permit process
- Condition 14: No comment

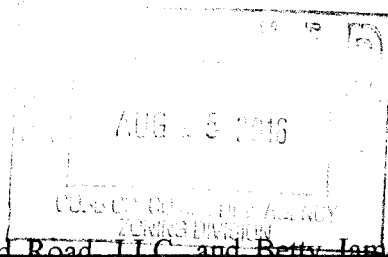


Let me know if you need any additional information for your staff review. We will provide proof of mailing to adjacent property owners as directed by the application process.

Sincerely,

Andrew M. Halloran, P.E.

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JUNE 16, 2015
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CONSENT AGENDA (CONT.)

~~Z-52 VRE MABLETON, LLC (4730 Floyd Road, LLC, and Betty James Barnes, owners) requesting Rezoning from R-20 to NRC for the purpose of a Restaurant in Land Lot 31 of the 17th District. Located at the northwest corner of Floyd Road and White Boulevard.~~

To ~~approve~~ Z-52 to the NRC zoning category, subject to:

- Site plan received by the Zoning Division on May 14, 2015, with District Commissioner approving minor modifications (attached and made a part of these minutes)
- Letters of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 14, 2015 and May 26, 2015 (attached and made a part of these minutes), with the following change to the May 14, 2015 letter:
 - Item No. 7, first sentence – strike: “wooden”
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- ~~Cobb DOT comments and recommendations~~

 Z-55

GREEN PARK PCH, INCORPORATED (Bighom Properties, LLC, owner) requesting Rezoning from LI and GC to NRC for the purpose of Assisted Living in Land Lot 132 of the 16th District. Located on the west side of Canton Road, south of Shallowford Road.

To approve Z-55 to the NRC zoning category, subject to:

- Site plan received by the Zoning Division on April 2, 2015, with District Commissioner approving minor modifications (attached and made a part of these minutes)
- Letter of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 13, 2015 (attached and made a part of these minutes)
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

Due to opposition present, Z-62 (E-Rock Development) was pulled from the Consent Agenda, see page 8 of these minutes. Later in the hearing, it was determined that the opposition raised hand in error.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

May 13, 2015

VIA EMAIL

Min. Bk. 76 Petition No. Z-55
Doc. Type Letter

Meeting Date 6-16-15

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

Re: Application of Green Park PCH, Incorporated to Rezone a 2 Acre Tract from
LI & GC to NRC (No. Z-55)

Dear John:

You will recall that this firm has been engaged by and represents Green Park PCH, Incorporated ("Green Park") concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on June 2, 2015 and, thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on June 16, 2015.

During the pendency of this Application, we have had an opportunity to interface with the County's professional staff with whom we have established a meaningful dialogue. Additionally, we have been in preliminary contact with representatives of Canton Road Neighbors, Inc. ("CRN"), business owners along this section of the Canton Road Corridor and others. In that regard, this letter will serve as Green Park's expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and which shall be binding upon the subject property thereafter. The referenced stipulations/conditions are as follows, to-wit:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. Rezoning of the subject property shall be in substantial conformity to that certain Site Plan prepared for Green Park by Frontline Surveying & Mapping, Inc., which was filed contemporaneously with the Application for Rezoning.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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3. The proposal to rezone the subject property to Neighborhood Retail Commercial ("NRC") is to allow for the utilization of the subject property and the building thereon for the purposes of a Personal Care Facility with an Assisted Living component.¹
4. The architectural style and composition of the building shall remain as-built; however, there will be some interior modifications to the building to accommodate the planned use.
5. In the event that the purchaser (Green Park) has not closed on the subject property subsequent to the rezoning of same to NRC, the subject property shall revert to its present zoning classifications of LI & GC without any action being necessary on the part of the owner/seller of the subject property.²
6. The existing building located on the subject property is approximately 5,124 square feet in size which will accommodate a personal care facility which will consolidate Green Park's operations and provide a more efficient facility with the culmination of Green Park's operations within one (1) building.

The facility will specialize in the personal care of its residents which will typically include approximately sixteen (16) residents at any one time who will be monitored and attended by three (3) staff members. The facility's proposed hours of operation shall be continuous, that is, 24 hours per day, 7 days per week.³

¹ This proposal constitutes a "down-zoning" of the subject property from LI & GC to NRC and brings the subject property into compliance with its positioning on the Future Land Use Map as being a part of a Neighborhood Activity Center ("NAC").

² This stipulation/condition is a part of Green Park's contractual obligations pursuant to the purchase and sale agreement between the owner and Green Park.

³ The projected opening date of the facility is September 1, 2015 with future expansions planned on the contiguous and undeveloped portion of the property.

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VIA EMAIL

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7. Compliance with the following recommendations from the Cobb County Department of Transportation:
 - a. The voluntary donation and conveyance of right-of-way along Canton Road so that the County can achieve fifty feet (50') from the centerline of said right-of-way.
 - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Canton Road.
 - c. DOT has requested the installation of a deceleration lane and an appropriate taper upon an expansion of or an addition to the proposed personal care facility. However, upon visual inspection of the subject property, there already exists a deceleration lane and taper adjacent to the subject property's point of ingress/egress on Canton Road which also serves the property which is contiguous and to the east of the subject property.
8. Compliance with recommendations from the Stormwater Management Division with respect to detention, hydrology and downstream considerations.⁴
9. A Landscape Plan shall be submitted to the Community Development Agency during the Plan Review Process subject to review and approval by the County's Arborist.
10. Exterior lighting shall remain as-constructed; however, any additional lighting or security lighting shall be environmentally sensitive in order to prevent illumination from extending beyond the boundaries of the subject property.
11. Signage for the proposed personal care facility shall consist of ground-based, monument style signage which shall be consistent with the existing as-built architectural theme. There shall be no flashing sign components and no exterior illumination by remote flood lighting.

⁴ Presently, there is an off-site, large detention pond which was designed for the subject property as well as adjacent properties which can handle stormwater management with respect to the totality of the subject property in terms of configuration and capacity.

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12. Compliance with recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
13. Compliance with recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues.
14. The District Commissioner shall have the authority to approve minor modifications as the development proposal proceeds through the Plan Review process and thereafter except for those that:
 - a. Reduce the size of an approved buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
 - b. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.
 - c. Increase the height of a building that is adjacent to property that is zoned in the same or more restrictive zoning district.
 - d. Violate the Cobb County Zoning Ordinance.
 - e. Change access locations to different roadways.
 - f. Would be in direct conflict with, or direct contradiction to, Cobb County regulations or any of the foregoing stipulations.

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A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

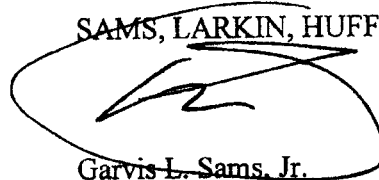
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Please do not hesitate to contact me should you or your staff require any additional information or documentation prior to the formulation of your final Zoning Analysis and Staff Recommendations. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/klk

- cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP, Director (via email)
Mr. Dana Johnson, AICP, Deputy Director (via email)
Mr. Jason Campbell, Planner III (via email)
Mr. Terry Martin, Planner II (via email)
Ms. Kim Wakefield, Zoning Analyst (via email)
Mr. David Breaden, P.E., Cobb County Stormwater Management (via email)
Ms. Jane Stricklin, P.E., Cobb County DOT (via email)
Mr. Tim Davidson, Cobb County Water System (via email)
Ms. Charlotte A. Collins, Chairman's Assistant (via email)
Ms. Lori Barton, Deputy County Clerk (via email)
Ms. Carol Brown, Canton Road Neighbors (via email)
Ms. Kate Emefiele (via email)
Mr. Tom Peay, P.E. (via email)

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OTHER BUSINESS (CONT.)

- O.B. 38** To consider amending the stipulations for Joy Onaiwu regarding rezoning application Z-55 (Green Park PCH, Inc.) of 2015, for property located on the west side of Canton Road, south of Shallowford Road in Land Lot 132 of the 16th District.

Mr. Campbell provided information regarding the stipulation amendment to delete Item No. 5 from the stipulation letter from Mr. Garvis L. Sams, Jr. dated May 13, 2015. The public hearing was opened, and Mr. Garvis L. Sams, Jr. addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Lee, second by Weatherford, to approve O.B. 38 for rezoning application Z-55 (Green Park PCH, Inc.) of 2015, for property located on the west side of Canton Road, south of Shallowford Road in Land Lot 132 of the 16th District, subject to:

- Letter of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 13, 2015, (see Board of Commissioner Zoning Minutes dated June 16, 2015) with the following change:
 - Item No. 5 – delete in its entirety
- All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect

VOTE: ADOPTED 4-0, Birrell absent

- O.B. 39** To consider amending the site plan for Marty Williamson regarding rezoning application Z-138 (Marty Williamson) of 2005, for property located on the east side of Canton Road, north of Hiawasse Drive in Land Lot 637 of the 16th District.

Mr. Campbell provided information regarding the site plan amendment to allow for building a new 2,400 square foot storage building in the rear of the property in order to store materials and stock. The public hearing was opened, and Ms. Carol Brown and Mr. C. Scott Merrell addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Lee, second by Ott, to hold O.B. 39 until the October 20, 2015 Board of Commissioners' Zoning Hearing.

VOTE: ADOPTED 3-1-0, Weatherford opposed, Birrell absent