

**OCTOBER 18, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM OB-062

To consider a stipulation amendment for Charter Senior Living of Marietta, LLC regarding rezoning application Z-91 of 1996 (Courtyard Management), for property located on the east side of LeCroy Drive, east of Roswell Road in Land Lot 1030 of the 16th District (840 LeCroy Drive).

BACKGROUND

The subject property was zoned to Office and Institutional in 1996 for a personal care home, which was built. At the time of rezoning, a sign rendering was included in the stipulation letter that was made part of the zoning minutes. The current sign is dated and does not meet today’s sign code for a ground based monument style sign. The applicant has submitted a rendering for the proposed sign which does meet the sign code for a ground based monument style sign. It is important to note that the proposed sign is going in the same exact location as the old sign. There is one variance that the applicant needs, which is carried over from the old sign location. The variance would be to allow a sign 22 feet off the center line of the road in lieu of 42 feet off the centerline of the road. This variance has existed for 20 years without negatively affecting adjacent properties. If approved, all other zoning stipulations would remain in effect.

STAFF COMMENTS

Cobb D.O.T.: Recommend the sign be installed where it will not impede the line of sight for the driveways or roadways.

RECOMMENDATION

The Board of Commissioners consider the request for the stipulation amendment.

ATTACHMENTS

Other Business application and stipulations.

Application for "Other Business" Cobb County, Georgia

OB-062-2015

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

BOC Hearing Date Requested: October 18, 2016

Applicant: Charter Senior Living of Marietta, LLC **Phone #:** See representative.
(applicant's name printed)

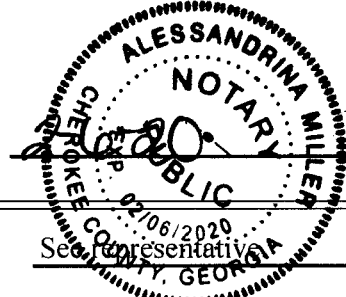
Address: See representative. **E-Mail:** See representative.

James A. Balli, Esq. **Address:** 376 Powder Spring St., Ste. 100, Marietta, GA 30064
(representative's name, printed)

[Signature] **Phone #:** 770.422.7016 **E-Mail:** jballi@slhb-law.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] **My commission expires:** _____
Notary Public



Titleholder(s) : Charter Senior Living of Marietta, LLC **Phone #:** See representative.
(property owner's name printed)

Address: See representative. **E-Mail:** See representative.

See attached Exhibit "A" for signature.
(Property owner's signature)

Signed, sealed and delivered in presence of:

_____ **My commission expires:** _____
Notary Public

SEP 18 2016

Commission District: District 2 **Zoning Case:** Z-91 of 1996

Size of property in acres: 2.405 **Original Date of Hearing:** 07/16/1996

Location: 840 LeCroy Drive
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 1030 **District(s):** 16

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

Change stipulation to allow for a new, updated sign in the same location as outdated sign.

(List or attach additional information if needed)

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.: O.B. 62 (2016)
Hearing Date: October 18, 2016

Applicant: Charter Senior Living of Marietta, LLC
Titleholder: HCP Eden 2 Pack, LLC

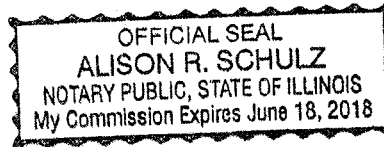
SEP 28 2016

HCP Eden 2 Pack, LLC

By: DT Benn
Its: Authorized Agent
Date Executed: 9/13/16

Signed, sealed, and delivered in the presence of:

9/13/16 Alison R Schulz
Notary Public
Commission Expires: 06/18/2018

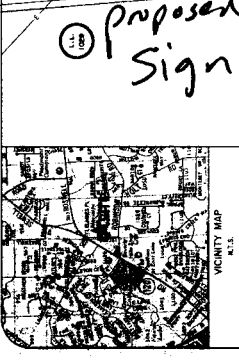
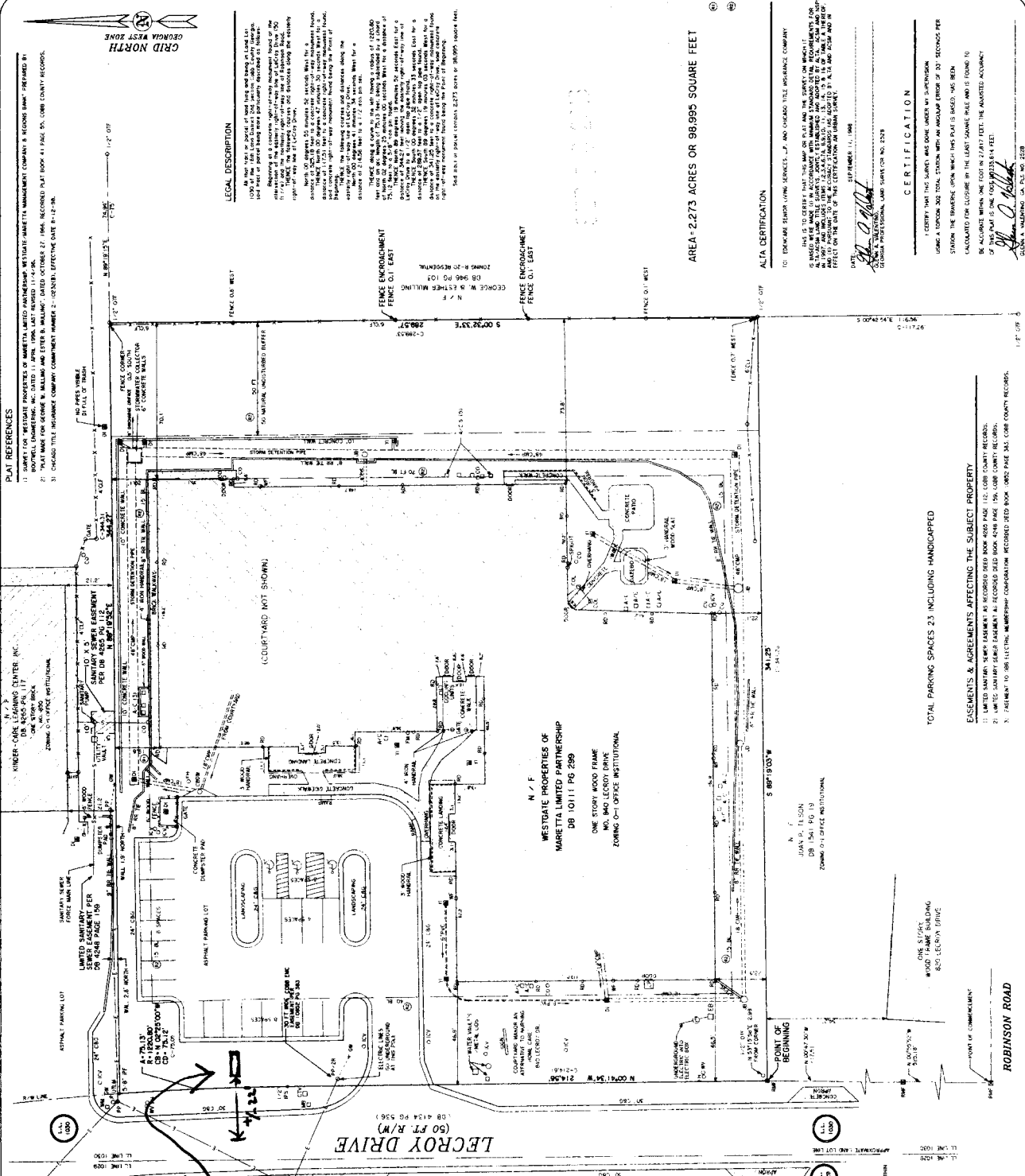


Proposed Sign location

EDNCARE SENIOR LIVING SERVICES, L.P. AND CHICAGO TITLE INSURANCE COMPANY

VALENTINO & ASSOCIATES, INC. LAND SURVEYORS

Professional seal and title block for VALENTINO & ASSOCIATES, INC. including date, scale, and project name.



- LEGEND: Symbols for various features like utility lines, easements, and structures.

UTILITY WARNING: Notice regarding underground utilities and the surveyor's responsibility.

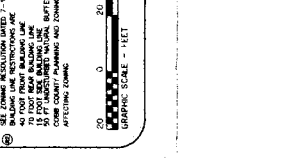
GENERAL NOTES: Detailed notes regarding survey methods, easements, and zoning.

ESSEMENTS & AGREEMENTS AFFECTING THE SUBJECT PROPERTY: List of existing easements and agreements.

CERTIFICATION: Statement certifying the accuracy of the survey.

LEGAL DESCRIPTION: Detailed text description of the property boundaries and area.

PLAT REFERENCES: List of other related survey documents.



OB-061-2016
Proposed Sign

scale : 1/4" = 1 ft.

RECEIVED
SEP 13 2016
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

12 ft 0 in Sign Face Width



10 ft 0 in Sign Face Height

6 ft from street

13 ft 6 in

16 ft 0 in

Application for Rezoning Cobb County

Application No. 2-91
PC Hearing: 7/2 96
BOC Hearing: 7/10 96

Applicant COURTYARD MANAGEMENT Business Phone 810-669-0688 Home Phone 810-317-4797

DAN BUYERS Address MCWHIRTER REALTY, 5500 INTERSTATE NORTH PKWY.
(representative's name, printed) STE. 230 ATLANTA, GA 30328

Dan Buyers Business Phone 770-955-2000
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

NOTARY PUBLIC, COBB COUNTY, GEORGIA
MY COMMISSION EXPIRES SEPTEMBER 26, 1998

My commission expires: _____

Titleholder GARY UNELL (25%) Business Phone 404-252-8560 Home Phone 404-250-0005 (UNELL)
EDWARD LEVIN (25%)
BERNARD POLLOCK (50%)

Signature [Signature] Address 195 CHASELAND ROAD, ATLANTA, GA 30328-3105
(attach additional signatures, if needed) Bernard S. Pollock

Signed, sealed and delivered in presence of: Gary Unell

Laura S. Sellers 5/1/96
Notary Public

Notary Public, FULTON COUNTY, GEORGIA
My commission expires: My Commission Expires APRIL 19, 1998

Zoning Request From 0 & I (Conditional) to 0 & I
(present zoning) (proposed zoning)

For the Purpose of PERSONAL CARE HOME Size of Tract 2.272 Acre(s)
(subdivision, restaurant, warehouse, apt., etc.)

Location EAST SIDE OF LECROY DRIVE, NORTH OF ROBINSON ROAD
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 1030 District 16

We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are/are no such assets. If any, they are as follows:

Dan Buyers
(applicant's signature)

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is/is not such a cemetery. If any, they are as follows:

Dan Buyers
(applicant's signature)

ORIGINAL DATE OF APPLICATION: 7/96

APPLICANTS NAME: COURTYARD MANAGEMENT

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

BOC DECISION OF 7-16-96 ZONING HEARING: The Board of Commissioners, as part of the Consent Agenda, approved request for rezoning to the OI zoning district subject to: 1) letters of agreeable conditions submitted by applicant's attorney, dated May 28, 1996 and June 20, 1996 (copies attached and made a part hereof); 2) project subject to a 50 foot natural undisturbed buffer along the eastern property line (except for utilities) and an additional 20 foot building setback; 3) project subject to Water and Sewer comments and recommendations; 4) project subject to Stormwater Management Division comments and recommendations. Motion by Poole, second by Wysong, carried 4-0.

Empty lined area for additional text or notes.

SAMS & LARKIN
ATTORNEYS AT LAW
SUITE 100
378 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064

z-91 of 1996
1st letter of agreement
as referenced in zoning
minutes of 7-16-96.
Car Deer

GARVIS L. SAMS, JR.
JOEL L. LARKIN
WILLIAM W. GROVES

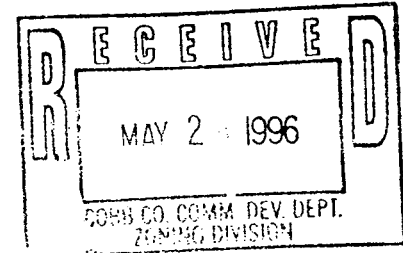
(770) 422-7016
TELEPHONE
(770) 426-6583
FACSIMILE

OF COUNSEL
W. ANTHONY MOSS

May 28, 1996

VIA HAND DELIVERY

Mr. Edwin Thomas, Principal Planner
Cobb County Zoning Department
Suite 500
100 Cherokee Street
Marietta, Georgia 30090-9674



Re: Application of Courtyard Management Company to Rezone a
2.272 Acre Tract from O&I (Conditional) to O&I
(No. Z-91)

Dear Ed:

I have been engaged by an represent Courtyard Management Company ("Courtyard") in connection with the above-captioned Application for Rezoning. The Application is scheduled to be heard before the Cobb County Planning Commission on July 2, 1996, and before the Cobb County Board of Commissioners on July 16, 1996.

In accordance with dialogue established with the staff during the pendency of the Application, Courtyard has authorized me to submit this letter of agreeable stipulations. Upon the zoning Application being approved, as submitted or revised by consent, the following stipulations shall become conditions and a part of the grant of the requested rezoning and shall be binding upon the subject property thereafter:

1. Architectural style shall be traditional with brick accents, pitched roofs and a maximum height of one (1) story.¹
2. All lighting and security illumination shall be low-intensity, environmental-type, subject to review and approval by staff. All exterior lighting shall be shielded, with direct illumination being confined within the perimeters of the subject property.

¹Enclosed for your information and review are copies of the architectural site plan, building elevations and a brochure depicting actual photographs of other assisted living facilities which Courtyard has constructed in Georgia and other parts of the United States.

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
Page 2
May 28, 1996

2-918/1996
Exhibit continued

3. Subject to Cobb County Department of Transportation's recommendations. At present, because Lecroy Drive is denominated as a "local road", DOT will apparently not require additional right-of-way, improvements, or enhancements to same.
4. Subject to the submission of a landscape plan and staff review and approval of same during the Plan & Review process including, but not limited to, the following:
 - a. Buffers as depicted on the revised site plan submitted contemporaneously herewith, including a 50 foot buffer (and 70 foot set-back) between the subject property and contiguous property owned by Mr. and Mrs. George W. Mulling.
 - b. An agreement that the aforementioned buffers shall constitute non-destructive zones and remain inviolate during the construction and build-out of the project except, of course, with respect to the installation of utilities (if any) required by Cobb County.
 - c. Compliance with the Cobb County Tree Preservation & Replacement Ordinance, subject to the Arborist's review and approval.
 - d. Dumpsters and trash receptacles shall be incorporated into the Applicant's landscape plan and adequately screened from view from all other adjacent properties and streets.
5. Subject to Cobb County Development & Inspection Department's recommendations with respect to stormwater detention, hydrology and down-stream considerations including, but not limited to, the following:
 - a. Subject to recommendations from the Department with respect to the ultimate location of detention facilities.
 - b. Subject to Cobb County's Flood Damage Prevention Ordinance requirements.

2-91 of 1996
exhibit continued

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
Page 3
May 28, 1996

- c. Subject to the Cobb County Chattahoochee River Corridor Tributary Protection Area Ordinance.
 - d. Compliance with the Metropolitan River Protection Act (MRPA) requirements.
 - e. Compliance with Cobb County's Clean Water Act (CWA) NPDES permit.
 - f. Site stormwater discharge shall be controlled so as not to exceed the capacity of down-stream drainage systems.²
 - g. Subject to any spring activity uncovered during the development of the subject property being addressed by a qualified geo-technical engineer with 25 foot buffers being established with respect to such activity.
6. Compliance with the Cobb County Sign Ordinance including, but not limited to, the following:
- a. Utilization of ground-based, monument-style signage which shall be incorporated into and made a part of the landscape plan as aforementioned. Enclosed is an 8½ x 11 copy of the sign which shall be erected on Lecroy Drive.
 - b. Building identification signage (if any) shall be consistent with the overall architectural style as aforementioned.

²As the staff is aware, Mr. and Mrs. George W. Mulling own a 25 acre tract of land which is contiguous to the subject property. Located thereon is a lake concerning which the Applicant is dedicated to undertaking whatever measures are deemed necessary by the County in order to preserve and protect the Mullings' property, generally, and the lake, specifically.

2-91 8/1996
EXHIBIT CONTINUED

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
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May 28, 1996

7. An agreement to exclude all uses under the Office & Institutional (O&I) district except for utilization as an assisted living facility.

Courtyard anticipates a maximum of fifteen (15) employees on the premises at any one time which provides for a staff/resident ratio of 1 to 7. At present, Courtyard's plans are for a total number of fifty-six (56) rooms (consisting of approximately 335 square feet each) with twenty-eight (28) rooms being located in each building. Although the original plans call for all of the rooms to be private, there is a possibility that four (4) of the rooms may evolve into semi-private rooms.

As you know, the subject property is located within a Community Activity Center (CAC). In that regard, what the Applicant proposes is a considerable down-sizing from the original office complex contemplated for the site and constitutes an excellent transition within the activity center.

I will be contacting Mr. and Mrs. George W. Mulling within the next several days to see if I can arrange a meeting to orient them to the Applicant's proposal. I will, of course, keep you apprised of the ongoing status of our conversations with Mr. and Mrs. Mulling. In the interim, please do not hesitate to call should you or your staff require any further information or documentation in connection with this Application.

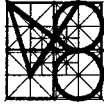
Very truly yours,



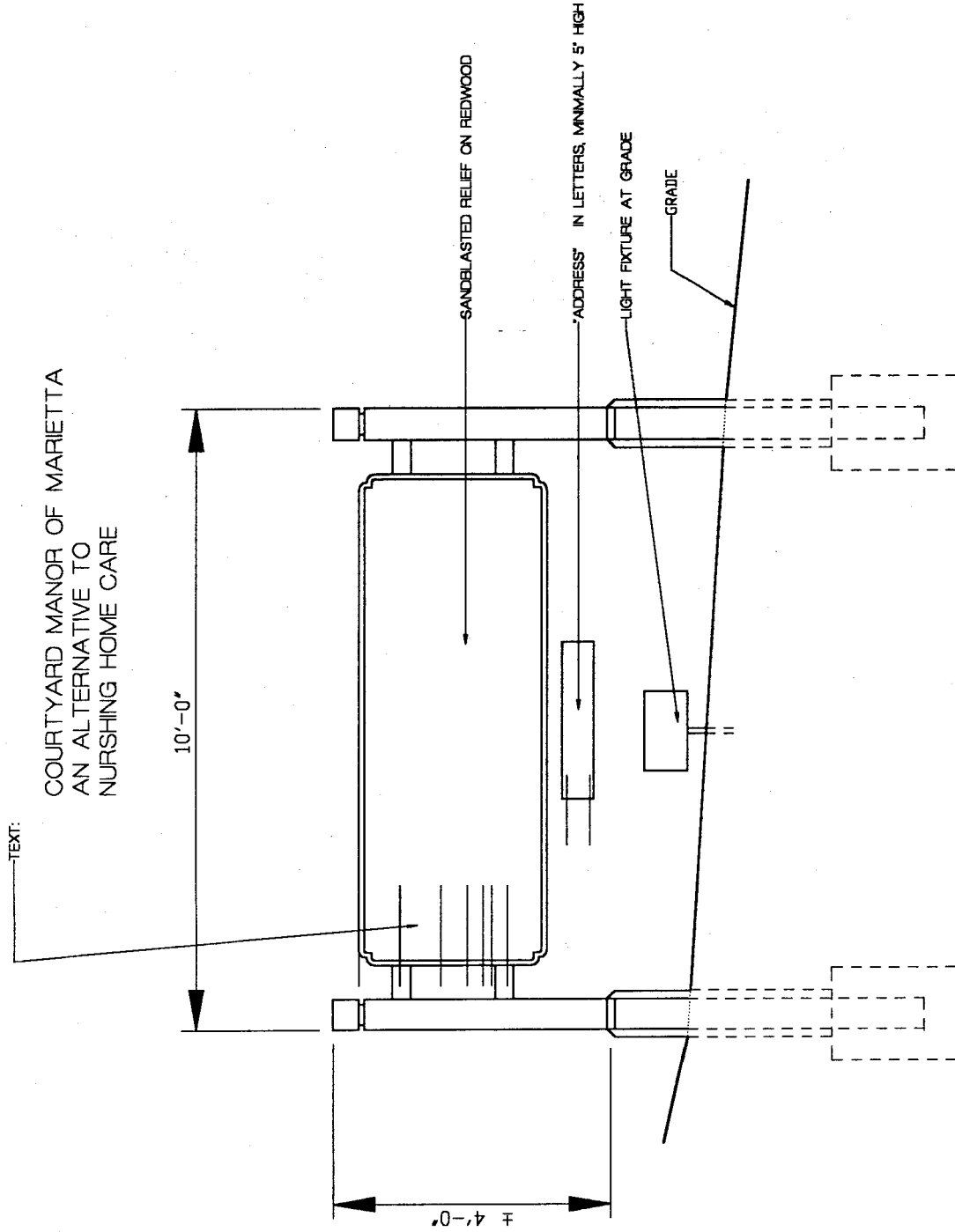
Garvis L. Sams, Jr.

GLS, Jr./jbmc
Enclosures

- cc: Members, Cobb County Planning Commission - w/enclosures
Members, Cobb County Board of Commissioners - w/enclosures
Ms. Karen Hach, Deputy Clerk - w/enclosures
Mr. and Mrs. George W. Mulling - w/enclosures
Ms. Kim Baudry, Vice President - w/enclosure

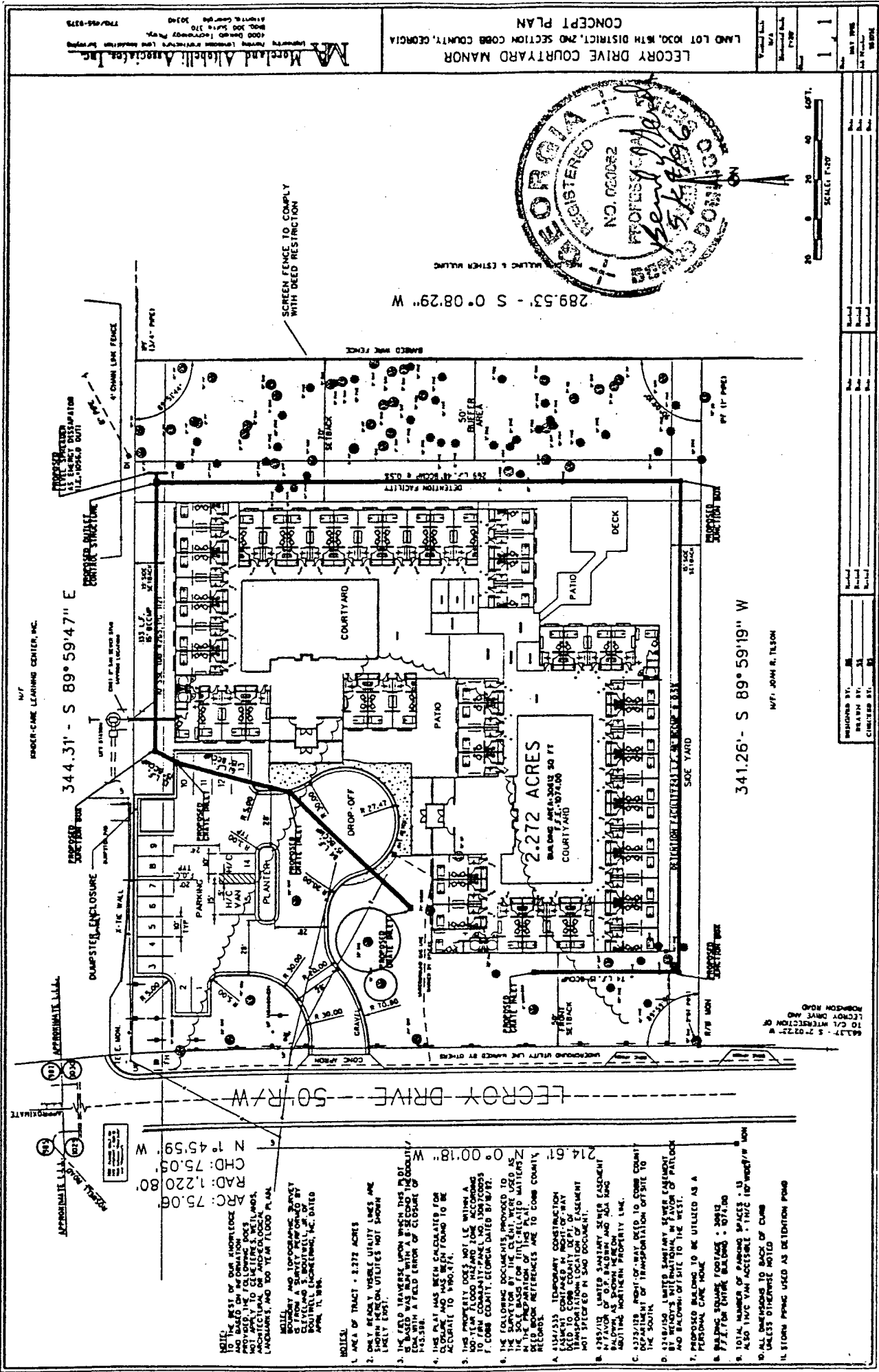


ug's 9661



1 STREET SIGN
 NOT TO SCALE

Handwritten notes:
 9661815-2
 7914143
 1996/5/24



1:196105/spln.dgn May. 24, 1996 14:33:50

SAMS & LARKIN
ATTORNEYS AT LAW
SUITE 100
378 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30084

Z-91 of 1996

2nd letter of agreement as
referenced in zoning minutes
of 7-16-96. *Law Hech*

(770) 422-7018
TELEPHONE
(770) 426-6583
FACSIMILE

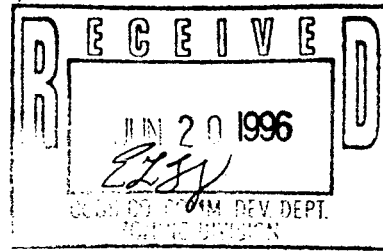
GARVIS L. SAMS, JR.
JOEL L. LARKIN
WILLIAM W. GROVES

OF COUNSEL
W. ANTHONY MOSS

June 20, 1996

VIA HAND DELIVERY

Mr. Edwin Thomas, Principal Planner
Cobb County Zoning Department
Suite 500
100 Cherokee Street
Marietta, Georgia 30090-9674



Re: Application of Courtyard Management Company to Rezone a
2.272 Acre Tract from O&I (Conditional) to O&I
(No. Z-91)

Dear Ed:

As you know, I represent Courtyard Management Company ("Courtyard") in connection with the above-captioned Application for Rezoning. We have completed discussions and negotiations with Mr. and Mrs. George W. Mulling who own a 25 acre tract of land contiguous and to the east of the subject property. In that regard, this letter does not preempt but is in addition to my previous letter to you, dated May 28, 1996, concerning stipulations/conditions.

Courtyard is willing for the following additional stipulations to become conditions and a part of the grant of the requested rezoning and binding on the subject property thereafter:

I. FENCING

- A. The erection of 6 foot chain link fence (with green slats) running parallel to the common property line between the Mulling and Courtyard properties. Additionally, the erection of identical fencing running parallel to the northern and southern property lines of the subject property for a distance of no less than 100 feet.

SAMS & LARKIN
ATTORNEYS AT LAW

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
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- B. The fence along the Mulling/Courtyard property line shall be installed in a non-intrusive manner. The Mullings have agreed to allow Courtyard access to said common property line by way of their property; however, no trucks or vehicles larger than a pickup truck shall be allowed for purposes of the erection and maintenance of the fence.
- C. No land disturbance or other permits shall issue until such time as the fence has been installed and erected as aforementioned. The parties agree that, if necessary, the existing barbed wire fence presently located on the Mulling tract may be removed. Once the fence has been constructed and erected, all maintenance and upkeep regarding same shall be Courtyard's responsibility in perpetuity.

II. DETENTION/STORMWATER

- A. Underground detention shall be installed as depicted on the revised site plan prepared by Moreland Altobelli & Associates, Inc.
- B. Stormwater stored on the site shall not be released at a rate exceeding predevelopment stormwater flows.
- C. The proposed outlet control structure located near the northeast corner of the subject property shall consist of a level spreader (manifold with multiple slots) which will act as an energy dissipator, translating into stormwater sheet flow which shall be diffused through the buffer area prior to departing the subject property.
- D. The underground piping which will be utilized shall consist of bituminous coated galvanized corrugated metal pipe.

SAMS & LARKIN
ATTORNEYS AT LAW

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
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June 20, 1996

- E. Silt fencing shall be erected in accordance with County specifications. However, in addition thereto, silt fencing shall be erected along the common property line between the Mulling and Courtyard properties and along a north-south line parallel and 50 feet west of same. Additionally, proposed grate inlets as depicted on the revised site plan shall have silt screening erected in an appropriate fashion around said inlets until the site has been stabilized.
- F. Courtyard shall conduct a preconstruction hydrological/sedimentation evaluation of the Mullings' lake and agree to assume responsibility for removing any sedimentation in the Mulling lake precipitated by construction activity on the subject property.

III. LIGHTING

- A. Lighting shall be consistent with the Courtyard Manor development located on Nesbit Ferry Road in Alpharetta, Georgia.
- B. However, lighting on the subject property may also include the construction and erection of cast iron poles with light globes affixed thereon a maximum of eight (8) feet in height.

We are extremely pleased with the progress that we have made and the meaningful discussions which have taken place with the Mullings and with staff. We hope that the comprehensive nature of the agreement between the parties will place the staff in a position to recommend approval of the zoning proposal.

SAMS & LARKIN
ATTORNEYS AT LAW

VIA HAND DELIVERY

Mr. Edwin L. Thomas, Principal Planner
Page 4
June 20, 1996

Please do not hesitate to call should you have any questions whatsoever regarding these matters or should you or the staff need any further information or documentation.

Very truly yours,



Garvis L. Sams, Jr.

GLS, Jr./dml

cc: Members, Cobb County Planning Commission
Members, Cobb County Board of Commissioners
Ms. Karen Hach, Deputy Clerk
Mr. and Mrs. George W. Mulling
Ms. Kim Baudry, Vice President
Mr. Sam Olens, Esq.