

FEBRUARY 20, 2018 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3

ITEM OB-004

PURPOSE

To consider a site plan and stipulation amendment for Brooks Chadwick Capital, LLC regarding rezoning application Z-53 of 2017 for property located on the east side of Sandy Plains Road, south of Shallowford Road, in Land Lots 386, 387, 406 and 407 of the 16th District.

BACKGROUND

The subject property was rezoned in 2017 to CRC for a shopping center with multiple buildings. The applicant would like to amend the site plan to slightly reposition building 500, which will be a climate controlled self-service storage facility. The proposed storage building will be approximately 200 square feet smaller than the 2017 approved building. The applicant would also like to delete building 700 from the original plan, rotate building 800 90-degrees clockwise (and relabel it building 700), and move building 900 southerly (and relabel it building 800). Overall, there is less square-footage on the proposed site plan, and the previously approved buffers remain intact. If approved, all previous zoning stipulations would remain in effect.

FUNDING

N/A

DEPARTMENT COMMENTS

Cobb D.O.T.: Recommend a deceleration lane for the southernmost entrance on Sandy Plains Road. Cobb County PARKS has no objection to donating the right-of-way needed for construction of the deceleration lane.

RECOMMENDATION

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

ATTACHMENTS

Other Business application and stipulations.

(Site Plan Amendment)
Application for "Other Business"

Cobb County, Georgia

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

OB Application No.: OB- 4 -2018

BOC Hearing Date Requested: February 20, 2018

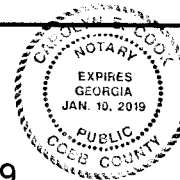
Applicant: Brooks Chadwick Capital, LLC Phone #: (404) 281-4554
(applicant's name printed)

Address: Suite 230, 255 Village Parkway, Marietta, GA 30067 E-Mail: todd@brookschadwick.com

MOORE INGRAM JOHNSON & STEELE, LLP
J. Kevin Moore Address: Emerson Overlook, Suite 100, 326 Roswell Street
(representative's name, printed) Marietta, GA 30060

BY: [Signature] Phone #: (770) 429-1499 E-Mail: jkm@mijs.com
(representative's signature) Georgia Bar No. 519728

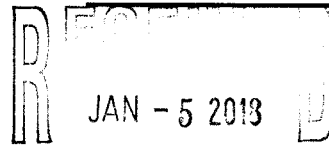
Signed, sealed and delivered in presence of:
[Signature] My commission expires: January 10, 2019
Notary Public



Titleholder(s): Cobb County Board of Education Phone #: (770) 420-4906
(property owner's name printed)

Address: 440 Glover Street, Marietta, GA 30060 E-Mail: _____

See Attached Exhibit "A"
(Property owner's signature)



Signed, sealed and delivered in presence of:

My commission expires: _____
Notary Public

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

Commission District: 3 (Birrell) **Zoning Case:** Z-53 (2017)

Size of property in acres: 13.8411+/- **Original Date of Hearing:** 09/19/2017
Zoning Decision Date: 10/17/2017

Location: East side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of
(street address, if applicable; nearest intersection, etc.) Hunters Lodge Road

Land Lot(s): 386, 387, 406, 407 **District(s):** 16th

State specifically the need or reason(s) for Other Business: _____
See Exhibit "B" attached hereto and incorporated herein by reference.

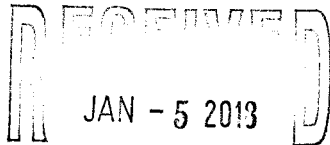
EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(Site Plan Amendment)

Application No.: OB- 4 (2018)
Application No.: Z-53 (2017)
Original Hearing Date: September 19, 2017
Date of BOC Zoning Decision: October 17, 2017
Current Hearing Date: February 20, 2018

Applicant: Brooks Chadwick Capital, LLC
Titleholder: Cobb County Board of Education

Tax Parcel No.: 16038700030

COBB COUNTY BOARD OF EDUCATION



COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

BY: Nichols P. Parker
Nichols P. Parker
Senior Executive Director – SPLOST

Date Executed: 12-21-2017

Address: 440 Glover Street
Marietta, Georgia 30060

Telephone No.: (770) 420-4906

Signed, sealed, and delivered in the presence of:

Cathy Adams
Notary Public
Commission Expires: August 2, 2019

[Notary Seal]

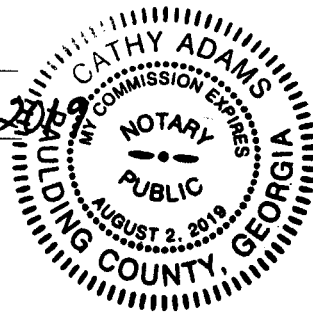


EXHIBIT "B" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(Site Plan Amendment)

Application No.: OB- 4 (2018)
Application No.: Z-53 (2017)
Original Hearing Date: September 19, 2017
Date of BOC Zoning Decision: October 17, 2017
Current Hearing Date: February 20, 2018

Applicant: Brooks Chadwick Capital, LLC
Titleholder: Cobb County Board of Education

Tax Parcel No.: 16038700030

Brooks Chadwick Capital, LLC, as Applicant in this Application for "Other Business" (hereinafter "Applicant"), proposes to amend the Site Plan approved for development of the property located on the east side of Sandy Plains Road, southwesterly of Shallowford Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia, being more particularly known as 3448 Sandy Plains Road, (hereinafter the "Property" or the "Subject Property"). On October 17, 2017, the Cobb County Board of Commissioners rezoned the Property and approved the Site Plan and stipulations for the development of the Property as a retail center. Applicant seeks approval of a modified Site Plan as more particularly set forth on the revised Site Plan dated October 25, 2017, prepared by Haines Gipson & Associates, a reduced copy of which is attached hereto as Exhibit "1" and incorporated herein by reference.

The balance and remainder of the stipulations and conditions enumerated in the official minutes, and any attachments thereto, of the Board of Commissioners Zoning Hearing held on October 17, 2017, as to the rezoning approval for development of the Subject Property are unaltered or unchanged by this request for Site Plan Amendment.

The amendment of the Site Plan in no way adversely impacts or affects the quality or integrity of the overall development initially approved by the Cobb County Board of Commissioners. If the requested amendment to and approval of the Zoning Site Plan is approved, as submitted, it shall become an additional part of the final rezoning and shall be binding upon the Subject Property.

RECEIVED
JAN - 5 2018

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

08-004
2/18
Proposed
Site
Plan

SP-45Z

SITE PLAN



RECEIVED
JAN - 5 2013
CONSTRUCTION DIVISION
ZONING DIVISION

SANDY PLAINS ROAD
(VARIABLE WIDTH RW)

SHALLOWFORD ROAD
(VARIABLE WIDTH RW)

BROOKS CHADWICK
CAPITAL

SANDY PLAINS ROAD
RETAIL CENTER
OLD MOUNTAIN HIGH SCHOOL

HANKS GROOM & ASSOCIATES
CONSULTING ENGINEERS
CIVIL & STRUCTURAL SERVICES
1000 WOODBINE DRIVE, SUITE 200
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FAX: (336) 441-7700

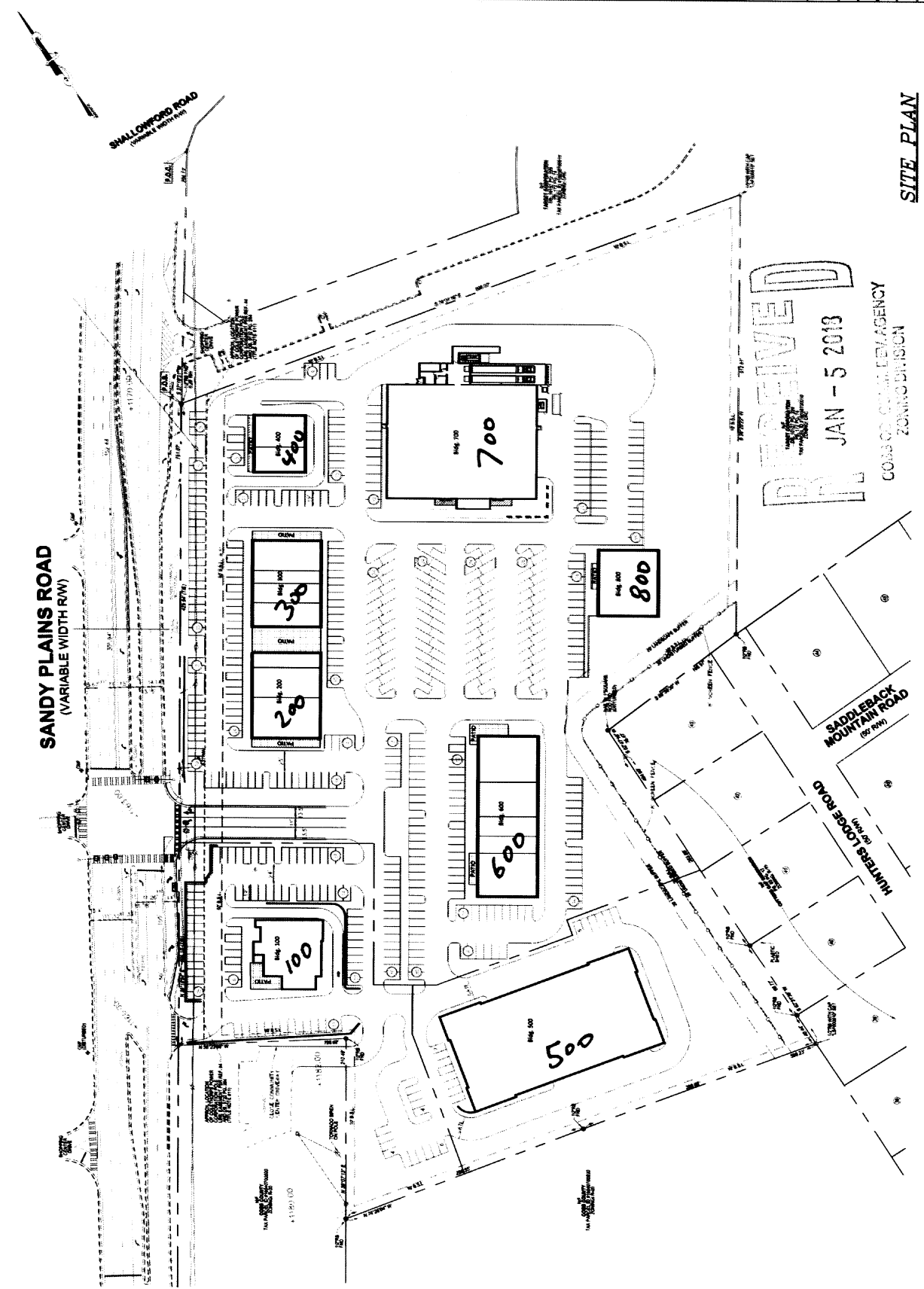


EXHIBIT "1"

**REVISED SITE PLAN SUBMITTED FOR
AMENDMENT AND APPROVAL BY BOARD
OF COMMISSIONERS PURSUANT TO
APPLICATION FOR "OTHER BUSINESS" –
FEBRURY 20, 2018**

**SITE PLAN APPROVED BY BOARD OF
COMMISSIONERS PURSUANT TO
APPLICATION FOR
REZONING NO. Z-53 (2017)
– OCTOBER 17, 2017**

**OFFICIAL MINUTES OF COBB COUNTY
BOARD OF COMMISSIONERS ZONING
HEARING AS TO APPLICATION FOR
REZONING Z-53 (2017)
– OCTOBER 17, 2017**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
OCTOBER 17, 2017
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, October 17, 2017 at 9:00 a.m. in the second floor public meeting room of the Cobb County Building A, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Mike Boyce
Commissioner JoAnn Birrell
Commissioner Cupid
Commissioner Bob Ott
Commissioner Bob Weatherford

Z-53 **BROOKS CHADWICK CAPITAL, LLC** (Cobb County Board of Education, owner) requesting Rezoning from **R-20** to **CRC** for the purpose of Retail, Restaurants, Bank, and Grocery in Land Lots 386, 387, 406, and 407 of the 16th District. Located on the east side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road. *(Previously continued by Staff from the September 7, 2017 Planning Commission hearing until the October 3, 2017 hearing)*

The public hearing was opened, and Mr. Kevin Moore, Ms. Trish Steiner, and Ms. Ja'net Morrissett addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Ott, to **approve** Z-53 to the **CRC** zoning category, subject to:

- 1. Final site plan and landscape plan to be approved by the District Commissioner**
- 2. Letters of agreeable conditions from Mr. Kevin Moore dated September 27, 2017, October 3, 2017, and October 12, 2017, (attached and made a part of these minutes)**
- 3. Supplemental stipulation letter from Mr. Kevin Moore submitted on October 18, 2017 (attached and made a part of these minutes)**
- 4. Planning Commission comments and recommendations, *not otherwise in conflict***
- 5. Staff comments and recommendations, *not otherwise in conflict***

VOTE: ADOPTED 5-0

Clerk's Note: During this hearing, Commissioner Birrell requested that Mr. Moore provide a letter incorporating the additional stipulations as presented; subsequently, that letter was provided via email on October 18, 2017, with a copy to the Clerk, and is referenced in stipulation number three.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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CHARLESTON, SOUTH CAROLINA 29402
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7380 W. SAND LAKE RD • STE 500
ORLANDO, FLORIDA 32819
TELEPHONE (407) 387-8233

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LINDSAY A. FLEMING
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DANIEL R. FINK

OF COUNSEL:
JOHN L. SKELTON, JR.¹

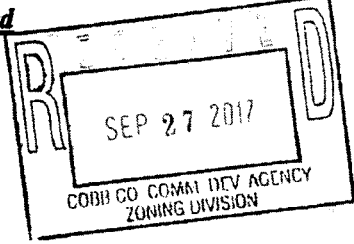
¹ ALSO ADMITTED IN TN
¹ ALSO ADMITTED IN FL
¹ ALSO ADMITTED IN GA
¹ ALSO ADMITTED IN TX
¹ ALSO ADMITTED IN AL
¹ ALSO ADMITTED IN KY
¹ ALSO ADMITTED IN NC
¹ ALSO ADMITTED IN IN
¹ ADMITTED ONLY IN TN
¹ ADMITTED ONLY IN FL
¹ ADMITTED ONLY IN SC
¹ ADMITTED ONLY IN NY
¹ ADMITTED ONLY IN NY

Min. Bk. 63 Petition No. Z-53
Doc. Type 9-27-17 letter

September 27, 2017

Meeting Date 10-17-17

Hand Delivered



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

RE: Application for Rezoning - Application No. Z-53 (2017)
Applicant: Brooks Chadwick Capital, LLC
Property Owner: Cobb County Board of Education
Property: 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia

Dear John:

The undersigned and this firm represent Brooks Chadwick Capital, LLC, as Applicant (hereinafter "Applicant"), and the Cobb County Board of Education, as Property Owner (hereinafter "Owner" or "Property Owner"), in the Application for Rezoning with regard to a total tract of 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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Pctition No. 2-53
Meeting Date 10-17-17
Continued

"Property" or the "Subject Property"). After meetings with Planning and Zoning Staff, ongoing meetings and discussions with area residents and homeowner representatives, reviewing the Departmental Comments and Staff Recommendations, and reviewing the uses of surrounding properties, we have been authorized by the Applicant to submit this letter of agreeable stipulations and conditions, which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested rezoning and shall be binding upon the Subject Property. The proposed stipulations are as follows:

- (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 on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning classification of R-20 to the Community Retail Commercial ("CRC") zoning classification, with reference to the revised Site Plan dated September 25, 2017, prepared for Applicant by Haines Gipson & Associates, Inc. A reduced copy of the revised Site Plan is attached hereto for ease of reference as Exhibit "A" and incorporated herein by reference.
- (3) By this letter of agreeable stipulations and conditions, Applicant amends its Application for Rezoning to include the revised Site Plan for the proposed development hereinabove referenced, same being prepared by Haines Gipson & Associates, Inc. dated September 25, 2017, and filed with the Zoning Office contemporaneously with the filing of this letter of agreeable stipulations and conditions.
- (4) Applicant agrees to the following system improvements, subject to approval by the Cobb County Department of Transportation, to mitigate traffic concerns with regard to the proposed development:
 - (a) Installation of deceleration lane for the main entrance only on Sandy Plains Road;
 - (b) Installation of a flashing yellow arrow for left-turn movements at the existing signal; and funding of one hundred (100) percent of cost for such traffic signal modifications; and

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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Continued

- (c) Maintain interparcel access between the proposed development and Mountain View Community Center; including, entering into an access agreement with Cobb County, Cobb County Parks and Recreation Department, and/or Mountain View Community Center or an access easement on the property to retain the existing interparcel access with the Community Center property.
- (5) Applicant shall not be required to install a deceleration lane at the secondary entrance on Sandy Plains Road.
- (6) Applicant agrees to comply with all Cobb County Development Standards and Ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (7) Parking area lighting will be environmentally sensitive, low level, shoe-box luminaries so as to prevent light from penetrating outside the Property. Lighting on the rear of the buildings shall be wall-packed, hooded lighting, preventing light and glare from extending beyond the boundary of the Subject Property.
- (8) With regard to residential property adjacent to the rear of the proposed development, Applicant agrees as to the following:
 - (a) An undisturbed buffer thirty (30) feet in width located immediately adjacent to the residential properties, as reflected on the submitted Site Plan.
 - (b) Applicant agrees to construct and install an eight (8) foot solid, treated wooden fence, with a cross-frame across the top, along the undisturbed buffer; or, an eight (8) foot opaque chain link fence, vinyl coated and black or green in color.
 - (c) Applicant agrees to a landscape buffer of twenty (20) feet in width measured from the rear of the undisturbed buffer, as shown on the referenced Site Plan. Such landscaped buffer shall be planted with evergreen trees, a minimum of twelve (12) feet in height at planting, pursuant to a landscape plan to be approved by the Cobb County Arborist at Plan Review.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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Petition No. 2-53
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Continued

- (9) Applicant agrees the height of the proposed buildings shall not exceed forty-five (45) feet as defined under the Cobb County Zoning Ordinance.
- (10) Entrance signage for the proposed development shall be ground-based, monument style signage consistent with the overall architectural theme of the development.
- (11) Dumpsters shall be placed in locations away from the rear of the Subject Property. Dumpsters shall have plastic lids and bumpers to minimize noise during emptying. Dumpsters shall be emptied Monday through Saturday from 7:00 a.m. to 9:00 p.m., and Sunday from 11:00 a.m. to 9:00 p.m. Dumpsters shall be enclosed with steel gates and shall comply with Cobb County Codes and Ordinances.
- (12) Parking lot cleaning mechanical equipment shall be restricted to hours Monday through Saturday, from 7:00 a.m. to 10:00 p.m.; and Sunday, from 11:00 a.m. to 9:00 p.m.
- (13) Applicant agrees that the following uses shall be prohibited:
 - (a) Video arcades as a primary use;
 - (b) Adult bookstores or any adult-themed shop or store;
 - (c) Billiards and pool halls;
 - (d) Pawn shops;
 - (e) Tattoo parlors;
 - (f) Check cashing establishment;
 - (g) Gun, knife, or weaponry stores;
 - (h) Second-hand or thrift stores;
 - (i) Flea markets; and
 - (j) Amplified live outdoor entertainment, and no live music of any kind or in any area within two hundred (200) feet of adjoining residential property.
- (14) All HVAC systems shall be located on the roof and shall be screened with appropriate screening to reduce visibility to the fullest extent reasonably possible.
- (15) There shall be no outside paging systems, phone bells, or loudspeakers; excepting only low decibel outdoor music systems in outside seating areas.
- (16) Any restaurants may only be open for business to the public Monday through Sunday from 5:30 a.m. to 12:00 midnight.

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Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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Meeting Date 10-17-17
Continued

- (17) Minor modifications to the within stipulations, the referenced, revised Site Plan, lighting, signage, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
- (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (e) Change an access location to a different roadway;
 - (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
 - (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances;
 - (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision; and
 - (i) The proposed Site Plan is "for reference" only. Exact locations and dimensions of proposed buildings, parking areas/layout, and drive aisles may change. However, no buildings, parking areas, or drive aisles may be located closer to adjacent residential property, as reflected on the submitted Site Plan, without submission to the Board of Commissioners as part of an "Other Business" Application. Further the undisturbed and landscape buffer, as reflected in this letter and on the submitted Site Plan, shall not be reduced or modified.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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September 27, 2017

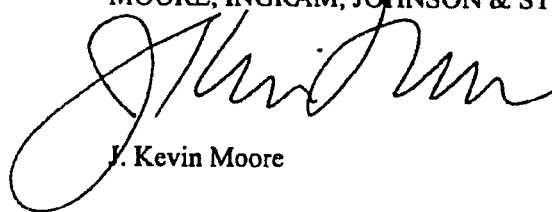
Petition No. 2-53
Meeting Date 10-17-17
Continued

We believe the proposed development, pursuant to the revised Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed development is a quality project and will provide services to residents of the area unique to others offered within the area. Applicant shall strive to work with area residents to lessen any impact on adjacent neighborhoods and residents. The proposed development shall be compatible with and complementary to surrounding developments, businesses, and venues; and shall be an enhancement to the Subject Property and Cobb County as a whole. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc
Attachment

c: Cobb County Board of Commissioners:
Mike Boyce, Chairman
JoAnn Birrell
Lisa N. Cupid
Robert J. Ott
Bob Weatherford
(With Copy of Attachment)

Cobb County Planning Commission:
Mike Terry, Chairman
Thea Powell
Judy Williams
Skip Gunther
Galt Porter
(With Copy of Attachment)

c: Jason A. Campbell

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 7 of 7
September 27, 2017

Petition No. 2-53
Meeting Date 10-17-17
Continued

Planner III
Zoning Division
Cobb County Community Development Agency
(With Copy of Attachment)

Jill Flamm
Trish Steiner
East Cobb Civic Association, Inc.
(With Copy of Attachment)

Brooks Chadwick Capital, LLC
Fuqua Development, LP
(With Copy of Attachment)

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OF COUNSEL:
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Min. Bk. 03 Petition No. Z-53
Doc. Type 10-3-17 letter

October 3, 2017

Meeting Date 10-17-17

Hand Delivered FILED WITH COUNTY CLERK THIS 3rd DAY
OF Oct 2017 BY K. Moore
RE Z-53
Chad Jordan
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

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

RE: Application for Rezoning - Application No. Z-53 (2017)
Applicant: Brooks Chadwick Capital, LLC
Property Owner: Cobb County Board of Education
Property: 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia

Dear John:

On behalf of the Applicant, Brooks Chadwick Capital, LLC (hereinafter "Applicant"), and the Property Owner, the Cobb County Board of Education (hereinafter "Owner" or "Property Owner"), please allow this correspondence to serve as a supplement to the letter of agreeable stipulations and conditions dated and filed with your office on September 27, 2017, as follows:

- (1) All construction and employee vehicles and equipment will be parked, and otherwise located on, the Subject Property during development of infrastructure

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 2
October 3, 2017

Petition No. 2-53
Meeting Date 10-17-17
Continued

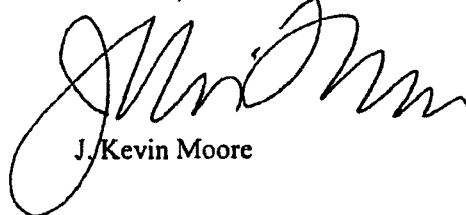
and construction of the structures, and shall not be parked on or along Sandy Plains Road, or any other street or property. There shall be no stacking of construction vehicles on Sandy Plains Road waiting for entry onto the Subject Property.

- (2) Construction hours for the proposed development shall be limited to the following:
 - (a) Monday through Saturday from 7:00 a.m. to 8:00 p.m.; and
 - (b) No construction permitted on Sundays.
- (3) Applicant agrees to the installation of an eight (8) foot opaque, vinyl coated chain-link fence along the buffer line, as more particularly set forth and referenced in the September 27, 2017, letter of agreeable stipulations and conditions (as opposed to a wooden privacy fence).
- (4) The balance and remainder of the September 27, 2017, stipulation letter, which is not otherwise in direct conflict with the supplemental stipulations set forth above, is unchanged by this supplemental letter.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

c: Brooks Chadwick Capital, LLC
Fuqua Development, LP

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
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OF COUNSEL:
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Min. Bk. 83 Petition No. Z-53
Doc. Type 10-12-17 letter

Meeting Date 10-17-17

October 12, 2017

Hand Delivered

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

RECEIVED
OCT 13 2017
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

RE: Application for Rezoning - Application No. Z-53 (2017)
Applicant: Brooks Chadwick Capital, LLC
Property Owner: Cobb County Board of Education
Property: 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia

Dear John:

The undersigned and this firm represent Brooks Chadwick Capital, LLC, as Applicant (hereinafter "Applicant"), and the Cobb County Board of Education, as Property Owner (hereinafter "Owner" or "Property Owner"), in the Application for Rezoning with regard to a total tract of 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 7
October 12, 2017

Petition No. 2-53
Meeting Date 10-17-17
Continued

“Property” or the “Subject Property”). After meetings with Planning and Zoning Staff, ongoing meetings and discussions with area residents and homeowner representatives, reviewing the Departmental Comments and Staff Recommendations, reviewing the uses of surrounding properties, and following the presentation to and hearing before the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions, which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested rezoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the previous letter of agreeable stipulations and conditions dated and filed September 27, 2017. The proposed, revised stipulations are as follows:

- (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 on the Subject Property; together with any and all Departmental Comments and Staff Recommendations relating to the Subject Property from any prior zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning classification of R-20 to the Community Retail Commercial (“CRC”) zoning classification, with reference to the revised Site Plan prepared for Applicant by Haines Gipson & Associates, Inc. dated September 25, 2017, and filed with the previous letter of stipulations on September 27, 2017. A reduced copy of the revised Site Plan is attached hereto for ease of reference as Exhibit “A” and incorporated herein by reference.
- (3) Applicant agrees to the following system improvements, subject to approval by the Cobb County Department of Transportation, to mitigate traffic concerns with regard to the proposed development:
 - (a) Installation of deceleration lane for the main entrance only on Sandy Plains Road;
 - (b) Installation of a flashing yellow arrow for left-turn movements at the existing signal; and funding of one hundred (100) percent of cost for such traffic signal modifications; and
 - (c) Maintain interparcel access between the proposed development and Mountain View Community Center; including, entering into an access agreement with Cobb County, Cobb County Parks and Recreation

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 7
October 12, 2017

Petition No Z-53
Meeting Date 10-17-17
Continued

Department, and/or Mountain View Community Center or an access easement on the property to retain the existing interparcel access with the Community Center property.

- (4) Applicant shall not be required to install a deceleration lane at the secondary entrance on Sandy Plains Road.
- (5) Applicant agrees to comply with all Cobb County Development Standards and Ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (6) Parking area lighting will be environmentally sensitive, low level, shoe-box luminaries so as to prevent light from penetrating outside the Property. Lighting on the rear of the buildings shall be wall-packed, hooded lighting, preventing light and glare from extending beyond the boundary of the Subject Property.
- (7) With regard to residential property adjacent to the rear of the proposed development, Applicant agrees as to the following:
 - (a) An undisturbed buffer thirty (30) feet in width located immediately adjacent to the residential properties, as reflected on the submitted Site Plan.
 - (b) Applicant agrees to construct and install along the undisturbed buffer a black, eight (8) foot opaque chain link fence, vinyl coated.
 - (c) Applicant agrees to a landscape buffer of twenty (20) feet in width measured from the rear of the undisturbed buffer, as shown on the referenced Site Plan. Such landscaped buffer shall be planted with a double row of evergreen trees, a minimum of twelve (12) feet in height at planting, pursuant to a landscape plan to be approved by the Cobb County Arborist at Plan Review.
- (8) Applicant agrees the height of the proposed buildings shall not exceed forty-five (45) feet as defined under the Cobb County Zoning Ordinance.
- (9) Entrance signage for the proposed development shall be ground-based, monument style signage consistent with the overall architectural theme of the development.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 7
October 12, 2017

Petition No 2-53
Meeting Date 10-17-17
Continued

- (10) All construction and employee vehicles and equipment will be parked, and otherwise located on, the Subject Property during development of infrastructure and construction of the structures, and shall not be parked on or along Sandy Plains Road, or any other street or property. There shall be no stacking of construction vehicles on Sandy Plains Road waiting for entry onto the Subject Property.
- (11) Construction hours for the proposed development shall be limited to the following:
 - (a) Monday through Saturday from 7:00 a.m. to 8:00 p.m.; and
 - (b) No construction permitted on Sundays.
- (12) Dumpsters shall be placed in locations away from the rear of the Subject Property. Dumpsters shall have plastic lids and bumpers to minimize noise during emptying. Dumpsters shall only be emptied Monday through Saturday from 7:00 a.m. to 9:00 p.m., and Sunday from 11:00 a.m. to 9:00 p.m. Dumpsters shall be enclosed with steel gates and shall comply with Cobb County Codes and Ordinances.
- (13) Parking lot cleaning mechanical equipment shall be restricted to hours Monday through Saturday, from 7:00 a.m. to 10:00 p.m.; and Sunday, from 11:00 a.m. to 9:00 p.m.
- (14) Applicant agrees the following uses shall be prohibited:
 - (a) Video arcades as a primary use;
 - (b) Adult bookstores or any adult-themed shop or store;
 - (c) Billiards and pool halls;
 - (d) Pawn shops;
 - (e) Tattoo parlors;
 - (f) Check cashing establishment;
 - (g) Gun, knife, or weaponry stores;
 - (h) Second-hand or thrift stores;
 - (i) Flea markets;
 - (j) Amplified live outdoor entertainment, and no live music of any kind or in any area within two hundred (200) feet of adjoining residential property;

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 5 of 7
October 12, 2017

Petition No 2-53
Meeting Date 10-17-17
Continued

- (k) Assembly halls;
 - (l) Automotive or truck parking lots;
 - (m) Bus stations;
 - (n) Designated recycling collection locations;
 - (o) Exterminating facilities;
 - (p) Fraternity or sorority house and residence halls;
 - (q) Funeral homes;
 - (r) Helicopter landing area;
 - (s) Motels;
 - (t) Radio and television stations;
 - (u) Rooming houses and boarding houses;
 - (v) Temporary uses; and
 - (w) Radio and television antenna.
- (15) All HVAC systems shall be located on the roof and shall be screened with appropriate screening to reduce visibility to the fullest extent reasonably possible.
- (16) There shall be no outside paging systems, phone bells, or loudspeakers; excepting only low decibel outdoor music systems in outside seating areas.
- (17) Any restaurants may only be open for business to the public Monday through Sunday from 5:30 a.m. to 12:00 midnight.
- (18) Minor modifications to the within stipulations, the referenced, revised Site Plan, lighting, signage, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
- (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned in a more restrictive zoning district;

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 6 of 7
October 12, 2017

Petition No 2-53
Meeting Date 10-17-17
Continued

- (e) Change an access location to a different roadway;
- (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
- (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances;
- (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision; and
- (i) The proposed Site Plan is "for reference" only. Exact locations and dimensions of proposed buildings, parking areas/layout, and drive aisles may change. However, no buildings, parking areas, or drive aisles may be located closer to adjacent residential property, as reflected on the submitted Site Plan, without submission to the Board of Commissioners as part of an "Other Business" Application. Further the undisturbed and landscape buffer, as reflected in this letter and on the submitted Site Plan, shall not be reduced or modified.

We believe the proposed development, pursuant to the revised Site Plan and the revised stipulations set forth herein, is an appropriate use of the Subject Property. The proposed development is a quality project and will provide services to residents of the area unique to others offered within the area. Applicant shall strive to work with area residents to lessen any impact on adjacent neighborhoods and residents. The proposed development shall be compatible with and complementary to surrounding developments, businesses, and venues; and shall be an enhancement to the Subject Property and Cobb County as a whole. Thank you for your consideration in this request.

[Balance of page 6 left intentionally blank]

[Signature contained on page 7]

MOORE INGRAM JOHNSON & STEELE

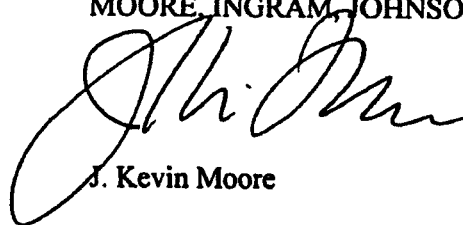
Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 7 of 7
October 12, 2017

Petition No. 2-53
Meeting Date 10-17-17
Continued

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

Attachment

c: Cobb County Board of Commissioners:

Mike Boyce, Chairman

JoAnn Birrell

Lisa N. Cupid

Robert J. Ott

Bob Weatherford

(With Copy of Attachment)

Judy Williams

Cobb County Planning Commission

(With Copy of Attachment)

Jason A. Campbell

Planner III

Zoning Division

Cobb County Community Development Agency

(With Copy of Attachment)

Jill Flamm

Trish Steiner

East Cobb Civic Association, Inc.

(With Copy of Attachment)

Brooks Chadwick Capital, LLC

Fuqua Development, LP

(With Copy of Attachment)

Petition No. **2-53**
 Meeting Date **10-17-17**
 Continued

	BROOKS CHADWICK CAPITAL	SANDY PLAINS ROAD RETAIL CENTER <small>NEIGHBORHOOD RETAIL CENTER</small>	SHEET NO.	TOTAL SHEETS
			DATE	SCALE

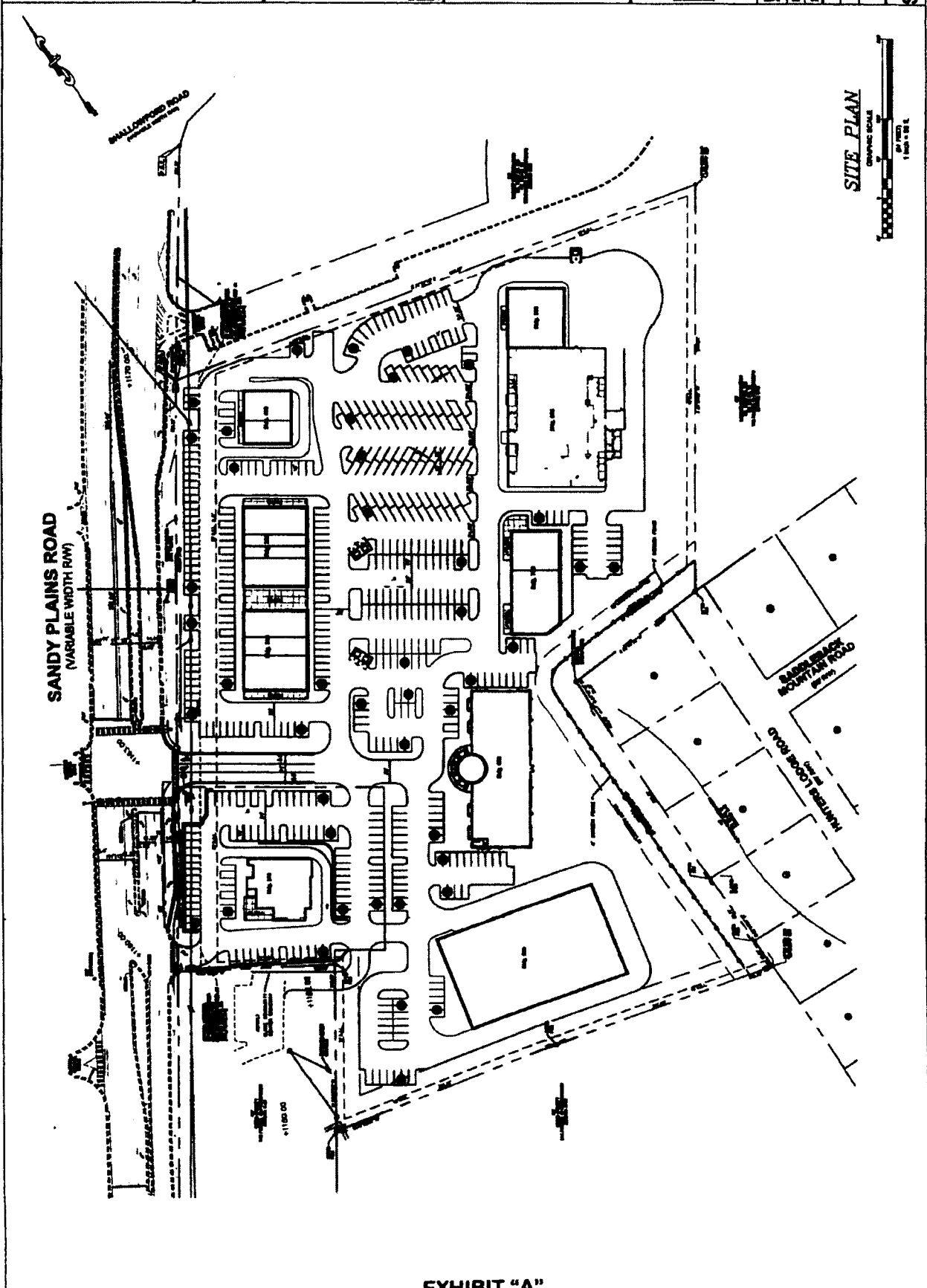


EXHIBIT "A"

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
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OF COUNSEL:
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October 18, 2017

Via E-mail and Hand Delivery

Min. Bk. 83 Petition No. Z-53
Doc. Type 10-18-17 letter

Meeting Date 10-17-17

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

RE: Application for Rezoning - Application No. Z-53 (2017)
Applicant: Brooks Chadwick Capital, LLC
Property Owner: Cobb County Board of Education
Property: 13.8411 acres, more or less, located on the easterly side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road, Land Lots 386, 387, 406, and 407, 16th District, 2nd Section, Cobb County, Georgia

Dear John:

As presented and approved by the Cobb County Board of Commissioners during the presentation of the above-referenced Application for Rezoning, Applicant agrees to the following additional stipulations:

- (1) Applicant agrees the following uses shall be prohibited in Buildings 500, 600, and 700, as shown on the approved Site Plan:

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 3
October 18, 2017

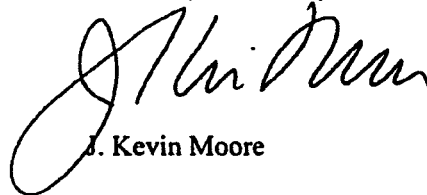
Petition No Z-53
Meeting Date 10-17-17
Continued

- (a) Building material stores;
 - (b) Car washes;
 - (c) Automotive body, paint, or repair of any kind;
 - (d) Convenience gas and food stores;
 - (e) Laundry and dry cleaning;
 - (f) Package stores; and
 - (g) Communication towers.
- (2) Applicant agrees to enclose the undisturbed buffer (as shown on the approved Site Plan) by installation of additional fencing at both ends of the undisturbed buffer.
- (3) Applicant agrees to remove dead, dying, or diseased trees within the undisturbed buffer (as shown on the approved Site Plan), as identified through an evaluation by a professional, certified arborist.
- (4) To the extent reasonably possible, Applicant agrees to install sound dampening screening around roof-top HVAC systems to be located on Buildings 500, 600, and 700, as shown on the approved Site Plan.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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October 18, 2017

Petition No. Z-53
Meeting Date 10-17-17
Continued

c: Cobb County Board of Commissioners:

Mike Boyce, Chairman
JoAnn Birrell
Lisa N. Cupid
Robert J. Ott
Bob Weatherford

Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency

Jill Flamm
Trish Steiner
East Cobb Civic Association, Inc.

Ja'net Morrisett
Area Resident

Brooks Chadwick Capital, LLC
Fuqua Development, LP

**OFFICIAL MINUTES OF COBB COUNTY
PLANNING COMMISSION ZONING
HEARING AS TO APPLICATION FOR
REZONING Z-53 (2017)
– OCTOBER 3, 2017**

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
OCTOBER 3, 2017
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Thursday, October 3, 2017 in the second floor public meeting room, Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Commission were:

Mike Terry, Chairman
Skip Gunther
Galt Porter
Thea Powell
Judy Williams

Z-53 **BROOKS CHADWICK CAPITAL, LLC** (Cobb County Board of Education, owner) requesting Rezoning from **R-20** to **CRC** for the purpose of Retail, Restaurants, Bank, and Grocery in Land Lots 386, 387, 406 and 407 of the 16th District. Located on the east side of Sandy Plains Road, south of Shallowford Road, and at the northern terminus of Hunters Lodge Road. *(Previously continued by Staff from the September 7, 2017 Planning Commission hearing until the October 3, 2017 hearing)*

The public hearing was opened and Mr. Kevin Moore, Ms. Trish Steiner, Ms. Ja'net Morrisett, Ms. Janet Privitera, and Mr. Daniel Cosgrove addressed the Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Williams, second by Gunther, to recommend approval of Z-53 to the CRC zoning category:

1. Site plan submitted with September 27, 2017, letter of agreeable conditions for reference *only*, noting that a change to the building would come back as an Other Business Item (on file in the Zoning Division)
2. Letters of agreeable conditions from Mr. Kevin Moore dated September 27, 2017 and October 3, 2017 (on file in the Zoning Division)
3. *Mountain View Buffer Planting* line of site plan submitted at this hearing (on file in the Zoning Division)
4. Staff comments and recommendations, *noting in particular the Department of Transportation's requirement for a deceleration lane*

VOTE: ADOPTED 5-0

Clerk's Note: Applicant and/or representative to work with Ms. Ja'net Morrisette regarding stormwater runoff.

**2017 COBB COUNTY TAX ASSESSOR
EXEMPTION STATEMENT FOR SUBJECT
PROPERTY
(TAX PARCEL NO. 16038700030)**

PARID: 16038700030
COBB COUNTY BOARD OF
EDUCATION

NEIGHBORHOOD: 16059990

TAX YEAR: 2017
3448 SANDY PLAINS RD

Parcel

Class	Exempt - Public Property
Total Acres	0
Total Land Sqft	
Address	3448 SANDY PLAINS RD
Neighborhood	1605 - 9990 EXEMPT OR PUBLIC UTILITY PROPERTY

Owner

Owner	COBB COUNTY BOARD OF EDUCATION &
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Legal

Tax District	9 - UNINCORPORATED
Subdivision Number	

**CERTIFICATE REGARDING CORPORATE
AUTHORITY TO PURSUE "OTHER
BUSINESS" APPLICATION ON BEHALF OF
COBB COUNTY BOARD OF EDUCATION**

**CERTIFICATE REGARDING CORPORATE
AUTHORITY TO PURSUE OTHER BUSINESS APPLICATION**

1.

JAN - 5 2013

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

My name is Nichols P. Parker. I am one of the authorized agents/officers (secretary, assistant secretary, president, vice-president, member or other authorized officer/agent) to whom the operating agreement or bylaws has delegated the responsibility for authenticating records of **COBB COUNTY BOARD OF EDUCATION** (the "Entity"). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicant's Other Business Application regarding certain real property owned by the Entity and located in Cobb County, Georgia.

2.

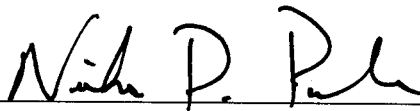
In accordance with the requirements for completing a Cobb County Other Business Application, I hereby attest on behalf of the Entity that I have reviewed the Other Business Application and related documents which are being filed simultaneously therewith by the Applicant (collectively, the "Application") to which this Certificate is attached and hereby certify:

- (a) That signature or facsimile affixed to the Application is in fact a/the seal of the Entity and is a true representation thereof; and

- (b) That the officer or other representative of the Entity who executed the Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Application on behalf of the Entity, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Application and the filing of the Application by the Applicant is with the express permission of the Entity which owns said real property.

This 21 day of DECEMBER, 2017.

COBB COUNTY BOARD OF EDUCATION



BY: Nichols P. Parker

Title: Senior Executive Director, SPLOST
Cobb County School District