

**APRIL 20, 2010 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2**

ITEM # 3

PURPOSE

To consider amending the stipulations for Z-21 (ST. BENEDICT'S EPISCOPAL CHURCH, LLC) of May 20, 2008, for property located in Land Lots 694 and 695 of the 17th District on the west side of South Atlanta Road and on the east side of West Atlanta Road, south of Daniel Street.

BACKGROUND

The Board of Commissioners approved the operation of a farmer's market at the church facility on June 16, 2009. The Board of Commissioners decision is attached. One of the conditions terminated the farmer's market use on December 31, 2009 but allowed for extensions to be considered by the Board of Commissioners as an other business item. The purpose of this request is to seek permission to again operate the farmer's market subject to the attached list of agreeable conditions. A site plan of the subject property and other business application are attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the request and if approved should be subject to the attached list of agreeable conditions including the ability to seek an extension through an other business item, if necessary, the Atlanta Road access to remain closed during operation of the market and no parking within the drive aisles and all other previously approved conditions/stipulations should remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Site Plan
Other Business Application

ORIGINAL DATE OF APPLICATION: 05-20-08APPLICANTS NAME: ST. BENEDICT'S EPISCOPAL CHURCH, LLC

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

BOC DECISION OF 06-16-09 ZONING HEARING:**OTHER BUSINESS ITEM #3 – TO CONSIDER AMENDING THE STIPULATIONS
REGARDING Z-21 (ST. BENEDICT'S EPISCOPAL CHURCH, LLC) OF MAY 20, 2008**

To consider amending the stipulations regarding Z-21 (ST. BENEDICT'S EPISCOPAL CHURCH, LLC) of May 20, 2008, for property located in Land Lots 694 and 695 of the 17th District on the west side of South Atlanta Road and on the east side of West Atlanta Road, south of Daniel Street.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding request to amend stipulations to allow a farmer's market on the site. The public hearing was opened and Mr. John Moore, Mr. William Kring, Mr. Tony Waybright, Ms. Mary Rose Barnes and Ms. Cheryl Carson addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Ott, second by Olens, to **approve** stipulation amendment for Z-21 (ST. BENEDICT'S EPISCOPAL CHURCH, LLC) of May 20, 2008, for property located in Land Lots 694 and 695 of the 17th District on the west side of South Atlanta Road and on the east side of West Atlanta Road, south of Daniel Street., **subject to:**

- Applicant's written request contained in Exhibit A, *with the following amendments (attached and made part of these minutes):*
 - Item No. 6 – Change to now read: *"This amendment shall terminate December 31, 2009, with extension request to be considered by the Board of Commissioners as an Other Business Item."*
 - Add Item No. 7 – to read: *"The Atlanta Road access will remain closed during the hours of operation of the farmer's market."*
- Cobb DOT comments and recommendations regarding this request: no parking allowed within drive aisles
- all other applicable previous zoning stipulations and conditions, not otherwise in conflict, to remain in effect

VOTE: **ADOPTED** unanimously

Clerk's Note: The Applicant's representative was asked to confer with the County Attorney regarding possible Special Land Use Permit application for this use (if application is filed, a reduced fee to be allowed.)

**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS
(STIPULATION AMENDMENT)**

PAGE 22 OF 22

Application Nos.: Z-21 (2008) and SLUP-9 (2008)
Original Hearing Dates: May 20, 2008 and July 15, 2008
Previous Other Business
Hearing Date: December 16, 2008
Current Hearing Date: June 16, 2009

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: St. Benedict's Episcopal Church, LLC

Applicant requests an amendment to the stipulations and conditions approved by the Cobb County Board of Commissioners in hearings regarding the Application for Rezoning (Z-21 (2008)) on May 20, 2008, and Application for Special Land Use Permit (SLUP-9 (2008)) on July 15, 2008. Certain stipulations as to each Application were amended by the Board of Commissioners on December 16, 2008, through an "Other Business" request.

Applicant proposes a farmer's market on its premises. The market will operate as a ministry of the Church to provide the residents of Smyrna/Vinings/Oakdale communities access to health, locally grown, raised or produced food items including produce, meats, cheese, and baked items. Applicant will use its best efforts to ensure that this market will be a first-class experience for both the vendors and the patrons.

Applicant agrees to condition this amendment upon the following:

- (1) To provide local farmers and food purveyors a once a week, seasonal marketplace to sell their goods to the residents of Smyrna/Vinings/Oakdale communities.
- (2) The market day, which is currently proposed for Tuesday, shall be from 4:00 p.m. to 8:00 p.m. Vendors will be allowed to begin setting up at 3:00 p.m. on market days. All vendors will be required to remove all trash and unsold food items from the Property within thirty (30) minutes of market close.
- (3) Vendors must remove all organic material from the Property and will be prohibited from using on-site dumpster or trash receptacle.

- (4) Vendors will be restricted to one 12 x 12 foot "plot" within which to display their goods, and will be required to use the pop-up style tent provided by the Applicant. Vendors will be held accountable for having all necessary licenses, inspections, and permits to sell their goods and report appropriate sales taxes. Applicant will conduct random inspections of these licenses and permits on a regular basis.
- (5) All signage related to the market will be designed professionally to ensure that they are aesthetically appropriate for the intersection. In addition, they will be posted and removed in a timely fashion. The signage may be only placed the day of the market.
- (6) This amendment, if approved, shall terminate September 1, 2009, unless extended by the District Commissioner.

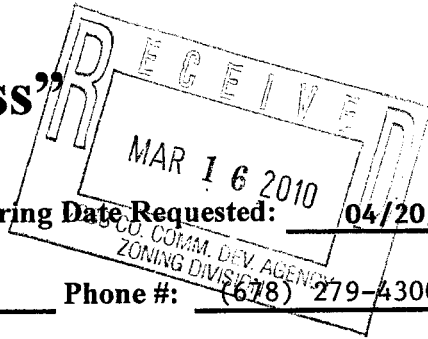
The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearings held on May 20, 2008, as to Application No. Z-21 (2008) and July 15, 2008, as to SLUP-9 (2008), as well as the amended official minutes, including attachments, held on December 16, 2008, are unaltered by this request for stipulation amendment.

Applicant believes this to be an important ministry, and one that is very beneficial to the community at large.

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 04/20/2010



Applicant: St. Benedict's Episcopal Church, LLC Phone #: (678) 279-4300
(applicant's name printed)

Address: 2160 Cooper Lake Road, Smyrna, GA 30080 **E-Mail:** twaybright@professionals
Moore Ingram Johnson & Steele, LLP Emerson Overlook, 326 Roswell choice.net
John H. Moore Address: Marietta, GA 30060 Street

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

Signed, sealed and delivered in presence of:
[Signature] My commission expires: January 10, 2011
Notary Public

Titleholder(s): St. Benedict's Episcopal Church, LLC Phone #: (678) 279-4300
(property owner's name printed)

Address: 2160 Cooper Lake Road, Smyrna, GA 30080 **E-Mail:** twaybright@professionals
[Signature] choice.net

BY: [Signature]
(Property owner's signature) Anthony L. Waybright
Building Chairman

Signed, sealed and delivered in presence of:
[Signature] My commission expires: January 10, 2011
Notary Public

Commission District: 2 **Zoning Case:** Z-21 (2008)
SLUP-9 (2008)

Date of Zoning Decision: May 20, 2008 **Original Date of Hearing:** May 20, 2008
July 15, 2008 July 15, 2008
December 16, 2008; June 16, 2008 (Amendments)

Location: 2160 Cooper Lake Road, Smyrna, Cobb County, Georgia
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 694, 695 **District(s):** 17th

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 Nos.:	Z-21 (2008) and SLUP-9 (2008)
Original Hearing Dates:	May 20, 2008 and July 15, 2008
Previous Other Business Hearing Dates:	December 16, 2008 June 16, 2009
Current Hearing Date:	April 20, 2010

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant/Titleholder: St. Benedict's Episcopal Church, LLC

On June 16, 2009, the Cobb County Board of Commissioners granted Applicant's request to allow for the operation of a farmer's market on the Subject Property. Applicant agreed to stipulations pertaining to the operation of the market, and the Board of Commissioners added stipulations, as well as revised certain stipulations. One stipulation added by the Board of Commissioners was the amendment for the termination of the farmer's market on December 31, 2009.

Applicant now seeks to amend the stipulations to again allow for the operation of the farmer's market on the Subject Property through and including December 31, 2013. The portable classroom units have been removed from the Property, and much of the construction and renovation work has been completed which would allow for additional space to accommodate the public, as well as vendor booths and parking. The market was very successful in its first year of operation in 2009 and was used as a ministry and outreach for the Smyrna/Vinings/Oakdale communities. As in the past, Applicant will use its best efforts to ensure that the market will be a first-class experience for both the vendors and the patrons.

Applicant agrees that should any problems arise during the operation of the farmer's market during the period herein allowed, the District Commissioner may require a "show cause" hearing to have the Applicant respond to the problems presented. Cobb County shall specify the specific problems to be addressed, which shall be included in the notification as to a "show cause" hearing. Cobb County shall provide a minimum of thirty (30) days' prior written notice as to any such hearing. At any hearing, the Applicant may present evidence on its behalf in response to any problem(s) presented. If, upon hearing, the Board of Commissioners determines the problem(s) does exist, the Board of Commissioners may grant a period of time for Applicant to correct the problem; or, if the problem is substantial enough, revoke the permit for the remainder of the term of the Land Use Permit.

PAGE TWO - EXHIBIT "A"
ATTACHMENT TO APPLICATION FOR OTHER BUSINESS
(STIPULATION AMENDMENT)

Application Nos.:	Z-21 (2008) and SLUP-9 (2008)
Original Hearing Dates:	May 20, 2008 and July 15, 2008
Previous Other Business Hearing Dates:	December 16, 2008 June 16, 2009
Current Hearing Date:	April 20, 2010

Applicant/Titleholder: St. Benedict's Episcopal Church, LLC

If approved, Applicant will agree to the stipulations and conditions specific to the operation of the farmer's market which were set forth in the official minutes, and attachments thereto, of the Cobb County Board of Commissioners Zoning Hearing held on June 16, 2009, a copy of which is attached to the Application for "Other Business" and incorporated herein by reference.

Additionally, the balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearings held on May 20, 2008, as to Application No. Z-21 (2008) and July 15, 2008, as to SLUP-9 (2008), as well as the amended official minutes, including attachments, held on December 16, 2008, are unaltered by this request for stipulation amendment.