

**APRIL 16, 2013 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 2**

**ITEM # 3**

**PURPOSE**

To consider stipulation amendments for MEI Real Estate Holdings, LLC regarding rezoning application Z-91 of 1999 (Georgian Development & Realty Inc.), for property located at the southeasterly intersection of Gilmore Road and Beech Haven Trail in Land Lot 820 of the 17<sup>th</sup> District.

**BACKGROUND**

The subject property was rezoned to the Office and Institutional (O&I) in 1999 for an office building. The project was developed and built in approximately 2000. This request concerns two of the zoning stipulations. First, there was a stipulation that the building have a brick exterior. Ever since the building was built in 2000, it had a stucco exterior. Pictures are attached to this other business item that shows the stucco exterior. The applicant would like this stipulation amended to read “building to have a stucco exterior”. Second, there was a zoning stipulation that required the building to meet the building setbacks. The building was permitted meeting the 15 foot building setback on the east side. However, the as-built survey reveals the building is actually as close as 13.9 feet on the east side. The building setback would have to be revised from 15 feet to 13.9 feet along the east property line. Staff believes this problem was in part caused by a 10 foot right of way donation along Beech Haven Trail in 2000 that the applicant made per the zoning stipulations. These two discrepancies were brought to the attention of the County during the due diligence period preceding the sale of the property. If approved, all previous zoning stipulations would remain in effect.

**FUNDING**

N/A

**RECOMMENDATION**

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

**ATTACHMENTS**

Other Business application, site plan, photos and zoning stipulations.

# Application for "Other Business" Cobb County, Georgia

COBB COUNTY GEORGIA  
FILED IN OFFICE

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

BOC Hearing Date Requested: 04-16-2013

Applicant: MEI Real Estate Holdings, LLC COBB COUNTY ZONING DIVISION  
(applicant's name printed) Phone #: 770-333-9912

Address: 2255 Cumberland Pkwy, Bldg #700, Suite 700, Atlanta, GA E-Mail: mhoffman@merganser.biz

R. L. Merg Hoffman Address: 2255 Cumberland Pkwy, Bldg #700, Suite 700, Atlanta, GA  
(representative's name, printed)

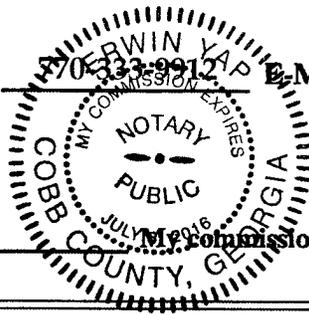
(representative's name, printed)

*[Signature]*  
(representative's signature)

Phone #: 770-333-9912 E-Mail: mhoffman@merganser.biz

Signed, sealed and delivered in presence of:

*[Signature]*  
Notary Public



My commission expires: July 6, 2016

Titleholder(s) : Kilhak Lee Kunimoto Phone #: 671-989-9770  
(property owner's name printed)

Address: 931 Potomac Road, Atlanta, GA 30338 E-Mail: kuni1013@gmail.com

*[Signature]*  
(Property owner's signature)

*As Power of Attorney as agent for  
Kilhak Lee Kunimoto*

Signed, sealed and delivered in presence of:

*[Signature]*  
Notary Public

My commission expires: July 6, 2016

Commission District: District 2 - Bob Ott Zoning Case: Z-91

Date of Zoning Decision: 08-17-1999 BOC Decision: BOC Hearing : 07-20-1999  
Original Date of Hearing: PC Hearing : 07-06-1999

Location: SEQ Beech Haven Trail & Gilmore Road ( 4402 Gilmore Road )  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 820 District(s): 17th, 2nd Section

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

"see attached"

(List or attach additional information if needed)

COBB COUNTY GEORGIA  
FILED IN OFFICE

2013 MAR 13 PM 3: 18

COBB COUNTY ZONING DIVISION

**ITEM #1**

To consider a stipulation amendment for Georgia Development and Realty, Inc. (Chloe E. Hall and W. Courtney Hall, Irrevocable Trust by H. Christopher Kewon, trustee, owners), regarding rezoning application Z-91 of 1999, for property located at the southeast intersection of Gilmore Road and Beech Haven Trail in Land Lot 820 of the 17<sup>th</sup> District. Existing stipulation per Z-91 (4) "building to have brick exterior", to be amended to allow existing EIFS/Stucco building exterior. See attached pictures for exterior building elevations, existing exterior building material was part of original construction.

**ITEM #2**

To consider a stipulation amendment for Georgia Development and Realty, Inc. (Chloe E. Hall and W. Courtney Hall, Irrevocable Trust by H. Christopher Kewon, trustee, owners), regarding rezoning application Z-91 of 1999, for property located at the southeast intersection of Gilmore Road and Beech Haven Trail in Land Lot 820 of the 17<sup>th</sup> District. Existing stipulation (6) "building setbacks and DOT requirements to be met" to be amended to allow for reduction of side building setback to 10' (feet) from required 15' (feet) side building setback line. See attached site survey with existing site conditions.

OB#3 4-16-13

Proposed  
Plan That  
Shows  
existing  
building.

**NOTES:**

THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS OBTAINED USING A GPT-3005W TOTAL STATION, AND HAS A LINEAR PRECISION RATIO OF ONE FOOT IN 27.732 FEET AND AN ANGULAR ERROR OF 05 SECONDS PER ANGLE AND WAS NOT ADJUSTED.

THIS PLAT HAS BEEN CHECKED FOR MATHEMATICAL ACCURACY AND CLOSES WITHIN ONE FOOT IN 563,640 FEET.

TOTAL AREA = 13,208 SQUARE FEET OR 0.30 ACRES.

PROPERTY MAY OR MAY NOT BE SUBJECT TO PROTECTIVE OR RESTRICTIVE COVENANTS AS PER FINAL PLAT AND OR CITY/COUNTY ORDINANCES INCLUDING ALL EASEMENTS AND RIGHTS OF WAY.

THE LOCATION OF UNDERGROUND UTILITIES WERE NOT LOCATED FOR THIS SURVEY. UTILITIES SHOWN ARE BASED UPON VISIBLE AND PHYSICAL EVIDENCE. THERE MAY BE UTILITIES ON OR CROSSING THIS PROPERTY THAT ARE NOT SHOWN. CALL THE UTILITIES PROTECTION CENTER (1-800-282-7411) BEFORE ANY EXCAVATIONS ARE BEGUN TO ENSURE AND VERIFY THE CORRECT LOCATION AND DEPTH OF ALL UTILITIES.

**REFERENCES:**

- DEED BOOK 13239, PAGE 4783
- DEED BOOK 13239, PAGE 4787
- DEED BOOK 13284, PAGE 303
- DEED BOOK 5080, PAGE 130

COBB COUNTY GEORGIA  
FILED IN OFFICE

2013 MAR 13 PM 3:19

COBB COUNTY ZONING DIVISION  
MAGNETIC NORTH  
DECLINATION OBSERVED

10' COBB COUNTY  
WATER AUTHORITY  
EASEMENT

GILMORE ROAD (50' R/W)

BEECH HAVEN TRAIL (VARIABLE R/W)

2 STORY STUCCO # 4402

1/2" REBAR SET

ARC=226.35' RADIUS=4034.22'  
CHORD=N02°11'25"E 226.32'

S84°23'14"E  
57.74'

2" OPEN TOP PIPE FOUND  
(N89°06'50"W 10.52')

CONCRETE 94.7'  
40' B/L  
25' B/L  
15' B/L  
93.6'

RETAINING WALL

S02°01'46"W 221.30'

N89°21'23"W  
58.28'

N/F  
BREA SMYRNA, LLC

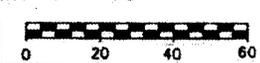


SURVEY OF  
#4402 GILMORE ROAD  
LOCATED IN  
LAND LOT 820  
17th DISTRICT, 2nd SECTION  
COBB COUNTY, GEORGIA  
DATE: 03/06/2013  
SCALE: 1"=40'



**R.F.M. Consulting, LLC**  
707 WHITLOCK AVENUE  
BLDG. A-37  
MARIETTA, GA 30064  
PHONE (770) 757-3977  
FAX (770) 499-8496  
EMAIL: RFMCON@BELLSOUTH.NET  
IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION  
OF THE LAND PLATTERED AND WAS PREPARED IN  
ACCORDANCE WITH THE APPROPRIATE STANDARDS AND  
REQUIREMENTS OF THE STATE OF GEORGIA.

Drafted By: Mark R. Price, Jr.  
Cell: 678-313-9270  
FILE: GILMORE ROAD.dwg



3-13-13

ORB#3 4-16-13 Building



3-13-13

OB#3 4-16-13 Building



OB#3 4-16-13

3-13-13

Building



OB#3

4-16-13

Building

3-13-13



# Application for Rezoning Cobb County

Application No. 2-91  
PC Hearing: 7-6-99  
BOC Hearing: 7-20-99

Applicant GEORGIAN Development & Realty Inc Business Phone (404) 352-2800 Home Phone \_\_\_\_\_

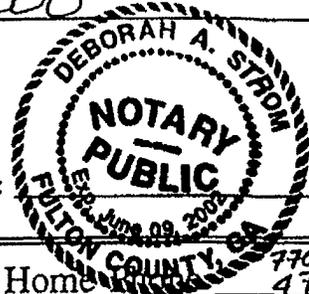
Scott McBregor Address 1575 Northside Drive Bld 100-#2  
(representative's name, printed)

[Signature] Business Phone (404) 352 2800  
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]  
Notary Public

My commission expires: \_\_\_\_\_



Titleholder CHLOE E. HALL AND W. COURTNEY HALL Business Phone 770 479-1833 Home Phone 770 479-3003  
IRREVOCABLE TRUST BY H. CHRISTOPHER KEOWN, TRUSTEE

Signature [Signature] Address 574 SWEETWATER CREEK DRIVE  
(attach additional signatures, if needed)

Signed, sealed and delivered in presence of:

[Signature]  
Notary Public

My commission expires: March 17, 2001

Zoning Request From R-20 to OF  
(present zoning) (proposed zoning)

For the Purpose of office Size of Tract 0. Acre(s)

Location Beech Haven Way at Gilmore Road  
(subdivision, restaurant, warehouse, apt., etc.)  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) \_\_\_\_\_ District \_\_\_\_\_

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:

[Signature]  
(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:

[Signature]  
(applicant's signature)

ORIGINAL DATE OF APPLICATION: 07-20-99APPLICANTS NAME: GEORGIA DEVELOPMENT AND REALTY, INC.THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 08-17-99 ZONING HEARING:**

**GEORGIA DEVELOPMENT AND REALTY, INC.** (Chloe E. Hall and W. Courtney Hall, Irrevocable Trust by H. Christopher Kewon, Trustee, owners) for Rezoning from **R-20** to **OI** for the purpose of an Office in Land Lot 820 of the 17<sup>th</sup> District. 0.34 acre. Located at the southeast intersection of Gilmore Road and Beech Haven Trail. The applicant was represented by Mr. Kevin Moore. Mr. Vince Clanton, Mr. Kevin Owens and Ms. Mary Rose Barnes spoke in opposition. Following review of requests regarding setback waivers and DOT related stipulations, the Board of Commissioners **approved** rezoning of property to the **OI zoning district** subject to: **1) Cobb DOT comments and recommendations; 2) owner/developer to enter into a Development Agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns; 3) maximum height of building to be two (2) stories; 4) building to have brick exterior; 5) Stormwater Management Division comments and recommendations; 6) building setbacks and DOT requirements to be met.** Motion by J. Thompson, carried 4-1, Byrne opposed.

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**DRAINAGE COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Gilmore Creek FLOOD HAZARD INFO: none

- FEMA Designated 100 year Floodplain Flood
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard

WETLANDS:  YES  NO  POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE:  YES  NO  POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway)
- Chattahoochee River Corridor Tributary Area - County review (\_\_\_\_ undisturbed buffer each side)
- Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review
- Georgia DNR Variance may be required to work in 25 foot streambank buffers

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream \_\_\_\_\_  
Additional BMP's for erosion sediment controls will be required
- Lake Study needed to document sediment levels
- Stormwater discharges through an established residential neighborhood downstream
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream \_\_\_\_\_

APPLICANT: Georgia Development & Realty

PETITION NO.. Z-91

PRESENT ZONING: R20

PETITION FOR: OI

\* \* \* \* \*

**DRAINAGE COMMENTS CONTINUED**

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of outparcels.
- Submit all proposed site improvements to Plan Review
- Any spring activity uncovered must be addressed by a qualified geotechnical engineer (PE)
- Structural fill \_\_\_\_\_ must be placed under the direction of a qualified geotechnical engineer (PE)
- Existing facility
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site
- Revisit design, reduce pavement area to reduce runoff and pollution

INSUFFICIENT INFORMATION

- No Stormwater controls shown \_\_\_\_\_
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit

ADDITIONAL COMMENTS/SUGGESTIONS

None

APPLICANT: Georgia Development & Realty Inc.

PETITION NO.: Z-91

PRESENT ZONING: R-20

PETITION FOR: OI

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**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	CLASSIFICATION	MIN. R.O.W. REQUIREMENTS
Gilmore Road	N/A	Minor Collector	60'
Beech Haven Trail	6,400	Minor Collector	60'

Gilmore Road and Beech Haven Trail are both classified as a Minor Collector. According to the available information, the existing rights-of-way do not meet the minimum requirements for this classification.

Young Street Extension, from Atlanta Road to Cumberland Parkway, is a Cobb County Road Project as part of the Transportation Improvement Program (Project No. 7404- 44) to provide a 4-lane median divided facility with sidewalk on both sides of the road. This project is presently under construction. The owner/developer/applicant must coordinate with the Cobb DOT Engineering Division, Construction Section prior to development plan approval in order to ensure compatibility with the road project.

To demarcate the access location as well as drainage concerns, DOT recommends the installation of curb and gutter along Beech Haven Trail property frontage.

As necessitated by this development for ingress into the facility from the Minor Collector, a minimum 150' deceleration lane will be required.

The applicant will have to verify that minimum intersection sight distance is available. If it is not, the applicant will have to implement remedial measures, subject to approval by the Department, to achieve the minimum requirements of 312.5' for the proposed access at its intersection with the Minor Collector. A sight distance profile has been requested.

**RECOMMENDATIONS:**

Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Beech Haven Trail, a minimum of 30' from the roadway centerline; b) donation of right-of-way on the south side of Gilmore Road, a minimum of 30' from the roadway centerline; c) installation of curb and gutter along Beech Haven Trail property frontage.

Recommend 150' deceleration lane for ingress into the facility from the Minor Collector.

APPLICANT: Georgia Development & Realty Inc.

PETITION NO.: Z-91

PRESENT ZONING: R-20

PETITION FOR: OI

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<p><b>TRANSPORTATION COMMENTS</b> Cont'd</p>
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Applicant verify that minimum intersection sight distance is available and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirements of 312.5'.

Recommend applicant be required to meet all Cobb county Development Standards and Ordinances related to the project improvements.

PAGE 2 OF 2

APPLICATION NO.: V-48

ORIGINAL DATE OF APPLICATION: 4-99

APPLICANT'S NAME: GEORGIA DEVELOPMENT & REALTY INC.

**THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE COBB COUNTY  
BOARD OF ZONING APPEALS**

THE BELOW SYTLED VARIANCE WAS HEARD BY THE COBB COUNTY BOARD OF ZONING APPEALS OF APRIL 14, 1999: **GEORGIA DEVELOPMENT & REALTY INC.** requests a variance to waive the lot size from required 20,000 square feet to 14,810 square feet to allow the applicant to submit for rezoning to OI in Land Lot 820 of the 17<sup>th</sup> District. 0.34 acre. Located at the southeast intersection of Gilmore Road and Beech Haven Trail. Mr. Scott McGregor spoke for applicant. Mr. Henry Reed spoke in opposition to variance and proposed zoning/use. Chairman Vansant explained that variance was only to allow applicant to apply for rezoning. Upon conclusion of conversations, the Board of Zoning Appeals **approved** variance request. Motion by Homan, second by Vansant, carried 4-0.