

**JULY 16, 2013 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM # 1

PURPOSE

To consider amending the zoning stipulations relating to Z-38 of 2012 (Luis Urizar), for property located on the south side of Six Flags Parkway, east of Bishop Road in Land Lot 505 of the 18th District.

BACKGROUND

The subject property was approved for a truck terminal on December 18, 2012. Two of the zoning stipulations placed time frames on the applicant to accomplish certain improvements. First, the applicant was required to remodel and renovate the existing structure with a new roof, new windows and new paint within 120 days of rezoning. This date was set to be April 17, 2013. Second, the applicant was required to demolish four dilapidated structures, install required fencing, and install landscaping within 180 days of rezoning. This date was set for June 16, 2013. All the items in both these date certain deadlines have not been done to delays beyond the applicant's control. The applicant would like to amend these two stipulations to remove the stipulated time frames, and to make the improvements contingent on the permitting of the project. 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 and zoning stipulations.

(Stipulation Amendment)

Application for "Other Business" Cobb County, Georgia

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

COBB COUNTY GEORGIA
FILED IN OFFICE

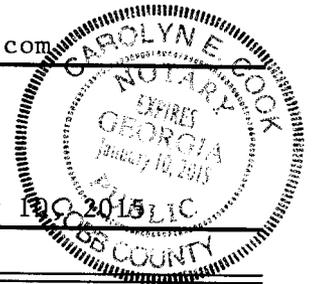
BOC Hearing Date Requested: 2013 MAY 29 PM 6:53/2013

Applicant: Luis Urizar Phone #: (404) 328-5452
(applicant's name printed)

Address: 275 Silver Arrow Circle, Austell, GA 30168 **E-Mail:** urizarl@bellsouth.net

Moore Ingram Johnson & Steele, LLP
John H. Moore Address: Emerson Overlook, 326 Roswell Street
(representative's name, printed) Marietta, Georgia 30060

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



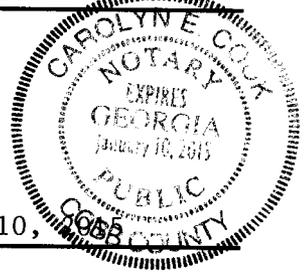
Signed, sealed and delivered in presence of:

Carolyn E. Cook My commission expires: January 10, 2015
Notary Public

Titleholder(s): Luis Urizar Phone #: (404) 328-5452
(property owner's name printed)

Address: 275 Silver Arrow Circle, Austell, GA 30168 **E-Mail:** urizarl@bellsouth.net

[Signature]
(Property owner's signature)



Signed, sealed and delivered in presence of:

Carolyn E. Cook My commission expires: January 10, 2015
Notary Public

Commission District: 4 (Cupid) **Zoning Case:** Z-38 (2012)

Date of Zoning Decision: 12/18/2012 **Original Date of Hearing:** 09/18/2012

Location: 320, 350, 370 Six Flags Parkway
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 505 **District(s):** 18th

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 No.: Z-38 (2012)
Original Hearing Date: September 18, 2012
Date of Zoning Decision: December 18, 2012
Current Hearing Date: July 16, 2013

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant/Property Owner: Luis Urizar

The property which is the subject of this Application for "Other Business" is approximately 2.514 acres, more or less, and is located at 320, 350, and 370 Six Flags Parkway, Land Lot 505, 18th District, 2nd Section, Cobb County, Georgia (hereinafter "Property" or "Subject Property"). The Property was rezoned to the Light Industrial ("LI") zoning classification by the Cobb County Board of Commissioners on December 18, 2012, to allow its use as Applicant's truck terminal and truck repair facility.

With the filing of this Application for "Other Business," Applicant seeks the amendment of certain stipulations and conditions set forth within the official minutes, and letters of agreeable stipulations and conditions dated October 30, 2012, and November 28, 2012, attached to the minutes, said stipulations being as follows:

- (1) Bullet contained within official minutes relating to paragraph 12 of November 28, 2012, letter of agreeable stipulations and conditions, said bullet reading as follows:

"Item No. 12 – add to end: Remodel to be completed within 120 days from final approval by the Board of Commissioners."

In lieu thereof, Applicant requests the substitution of the following:

"Item No. 12 – add to end: Remodel to be completed prior to permitting."

- (2) Deletion in its entirety of paragraph 10 of the November 28, 2012, letter of agreeable stipulations and conditions which reads as follows:

"(10) The foregoing paragraphs relating to demolition of structures, erection of fencing, and landscaping shall be accomplished on or before the expiration of one hundred

eight [sic] (180) days from the final zoning approval of the rezoning by the Cobb County Board of Commissioners.”

In lieu thereof, Applicant requests the substitution of the following:

- “(10) Stipulations relating to demolition of structures, erection of fencing, and landscaping, as more particularly set forth in paragraphs (4), (5), (7), (8), (9), and (12), shall be completed prior to permitting.

The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes of the Cobb County Board of Commissioners Zoning Hearing held on December 18, 2012, and attachments thereto, as to Application No. Z-38 (2012) are unaltered by this request for stipulation amendment.

**ZONING SITE PLAN APPROVED AND
SIGNED OFF BY DISTRICT COMMISSIONER
– DECEMBER 18, 2012**

**OFFICIAL MINUTES OF COBB COUNTY
BOARD OF COMMISSIONERS ZONING
HEARING FOR Z-38 (2012) –
DECEMBER 18, 2012**

COBB COUNTY GEORGIA
FILED IN OFFICE

2013 MAY 29 PM 4:54

COBB COUNTY ZONING DIVISION

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 18, 2012
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 18, 2012 at 9:00 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Tim Lee
Commissioner JoAnn Birrell
Commissioner Helen Goreham
Commissioner Robert Ott
Commissioner Woody Thompson

Z-38 **LUIS URIZAR** (Estate of Elzie Elton Goodwin a/k/a E. E. Goodwin, owner) requesting Rezoning from R-20 to HI for the purpose of a Truck Terminal and Truck Repair Facility in Land Lot 505 of the 18th District. Located on the south side of Six Flags Parkway, east of Bishop Road (320, 350 and 370 Six Flags Parkway). *(Previously continued by the Planning Commission from their September 6, 2012, October 2, 2012 and November 6, 2012 hearings)*

The public hearing was opened and Mr. John Moore, Mr. Kevin Ross, Ms. Lisa Cupid, Ms. Robin Meyer, and Ms. Courtney Edwards addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Birrell, to delete Rezoning to the **LI** zoning district **subject to:**

- **Site plan received by the Zoning Division August 22, 2012, with District Commissioner approving minor modifications (attached and made a part of these minutes)**
- **Letter of agreeable conditions dated October 30, from Mr. John Moore *not otherwise in conflict* (attached and made a part of these minutes)**
- **Letter of agreeable conditions from Mr. John Moore dated November 28, 2012 (attached and made a part of these minutes) with the following changes:**
 - **Item No. 6 – add to end: “, using brick or masonry materials.”**
 - **Item No. 9 – add to end: “Maintenance period for White Pines to be for five years with oversight by the County Arborist.”**
 - **Item No. 12 – add to end: “Remodel to be completed within 120 days from final approval by the Board of Commissioners.”**
 - **Item No. 19 – delete in its entirety**

- **For this use *only***
- **Wooden fence, eight feet in height, to be installed along the eastern property line**
- **Maximum of 20 vehicles on the property**
- **All truck repair to be inside building**
- **No outside storage**
- **Truck terminal/repair facility *only* and any changes in use must be approved by the Board of Commissioners**
- **District Commissioner may approve minor modifications**
- **Oil/water separation device to be installed**
- **Building and bay doors of new building to face rear of property adjacent to Heavy Industrial zoned property, facing Lee Industrial Drive**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **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**

VOTE: ADOPTED 4-1, Commissioner Ott opposed

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON[†]
ROBERT D. INGRAM[†]
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
MATTHEW J. HOWARD
JERE C. SMITH
CLAYTON O. CARMACK
KEVIN B. CARLOCK[†]
ALEXANDER T. GALLOWAY III[†]
J. KEVIN MOORE
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BRIAN D. SMITH
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W. TROY HART[†]
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DOUGLAS W. BUTLER, JR.
APRIL R. HOLLOWAY
CARLA C. WESTER^{*}
JAIME E. KNOEBEL^{*}
ADON J. SOLOMON^{*}
AMY L. JETT^{*}

MARIETTA, GEORGIA
EMERSON OVERLOOK
376 ROSWELL STREET
MARIETTA, GEORGIA 30080
TELEPHONE (770) 429-1499
TELECOPIER (770) 429-8881

KNOXVILLE, TENNESSEE
408 N. CEDAR BLUFF ROAD
SUITE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 592-9988
TELECOPIER (865) 592-9971

JACKSONVILLE, FLORIDA
10161 DEERWOOD PARK BOULEVARD
BUILDING 200, SUITE 250
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 426-1465
TELECOPIER (904) 972-4238

NASHVILLE, TENNESSEE
3200 WEST END AVENUE
SUITE 500
NASHVILLE, TENNESSEE 37203
TELEPHONE (615) 425-7347
TELECOPIER (615) 782-1865

LOUISVILLE, KENTUCKY
1800 CORPORATE CAMPUS DRIVE
SUITE 3000
LOUISVILLE, KENTUCKY 40223
TELEPHONE (502) 410-6021
TELECOPIER (502) 410-6012

JEFF C. MORMAN^{*}
RYAN M. INGRAM
SHAWN D. SHELTON
KRISTEN C. STEVENSON^{*}
JASON M. BURK^{*}
MELISSA B. RICKERT^{*}
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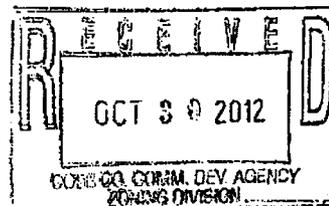
OF COUNSEL:
JOHN L. SKELTON, JR.[†]

[†] ALSO ADMITTED IN TN
^{*} ALSO ADMITTED IN FL
^{**} ALSO ADMITTED IN NM
^{***} ALSO ADMITTED IN CA
[▲] ALSO ADMITTED IN TX
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[¶] ALSO ADMITTED IN WV
[•] ALSO ADMITTED IN NY
[◊] ALSO ADMITTED IN SC
[⌘] ALSO ADMITTED IN MS
[⌚] ADMITTED ONLY BY TN
[⌛] ADMITTED ONLY BY FL

October 30, 2012

Hand Delivered

Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064



Fin. Dk. 67 Petition No. Z-38
Enc. Type letter of agreeable conditions
Meeting Date 12-1-2012

RE: Application for Rezoning - Application No. Z-38 (2012)
Applicant: Luis Urizar
Property Owner: The Estate of Elzie Elton Goodwin (a/k/a E. E. Goodwin)
Property: 2.514± acres located at 320, 350, and 370 Six Flags Parkway, Land Lot 505, 18th District, 2nd Section, Cobb County, Georgia

Dear Jason:

The undersigned and this firm represent Mr. Luis Urizar, the Applicant (hereinafter referred to as "Applicant"), and the Property Owner, the Estate of Elzie Elton Goodwin (hereinafter referred to as "Owner"), in his Application for Rezoning with respect to property located at 320, 350, and 370 Six Flags Parkway, Land Lot 505, 18th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting and discussions with planning and zoning staff and various Cobb County departmental representatives, discussions and meeting with area residents and a representative of the Mableton Improvement Coalition, reviewing the

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Mr. Jason A. Campbell
Planner III
Zoning Division
Cobb County Community Development Agency
Page 2 of 5
October 30, 2012

Petition No. 2-38
Filing Date 12/10/12
Case No.

staff comments and recommendations and the uses of surrounding properties, and following presentations to and continuances by 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 zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full that certain letter of agreeable stipulations and conditions dated and filed August 29, 2012. The 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 submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Rezoning of the Subject Property shall be from the existing zoning category of R-20 to the proposed zoning category of Light Industrial ("LI") zoning category, with reference to the Zoning Site Plan prepared for Applicant by Gaskins Surveying Company, Inc., dated July 18, 2012, and filed with the Zoning Office on August 22, 2012. A reduced copy of the revised Zoning Site Plan is attached hereto for ease of reference as Exhibit "A" and incorporated herein by reference.
- (3) The total site area consists of 2.514 acres. Applicant proposes to use the Subject Property for a truck terminal and truck repair facility.
- (4) Applicant agrees to demolish the existing masonry garage, frame shed, and masonry shed located on the easterly portion of the Subject Property, and within the stream buffer area, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (5) Additionally, the frame residence located on the westerly side of the Subject Property shall be demolished.
- (6) Entrance signage for the proposed development shall be ground based, monument style signage.

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Page 3 of 5
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- (7) Applicant agrees to the installation of a solid wooden fence, eight (8) feet in height, along the easterly property line of the Subject Property, said fence to be installed inside an existing chain link fence which is six (6) feet in height.
- (8) Applicant agrees to erect a black, vinyl-clad chain link fence, a minimum of six (6) feet in height, along the frontage of the Subject Property on Six Flags Parkway. Said fence shall begin at a point at the intersection of the southerly side of Six Flags Parkway with the seventy-five (75) foot impervious buffer line, and thence running westerly to the westerly boundary of the Subject Property.
- (9) Applicant agrees to the installation of landscaping, to include a staggered row of White Pines a minimum of six (6) feet in height, along, and in front of, the black, vinyl-clad chain link fence referenced in subparagraph (8), as approved by the Cobb County Arborist.
- (10) The foregoing paragraphs relating to demolition of structures, erection of fencing, and landscaping shall be accomplished on or before the expiration of one hundred eight (180) days from the final zoning approval of the rezoning by the Cobb County Board of Commissioners.
- (11) Applicant agrees that it shall not store on-site, or be involved in the transport of municipal solid waste materials.
- (12) Applicant intends to utilize the remaining structure as its office. Applicant agrees to remodel and renovate the structure; including, but not limited to, a new roof, new windows, painting, and the like.
- (13) Minor modifications to the referenced Zoning Site Plan, including, but not limited to, stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (14) If the proposed detention area is required to be fenced, then such fencing shall be vinyl-clad chain link fencing.
- (15) All landscape and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.

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- (16) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (17) 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.
- (18) There shall be no sidewalk, curb, or gutter installed along the frontage of the Subject Property on Six Flags Parkway.

We believe the requested zoning, pursuant to the Zoning Site Plan and the revised stipulations set forth herein, is appropriate for the Subject Property. The Subject Property is located within an industrial area of Cobb County and is bordered by industrial compatible businesses located to the west and south, as well as across Six Flags Parkway, from the Subject Property. We very much appreciate your assistance, and the consideration of the Planning Commission and Board of Commissioners in this rezoning request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc
Attachment

MOORE INGRAM JOHNSON & STEELE

Mr. Jason A. Campbell
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Zoning Division
Cobb County Community Development Agency
Page 5 of 5
October 30, 2012

2-38
12/18/12

c: Cobb County Board of Commissioners:

Timothy D. Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Joann Birrell
(With Copy of Attachment)

Cobb County Planning Commission:

Murray Homan, Chairman
Judy Williams
Robert Hovey
Christi S. Trombetti
Mike Terry
(With Copy of Attachment)

Lisa Cupid
District Commissioner-Elect
and Area Resident
(With Copy of Attachment)

Robin Meyer
Mableton Improvement Coalition
(With Copy of Attachment)

Ms. Dean C. Archer
(With Copy of Attachment)

Luis Urizar
(With Copy of Attachment)

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ALIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON^{1,2}
ROBERT D. INGRAM¹
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
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JERE C. SMITH
CLAYTON O. CARMACK
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JAIME E. KNOEBEL¹
ADON J. SOLOMON¹
AMY L. JETT¹
JEFF C. MORMAN¹

MARIETTA, GEORGIA
EMERSON OVERLOOK
328 ROSWELL ST
MARIETTA, GEORGIA 30060
TELEPHONE (770) 429-1499

KNOXVILLE, TENNESSEE
408 N. CEDAR BLUFF RD • STE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 592-9039

JACKSONVILLE, FLORIDA
10151 DEERWOOD PARK BLVD • BLDG 200, STE 250
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 428-1485

NASHVILLE, TENNESSEE
3200 WEST END AVE • STE 500
NASHVILLE, TENNESSEE 37203
TELEPHONE (615) 425-7347

LOUISVILLE, KENTUCKY
8900 CORPORATE CAMPUS DR • STE 3000
LOUISVILLE, KENTUCKY 40223
TELEPHONE (502) 410-6021

CHARLESTON, SOUTH CAROLINA
4000 S. FABER PLACE DR • STE 300
CHARLESTON, SOUTH CAROLINA 29405
TELEPHONE (843) 302-0002

RYAN M. INGRAM
SHAWN G. SHELTON
KRISTEN C. STEVENSON¹
JASON M. BURK¹
MELISSA B. RICKERT¹
CARLY M. RECORD
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JONATHAN J. SMITH
MONTOVA M. HO-SANG¹

TRISTAN B. MORRISON^{1,2,3,4,5,6,7,8,9,10,11,12}
WILLIAM B. WARIHAY¹
W. COLLINS BROWN
ROBERT A. BUTLER
COLLEEN K. HORN^{1,2,3,4,5,6,7,8,9,10,11,12}

OF COUNSEL:
JOHN L. SKELTON, JR.¹

¹ ALSO ADMITTED IN TN
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⁸ ALSO ADMITTED IN NV
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¹⁰ ALSO ADMITTED IN NC
¹¹ ADMITTED ONLY IN TN
¹² ADMITTED ONLY IN FL

67
letter of agreeable
conditions
Meeting Date 12/10/12

November 28, 2012

Hand Delivered

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Planner III
Zoning Division
Cobb County Community Development Agency
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1150 Powder Springs Road
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2012 NOV 28 PM 12:32
COBB COUNTY ZONING DIVISION

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Cobb County Community Development Agency
Page 2 of 6
November 28, 2012

2.38
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staff comments and recommendations and the uses of surrounding properties, and following presentations to and continuances by 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 zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the letters of agreeable stipulations and conditions dated and filed August 29, 2012, and October 30, 2012. The 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 submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Rezoning of the Subject Property shall be from the existing zoning category of R-20 to the proposed zoning category of Light Industrial ("LI") zoning category, with reference to the Zoning Site Plan prepared for Applicant by Gaskins Surveying Company, Inc., dated July 18, 2012, and filed with the Zoning Office on August 22, 2012. A reduced copy of the revised Zoning Site Plan is attached hereto for ease of reference as Exhibit "A" and incorporated herein by reference.
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Mr. Jason A. Campbell
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Page 3 of 6
November 28, 2012

Application No. 2-38
Meeting Date 12/18/12
(continued)

- (7) Applicant agrees to the installation of a solid wooden fence, eight (8) feet in height, along the easterly property line of the Subject Property, said fence to be installed inside an existing chain link fence which is six (6) feet in height.
- (8) Applicant agrees to erect a black, vinyl-clad chain link fence, a minimum of six (6) feet in height, along the frontage of the Subject Property on Six Flags Parkway. Said fence shall begin at a point at the intersection of the southerly side of Six Flags Parkway with the seventy-five (75) foot impervious buffer line, and thence running westerly to the westerly boundary of the Subject Property.
- (9) Applicant agrees to the installation of landscaping, to include a staggered row of White Pines a minimum of six (6) feet in height, along, and in front of, the black, vinyl-clad chain link fence referenced in subparagraph (8), as approved by the Cobb County Arborist.
- (10) The foregoing paragraphs relating to demolition of structures, erection of fencing, and landscaping shall be accomplished on or before the expiration of one hundred eight (180) days from the final zoning approval of the rezoning by the Cobb County Board of Commissioners.
- (11) Applicant agrees that it shall not store on-site, or be involved in the transport of municipal solid waste materials or hazardous waste.
- (12) Applicant intends to utilize the remaining structure as its office. Applicant agrees to remodel and renovate the structure; including, but not limited to, a new roof, new windows, painting, and the like.
- (13) Any structure erected for repairs shall have no bay doors facing Six Flags Parkway, and shall be located on the westerly portion of the Subject Property, closer to the container yard facility located adjacent to the Subject Property. The hours of operation of any truck repairs shall be 8:00 a.m. to 6:00 p.m., Monday through Friday; 9:00 a.m. to 3:00 p.m. on Saturday; and no repair work shall be done on Sunday.
- (14) Minor modifications to the referenced Zoning Site Plan, including, but not limited to, stormwater control measures, may be approved by the District Commissioner, as needed or necessary.

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Zoning Division
Cobb County Community Development Agency
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- (15) If the proposed detention area is required to be fenced, then such fencing shall be vinyl-clad chain link fencing.
- (16) All landscape and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.
- (17) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (18) 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.
- (19) There shall be no sidewalk, curb, or gutter installed along the frontage of the Subject Property on Six Flags Parkway.

We believe the requested zoning, pursuant to the Zoning Site Plan and the revised stipulations set forth herein, is appropriate for the Subject Property. The Subject Property is located within an industrial area of Cobb County and is bordered by industrial compatible businesses located to the west and south, as well as across Six Flags Parkway, from the Subject Property. We very much appreciate your assistance, and the consideration of the Planning Commission and Board of Commissioners in this rezoning request.

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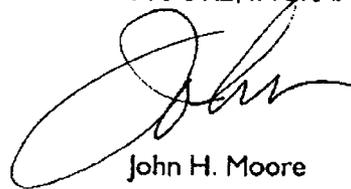
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With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Attachment

c: Cobb County Board of Commissioners:

Timothy D. Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Joann Birrell
(With Copy of Attachment)

Cobb County Planning Commission:

Murray Homan, Chairman
Judy Williams
Robert Hovey
Christi S. Trombetti
Mike Terry
(With Copy of Attachment)

Lisa Cupid
District Commissioner-Elect
and Area Resident
(With Copy of Attachment)

Robin Meyer
Mableton Improvement Coalition
(With Copy of Attachment)

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- c: Ms. Dean C. Archer
(With Copy of Attachment)

- Luis Urizar
(With Copy of Attachment)

