

Preliminary Site Plan
Paces Ferry Road Tract

Cobb County, Georgia Land Lots 23, 909 and 952, 17th District, 2nd Section

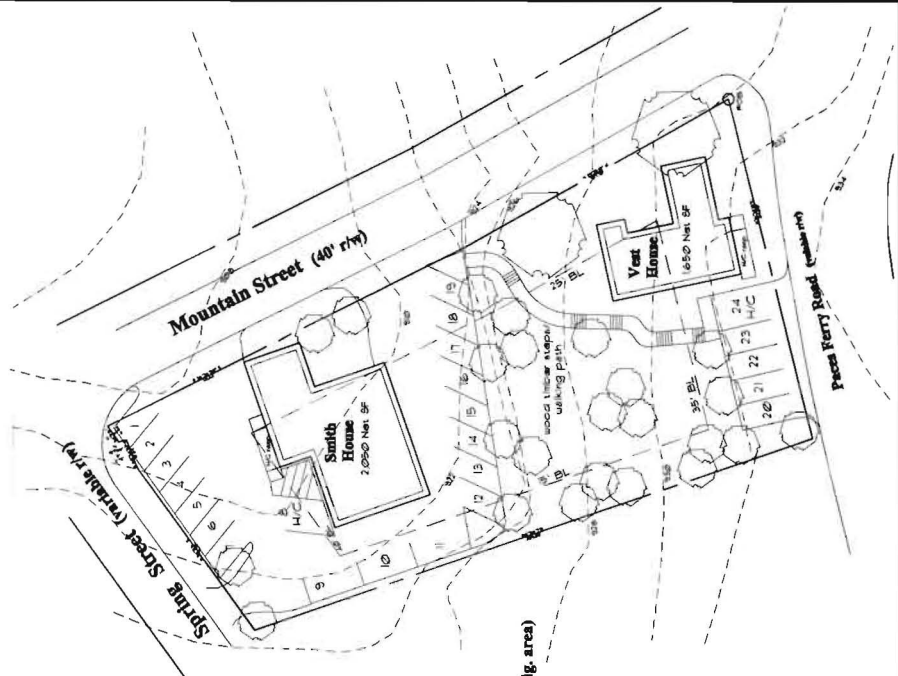
prepared for:
The Vest House, LLC



DGM
LAND PLANNING
CONSULTANTS

9766 Oak Flax
Buckhead Station 212
675 Peachtree Dunwoody Rd., NE
Atlanta, GA 30114
770 614-8906
Fax 614-9101

Scale: 1" = 20'
December 4, 2014



Site Data

Total Site Area: .54 AC
Existing Zoning: NS
Proposed Zoning: NRC
Total Building Area Shown: 3,700 Net SF
Smith House: 2,050 Net SF
Vest House: 650 Net SF
Parking Required: 18.5 (17,200 SF of net bldg. area)
Parking Shown: 24
NRC Building Setbacks:
front: 35'
side: major 25', minor 15'
rear: 40'

NOTES:
1. Boundaries prepared from records and County, Ga. Plat.
2. All dimensions are shown to center of street, unless otherwise noted.
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4. The information shown on this plan is for informational purposes only.
5. The information shown on this plan is for informational purposes only.
6. The information shown on this plan is for informational purposes only.
7. The information shown on this plan is for informational purposes only.

APPLICANT: The Vest House, LLC
PHONE#: 404-809-2600 **EMAIL:** jmayoue@mgefamilylaw.com
REPRESENTATIVE: Garvis Sams, Jr.
PHONE#: 770-422-7016 **EMAIL:** gsams@slhb-law.com
TITLEHOLDER: The Vest House, LLC

PETITION NO: Z-13
HEARING DATE (PC): 02-03-15
HEARING DATE (BOC): 02-17-15
PRESENT ZONING: NS
PROPOSED ZONING: NRC

PROPERTY LOCATION: West side of Mountain Street, between
Paces Ferry Road and Spring Street
(2949 Paces Ferry Road and 5 Mountain Street).

PROPOSED USE: Retail, Restaurants,
Offices

ACCESS TO PROPERTY: Spring Street, Mountain Street, and
Paces Ferry Road

SIZE OF TRACT: 0.54 acre
DISTRICT: 17

PHYSICAL CHARACTERISTICS TO SITE: Existing Smith House
used as antique store and Vest House used as professional office

LAND LOT(S): 909, 952
PARCEL(S): 1, 20
TAXES: PAID X **DUE** _____
COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** O&I/Veterinary Clinic
- SOUTH:** NS/Retail
- EAST:** NS/Old Vinings Inn and RA-4/Carter"s Grove Subdivision
- WEST:** NRC/Restaurants

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

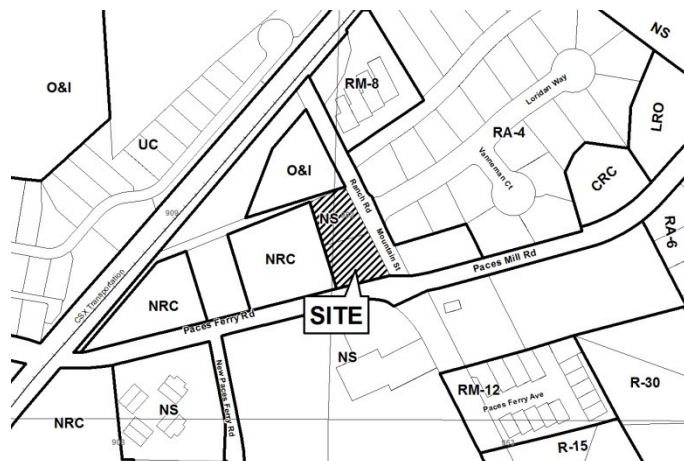
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

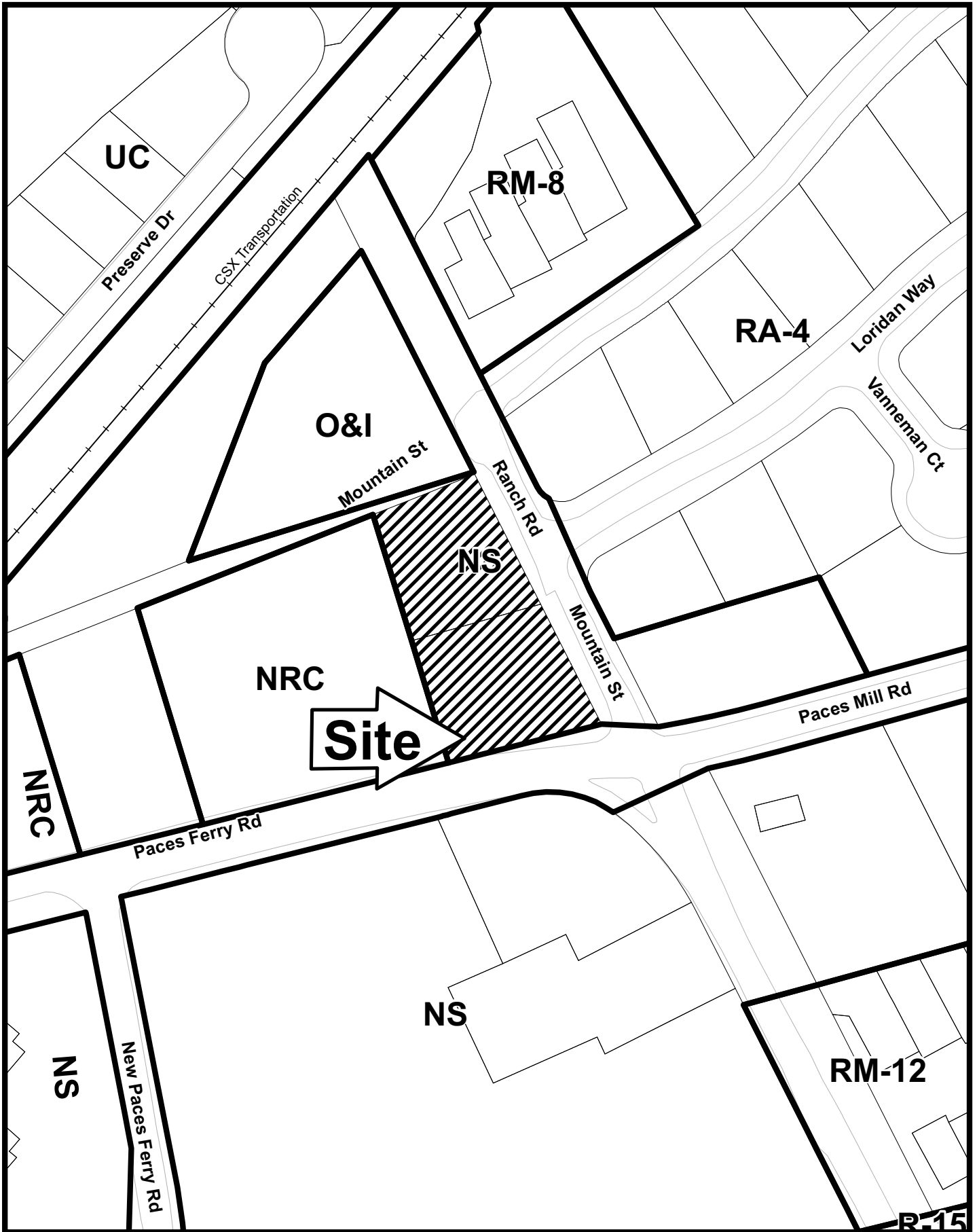
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

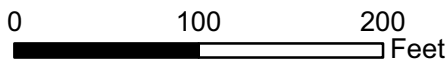
STIPULATIONS:





Z-13



This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  City Boundary
-  Zoning Boundary

APPLICANT: The Vest House, LLC

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: NRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 2 (Existing) **Total Square Footage of Development:** 3,700

F.A.R.: 0.157 **Square Footage/Acre:** 6,851.85

Parking Spaces Required: 18 **Parking Spaces Provided:** 24

Applicant is requesting to rezone the subject property to the Neighborhood Retail Commercial zoning category in order to bring the zoning into compliance with the *Cobb County Comprehensive Plan*. The property contains parcels known as The Smith House and The Vest House in the Vinings area. The Smith House on the north side of the property has been utilized as an antique shop and The Vest House on the southern portion of the property has been utilized as a professional office. The applicant's site plan indicates the existing buildings with a few new parking spaces. The proposed parking is based on retail calculations at one parking space per 200 square feet of net floorspace. Parking for professional offices is one space per 285 square feet of net floorspace. The existing buildings will be utilized and the hours of operation will be Monday through Sunday from 8 a.m. through 6 p.m.

The applicant is requesting setback variances for the existing buildings on their borders along Spring Street, Mountain Street and Paces Ferry Road.

Cemetery Preservation: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

APPLICANT: The Vest House, LLC

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from NS to NRC for purpose of retail, restaurant, and offices. The 0.54 acre site is located on the west side of Ranch Road in between Mountain Street and Paces Ferry Road.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with NS zoning designation. The purpose of the (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores.

Master Plan/Corridor Study

Not applicable.

Historic Preservation

After reviewing various county resources including historic and archeological resource surveys and documented Civil War trench maps, it is determined that a c. 1890 house and a c. 1900 house are located within the project area. However, it appears the historic resources do not appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines? Yes No

If yes, design guidelines area _____

Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone? Yes No

The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone? Yes No

The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program? Yes No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

APPLICANT: The Vest House, LLC

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: NRC

PLANNING COMMENTS: (Continued)

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes No

Is this property within the Six Flags Special Service District?

Yes No

APPLICANT The Vest House, LLC

PETITION NO. Z-013

PRESENT ZONING NS

PETITION FOR NRC

WATER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 6" DI / E side of Mountain Street

Additional Comments: Existing water customer

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin: Yes No

At Development: Yes No

Approximate Distance to Nearest Sewer: Mountain Road ROW

Estimated Waste Generation (in G.P.D.): A D F= +0 Peak= +0

Treatment Plant: Sutton

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years

Drv Sewers Required: Yes No

Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required: Yes No

Letter of Allocation issued: Yes No

Septic Tank Recommended by this Department: Yes No

Subject to Health Department Approval: Yes No

Additional Comments: CCWS records show Vest House served by septic system. Health Dept approval required for continued use.

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: The Vest House, LLC

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: NRC

STORMWATER MANAGEMENT COMMENTS

No substantial site improvements are proposed. Stormwater management must be provided upon redevelopment.

APPLICANT: The Vest House, LLC

PETITION NO.: Z-13

PRESENT ZONING: NS

PETITION FOR: NRC

TRANSPORTATION COMMENTS

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

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Pace Ferry Road	18,700	Arterial	35	Cobb	100'

Based on [2009] traffic counting data taken by Cobb County DOT

COMMENTS AND OBSERVATIONS

Paces Ferry Road is classified as an arterial and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

There are five perpendicular parking spaces along Paces Ferry Road.

RECOMMENDATIONS

Recommend driveway and perpendicular parking along Paces Ferry Road be paved with a treated hardened surface for a minimum of 25' or the edge of the County right-of-way, whichever is greater in length.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements at the time of redevelopment.

Recommend perpendicular parking along Paces Ferry Road be eliminated at the time of redevelopment.

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 north side of Paces Ferry Road, a minimum of 50' from the centerline upon redevelopment.

STAFF RECOMMENDATIONS

Z-13 THE VEST HOUSE, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. Nearby and abutting properties are also zoned for retail, restaurant and office uses.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The properties have been utilized for commercial businesses for many years and the current proposal is to be able to continue using them for uses permitted under the NRC zoning category.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within the Neighborhood Activity Center (NAC) land use category. The proposed zoning category of NRC is compatible with the current NAC land use category. Other properties in the area are zoned commercial and have retail, restaurant and office uses. The proposed plan indicates the existing buildings and a few new parking spaces. No further development is planned at this time. The applicant is simply trying to have the zoning be compatible with the land use and allow uses permitted under NRC.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The property has existed with the two buildings being used commercially for many years. The current zoning category has now fallen out of compliance with the land use category. No redevelopment is currently planned, with the exception of a few new parking spaces.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

- Site plan received by the Zoning Division on December 4, 2014, with the District Commissioner approving minor modifications;
- Historic Preservation comments and recommendations;
- Fire Department comments and recommendations;
- Water and Sewer Division comments and recommendations;
- Stormwater Management Division comments and recommendations;
- Department of Transportation comments and recommendations; and
- 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.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.



Application #: Z- 13

PC Hearing Date: February 3, 2015

BOC Hearing Date: February 17, 2015

Summary of Intent for Rezoning

.....
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

.....
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): To bring the subject property into compliance with the Zoning Ordinance and for utilization of the property for permitted uses under the NRC district
- b) Proposed building architecture: As-built
- c) Proposed hours/days of operation: 8:00 a.m. through 6:00 p.m., Monday - Sunday
- d) List all requested variances: Shown on the site plan filed contemporaneously herewith

.....
Part 3. Other Pertinent Information (List or attach additional information if needed)

The subject property is located within the confines of a Neighborhood Activity Center (NAC) on Cobb County's Future Land Use Map which contemplates the utilization of said property for those uses permitted within NRC district.

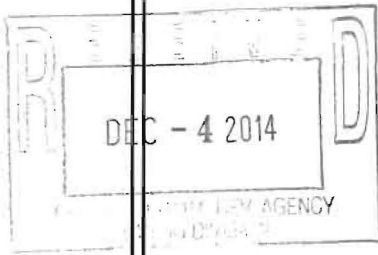
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Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). N/A

.....
Part 5. Is this application a result of a Code Enforcement action? No ; Yes (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: _____ Date: December 4, 2014

Applicant name (printed): Garvis L. Sams, Jr. (Applicant's Representative)



**ZONING IMPACT STATEMENT FOR THE REZONING
APPLICATION OF THE VEST HOUSE, LLC**

COMES NOW, THE VEST HOUSE, LLC, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Paces Ferry Road Corridor.

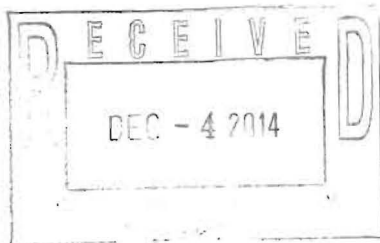
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties with the subject property. The property is located within a Neighborhood Activity Center (NAC) under Cobb County's Future Land Use Map. A preponderance of the adjoining uses are retail, commercial or offices.

- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owner of the subject property is suffering a significant economic detriment by virtue of the continuation of the present nonconforming classification of NS.

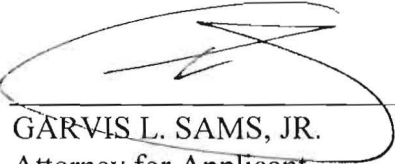
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.
- E. The zoning proposal is located within a Neighborhood Activity Center (NAC) and is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map.
- F. There is no substantial relationship between the existing zoning classification of NS which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Paces Ferry Road, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 4th day of December, 2014.

SAMS, LARKIN HUFF & BALLI, LLP



By:


GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

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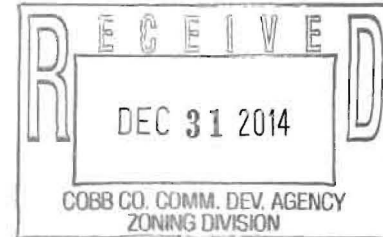
ADAM J. ROZEN

SLHB-LAW.COM

December 31, 2014

VIA EMAIL

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



Re: Application of The Vest House, LLC to Rezone a 0.54 Acre Tract
from NS to NRC (No. Z-13)

Dear John:

As you know, this firm represents The Vest House, LLC ("TVH") which is the Applicant and Property Owner concerning the above-captioned application for rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on February 3, 2015 and, thereafter, scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on February 17, 2015.

While this application has been pending, we have established a dialogue with Cobb County's professional staff and others. In that regard those discussions will, of course, continue. However, TVH has authorized the submission of this letter of agreeable stipulations which, if the application for rezoning is approved as submitted, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced 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 concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
- 2) The subject property shall be rezoned from the existing "phased-out" category of Neighborhood Shopping ("NS") to the proposed zoning classification of Neighborhood Retail Commercial ("NRC") in substantial conformity to that certain site plan prepared by DGM Land Planning Consultants, dated December 4, 2014, which was submitted concurrently with the application for rezoning.

SAMS, LARKIN, HUFF & BALLI

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VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 31, 2014
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- 3) The subject property consists of approximately 0.54 acres. Located thereon are the historic Vest House (1,650 square feet) and the Smith House (2,050 square feet), both of which have been utilized over the years for a number of different office and commercial purposes allowable under the NS and NRC classifications, respectively.¹
- 4) The architectural style and composition of both The Vest House and The Smith House shall remain as-built. However, dependent upon the end user for each building, TVH expects appropriate exterior and interior rehabbing and retrofitting to accommodate each use.
- 5) The rezoning of the subject property shall be from NS to NRC for all uses allowable under the NRC district except for the following uses which shall be prohibited²:
 - a. Adult entertainment businesses and tattoo parlors.
 - b. Pawn shops or check cashing establishments.
 - c. Billiard parlors and video arcades as primary businesses.
 - d. Precious metal sales and purchase businesses.
 - e. Flea markets.
 - f. Retail gun, knife or weapon sales.
 - g. Package sale of alcoholic beverages as a primary use; excepting a store specializing exclusively in the sale of wines.

¹ Because both The Vest House and The Smith House have lost their “grandfathered” exemptions and present entitlement to be utilized, thus necessitating the filing of the above-captioned application for rezoning.

² TVH has been approached by several potential commercial and/or retail users which are permitted under the NRC classification, including, but not limited to: a wellness clinic, gift shops and antique stores, etc.

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VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 31, 2014
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- h. Any business which principally features sexually explicit products or drug related paraphernalia.
 - i. Rest homes/convalescent homes.
- 6) The hours of operation with respect to both The Vest House and The Smith House and any businesses which shall operate therein shall be from 8:00 a.m. until 7:00 p.m., Monday – Saturday. However, the District Commissioner shall retain the latitude to modify these hours of operation if determined to be a minor modification.
 - 7) Compliance with recommendation from the Cobb County Department of Transportation, upon a redevelopment of the subject property.
 - 8) Compliance with recommendations from the Cobb County Water System with respect to the availability of water and sewer to the site.
 - 9) Compliance with recommendations from the Stormwater Management Division. However, presently, there will be no requirements for the installation of detention, water quality or stormwater management components unless additional impervious surfaces are added to the site in the future which meet or exceed the threshold of 5,000 square feet.
 - 10) The granting of contemporaneous variances regarding NRC setbacks as a result of the as-built circumstances on the subject property as shown on the site plan filed concurrently with the application for rezoning.
 - 11) Compliance with recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues.

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VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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12) The District Commissioner shall have the authority to approve certain minor modifications except for those that:

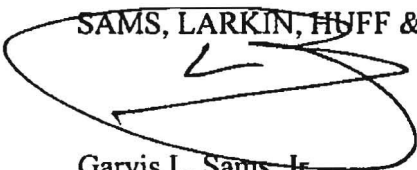
- a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
- b. Relocate a structure closer to the property line of an adjacent property which is zoned the same or in a more restrictive zoning district.
- c. Increase the height of a building adjacent to property which is zoned in the same or more restrictive zoning district.
- d. Change access locations to different roadways.
- e. Violate the Cobb County Zoning Ordinance or require the granting of a Variance waiving Zoning Ordinance requirements.

In view of the fact that the subject property is within a Neighborhood Activity Center ("NAC") as depicted on Cobb County's Future Land Use Map, the proposal for rezoning the subject property to bring it into compliance with the current NRC District is entirely appropriate from a land use planning perspective. However, please do not hesitate to contact me should you need any additional information or documentation prior to the formulation of the final Zoning Analysis and Staff Recommendations.

With kind regards and best wishes for the New Year, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/klk

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 31, 2014
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cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP Director (via email)
Mr. Dana Johnson, AICP Deputy Director (via email)
Mr. Jason Campbell, Planner III (via email)
Mr. Terry Martin, Planner II (via email)
Mr. David Breaden, P.E. (via email)
Mr. Eric Meyer, P.E. (via email)
Mr. Tim Davidson, Cobb County Water System (via email)
Ms. Lori Barton, Deputy County Clerk (via email)
Mr. Ken Lynch, Vinings Village HOA (via email)
Mr. Cal Dortch, Vinings Village HOA (via email)
John C. Mayoue, Esq. (via email)
Mr. David Meyer, RLA (via email)